

Public Prosecutor v Wanari bin Kamri
[2002] SGHC 226

Case Number : CC 52/2002
Decision Date : 26 September 2002
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Eugene Lee Yee Leng and Francis Ng [Attorney-General's Chambers] for the prosecution; Accused in person
Parties : Public Prosecutor — Wanari bin Kamri

Judgment

GROUNDS OF DECISION

1. The accused is a male aged 42. He was charged with three counts of rape against his step-daughter (referred to herein as "A", to preserve anonymity) presently aged 13. The offences were committed between early 2000 and late 2001. A testified that the accused first molested her on 22 August 1999. Subsequently, the accused molested and raped her on three separate occasions. The first was in early 2000, the second at the end of 2000, and the last occasion on 21 September 2001. She was able to recall this last date because that was when she experienced menstruation for the first time.

2. The accused is the second husband of A's mother (referred to herein as "B" to preserve A's anonymity). He had two children by his first wife whom he had since divorced. A is the only child of B. B had since borne a son by the accused. The rapes became known after B found a love note in the accused's bag. The note was written by the accused and addressed to A. B, being illiterate, asked her daughter to read the note to her. The daughter only said that it was a note about her (A). B then asked her neighbour N to translate the note to her. After that B confronted A and eventually, the history of rape and molest was revealed. B then lodged a complaint to the police against the accused. The accused was arrested in his flat on 18 April 2002.

3. Dr. Codelia Han testified that A was no longer *virgo intacta* and that it was consistent with a history of previous sexual intercourse. The prosecution also led evidence of a note written by the accused in Malay to his wife acknowledging that he had done wrong and asking for forgiveness. Evidence was also led, from N, in respect of A telling N that she had been touched by her step-father, but had asked N not to disclose this to B. SI Mohd Bakhtiar testified that when he arrested the accused, the accused said that he already knew why the police had come for him. He had also admitted that he had molested his step-daughter. Three cautioned statements in respect of each of the charges were adduced in evidence by the prosecution. The statements were short, and in them, the accused acknowledged the offence charged, and asked for leniency. He had also confessed to the rapes in his statement to the investigating officer under s 121(1) of the Criminal Procedure Code recorded on 24 April 2002. A short oral statement made to the investigating officer and subsequently recorded in the officer's field diary was also adduced in evidence. In this statement the accused denied penetrating A and said that he had only rubbed his penis against her vulva, a stand he maintained throughout the trial.

4. The accused was not represented by counsel. He challenged the admissibility of all his confessions on the ground that the recording officer threatened that he would be locked away for a long time if he did not tell the truth. Secondly, he was promised the opportunity of seeing his wife and

son after he had given his statement. Finally, he charged that in any event, he never confessed to rape but only to molest. I am of the view that none of the allegations above raised any reasonable doubt as to the voluntary nature of the statements. The statements were, according, admitted in evidence. In any event, I find that the substantive evidence against the accused was the oral testimony of A. In that regard, I am satisfied that she was a sufficiently mature and reliable witness. There were moments of confusion during her cross-examination, but when they were clarified, I found them to be consistent and reliable. I am satisfied that A's evidence that the accused had penetrated her was truthful and that she was fully aware of what her evidence meant.

5. The accused elected to give evidence when I called upon his defence. His main plank was that he did not penetrate A, but had only rubbed his penis against her vulva. He also tried to show that A had consented to the acts and was a willing participant. He insinuated that A made the allegations of rape because she was afraid of her mother. I find in none of these assertions any material to raise a reasonable doubt in my mind. I was therefore satisfied that the prosecution had proved its case against the accused, and I accordingly convicted him of the three charges upon which he was tried before me.

6. The DPP brought my attention to a list of previous offences upon which the accused was convicted. They comprised traffic offences and drug related offences. In mitigation the accused merely pleaded remorse, and appealed for forgiveness and leniency - both appeals arriving a trifle late. The accused consented to having the remaining six charges for molest taken into consideration for purposes of sentencing. After hearing the DPP's address on sentence and the matters raised by the accused I sentenced him to 12 years imprisonment and 12 strokes of the cane in respect of each of the three charges. The sentence of imprisonment in respect of the first and fifth charges would run concurrently with effect from the date of his arrest, namely 18 April 2002. The sentence of imprisonment in respect of the eighth charge shall run consecutively from that of the first and fifth charges. The total number of strokes of the cane shall not exceed 24 as stipulated under the CPC.

Sgd:

Choo Han Teck

Judicial Commissioner

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