G Ravichander v Public Prosecutor
[2002] SGHC 167

Case Number : MA 41/2002

Decision Date : 31 July 2002

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : SS Dhillon (Dhillon Dendroff & Partners) for the appellant; Ivan Chua Boon Chwee (Deputy Public Prosecutor) for the respondent

Parties : G Ravichander — Public Prosecutor

Criminal Procedure and Sentencing – Sentencing – Corrective training – Purpose – Relevant considerations to be taken into account in determining length of corrective training – When longer period of corrective training appropriate – s 12(1) Criminal Procedure Code (Cap 68)

Evidence – Witnesses – Hostile witness – Appellant's girlfriend testifying for the prosecution – Girlfriend turning hostile and testifying in appellant's favour – Whether to treat girlfriend's evidence with caution – Whether to give due weight to girlfriend's evidence – Whether appellant's innocence proven by girlfriend's favourable testimony

Judgment

GROUNDS OF DECISION

The Facts

G Ravichander returned to his flat at Block 55 Lorong 5 Toa Payoh late in the evening of 1 April 2001. According to his girlfriend, one Mahaletchimy d/o Pitchay Jaganathan, who lived with him, she refused to open the door to let him into his own home as she felt afraid that he would pick a fight with her. Evidently irritated at this, Ravichander began to scold her and shout at her.

2 Ravichander broke the window in an attempt to gain entry into his own house. He placed the broken glass shards on the parapet of the fifth storey corridor. These pieces of glass fell five storeys onto a car parked below, damaging its windscreen.

3 Police officers summoned to the scene by Mahaletchimy arrived at approximately 11:35 p.m. that night. At first only one officer attended to the dispute, but as he assessed the subject to be aggressive, he called for back-up. They found Ravichander in the corridor outside his flat scolding and shouting at Mahaletchimy. Ravichander's left hand was bleeding, apparently sustained whilst breaking the window. According to SSgt Loh Mun Chun, Mahaletchimy was inside the unit crying. She appeared to be frightened. SSgt Loh and SSgt Mohd Hirwan also testified that they had seen Ravichander pointing at Mahaletchimy and shouting "I will murder you" in a loud and aggressive manner. He also said that even if he were to be arrested and convicted, he would still murder Mahaletchimy after his release from prison. When Ravichander ordered his girlfriend to strip so that she would not take any of his things from his flat, she started to lift up her blouse but were stopped by the police officers.

4 The three police officers could not persuade Mahaletchimy to open the grill gate to let them in until they had taken Ravichander away into custody.

The Charges

5 Two charges were levelled against Ravichander. The first, DAC No. 54152/2001, read as

follows:

> You, G Ravichander, male/35 years, NRIC No. S1761784B are charged that you, on the 1st day of April 2001, at or about 11.32 p.m., at the corridor outside unit #05-158, Blk 55 Lor 5 Toa Payoh, Singapore, did commit Criminal Intimidation by threatening one Mahaletchimy d/o Pitchay Jaganathan with death, by stating the words "I will murder you", intending thereby to cause alarm to the said Mahaletchimy d/o Pitchay Jaganathan and you have thereby committed an offence punishable under section 506 of the Penal Code, Chapter 224.

6 The second charge, MAC No. 11143/2001, read as follows:

> You, G Ravichander, male/35 years, NRIC No. S1761784B are charged that you on the 1st day of April 2001, at or about 11.32 p.m., at the 5th floor corridor of Blk 55 Lor 5 Toa Payoh, Singapore, did cause an act so rashly as to endanger human life and the personal safety of others when you placed broken glass fragments onto the parapet of the said corridor, causing them to fall to the ground thereby causing damage to a motorcar bearing registration number SCG 9408B and you have thereby committed an offence punishable under section 336 of the Penal Code, Chapter 224.

7 Ravichander pleaded guilty to MAC 11143/2001, but claimed trial to DAC No. 54152/2001 in the District Court. He was found guilty of the second charge and was sentenced in respect of both offences to a term of seven years' corrective training. For MAC 11143/2001, he was also ordered to pay $687.20 as compensation, in default of which he would have to serve three days' imprisonment.

8 Before this Court, Ravichander appealed against the conviction under the s 506 charge of aggravated criminal intimidation, as well as against the sentence of corrective training. I dismissed both appeals but in view of the specific circumstances of this case I decided to enhance the term of corrective training to the maximum of 14 years. I now give my reasons for my decision.

Appeal against Conviction

9 The main plank of the appeal against conviction rested on Mahaletchimy's denial, made in court, that Ravichander had ever threatened to kill her, as well as Ravichander's own testimony that he had never said those words that constituted the charge against him. In effect, the submission was that no threat had been uttered and therefore the offence of criminal intimidation as defined in s 503 of the Penal Code could not be made out. Counsel argued that the district judge was wrong in disregarding the totality of the evidence proffered by the couple that totally exonerated Ravichander of the alleged offence. He also submitted that the judge had placed too much weight on the testimonies of the police officers even though they were directly contradicted by the victim and the accused.

