

Public Prosecutor v Yap Siew Luan
[2002] SGHC 93

Case Number : CC 24/2002
Decision Date : 30 April 2002
Tribunal/Court : High Court
Coram : Tay Yong Kwang JC
Counsel Name(s) : Christopher Ong and Jason Tan (Attorney-General's Chambers) for the prosecution; Chua Eng Hui (assigned) (Infinitus Law Corporation) and Yap Sze Hon (assigned) (Low Yeap Toh & Goon) for the accused
Parties : Public Prosecutor — Yap Siew Luan

Judgment

GROUND OF DECISION

THE CHARGE

1. The Accused is a 45 year old female. She has pleaded guilty to the following amended charge :

"That you, **Yap Siew Luan**

on the 29th day of October 2001, at or about 8.55 pm, in a motor car SBX 9744 C at Woodlands Checkpoint, Singapore, did import into Singapore a controlled drug specified in Class 'A' of the First Schedule to the Misuse of Drugs Act, Chapter 185, to wit, 1 packet of granular substance containing not less than 249.9 grammes of methamphetamine, without any authorisation under the said Act or the regulations made thereunder, and you have thereby committed an offence under section 7 of the Misuse of Drugs Act, Chapter 185 and punishable under section 33 of the Misuse of Drugs Act."

2. The original charge alleged importation of 386.1 grammes of methamphetamine, which would have attracted the mandatory death penalty upon conviction.

THE STATEMENT OF FACTS

3. The facts leading to the above charge are set out quite succinctly in the Statement of Facts below :

"The Accused

1. The accused person is Yap Siew Luan ('the accused'), a female Singaporean, aged 45 years old, residing at Blk 810 Tampines Ave 4 #04-187. She was working as a part time driver.

The Scene of Crime

2. On 29 October 2001 at about 8.55 pm, acting on intelligence information, CNB officers at the Car Arrival Bay, Woodlands Checkpoint, Singapore, stopped a Singapore-registered dark grey Mitsubishi car with registration number SBX 9744

C, driven by the accused from Malaysia into Singapore.

3. A search of the car was conducted and a box was recovered under the driver's seat. The box contained a crystalline substance, believed to be methamphetamine, weighing about 516 grams.

4. The accused then gave oral statements to the CNB officers at the scene admitting that she brought in the drugs and she knew that the drugs were 'ice'.

HSA Analysis

5. The HSA analysis confirmed that the box contained a gross weight of 499.6 grams of methamphetamine in crystalline salt form. Upon further analysis, the nett weight of methamphetamine was found to be not less than 249.9 grams."

ANTECEDENTS

4. The Accused has no previous conviction. The Prosecution makes no submission on sentence.

MITIGATION

5. The Accused is single and received formal education up to Secondary 4. She first worked as a bus driver and later as a night-shift taxi driver.

6. In the course of her work as a taxi driver, she became acquainted with one 'Alice' (a pseudonym used as other investigations are still under way). Alice became a regular customer, booking the Accused's taxi two or three times a week. Alice was generous, often paying the Accused more than the metered fare. She also helped the Accused discharge her debts owed to moneylenders, incurred because of her past gambling habit, and other legitimate debts.

7. In late September or early October 2001, Alice invited the Accused to her home and introduced her to the drug "Ice". After that first experience of drug consumption, the Accused found that it perked her up. She then began to consume "Ice" regularly with Alice after the taxi trips together. Alice never asked for payment for the drug.

8. Later, Alice needed taxi service in the daytime as well. The Accused could not provide such as the taxi was hired by another taxi driver during the day. Alice then suggested that the Accused rent a car in the Accused's name. Alice told her that was necessary as she (Alice) had irregular sleeping hours and might not be able to return the car to the rental company on time if it were in her name. The Accused agreed and a car was rented on several occasions during which time, the Accused would ferry Alice around and be paid as if she had provided taxi service. Alice would also pay the hire charges for the car.

9. On 29 October 2001, Alice asked her to rent a car for two days. After sending Alice from Tampines to Circuit Road, Alice told her she did not need transport for the rest of the day. The Accused then drove alone into Johor for dinner and to look up an old friend. She has done this before on a few other occasions.

