IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 270

Originating Summons No 1044 of 2020

Between

Lim Tean

… Plaintiff

And

Attorney-General

… Defendant

GROUNDS OF DECISION

[Administrative Law] — [Judicial review] — [Leave]

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Lim Tean
v
Attorney-General

[2020] SGHC 270

High Court — Originating Summons No 1044 of 2020
Ang Cheng Hock J
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Ang Cheng Hock J:

1 The plaintiff, Mr Lim Tean, is a lawyer and opposition politician who is currently the subject of two criminal investigations conducted by the Singapore Police Force. The defendant is the Attorney-General ("AG"). The plaintiff filed Originating Summons No 1044 of 2020 ("OS 1044") for leave under O 53 r 1(*b*) of the Rules of Court (Cap 322, R5, 2014 Rev Ed) ("ROC") to commence judicial review to seek various remedies against the police. Essentially, the plaintiff seeks to prevent the police from continuing the two investigations against him. At the conclusion of the hearing, I dismissed the plaintiff's application because it was without any merit and I provided parties with brief reasons for my decision. I elaborate on those grounds below.

Background facts

2 As stated, the plaintiff is currently the subject of two criminal investigations ("the investigations"). The first is conducted by Investigation Officer Desmond Toh ("IO Toh") of the Commercial Affairs Department ("CAD") of the Singapore Police Force. It concerns the alleged commission by the plaintiff of the offence of criminal breach of trust under s 409 of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code") ("CAD investigations"). This is because the plaintiff had allegedly misappropriated a sum of S$30,000 which he received from AXA Insurance Pte Ltd ("AXA Insurance") on behalf of one of his former clients, Mr Suresh Kumar s/o A Jesupal ("Mr Kumar").

3 This sum of S$30,000 was part of a larger sum of S$50,000 which the defendant in DC/DC 387/2015 ("DC 387"), Mr Guo Nengqing ("Mr Guo"), was ordered to pay Mr Kumar as damages. The plaintiff had represented Mr Kumar as counsel in DC 387, which was a motor accident claim. Mr Kumar had been injured in an accident which was caused entirely by the negligence of Mr Guo. In the course of DC 387, the plaintiff was replaced by Mr Joseph Chen ("Mr Chen"), who has his own law firm, as the lawyer for Mr Kumar. Nevertheless, it is said that AXA Insurance, the insurer for Mr Guo, made the payment of the S$30,000 to the plaintiff's firm even though they were no longer the solicitors on record. Mr Kumar claims that, to date, he has not received this sum of S$30,000 from the plaintiff. Mr Chen then made a complaint to the police, on behalf of Mr Guo, about the alleged criminal breach of trust of the S$30,000 by the plaintiff.[1]

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[1] See Lim Tean's OS 1044 affidavit dated 5 November 2020, Exhibit "LT-3"; Notes of Arguments dated 5 November 2020 at p 3 line 5.

4 The second investigation is conducted by Investigating Officer Hannah Cheong ("IO Cheong") of the police's Central Division regarding alleged unlawful stalking under s 7(1) read with s 7(6) of the Protection from Harassment Act (Cap 256A, 2015 Rev Ed) ("POHA") by the plaintiff against his former employee ("POHA investigations"). The complainant's allegation is that the plaintiff had invited her for dinner and drinks at his home and persistently addressed her using inappropriate terms such as "darling" and "baby", even after she told him that she felt uncomfortable with this.[2]

5 On 23 September 2020, IO Toh and IO Cheong made a telephone call to the plaintiff together to inform him that he was required to attend the CAD's office on 28 September 2020 to answer questions in relation to suspected offences of criminal breach of trust and unlawful stalking. The plaintiff stated that he would be unable to attend any interview until after 9 October 2020. IO Toh informed the plaintiff that he would nevertheless be writing to the plaintiff to require him to attend an interview on 28 September 2020, and that the plaintiff should write in formally if he wished to request to reschedule the interview. Later that day, IO Toh duly wrote to the plaintiff to fix the interview at CAD's office on 28 September 2020 at 9.00am.[3]

6 On 27 September 2020, the plaintiff's counsel (by which I am referring to Mr Ravi s/o Madasamy) emailed a letter to IO Toh (copying IO Cheong) to state, *inter alia*, that the plaintiff had "no intention of turning up for any interview" because CAD was "investigating trumped up charges against [the plaintiff] which [were] politically motivated" and "in furtherance of the

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2 Hannah Cheong's affidavit dated 3 November 2020 ("IO Cheong's Affidavit") at [8].

