

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2018] SGCA 34

Criminal Motion No 30 of 2017

Between

SALWANT SINGH S/O AMER SINGH

... Applicant

And

PUBLIC PROSECUTOR

... Respondent

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing] — [Criminal Motion]

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Salwant Singh s/o Amer Singh

v

Public Prosecutor

[2018] SGCA 34

Court of Appeal — Criminal Motion No 30 of 2017
Andrew Phang Boon Leong JA, Judith Prakash JA and Steven Chong JA
2 July 2018

Andrew Phang Boon Leong JA (delivering the judgment of the court *ex tempore*):

Introduction

1 This is an application by Mr Salwant Singh s/o Amer Singh (“the Applicant”) for an extension of time to apply to the High Court Judge (“the Judge”) who heard Criminal Revision No 3 of 2017 (“CR 3”) to reserve three alleged questions of law of public interest for the determination of this court.

Background

2 The Applicant is no stranger to our courts. In 2003, he was convicted of five charges of cheating in a District Court and sentenced to 12 years’ preventive detention. On appeal by the Prosecution, the High Court enhanced his sentence to 20 years’ preventive detention: see *Public Prosecutor v Salwant Singh s/o Amer Singh* [2003] 4 SLR(R) 305.

3 Subsequently, between 2004 and 2008, the Applicant filed five criminal motions in the High Court, one criminal motion in the Court of Appeal and two criminal appeals. All these filings were aimed at reopening his conviction and sentence in 2003. Our courts dismissed all of these applications, issuing written reasons in four cases: see *Salwant Singh v Public Prosecutor* [2005] 1 SLR(R) 36 (“*Salwant Singh (Documents)*”), *Salwant Singh s/o Amer Singh v Public Prosecutor* [2005] 1 SLR(R) 632 (“*Salwant Singh (PTC Notes)*”), *Salwant Singh s/o Amer Singh v Public Prosecutor* [2008] SGHC 164 (“*Salwant Singh (Review)*”) and *Salwant Singh s/o Amer Singh v Public Prosecutor* [2009] 3 SLR(R) 105. It was expressly stated in two cases that the applications brought by the Applicant were vexatious and an abuse of process: see *Salwant Singh (PTC Notes)* at [18] and *Salwant Singh (Review)* at [14].

4 On 20 February 2017, the Applicant filed CR 3 seeking (1) the quashing of his conviction and sentence, (2) the revision of his sentence of preventive detention and (3) an order that would “end the many cycles of miscarriage of justice” that he had allegedly suffered.

5 On 14 July 2017, the Judge heard and dismissed CR 3 on the basis that it was an abuse of process, being yet another attempt by the Applicant to reopen his conviction and sentence.

6 Four months later, on 14 November 2017, the Applicant filed the present application for an extension of time to bring a criminal reference.

The application for leave to file supplemental affidavits

7 The Applicant also applied for leave to file two supplemental affidavits. In these affidavits, he invited us to exercise our inherent power of review to

reopen his conviction and sentence in 2003, and our decisions in Criminal Motion No 18 of 2004 and Criminal Appeal No 15 of 2004 (see *Salwant Singh (Documents)* and *Salwant Singh (PTC Notes)*). We allow the application and admit the two supplemental affidavits.

8 We now give our decision on the application for an extension of time.

The application for an extension of time

9 It is settled law that in deciding whether to grant an extension of time, the court should consider “all the circumstances of the case, in particular (a) the length of the delay; (b) the sufficiency of any explanation given in respect of the delay; and (c) the prospects of the application”: see *Chew Eng Han v Public Prosecutor* [2017] 2 SLR 935 (“*Chew Eng Han*”) at [2].

10 Having considered these factors, we are satisfied that there is no reason to grant an extension of time. The principal reason is that the application which the Applicant seeks an extension of time to pursue has, in our judgment, no prospects of success whatsoever. This is because the questions which the Applicant seeks to refer to this court did not arise in CR 3. The Judge did not determine any question of law in CR 3. Rather, he dismissed CR 3 on the basis that, on the facts, it was an abuse of process.

11 It is evident from the Applicant’s affidavits and submissions here that his objective in filing this application is to reopen his conviction and sentence, which were finally determined more than 14 years ago in 2003. To his end, he sought to rely on our decision in *Kho Jabing v Public Prosecutor* [2016] 3 SLR 135 where we recognised that this court has the inherent power to reopen a concluded criminal appeal to prevent a miscarriage of justice. The matter of

whether the Applicant’s conviction and sentence may be reopened is strictly not before us in the present application for an extension of time. But in any event, we have considered the Applicant’s affidavits and submissions and wish to state that there is no new and compelling material indicating that the Applicant’s conviction and/or sentence amount to a miscarriage of justice.

12 In sum, this application is a patent abuse of process. As we noted in *Chew Eng Han* at [3], the fact that the Applicant is a litigant-in-person “does not provide him with a warrant to engage in abusive conduct”. The abusiveness here is especially reprehensible because our courts have repeatedly pointed out, in dismissing the Applicant’s previous applications, that his attempts to reopen his conviction and sentence amount to an abuse of process (see [3] above).

13 In the result, we dismiss this application.

Andrew Phang Boon Leong
Judge of Appeal

Judith Prakash
Judge of Appeal

Steven Chong
Judge of Appeal

The applicant in person;
Christopher Ong and Lee Ti-Ting (Attorney-General’s Chambers) for
the respondent.