
HIGHER RIGHTS OF AUDIENCE ASSESSMENT

IN RESPECT OF CRIMINAL PROCEEDINGS

THE PRACTICAL ASSESSMENT

BUNDLE OF EVIDENTIAL MATERIAL

The evidential material given to you in this practical assessment is based on the evidential material already presented to you in your written assessment. The bundle contains the following:

Prosecution material

1. The indictment
2. The witness statement of William Wai, one of the victims
3. The witness statement of his daughter, Natalie Wai, the other victim
4. Summary of the uncontested evidence of the forensic pathologist
5. The witness statement of John de Freitas

(For the purposes of the practical assessment, it is to be assumed that the evidence of all the police officers is agreed, this to include the evidence of the officers who first attended the scene, failing to locate any fingerprints; the officers who secured the security camera films; the arresting officers and the interviewing officers.)

Defence material

1. The statement given by Nathan Tang, the first defendant, to his solicitors
2. The statement given by Manuel Wong, the second defendant, to his solicitors

Indictment

In the Court of First Instance

R v Nathan Tang and Manuel Wong

Charge 1: Attempted murder

Statement of Offence

Attempted Murder, contrary to Common Law and section 159I of the Crimes Ordinance, Cap 200.

Particulars of Offence

Nathan Tang and Manuel Wong, together with one other unknown person, on 1st February 2016, attempted to murder Natalie Wai.

Charge 2: Blackmail

Statement of Offence

Blackmail, contrary to section 23(1) of the Theft Ordinance, Cap 210

Particulars of Offence

Nathan Tang, on 1st February 2016, in Hong Kong, with a view to gain for himself or another, made an unwarranted demand of HK\$7 million from Wai Ying Tung, William with menaces.

Charge 3: Blackmail

Statement of Offence

Blackmail, contrary to section 23(1) of the Theft Ordinance, Cap 210

Particulars of Offence

Nathan Tang and Manuel Wong, together with one other unknown person, on 1st February 2016, in Hong Kong, with a view to gain for himself or another, made an unwarranted demand of HK\$7million from Wai Ying Tung, William with menaces.

Charge 4: Theft

Statement of Offence

Theft, contrary to section 9 of the Theft Ordinance, Cap 210

Particulars of Offence

Nathan Tang, on 1st February 2016, stole a necklace being the property of Wai Ying Tung, William.

Witness statement of William Wai

1. My name is Wai Ying Tung, William. I am 70 years of age. I am the owner of a jewellery business, Cascade Creations. The retail shop is situated on the ground floor of Ho Yip Building, Black Street, Wanchai, while the workshop, where much of our jewellery is created, is situated on the roof of the building. Five years ago my daughter, Natalie Wai, a trained jewellery designer, joined me in the business. People soon learnt of Natalie's talent for design, especially Mainland customers, and until recently our business was very successful. We designed and sold 'high end' pieces.
2. With 'high end' pieces, our production costs were very high but, doing so well, we had no difficulty meeting our overheads. Unfortunately, when the Central Government instituted a crackdown on corruption, we lost more than 50% of our customers. As at the beginning of February 2016, I owed our principal jewellery supplier, Moscow Diamonds, a Russian company with the local office, a sum of \$7 million which I was having difficulty repaying.
3. Regrettably, I have always enjoyed gambling. When the business was doing well I had no trouble meeting my gambling debts. But with the downturn in the business, I ended up owing a couple of loanshark organisations in Macau. In particular, I owed a debt of about \$6 million to one organisation which, with interest at about 25% per month, came to about \$7 million at the beginning of February 2016.
4. On the night of 1 February 2016, just before 9 PM, I was getting ready to close the shop when a man entered. He was middle-aged, thin, and smartly dressed in a suit. At no time did he give me his name. I had never met him before but we spoke face to face for several minutes and, with the lighting being so good in the shop, I am sure I would recognise him if I saw him again.
5. The man said that he represented Moscow Diamonds and he had come for payment of the \$7 million that I owed. He said that the company had been patient with me but was not prepared to be patient any longer. I asked him what interest he had in the company. He told me that he represented them in matters of this kind. I took it that he was a debt collector.

Knowing how debt collectors act in Hong Kong and Macau, I was immediately on my guard. I told him that I did not have the money to pay the debt at that time but we were expecting some very large orders and would be able to pay him, hopefully, by the end of the month.