3 Desmond Toh's affidavit dated 3 November 2020 ("IO Toh's Affidavit") at [21]–[22]; IO Cheong's Affidavit at [11].

Minister's political agenda".[4] No mention was made as to why the investigation was said to be "politically motivated", nor was there any mention as to which Minister was being referred to.

7 On 28 September 2020, the plaintiff did not attend the CAD's office for the scheduled interview. Instead, on the same day, IO Toh received another letter from the plaintiff's counsel (which was copied to IO Cheong) stating, *inter alia*, that "the subject matter of the monies is before the State Court[s]" and that any steps on IO Toh's part to "compel" the plaintiff to give a statement "would go against the due administration of justice". This was a reference to a suit that was pending before the Magistrate's Court (described below at [27]). IO Toh replied that afternoon to state that they would respond shortly.[5]

8 On 30 September 2020, IO Toh received another letter from the plaintiff's counsel (copying IO Cheong) which complained that Mr Chen, who is Mr Kumar's present lawyer, had "trespassed" on the plaintiff's office and shouted at his staff.[6]

9 On 1 October 2020, IO Toh sent his response to the plaintiff's counsel (copying IO Cheong) to clarify that the CAD was investigating an offence under s 409 of the Penal Code, while Central Division was investigating an offence under s 7(1) of the POHA. IO Toh rejected "any assertion that the investigations [were] politically motivated". IO Toh also noted the plaintiff's position not to attend any interviews with the police. IO Toh stated that the police have the

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4 IO Toh' Affidavit at pp 38–43.

5 IO Toh's Affidavit at [27]–[29], pp 37–48 and pp 53–55; IO Cheong's Affidavit at [13].

6 IO Toh's Affidavit at [30] and pp 56–59; IO Cheong's Affidavit at [14].

"responsibility to investigate" the allegations and will "take all necessary steps to do so".[7]

10 Since the plaintiff, through his counsel, had explicitly stated that he did not intend to turn up for any interviews with the police, the CAD assessed that it was necessary to arrest the plaintiff pursuant to s 64(1) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"). CAD officers duly arrested the plaintiff on 2 October 2020 at around 10.40am at the plaintiff's office and brought the plaintiff back to the Police Cantonment Complex. IO Toh then attempted to interview the plaintiff regarding the CAD investigations, but the plaintiff did not, according to IO Toh, answer any of his questions.[8]

11 At about 4.03pm on the same day, IO Toh offered the plaintiff bail at S$30,000 with one surety, on condition that his passport be impounded as part of the bail conditions. The plaintiff agreed to the bail conditions. The plaintiff was also allowed phone calls to make arrangements for a bailor to post bail. IO Toh kept IO Cheong informed of the plaintiff's arrest. While waiting for the plaintiff's bailor to arrive, IO Toh left the interview room for IO Cheong to interview the plaintiff regarding the POHA investigations. According to IO Toh and IO Cheong, the plaintiff refused to be interviewed by IO Cheong.

12 IO Cheong then served a notice on the plaintiff that stated that he was required to attend the Central Division's office on 12 October 2020 at 9.00am for an interview in relation to the POHA investigations. According to IO Cheong, the plaintiff said that he would not be attending the interview due to other engagements, but did not elaborate further. IO Cheong then emailed a

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7 IO Toh's Affidavit at [31] and pp 60–63; IO Cheong's Affidavit at [17].

