

Public Prosecutor v Zhang Weida
[2017] SGDC 123

Case Number : DAC-925020-2016 & Ors
Decision Date : 27 April 2017
Tribunal/Court : District Court
Coram : Ng Peng Hong
Counsel Name(s) : Deputy Public Prosecutor Ms Chew Xin Ying; Mr Derek Kang for the Defence
Parties : Public Prosecutor — ZHANG WEIDA

[LawNet Editorial Note: The appeal to this decision in MA 9114/2017/01 against sentence was dismissed on 31 August 2017.]

27 April 2017

District Judge Ng Peng Hong:

1 The Accused was charged with 12 charges, all in relation to offences under the Women's Charter (WC). He pleaded guilty to 5 of these charges. 4 of these were for knowingly lived in part of the prostitute's prostitution earnings, an offence under s146 WC. The other charge was that being a tenant, the Accused did knowingly allow the place to be used as a brothel, an offence under s148 (2) WC. The other 7 charges were taken into account for sentencing.

2 The Accused was convicted and sentenced to a total sentence of 6 months' imprisonment and a fine of \$3000 in default 3 weeks' imprisonment. He is appealing against the said sentence.

3 For ease of reference, I will set out the full detail of 1 charge (DAC925021/2016) under s146 WC and that of s148(2) WC, namely, DAC 925029/2016.

4 DAC5205021/2016 states: "*you ...are charged that you, on 14th day of April 2016, in Singapore, together with Low Xin Yi, female 34 years old, Permanent Resident, DOB: 20.03.1982, NRIC: xxx in furtherance of the common intention of you both, did knowingly live in part on the earnings of the prostitution of one, Zhao Qing female China National, 30 years old, China Passport No.: xxx and you have thereby committed an offence punishable under Section 146(1) of the Women's Charter, Chapter 353 (2009 Rev.Ed.) read with section 34 of the Penal Code, Chapter 224 (2008 Rev.Ed.).*

In respect of DAC DAC 925029/2016, it states: "*you....are charged that you, from 18th day of October 2015 to 25 October 2015, and from 1 November 2015 to 20th day of November 2015, in Singapore, being the tenant of Block 209 Choa Chu Kang Central #01-148 Singapore 680209, did knowingly allow the place to be used as a brothel and you have thereby committed an offence under Section 148(2) of the Women's Charter, Chapter 353 (2009 Rev. Ed.).*"

Statement of Facts (SOF)

5 The Accused (B1) admitted to the following facts:

"Facts relating to arrest of accused persons

4. *On 19 April 2016, Police officers from Ang Mo Kio Police Division conducted a raid at Block 435 Yishun Ave 6 #11-2104. Thereat, the officers arrested two PRC female subjects (established to be A3 and A4). B1 and B2 were subsequently arrested on suspicion of having committed offences under the Women's Charter.*
5. *A3 and A4 were found to have provided sexual services in the said unit. B1 and B2 had arranged for A3 and A4 to stay at the unit, knowing that they would use the unit to provide sexual services.*
6. *The following items which were used in the commission of the offences were seized as case exhibits:*
 - a) *Cash – S\$500/- seized from A3, Zhao Qing*
 - b) *Cash - S\$900/- seized from A4, Li Huaying*
 - c) *Cash – S\$1330/- seized from B2, Low Xinyi*
 - d) *One white in colour Samsung handphone seized from A3, Zhao Qing*
 - e) *One Sim card seized from A3, Zhao Qing*
 - f) *One black in colour Iphone seized from A3, Zhao Qing*
 - g) *One Sim card seized from A3, Zhao Qing*
 - h) *One white in colour Iphone with transparent casing seized from A4, Li Huaying*
 - i) *One Sim card seized from A4, Li Huaying*
 - j) *One white in colour Iphone with casing seized from B2, Low Xinyi*
 - k) *One Sim card seized from B2, Low Xinyi*
 - l) *One Visa card from Bank of China seized from B2, Low Xinyi*
 - m) *One Visa card from ANZ bank seized from B2, Low Xinyi*
 - n) *One bunch of keys (6 keys) seized from B2, Low Xinyi*
 - o) *One stack of document seized from B2, Low Xinyi*
 - p) *One white in colour Iphone with black casing and one 'Kopitiam' card on the cover seized from B1, Zhang Weida*
 - q) *One Sim card seized from B1, Zhang Weida*
 - r) *One white in colour Samsung handphone with one transparent cover seized from B1, Zhang Weida*

