

Sankar Jayakumar v Public Prosecutor
[2010] SGHC 190

Case Number : Magistrate's Appeal No 343 of 2009
Decision Date : 02 July 2010
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : N. Sreenivasan and Shankar A. S. (Straits Law Practice LLC) for the appellant;
Han Ming Kuang (Deputy Public Prosecutor) for the respondent.
Parties : Sankar Jayakumar — Public Prosecutor

Criminal Law

2 July 2010

Choo Han Teck J:

1 The appellant, a 42-year old man drove his car SFJ 5953 T into a traffic controlled junction at Yishun Street 72 and Yishun Ring Road at 6.45am on 13 February 2008. In so doing his car collided against a motorcycle ridden by a 19-year old Ng Yaoming. Ng died as a result of the collision. His 20-year old pillion rider, Wong Wei Xia was injured. The appellant was charged under s 66(1) of the Road Traffic Act, (Cap 276, 2004 Rev Ed) for driving in a manner dangerous to the public. He was also charged under s 338 of the Penal Code (Cap 224, 2008 Rev Ed) for causing grievous hurt to the pillion rider

2 The main issue at trial was whether the appellant drove into the junction when the traffic light had already turned red against him. The prosecution adduced evidence from Wong Wei Xia as well as two independent witnesses, Neo Che Kok ("Neo") and Haji Roslan bin Kasin ("Haji Roslan"). Neo testified that he had stopped at the junction in the same direction as the motorcycle. When he saw that the light changed to green in his favour he engaged the gears of his truck and was about to move when he noticed the appellant's maroon coloured MPV "dash" past him and then the motorcycle crashed against the MPV. Similarly, Haji Roslan who was on a bicycle gave a similar version of what he saw. Neo and Haji Roslan were cross-examined and they maintained their version of the accident. The trial judge accepted their evidence, and after considering them with the rest of the evidence, including the expert evidence of the defence, she found the appellant guilty as charged.

3 In so far as the facts were concerned, I did not think that I could interfere with the findings made below especially when important facts were gleaned from the testimonies of eye-witnesses. Mr Sreenivasan, counsel for the appellant, argued that the court below failed to apply *Lim Hong Eng v PP* [2009] 3 SLR(R) 682, ("Lim Hong Eng") a previous decision of this court. Counsel submitted that the evidence in the appellant's case were similar to that in *Lim Hong Eng*. I did not think so. I held in *Lim Hong Eng* that what constituted dangerous as well as rash driving are matters of fact for the trial judge to determine. Only obvious instances in which the appellate can be certain that the facts were wrong would it interfere. *Lim Hong Eng* was an unusual case because the findings of fact made by the trial judge supported the appellant's case that she was more negligent than rash. The relevant passage in which I set out those facts is as follows at [5]:

It appears from the evidence that [Lim Hong eng] was not aware that the traffic lights had

turned red. This was a finding made by the District Judge, who held that the appellant did not intend to beat the red light, and had entered the Junction unaware not only of the fact that the lights were red against her, but also that the motorcycle was passing through the junction ...

The prosecution in that case also conceded that Lim Hong Eng was not speeding. *Lim Hong Eng* thus turned on different facts. In cases like this and *Lim Hong Eng*, inferences in respect of facts such as whether the crossing by a vehicle into the path of another was done in a manner that was dangerous was for the trial judge based on the finding of other facts.

4 In the present case the trial judge acknowledged that there was no evidence that "the appellant had deliberately failed to take note of the traffic light signals." Contrary to counsel's submissions, this was not a case of her placing a burden on the appellant. It was an observation made to support the court's view that "every driver crossing a signalised junction must adhere to the traffic light signals which are there to regulate the traffic." I think that must be right. *Lim Hong Eng* was different in that the trial judge's findings supported the accused person's account that she thought that the light was green in her favour. Not every instance of such confusion would merit a reduction in charge or sentence but in the overall circumstances, there was sufficient evidence in the judge's own findings of fact to give the benefit of doubt to the appellant in *Lim Hong Eng*. Perusing the grounds of decision of the trial judge in this case, I am of the view that she did not accept the submission that the appellant crossed into the junction mistaking the light to be green in his favour. *Lim Hong Eng* was not a case that propounded any new law.

5 Accordingly, the appeal before me failed and was dismissed. However, given counsel's submission as to the circumstances, namely, that the appellant was driving his daughter to school, and that he was not a "racer", as well as the fact that he attended to the injured, I reduced the overall sentence from nine months to four months (four months on each charge to run concurrently).

Copyright © Government of Singapore.