



Alleged Rapist Of 13-Year-Old Girl Acquitted

Cheang Sue Lyn



Lim Zhan Fong* (Left) with His Lawyer Mr Revin Kumar (Right)

AMPANG:

The family of Lim Zhan Fong* breathed a sigh of relief as the court read out its judgment and not guilty verdict. On 17th August 2018 the then-18-year-old was arrested and subsequently charged under section 376(1) of the Penal Code for statutory rape. The victim was Cheah Xiao Lin* who was aged 13 years and 4 months old at the time of the alleged incident. Under section 375(g) of the Penal Code, sexual intercourse with a girl under the age of 16 constitutes rape, regardless of the presence of consent. If convicted, Lim would have faced up to 20 years' imprisonment and whipping.

The court heard that Lim and Cheah met online via WeChat and that after a few weeks of conversation, Cheah had provided Lim her address in Mewah Court for him to visit. When asked why she spoke to a stranger online, the former form 1 student of SMK Seri Mutiara told officers that she felt "bored" since she left school a month prior in June.

On the 18.07.2018, the accused was alleged to have gone over to the Cheah's home where they laid on her bed talking and playing mobile games on their respective mobile phones. After a smoke, the accused allegedly initiated intimacy and Cheah did not protest. There were conflicting accounts of the number of times the pair engaged in such activities. Several weeks later, Cheah felt nauseous and complained to her mother about having a stomachache. The young girl was brought to the hospital where she was confirmed to be 5 weeks pregnant. She suffered a miscarriage a few weeks later.

The Prosecution called investigating officers and lab technicians who testified to the presence of semen on Cheah's green bedsheets and that the DNA was a possible match for Lim. However, a paternity test was not conducted on the fetus for further DNA confirmation. The court also heard from the victim's mother (via an interpreter) that since her divorce from the victim's father in 2010, her eldest daughter would stay with her while the victim and her younger brother lived with their father in Ampang Campuran. The 39-year-old told the court that the victim and her younger brother would stay with their mother on the weekends and during school holidays.

Throughout the Prosecution's case, it was disputed whether the pair had engaged in sexual intercourse, with the Defence's position being that the accused had merely masturbated on the bed next to Cheah while he was there. Further, the Defence argued that Cheah had represented herself as being over the age of 18, showing evidence of her various social media profiles in which she listed her age as 18 years old. These were established throughout the Defence's cross examination of Cheah (via an interpreter) and several others of the 12 witnesses called in the Prosecution's case.

Ultimately, the full extent of the Defence's position was not explored. At the close of the Prosecution's case Puan Hakim Suzana Binti Hussin held that a prima facie case was not established and the Defence was not called to present their case. The accused was released with immediate effect.

*Names have been changed to protect the identity of the parties