6. The man said that was not good enough and that if I did not have the money then he needed security. There was a diamond necklace on display which had been sold for \$3 million. The customer had paid a deposit of \$1 million and was coming to pay the balance and collect the necklace in the next day or so. He asked to have a look at it. I told him that it was already sold. But he insisted. So I took it out of the glass cabinet and gave it to him.
7. While he was admiring the necklace, he asked if my daughter had designed it. I told him that, yes, she had designed it. He then told me a story. I don't know why but it was obviously a hidden threat of some sort. I can tell you that it frightened me very much. The man told me that he had a friend who had fallen deeply into debt. He had advised his friend to do everything necessary to pay, even if it meant selling his home. But the friend had ignored his advice. The result was inevitable, said the man. One evening, his friend was badly beaten up and still walked with a limp. His home and his business was taken from him. His daughter was a very talented pianist who hoped to be a concert pianist one day. But with no money, the father could not afford the tuition. The daughter became deeply depressed, believing she had no purpose in life, and committed suicide – by hanging. The man then looked at me and said something like: “Can you imagine how terrible her father must have felt? After all, he had caused it.”
8. Then he put the diamond necklace into his jacket pocket and told me that he would keep it as part security for the payment of the \$7 million that I owed. I protested and tried to grab it back, but he was much stronger than me. He told me that when I paid the \$7 million, then I could get the necklace back. Then he left the shop.
9. I did not see where he went to or whether he met anybody outside my shop. I was in shock. After a few minutes, I cannot remember exactly how long, I locked up the shop and went up to the workshop. I did so because I had to tell Natalie about the loss of the necklace. Ho Yip Building is a very old building. The workshop is on the roof. I built it

myself. Natalie was working at her table under a spotlight. None of the other lights were on although there was some light coming through the windows from nearby buildings.

10. We had been talking for a couple of minutes, no longer, when there was a loud banging on the door of the workshop. I partially opened the door. There were two men outside, both wearing woollen masks that were pulled down over their faces. I tried to close the door but they were too strong. They pushed their way into the workshop. I was elbowed in the face and my glasses fell to the concrete floor, breaking.
11. Only one of the two men spoke. He was medium build, medium height, I estimate in his mid-30s. He was wearing jeans and a t-shirt and a dark windcheater-style jacket. What I remember most was that he had a tattoo on his throat. It ran from under his chin and down his throat until it was covered by his shirt. It was of a dragon. I remember that well.
12. I asked the man with the tattoo what he wanted. He said he had come to collect the \$7 million that I owed. I asked him which \$7 million because I really did not know - the money due to Moscow Diamonds or to the Macau loan shark? I was so frightened that I told him that I had just been visited by a debt collector for Moscow Diamonds who had taken a \$3 million dollar necklace as security. In reply, all the man said was: I don't want security, I want full payment.
13. After that, I do not remember exactly what was said. I told him that I did not have any money to pay him at that time, that we could pay him at the end of the month. That made him very angry. He was shouting at me and pushing me.
14. The man's companion, then grabbed my daughter, binding her hands with masking tape and putting some of the tape over her mouth. The man with the tattoo looked around the room as if he was searching for something. On Natalie's work table, he saw some plastic rope, green-coloured. He climbed on the table and looped the plastic rope over one of the wooden beams holding up the corrugated iron roof.
15. He then tied one end of the plastic rope around Natalie's neck, holding the other end. He shouted out that I had to pay him money or else he

would make Natalie ‘dance’. I told him that, if he could just give me time, I could get it. He replied that I had run out of time.

16. He then pulled on the one end of the plastic rope that was looped over the beam with the other end tied around my daughter’s neck, pulling so hard that he pulled my daughter off the ground. My daughter was kicking her legs and I saw that she urinated.

17. I immediately shouted that I would give him all the money I had. He asked where the money was. I told him it was in a safe, right there in the workshop, \$5 million. He then let go of the rope and my daughter fell to the floor. The knot was very tight around her neck. I had to scratch her neck with my fingers to loosen it. Her eyes were bulging and bloodshot. She did not respond. The man said: Don’t worry, she’ll live.

18. I immediately gave him the \$5 million in the safe. He told me that I had to find the extra \$2 million and that he would be back within a week. He warned me not to call the police or it would go very badly for me.

19. As soon as the two of them were gone, I telephoned the police. I was afraid my daughter was dying. When the police came, I told them also about the incident in the shop downstairs as I was sure they had to be linked together.