8 IO Toh's Affidavit at [32]–[33].

copy of the notice to the plaintiff, who was released on bail later that day at around 7.16pm. The plaintiff's bail conditions included the condition that he was to surrender to custody or to make himself available for investigations at the date, time and place appointed for him to do so. Copies of the bail form setting out the plaintiff's bail conditions were provided to the plaintiff and his bailor.[9]

13 On 9 October 2020, IO Cheong received a letter from the plaintiff's counsel stating that the plaintiff "is in the process of commencing legal proceedings against the Singapore Police Force and the relevant people behind the state machinery in this [*sic*] politically motivated investigations". The letter requested a deferment of the plaintiff's interview on 12 October 2020 until after the conclusion of the intended legal proceedings, or after 19 October 2020 when the plaintiff would be available for an interview "under protest" but where he would remain silent. IO Cheong replied on 10 October 2020 with a letter from the police's Central Division stating that the plaintiff's interview would be rescheduled to 20 October 2020 at 9.00am.[10]

14 From 9 to 13 October 2020, the plaintiff's counsel wrote letters to IO Toh (copying IO Cheong) to state that the arrest of the plaintiff was unlawful and to demand for the names of the CAD officers involved in the arrest.[11] On 15 October 2020 at about 10.35am, IO Toh responded to the plaintiff's counsel to reject as baseless the claim that the plaintiff's arrest was unlawful and to reject the demand for the names of the CAD officers. IO Toh also stated that

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9 IO Toh's Affidavit at [34]–[36]; IO Cheong's Affidavit at [19]–[21] and pp 44–45.

10 IO Cheong's Affidavit at [22]–[23] and pp 47–54.

11 IO Toh's Affidavit at pp 67–83.

the plaintiff and his bailor were required to attend CAD's office on 16 October 2020 at 10.00am to extend his bail ("15 October letter"):[12]

> Dear Sirs
>
> MR. LIM TEAN'S ("YOUR CLIENT") ATTENDANCE AT CANTONMENT COMPLEX ON 16 OCTOBER 2020
>
> We refer to your letters of 9 and 13 October 2020.
>
> …
>
> 4. Your client's attendance, together with his bailor, is required at the Commercial Affairs Department on 16 October 2020 at 1000 hours to extend his bail. If your client does not attend, he will be in breach of his bail conditions and Police will take all necessary action against him.

15 A short while later at about 10.59am, the plaintiff's counsel telephoned IO Toh to ask if the plaintiff was going to be interviewed when he reported to the CAD's office on 16 October 2020. According to IO Toh, after he replied "yes", the plaintiff's counsel informed him that he would be taking "necessary steps" and immediately ended the call. Then, at about 12.16pm, IO Toh received another letter from the plaintiff's counsel (copying IO Cheong) stating that he would be taking the necessary legal action to procure the names of the officers involved in the plaintiff's arrest on 2 October 2020, and thanking IO Toh for confirming that the plaintiff was only required to attend CAD's office on 16 October 2020 to extend his bail but not to provide any investigative statement:[13]

> Dear Sir,
>
> REQUEST TO MR. LIM TEAN ("OUR CLIENT") TO ATTEND AT CANTONMENT COMPLEX ON 16TH OCTOBER 2020 FOR INVESTIGATIONS.
>
> 1. We refer to the above matter and your letter of even date.

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12 IO Toh's Affidavit at [39] and p 89.

13 IO Toh's Affidavit at [41] and pp 90 and 96.

> …
>
> 4. We note from paragraph 4 of your letter that our client is only required to attend Commercial Affairs Department tomorrow, 16th October 2020 at 10 am, **ONLY** for the purpose of extending his bail and not to give any statement.
>
> 5. We thank you for the said confirmation.
>
> [emphasis in original]

16 On 16 October 2020, the plaintiff and his bailor attended CAD's office. IO Toh informed the plaintiff that he wished to record a statement from the plaintiff after his bail extension was done. According to IO Toh, the plaintiff refused to give his statement, on the basis that he would be filing legal proceedings against CAD for contempt of court.[14]

