

Chan Siak Huat v Public Prosecutor
[2012] SGHC 78

Case Number : Magistrate's Appeal No 265 of 2011 (DAC No 10400 of 2010 and DAC No 10403 of 2010)
Decision Date : 11 April 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Paul (Murthy & Co) for the appellant; Peggy Pao-Keerthi Pei Yu (Attorney-General's Chambers) for the respondent.
Parties : Chan Siak Huat — Public Prosecutor

Criminal Procedure and Sentencing

[LawNet Editorial Note: The respondent's application in Civil Appeal No 167 of 2012/M (Summons No 71 of 2013) to strike out CA 167/2012 was dismissed by the Court of Appeal on 25 February 2013. See [\[2013\] SGCA 31.](#)]

11 April 2012

Choo Han Teck J:

1 The appellant is a 39-year old taxi driver. He pleaded guilty in the District Court on 2 November 2011 to two charges. The first was under s 35(1) of the Road Traffic Act (Cap 276, 2004 Rev Ed) ("Road Traffic Act") for driving without a valid licence ("the first charge"). This offence was committed along the Irwell Bank Road and River Valley Road junction on 5 October 2010. The second charge was for an offence under s 65(a) of the Road Traffic Act for driving without due care and attention resulting in his taxi knocking down a pedestrian at the Kim Seng Road and Irwell Bank Road junction on the same date and time ("the second charge").

2 The appellant admitted to the statement of facts and that his act had caused injury to the pedestrian, one Eika Chaturvedi Banerjee ("Eika"), at a pedestrian crossing. Eika was taken to hospital by an ambulance. The appellant also agreed to have seven other charges taken into account for the purposes of sentencing. Four of those seven charges were for offences committed on a different date and place ("the first set of offences"). In that other incident, the appellant committed a speeding offence along Nicoll Highway. He was also driving without a valid licence and insurance coverage at the time.

3 The first set of offences was committed on 30 September 2010 at Nicoll Highway, barely a week before the offences involved in the present appeal ("the Irwell Bank offences") were committed. The appellant's conviction under the first charge in this appeal carries a fine of not more than \$1,000 or an imprisonment term of not more than three months for a first-time offender, and a fine of not more than \$2,000 or an imprisonment term of not more than six months for a subsequent offence under s 131(2) of the Road Traffic Act. Since the appellant had agreed to have the first set of offences taken into account for the purposes of sentencing, the Irwell Bank offences do not count as subsequent offences. The judge below sentenced him to a fine of \$800, and disqualification from holding or obtaining a driving licence for twelve months for all classes of vehicles under s 42(1) of the

Road Traffic Act. In respect of the second charge, he was sentenced to a fine of \$600. The appellant could have been fined up to \$1,000 or jailed up to six months for the second charge under s 65 of the Road Traffic Act.

4 The appellant initially maintained that he was not aware that he was driving without a valid licence when he committed the Irwell Bank offences. (By way of background, the appellant's driving licence was revoked on 16 September 2010 after he failed to attend a hearing at the District Court for a parking offence.) This led the Public Prosecutor to apply to admit further evidence to show that the appellant was aware of this. At the appeal before me, counsel for the appellant, Mr Paul, conceded that the appellant was so aware and thus the Public Prosecutor's application for further evidence to be admitted became unnecessary.

5 Mr Paul submitted that the appellant should not be disqualified from holding or obtaining a driving licence because s 42(1) of the Road Traffic Act should not apply to an offence under s 35(1) of the Road Traffic Act. Section 42(1) of the Road Traffic Act provides as follows:

A court before which a person is convicted of any offence in connection with the driving of a motor vehicle may, in any case except where otherwise expressly provided by this Act and shall, where so required by this Act, order him to be disqualified from holding or obtaining a driving licence for life or for such period as the court deems fit.

Mr Paul argued that the disqualification was imposed under the first (and not the second) charge which was only for driving without a valid licence. Mr Paul submitted that since an offence under s 35(1) of the Road Traffic Act was not in connection with driving, a disqualification order should not be made. He argued that s 35(1) of the Road Traffic Act "is more concerned with having a licence than driving". I do not accept that there is any merit in this argument in the light of the clear and express wording of ss 35(1) and 42(1) of the Road Traffic Act. Section 42(1) has been set out above. Section 35(1) of the Road Traffic Act provides as follows:

Except as otherwise provided in this Act, no person shall drive a motor vehicle of any class or description on a road unless he is the holder of a driving licence authorising him to drive a motor vehicle of that class or description.

6 The words "any offence in connection with the driving of a motor vehicle" in s 42(1) of the Road Traffic Act are clear enough to include the circumstances under s 35(1) of the Road Traffic Act. A person cannot commit the offence of driving without a valid licence unless he is driving a motor vehicle. If he is driving a motor vehicle, then his offence is "in connection with the driving of a motor vehicle". Section 42(1) of the Road Traffic Act clearly applies to s 35(1) of the Road Traffic Act.

7 The only consideration remaining was whether the disqualification was correctly imposed. In view of the circumstances outlined above, I am of the view that the appellant's sentence was lenient. He committed two sets of serious Road Traffic Act violations within seven days. This fact alone should warrant a higher sentence than was imposed but the prosecutor did not appeal. In my view, the appellant's sentence and disqualification were not excessive, and were in fact a little lenient. Taxi drivers as professional drivers ought to be setting the standard for courteous and safe driving. The taxi companies have the responsibility of encouraging that attitude in positive ways such as through education, training and reminders. While the courts are not concerned with those methods of inculcating safe driving, they will ensure that irresponsible drivers are sufficiently punished especially where damage or injury is caused.

8 For the reasons above the appeal was dismissed.

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