IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2017] SGHC 303

Magistrate's Appeal No 8 of 2017

Between

Prathib s/o M Balan

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law] – [Statutory Offences] – [Motor Vehicles (Third-Party Risks and Compensation) Act (Cap 189, 2000 Rev Ed)] – [Road Traffic Act (Cap 276, 2004 Rev Ed)]

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Introduction

1 The appellant was convicted after having claimed trial to one charge under s 3 of the Motor Vehicles (Third Party Risks and Compensation) Act (Cap 189, 2000 Rev Ed) ("the MVA") and another under s 35 of the Road Traffic Act (Cap 276, 2004 Rev Ed) ("the RTA"). He was found guilty of permitting his employee to use a motor lorry ("the lorry") without an insurance policy in force in relation to his employee's use of the lorry, and of permitting him to drive the lorry when he did not have the requisite driving licence. For the MVA charge, he was fined $700 and disqualified from driving all classes of vehicles for 12 months. For the RTA charge, he was fined $800. The total sentence was a fine of $1,500 (in default 15 days' imprisonment) and disqualification from holding or obtaining a driving licence for all classes of vehicles for 12 months, with effect from 16 May 2017, the date of conviction.

2 The appellant appealed against the order of disqualification in respect of the MVA charge. The District Judge's findings and reasons for her decision are set out in her grounds of decision in *Public Prosecutor v Prathib s/o M. Balan* [2017] SGDC 161 ("the GD"). After hearing the parties' submissions on 27 September 2017, I dismissed the appeal and I now set out the grounds for my decision.

The charge

3 The MVA charge in question was as follows:

> You [...] are charged that you, on 09.10.2013 at about 03.22 pm at Bukit Ho Swee Crescent, being the Sole-Proprietor of Falcon Logistics SVCS, the registered owner of motor lorry No. YM 7922 D, did permit one Krishnan S/O Shanmugam to use the said vehicle when there was not in force in relation to the use of the said vehicle such a policy of insurance in respect of third party risks as complies with the requirement of the Motor Vehicles (Third Party Risks and Compensation) Act, Chapter 189 and you have thereby committed an offence under Section 3(1) and punishable under Section 3(2) of the said Act, Chapter 189.

The District Judge's decision

4 Having duly considered the evidence adduced at trial, the District Judge was satisfied that the appellant had permitted his employee to drive the lorry. She rejected the appellant's defence that he had simply given strict instructions to all his employees not to drive (at [10] of the GD). In addition, the District Judge found that there were no facts peculiar to the offence which would have constituted "special reasons" under the MVA, in the absence of which the appellant would be subject to the mandatory minimum of 12 months' disqualification (at [9]–[10] of the GD).

5 The appellant was thus given a 12-month order of disqualification from driving for the MVA charge. The appeal was filed in relation to this order only.

The appeal

The relevant statutory provisions

6 The primary issue on appeal was whether the disqualification order for contravening s 3(1) of the MVA should be upheld, *ie*, whether there were any circumstances which amounted to "special reasons" under s 3(3) of the MVA. Sections 3(1) and 3(3) provide that:

> **Users of motor vehicles to be insured against third-party risks**
>
> 3.—(1) Subject to the provisions of this Act, it shall not be lawful for any person to use or ***to cause or permit any other person to use*** —
>
> (a) ***a motor vehicle in Singapore***; or
>
> (b) a motor vehicle which is registered in Singapore in any territory specified in the Schedule,
>
> ***unless*** there is in force in relation to the use of the motor vehicle by that person or that other person, as the case may be, such ***a policy of insurance*** or such a security in respect of third-party risks as complies with the requirements of this Act.
>
> […]
>
> (3) A person convicted of an offence under this section ***shall*** (***unless*** the court for ***special reasons*** thinks fit to order otherwise and without prejudice to the power of the court to order a longer period of disqualification) ***be disqualified*** for holding or obtaining a driving licence under the Road Traffic Act (Cap. 276) ***for a period of 12 months from the date of the conviction***.
>
> [emphasis added in bold italics]

