Chee Soon Juan v Public Prosecutor
[2006] SGHC 202

Case Number : Cr M 30/2006

Decision Date : 08 November 2006

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Applicant in person; Jennifer Marie and Han Ming Kwang (Deputy Public Prosecutors) for the respondent

Parties : Chee Soon Juan — Public Prosecutor

Criminal Procedure and Sentencing – Revision of proceedings – Investigating officer present during recording of witnesses' oral evidence in Subordinate Court trial – Applicant applying to High Court for order of "mistrial" before trial completed – No supporting affidavit filed – Whether application premature given uncompleted nature of trial proceedings – Whether applicant should be allowed to file supporting affidavit after completion of trial

8 November 2006

Choo Han Teck J:

1 The applicant in this motion ("the applicant") was charged with two other persons, one Mr Yap Keng Ho ("Mr Yap") and one Mr Ghandi Abalam ("Mr Ghandi") under s 19(1)(*a*) of the Public Entertainments and Meetings Act, (Cap 257, 2001 Rev Ed) for carrying out public entertainment without a licence. Mr Yap and Mr Ghandi were respectively the applicants in Criminal Motion No 29 of 2006 ("CM 29/2006") and Criminal Motion No 31 of 2006 ("CM 31/2006"). CM 31/2006 was heard together with the present application, *ie*, Criminal Motion No 30 of 2006 ("CM 30/2006"). Mr Yap's application in CM 29/2006 was heard and dismissed by me on 30 October 2006. All three applications concerned events which had occurred during the trial of the three accused persons, *ie*, the respective applicants in CM 29/2006, 30/2006, and 31/2006, which commenced in the District Court on 25 October 2006. The applicant filed the present criminal motion for an order declaring a "mistrial". The application also made three other claims, namely, that: (a) there had been a violation of Arts 9(1)–9(3), 12 and 14 of the Constitution of the Republic of Singapore (1999 Rev Ed) ("the Constitution"); (b) the Attorney-General had misled the court and violated Arts 9 and 12 of the Constitution; and (c) the "State Council" should be directed to advise the President of Singapore to "convene a Constitutional Court under Article 100 of the Constitution". The text of the present application was identical to that in CM 29/2006 and 31/2006. The difference in the two applications before me on 31 October 2006, *ie*, CM 30/2006 and 31/2006, and that on 30 October 2006, *ie*, CM 29/2006, was that the two present applications were filed without the support of any affidavit.

2 The factual basis of this application, as stated in the first paragraph of the motion, concerned the presence of the investigating officer in court during the recording of the oral evidence of three witnesses. The applicant here (as well as Mr Ghandi in CM 31/2006), asked for time to file his affidavit in support, declaring in the course of his submission, that his case was different from that of Mr Yap, the applicant in CM 29/2006. The applicant submitted that there was no need to have the affidavit filed in a hurry and that I could order it to be filed *after* the trial in the District Court.

3 Whilst I recognised that the possibility of the applicant making different submissions from those made by Mr Yap in CM 29/2006, the application was so ostensibly flawed that it had to be dismissed *in limine*. I need not repeat the reasons I gave in CM 29/2006 in full, save to say that where an applicant has access to the appeal process, as the applicant here does, it will often be an

abuse of the process of court to apply by way of a criminal motion asking the High Court to exercise its revisionary powers. Furthermore, the applicant's request that he be allowed to file his affidavit after the trial emphasised the futility of this motion. If he could wait till the end of the trial, then he could also have waited to present his complaint by way of an appeal, if it were still relevant, after all, the trial judge might ultimately have ruled in his favour.

4 The applicant expressed his dismay that his application before me was dismissed "without being heard". He seemed to have overlooked the clear and loud oral submission that he made before me, as part of which he claimed that the trial below was "a mockery" because the trial judge was biased, and asked for a fair trial. I heard more than that. I heard the applicant's grievances of a political nature, but I have ignored all of them, save now to say that no one ought to make submissions on matters that have no relevance to the legal issues at hand. No one ought to use court proceedings to raise extraneous matters which are better addressed in a different forum and to a different audience. The legal process should not be suspended for the personal benefit of any individual unless the law itself permits. Whether it so permits is a question of law that must be determined by the court, and not by the individual who seeks that declaration. One of the most important principles of fairness in a trial is that no judgment should be passed until the trial has been completed. We generally conceive of this principle as applying to the trial judge's determination of the merits of the litigants' cases. The present motion before me made me think that it is time to issue a reminder that this principle applies also to persons sitting in judgment *over* the trial judge's conduct of the proceedings. No one ought to judge any of his rulings until the trial is over. The proper procedure in this case was for the applicant to take his case on appeal in accordance with the rules and law of appeals. Unfortunately, that was not done.

5 This application, as were the applications in CM 29/2006 and 31/2006, was thus utterly misconceived, leaving me with no option but to dismiss it.