10 I had no difficulty whatsoever in dismissing that line of argument. In my opinion, the district judge was correct in according little weight to both Ravichander's as well as Mahaletchimy's evidence. On the other hand,

the police officers who testified for the prosecution had absolutely no reason to lie under oath. There was also nothing that could impugn the consistency in the evidence that they presented in Court and no suggestion at all of any collusion between them. In fact, SSgt Loh, SSgt Mohd Hirwan as well as Cpl Hirman were called to the scene as a result of a call by Mahaletchimy to the police. Their testimonies was therefore worthy of the weight ascribed to them by the district judge.

11 Ravichander had said in court that he did not threaten the victim. He had accidentally cracked the glass window while trying to open it to speak to Mahaletchimy who was hiding inside the flat. He had spoken to the police officers but they had "hammered" him. Unfortunately, Ravichander had failed to raise even this simple defence in his cautioned statements to the police when faced with the two charges against him. Instead he chose to say nothing. Furthermore, Ravichander could not shed any light as to why the police officers at the scene that night would want to fabricate evidence against him.

12 As for Mahaletchimy, the district judge had rightly noted that her sister was Ravichander's bailor. Mahaletchimy had spoken to Ravichander prior to the trial, and being his girlfriend and an interested witness, her evidence was to be treated with caution. In my view, just because a victim turns hostile on the stand and proffers evidence in favour of the accused person cannot of itself prove the accused person's innocence of the charge facing him. In any case it is not unusual for victims or other prosecution witnesses to turn hostile in court. They may do so for any of a number of reasons. For example, they may fear the repercussions, real or imagined, of testifying against the accused, or they may have changed their minds about pursuing justice through the criminal courts. Another possibility could of course be that the accused is really innocent. The bottom line is that the victim's testimony is but a part of the totality of evidence that the trial court must weigh in order to decide if the prosecution has proven its case beyond reasonable doubt.

13 Defence counsel's next point was to the effect that even if the threatening words "I will murder you" were indeed uttered by Ravichander, the victim could not have apprehended those words as a threat. According to Counsel, Mahaletchimy could only speak Tamil while the offending phrase was said in English. Ravichander was also drunk at the time and anything he might have said was said in the heat of a domestic spat that was aggravated by the interference of the police officers.

14 I could not accept such an argument. Apart from that bare assertion, made only at the appellate stage, there was no evidence whatsoever that suggested that Mahaletchimy could not understand what Ravichander was saying to her. The angry words were directed straight at her and I found it hard to believe that Ravichander would have chosen to speak in a language that she could not understand. The fact that the three police officers, namely SSgt Loh, SSgt Hirwan and Cpl Hirman, could communicate with Mahaletchimy did seem to suggest that her linguistic skills were not as limited as was suggested by Counsel. In any event, it was clear from Ravichander's aggressive behaviour that he had intended to alarm his victim. The shouting, the vulgarities, and the attempt to break the window, coupled with the threat to murder the victim, made audaciously in front of three law enforcers, shook the victim. In fact, Mahaletchimy was so afraid that she even called the police to intervene.

15 In the result, I dismissed the appeal against conviction.

Appeal against Sentence

16 Having failed to convince this Court that the conviction under the s 506 charge was not sound, Counsel next embarked on an attempt to persuade me that the term of seven years' corrective training was, in his words, a "crushing sentence". Whilst Ravichander may have a track record of numerous previous convictions, he was not a recalcitrant as this was only his first conviction for aggravated criminal intimidation.

17 I disagreed. In fact, I felt that a seven year sentence of corrective training would be inadequate for a character like Ravichander.

18 The principal aim of corrective training is, as the name suggests, to reform the prisoner who is sentenced to undergo that regime. Under s 12(1) of the Criminal Procedure Code, the Court must be "satisfied that it is expedient with a view to his reformation and the prevention of crime that the offender should receive training of a corrective character for a substantial period of time". In *Kua Hoon Chua v PP* [1995] 2 SLR 386 at 389, I said:

> ... the principal aim of corrective training is to turn an offender away from the easy allure of crime by putting him through a regime of discipline and by providing him with certain work skills.

19 In *PP v Wong Wing Hung* [1999] 4 SLR 329 at 333, I also made the following remark:

> … corrective training is only appropriate and suitable where the offender shows that he is capable of reform and can be corrected, so to speak, and prevented from committing further crime.

