Danabalan Balakrishnan *v* Public Prosecutor
[2014] SGHC 66

Case Number : Magistrate's Appeal No 277 of 2013

Decision Date : 11 April 2014

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Mervyn Cheong (M/s Eugene Thuraisingam) for the appellant; Ong Luan Tze and Tan Yanying (Attorney-General's Chambers) for the respondent.

Parties : Danabalan Balakrishnan — Public Prosecutor

Criminal Law – Statutory offences – Misuse of Drugs Act

Criminal Procedure and Sentencing – Sentencing – Appeals

11 April 2014 Judgment reserved.

Choo Han Teck J:

1 The appellant, in this appeal against sentence, was charged with two counts of drug trafficking (DAC 19309/2013 and DAC 19310/2013). DAC 19309/2013 involved 8.81g of diamorphine and DAC 19310/2013 involved 9.38g of diamorphine. He pleaded guilty to both charges, and was convicted by district judge Jasbendar Kaur ("the DJ") on 22 October 2013. The DJ sentenced the appellant to 12 years' imprisonment and 8 strokes of the cane for each charge. She ordered the sentences for both charges to run concurrently, resulting in a total sentence of 12 years' imprisonment and 16 strokes of the cane. The appellant appealed against his sentence.

2 Counsel for the appellant submitted that the sentence imposed was against precedents and that the cases relied on by the court below were not appropriate. Counsel submitted that the court should have sentenced the appellant to only 10 years plus 16 strokes in all. I reserved judgment to consider the merits of counsel's arguments and found that there were none.

3 Yong Pung How CJ held in *PP v Siew Boon Loong* [2005] 1 SLR(R) 611 at [22] that a sentence is "manifestly excessive" if it is "unjustly severe… and requires substantial alterations rather than minute corrections", and further, appellate courts should reject "the lore of nicely calculated less or more in matters of sentence" (citing *Liow Chow and another v PP* [1939] MLJ 170).

4 In his petition of appeal, a single sentence was listed as the grounds on which the petitioner was dissatisfied with the DJ's judgment. It read "[t]hat the sentence is manifestly excessive". When parties appeared before me, counsel for the appellant conceded that an appropriate range would be 10 to 12 years' imprisonment for each charge in this case (although he submitted at the trial court that the range should be 7 to 10 years' imprisonment). Nonetheless, he then went on to argue that this *appellate* court should intervene to reduce the appellant's sentence so that it comes nearer to the lower end of the range. The adjustment in this case would have been a small one and, there being no compelling reason or ground to show why the sentence should be so adjusted, the appeal has to be dismissed. Furthermore, beyond the appellant's submissions, I see no injustice manifest, given that the sentence meted by the DJ is consistent with recent decisions cited by the respondent.