

IN THE CROWN COURT IN NORTHERN IRELAND

BELFAST CROWN COURT

THE QUEEN

V

CHANG HAI ZHANG

HART J

[1] The defendant has been convicted of the murder of Qu Mei Na at 93 Skegoneill Avenue, Belfast in the early hours of 2 June 2004.

[2] She was a 22 year old Chinese woman who had been living in Dublin. It appears from the account given by Zhang that some time before they met in Dublin where she was ostensibly following a language course. She travelled from Dublin to Belfast to meet him on the night of Monday 31 May 2004. What happened thereafter is solely dependent upon the account given by the accused and his original co-defendant Pan Yang. Pan Yang collected the deceased from the bus station and brought her to Skegoneill Avenue. The defendant made the case that at about 1 am on Wednesday 2 June when he went to put a present of some special food for her in her handbag he accidentally discovered a list of men's names and telephone numbers, and this led to her admitting that she was in fact a prostitute. The defendant denied knowing this before and said he had regarded her as his girlfriend; he thought their relationship was a loving one, and each week when she came to Belfast to see him he had given her substantial amounts of money to support her financially whilst she was following her studies in Dublin.

[3] He described how he was angered by her admission, so to punish her he tied her up with the help of Pan Yang. He kept her tied up until he awoke around 10.00 am that morning. He maintained that by this stage he had calmed down and had decided to release her, and she confirmed that if he did she would not report him to the police. However, when the subject of her returning to prostitution was raised he claimed that he had gone into a rage

and strangled her with a ligature he made out of a piece of cord left over from the cord which he had used to tie her up the night before.

[4] He maintained that he never intended to kill Qu Mei Na, and pleaded guilty to her manslaughter on the grounds of provocation. By its verdict the jury has rejected the defendant's plea and must be taken to have rejected his account of why he killed the deceased. Forensic evidence relating to a used condom found in the house showed the deceased had sexual intercourse in 93 Skegoneill Avenue with an unidentified male other than the defendant and Pan Yang. In all probability she also had intercourse with a further, unidentified, male because there was forensic evidence to suggest that she had sexual intercourse with another male on the bed where she was killed at some time which could not be established. The defendant said that was a second-hand bed. That may be true, but it defies belief that she had intercourse with another man on that bed anywhere other than in 93 Skegoneill Avenue. The defendant denied that he was aware of her ever having had intercourse with another man or men in 93 Skegoneill Avenue, saying that he would like to know who she had intercourse with. Whatever was the true reason for the defendant's murdering Qu Mei Na, there must be a strong suspicion that he knew that she was engaged in prostitution before the events that he described. Whether he profited from this or not is not the subject of any evidence presently before the court.

[5] In R v. Trevor McCandless & Others [2004] NI 269 the Court of Appeal directed that the minimum term of imprisonment to be served by a person sentenced to life imprisonment for murder by virtue of the provisions of the Life Sentences (Northern Ireland) Order 2001 should be determined in accordance with the criteria prescribed by Lord Woolf CJ for England and Wales. These prescribe a normal starting point of 12 years, with a higher starting point of 15/16 years where "the offender's culpability was exceptionally high or the victim was in a particularly vulnerable position".

[6] I am satisfied that the deceased was in a particularly vulnerable position at the time she was murdered. The defendant pleaded guilty to the false imprisonment of the deceased at the beginning of the trial, and on his own account she had been tied up by the hands and feet and kept in that condition for at least 7 to 8 hours before he strangled her. She was therefore subjected to a lengthy period of fear before her death. She was also treated in a humiliating and degrading fashion when she was tied up, because he told the police that he accompanied her, and remained with her, as she used the toilet. He said that he had done so once, although on another occasion he implied that he had done so twice. Rather than release her from her bonds to enable her to go to the toilet he took down her trousers and then pulled them up again, as one would do with a small child and not an adult. On his account when she was murdered she was lying face down on a bed with her hands tied. She was 56 kg (eight stone eleven pounds) in weight, and 164 cm

(five feet four and a half inches) tall, and so was a slightly built and much lighter person than the defendant, who is a tall, well-built man. She was completely unable to defend herself and totally at his mercy at the time she died. These features of the case make it one where the higher starting point of 15 to 16 years is appropriate.

[7] I consider an aggravating feature of the case was that the defendant was determined to destroy the body and all evidence at the scene. That is why he went to the Dunmore filling station, and when he and Pan Yang were arrested they were in the process of filling a container of petrol. He admitted during his police interviews that it was his intention to destroy the body and her belongings. Had he succeeded in doing so he might never have been brought to justice.

[8] Mr Terence Mooney QC for the prosecution referred me to R v Robinson [2006] NICA 29 where it was stated at [4] that the planning of the murder was a relevant factor when selecting the minimum term. At [9] the Lord Chief Justice referred to what he described as a “ludicrous sham” when the defendant engaged in a pretence designed to throw suspicion away from himself, and said that was a factor which would justify the selection of the higher starting point because that was a factor tending to have the effect of making the defendant’s culpability exceptionally high. Mr Mooney submitted that he planned her death, and that this and Zhang’s unsuccessful defence of provocation were such factors.

[9] Mr Hopley QC for the defendant submitted that his client’s defence could not be so characterised, pointing to the majority verdict as an indication that the defendant’s case plainly left a doubt in one juror’s mind. Whether that is so or not, I do not understand the Court of Appeal to say that merely because a defence is rejected means the culpability of the defendant is thereby increased, rather that where the defendant’s case is so obviously lacking in credibility, and involved a deliberate and sustained attempt to divert suspicion elsewhere, such conduct is a factor that should be taken into account in deciding whether the higher starting point is appropriate. On balance I do not regard Zhang’s defence as increasing his culpability. His having planned the murder by keeping her tied up is provided for in the selection of the higher starting point.

[10] The defendant has a previous conviction in China for an offence which, to judge by the account given in the certificate of conviction considered during the trial, can more properly be regarded as attempted rape. For the reasons considered during the trial in the *voir dire* there are issues relating to the validity and propriety of the conviction, and in those circumstances I propose to leave that conviction out of account. Nevertheless, as Mr Mooney confirmed, Zhang was an illegal resident in the United Kingdom at the time of the murder, and so he cannot be considered to have been a person of good

character. I consider that he has shown no real remorse for what he did and there are no mitigating factors in his case.

[11] On count one, murder, I sentence him to serve a minimum sentence of 17 years imprisonment before he can be considered for release. On count two, the count of false imprisonment to which he pleaded guilty at the commencement of the trial, I sentence him to 10 years imprisonment. The sentences will run concurrently. The minimum term to be served by the defendant will include the time spent on remand.

[12] I do not consider it necessary to make any recommendation as to whether or not he should be deported upon the conclusion of his sentence. That will be so far in the future that any such recommendation would be of little value to the authorities who will have to consider the matter at the time when he is being considered for release.