Summary of the arguments on appeal

7 The appellant's submissions were premised on the following arguments. First, the interpretation of "special reasons" in *Muhammad Faizal bin Rahim v Public Prosecutor* [2012] 1 SLR 116 ("*Muhammad Faizal*"), which excludes factors relating to the personal circumstances of the offender, is not good law as

there would hardly be any circumstances that will amount to "special reasons"; and there is insufficient distinction in sentencing for different types of moral culpability (*ie*, driving without a licence as against permitting someone else to drive without a licence). Second, the reasoning in *Ho Chun Kow v Public Prosecutor* [1990] 1 SLR(R) 575 ("*Ho Chun Kow*") should be adopted in recognising a distinction between an offence involving a person who drives and a person who permits another person to drive. Third, the following circumstances are sufficient to constitute "special reasons": (a) the appellant did not permit his employee to drive the lorry; (b) the appellant merely failed to enforce or ensure compliance with respect to allowing only licensed employees to drive; (c) the appellant was not the driver, and had merely been convicted of permitting his employee, who had no Class 4 driving licence, to drive a Class 4 vehicle; (d) the appellant's employee had a Class 3 driving licence, and was permitted to drive a vehicle; (e) the appellant's offence was not deliberate; and (f) the insurance company would undertake liability in the event of an accident. Finally, a sentencing discount, in light of the three months' disqualification already served by the appellant, should be granted.

8 The respondent in turn submitted that the legal position on "special reasons" is well-settled, as affirmed in *Muhammad Faizal*, which rejected a more expansive interpretation encompassing the personal circumstances of the offender, in light of the policy considerations and seriousness of the offence under s 3(1) of the MVA. Also, there was no evidence of any "special reason" that justified a reduction or setting aside of the 12-month disqualification order. The District Judge had convicted the appellant on the basis that he had permitted his employee to drive the lorry, and the appellant had not appealed against his conviction. Moreover, the appellant was aware that the lorry was a Class 4 vehicle, and that his employee did not possess a Class 4 driving licence. The appellant had permitted his employee to drive the lorry for months without a

valid policy of insurance in force until this was detected by the authorities. This squarely engaged the policy of deterrence under s 3(1) of the MVA. Finally, the case authorities of *Toh Yong Soon v Public Prosecutor* [2011] 3 SLR 147 ("*Toh Yong Soon*") and *Siti Hajar bte Abdullah v Public Prosecutor* [2006] 2 SLR(R) 248 ("*Siti Hajar bte Abdullah*") demonstrate that s 3(1) of the MVA applies equally to punish those who drive, and those who cause or permit another to drive without insurance coverage, with 12-month disqualification terms.

My decision

Principles to be applied in determining "special reasons"

9 As a starting point, in *Stewart Ashley James v Public Prosecutor* [1996] 3 SLR(R) 106 ("*Stewart Ashley James*"), Yong Pung How CJ held at [10] that the effect of s 3(2) (now s 3(3)) of the MVA is that disqualification will normally be ordered upon conviction, unless there are "special reasons". Similarly, the District Judge observed that she was compelled to impose the mandatory minimum of 12 months' disqualification upon conviction, unless "special reasons" were shown (at [9]–[10], [27] of the GD). However, I note that in *M V Balakrishnan v Public Prosecutor* [1998] 2 SLR(R) 846, it was clarified at [7] that legislation (such as s 3(3) of the MVA) providing that the court shall impose disqualification unless "special reasons" exist does not remove the court's discretion; it merely provides guidance with respect to the circumstances in which the disqualification should be dispensed with. Nonetheless, the court has no discretion with respect to limiting the classes of vehicles; it was held in *Stewart Ashley James* at [11] that a disqualification order under s 3(3) of the MVA must extend to all classes of vehicles.

10 Further, in *Sivakumar s/o Rajoo v Public Prosecutor* [2002] 1 SLR(R) 265, it was observed at [22] that even if "special reasons" are established, the

court may still make a disqualification order, as it must separately consider whether the discretion must be exercised in favour of the offender. This is because disqualification should only not be ordered in very exceptional circumstances, taking into account special circumstances and the totality of the circumstances surrounding the offence (at [25]). Similarly, in *Siti Hajar bte Abdullah*, it was held at [8] that the test for "special reasons" was a stringent one and would only be satisfied in exceptional circumstances as a less restrictive approach would render the legislative stipulation of mandatory disqualification nugatory and defeat its underlying objectives.

11 I concurred with the respondent's submission that the legal position on "special reasons" is well-settled. Only factors which relate to the facts or circumstances of the offence, and not factors which relate to the personal circumstances of the offender, are to be considered. The fact that there may be only a few circumstances that will amount to "special reasons", as contended by the appellant, precisely reflects the policy considerations and seriousness of the offence under s 3(1) of the MVA. The following was elucidated by Tay Yong Kwang J (as he then was) in *Muhammad Faizal* at [39]–[41]: (a) the policy underlying s 3(1) of the MVA is to ensure that compensation, via insurance taken out by vehicle owners, would be available in the event of road accidents; (b) causing a vehicle to be used, when there is no insurance policy in force, is a serious offence; (c) the seriousness of the offence is reflected in a possible imprisonment sentence, and the policy behind the 12-month disqualification order is deterrence; and (d) widening the "special reasons" exception would encourage frivolous defences that could derogate from the policy behind s 3(1) of the MVA.