20. Directly outside my shop, I have installed a security camera. There is a second camera in the shop itself. The film that is recorded is black-and-white with no sound. The police secured the film in both cameras.

21. A week after the events, when Natalie was out of hospital, the police played the security camera films for me.

22. The one in the shop clearly shows the man entering, talking to me and examining the necklace that I have given him. It also shows him putting the necklace into his jacket pocket and pushing me away when I attempt to grab it back. It then shows the man walking out of the shop.

23. The one outside the shop shows the man leaving the shop and walking a few steps along the pavement. He is then stopped by another man. The camera shows a brief conversation, about four or five seconds only. It then shows the man pointing at the entrance of my building before walking on. The other man, then walks away out of camera view. I cannot be certain but there is something about the other man. He is wearing jeans and a dark windcheater-style jacket, he looks to be in his mid-30s. He appears to be the man who came up to the workshop a few minutes later, the man who put the rope around Natalie's neck. The film does not show anything of the front of the man's neck.

24. A week later, I attended an identification parade. I had no difficulty identifying the man who had come into my shop on the night of 1 February 2016, the man who had taken the necklace.

Witness statement of Natalie Wai

1. My name is Natalie Wai. I am the daughter of William Wai. I am a jewellery designer and have been in business with my father for the past five years. Our business is called Cascade Creations. My father has always looked after the money side of the business. To be honest, I did not know that by February 2016 we were in such deep debt. Nor did I know anything about my father's gambling.
2. On the night of 1 February 2016, a few minutes after 9 PM, I was working alone in the workshop on the roof. When I am working with small pieces of jewellery I prefer to work under a spotlight.
3. I remember that my father entered the workshop in a very emotional state. He was trying to tell me what had happened when there was a loud knocking on the door of the workshop. Normally my father would find out who was outside before opening the door but on this occasion, probably because he was in such an emotional state, he went to the door and partially opened it.
4. I glimpsed two men outside, both wearing woollen masks pulled over their faces. The men barged in. The first one started to demand payment of money from my father. There was a lot of shouting. My father said he did not have the money.
5. Then the second one, who never spoke, grabbed me and tied my hands behind my back with masking tape. He then put masking tape over my mouth. I do not remember much after that. I was so terrified. I remember having a rope put around my neck and then suddenly I was pulled off the floor. I remember being unable to breathe, the rope cutting into my neck. I remember a hissing noise in my ears and a terrible sense of confusion. Then I began to lose consciousness. I have only the vaguest memory of being dropped and hitting the floor and of my father attempting to loosen the knot around my neck. The next thing I remember is being in hospital.
6. I would not be able to identify either of the two men who came into the workshop. Other than the spotlight on my work table, the room was dark and both men were wearing woollen masks. There was a lot of shouting and I was very confused as to what was going on. I do, however, have a

memory of the man who tied the rope around my neck. I cannot be sure, but I think it was at that time that I saw a tattoo on the front of his neck. I think it was of a woman, I saw some yellow hair and a face.

7. The police have shown me a photograph of a tattoo. It is of a mermaid with yellow hair. I think that must be the tattoo.

Summary of the evidence of the Government forensic pathologist

The forensic pathologist has said that an examination of Natalie Wai in hospital showed deep bruising to her neck with evidence of severe stress and tearing to the muscle around the vertebrae of the neck. These were all signs that Natalie Wai had been suspended by her neck for several seconds. If the vertebrae in the neck had been broken, death would have been immediate. An additional sign that she was suspended for at least five seconds is the fact that she lost consciousness. Although it was not possible to give an exact time when death would occur by asphyxia from this type of hanging, there being too many variant factors, loss of consciousness was a sign that death was imminent. The records showed that death by asphyxia for this type of hanging could occur within seconds, especially if there was inhibition of the heart. As the pathologist put it: ‘any suspension of the manner described presents a grave risk to life.’