s) One Sim card seized from B1, Zhang Weida

t) One set of Tenancy Agreement between Zhang Weida and Li Jin Jin seized from B1, Zhang Weida

Background Facts relating to Section 146 WC charges

7. Sometime in November 2015, B1 decided to enter the prostitution business in Singapore to make money. He joined various "WeChat" groups which discussed prostitution activities in Singapore, for example renting rooms to working prostitutes, providing information on police raids and decoy handphone numbers used by police officers. After he joined these groups, he studied how they operated. B1 and B2 also obtained 'WeChat' IDs of prostitutes from these groups, and would contact them to enquire if they were looking for accommodation in Singapore.

8. The witnesses A1 to A10 are prostitutes from China. They were arranged to work in Singapore mainly by agents in China, who assisted them to post their photos on websites such as www.sex727.com, www.fl8090.com, www.sgbeautycastle.com and www.sgwolf.com for the purpose of advertising their sexual services. Such advertisements would typically include photos of the prostitutes in sexy attire, their contact numbers, the sexual service rates and the types of services provided. All ten prostitutes provided penetrative sexual services, which would include penile-vaginal penetration.

9. The prostitutes paid a lump sum of a few thousand Singapore dollars to their agent for application of immigration passes and for plane tickets to be arranged. At times, they would get B1 or B2's contact from the agent, or from a friend back in China who had knowledge of the prostitution scene in Singapore. Once the prostitute reaches Singapore, they would sometimes contact B1 and/or B2 through 'WeChat'. Other times,(sic)

10. B1 and B2 were aware that A1 to A10 were prostitutes at all material times. B1 and B2 possessed a common intention to live off the earnings of prostitutes. In furtherance of their common intention, B1 and B2 assisted the prostitutes in providing sexual services in two aspects.

11. First, B1 and B2 assisted the prostitutes to source for accommodation in Singapore from which they would provide sexual services. B1 and B2 would contact various tenants in Singapore to ask if they had available accommodation that they wished to rent out. If the tenants replied in the positive, B1 and B2 would enquire about the rental rates and terms (i.e. what is the minimum rental duration, whether an upfront payment is required). They would convey these to the prostitutes, at times increasing the rates quoted by the tenants by \$20 to take into account the commission they would receive. At times, B1 and/or B2 would retrieve the unit keys from the tenant, meet the prostitute at the accommodation to brief her on the terms and show her the unit. After they have successfully arranged for a prostitute to stay in a particular accommodation, B1 and/or B2 would collect the rental monies from the prostitutes on behalf of the tenants. They would take a commission of \$20 per day for each prostitute that they helped to find accommodation for. These commissions were derived from the prostitute's earnings. B1 and B2 would then hand the remaining rental money to the tenants.

12. Second, B1 and B2 referred the prostitutes to the webmaster who helped them to advertise their sexual services on the abovementioned websites in exchange for money. B1 and B2 earned a referral fee of \$50/- to \$100/- per prostitute each time they referred a prostitute to the webmaster. This referral fee was similarly derived from the prostitute's earnings.

13. B1 and B2 admitted that after they collected the commissions, they spent the money on their daily expenses, children's school fees and legal fees.

