

Note: The list of abbreviations is attached separately.

Summary of Judgment (Part One)

Pronounced on September 26, 2024, Shizuoka District Court, Criminal Division 1

Presiding Judge: Koushi Kunii

Judges: Shun Yatabe, Motonobu Mashiko

Case Number: Heisei 20 (TA) No. 1

Case Name: Burglary, Robbery Murder, Arson Defendant Case

Summary

The defendant is found not guilty.

Reasons

Part 1 Summary of the Public Prosecution Case

The summary of the prosecution is that at around 1:30 a.m. on June 30, 1966, the accused, with the intention of extorting money and goods, entered the residence of **Fujio**, the managing director of the company, located in Shimizu City, Shizuoka Prefecture (now Shimizu Ward, Shizuoka City due to a merger). While searching for valuables, the accused was found by Fujio, and then they came to a struggle near the back door of the house, whereupon the accused, wielding a short knife (blade 12 cm in length), which he had with him, stabbed Fujio (41 years old at the time) several times in the chest and other parts to kill him. He then entered the living room of the house, where he decided to kill the family members who had noticed the incident and entered the living room of the house to kill Fujio's wife Chieko (39 years old at the time), Fujio's eldest son Masaichiro (14 years old at the time) and his second daughter Fujiko (17 years old at the time). In the same place, he stabbed Chieko, Masaichiro and Fujiko in the chest and back, etc., with the short knife, causing the victims to suffer life-threatening injuries, and then he seized 204,095 yen in cash, five checks (total face value 63,970 yen) and three receipts from the company in Fujio's custody, and then, to conceal the above crime, he poured mixed oil on them and ignited them with a match. The above-mentioned acts of assault resulted in the deaths of Fujio due to blood loss from a stab wound to the right lung, Chieko and Masaichiro due to bleeding from stab wounds to the chest and other parts of the body and full-

body burns, and Fujiko due to blood loss from a stab wound to the heart and acute carbon monoxide poisoning. Fujiko was killed as a result of blood loss and acute carbon monoxide poisoning caused by a stab wound to the heart and lungs, respectively.

Part 2. Background Leading to the Re-trial and Overview of Proceedings

(Description omitted)

Part 3, Issues in dispute and the Outline of This Court's Judgment

1. Issues in dispute

The issue in this case is the defendant's guilt, specifically whether the defendant is the perpetrator of the crime in question.

The prosecutor argues that, assuming the defendant's confession is not used to prove guilt, it is strongly inferred that the perpetrator is a party related to the factory and it is asserted that the defendant could have engaged in actions consistent with the perpetrator's behavior at the time of the incident (Claim ①), that the five items of clothing found in Tank No. 1 of the factory were worn by the defendant during the crime and were hidden in the tank after the incident (Claim ②), and that there are various circumstances consistent with the defendant being the perpetrator (Claim ③).

Moreover, even considering only the facts of Claim ① and Claim ③, excluding the five items of clothing, the defendant's guilt can be reasonably inferred to a considerable degree. When taking into account the facts of Claim ② as well, the defendant's guilt is clearly established.

Furthermore, the prosecution asserts that the realistic possibility of bloodstains retaining redness on the five items of clothing that were pickled in the Tank No. 1 for over a year cannot be denied. They also argue that the DNA analysis on the five items of clothing conducted by Honda lacks credibility. Even considering the defendant's attorney's claims, there is no reasonable doubt that the defendant concealed the five items of clothing in the Tank No. 1 after the crime, and there is no basis for the assertion that the five items of clothing are fabricated.

In response, the defense attorney argues that this case involves a crime committed by multiple individuals with the intent to settle a grudge against the victims, making it clear that the defendant, who had no motive, is not the perpetrator of the crime. They further contend that if clothing stained with blood is pickled for over a year, the redness of the bloodstains will disappear. Thus, the five items of clothing were hidden in the Tank No. 1 just prior to their discovery. Additionally, according to Honda's analysis, the DNA profile of the bloodstains on the five items does not

match that of the defendant. Therefore, the defense claims that the five items of clothing are neither the clothing worn during the crime nor the defendant's clothing, but rather evidence fabricated by the investigative authorities. Along with the similarly fabricated evidence of the dark blue pants made from the same fabric, these should be excluded from the evidence in this case.