20 That reform is the motivation behind corrective training is underscored by rules 3 to 5 of the Criminal Procedure (Corrective Training and Preventive Detention) Rules, which I lay out in full:

> Training in Changi Prison.
>
> 3. The purposes of training and treatment of convicted prisoners while serving sentence of corrective training shall be to establish in them the will to lead a good and useful life on discharge, and to fit them to do so and shall include —
>
> > (a) the provision of work which will so far as practicable help them to earn their living after release, with technical training in skilled trades for suitable prisoners;
> >
> > (b) special attention to education;
> >
> > (c) the exercise of personal influence on the character and training of individuals by members of the prison staff; and
> >
> > (d) the provision of every opportunity for the development of a sense of personal responsibility.
>
> Aftercare.
>
> 4. From the reception of a prisoner in the prison in which he is to serve his sentence, consideration shall be given to the provision to be made for his welfare and supervision after release.
>
> Release on licence.
>
> 5. A prisoner sentenced to corrective training shall become eligible for release on licence after he has served two-thirds of his sentence of corrective training.

21 Ravichander is no stranger to the criminal justice system. In April 1984, he was convicted of theft and jailed for a month as he could not pay the $500 fine. In December that very same year, he

was again charged and convicted of theft, and fined $2000. In 1987, he was fined $1000 for mischief. A year later, he served an eight-week default jail sentence for possession of drugs. On 12 Septermber 1989, Ravichander was tried and convicted for rioting with a deadly weapon and sentenced to six months' imprisonment. His victim died. This only got worse when he was released as he was charged for culpable homicide not amounting to murder and sentenced to seven-years' imprisonment. His criminal record was peppered with a whole string of drug consumption offences in 1993, 1995 and 1997 for which he received sentences ranging from two months' imprisonment plus fine, to 3 years' imprisonment. In 1998, Ravichander was convicted of disorderly behaviour and fined $500. He was also charged for using indecent, threatening, abusive or insulting words and behaviour against a public servant and fined $1000. In September 1998 and June 2001, he was convicted of disorderly behaviour and fined $1500 and sentenced to two weeks' imprisonment respectively.

22 With such an illustrious criminal career behind him, one might be forgiven if one had mistaken Ravichander as a potential candidate for preventive detention. However, the district judge, having called for a report from the Prison's Department, formed the view that he was suitable for corrective training instead. I saw no reason to disturb this finding. The question I asked myself was whether the seven-year term was one that was manifestly excessive.

23 It must be reiterated that the sentencing frameworks for corrective training and normal imprisonment are different. This is because the aims of each type of punishment as well as the actual conditions under which they are carried out are not the same. As such, the factors to be considered in determining the length of corrective training differ from those relevant for determining sentences of imprisonment.

24 When determining what a suitable sentence is for imprisonment, the Court is guided, amongst other things, by the gravity of the offence, the antecedents of the prisoner, and any mitigating or aggravating circumstances that may exist. Policy considerations may also play a role.

25 On the other hand, when determining what a suitable term is for corrective training, the Court should keep in mind that this form of punishment, though in substance very similar to imprisonment: see *R v Mccarthy* [1955] 2 All ER 927, should not be treated as a lesser form of preventive detention. Those undergoing corrective training must first be capable of reform, while those sent in for preventive detention are hardened criminals. Sending hardened criminals through the corrective training regime would not only dilute the programme's aims but also endanger the reformative path of more promising prisoners.

26 More importantly, when sentencing a person to corrective training, normal sentencing principles such as the gravity of the offence, tariffs, mitigating and aggravating factors, while still relevant, do not take centre-stage. Rather, the critical factor to be considered is the amount of time that the Court feels is required to enable real reform to be attempted. Lord Goddard CJ's comments in the case of *R v Barrett* [1949] 2 All ER 689 are instructive:

> Since a person of 21 years or over who is in need of training … can no longer be sent to Borstal, it is a good thing, no doubt, to send him for corrective training. If his record shows that his tendency is to lead a criminal life, it is as well to make the sentence of corrective training of substantial length and to bear in mind that the usual remission will be granted if the prisoner behaves himself. In such cases, it is of little use giving a sentence of a length which will not enable real reform to be attempted.

27 Provided that the prisoner is capable of reform, a longer period of corrective training might be

imposed if his antecedents reveal a more disturbing downward trend. On the other hand, if a prisoner only has a few previous infractions which are not very serious, and which do not reveal a dangerous frequency of recurrence, then a shorter period may be imposed since it might be thought that this would suffice to reform him.

28 In light of the aforementioned considerations, and given the nature of Ravichander's antecedents, I was of the firm opinion that the seven-year term of corrective training was manifestly inadequate to enable real reform to be attempted. As such, I substituted for it the maximum term of 14 years corrective training.

Appeal against conviction and sentence dismissed.

Sentence enhanced to 14 years' corrective training.

Sgd:

YONG PUNG HOW

Chief Justice