Facts relating to 1st & 10th Charges DAC 925020/2016 & DAC 925029/2016

14. Sometime before 18 October 2015, A1 paid RMB 20,000 to an agent in China who arranged for her visa application and to advertise her sexual services online. After she arrived in Singapore on 18 October 2015, the agent gave her a handphone number and told her that the person in possession of this handphone number would make

arrangements for her lodging in Singapore. A1 called the handphone number and an unknown male subject picked up. She informed him that she had arrived in Singapore. He picked her up from the airport and ferried her to her place of lodging at Block 209 Choa Chu Kang Central #01-148 ("the CCK unit"). He informed her that her daily room rental costs \$90 and an upfront payment of \$630, being 7 days of rent, is required. A1 paid him \$630 and she was given a SIM card, condoms and lubricants to use.

15. The accused turned up at the CCK unit later the same day and informed A1 that he would be collecting rent on behalf of the landlord. He paid A1 \$110 to have sex with her. A1 agreed. The accused thus became A1's first customer whom she serviced. After they had sex, B1 informed A1 that the CCK unit could possibly be raided and told her not to accept any more bookings from customers at the CCK unit. Arrangements were made for A1 to move to another temporary place of lodging in Geylang.

16. From 18 October 2015 to 25 October 2015, A1 provided sexual services in the CCK unit to a total of 110 customers.

17. On 1 November 2015, A1 moved back to the CCK unit and paid \$630, being 7 days of rent, to B1. On 8 November 2015, A1 paid another \$630, being 7 days of rent, to B1. The sum total of \$1260 were derived from her prostitution earnings. B1 was aware that these were A1's prostitution earnings. A1 provided sexual services in the CCK unit from 1 November 2015 to 20 November 2015 when she was arrested. B1 and B2's commission is \$280.

18. A2 also stayed in the CCK unit and provided sexual services thereat from 14 November 2015 until she was arrested on 20 November 2015. After she moved in to the room on 14 November 2015, she informed B1, who was present in the CCK unit at that time, that her bed was spoilt. On 16 November 2015, B1 replaced the bed for A2 without charging her. He was aware that A2 was a prostitute.

19. Investigations revealed that B1 was the tenant of the CCK unit from 14 September 2015 to 20 November 2015. B1 had signed a tenancy agreement with one Osnain Bin Baji stating that he would rent the said unit from 31 September 2015 to 20 September 2016.

20. B1 was aware that the CCK unit was being used as a brothel from 18 October 2015 to 25 October 2015, and from 1 November 2015 to 20 November 2015.

21. B1 has thereby committed an offence under Section 146(1) of the Women's Charter (Chapter 353) ("WC") and an offence under Section 148(2) WC.

Facts relating to 2nd Charge DAC 925021/2016 (A3 Zhao Qing)

22. A3 was recruited to work as a prostitute in Singapore sometime before 15 July 2015. She arrived in Singapore on 15 July 2015 and provided sexual services in various places. Sometime in March 2016, A3 asked the members of a 'WeChat' group if there was available accommodation in Singapore. B1 replied that he had a room available for rent and brought A3 to Block 230 Yishun Street 21 #01-524. B1 informed A3 that the daily rental is \$80 and A3 agreed to rent the unit. She provided sexual services thereat until 7 April 2016.

23. On or before 8 April 2016, A3 sought B1's help to find another place of lodging for her, telling him that her previous accommodation had been raided by the Police once before. B1 brought her to Block 435 Yishun Avenue 6 #11-2104 (the "Yishun unit") and informed her that daily rental is \$90. On 14 April 2016, A3 paid \$630, being 7 days of rent, to B2. At the time, B1 was together with B2. A3 provided sexual services from 8 April 2016 to 19 April 2016 to a total of 13 customers.

24. By virtue of the foregoing, B1 and B2, in furtherance of their common intention, did knowingly live in part of A3's prostitution earnings. B1 has thereby committed an offence under Section 146(1) WC read with Section 34 of the Penal Code (Chapter 224) ("PC"). B1 and B2's commission is \$140.