Furthermore, the defense argues that the defendant's statement taken by the prosecutor in this case should be excluded from evidence as it constitutes a confession lacking voluntariness. They assert that the defendant's confession actively demonstrates the defendant's innocence.

Summary of the Court's Judgment

The court recognizes that there are three instances of fabrication among the evidence that would suggest the defendant is the perpetrator of the crime. Based on the factual circumstances established by other evidence, excluding these fabricated instances, the court determined that the defendant cannot be found as the perpetrator of the crime in question.

That is to say, ①the Defendant's Statement Record to the Prosecutor, in which the defendant confessed to the crime, was obtained under circumstances that substantially infringed upon the defendant's right to remain silent, with a very high risk of inducing a false confession. It was acquired through inhumane interrogation conducted by the investigative authorities in coordination with each other, causing physical and mental distress and coercing the defendant to make statements, and it includes false content regarding the clothing worn during the crime, among other things. Therefore, it is deemed to be effectively fabricated and falls under the category of a confession with "doubt about its voluntariness" as defined in Article 319, Paragraph 1 of the Code of Criminal Procedure.

②The five items of clothing, which have been regarded as the most central evidence suggesting the defendant's culpability, cannot be considered reliable evidence. It has not been proven that bloodstains would retain their reddish colour after being soaked in miso for more than a year in Tank No.1, and it is believed that these items were planted with bloodstains by the investigative authorities at a time close to their discovery, which occurred a significant period after the incident. These items were then concealed in Tank No.1, making them irrelevant as evidence.

③The fabric piece, said to be from the same material as the dark blue trousers, which is one of the five pieces of clothing, was also fabricated

by the investigative authorities and lacks relevance as evidence. Consequently, none of these items can be admitted as evidence, and they have been excluded by the court's authority. As a result, the facts of the case that can be established by the remaining evidence do not include any facts that cannot be reasonably explained, or at the very least are extremely difficult to explain, if the defendant were not the perpetrator. Therefore, the court has determined that the defendant cannot be found to be the perpetrator of this crime.

The following sections will first examine the defense counsel's arguments regarding the Defendant's Statement Record to the Prosecutor. Next, we will consider the prosecution's arguments concerning the basis for the defendant's culpability, focusing on the most contentious issue regarding the five pieces of clothing (Claim②), specifically whether the bloodstains would retain their reddish color after being soaked in miso for more than a year in Tank No. 1, and also examining the relevance of the fabric piece, said to be from the same material as the dark blue trousers, which is one of the five pieces of clothing. Finally, we will address the prosecution's other arguments (Claim① and Claim③) and explain the reasons for reaching the above conclusion.

(Annex)

'List of abbreviations' (including those omitted in the summary judgment)

The company in question	limited partnership Hashimoto Fujisaku Shoten. Later reorganised as 'Oh Kogane Miso Co. Commonly known as 'Kogane Miso'.
Fujio	Fujio Hashimoto
Chieko	Cheko Hashimoto
Masaichiro	Masaichiro Hashimoto
Fujiko	Fujiko Hashimoto
Victims	Fujio, Chieko, Masaichiro and Fujiko
Employees	Employees of the company in this case
Factory	The miso manufacturing factory of the company in this case
This Case	a fire broke out at around 2am on 30 June 1966 in Fujio's direction, almost completely destroying the house, and after the fire was extinguished, the bodies of a total of four victims were found.

