

Chua Whye Woon v Public Prosecutor
[2016] SGHC 189

Case Number : Magistrate's Appeal No. 9056 of 2016
Decision Date : 08 September 2016
Tribunal/Court : High Court
Coram : Chan Seng Onn J
Counsel Name(s) : Tan Chao Yuan (Chen Chaoyuan) (PKWA Law Practice LLC) for the appellant;
Terence Chua and Zulhafni Zulkeflee (Attorney-General's Chambers) for the respondent.
Parties : Chua Whye Woon — Public Prosecutor

Criminal law – Sentencing – Appeals – Harassment on behalf of unlicensed moneylender

8 September 2016

Judgment reserved.

Chan Seng Onn J:

1 The appellant, Chua Whye Woon, appeals against the sentence imposed on him by the District Judge, whose decision can be found in *Public Prosecutor v Chua Whye Woon* [2016] SGDC 83. The District Judge sentenced the appellant to 12 months' imprisonment and 3 strokes of the cane for each of the two proceeded charges and ordered that the two sentences run consecutively. The total sentence is therefore 24 months' imprisonment and 6 strokes of the cane. The appellant submits that the overall sentence is manifestly excessive because the District Judge ought to have ordered concurrent rather than consecutive sentences.

2 Having considered the District Judge's grounds of decision and the parties' submissions, I allow the appeal. I hereby set aside the sentence imposed by the District Judge, and sentence the appellant to 14 months' imprisonment with 3 strokes of the cane for each of the two proceeded charges. These two sentences are to run concurrently. The appellant is thus sentenced to a total of 14 months' imprisonment and 6 strokes of the cane.

3 I will briefly explain my reasons. I have enhanced the individual sentences on two grounds.

(a) First, the appellant had admitted and consented to five outstanding offences to be taken into consideration for the purpose of sentencing. These five outstanding offences, including the two offences he was convicted of, involve the same offence of harassment on behalf of an unlicensed moneylender. The appellant caused property damage by splashing paint on the doors and writing on the walls with a marker on the premises of a number of victims. It is well-established that when outstanding offences are taken into consideration under s 148 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed), the sentence imposed may be higher than that which might otherwise be ordered: *Public Prosecutor v Mok Ping Wuen Maurice* [1998] 3 SLR(R) 439 at [19].

(b) Second, the appellant committed these offences as part of a spree of similar acts across four days, often committing the offences just hours apart on the same day. This intensity with which he committed the offences heightens the appellant's culpability and shows his total disregard for the law.

4 Finally, I note that the appellant does not fall within the class of offenders forced into assisting unlicensed moneylenders out of genuinely desperate financial need, as described in *Ong Chee Eng v Public Prosecutor* [2012] 3 SLR 776 (at [18]). He borrowed money for investment capital. Although this does not serve to enhance his sentence, his circumstances do not attract the same degree of sympathy accorded to such offenders.

5 However, I find that it is appropriate for the two sentences to run concurrently rather than consecutively. In making this finding, I have considered the principles identified by CJ Menon in *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Mohamed Shouffee*"). The totality principle requires the court to take a "last look" at all the facts and circumstances and assess whether the overall sentence looks wrong. In my view, an overall sentence of 24 months' imprisonment and 6 strokes of the cane would be crushing and out of proportion to the appellant's past record and future prospects (*Mohamed Shouffee* at [57]). The appellant is only 30 years old and has no prior convictions. He continued committing harassment offences on behalf of unlicensed moneylenders because they threatened physical harm to him and his mother. He was forced into assisting the unlicensed moneylenders despite having borrowed only \$500 from them.

6 In the circumstances, I find that a total sentence of 14 months' imprisonment and 6 strokes of the cane will suffice to punish the appellant and deter him from future offences of this nature. The appeal is therefore allowed.