17 On 19 October 2020, the plaintiff filed the present proceedings, OS 1044. On 20 October 2020 at around 9.15am, the plaintiff attended Central Division's office for his interview with IO Cheong for the POHA investigations. The plaintiff informed IO Cheong at the start that he would not be answering any questions, as advised by his counsel. IO Cheong nevertheless asked him some questions related to the POHA investigations, but the plaintiff did not answer.[15]

The plaintiff's case

18 In OS 1044, the plaintiff sought leave under O 53 r 1(*b*) of the ROC to commence judicial review and to obtain the following remedies.

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14 IO Toh's Affidavit at [45].

15 IO Cheong's Affidavit at [29].

(a) A prohibiting order to prohibit IO Toh and the CAD from further investigating the plaintiff in the CAD investigations, pending the determination of OS 1044. This is based on the ground that "the subject matter of the investigations in relation to $30,000 is before the State Courts in MC Suit No.: MC/MC 1595/2020" ("MC 1595"), and it will be "tantamount to contempt of court" if the CAD investigations are allowed to proceed.

(b) A prohibiting order to prohibit IO Cheong from further investigating the plaintiff in the POHA investigations, pending the determination of OS 1044. This is based on the ground that IO Cheong was in "collusion" with IO Toh when the latter "comraded" the plaintiff to attend the CAD's office to give a statement to IO Cheong, when IO Cheong "knew" that it was "outside" IO Toh's "remit" to make such a direction.

(c) A mandatory order against CAD and the police to discontinue the investigations, as "the entire process of both investigations" is "irreversibly tainted with biasness by reason of collusion and the prejudicial manner" in which the investigations have been dealt with.

(d) A declaration that IO Toh breached his and CAD's undertaking to the plaintiff that no further statements would be taken from the plaintiff when the plaintiff attended CAD's office on 16 October 2020 ("alleged undertaking").

Requirements of O 53 r (1)(b) of the Rules of Court

19 It is well established law that there are three requirements that must be satisfied before leave can be granted to commence judicial review under O 53 r

1(*b*) of ROC. First, the subject matter of the complaint has to be susceptible to judicial review. Second, the applicant has to have a sufficient interest in the matter. Third, the materials before the court have to disclose an arguable or *prima facie* case of reasonable suspicion in favour of granting the remedies sought by the applicant: *Gobi a/l Avedian and another v Attorney-General and another appeal* [2020] 2 SLR 883 ("*Gobi*") at [44]. The burden of proof lies squarely on the applicant to satisfy the court that these requirements are met: *AXY and others v Comptroller of Income Tax* [2018] 1 SLR 1069 ("*AXY*") at [33].

20 While the threshold for obtaining leave is low, it does not mean that the evidence and arguments placed before the court can be "either skimpy or vague", and "bare assertions will not suffice": *Gobi* at [54]. The requirement to obtain leave for judicial review "is intended to filter out groundless or hopeless cases at an early stage and its aim is to prevent waste of judicial time as well as to protect public bodies from harassment". Thus, notwithstanding the modest threshold for granting leave, the courts "have not hesitated to dismiss unmeritorious judicial review applications even at the leave stage": *Lee Pheng Lip Ian v Chen Fun Gee and others* [2020] 1 SLR 586 at [25]; *AXY* at [34].

21 From the parties' submissions, it was common ground that the first two requirements were satisfied in this case. The dispute between the parties was whether the third requirement was met.

22 After hearing counsels' arguments and reviewing the material that had been put forward as the basis of the application to be permitted to seek judicial review, I found that the plaintiff had fallen far short of showing that there was an arguable or *prima facie* case of reasonable suspicion in favour of granting the remedies that were sought.