Whether there were any circumstances which amounted to "special reasons"

12 In my judgment, none of the circumstances raised by the appellant amounted to "special reasons" under s 3(3) of the MVA. The fact that the appellant claimed that he did not permit his employee to drive the motor lorry, and claimed (only in mitigation) that he made a police report with respect to his employee driving the motor lorry without his permission, was insufficient. He had chosen not to appeal against his conviction and I saw no reason to permit him to raise these contentions by the "back-door" as it were. The appellant bore the burden of proving the "special reason" by adducing evidence formally, which he had failed to do beyond his mere assertions. This lack of evidence is similar to the circumstances in the case of *Siti Hajar bte Abdullah*, where the offender did not produce "a scintilla of evidence" to support her need for immediate medical assistance since no medical certificates or doctors' reports were adduced to prove the severity of her affliction. The High Court therefore held at [12] that without any details of her condition, it was impossible to determine if she required urgent medical attention, and if any "special reason" was made out. In essence, as held by Choo Han Teck J in *Toh Yong Soon* at [5], the appellant must prove the "special reason", which is a question of fact, to the satisfaction of the court.

13 In any event, I was of the view that the appellant could be regarded as having permitted (under s 3(1) of the MVA) his employee to use the motor lorry even if he did not give express or implied consent, and any lack of permission and his failure to enforce or ensure compliance (as argued by the appellant) was not a "special reason". What the prosecution is required to show is that the offender had some form of control, direction, and mandate over the person to prevent him from using the vehicle unlawfully. In *Chua Chye Tiong v Public*

Prosecutor [2004] 1 SLR(R) 22 at [21]–[24], the fact that the offender was the manager of a motorcar trading company meant that he had a "mandate" or "control" over persons who wished to drive the vehicles from the premises. He had endorsed a lax practice that granted potential drivers unauthorised access to vehicles, and he had a form of "mandate" to prevent a person from using the vehicle unlawfully, even if he did not give express or implied consent to that person. In the present case, the respondent went further and showed that the appellant had, in fact, *permitted* his employee to drive, while knowing he did not hold a valid Class 4 driving licence. As the respondent rightly pointed out, the appellant had accepted that he had permitted his employee to drive the lorry since he had not appealed against his conviction which was premised upon that fact.

14 Additionally, I agreed with the respondent's submission that the case authorities of *Siti Hajar bte Abdullah* and *Toh Yong Soon* demonstrate that s 3(1) of the MVA applies equally to those who drive and those who permit another person to drive. *A fortiori*, the fact that the appellant was not the driver and had instead been convicted of permitting his employee, who had no Class 4 driving licence, to drive a Class 4 vehicle (as argued by the appellant) is not a "special reason". In *Siti Hajar bte Abdullah*, the offender was not treated any differently by the court even though she was not the driver and had merely permitted her cousin, who did not have a valid driving licence, to drive (as she required medical attention). Similarly, in *Toh Yong Soon*, the offender was not treated any differently by the court even though he was not the driver and had merely permitted his employee, who had no driving licence, to drive (as he believed his employee had a valid driving licence). Accordingly, I did not accept the appellant's submission that the reasoning in *Ho Chun Kow* should be adopted in recognising a distinction between an offence involving a person who drives and a person who permits another person to drive. It is unnecessary to

make further reference to *Ho Chun Kow*, which involves the interpretation of traffic offence provisions unrelated to the present case (under ss 42(1) and 68(1) of the RTA), to ascertain the meaning of s 3 of the MVA, in the light of *Toh Yong Soon*, where Choo Han Teck J considered the meaning of s 3 of the MVA and held at [4] that it clearly and unambiguously applies not only to the person who drives but also to the person who permits another to drive.

