

Md Rabiul Alom Harun Or Rasid v Public Prosecutor and another appeal
[2012] SGHC 156

Case Number : Magistrate's Appeals No 45 and 46 of 2012
Decision Date : 01 August 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : S K Kumar (S K Kumar Law Practice LLP) for appellants; Darryl Soh (Attorney-General's Chambers) for respondent.
Parties : Md Rabiul Alom Harun Or Rasid — Public Prosecutor

Criminal Procedure and Sentencing – Revision of proceedings

1 August 2012

Choo Han Teck J:

1 The appellants were each charged for an offence under s 8(4) of the Common Gaming House Act (Cap 49, 1985 Rev Ed) for “promoting” a game of chance called “Red and Blue” using cash as stakes. The Statement of Facts stated that on 21 February 2012 the appellants were each “seen manning a makeshift table promoting a game of chance styled “Red and Blue” using cash as stakes... and encouraging by-passers to place bets at the gaming table”. The appellants were each sentenced to two weeks jail and fined \$20,000 and in default of which, 40 days imprisonment. The appellants had served the two weeks imprisonment but now filed an appeal. In their petition of appeal they stated that they pleaded guilty after they were told by the Bangali interpreter “that they must plead guilty and don’t make trouble or otherwise their sentence may be higher”. The appellants’ case was that they did not “promote gaming” and were only “curious bystander[s]” who had placed bets. They thus prayed that their convictions be set aside.

2 Mr Darryl Soh, the Deputy Public Prosecutor (“the DPP”) applied for the affidavit of the said Bengali Interpreter to be admitted in evidence. The affidavit dated 18 May 2012 was admitted without objection by Mr S K Kumar for the appellants. The interpreter denied the allegations stated in the petition of appeal. The DPP submitted that the appellants’ version cannot be true. A finding of fact of this nature cannot be made without a trial, but that is unnecessary in this instance. While I see no reason to doubt that the interpreter had discharged his duty properly, the appellants might still have misunderstood the interpreter.

3 The appellants were arrested on 21 February 2012 and convicted on 23 February 2012 when they pleaded guilty without counsel. They were foreign workmen earning \$480 each a month. The Notes of Evidence showed that the court had asked the appellants if they were maintaining their stand, made in mitigation, that they were “not the organiser[s]” but were only customers. The court informed them that if that were the case, the pleas would be rejected. Given the circumstances, I will accept that the interpreter had duly interpreted the court’s comments. The appellants are not trained in the law and were unlikely to know that a plea of guilty must be unqualified and acceptance of the statement of facts is essential. It is possible that they did not understand they could and should claim trial if they disputed the statement of facts. I therefore set aside the conviction. I directed that the case be remitted to the District Court for the plea to be re-taken.