Alleged undertaking by IO Desmond Toh to the plaintiff

23 First, regarding the declaration, the plaintiff relied, in his affidavit, on his counsel's letter dated 15 October 2020 (see [15] above) in his attempt to show that IO Toh and/or CAD made the alleged undertaking. This letter in turn makes reference to the 15 October letter from IO Toh to the plaintiff (see [14] above), which the plaintiff claims is the letter from IO Toh that contains the alleged undertaking.[16]

24 However, a plain reading of this 15 October letter (at [14] above) immediately shows that, while it states that the plaintiff's attendance was required at CAD's office on 16 October 2020 to extend his bail, it did *not* state that the plaintiff's attendance was *only* required for the extension of bail and that there would be no interview of the plaintiff on that day. For completeness, I should add that, in his affidavit, IO Toh also denied ever making the alleged undertaking or any undertaking of a similar nature to the plaintiff or his counsel.[17]

25 In the circumstances, I agreed with counsel for the defendant that IO Toh and the CAD did not make any undertaking via the 15 October letter *not* to take a statement from the plaintiff on 16 October 2020. Given that the plaintiff relied *only* on the 15 October letter and nothing more, there was therefore no *prima facie* evidence of the alleged undertaking. More importantly, even if there was such an undertaking by IO Toh, counsel for the plaintiff failed to make any submissions as to the legal effect of such an "undertaking" and its "breach". In short, the plaintiff's case in relation to the declaration about the alleged

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16 Lim Tean's OS 1044 affidavit dated 19 October 2020 at [12] and Exhibit LT-Page 3.

17 IO Toh's Affidavit at [38].

undertaking was a complete non-starter. As such, I was of the view that there was no *prima facie* case of reasonable suspicion that the declaration sought by the plaintiff (see [18(d)] above) would ever be granted.

CAD investigations

26 As for the prohibiting and mandatory orders sought, the plaintiff did not cite any authorities or any legal principle to support his rather remarkable contention that the Court could, in appropriate circumstances, grant orders to stop the CAD and the police from continuing their investigations into complaints that had been made. Instead, for the CAD investigations, the plaintiff's case was that it would amount to "contempt of court" under s 3(1)(*e*) of the Administration of Justice (Protection) Act 2016 (Act 19 of 2016) ("AJPA") for the CAD investigations to continue because "the subject matter of the investigations" is "before the State Courts" in MC 1595.

27 The plaintiff only filed an affidavit which enclosed the statement of claim filed by Mr Kumar in MC 1595 against AXA Insurance and Mr Guo *on the morning* of the hearing before me on 5 November 2020. The plaintiff is the third party in MC 1595. In that action, Mr Kumar is seeking a declaration that AXA Insurance's payment of S$30,000 to the plaintiff did not discharge Mr Guo's liability to Mr Kumar in DC 387 or AXA Insurance's statutory liability under s 9 of the Motor Vehicles (Third Party Risks and Compensation) Act (Cap 189, 2000 Rev Ed). Counsel for the plaintiff submitted that Mr Kumar is seeking a "second bite of the cherry" because he did not sue the plaintiff for the S$50,000 in MC 1595, but yet Mr Chen (Mr Kumar's present lawyer in MC 1595) made the police report against the plaintiff, on Mr Kumar's behalf, regarding the S$30,000. In other words, according to the plaintiff, Mr Kumar seems to have taken inconsistent positions in MC 1595 (that the plaintiff does

not owe him the S$30,000) and the police report (that the plaintiff owes him the S$30,000).

28 I was not satisfied that there was an arguable or *prima facie* case of reasonable suspicion in favour of granting the prohibiting and mandatory orders sought by the plaintiff to restrain the CAD from resuming the CAD investigations.

29 First, the plaintiff had not shown me that it would be appropriate in this case for the Court to grant prohibiting and mandatory orders to stop the police investigations. In *Anwar Siraj and another v Ting Kang Chung John* [2010] 1 SLR 1026 ("*Anwar Siraj*"), the appellants filed an originating summons to set aside an arbitration award made by the respondent. The appellants then filed a summons to apply for, *inter alia*, the police and/or the Commercial Affairs Department to be "directed" to "speedily complete their investigations" into the magistrate's complaints filed by the appellants against the respondent. The High Court declined to make this order (see *Anwar Siraj and Another v Ting Kang Chung John and Another* [2009] SGHC 71). The Court of Appeal allowed the respondent's application to strike out the appellants' appeal principally because the notice of appeal was filed out of time and the circumstances of the case did not merit an extension of time. This was partly because the appellants had failed to show that the court had the power, in a civil suit, to make a mandatory order against the said law enforcement agencies when the said agencies were not a party to the proceedings (at [39]).