15 As noted at [7] above, the appellant contended that the fact that his employee had a Class 3 driving licence and was permitted to drive vehicles, albeit from a different class, when he was supposed to have a Class 4 driving licence, should be a "special reason". It is clear that such a factor is not a "special reason" from, *eg*, *Public Prosecutor v Mohamed Fuad Bin Abdul Samad* [2014] SGDC 178 ("*Mohamed Fuad*") at [56] and [66], where the fact that the offender caused someone who had a driving licence and was qualified to drive, when he was supposed to be covered by the insurance policy but was not as he had less than two years of driving experience, was not a "special reason". Further, the fact that the appellant's offence was not deliberate was not a "special reason" either. Again in *Mohamed Fuad* at [56] and [66], the fact that the accused did not deliberately contravene s 3(1) of the MVA was not a "special reason". In any case, the appellant's offence was in fact a deliberate breach, as he had permitted his employee to drive while knowing he did not hold a valid Class 4 driving licence.

16 Finally, while in *Public Prosecutor v Chen Horng Yeh David* [2007] SGDC 326 (cited by Choo Han Teck J in *Toh Yong Soon* at [5]) it was held at [14]–[17] that the fact that the insurance company would undertake liability in the event of an accident is a "special reason", I found the reliance on such an argument by the appellant completely unsupported by the facts. As highlighted by the respondent, the underwriting manager of Tokio Marine Insurance (which

provided the insurance policy for the lorry in question) had testified during trial that there would not be insurance coverage for the lorry if the person driving was not permitted by law to drive it, and hence, it is evident that there would be no "special reason" in this case. In the premises, I was satisfied that none of the circumstances raised by the appellant amounted to any "special reasons" and the appeal was wholly unmeritorious.

Whether the court has the power to stay disqualification pending appeal

17 It is pertinent to note that after the appellant filed his appeal, he made an application to the District Judge on 6 June 2017 for a stay of his disqualification order pending appeal. On the same day, the District Judge dismissed the stay application. The District Judge was of the view that she had no discretion to grant a stay pending appeal, since s 3(3) of the MVA mandated that the disqualification was to begin from the date of the conviction, and not from any other date (at [13] and [23] of the GD). Also, the District Judge found that in the light of s 3(3) of the MVA and s 42(4) of the RTA, the intent of s 3(5) of the MVA was equivocal (at [19]–[20] of the GD).

18 Following the dismissal of his stay application, the appellant filed Criminal Motion No 25 of 2017 ("the Criminal Motion") on 22 June 2017 seeking a stay of the disqualification order pending appeal. The Criminal Motion was granted by Chan Seng Onn J on 18 August 2017. The respondent did not object to the application. In his submissions, the appellant argued that s 42(4) of the RTA, read with s 3(5) of the MVA, confers upon the court the power to stay the disqualification order pending appeal. The respondent in turn submitted, and also highlighted to me at the hearing of this appeal, that regardless of the provisions of the MVA and the RTA, s 383(1) of the Criminal

Procedure Code (Cap 68, 2012 Rev Ed) ("CPC") provides the court with the power to stay the disqualification order pending appeal.

19 Notwithstanding that the Criminal Motion had already been granted, this outcome had arisen because the respondent had accepted that a stay could be validly ordered and had consented to the application. The District Judge had furnished her reasons for declining to grant a stay and addressed this in some detail (at [12]–[24] of the GD). As this involved a point of law on which there appears to have been no prior guidance from the High Court, I considered that it would be helpful to outline my views as to why the court has the power to stay disqualification ordered under the MVA pending appeal.

20 The relevant statutory provisions, in addition to ss 3(1) and 3(3) of the MVA (see [6] above), are s 3(5) of the MVA, which provides that a person disqualified under s 3 of the MVA shall be deemed to be disqualified under the RTA (for the purposes of Part II of the RTA); and s 42(4) of the RTA (which is within Part II of the RTA), which provides that the court has the power to stay a disqualification order pending appeal:

> **Users of motor vehicles to be insured against third-party risks**
>
> 3 […]
>
> (5) A person ***disqualified by virtue of a conviction under this section*** or of an order made thereunder for holding or obtaining a driving licence ***shall for the purposes of Part II of the Road Traffic Act be deemed to be disqualified by virtue of a conviction under the provisions of that Part***.
>
> **Disqualification for offences**
>
> 42 […]
>
> (4) A person who, by virtue of an order of court, is disqualified from holding or obtaining a driving licence ***may appeal against the order*** in the same manner as against a conviction, and ***the court may if it thinks fit, pending the appeal, suspend the operation of the order***.

