Lau Khee Leong v Public Prosecutor
[2004] SGHC 175

Case Number : MA 145/2003

Decision Date : 13 August 2004

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : Appellant in person; Low Cheong Yeow (Deputy Public Prosecutor) for respondent

Parties : Lau Khee Leong — Public Prosecutor

Criminal Procedure and Sentencing – Appeal – Findings of fact by trial judge – Approach of appellate court.

Criminal Procedure and Sentencing – Sentencing – Appeals – Whether sentence wrong in law or manifestly excessive.

Immigration – Employment – Foreign worker – Appellant employment agent arranged employment pass applications despite knowing that the application forms contained false information – Whether appellant committed an offence under s 57(1)(k) of the Immigration Act (Cap 133, 1997 Rev Ed) read with s 109 of the Penal Code (Cap 224, 1985 Rev Ed).

13 August 2004

Yong Pung How CJ:

1 The appellant, Lau Khee Leong, was tried and convicted in the District Court on four charges of abetting the making of false statements in employment pass applications submitted to the Ministry of Manpower ("MOM"). This constituted an offence under s 57(1)(k) of the Immigration Act (Cap 133, 1997 Rev Ed) ("the Act") read with s 109 of the Penal Code (Cap 224, 1985 Rev Ed), and was punishable under s 57(1)(iv) of the Act. The district judge sentenced the appellant to three weeks' imprisonment on each charge, and ordered two of the sentences to run consecutively. The appellant appealed against both conviction and sentence. I dismissed both appeals, and now give my reasons.

The background facts

2 At all material times, the appellant was a licensed employment agent and the sole proprietor of Heavenly Employment Agency. Sometime in July and August 2000, the appellant helped to complete and submit to MOM employment pass application forms ("Form 8 EP Applications") in respect of four nationals from the People's Republic of China ("the PRC"), namely, Fang Qing Rong ("Fang"), Liu Kong Shou (Liu"), Chen Chun Xiang ("Chen") and Xue Liang Song ("Xue"). These workers had been invited by MOM to convert their threeIyear work permits, which were about to expire, into employment passes, provided that they remained in the employment of their respective local sponsor employers.

3 The Form 8 EP Applications stated that the local sponsor employer for Fang, Liu and Chen was Aquatic World Building Contractors Pte Ltd ("Aquatic"), while that for Xue was Eng Thye Shing Construction Pte Ltd ("ETS"). On the basis of the information and declarations provided in the application forms, MOM issued employment passes to the four foreign workers. However, it later transpired that the workers had never been employed by Aquatic or ETS but had been freelancing, and that they continued to work for various other construction companies after obtaining the employment passes.

4 The appellant was subsequently charged with abetting three of the workers (Fang, Liu, Chen) and the director of ETS, one Teh Char Lay (in respect of Xue's employment pass application), in providing false statements in the Form 8 EP Applications. The charges against the appellant read:

> The first charge
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> [T]hat you on or about 28.08.2000, did abet one Teh Char Lay … in the commission of the offence of making a false statement in an Application for an Employment Pass "Form 8" received by the Employment Pass Department on 28.08.2000, to obtain an Employment Pass for one Xue Liang Song; … to wit, you intentionally aided the said Teh Char Lay to arrange the said Form 8 application wherein was stated that the said Xue Liang Song would be employed by Eng Thye Shing Construction Pte Ltd …, a statement which you knew to be false, and on the basis of this false statement, an Employment Pass was issued to the foreigner on 14.10.2000, and which offence was committed in consequence of your abetment, and you have thereby committed an offence under Section 57(1)(k) of the Immigration Act (Cap 133) read with Section 109 of the Penal Code (Cap 224), punishable under Section 57(1)(iv) of the Immigration Act (Cap 133).
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> The second charge
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> [T]hat you on or about 20.07.2000, did abet one Fang Qing Rong … in the commission of the offence of making a false statement in an Application for an Employment Pass "Form 8" received by the Employment Pass Department on 20.07.2000, to obtain an Employment Pass for him; to wit, you intentionally aided the said Fang Qing Rong to arrange the said Form 8 application wherein was stated that he would be employed by Aquatic World Building Contractors Pte Ltd …, a statement which you knew to be false, and on the basis of this false statement, an Employment pass was issued to the foreigner on 22.08.2000, and which offence was committed in consequence of your abetment, and you have thereby committed an offence under Section 57(1)(k) of the Immigration Act (Cap 133) read with Section 109 of the Penal Code (Cap 224), punishable under Section 57(1)(iv) of the Immigration Act (Cap 133).