30 More importantly for present purposes, the Court of Appeal went on to observe (at [40]), citing Clive Lewis QC, *Judicial Remedies in Public Law* (Sweet & Maxwell, 4th Ed, 2009) at para 4-084, that, even in cases where an application for a *mandamus* (now known as a mandatory order) had been

properly made, English courts "will not … give orders to the police telling them how and when to exercise their powers in specific situations *as the court is not in a position to determine what action particular situations will require*" [emphasis added]. The Court of Appeal also cited (at [41]) the case of *R v Chief Constable of Devon and Cornwall, ex p Central Electricity Generating Board* [1982] QB 458, where the English Court of Appeal found that, although there had been a breach of the peace in that case, the court would not grant orders to the police as to how they should carry out their duties because "*[i]t is of the first importance that the police should decide on their own responsibility what action should be taken in any particular situation*" [emphasis added by the Court of Appeal].

31 Thus, on the facts of *Anwar Siraj*, the Court of Appeal observed that, even if the appellants had commenced proceedings by the correct process (*ie*, for judicial review seeking a *mandamus*), the court would still have refused the application "because *it was not for this court to instruct the law enforcement agencies as to how they should go about doing their jobs*" [emphasis added]: at [42]. In my view, the same approach should apply to situations where the applicant, as in the present case, seeks relief from the court to mandate the police to *halt* investigations. Barring any express statutory provision which gives the Court the power to stop the police from carrying out its duty to conduct criminal investigations, I do not think it would be appropriate for the Court to direct the police on when to commence or stop its investigations.

32 In his submissions, counsel for the plaintiff had completely failed to address this issue. No statutory provision, case precedent, or legal principle was cited by the plaintiff for the proposition that it would have been appropriate for the Court to stop the police from carrying out its investigations in this case. On the contrary, the CPC lays down detailed procedures on how the police should

carry out its investigations and record statements from persons of interest. For instance, the police have a duty under ss 16 and 17 of the CPC to investigate a case that has been reported under ss 14 or 15 of the CPC. Section 22 of the CPC also lists detailed steps on how statements should be taken during investigations.

33 Even for *criminal prosecutions* carried out by the AG, it is trite that the AG's discretion to prosecute under Art 35(8) of the Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint) ("Constitution") is only subject to judicial review in two situations: where the prosecutorial power is abused, *ie*, exercised in bad faith for an extraneous purpose, and where its exercise contravenes constitutional protections and rights: *Ramalingam Ravinthran v Attorney-General* [2012] 2 SLR 49 at [17], endorsing *Law Society of Singapore v Tan Guat Neo Phyllis* [2008] 2 SLR(R) 239 at [149]. The plaintiff did not seek to submit that these limits may or should be extended to *the police.* Assuming *arguendo* that these limits could be extended to police investigations, the plaintiff had failed to show me that the police had acted in bad faith or in contrary to the Constitution in this case. Thus, the plaintiff had completely failed to satisfy me that the prohibiting and mandatory orders sought can be or should be granted in this case.