[emphasis added in bold italics]

21 In *Knowler v Rennison* [1947] 1 KB 488 (HC) ("*Knowler v Rennison*"), cited with approval in *Siti Hajar bte Abdullah* at [19], the accused was convicted under s 35(1) of the UK Road Traffic Act 1930 (Cap 43) ("UKRTA") (*in pari materia* with s 3(1) of the MVA) for causing his motorcycle to be used without a policy of insurance. The Court of Petty Sessions imposed a fine and a 12-month disqualification, under s 35(2) of the UKRTA (*in pari materia* with ss 3(2), 3(3), and 3(5) of the MVA). On appeal, the disqualification was removed, as it was found that the accused had an honest belief that there was a policy of insurance in force, which was a "special reason". On further appeal to the High Court, the disqualification order was reinstated. It was held that a misapprehension as to the effect of a policy of insurance was not a "special reason". Lord Goddard CJ observed at pp 496–497 that s 6(2) (*in pari materia* with s 42(4) of the RTA) read with s 35(2) of the UKRTA conferred the court with the power to stay the disqualification order pending appeal.

22 Similarly, in *Public Prosecutor v Muhammad Haidhir Bin Raub* [2016] SGDC 19 ("*Muhammad Haidhir*"), the accused was convicted for an offence under s 3(1) of the MVA, for causing his father to drive a heavy vehicle without valid insurance. The court imposed a fine of $600 (in default two days' imprisonment) and a 12-month disqualification, pursuant to ss 3(2) and 3(3) of the MVA. Pending appeal, the District Judge allowed the accused's application for a stay of the disqualification order. It was observed at [28] that s 42(4) of the RTA provides the court with the discretion to suspend the operation of a disqualification order pending an appeal, and it was implicitly accepted that the power of stay also applies to disqualification ordered under s 3(3) of the MVA. This was justified on the basis that it would avoid possible prejudice to the

defendant if he is eventually successful on appeal or even in applying to retract a plea of guilt (at [29]).

23 A stay of disqualification ordered under s 3(3) of the MVA pending appeal was also granted in the following cases: *Public Prosecutor v Xu Feng Jia* [2016] SGDC 160 at [136] (where s 42(4) of the RTA was also cited); *Public Prosecutor v Chia Hong Quan* [2015] SGDC 33 at [26] (a matter heard before the same District Judge who heard the present case); *Public Prosecutor v Aw Yick Hong* [2014] SGDC 275 at [52]; *Public Prosecutor v Viswamoorthy s/o Ramanthan* [2009] SGDC 243 at [4]; *Public Prosecutor v Edmund Wang Choon Teck* [2009] SGDC 178 at [33]; and *Chua Chye Tiong v Public Prosecutor* [2003] SGDC 188 at [36]. This list of cases may not be exhaustive but it would appear that the weight of precedent leans strongly in favour of acknowledging that the court has the power to grant a stay pending appeal. I am conscious however that no arguments on the court's power to make such orders had surfaced in those cases, and correspondingly no reasons for making the orders were stated.

24 In my view, *Knowler v Rennison* and *Muhammad Haidhir*, together with the other aforementioned cases, demonstrate that s 42(4) of the RTA, read with s 3(5) of the MVA, confers upon the court the power to stay disqualification ordered under s 3(3) of the MVA pending appeal. Such a reading of the MVA together with the RTA is supported by legislative history. During the second and third readings of the Motor Vehicles (Third-Party Risks and Compensation) Ordinance (No 1 of 1960) ("MVO"), the phrase "under the Road Traffic Ordinance" (now "under the Road Traffic Act (Cap. 276)" under s 3(3) of the MVA) was added to s 3(2) of the MVO. It was explained by Mr K M Byrne, the then Minister for Labour and Law, that such an amendment was necessary to tie up the MVO with the Road Traffic Ordinance, since a driving licence is issued

under the latter (see *Singapore Parliamentary Debates*, *Official Report* (13 January 1960) vol 21 at col 19). This lends support for the view that the legislature intended that the MVA be read closely and harmoniously with the RTA, in particular where the disqualification of a driving licence is concerned. Also, policy considerations would lead logically to the same result. The MVA and the RTA provisions on disqualification should be read and understood to apply together seamlessly throughout the trial and appeal process, so that there would be no gaps which may undermine the administration of justice.

25 The District Judge opined that where the statutory provision (such as s 3(3) of the MVA) states that the period of disqualification is to commence with effect from the date of the conviction, these "clear and unambiguous" words indicate that the court does not have any discretion as to the commencement date for the disqualification period (see [13] of the GD). She contrasted s 3(3) of the MVA with s 42(4) of the RTA which expressly allows for a stay of the disqualification order.