Facts relating to 4th Charge DAC 925021/2016 (A5 Wang Dalin)

25. A5 started working as a prostitute in Singapore after her arrival on 20 December 2015. She contacted B1, whose contact was given to her by an agent in China. B1 instructed A5 to go to her place of lodging at 93 Kovan Road #05-07 (the "Kovan unit"). Thereat, A5 met B1, who brought her to the Kovan unit informed her that the daily rental for a room is \$140, to be paid every 10 days. A5 agreed to rent a room in the Kovan unit. B1 brought A5 to the balcony of the Kovan unit. He told her that she would be able to see customers coming from that viewpoint, and warned her to be careful of decoy policemen masquerading as customers.

26. On 29 December 2015, A5 paid \$1400, being 10 days of rent, to B1. On 8 January 2016, A5 paid another \$1400, being 10 days of rent, to B1. On 20 January 2016, A5 paid \$980, being 7 days of rent, to B1. B1 and B2 were aware that the total sum of \$3780 were derived from her prostitution earnings. From 20 December 2015 to 14 January 2016, A5 provided sexual services to 90 customers in the Kovan unit.

27. By virtue of the foregoing, B1 and B2, in furtherance of their common intention, did knowingly live in part of A5's prostitution earnings. B1 has thereby committed an offence under Section 146(1) WC read with Section 34 PC. B1 and B2's commission from the above is \$540 for rental.

Facts relating to 5th Charge DAC 925024/2016 (A6 Wei Fanghui)

28. Sometime in December 2015, A6 arrived in Singapore with the help of an agent in China. She was residing in a hotel in Geylang. Thereat, she met B1 and informed him that she was working as a prostitute in Singapore and operating out of the said hotel. B1 replied that it would be difficult for her to provide sexual services in Geylang as the Police had a constant presence there. He advised her to move out of Geylang and offered to source for privately-owned accommodation for her. He also informed her that he would help her to advertise sexual services by posting advertisements on various websites.

29. On 23 December 2015, A6 moved into a room in the Kovan unit after she was arranged to stay there by B1. The daily rental was \$80 a day. She provided sexual services in the said unit from 23 December 2015 to 21 January 2016 to a total of 60 customers.

30. On 10 January 2016, A6 paid \$1440, being 18 days of rent, and \$400, being fees to post said advertisements online, to B1. On 20 January 2016, A6 paid \$800, being 10 days of rent, to B1. B1 and B2 were aware that the total sum of \$2640 was derived from her prostitution earnings. B1 and B2's commission is \$560 for rent and \$50 for the advertisements.

31. By virtue of the foregoing, B1 and B2, in furtherance of their common intention, did knowingly live in part of A5's prostitution earnings. B1 has thereby committed an offence under Section 146(1) WC read with Section 34 PC.

Conclusion

32. The commission received by B1 for the 1st charge is \$280.

33. The total commission received by B1 and B2 in respect of the 2nd to 10th charges is \$3,280.

34. The commission received by B1 and B2 for the 11th and 12th charges is \$290 and \$200 respectively."

Mitigation

6 The counsel for the Accused submitted a written mitigation plea. Briefly these were the mitigating factors highlighted by counsel. Firstly, the Accused did not have a similar antecedent. At the material time he was unemployed and was a bankrupt. His wife who was the co-accused (B2) had recently delivered their 3rd child. The Accused committed the offences due to his

financial straits. That the commission and referral fees earned were spent on household expenses for his family and his children's school fees. The Accused had pleaded guilty and co-operated with the authorities. It was also contended that the offences were not committed as part of a syndicate. With reference to the seminal case of *PP v Poh Boon Kiat* [2014] 4SLR 892 ("*Poh Boon Kiat*"), counsel submitted that the Accused was in the category of the least serious offences committed. It was contended that the Accused's actions fell under the "C Culpability."

7 Finally, it was submitted that the appropriate sentence would be an aggregate sentence of 1 to 2 months' imprisonment and a fine of \$1850 for the charges under s146(1) WC and a fine for \$1500 for the charge under s148 (2) WC.