34 Second, the plaintiff failed to prove any *prima facie* case of contempt of court. Contrary to the plaintiff's submissions, I did not think that there was any "second bite of the cherry" because MC 1595 is different from the CAD investigations. Mr Kumar's position in MC 1595 appears to be that AXA Insurance was not authorised to pay the S$30,000 to the plaintiff because he was no longer acting as Mr Kumar's lawyer at the time when the payment was made. If so, it is not illogical that Mr Kumar wishes to claim the full S$50,000 from the defendants in MC 1595 and not from the plaintiff. At the same time, it also flows from Mr Kumar's position in MC 1595 that the plaintiff had

received the S$30,000 *meant for Mr Kumar* from AXA Insurance without authorisation, and that the plaintiff also has not turned over this sum to Mr Kumar or returned the money to AXA Insurance. If so, I do not see why Mr Chen cannot *prima facie* raise a complaint, on behalf of Mr Kumar, to the CAD in respect of this issue of the plaintiff retaining the S$30,000 he received. Of course, I make no comment as to whether any offence has been made out, and I have been assured by counsel for the plaintiff at the hearing that the plaintiff had specific instructions from Mr Kumar on how to deal with the sum of S$30,000 that he received. I have no doubt that the CAD investigations will cover this issue.

35 But, leaving aside the question of whether Mr Kumar had taken inconsistent positions, the more pertinent question was whether there may even be contempt of court by reason of the CAD investigations being allowed to continue. The AJPA is now the primary source of the law of contempt in Singapore. Contempt under s 3 of the AJPA refers to the interference of the court process or publications which risk prejudicing or interfering with legal proceedings or the course of justice. Contempt under s 4 of the AJPA refers to disobeying court orders and breaching undertakings given to the court. In particular, s 3(1)(*e*), which the plaintiff relied on, provides:

> **Contempt by scandalising court, interfering with administration of justice, etc.**
>
> 3.—(1) Any person who — …
>
> (e) intentionally does any other act that *interferes with, obstructs or poses a real risk of interference with or obstruction of the administration of justice* in any other manner, if the person knows or ought to have known that the act would interfere with, obstruct or pose a real risk of interference with or obstruction of the administration of justice,
>
> commits a contempt of court.
>
> [emphasis added]

36 I could not see how any issue of contempt of court could arise by the mere fact that the CAD is carrying on its investigations into the plaintiff's actions. The mere fact that parallel criminal investigations are ongoing does not, in and of itself, pose a real risk of interference with or obstruction of the administration of justice within the meaning of s 3(1)(*e*) of the AJPA. I agreed with counsel for the defendant that, under the CPC, criminal investigations do not come to a halt simply because there are related civil proceedings in the courts. I also agreed with counsel for the defendant that there was no allegation at all that the CAD had in any way interfered with or obstructed proceedings in MC 1595, or commented on the merits of MC 1595, or prevented the plaintiff or any other party from participating in MC 1595. It was telling that the plaintiff did not and could not point to any such interference or obstruction.

37 Furthermore, from the affidavit evidence, it appeared that the CAD investigations were still in their early stages. What, *if any*, specific charges might be brought as a result of the investigations in this case were still not known at that time. Quite obviously, this would depend on the outcome of the investigations and the assessment of the case by the Attorney-General's Chambers.

38 Thus, in my judgment, the fact that MC 1595 is a civil suit dealing with the same facts which are the subject of the CAD investigations did not mean that criminal investigations could not proceed simultaneously. The continuance of the CAD investigations, without more, cannot, by any conceivable argument, amount to "contempt of court".

39 Third, the plaintiff also failed to show me why the investigations should be halted, *even if* there were contempt of court. The usual consequence of a finding of contempt of court under the AJPA is that the offender would be

punished and sentenced under s 12 of the AJPA accordingly. There is nothing in the AJPA that gives the Court the power to *halt* criminal investigations as a result of any commission of contempt of court.

40 As such, I was not satisfied that there was an arguable or *prima facie* case of reasonable suspicion in favour of granting the prohibiting and mandatory orders sought by the plaintiff to restrain the CAD from continuing with its investigations.