Crime	The crime described in the indictment was committed by someone who dared to commit the crime.
Tank No. 1	Tank No. 1 at the Factory in question.
White pants	1 white pants (Exhibit No. 115 Seizure 96 from 1966)
White short-sleeved shirt	1 white short-sleeved shirt (Exhibit No. 155, Seizure 97 from 1966)
Rat-coloured sports shirt	1 rat-coloured sports shirt (Exhibit No. 155, Seizure 98 from 1966)
Iron and navy blue trousers	1 pair of iron and navy blue trousers (Exhibit No. 155, Seizure 99 from 1966)
Green trousers	one pair of green trousers (Exhibit No. 155, Seizure 100 from 1966)
5 items of clothing	white pants, white short-sleeved shirt, rat-coloured sports shirt, iron-blue trousers and green trousers
Jute bag	1 jute bag (Nanking bag) (Exhibit No. 155, Seizure 102 from 1966)
Scrap	scrap of scrap (Exhibit No. 155, Seizure 103, from 1966)
Defendant's Statement Record to the Prosecutor	defendant's statement record to the prosecutor dated 9 September 1966 (sure 20, book 2712)
Final First Instance Judgment	Shizuoka District Court, 11 September 1968 (Shizuoka District Court, 1966 (WA) No. 329)
Final Court of Appeal Decision	Tokyo High Court decision of 18 May 1976 (Tokyo High Court, 1969 (U) No. 240).
Professor Honda	Professor Katsuya Honda (title as it stood at the time. Hereinafter the same.)
Honda expert opinion	DNA typing conducted by Professor Honda on the samples in question (Rejoinder 89, 90).
Decision to initiate retrial in the case	decision of the Shizuoka District Court of 27 March 2014 (2008 (TA) No. 1).
Professor Shimizu	Professor Keiko Shimizu
Assistant Professor Okuda	Assistant Professor Katsuhiko Okuda
Professor Shimizu and others	Professor Shimizu and Assistant Professor Okuda
Professor Ishimori:	Professor Koichiro Ishimori
Professor Miyashi:	Professor Satoshi Miyashi
Professor Kondo	Professor Toshikazu Kondo

Experiment in 2021	An experiment in which prosecutors immersed bloodstains on a cloth in miso and observed the colour change from September 2021 to November 2022.
Professor Ikeda	Professor Noriaki Ikeda
Professor Kanda	Professor Yoshiro Kanda
Claim ①:	The prosecutor's claim that it is strongly inferred that the perpetrator is a person connected to the factory and that it was possible for the accused to behave in the way the perpetrator did at the time of the incident, as inferred from the evidence.
Claim ②	The Prosecutor's contention that the five items of clothing found in Tank No. 1 at the Factory were worn by the Accused at the time of the crime and hidden in Tank No. 1 after the incident.
Claim ③	the prosecutor's assertion that there are various circumstances consistent with the accused being the perpetrator.
Clothing worn during the crime	The garments worn by the perpetrator at the time of the crime.
Matsushita	Fumiko Matsushita
Inspector Matsumoto	Inspector Kyujiro Matsumoto (rank at the time of the crime in question. Same hereafter).
Lieutenant Iwamoto	Lieutenant Hiroo Iwamoto
Lieutenant Sumiyoshi	Lieutenant Chikashi Sumiyoshi
Public prosecutor Yoshimura	Public prosecutor Eizo Yoshimura
Sergeant Matsumoto	Sergeant Yoshio Matsumoto
Lieutenant Yonezu	Lieutenant Goroku Yonezu
Sergeant Morita	Sergeant Masashi Morita
Professor Hamada	Professor Sumio Hamada
Hamada Opinion	Opinion based on the expert opinion dated 9 December 1992 (Rejoinder 139), 20 June 1995 (Rejoinder 140), 1 August 2012 (Rejoinder 142) and 10 September 2017 (Rejoinder 193) prepared by Professor Hamada.
Inspector Haruta	Inspector Tatsuo Haruta
Haruta On-Site Investigation Report	On-site investigation report dated September 4, 1967, prepared by Assistant Inspector Haruta (Certified Book 17, Page 2274).

