

Lee Ngiap Han v Public Prosecutor
[2010] SGHC 321

Case Number : Magistrate's Appeal No 206 of 2010 (LTA No 3096007015)
Decision Date : 29 October 2010
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Tan Hee Joek and Tan Hee Liang (Tan See Swan & Co) for the Appellant; Edwin San (Attorney-General's Chambers) for the Respondent.
Parties : Lee Ngiap Han — Public Prosecutor

Road Traffic

29 October 2010

Judgment Reserved

Choo Han Teck J:

1 The appellant is a taxi driver driving a Mercedes limousine taxi that he hires from Comfort Transportation Pte Ltd ("Comfort"). He was convicted of two charges. The first was for over-charging passengers, an act in contravention of r 23(n) of the Road Traffic (Public Service Vehicles) (Vocational Licences and Conduct of Drivers, Conductors and Passengers) Rules (the "Rules"), and was fined \$600 under s 131(2) of the Road Traffic Act (Cap 276). The second charge was for not switching on the taximeter and keeping it in motion during a journey under hire. This was in contravention of r 23(e) of the Rules of which he was fined \$400, also under s 131(2) of the Road Traffic Act.

2 The appellant claimed to be a member of a group of about 20 taxi drivers who called themselves MICE. It is not a registered association or business. The appellant claimed that MICE had a contract with the Grand Mercure Roxy Hotel ("the Hotel") in which the MICE taxi drivers had a private arrangement to take the Hotel's guests to the airport for fees agreed between the Hotel and MICE. A single-page "contract" was produced at the trial below by the appellant. It was dated 15 January 2008 and merely stated the rates payable for a trip to the airport at various times. The applicable rate in this case according to the appellant was \$20.

3 On 5 September 2009, two officers (the "officer(s)") from the enforcement unit of the Land Transport Authority boarded the appellant's taxi at the Hotel. They were approached by the Hotel bell-hop who they told they needed a taxi to the airport. The bell-hop approached the appellant and signalled "2" and "0" to him. The appellant opened the boot of his taxi for the officers to load the luggage and after that he drove them to Terminal 3 at Changi Airport. The first officer testified that the appellant did not turn on the taximeter. At the end of the journey, the appellant informed the officers that the fare was \$20. It was not disputed at trial that a metered fare from the Hotel to Terminal 3 at Changi Airport was about \$9.50. It was also not disputed that a taxi driver with Comfort could only collect a flat fare of \$40 to the airport if the job was booked through Comfort and assigned to the taxi driver by Comfort. In this regard, the argument by the appellant that he was actually undercharging with a \$20 fare has no merits because the trip in question was not made through a Comfort booking. At all other times the appellant must charge the fare approved by Comfort and reflected by the taximeter reading.

4 Mr Tan Hee Joek, counsel for the appellant submitted that the officers were informed of the fare to be charged before they agreed to take the appellant's taxi. Mr Tan submitted that the bell-hop had told the officers that the fare was \$20. The officers denied this at trial when it was put to them under cross-examination. Counsel submitted that the trial judge made no finding of fact whether the officers knew about the \$20 fare in advance. He submitted that in view of the evidence of Comfort's representative, one Mr Joshua Soon Beng Huat ("Mr Joshua Soon"), that private agreements between taxi drivers and their passengers "were not illegal", the judge's failure to make this finding was crucial. There was no dispute that unless the appellant's case was proved, the amount charged under the MICE-Hotel agreement would have contravened r 23(n) of the Rules which provides that a taxi driver "shall not obtain or attempt to obtain any fare which exceeds the fare set by (i) the owner of the taxi, where the owner is a company". The evidence of the MICE-Hotel agreement was given by the appellant as well as the Chief Concierge of the Hotel, one Miss Doris Lim ("Miss Lim"). Miss Lim's evidence as recounted by the trial judge was as follows:

When the guests come down at the last minute and they are at the taxi stand, whenever there is a limousine taxi on standby for their 'booking guest' with a last minute cancellation or no show, they would offer the taxi to the guest. If the guests agreed with the price, they would be put in the taxi to the airport and [the Hotel] would ask for [the guests'] room number and record it. If [the guests] did not agree with the price, they would wait for the next regular taxi to come into the hotel driveway.

This evidence must be considered with that of Mr Joshua Soon who clarified his evidence relating to private agreements. This was noted by the trial judge in her grounds of decision where she set out the vital qualification: in a case of a private arrangement between a driver and his passenger, the taximeter must also be switched on and the agreed fare has to be keyed into the taximeter.

5 The evidence of Mr Joshua Soon was consistent with the public policy that taxi fares are not a matter of private arrangement between the taxi driver and his passenger, or else the public system for taxi services would revert to the old days of the "pirate taxis". His evidence was also consistent with r 23(n) of the Rules. Hence, the requirement that the private agreement must be recorded in the taximeter is validated by the owner of the taxi only if the agreed fare is recorded in the taximeter. This must be done regardless of whether the agreed fare was a discount or a premium from the usual metered rate. Otherwise, the procedure adopted by the appellant of not keying the agreed fare in the meter in the present case might lead to the very abuse that the Rules were meant to prevent, *viz* the overcharging of unsuspecting passengers. Even if the appellant was not involved in a deliberate ploy of overcharging his passengers in this way, his conduct, if vindicated, cannot be distinguished from a case in which the taxi driver sets out to overcharge or cheat his passengers. These rules were intended to distinguish the honest, hardworking taxi drivers from the errant ones. In this regard, the bell-hop could either be an independent witness or an accomplice. That was not a finding of fact that the trial judge needed to make in view of the evidence that any private agreement must be recorded — by the taxi driver in his taximeter. Once that had been done the role of the bell-hop would not be relevant to a charge under the circumstances. The appellant admitted that he did not switch on the taximeter for the trip in question. There was thus no question that he also had not keyed in the alleged agreed fare of \$20 on the taximeter. I should add that the evidence of the meter was a crucial one because without that or without the express consent of Comfort, the private agreement envisaged and carried out by MICE as exemplified in this case, would result in charging a passenger more than the fare set by the owner of the taxi (in breach of r 23(n)).

6 For the reasons above the appeal is dismissed.