

**IN THE SUBORDINATE COURTS OF THE REPUBLIC OF SINGAPORE**

**[2007] SGDC 221**

DAC No 55248 of 2006  
Magistrate's Appeal No 145 of 2007/01

Senthil Kumaran s/o Veerappan

*Against*

Public Prosecutor

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**GROUNDS OF DECISION**

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**Senthil Kumaran s/o Veerappan**

**v**

**Public Prosecutor**

**[2007] SGDC 221**

District Court — DAC No 55248 of 2006  
District Judge Roy Grenville Neighbour

28 May, 25 June, 16 July 2007

7 August 2007

**District Judge Roy Grenville Neighbour:**

The accused pleaded guilty to the following charge, namely:-

**DAC No 55248/2006 [Exhibit P1A]**

You,

Senthil Kumaran s/o Veerappan, Male 18 years  
NRIC No. S8800119 B  
(Singaporean)

are charged that you on 10<sup>th</sup> day of December 2006, at about 8.30 a.m. at the vicinity of Lorong 14 Geylang, Singapore together with Shaam s/o Vijayan, m/20 yrs and Muthu Kumar s/o Maniam, m/19 yrs, in the furtherance of the common intention of you all did voluntarily cause hurt to one Krishanmoorthy Vasudevan, m/36 yrs old, to wit, by hitting him with plastic chairs and you have thereby committed an offence punishable under Section 323 read with Section 34 of the Penal Code, Chapter 224.

2. At the conclusion of the hearing the accused was convicted on the said charge and was sentenced to undergo reformatory training at a Reformatory Training Centre (RTC). Dissatisfied, the accused has appealed against the sentence.

**FACTS**

3. The facts to which the accused pleaded guilty to are that on 9 Dec 2006, one Muthu Kumar s/o Maniam (Muthu Kumar) and Shaam s/o Vijayan (Shaam) both national servicemen met the appellant at a bar where he worked. There all three of them indulged in a drinking session before proceeding to another bar to consume more liquor.

4. On 10 Dec '06 at about 5.30 a.m., Muthu Kumar left the company of Shaam and the appellant and proceeded to Geylang. Sometime after 7.00 a.m., that same morning, Shaam and the appellant decided to join Muthu Kumar at Geylang. They then took a taxi to Lorong 14 Geylang.

5. At about 8.30 a.m., Shaam and the appellant arrived in the vicinity of Lorong 14 Geylang. After alighting from the taxi, they saw Muthu Kumar having a confrontation with one Krishnamoorthy Vasudevan (the victim) an Indian national. The appellant and Shaam joined in the confrontation. In the course of the confrontation, the appellant Muthu Kumar and Shaam took plastic chairs and began hitting the victim with the chairs. The victim was injured during the assault. In the midst of the attack, the victim managed to call the police on his handphone and requested for assistance. In the meantime, an eyewitness to the incident attended to the victim. The appellant, Muthu Kumar and Shaam fled then from the scene. When the police arrived at the scene, investigations were conducted and the descriptions of the appellant, Muthu Kumar and Shaam were obtained from an eye witnesses. Based on the descriptions obtained, the appellant, Muthu Kumar and Shaam were subsequently detained in the vicinity. Thereafter, the appellant, Muthu Kumar and Shaam were identified by the victim and an eyewitness.

6. That same day, the victim was conveyed to Tan Tock Seng Hospital, Emergency Department for treatment of his injuries. Dr Justin Chong Wee-Min after medically examining the victim stated that the victim had a 10 cm laceration over the head and fronto-parietal region. The victim also complained of pain and tenderness over the left forearm. After suturing the victim's wound and giving him an anti-

tetanus injection he was given medication and discharged with 2 days outpatient medical leave.

7. That same day, the appellant and Muthu Kumar too, were sent to Changi General Hospital for a medical examination. Dr Lim Puay Joo who medically examined the appellant found that the appellant smelt of alcohol. He had no injuries. A blood sample obtained from the appellant revealed that he had a blood alcohol level of 197 mg of ethanol per 100 ml of blood. The appellant was discharged without medication and without medical leave.