The third and fourth charges were the same as the second charge in all material aspects, except that they related to the employment passes for Liu and Chen respectively.

The case for the Prosecution

5 It was not disputed that the workers did not work for Aquatic or ETS during the time they held the work permits and the employment passes. They sought their own employment and held no permanent jobs.

6 Consequently, the Prosecution's case was essentially this: that the appellant was fully aware, at the time he assisted the three workers and the director of ETS in filling up and submitting the Form 8 EP Applications, that the sponsoring companies would not actually be employing the workers.

Evidence of the foreign workers

7 The Prosecution principally relied on the evidence of Fang, Chen, Liu and Xue to establish its case. On the whole, their evidence was essentially the same, except for some minor details that were peculiar to each witness. Conditioned statements of the four workers were admitted as evidence (Exhibits "PS 1" to "PS 4") under s 371 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC").

8 The workers testified that they were all on three-year work permits from 1997 to 2000. Fang, Chen and Liu held work permits to work for Aquatic, while Xue held a work permit to work for ETS.

9 In mid-1997, they were introduced to an employment agent, one Li Yu Pei ("Li"). Li approached them individually and offered to help them change their respective employers after the expiry of their first work permits in 1997. All four agreed, as they hoped to find better-paying jobs. Li told them that they could seek employment for themselves after the work permits were approved. In exchange for arranging their work permit applications, the workers agreed to pay Li "application fees" for the period that they held the work permits. Fang agreed to pay Li $7,000, while Chen and Liu both agreed to pay $4,500. In addition, Chen and Liu also promised to pay Li "management fees" of $150 per month. Xue also testified to paying a certain sum of money to Li as "management fees" every six months, but he could not recall the exact amount he paid each time.

10 Sometime in 1998, the workers learned that Li had passed away, leaving his widow behind. One or two months later, the appellant contacted the workers and asked them to go to his office. Chen and Liu went to the appellant's office together, while Fang and Xue met the appellant on separate occasions.

11 The appellant introduced himself as Li's partner and the real agent behind Li. He informed the workers that from then onwards they were under his charge, and instructed them to pay him any outstanding agency fees owed to Li. Fang, Liu and Chen believed the appellant and agreed to the arrangement as the appellant knew Li's name, had their contact numbers, and knew exactly how much they still owed Li.

12 Before the expiry of their work permits in 2000, the appellant met up with the workers to discuss the converting of their work permits to three-year employment passes. He offered to arrange their employment pass applications for a fee. He asked Fang, Chen and Liu to pay $6,500 each, and also requested them to pay a further $1,000 to $1,100 to extend the expiry date of their passports. Xue was asked to pay $10,000, which sum included the application fee, the fee for the renewal of his passport and management fees. The workers agreed to this arrangement, as they believed that the appellant could otherwise cancel their employment documents and send them back to the PRC. At the meeting, the appellant told the workers that they could continue to seek employment on their own.

13 The appellant presented each worker with a Form 8 EP Application to sign. The appellant helped to fill in their particulars in the forms, as the workers were not conversant with the English language. Fang noticed that the declaration and covenant by the local sponsor under Pt X and Pt IX had already been signed. Subsequently, the workers received their employment passes.

14 The workers were unequivocal in their evidence that the appellant never informed them that it was illegal for them to work for companies other than the local sponsor employer stated on their employment passes. Furthermore, the appellant knew that they were not working for Aquatic and ETS, but were freelancing for various other companies. They were certain of this, as all of them had contacted the appellant on at least one occasion to seek his assistance in finding employment. Once, Fang asked the appellant if he could work for Aquatic, his official employer. He had hoped to work for Aquatic as his then employer was not paying him. However, the appellant informed him that there was no job for him there. Hence, Fang continued to look for employment on his own. The appellant also told Xue that the employers he knew of only paid low salaries.

15 The appellant also helped Chen and Liu to write at least one letter of recommendation each, to potential employers. Chen was even charged $20 for each letter prepared under the Aquatic letterhead. Occasionally, the appellant would also provide them with telephone numbers of

prospective employers for them to approach when they could not find any work on their own. However, the appellant specifically informed Chen not to look for the boss of Aquatic for employment, as the boss was an Indian, and Chen would face problems communicating with him. Based on the above factors, the workers were confident that the appellant knew that they were seeking employment on their own prior to their making their employment pass applications.

