IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2023] SGCA 25

Court of Appeal / Criminal Appeal No 28 of 2022

Between

Mohamed Aliff bin Mohamed Yusoff

… *Appellant*

And

Public Prosecutor

… *Respondent*

In the matter of Criminal Case No 21 of 2022

Between

Public Prosecutor

And

Mohamed Aliff bin Mohamed Yusoff

EX TEMPORE JUDGMENT

[Criminal Law — Offences — Murder]

Mohamed Aliff bin Mohamed Yusoff
v
Public Prosecutor

[2023] SGCA 25

Court of Appeal — Criminal Appeal No 28 of 2022
Tay Yong Kwang JCA, Steven Chong JCA, Belinda Ang Saw Ean JCA
11 September 2023

11 September 2023

Tay Yong Kwang JCA (delivering the judgment of the court *ex tempore*):

1 The appellant appeals against his conviction for murder under s 300(*c*) of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code") punishable under s 302(2) of the Penal Code. He was convicted after trial by the High Court on the following charge:

> That you, **MOHAMED ALIFF BIN MOHAMED YUSOFF**,
>
> sometime between 10.00pm on 7 November 2019 and 12.15 a.m. on 8 November 2019, at the multi-storey car-park located at Block 840A Yishun Street 81, Singapore, did commit murder by causing the death of one Izz Fayyaz Zayani Bin Ahmad (Male, 9 months old), and you have thereby committed an offence under Section 300(c) and punishable under Section 302(2) of the Penal Code (Cap 224, 2008 Rev Ed).

2 The trial judge (the "Judge") decided not to impose the death penalty. Instead, she sentenced the appellant to life imprisonment and 15 strokes of the cane. The appellant does not appeal against his sentence.

3 The Prosecution's case was that the appellant had pushed the boy's head intentionally against the wooden floorboard in the rear cabin of the appellant's van twice, thereby inflicting blunt force trauma to the boy's head. This resulted in fatal brain injuries to the boy.

4 In this appeal, the appellant maintains his defence raised at the trial that the 9-month-old boy had fallen accidentally while he was carrying him in his right arm and carrying a plastic bag containing some things in his left arm. He claimed that when he was trying to close the door of the van's rear cabin, the boy fidgeted and therefore fell, hitting his head first on the wooden floorboard of the van, then the van's footrest and finally landing prone on the floor of the carpark. It was accepted that the cause of the boy's death was traumatic intracranial haemorrhage.

5 The appellant challenged the admissibility of seven statements given by him to the police. He alleged that on 8 November 2019, at the Woodlands Police Division Headquarters, Senior Station Inspector Mazlan ("SSI Mazlan") was not satisfied with his narration of the incident as an accidental fall and therefore threatened him. He claimed that SSI Mazlan stood up, banged the table, went close to the appellant's ear and said, "If you don't change your statement you go to the gallows". The appellant said that he was taken aback by this threat and decided to create an imaginary story to appease SSI Mazlan and in order to escape the death sentence. When the appellant was brought to the Police Cantonment Complex, SSI Mazlan told him to remember what he had said earlier.

6 The second alleged threat to the appellant took place on 11 November 2019 in an interview room where Inspector Daniel Lim threw a water bottle filled with water at the appellant's cheek and told him, "You better be

remorseful or I buy you a rope".

7 The appellant claimed that he made false self-incriminating statements because of these threats. He claimed that he stated falsely that he had pushed the boy's head against the van's floorboard twice.

8 The Judge dealt with these allegations during the ancillary hearing and gave detailed reasons why she was satisfied that the alleged threats never occurred. She therefore admitted the disputed statements as having been made voluntarily.

9 We agree with her reasoning and see no findings made by her that were against the weight of the evidence adduced. We therefore accept that the disputed statements had been made voluntarily and were admitted correctly as evidence.

10 Once all the disputed statements were admitted as evidence, it was obvious that the appellant's claim of an accidental fall could not be true. They showed clearly that he intended to cause the head injuries suffered by the boy. Any adult pushing a little 9-month-old boy's head twice against the van's floorboard (the left side of the head followed by the forehead), something which the appellant admitted doing in his statements, even if it were done with mild force and on a plywood floorboard, would know that serious injuries would be caused. The appellant also accepted (at para 34 of his written submissions) that at the point of death, the boy was "not the typical healthy and bubbly-looking 9-month-old baby". He also accepted (at para 40 of his written submissions) that the boy was "already underweight and a 'little undernourished'". Further, the appellant was doing the pushing because of frustration and not because he was playing a bit too rough with the boy, a claim which the appellant did not

make anyway.

11 The appellant's statements as to his acts and his re-enactment of what had taken place in the van that night were consistent with the Prosecution's expert evidence on the cause of the boy's death. The forensic and medical evidence adduced by the Prosecution was consistent with non-accidental injury to the boy's head.

12 Further, the appellant's post-incident conduct was not consistent with his assertion of an accidental fall. He showed no urgency in bringing the boy to the hospital, especially since he had the van and another vehicle available in the carpark. When he agreed eventually with the boy's mother to bring the injured boy to receive medical attention, he was concerned that they should tell the hospital the same story, which included his defence of an accidental fall.

13 At the hospital, the appellant again showed no urgency in getting the boy to the doctors. He did not stop his van at the Accident and Emergency Department. Instead, he parked in the basement carpark and then spent some 16 minutes in or around the parked van with the boy and his mother. When they went out of the van, the appellant spent another 20 minutes or so walking around looking for a place to discard his spare mobile phone apparently because it contained evidence of him selling vapes. After he had thrown away his spare mobile phone, he then brought the boy and his mother to the doctors.

14 In addition to all the above evidence pointing clearly to the appellant's guilt, when he was charged with murder and invited to make a cautioned statement, he failed to mention the defence of an accidental fall. Instead, he stated that he did the act charged in a moment of frustration after hearing the boy crying and he also expressed remorse.

15 On the totality of the evidence, it was clear that the Judge was correct in concluding that the appellant was guilty as charged. We therefore affirm her decision and dismiss the appeal against conviction.

16 As the appellant has confirmed before us this morning that he is not appealing against sentence, the sentence of life imprisonment and 15 strokes of the cane is also affirmed.

Tay Yong Kwang
Justice of the Court of Appeal

Steven Chong
Justice of the Court of Appeal

Belinda Ang Saw Ean
Justice of the Court of Appeal

Kanagavijayan Nadarajan (Kana & Co) for the appellant;
Han Ming Kuang and Lim Shin Hui (Attorney-General's Chambers)
for the respondent.