Witness statement of John de Freitas

1. My full name is John de Freitas. I am 43 years of age. I am presently held in the Lai Chi Kok Reception Centre awaiting trial in the Court of First Instance on a single charge of drug trafficking. I intend to plead guilty to the charge. As to the nature of the charge, on 3 January 2016 I was searched at the Lo Wu Border Crossing, as I was returning from the Mainland. I was found to have cocaine in my possession with a narcotic content of 300g.
2. I have previous convictions for blackmail, wounding with intent, living off the earnings of prostitution, manufacturing dangerous drugs and most recently, in Macau, assault.
3. I have given this statement on the basis that, if I give truthful evidence at the trial of Nathan Tang and Manuel Wong, I will receive a full immunity in respect of the single charge of drug trafficking that I presently face.
4. I have known Manuel Wong since we were children. We lived in the same village in the Sai Kung area of the New Territories. When I got out of prison three years ago, having completed my term for an offence of manufacturing dangerous drugs, Manuel Wong gave me a job helping him in his lending business in Macau. I was with him for about six months until I was arrested for assaulting one of our debtors. I served a sentence in Macau of six months. During that time, Manuel Wong always made sure that I had sufficient food and cigarettes. However, when I got out of prison, he told me that he could no longer employ me. He said he was getting too much pressure from the local police.
5. When I met Manuel Wong on remand in custody, we immediately struck up our old friendship. We would sit together for all our meals. One evening, when we were sitting together in the eating area, I asked Manuel Wong about the charges he was facing. He told me that his biggest debt ever was owed to him by this guy called William Wai who owned a jewellery business. He told me he had checked him out and discovered he was earning a fortune. That's why he had agreed to lend him so much money: \$7 million. Manuel Wong told me that it wasn't all his own money, that it had to borrow half of that himself and, when Wai defaulted, he came under a lot of personal pressure.

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6. Manuel Wong said that he had worked in the past on a couple of occasions with a guy called Nathan Tang who had a reputation for recovering big sums off established businessmen. He spoke to him about Wai. When he discovered that Nathan Tang was after him too, for a debt that ran into millions, they decided to work together.
 7. According to Manuel Wong, Nathan Tang had been the one to suggest the mock hanging. He said he had checked out the shop and knew that the daughter did her design work on the roof of the building in some sort of illegal structure up there. He said he had got a description of the workshop from a messenger and knew there were wooden beams supporting a tin roof. That's what gave him the idea. He said there would be no advantage in chopping the daughter or disfiguring her but putting a rope around her neck, especially in front of her father, would get immediate results.
 8. Manuel Wong told me that when he was in the workshop, initially Wai still wouldn't pay up. He said he became so angry that he had pulled on the rope harder than intended, lifting the daughter off the ground. But it had worked, he said, because he picked up \$5 million.

Proof of evidence of Nathan Tang taken by his solicitors

1. My name is Nathan Tang. I am 50 years old. I am the sole proprietor of a business called Hong Kong Credit Protection which has its offices in Wanchai. My principal business is giving credit advice. However, from time to time, I also to collect outstanding debts on behalf of clients.
2. On the morning of 15 February 2016, I was arrested by the police for blackmail and theft. At the time of the arrest I was cautioned but chose to remain silent. Later, at the police station, I was interviewed under caution. I was told by the interviewing officer that I had been recorded by a security camera entering a jewellery shop at about 9 PM on the night of 1 February 2016. The shop was in Ho Yip Building, the business being called Cascade Creations. I was told that I had been recorded speaking to the owner, examining a diamond necklace and then leaving the shop with the diamond necklace in my possession despite the fact that the owner had attempted to recover it from me. I was informed that the owner had complained that I had threatened him in respect of a debt of \$7 million due to a company called Moscow Diamonds. As my copy of the record of interview shows, I made a short statement in reply, which is the truth –

“I visited the shop on behalf of a client, Moscow Diamonds, in order to seek payment of a debt of \$7 million. I spoke to the owner of the shop, William Wai. I did not threaten him in any way. I was told by Mr Wai that he did not have sufficient funds at that time but hoped to have money coming in soon. I told him that I would have to get some security. Initially, he agreed. He showed me a diamond necklace which apparently had a value of \$3 million. I said I would take that as security and that he would get it back when he paid the debt. At that stage, William Wai changed his mind and tried to grab the necklace from me. I was forced to push him away. I said that I would return to collect the debt. No papers were signed because it was an informal arrangement, one that both of us hoped would last only a week or two. The following morning, I lodged the necklace with Moscow Diamonds.”

3. I understand that since giving my cautioned statement, the police have recovered the necklace from Moscow Diamonds.
4. On the morning of 8 March 2016, while I was on bail, I was arrested again by the police, this time for attempted murder and a further count of blackmail. Again, I was cautioned at the time of my arrest but did not reply.