16 In 2001, Fang, Chen and Liu were notified by the appellant that their employment passes had been cancelled by the boss of Aquatic, one A Francis Xavier a/l Arokiasamy ("Francis"). Subsequently, the appellant gathered the workers at his office to introduce them to Francis, who then officially told the workers of the cancellation. All three workers testified that this was the first time that they had met Francis. The appellant told the workers that they would have to hand over their passports and employment passes and return to the PRC.

17 Fang, Chen and Liu were unhappy with the unexpected revocation of their employment passes as the "application fee" that they had paid the appellant was meant to cover a three-year employment pass, and they had only worked for slightly more than a year. They therefore demanded a refund from the appellant. In the end, the appellant consented to pay Fang the sum of $2000, and Chen and Liu the sum of $1500 each, as compensation. As a condition for the payment, the appellant wanted the three of them to return to the PRC as soon as possible.

Evidence of Teh Char Lay

18 The Prosecution also called Teh Char Lay ("Teh") to give evidence. Teh had pleaded guilty to the charge of making a false statement in the Form 8 EP Application in respect of Xue's employment by ETS. He had already served his sentence of six weeks' imprisonment at the time of the appellant's trial.

19 Teh testified that he was appointed as a director of ETS in February 2000 on the recommendation of a friend, one Teng Kok Beng ("Teng"). Teng promised to appoint Teh as the manager of an upcoming construction project, and instructed him to apply for work permits for a group of workers.

20 Sometime in March or April 2000, Teh went to the appellant's office with Teng to sign numerous employment pass applications. Teh had earlier introduced the appellant as the representative of ETS's employment agent. Teh explained that he agreed to sign the application forms as Teng had assured him that several construction projects were in the pipeline. About four to six month later, Teh signed another batch of employment pass applications, one of which was Xue's application.

21 Teh was subsequently arrested by MOM for falsely stating in the employment pass application that Xue would be employed by ETS. He pleaded guilty to the charge, and admitted to the statement of facts ("SOF"). The material portions of the SOF revealed that the appellant had arranged with Teh to have Xue's work permit converted to an employment pass. The appellant completed the said Form 8E Application and Teh signed the form knowing that ETS had no work for Xue. Furthermore, Xue had never worked for ETS whilst he held the work permit and the employment pass.

22 The circumstances in which the offence took place were further revealed in Teh's plea of mitigation. Teh's counsel maintained that the originators of the whole scheme were Teng and the appellant, who had full control of the affairs of ETS. To dissociate themselves from the scam, they did not want to appear as directors of ETS. As a result, Teh became the scapegoat. Thus, both the SOF and the mitigation plea squarely placed the appellant as one of the two masterminds of the scam.

23 However, during the appellant's trial, Teh told the court an entirely different story which effectively exculpated the appellant. Teh painted both the appellant and himself as unfortunate victims of the scam devised by Teng. Teh testified that Teng had deceived both him and the appellant into thinking that ETS needed workers for upcoming projects. When questioned by the district judge as to why these facts were not stated in the SOF, Teh claimed that the SOF was misleading. He claimed that he had not realised this until later, as he had not been listening to the SOF when it was being read out to him. He had simply wanted to plead guilty at the time as he had hoped that the district judge would mete out a non-custodial sentence.

24 Teh also tried to explain away the inconsistencies between his evidence in court and his mitigation plea by stating that he may have given his counsel wrong instructions. Teh further claimed that he did not tell the investigators about Teng as he was not asked about him.

The defence

25 In his defence below, the appellant maintained that he honestly believed that the workers would be working for the respective sponsoring companies (*ie* Aquatic and ETS) when he processed their application forms. There were no suspicious circumstances in his dealings with the parties involved, and he had simply presumed that the information provided was true. In any event, he was not required by law to check the truth of the information provided. He had neither the authority nor the time to carry out such investigations.

26 While the appellant did not deny that he had contacted the four workers in question, he averred that he was only helping Li's widow to collect the debts owed to her late husband. The appellant had agreed to help her as he took pity on her. At the meeting with the workers, he had specifically told them that he was collecting the debts on behalf of the widow and he never introduced himself as Li's partner.

27 The appellant had no further contact with the workers until they wanted to renew their work permits sometime in 2000. He clarified that none of the workers had sought his help to find employment, and that he had never written any recommendation letters for Chen and Liu. When he subsequently handed over the employment passes to the workers, he had also informed them that it was an offence for them to work for companies other than the sponsoring company.