26 In my assessment of the seeming inconsistency between these provisions, with respect, a plain reading of s 42(4) of the RTA would suggest that it applies to *all* disqualification orders meted out by a court. Unlike s 42(3) of the RTA, which is qualified by the words "any disqualification imposed *under this section*", no such words of limitation appear in s 42(4). There are also clear instances of other disqualification orders meted out by the courts pertaining to driving-related offences which are not ordered pursuant to s 42(1) of the RTA. These include disqualification orders under ss 379A(2), 411(2)(*b*) and 414(2)(*b*) of the Penal Code (Cap 224, 2008 Rev Ed), all of which would similarly engage s 42(4) of the RTA.

27 To my mind, the absence of an express provision in the MVA permitting a stay or suspension of disqualification does not preclude the use of s 42(4) of the RTA. Bearing in mind the preceding analysis of the legislative history and the policy considerations underpinning the relevant provisions in the MVA and RTA, I am of the view that there is no inconsistency between these provisions if s 42(4) of the RTA is read such that it applies to all disqualification orders made by the court. This construction would also allow for a harmonious reading of both the MVA and RTA provisions. It could not have been Parliament's intent that these statutes should conflict with one another.

28 In any case, as pointed out by the respondent in its written submissions for the Criminal Motion, s 383(1) of the CPC provides the court with the general power to stay the disqualification order pending appeal. The respondent noted that the District Judge did not appear to have considered s 383(1) of the CPC in the GD when she decided that she had no discretion to stay the disqualification order. That said, the appellant had also not brought s 383(1) to the District Judge's attention when applying for a stay. Section 383(1) provides as follows:

> **Stay of execution pending appeal**
>
> 383.–(1) An appeal shall not operate as a stay of execution, but ***the trial court and the appellate court may stay execution on any judgment, sentence or order pending appeal***, on any terms as to security for the payment of money or the performance or non-performance of an act or the suffering of a punishment imposed by the judgment, sentence or order as to the court seem reasonable.
>
> [emphasis added in bold italics]

29 Pursuant to s 4 of the CPC, s 383(1) of the CPC applies to offences under any written law including the RTA and the MVA. In *Public Prosecutor v Ho Soo Hiam* [2015] SGDC 18 at [9], a disqualification order under the RTA was

stayed under s 383(1) of the CPC pending appeal, and the operation of the order was also suspended under s 42(4) of the RTA pending appeal.

30 There is no reason why the trial court cannot have the power to stay a disqualification order made pursuant to s 3(3) of the MVA pending appeal, under s 42(4) of the RTA read with s 3(5) of the MVA. This is in fact buttressed by the general power to stay execution as provided under s 383(1) of the CPC. I find therefore that the power to stay a disqualification order pending appeal is justified and necessary, to ensure that the accused is not unduly prejudiced while awaiting the outcome of his appeal. Such an approach is entirely consonant with the views expressed by the High Court in the recent decisions of *Rajendar Prasad Rai and another v Public Prosecutor and another matter* [2017] SGHC 187 and *Bander Yahya A Alzahrani v Public Prosecutor* [2017] SGHC 287, albeit in slightly different contexts involving stay of execution pending a criminal reference or an application for leave to bring a criminal reference. The underlying principle is similar: to avoid undue prejudice to an accused person where an earlier order or sentence may be revised. Whether the court should exercise its discretion to stay execution in a particular case is of course a separate matter.

31 For completeness, I would further observe that in a situation such as the present, where the appellate court has found no merit in the appeal against disqualification, the dismissal of the appeal cannot be taken to mean that the disqualification must then be ordered to take effect retrospectively *ie*. "from the date of the conviction" below. If a stay had been ordered, and if the appeal is subsequently dismissed, the only sensible result must be that the disqualification (or any remaining duration of it) commences from the date the conviction (or sentence) is *affirmed* on appeal. The disqualification order may be rendered wholly nugatory otherwise, should the appeal take some time to be heard.

Conclusion

32 For the foregoing reasons, I was not persuaded that there were any circumstances which amounted to a "special reason"' under the MVA. Accordingly, I dismissed the appeal against the order of disqualification. Since the appellant had already served three months of his disqualification, he was only required to serve the remaining nine months from the date the appeal was dismissed, *ie*, 27 September 2017. There was no appeal against the fines imposed, and I understand that they had been paid in full.

See Kee Oon
Judge

Dhanwant Singh (SK Kumar Law Practice LLP) for the appellant;
Lee Zu Zhao (Attorney-General's Chambers) for the respondent.