Sato Expert Report	Expert report dated September 20, 1967, prepared by Shuichi Sato (Certified Book 17, Page 2348).
Clothing Photo Compilation	A photo compilation titled "Shimizu City Yokozuna Kai Rishige Executive Family Murder Robbery Arson Case (Clothing Edition)" (Reiwa 5, Item 3, Seizure 17, Re-exhibit 38).
Professor Kobayashi Nakanishi Experiment	Professor Hiroyuki Kobayashi An experiment conducted by Associate Professor Hiroaki Nakanishi to assess the degradation level of DNA from human blood that had been pickled in miso (Re-exhibit 135, Rebuttal Document 6).
Fiscal Year 2021 Experimental Investigation Report	An investigation report prepared by the prosecutor, which includes observations of the miso-pickled samples and attached photographs documenting the conditions during the Fiscal Year 2021 experiment (Re-exhibits 176 to 183, 197, 201, 206, 212, 219).
Professor Tonami Professor Sawatari Sawatari Evaluation	Professor Hiroaki Tonami Professor Chie Sawatari Opinion based on Professor Sawatari's evaluation report (Rebuttal Document 267)
Professor Saito Confirmation Memo	Professor Kazuyuki Saito "Verification of Experimental Materials (Memo)" prepared by the court clerk (Rebuttal Document 33)
pH	The hydrogen ion concentration index, where pH 7 is neutral, pH above 7 indicates alkalinity, and pH below 7 indicates acidity.
Professor Kanda et al	Seven individuals, including Professor Kanda, who prepared the joint evaluation report (Re-exhibit 237)
ppb	Parts per billion (1 in 1,000,000,000)
ppm	Parts per million (1 in 1,000,000)
The samples in this case	Samples collected from the areas where bloodstains were found on the five pieces of clothing, as well as samples collected from the victims' clothing.
Yamada Evaluation	DNA testing and other evaluations conducted by Professor Yoshihiro Yamada on materials collected from areas near the samples in this

	case (Re-exhibit 64, 65; Rebuttal Document 91, 92).
Control Material	Samples collected from areas where no bloodstains were found on the five pieces of clothing or the victims' clothing.
Lieutenant Iwata Investigation in this case	Lieutenant Takeharu Iwata The search of the defendant's family home conducted on September 12, 1967.
Envelope in this case	"One double envelope" (Seiko 41, Exhibit No. 155, Mark 47).
Stationery in this case	"One letter (notepaper)" (Seiko 41, Exhibit No. 155, Mark 48).
Currency in this case	18 banknotes (Seiko 41, Exhibit No. 155, Marks 49 to 53).
Currency and related items in this case	The envelope, stationery, and banknotes mentioned above.
Raincoat in this case	"One raincoat (burnt)" discovered in the courtyard of the Fujio residence (Seiko 41, Exhibit No. 155, Mark 5).
Ueno Evaluation	Opinion based on the evaluation report dated March 18, 1972, prepared by Masayoshi Ueno (Confirmed Volume 26, Page 1477).
Naito Evaluation	Opinion based on the evaluation report dated February 25, 1975, prepared by Michioki Naito (Confirmed Volume 27, Page 1858).
The knife in this case	"One paring knife (without a handle or sheath)" discovered at the Fujio residence (Seiko 41, Exhibit No. 155, Mark 4).
Oshida Opinion	Two response letters from Professor Shigeru Oshida (Rebuttal Document 208, 211), forming the basis for the opinion.
Yokoyama Evaluation	Opinion based on the evaluation report prepared by Dr. Masayoshi Yokoyama (Rebuttal Document 207).
The can in this case	A can of mixed oil placed by Kengo Sato in front of the triangular room.
Clothing, etc. of victims	blankets found on and under the head of Chiruko's body, victims' burnt clothes, men's trousers and cardboard found near the head of Fujio's body.
Shinoda Evaluation Report	Evaluation report dated October 20, 1966, prepared by Tsutomu Shinoda and another

	individual (Confirmed Volume 15, Page 1708).
Nakazawa Evaluation	Opinion based on the evaluation report dated November 30, 1971, prepared by Yasuo Nakazawa (Confirmed Volume 25, Page 1).
Abe Evaluation	Opinion based on the evaluation report dated December 20, 1967, prepared by Hiroshi Abe (Confirmed Volume 19, Page 2575).
Lieutenant Kuroyanagi	Lieutenant Saburo Kuroyanagi
End.	