28 He had collected the $6,500 application fee from the workers for Francis and Teng at their request. In return, they paid him a commission of $500 to $800 for each successful employment pass application. The appellant explained that as it was illegal for the sponsoring company to deduct the application fees from the workers' salaries, they often engaged a third party like him to collect the fees.

The decision of the district judge

29 In the trial below, the main issue was whether the appellant knew that the statements contained in the Form 8 EP Applications were false, and whether he had the requisite intention to abet the principal offence of making a false statement.

30 Having considered the evidence carefully, the district judge found the accounts of Fang, Chen, Liu and Xue cogent and consistent, and not implausible in any aspect. Further, he was of the view that the workers had been truthful and candid in court. Their evidence on how they were initially managed by Li, and how the appellant came to assume Li's role after the latter had passed away was wholly believable. He also found their version of events leading up to the payment of compensation by

the appellant convincing.

31 In contrast, the district judge disbelieved the appellant's testimony that he did not know that the foreign workers were not going to work for the sponsoring companies. The district judge found the appellant's evidence to be "thoroughly rehearsed" and unbelievable. He was not persuaded by the appellant's attempts to portray his role as a mere third party agent, whose responsibility was limited to performing an administrative role in the Form 8 EP Applications and collecting payments on behalf of Li's widow, Francis and Teng.

32 Thus, having had the benefit of observing the demeanour of all the parties, the district judge accepted the workers' testimonies that the appellant knew that they were seeking employment on their own at all material times. The district judge concluded (see [2004] SGDC 98 at [172]):

> Thus, I was satisfied that the accused had intended to aid the workers in obtaining their employment documents so that they could continue to seek employment on their own in return for the management and application fees paid to him by the workers.

33 Consequently, the district judge found that the Prosecution had proved its case beyond a reasonable doubt and convicted the appellant accordingly.

The appeal against conviction

35 The appellant appeared in person before me. Although he raised a whole slew of arguments in his written grounds of appeal, I was of the view that there was essentially one main issue for determination, namely, whether the district judge had erred in finding that the appellant had the requisite *mens rea* to abet the principal offence of making a false statement. This, in turn, hinged on the resolution of the following two issues:

(a) whether the district judge had erred in accepting and relying upon the foreign workers' evidence; and

(b) whether the district judge had erred in giving little weight to the evidence of Teh Char Lay.

The law

36 In essence, this appeal involved an attack by the appellant on the findings of fact made by the district judge. As such, I found it appropriate to revisit the well-established principles of law relating to the approach of an appellate court in dealing with an appeal against a trial judge's findings of fact.

37 F A Chua J laid down the general principle in the seminal case of *Lim Ah Poh v PP* [1992] 1 SLR 713 that an appellate court will not overturn a trial judge's findings of fact unless they are plainly wrong or reached against the weight of the evidence. I endorsed this principle in an entire line of cases that followed: see for example*, Heng Aik Peng v PP* [2002] 3 SLR 469; *Mahdi bin Ibrahim Bamadhaj v PP*[2003] 2 SLR 225;and *Dong Guitian v PP* [2004] 3 SLR 34. In particular, where findings of fact depend on the credibility and veracity of witnesses, an appellate court should be all the more reluctant to disturb a trial judge's findings: see *Yap Giau Beng Terence v PP* [1998] 3 SLR 656. This is simply because the appellate court does not have the advantage, unlike the trial judge, of hearing the evidence of the witnesses in full and observing their demeanour in court.

38 Given the above principles, the appellant was faced with the uphill task of convincing me that the trial judge's findings ought to be overruled.

Whether the trial judge had erred in accepting and relying upon the evidence of the foreign workers

Whether the workers' evidence was contradictory and unreliable

39 The appellant submitted that the district judge had erred in accepting the evidence of the foreign workers, which he alleged was contradictory and unreliable. According to the appellant, the workers had made numerous false accusations against him in order to safeguard their own interests and to avoid criminal liability.

40 In support of his contention that the workers' evidence was inherently unreliable, the appellant highlighted several alleged inconsistencies between the workers' conditioned statements (admitted as evidence under s 371 of the CPC) and their oral testimonies in court. One such instance of supposed inconsistency was when Fang testified in court that the appellant had informed him that there was no job for him at Aquatic. The appellant submitted that Fang did not mention this crucial fact in his conditioned statement, and that this in itself proved that Fang had lied in court.