Prosecution's submission on sentence

8 The Prosecution chose not to address the court on global sentence. It was submitted that for the charges under s146 WC and s148 WC read with s34 Penal Code, the Accused should be sentenced to 6 months' imprisonment per charge. For the s148 WC offence, the sentence should be 3 months' imprisonment. The reasons for the submissions were stated in the written submission.

Sentencing Factors

9 Considering the nature of the offences committed, the main sentencing consideration must be one of deterrence. See *Poh Boon Kiat* at [81]. In my view, based on the sentencing framework set out in *Poh Boon Kiat* and the circumstances of the case, a custodial sentence was warranted in respect of all the charges.

10 The penalty prescribed for s146 WC offence was a mandatory jail term up to 5 years and also liable to a fine up to \$10,000. For s148 WC offence, the prescribed punishment was a fine not exceeding \$3000 or imprisonment up to 3 years or both.

11 I agreed with the Prosecution that the Accused's involvement placed him within the "Culpability B" and "Category 2 harm". There was no dispute that the Accused's involvement was within the "Category 2 harm". But the Defence contended that it was not "Culpability B".

12 I found that the Accused had a close working relationship with the prostitutes involved. He cannot be said to have performed limited functions. The Accused played a key role in assisting the prostitutes in posting their sexual services on websites and sourcing for their accommodation to stay and provide sexual services. He also advised them on how to evade detection and not to provide sexual services in Geylang where the police had a constant presence. The offences committed were not a one-off basis. It involved a total of 10 prostitutes and the offences were committed over a period of time. There was also clear evidence of pre-meditation in that the Accused actively engaged in "WeChat" to learn about the prostitution business and also actively seeking out the prostitutes to enquire whether they needed accommodation in Singapore. I therefore concluded that the Accused's actions fell within "Culpability B".

13 Next, I considered the circumstances of the case to determine the appropriate sentence to be imposed with reference to the sentencing framework set out in *Poh Boon Kiat*.

14 I agreed with the Prosecution that there were aggravating factors. These were:

a. The prostitutes were all foreigners. Even though they were willing parties, their involvement 'encourages the international trafficking of women and brings disrepute to Singapore' (*Poh Boon Kiat* at [84]).

b. The deliberate choice of arranging for the prostitutes to stay in the heartlands, instead of prostitution hot spots such as Geylang, was designed to make it difficult for law enforcement officers to crackdown on the vice activities."

c. I was also of the view that the assistance rendered by the Accused to the prostitutes to advertise their services over the internet was an aggravating factor.

- d. The offences involved a total of 10 prostitutes and the sexual services were provided in 4 different premises.
- e. The Accused provided his contact to the agent in China. See [9] of the SOF. He also obtained the IDs of the prostitutes from his 'Wechat' groups. In this context, he was, in a way, facilitating an international criminal enterprise.
- f. The period of offending was about 6 months before the Accused was apprehended.

15 I also took into account the number of offences committed by the Accused and the number of charges taken into consideration for the purposes of sentencing.

16 In sentencing I also considered the mitigating plea. I did consider the Accused's guilty plea as a mitigating factor. I disagreed that the Accused should be treated as a first-time offender in view of the multiple charges and the duration over which the offences were committed.

17 Counsel referred to 2 cases reported in the Straits Times. I did not think these were helpful as there were no grounds of decisions delivered. In any event, the sentences in each case must be determined in accordance to the circumstances of each case. I was of the view that the sentencing framework provided in *Poh Boon Kiat* was most relevant and binding on this court.

Conclusion

18 In the circumstances, I sentenced the Accused for each of the s146 WC offences to a jail term of 5 months' imprisonment. In respect of the s148 (2) WC offence, I sentenced the Accused to 1 month's imprisonment and a fine of \$3000 in default 3 weeks' imprisonment. The fine served as a punishment and also partly to disgorge the profits. I ordered the sentences in DAC 925029/2016 and DAC 925024/2016 to run consecutively. The total sentence was 6 months' imprisonment and a fine of \$3000 which was within the benchmark set out in *Poh Boon Kiat*.

19 The Accused is currently on bail pending appeal.

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