

Sim Choon Wee Kenny v Public Prosecutor and another appeal
[2013] SGHC 182

Case Number : Magistrate's Appeal No 54 and 129 of 2013
Decision Date : 20 September 2013
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Anand Nalachandran (Braddell Brothers LLP) for the appellant in MA 54 of 2013; Sanjna Rai (Attorney-General's Chambers) for the respondent in MA 54 of 2013; Harpreet Singh Nehal SC, Jerald Foo and Keith Han (Cavenagh Law LLP) for the appellant in MA 129 of 2013; G. Kannan and Andrew Tan (Attorney-General's Chambers) for the respondent in MA 129 of 2013.
Parties : Sim Choon Wee Kenny — Public Prosecutor

Criminal Procedure and Sentencing – Sentencing – appeals

20 September 2013

Choo Han Teck J:

1 The only issue in these two appeals was whether a custodial sentence was warranted. If it were, there was little room to argue that the 8 and 9 weeks respectively were manifestly excessive.

2 There were some mitigating factors that were personal to each of the appellants but in my view, the courts below had already taken those factors into account and that was why their sentences were among the lowest in the group of charges that involved the prostitute who went by the professional name of “Chantelle”.

3 There were three factors that might have an impact on the decision to be made regarding the appropriateness of custodial sentence for these two appellants. First, the prostitute concerned was almost of full age; secondly there was some degree of misrepresentation by her of her age; and thirdly, that the seriousness of the offence had not been made sufficiently explicit to the public generally and to the appellants in particular. That was the initial weakness of Mr Kannan’s argument – that people who skate on thin ice cannot complain should they fall through the ice. The problem was the absence of a danger sign then. However, the prospect of this case becoming the danger sign that was hitherto missing vanished against the stream of new cases.

4 The factors I mentioned had elicited some sympathy from this court. However, after adjourning to consider the oral submissions of the appellants’ counsel and perusing the 156 pages of technical arguments of Ng’s counsel, the warmth of sympathy had turned cold. It turned cold as a result of the many new offences committed after the appellants’ cases. This court cannot ignore the continued flow of such cases. It shows that any danger sign would have been of marginal utility.

5 The circumstances require a strong general deterrence. For such deterrence to achieve its purpose these appellants cannot be exceptions. They must be part of the deterrence. For these reasons the appeals are dismissed.

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