41 I was of the view that the appellant's submission was misconceived. First of all, Fang's oral testimony did not contradict his conditioned statement; it merely supplemented what he had stated previously, which he was fully entitled to do. There is no requirement that a conditioned statement has to be exhaustive, and a witness may give further evidence during trial. An omission to state a material fact in a previously made statement may in some cases arouse suspicion of fabrication of evidence by the witness on hindsight. Fang's testimony in court, however, merely expounded on, and was entirely consistent with, his earlier statement. Second, once a conditioned statement is admitted in evidence under s 371 of the CPC, it is for the district judge to attach to it whatever weight he deems appropriate in the light of all the evidence present before the court. Thus, even if there are discrepancies between the two, the trial judge is fully entitled to accord more weight to either the oral testimony or the conditioned statement in arriving at his findings: see *Rajendran s/o Kurusamy v PP* [1998] 3 SLR 225.

42 I found more merit in the appellant's next argument that Liu had materially contradicted his conditioned statement when he stated during cross-examination that he did not have any contact with the appellant between the time the appellant gathered the workers to collect the fees owed to Li, and the time when the appellant contacted him to convert his work permit into an employment pass. This was inconsistent with his recorded evidence that he had called the appellant at least once during this period to request a letter of recommendation. I found this to be a material contradiction, given that the appellant's conviction hinged almost entirely on the foreign workers' evidence and there was no other documentary evidence demonstrating his guilt. The workers' testimonies, that they had contacted the appellant during the relevant period to seek his assistance in looking for a job, constituted the strongest evidence against the appellant. It clearly established his *mens rea* in that he was aware that the workers were not employed by the sponsoring employers. Therefore, when Liu gave evidence in court that he had no contact with the appellant during the relevant period, this in my opinion undermined the Prosecution's case. It was unfortunate that Liu was not given an opportunity to explain the inconsistency during trial. As the discrepancy was material, it was not satisfactory merely to attribute it to the fallibility of human memory. In my view, the district judge ought to have addressed this inconsistency expressly.

43 However, the above discrepancy in Liu's evidence was insufficient to surmount the high

threshold of showing that the district judge's findings of fact were plainly wrong or reached against the weight of the evidence. Aside from this inadvertent omission to deal with this particular inconsistency, I found the district judge's decision perfectly sound in all other aspects. All things considered, I did not think that the district judge was wrong to have accepted the workers' evidence. In this regard, I found the following observation by the trial judge (see [32] *supra*, at [168]) particularly persuasive:

> [T]hese witnesses dealt with the accused separately when their respective work permit was about to expire. Yet, the collective evidence on their specific dealings with the accused was substantively consistent. In my view, such details and coherence could not have been concocted independently by these witnesses, and I was left with no doubt that it represented the truth.

Whether the district judge had erred in giving undue weight to the evidence of the foreign workers who were all accomplices

44 The appellant further contended that the district judge had erred in giving undue weight to the evidence of the foreign workers, who were all accomplices. He submitted that it was patently unsafe to rely on the workers' testimonies to establish his guilt, as they had not been prosecuted for the principal offence of making a false statement.

45 I was of the opinion that this argument, albeit attractive, was untenable on the particular facts of this case. It was clear that the district judge was at all times mindful that he was dealing with accomplices' evidence. Having specifically directed his mind to the issue, he was nevertheless satisfied that the workers were reliable witnesses who spoke the truth. In the district judge's opinion, there was no reason for the workers to falsely implicate the appellant. They clearly regarded him as their employment agent, and there was nothing to indicate that they were unhappy with the services provided by him. In addition, the appellant had, from time to time, helped them with their job hunt and even compensated them when their employment passes were prematurely revoked.

46 Further, as the district judge noted, the workers were truthful even about matters that could implicate them. For instance, they did not attempt to hide the fact that they had sought employment on their own under Li's management *even before* they had met the appellant, and that they continued to seek their own employment after they obtained their employment passes. By the time the workers made the above admission, MOM had already informed them that what they had done was against the law. Despite this, however, they did not try to conceal their long periods of illegal employment.

47 Given the careful consideration that the district judge gave to the potential risks associated with the testimony of accomplices, I could find no valid reason to fault his decision.

Whether the district judge had erred in giving little weight to the oral evidence of Teh Char Lay

48 Finally, the appellant sought to rely on Teh's oral testimony to support his contention that Teng had intentionally deceived him into thinking that ETS needed workers for upcoming projects. According to the appellant, it was only because he honestly believed Teng's assertions that he completed and submitted the workers' application forms.

