Balasubramanian Palaniappa Vaiyapuri v Public Prosecutor
[2002] SGHC 12

Case Number : Cr Rev 12/2001, MA 309/2001

Decision Date : 23 January 2002

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : SK Kumar (SK Kumar & Associates) for the appellant/petitioner; Cheng Howe Ming (Deputy Public Prosecutor) for the respondent

Parties : Balasubramanian Palaniappa Vaiyapuri — Public Prosecutor

Courts and Jurisdiction – Jurisdiction – Consent of Attorney General necessary before commencement of proceedings – Whether consent of Acting Attorney General given and valid – Whether court has jurisdiction to hear matter – s 3(2) Tokyo Convention Act (Cap 327)

Criminal Law – Offences – Outraging modesty of victim – Defence of intoxication – Defence available only where accused incapable of forming requisite mens rea – Whether defence available to appellant – s 86(2) Penal Code (Cap 224)

Criminal Procedure and Sentencing – Appeal – Validity of plea of guilt – Safeguards to observe in determining validity – Qualification of guilty plea during mitigation – Rejection of guilty plea by court – Appellant alleging intoxication in mitigation plea – Whether mitigation plea qualifies plea of guilt – s 180(b) Criminal Procedure Code (Cap 68)

Criminal Procedure and Sentencing – Revision of proceedings – Relevant considerations in court's exercise of power – Adjudicate – Appellant alleging defective statement of facts – s 180(b) Criminal Procedure Code (Cap 68) – s 23 Supreme Court of Judicature Act (Cap 322, 1999 Ed)

Criminal Procedure and Sentencing – Sentencing – Outraging modesty of victim – Benchmark sentence – Appellant pleading guilty to charge – Whether plea of guilt and absence of antecedents merit discount in sentence – Absence of criminal antecedents as mitigating factor – Appellant's persistence in outraging modesty of victim as aggravating factor – s 354 Public interest element – Penal Code (Cap 224)

Words and Phrases – 'Nature and consequences' – s 180(b) Criminal Procedure Code (Cap 68)

Judgment

GROUNDS OF DECISION

This was a petition for criminal revision of a decision of a subordinate court and an appeal against the sentence imposed. I dismissed the application for revision and enhanced the sentence imposed on the petitioner. I now give my reasons.

The facts

2 The petitioner was originally charged with three counts of outrage of modesty under s 354 of the Penal Code (Cap 224). The prosecution proceeded only on the third charge after the accused had indicated that he would plead guilty to the charge. The remaining two charges were taken into consideration for the purpose of sentencing with the consent of the accused.

3 The petitioner pleaded guilty to the following charge:

You,

Name: Balasubramaniam Palaniappa Vaiyapuri, M/57 years old
Date of Birth: 26.4.1944
Nationality: Indian National
Passport No: A1504579

are charged that you on the 1st day of November 2001, at or about 5.10 pm (Singapore Time) whilst on board Singapore Airline flight SQ 973 travelling from Bangkok, Thailand to Singapore did use criminal force to one Puspitaningrum Retnoharsiwi, F/24 years old, to wit, by touching her right breast with your right hand, knowing it to be likely that you will thereby outrage the modesty of the said Puspitaningrum Retnoharsiwi, and you have thereby committed an offence punishable under Section 354 of the Penal Code, Chapter 224.

4 The first charge that was taken into consideration in sentencing stated that the petitioner had on the same day, whilst on board the same flight travelling from Osaka, Japan to Bangkok between 1 pm and 2 pm, outraged the modesty of Ms Puspitaningrum Retnoharsiwi by touching her breast with his right hand. The other charge involved the petitioner outraging the modesty of the same victim by stroking her left cheek with his right hand between 1 pm to 2 pm on the same flight.

5 The plea of guilt was made to a statement of facts, which the petitioner admitted to without qualification. In summary, it stated that on 1 November 2001, the petitioner had asked the victim, who was a flight stewardess with Singapore Airlines, for a glass of Cognac. He then suddenly touched the victim's right breast with his right hand. The victim reported the matter to her colleagues and subsequently to the Singapore Airline Control Centre at Singapore Changi Airport, Terminal 2. After disembarking from the aircraft, the victim identified the petitioner to a police officer of the Singapore Airport Terminal Services (SATS). The petitioner was arrested and escorted to Bedok Police Division.