Dr. Li Yizhi upon medically examining Muthu Kumar found that he had a 8mm superficial cut on the right forehead. He had a blood alcohol level of 109 mg per 100 ml of blood. Consequently, Muthu Kumar was given medication and discharged.

### **ANTECEDENTS**

8. On 27 July 2004, the accused was convicted for an offence under section 35(1) of the Miscellaneous Offences (Public Order and Nuisance) Act (Chapter 184) and was placed on 15 months' probation with a time restriction and to serve 80 hours of community service. A charge under section 143 of the Penal Code (Chapter 224) for being a member of an unlawful assembly was taken into consideration in sentencing.

### **MITIGATION**

9. In mitigation counsel submitted that the appellant is 19 years of age and a national serviceman. On 10 Dec '06 at about 5.30 a.m., the appellant had finished work as a part-time Disc Jockey (DJ) at Ripples Bar. While he was waiting to collect his pay his friend Shaam came to the pub. They drank at the pub till 7.00 a.m., when Muthu Kumar who was at Geylang called Shaam and asked him to meet him there. At about 7.45 a.m. Shaam and the appellant reached Geylang. As the appellant was alighting from the taxi he saw a man whom he thought was a Bangladeshi (the victim) push Muthu Kumar on the chest. After pushing Muthu Kumar, the victim ran towards a nearby coffee shop. When Muthu Kumar gave chase, the appellant ran after them. Upon reaching the coffee shop he saw the victim hit Muthu Kumar with a plastic

chair. The appellant ran in between them to stop the dispute but was hit on the right arm with the chair the victim held. Angered by this, the appellant threw a chair that hit the victim's right knee. The appellant then left the coffee shop. When they noticed that Muthu Kumar was bleeding from a wound on the head, they proceeded to a nearby shop where they bought a bottle of mineral water and a plaster. Whilst they were about to leave the vicinity in a taxi, they were arrested by the police.

10. The appellant was drunk at the time of the commission of the offence. The alcohol had obviously clouded his judgment. There was no premeditation involved. He had only thrown the chair at the victim after the victim hit him. The appellant now realizes that it was wrong of him to go on a drinking binge and to have joined in the fracas at Geylang. Presently, the appellant is trying to continue with his education which he had discontinued after failing his 'N' level examinations. The appellant's parents having taken a rather *laissez faire* approach towards the appellant are now taking an active interest in his affairs and are encouraging him to continue with his studies. They have promised to ensure that the appellant does not run foul of the law again. In view of the circumstances, counsel urged the court to call for a pre-sentence report on the appellant with a view to placing him on probation.

### **SENTENCE**

11. In determining an appropriate sentence all the facts and circumstances of the case were considered as well as the sentencing principles. After considering counsel's plea in mitigation to rehabilitate the appellant rather than to incarcerate him, I exercised my discretion to call for a probation report on him. The consideration of rehabilitation in sentencing depends on several factors namely, the personality and background of the offender and the nature and circumstances of the offence. In the instant case, the appellant is below 21 years of age and rehabilitation is the dominant consideration<sup>1</sup>. Subsequently, when the probation report was submitted to court, probation was not recommended for the appellant. Probation was assessed to be unsuitable for the appellant for several reasons namely:-

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<sup>1</sup> PP v Mok Ping Wuen Maurice [1999] SLR 138

- (i) his commission of the present offence was barely a year after completing his probation;
- (ii) the commission of the present offence was committed due to his propensity for risk taking behaviour and his inability to manage his drinking habit;
- (iii) that despite his awareness of the possible consequences of his actions, the appellant still chose to confront the victim and remain in the company of his friends when the quarrel ensued;
- (iv) his inability to recognize the impact of the offence on the victim despite having attended programmes targeting his offending behaviour suggests little scope for rehabilitation within a community-based setting;
- (v) his re-offending clearly shows that he has not fully internalized the skills taught and of the need to behave in a socially acceptable manner;
- (vi) his lack of regular engagement in a constructive activity since he completed probation until he was enlisted into National Service is an added risk factor;
- (vii) his not making any long term changes since he completed probation gives the appearance that he has grown accustomed to a lackadaisical lifestyle as evident by his intermittent work history and continued habit of consuming alcohol;
- (viii) his parents, though supportive and co-operative with the Probation Officer, have not been able to exert adequate influence over the appellant's behaviour outside the home;
- (ix) the appellant has continued to disregard his parents efforts to discipline him and to advise him when it came to his lifestyle activities;
- (x) the strict and regimented structure in National Service did not even deter the appellant from violating the rules whilst he was on court bail. He was charged for misconduct under section 25 of the Singapore Armed forces Act (Cap 295) when he reported for duty at Amoy Quee Camp on 10 June '07 under the influence of alcohol. He was ordered to undergo 10 days detention and was released on 20 June '07 from the SAF Corrective Centre;