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5. Later, at the police station, I was interviewed under caution. The allegation was that I was involved in a joint enterprise with a man called Manuel Wong. In terms of that joint enterprise, apparently this man, Manuel Wong, together with another unknown man, had gone up to William Wai's workshop about five minutes after my departure from William Wai's shop. William Wai was in the workshop, together with his daughter. Manuel Wong had demanded payment of \$7 million, the same amount that I had demanded from William Wai in his shop. When William Wai said that he did not have money to pay him, Manuel Wong had tied plastic rope around the neck of William Wai's daughter and suspended her off the ground. William Wai had then agreed to pay and handed over \$5 million. As to my alleged connection with this matter, I was told the following: First, that in the shop I had threatened William Wai, by telling him that I knew of a man who had not paid his debts and whose daughter had hanged herself. Second, that immediately after my departure from William Wai's shop, I had been caught on security film speaking to a man who resembled Wong. Third, that Wong, after his arrest and while in remand prison, had informed a fellow prisoner that he was working with me to get the \$7 million from William Wai. The interview record shows that I made a short statement in reply. I said:

"I was not involved in any joint enterprise to blackmail William Wai or his daughter. To the best of my memory, I do not know anybody called Manuel Wong. I have a vague memory of a man approaching me immediately after I left William Wai's shop but he was a complete stranger to me and was simply asking directions. In respect of the story told to William Wai about a father who had not paid his debts and whose daughter had hanged herself, I do remember telling that story. The story is true. The father is a friend. I sometimes tell debtors the story to warn them that a failure to deal with debt can ruin the whole family. It may not be the most pleasant story but it is intended as a moral lesson only. If somebody went up to the workshop and put that rope around the neck of William Wai's daughter that has nothing to do with me. It is a grotesque coincidence and nothing more."

6. Since my arrest, I have found out something about this man, Manuel Wong. I understand that he runs a small loan-sharking business in Macau. I have never had any dealings with him. As for the evidence of this immunity witness, de Freitas, I have never heard of him. I presume he must be telling lies just to get out of a long prison sentence.

Proof of evidence of the second defendant, Manuel Wong, taken by his solicitors

1. My name is Manuel Wong. I am 33 years of age. I live in Hong Kong at House 3, Shek To Village, Sai Kung, New Territories, although I spend much of my time in Macau. I make a living lending money, mainly to gamblers who are looking for short-term loans. I have three previous convictions, one for wounding with intent and two for living off the earnings of prostitution.
2. To the best of my memory, I have never lent money to a man named Wai Ying Tung, William. I was not in Wanchai on the night of 1 February 2016 and did not go up to the workshop on the roof of Ho Yip Building.
3. It is true that I have a tattoo on my neck and that it runs from under my chin down the front of my neck. I had it done in Australia when I was down there on holiday about five years ago. I like tattoos. I have two on my back and one on each arm. When I had the tattoo put on my neck, I was told that it was fashionable for men. So the fact that I have one on the front of my neck cannot be that unusual. I don't have a dragon. It's a mermaid, a woman with a fish's tail. Before I went into the lending business I used to be a fisherman. I also had a girlfriend called Lana. She was from Sweden. The face of the mermaid is meant to remind me of her.
4. I remember the night of 1 February 2016 because I had bad influenza. I never miss a night working in Macau. But that night I had to stay at home. I live in the house with my wife. We do not have children. Normally, my wife would have been at home to look after me but on this occasion she was visiting her parents in the Mainland. I am sure that the immigration records will prove that fact if necessary. I was therefore at home that night alone.
5. I have heard of this man, Nathan Tang, and I think I may have met him a couple of times. He is in the debt collecting business and so, probably, yes, I would have met him. But I have never worked with him.
6. I am told that a man called de Freitas has given a statement to the police saying that, when we were both in Lai Chi Kok Reception Centre, I

confided in him that I knew Nathan Tang and that we had both worked together to get money out of William Wai. I am also meant to have confided in him that we agreed to scare William Wai by hanging his daughter. None of that is true. It is all made up.

7. I do know de Freitas. We used to run together as kids. He has always been in trouble with the law. About three years ago, when he got out of jail, I gave him a job assisting me. I thought I would give him a chance. But he got arrested for assaulting a client, sticking pins in his face. He went to jail for about six months. Because he was an employee, I sent him a few things in jail, food and the like. But as soon as he got out. I gave him the sack.
8. I hadn't seen him since then, not until we met here in the reception centre. We sat together in the canteen on a few occasions. We go back a long way. But I would never confide in him. Men like Johnny Freitas will do anything to get out of a long stretch in prison. They will make up stories, they'll do anything. I know that.