

Public Prosecutor v Lee Kun En
[2012] SGHC 31

Case Number : Magistrate's Appeal No 220 of 2011 (DAC No 9753, 10640 and 10641 of 2011)
Decision Date : 09 February 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Han Ming Kuang (Attorney-General's Chambers) for the appellant; Diana Foo (Tan See Swan & Co) for the respondent.
Parties : Public Prosecutor — Lee Kun En

Criminal Law

9 February 2012

Choo Han Teck J:

1 The respondent, aged 32, pleaded guilty to three charges under s 28(2)(a) read with s 28(3) (b)(i) of the Moneylenders' Act (Cap 188, 2010 Rev Ed), and s 34 of the Penal Code (Cap 224, 2008 Rev Ed). He and one Liu Wing Cheong ("Liu"), aged 27, worked for unlicensed moneylenders to harass debtors. Their activities took place in flats all over the island and spanned the period between October 2010 and January 2011. The three proceeded charges took place between midnight and 5am sometime in December 2010. The first charge was in respect of a flat at Blk 532 Bukit Batok Street 51. At the staircase landing of the targeted flat the respondent used a coloured crayon to scribble a name, the flat unit number and "O\$P\$", followed by the details of what appeared to be a cell phone number. He and Liu then went to the flat itself and the respondent saw Liu splash green and red paint at the window. The second charge concerned a flat at Blk 658C Jurong West Street 65. Again, the respondent wrote on the staircase landing using a coloured crayon. Liu then splashed blue paint on the front door of the targeted flat. The third charge concerned a flat at Blk 241 Jurong East Street 24. The same procedure by the respondent and Liu was adopted as in the previous two charges. However, on this occasion, Liu was busy on his cell phone so the respondent splashed green paint on the front door. His face was identified from footage of a closed circuit television camera mounted at the door. Liu was arrested during a routine police check. After Liu's arrest, the respondent surrendered himself to the police.

2 The lower court convicted the respondent and sentenced him to six months' imprisonment and three strokes of the cane for each of the three proceeded charges. Two of the sentences of imprisonment were ordered to run concurrently, but consecutively to the third, making a total of 12 months' imprisonment and nine strokes of the cane. The public prosecutor appealed against the sentences. Miss Diana Foo appeared on behalf of the respondent. She emphasized the mitigation that was made at the lower court. The respondent was an example of a gambler turned debtor turned loanshark runner. Counsel blamed this on the increase in population and the casinos. However, there was no evidence that the respondent's debts arose in a casino. Moreover, the casinos opened in 2010 but the criminal career of the respondent began in 1999. From that time through to 2006, he was convicted five times, and on four of those occasions he was sentenced to imprisonment. The terms of imprisonment ranged from two weeks to seven months. Miss Foo further submitted that the act by the respondent in respect of the third charge was carried out "on the spur of the moment" because his accomplice was busy on the telephone. Be that as it may, he was charged under s 34 of the Penal

Code, and that places the acts of one culpable actor on the other, and vice versa. They were both at the flats with the common intention of harassing the occupant.

3 I have no disagreement with the observations of the court in *Public Prosecutor v Nelson Jeyaraj s/o Chandran* [2011] 2 SLR 1130. I emphasize that illegal moneylending is a serious criminal activity. Its effect reaches beyond the misery of the debtors - who might one day end up as criminals themselves - to the families of the debtors. Today's victim may be tomorrow's criminal. Furthermore, innocent flat owners often have their properties vandalised even though they do not owe a cent. I am also of the view that although the previous convictions might not have related to illegal moneylending activities, the frequency of their occurrences and the apparent lack of effect of seven months' imprisonment prompt me to agree that in this case and on these facts, the total imprisonment term of twelve months was manifestly inadequate. I thus increased the sentence of imprisonment for each charge from six months to twelve months and for the first two terms to be served concurrently but consecutively to the third, making a total of 24 months imprisonment, taking effect from 6 September 2011. The sentence of three strokes of the cane for each charge remains.

Copyright © Government of Singapore.