- (xi) while the impact of the court appearance and detention might have impressed on the appellant the severe consequences of criminal behaviour, he is still susceptible to external influences that renders him a risk of further re-offending; and
- (xii) his lack of self discipline, disregard for law and authority, inability to learn from the earlier offences and disregarding the help offered while on probation makes for a poor prognosis for him to be placed again on probation.

12. As the appellant was not recommended to be placed on probation, counsel urged the court to incarcerate the appellant instead of calling for a reformatory training report on him. The appellant however, is under 21 years of age and hence liable to reformatory training. Reformatory training like a probation is a rehabilitative sentence. In order for the court to impose a sentence of reformatory training, it must be satisfied having regard to the appellant's character, previous conduct and circumstance of the offence that it is expedient with a view to his reformation and the prevention of crime that he should undergo a period of training in a reformatory training centre. It is clear from the probation report that the appellant parents could not exercise any control over him outside the home. Had they been able to do so, probation might be an appropriate sentence. Also, the fact that the appellant reported for duty under the influence of alcohol whilst he was on court bail is a clear indication that the appellant has scant regard for law and authority;

13. Accordingly, I elected to call for a pre-sentence report to determine the appellant suitability for reformatory training. The appellant was remanded three weeks pending the report. Consequently, when the pre-sentence report was submitted, the appellant was found to be suitable to undergo reformatory training. It is clearly apparent from the appellant's lifestyle and conduct that he lacks discipline and control in managing his lifestyle activities.

14. In determining whether or not to impose reformatory training, the prescribed maximum sentence of one year imprisonment for an offence under section 323 of the Penal Code was also considered. However, the fact that it is of a shorter term than what the appellant would undergo if sentenced to reformatory training does not

prevent the court from sentencing the appellant to reformatory training<sup>2</sup>. An offender sentenced to reformatory training is detained in a Reformatory Training Centre (RTC) for a period between 18 months and 3 years. The period of detention is determined by Visiting Justices<sup>3</sup>. Upon release the offender is placed under supervision until the expiry of 4 years from the date of his sentence. Whilst under supervision the offender must comply with the requirements as may be so specified. If the offender fails to comply with any of the requirements, he may be ordered to be recalled to RTC for further detention until the end of 3 years from the date of his sentence or the end of 6 months from the date he is taken into custody whichever is the later. Such detention, however, shall not extend beyond the end of 4 years from the date of sentence.

15. The appellant is a young man in the formative years of his life. He needs purpose, discipline and structure in his life. He has his whole future ahead of him. He would definitely benefit from a regime of reformatory training that would give him an opportunity to pursue a course of study or acquire a skill as opposed to incarceration that could mar his chances of gainful employment in future. Thus, having regard to the appellant's character, his home environment, his previous conduct and the circumstances of the commission of the offence, the appellant was sentenced to reformatory training.

R G NEIGHBOUR  
DISTRICT JUDGE

*A Thamlselvan, M/s Subra TT & Partners, counsel for the Appellant  
Christopher Ong Siu Jin, Deputy Public Prosecutor for the Respondent*

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<sup>2</sup> R Douglas (1965) LR 664 and R v Amos (1961) 1 All E R 191 See also Sentencing Practice in the Subordinate Courts (2<sup>nd</sup> Edition) Page 35

<sup>3</sup> See: Schedule D to the Criminal Procedure Code (Chapter 68).