

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2019] SGCA 32

Criminal Motion No 18 of 2018

Between

Salwant Singh s/o Amer Singh

... Applicant

And

Public Prosecutor

... Respondent

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing] — [Criminal Motion]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Salwant Singh s/o Amer Singh

v

Public Prosecutor

[2019] SGCA 32

Court of Appeal — Criminal Motion No 18 of 2018
Andrew Phang Boon Leong JA, Judith Prakash JA and Steven Chong JA
3 May 2019

3 May 2019

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

Introduction

1 This is the second 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”) to reserve questions of law arising out of the decision of the Judge in Criminal Revision No 3 of 2017 (“CR 3/2017”). The Applicant’s previous application for an extension of time was dismissed by this court in July 2018. That decision is reported as *Salwant Singh s/o Amer Singh v Public Prosecutor* [2018] SGCA 34 (“*Salwant Singh EOT*”).

Background

2 As we noted in *Salwant Singh EOT* at [2]–[5], the Applicant is no stranger to our courts. Since the conclusion of the Applicant’s appeal on his

conviction and sentence for cheating offences in 2003, when he was sentenced to 20 years' preventive detention, the Applicant has filed 10 other applications in an attempt to reopen his conviction and sentence, this being his 11th application. All his previous applications were dismissed. In three reported decisions, it was expressly stated that the Applicant's attempts to reopen his conviction and sentence were an abuse of process: see *Salwant Singh s/o Amer Singh v Public Prosecutor* [2005] 1 SLR (R) 632 at [18], *Salwant Singh s/o Amer Singh v Public Prosecutor* [2008] SGHC 164 at [14] and *Salwant Singh EOT* at [12].

3 The present application is closely related to the Applicant's 9th and 10th applications. In his 9th application, the Applicant filed CR 3/2017 on 20 February 2017, seeking to quash his conviction and sentence. That application was dismissed on the basis that it was an abuse of process.

4 Four months later, the Applicant filed Criminal Motion No 30 of 2017 ("CM 30/2017"), an application for an extension of time to apply to the Judge to reserve three purported questions of law of public interest for the determination of this court. On 2 July 2018, we dismissed the application to extend time. We found that there was no reason to grant an extension of time because the application for leave had no prospect of success. The questions which the Applicant sought to refer to this court did not arise in CR 3/2017. The application was a further attempt to reopen his conviction and sentence and was a patent abuse of process. Although the question of whether the Applicant's conviction and sentence might be reopened was not strictly before us in the application, we examined the Applicant's affidavits and submissions, and confirmed that there was no new and compelling material indicating that the Applicant's conviction and/or sentence amounted to a miscarriage of justice (see *Salwant Singh EOT* at [10]–[13]).

5 On 30 July 2018, the Applicant filed the present application seeking the same relief as in CM 30/2017, but relying on three different questions of law.

Preliminary matters

6 On 11 and 17 April 2019, the Applicant wrote two letters to the court where he sought to:

- (a) vacate the hearing and have it re-fixed to a date in July 2019;
- (b) inform the court that he would not be submitting his skeletal submissions by the prescribed time; and
- (c) register his reservations about the *coram* constituted to hear this application.

7 We declined to re-fix the hearing date and invited him to raise his concerns at the hearing. Having heard his arguments, we are satisfied that there is no basis for his requests.

8 The Applicant essentially hinges his requests on two arguments. First, he argues that he has two other pending applications in the High Court that would be prejudiced if we determine the present application before the conclusion of the other two applications. One application involves seeking leave for an investigation to be made in respect of alleged misconduct of the prosecutors who conducted his trial in the District Court. The second application involves an order for review of his detention. We reject this argument because even if we assume, for the sake of argument, that the three questions of law will have some bearing on the High Court proceedings (which they, in fact, do not), the present application cannot possibly prejudice the conduct of the High Court

proceedings: this is merely an application for an extension of time, and not the substantive hearing on how the questions of law should be answered.

9 The Applicant's second argument is that the *coram* for this matter is the same one that heard CM 30/2017. To the extent that the Applicant is suggesting that the same *coram* is foreclosed from hearing a matter closely related to a previous matter, there is no legal basis for this suggestion. Indeed, if the Applicant were repeating the exact same allegations in the new matter, that would itself constitute an abuse of process and it would therefore be entirely appropriate for the same *coram* to address such an application. If on the other hand the Applicant is purporting to bring a different application, then it would be appropriate for the timely disposal of the matter for the same *coram*, who is familiar with the background of the case, to consider the application. We note that the Applicant's allegation of bias and prejudice on the part of this *coram* in the treatment of CM 30/2017 is also devoid of any basis whatsoever.

The application for an extension of time

10 In determining whether an extension of time is appropriate, all the circumstances of the case will be considered, 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 at [2].

11 Having examined the evidence, we are satisfied that the present application should fail. Similar to his earlier application for an extension of time (see *Salwant Singh EOT* at [10]), there is no prospect of success in the application for leave to refer questions of law to this court: the questions the Applicant seeks to refer to this court did not arise in CR 3/2017. The first two

questions relate to s 74(1) of the Supreme Court of Judicature Act (Cap 322, 2007 Rev Ed) (“SCJA”). But the Judge did not decide CR 3/2017 on the basis that the application fell within s 74(1) of the SCJA. In fact, it was specifically recorded in the minute sheet for that case that an application under s 74(1) of the SCJA was not being brought. The third question relates to the level of detail provided by the Judge in the reasons given for the decision to dismiss CR 3/2017 – a question that is already well-settled.

12 In the circumstances, 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;
Leong Weng Tat and Tan Ben Mathias (Attorney-General’s
Chambers) for the respondent.