49 The district judge found Teh, who had unexpectedly denounced the evidence as contained in the SOF and his mitigation plea in favour of an account that was advantageous to the appellant, to be an unreliable witness who was "hesitant and guarded" when questioned by the Prosecution. This was in stark contrast to his demeanour during cross-examination where he was neither evasive nor

vague in his replies. In fact, Teh even appeared eager to concur with the defence counsel that Teng was the sole originator of the whole scheme and that both the appellant and Teh were hapless victims of his scam. In the circumstances, the district judge decided to accord very little weight to his oral testimony.

50 On the evidence, I was satisfied that the district judge was correct to have placed little weight on Teh's oral testimony. After thoroughly reviewing both the district judge's grounds of decision and the notes of evidence, I concurred with the district judge that Teh's explanations as to why his testimony in court was inconsistent with both his SOF and his mitigation plea, were both unpersuasive and implausible.

51 I was also of the view that, contrary to the appellant's suggestion, the district judge had not placed undue weight on the SOF. In *PP v Liew Kim Choo* [1997] 3 SLR 699, I held that where a witness other than an accused person has pleaded guilty in earlier proceedings, the SOF of that witness may subsequently be used to prove the facts in the trial of his accomplice if the witness gives inconsistent evidence at that trial. The only caveat is that the SOF should be treated with circumspection, as it is essentially unproved. In this case, the district judge had taken a multitude of other factors into account before rejecting Teh's oral testimony. The SOF was but one of the factors that affected the district judge's decision. In the circumstances, I found the district judge's reliance on the SOF perfectly reasonable.

The payment of compensation by the appellant to the foreign workers

52 In my view, the one piece of circumstantial evidence that ineluctably pointed to the appellant's guilt was the fact that he had reimbursed the workers either $1,500 or $2,000 each for the premature termination of their employment passes. These sums were grossly *in excess* of the commission he allegedly earned from Teng and Francis (*ie* $500 to $800) for each successful employment pass application. The appellant claimed that he had no choice in the matter as the workers were continually harassing him. Fang, Chen and Liu had initially demanded compensation from Francis but when Francis subsequently absconded, the workers turned to him for payment. I gave no credence to this explanation and concurred with the district judge that the appellant's reasons for compensating the workers were "absurd". If the workers had indeed harassed him for compensation, the most logical course for the appellant to take would have been to report them to the authorities since, as he claimed, he was innocent and the workers were freelancing without his knowledge.

53 In light of the foregoing reasons, I concluded that there was absolutely no reason for me to disturb any of the district judge's findings of fact. Accordingly, I dismissed the appellant's appeal against conviction.

The appeal against sentence

54 The appellant's appeal against sentence was a non-starter from the beginning as the appellant had not identified and put forward any relevant grounds of appeal in his submissions. Consequently, there was in reality little necessity for me to consider his appeal, bearing in mind the well-established principle of law that an appellate court will not interfere with the sentence imposed by the trial court unless it is satisfied that the sentence is manifestly excessive or wrong in law: see *Tan Koon Swan v PP* [1986] SLR 126.

55 In any case, I was satisfied that the district judge had properly applied his mind to the sentencing norm and principles that I enunciated in *Abu Syeed Chowdhury v PP* [2002] 1 SLR 301, namely, that where a false representation is made under s 57(1) of the Act, a custodial sentence is

the applicable norm.

56 In *Abu Syeed Chowdhury v PP*, I also laid down four sentencing guidelines that the courts should keep in mind in applying the sentencing norm. They are:

(a) the materiality of the false representation on the mind of the decision-maker;

(b) the nature and the extent of the deception;

(c) the consequences of the deception; and

(d) the offender's personal mitigating factors.

57 I could not find any fault with the district judge's application of the above sentencing guidelines in arriving at the sentence of three weeks' imprisonment per charge. First, the false representation made by the applicants with the appellant's assistance was clearly material. MOM would not have issued the employment passes to the workers if they had known of the false information. Second, the deception perpetrated by the appellant was alarmingly blatant. Despite knowing that the workers were working in contravention of the conditions stipulated in their work permits, the appellant had no misgivings about asking them to continue seeking their own employment for his personal benefit. Third, as rightly noted by the district judge, the consequences of the deception had to be considered in the light of the fact that the appellant's act could seriously undermine the "effective control by MOM of the occupation undertaken by foreign workers". Finally, there was a glaring absence of any personal mitigating factors that were sufficiently exceptional to justify the imposition of only a fine on the appellant.

58 In view of the above, I considered that the sentence imposed was neither wrong in law nor manifestly excessive. Accordingly, I dismissed the appeal against sentence.

Appeal against conviction and sentence dismissed.