

IN THE MAGISTRATES COURT AT KUALA LUMPUR

CRIMINAL CASE NO. 62-987-2010

PP v SALLY TAN

BRIEF TO COUNSEL ON BEHALF OF THE ACCUSED

Counsel has previously appeared on behalf of Ms. Tan and may recall the somewhat unusual facts surrounding this person. To summarise, Ms. Tan is a transvestite who makes a living as a high-class prostitute. Counsel has previously represented him/her on a number of charges of soliciting.

On this occasion she is charged with common assault.

Instructing solicitors will use the female pronoun to describe Ms. Tan since counsel may remember that she is particularly 'female'. She is deeply upset that she is described as male in the brief facts.

According to our instructions from Ms. Tan, on Wednesday 9th September 2010 at about midnight she went to Mr. Chan's hotel room in Bukit Bintang having been picked up by him in a local bar. She states that he had offered to pay her for sexual intercourse and that they had gone to his room for that purpose. The agreed amount was Ms. Tan's normal charge of RM1,000-00. She maintains that she was quite certain from the conversation they had that Mr. Chan knew she was a transvestite and had asked her for sex on that basis.

When they were about to commence intercourse Mr. Chan discovered that Ms. Tan was actually Mr. Tan and being very disappointed by this revelation became extremely abusive to her. She feared for her safety and got dressed and left the hotel room, but Mr. Chan also got dressed and followed her downstairs and through the lobby hurling abuse at her. He continued to follow her out of the hotel and into the street at which point Ms. Tan turned round and told him to leave her alone. When he failed to do so she lost her temper and lashed out at him with her stiletto heel, which caught him in the groin.

Her position is that she had not meant to kick him in the testicles but that he had not stopped when asked to do so. If he had done so her foot would probably not have connected with him.

Our instructions are that Mr. Chan is being less than candid as to why the Accused went to his room. However, it is less than likely that the prosecution who are well aware of the accused's past record will dispute her version. In any event if she comes to court in her usual court attire, there is unlikely to be any question in the magistrate's mind as to who to believe. The police have informed us that she was wearing similar clothing at the time of arrest.

Ms. Tan has a long record with numerous convictions but they all are soliciting charges arising from her occupation as a prostitute. These date back to 2002. (Please check this at court). She has always pleaded guilty and wants to do so on this occasion again, to save the time involved in a trial. She has been advised that she might be able to raise the issue of self-defence, but she says she did what she did out of anger and had no fear for her own safety.

Ms. Tan is 29 and is working to support her drug habit. Because she spends most of her quite considerable earnings on drugs, she has very little money.

Please note that Ms. Tan has no convictions for drug offences. We rely on counsel's experience of the magistrate concerned to decide whether and if so to what extent Ms. Tan's drug problem should be mentioned.

Brief Facts

Accused: Sally Tan, Male, 29

Charge: Common Assault

Prosecution Witnesses:- PW1: Tommy Chan, U.S. male aged 42
PW2: PC 37533, PSU 3, TST
PW3: PC 59876, PSU 3, TST

Exhibits:- P1 – a stiletto heeled shoe
P2 – medical slip

BRIEF FACTS

1. PW1 is an American in Kuala Lumpur on business. He is staying at a hotel in Bukit Bintang. On the evening of 9th September 2010 he went for a drink at a local bar. There he met the Accused who was dressed in female attire.
2. After an hour or so PW1 and the Accused returned to his hotel room to continue their conversation. Some minutes later PW1 was insulted by A and became angry. A left the hotel room followed by PW1 who was still angry about what had happened. He followed him into the street. He was still angry.
3. The Accused who was wearing stiletto heels kicked PW1 in the groin.
4. At the time PW2 and PW3 were on patrol in the area. They had seen PW1 double up and went to investigate.
5. The Accused was arrested and cautioned for common assault. Under caution she said: "I told him what I was before we went to his room. I thought he was cool about it. I don't know why he got so angry. I left but he kept on after me all the way out of the hotel. I didn't mean my shoe to connect. I raised my foot as a warning. If he had kept away from me my shoe would not have touched him."
6. PW1 was taken to the Tawakal Hospital. He was recorded as complaining of tenderness in the scrotal area. He insisted on the Accused being charged.

(PW1 will remain in Kuala Lumpur for only 4 more days. If there is a plea of not guilty please request an early trial date. Apply for confiscation of P1.)