POHA investigations

41 As for the POHA investigations, the plaintiff's ground for seeking to restrain IO Cheong from resuming investigations was that she "was in collusion" with IO Toh "when the latter comraded [the plaintiff] to attend the [CAD] to take statement by [IO Cheong]". It was entirely unclear to me what this alleged collusion entailed, apart from the contention that the collusion was said to be proven by the mere fact that the two officers made a phone call together to the plaintiff on 23 September 2020. The plaintiff had provided nothing more than a bare assertion without any details and without any supporting evidence. In short, there was no *prima facie* evidence of this alleged collusion. Such "skimpy or vague" claims do not, as aforementioned at [20] above, satisfy even the low threshold for leave.

42 On the other hand, IO Toh and IO Cheong had explained clearly on affidavit that they scheduled to interview the plaintiff on the same date *for convenience*.[18] This was to save him the trouble of attending the Police Cantonment Complex twice on different days, given that the CAD and the

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18 IO Toh's Affidavit at [19]–[20]; IO Cheong's Affidavit at [15].

Central Division are both located in that complex. I found this to be a perfectly sensible and, indeed, inherently logical thing for the two officers to have done, and I am unable to comprehend the plaintiff's cause for complaint.

43 Far more significantly, counsel for the plaintiff could not explain what legal effect, if any, the alleged collusion had on the investigations. Thus, there was completely no legal basis put forward by the plaintiff as to why he had an arguable case to be entitled to the prohibiting and mandatory orders in relation to the POHA investigations.

44 In his oral arguments, counsel for the plaintiff also argued that IO Cheong had compromised her independence by allowing IO Toh to request the plaintiff to come down for an interview on her behalf. I am unable to agree that this was enough to raise any issues about the independence of IO Cheong. It is quite clear to me that it was only for sake of convenience that a single officer wrote to the plaintiff on 23 September 2020 to arrange the interviews he would be attending at the Police Cantonment Complex on 28 September 2020. In my view, that was unobjectionable.

45 In any event, I reiterate my observations at [29] to [33] above that the plaintiff had not satisfied me on the fundamental issue that it would be appropriate in this case for the Court to grant prohibiting and mandatory orders to stop the police investigations. The same concerns also apply to the POHA investigations. As such, I was also not satisfied that there was an arguable or *prima facie* case of reasonable suspicion in favour of granting the prohibiting and mandatory orders sought by the plaintiff to restrain the police from continuing with the POHA investigations.

Conclusion

46 From my review of his affidavits and letters from plaintiff's counsel to IO Toh and IO Cheong, the gist of the plaintiff's complaints about the investigations appeared to be that the police reports, according to the plaintiff, are either untrue or unfounded, and that the complainant for the allegation of criminal breach of trust, *ie,* Mr Kumar, is not a person of any credibility. Instead, the investigations were, according to the plaintiff, "politically motivated". However, the plaintiff could not adduce *any evidence* to show even a *prima facie* case that the investigations were so tainted by "political motivations", and that there was some legal basis arising from this, such that the police should somehow be *mandated* to discontinue the investigations.

47 I would add that, if it is indeed the plaintiff's case that the police reports are unfounded, then it would *precisely* be in the plaintiff's interest to formally provide his statement to the CAD and the police to explain his version of events so that the investigations may be properly concluded. As stated at [29] above, there are detailed procedures laid down *by statute* in the CPC on how the police should carry out its investigations and record statements. The police cannot – and, indeed, should not – simply ignore a police report solely because the person under investigation has raised claims *through counsel* that the police report is baseless. The whole purpose of investigations is to determine whether the police report has grounds or not, and whether offences have been committed. If a person's statement of innocence or allegations of bad faith on the complainant's part is enough to justify the Court ordering a stop to police investigations, if that were even possible, it would make a mockery of the powers and procedures for criminal investigations set out in the CPC.

48 For the reasons set out above, I found the plaintiff's claims in this application to be utterly devoid of any legal merit whatsoever. As such, I dismissed OS 1044 with costs fixed in the amount of S$7,500 inclusive of disbursements.

Ang Cheng Hock
Judge

Ravi s/o Madasamy (Carson Law Chambers) for the plaintiff;
Khoo Boo Jin, Joel Chen, Ailene Chou and Ashley Ong (Attorney-General's Chambers) for the defendant.