10. While she was in Johor, she received a telephone call from Alice who told her that she required

the use of the rented car that evening. When the Accused informed Alice that she was about to go to Taman Sentosa for dinner, Alice told her to wait at Taman Sentosa for a man who would hand her a parcel to bring back to Singapore for Alice.

11. At the said location, a man approached the Accused, handed her a parcel and left immediately. Upon examination of the parcel, she realized, to her dismay, that it was a packet of the drug "Ice" which she could recognize as she had been consuming it. She called Alice immediately and told her she was not prepared to bring the parcel into Singapore for her. Alice lied to her that the amount was not much and would not attract the death penalty. She also said that if no one reported her to the authorities, she would not be found out. Alice then claimed to be busy and told the Accused that she would call her back later. She never did.

12. After waiting for some time, the Accused tried calling Alice but her handphone was apparently switched off. She contemplated throwing the parcel away but did not because she felt indebted to Alice for her kindness. Further, she was concerned that she would not be able to compensate Alice for the loss of the parcel of "Ice". She continued unsuccessfully in her attempts to contact Alice right up to the Caltex petrol station just before the Johor Immigration Checkpoint. Deciding at that stage that she had no choice but to take the risk for Alice, trusting her words that the amount was not large, she returned to Singapore in the rented car with the parcel.

13. This was the only time the Accused brought controlled drugs into Singapore. No reward was promised to her by Alice for doing so. Her sense of loyalty and gratitude had been taken advantage of by Alice. She confessed readily to the offence when confronted and has co-operated fully with the CNB in its investigations. She is also deeply remorseful.

THE DECISION OF THE COURT

14. Section 7 of the Misuse of Drugs Act ("MDA") provides that "except as authorised by this Act, it shall be an offence for a person to import into or export from Singapore a controlled drug". There is no definition of "import" in the MDA. However, section 2 (1) of the Interpretation Act defines "import" as "to bring or cause to be brought into Singapore by land, sea or air". There is no doubt that the Accused did "import" the said drug into Singapore by bringing it in by land.

15. Unauthorised import or export of methamphetamine under section 7 MDA is punishable in the same way as unauthorised traffic in the same drug under section 5 MDA where the amount involved is not less than 167 grammes. The punishment provided by section 33 MDA read with the Second Schedule is as follows :

"Unauthorised import or
export of
methamphetamine where
the quantity is -

Maximum 30 years or
(a) not less than 167 imprisonment for life and
grammes and not more 15 strokes
than 250 grammes

Minimum 20 years And
15 strokes

(b) more than 250 grammes Death."

It can be seen that the charge here was amended to bring the amount of methamphetamine involved to just below the level which would have triggered the mandatory death penalty.

16. As stated by Yong Pung How CJ in ***Ooi Joo Keong v PP [1997] 2 SLR 68*** at paragraph 14 of the judgment there, Class A drugs may be described as the most dangerous category of drugs and methamphetamine is a Class A drug.

17. A person who knowingly handles controlled drugs, knowing the nature of the drugs, cannot excuse himself/herself with the plea that someone, however trustworthy, has assured him/her that the drugs were of a lower quantity or quality than it turned out to be.

18. Since the Accused has no antecedents of any sort, in particular, those related to drug offences, has pleaded guilty at the first opportunity and has co-operated with the CNB from the time of her arrest, life imprisonment is not appropriate for her. The punishment therefore lies somewhere between 20 and 30 years of imprisonment.

19. On the other hand, the amount of methamphetamine involved is practically at the very top end of the range for the offence. For this, I add two years to the minimum of 20 years provided by the MDA.

20. The Accused is also not liable to be caned the mandatory 15 strokes by virtue of section 231(a) Criminal Procedure Code which provides that women shall not be punishable with caning. I therefore add another two years to the imprisonment term because of this exemption from the otherwise mandatory corporal punishment.

21. The imprisonment term is deemed to have commenced from the date of her arrest on 29 October 2001. Accordingly, I sentence the Accused to undergo 24 years imprisonment with effect from 29 October 2001.

Sgd:

TAY YONG KWANG
JUDICIAL COMMISSIONER

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