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GEETHAN RAM
ADVOCATES & SOLICITORS

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Four Acquitted of Murder Without Defence Being Called Despite Deceased's Son's Positive Identification

Carmen Eu Kah Mun



From left: Lau Zi Hui, Yap Soon Kuan, Yeo Ching Lian, Dato' Geethan Ram Vincent, Tan Ah Chai & Eu Kah Mun

KLANG:

The High Court here today, at the end of Prosecution's case, acquitted Tan Ah Chai, Yeo Ching Lian, Lau Zi Hui and Yap Soon Kuan who were jointly charged under Section 302 of the Penal Code for murder, together with Gan Kok Shang and Tan Yong Sean who were charged under Section 109 of the same Code for abetment.

A total of 22 witnesses were called by the Prosecution to prove their case including two (2) eye witnesses, one of them being the son of the deceased. The deceased's son, Vicky Phua claimed to have witnessed the entire episode of three (3) assailants covered with full face mask, slashing his father with "parang" and thereafter the trio fled the scene in a Toyota Vios driven by another person on 06.11.2021 near Wan Xiang Restaurant, Bandar Bukit Tinggi, Klang.

Vicky had identified Yap Soon Kuan as one of the assailants during Identification Parade and during Dock Identification because he testified that the shape of Yap's eye is special and different from others. Despite the positive identification, the learned High Court Judge, Yang Arif Norliza Binti Othman in delivering her decision, doubted the quality of Vicky's identification and warned on the danger of mistaken identity since Vicky's testimony was just based on a mere fleeting glance. This comes after pounding questions put forward by the lead senior counsel, Dato' Geethan Ram in which the witness agreed that, (i) he was in fear, (ii) he was watching the incident from a distance 30 meter, beside a Toyota Vellfire as he was trying to protect himself and his then 10-year-old brother, (iii) while Yap was running away from the scene, he managed to catch a glimpse of Yap's eyes from side view since Yap was wearing a full face mask, and (iv) he only saw Yap's eyes for the first time when the incident took place and for a duration of less than 3.5 seconds.

The Learned Trial Judge has decided that a prima facie case was not made out as evidences adduced by the Prosecution, led by Deputy Public Prosecutor Nithia Sivasamy did not irresistibly point to the guilt of any of the accused person.

Not only that, there was absolutely no scientific evidence to link the charge, but also the testimony of witnesses whom were present during the incident failed to offer much support to the Prosecution's case. The Prosecution's case was further doubted when they failed to call one material witness whom allegedly was present during the entire commission of crime and had led the police to few locations for the purpose of discovery, and that failure, warranted an adverse inference to be drawn against the Prosecution.

It was also the Defence's contention that the defence of alibi was completely disregarded by the investigating team and this has greatly prejudiced the accused persons.

All four (4) alleged for murder were represented by Dato' Geethan Ram Vincent and Eu Kah Mun while the duo alleged for abetment were represented by Haijan Omar and Asyraaf Abu