6 The petitioner was convicted in the court below. In mitigation he pleaded that he had seven daughters who were dependent on his income and urged the court to consider his case sympathetically. He also stated that he had a lot to drink on the flight.

7 The district judge sentenced the petitioner to 12 months' imprisonment. No caning was imposed as the petitioner was 57 years old at the time of the offence. The judge noted that the tariff sentence in outrage of modesty cases was nine months' imprisonment and three strokes of the cane. The judge discerned two mitigating factors in the present case: the petitioner's plea of guilt and the fact that he was a first offender. However, the judge was of the view that the petitioner had brazenly touched the victim's breast at two separate points in time and that his persistence in outraging the modesty of the victim had outweighed any mitigating value in his plea of guilt. This warranted a sentence above the nine-month tariff.

The petition for criminal revision

8 Counsel for the petitioner submitted that the court below did not have jurisdiction to hear the matter because no valid consent had been obtained from the Attorney-General for the commencement of proceedings. It was also argued that the plea of guilt was not unqualified and that the statement of facts was defective as it did not state all the essential elements of the offence. Counsel submitted that the conviction and sentence had thus been rendered unsafe and sought to

invoke the revisionary jurisdiction of this court to quash the conviction and to set aside the sentence imposed on the petitioner.

Principles of revision

9 The revisionary powers of the High Court are conferred by s 23 of the Supreme Court of Judicature Act and s 268 of the Criminal Procedure Code (the 'CPC'). Such powers of revision must be exercised sparingly. There must have been some serious injustice before the court will intervene on revision. No precise definition of what will constitute such serious injustice is possible as the discretion of the courts has to be preserved. However, it must generally be shown that there was something palpably wrong in the decision of the court below, which struck at its basis as an exercise of judicial power: see *Ang Poh Chuan v PP* [1996] 1 SLR 326, *Ngian Chin Boon v PP* [1999] 1 SLR 119, *PP v Mohamed Noor bin Abdul Majeed* [2000] 3 SLR 17.

Lack of jurisdiction to hear the charge

10 Section 3(2) of the Tokyo Convention Act (Cap 327) reads as follows:

> No proceedings for any offence under the law in force in Singapore committed on board an aircraft while in flight elsewhere than in or over Singapore other than an offence under the Air Navigation Act or any subsidiary legislation made thereunder shall be instituted in Singapore except by or with the consent of the Attorney-General.

11 Counsel for the petitioner contended that the court below had no jurisdiction to adjudicate the matter. Counsel submitted that under s 3(2) of the Tokyo Convention Act, the consent of the Attorney-General is required if the Attorney-General is not personally conducting the prosecution and in this case the consent of the Solicitor General in his capacity as Acting Attorney-General had been obtained. The Solicitor General had no powers to issue the consent for the institution of proceedings, as under s 336(2) of the Criminal Procedure Code the Solicitor General is only vested with the powers of a Deputy Public Prosecutor.

12 I was of the view that there was no merit in counsel's argument. In the present case, the Solicitor-General had been officially appointed to act as the Attorney-General from 1 November 2001 to 4 November 2001 and from 11 November 2001 to 14 November 2001. This was published in the Government Gazette Notification No 3076 on 2 November 2001. The Solicitor General could therefore consent to the prosecution of the offence on 2 November 2001 in his capacity as the Attorney-General.

13 Counsel also argued that the court lacked jurisdiction to hear the case, given that the consent was on the face of it irregular or invalid. Counsel submitted that this was because the charge to which consent had been given by the Acting Attorney-General stated the mens rea as one of "intention", whereas the charge read out to the petitioner in the court below was concerned with the mens rea of "knowledge" and not "intention".

14 Counsel for the petitioner relied on several cases for support. One of the cases cited was *R v Morarka* AIR (1948) P.C. 82, which was an appeal to the Privy Council from the High Court of Bombay. This case concerned clause 23 of the Cotton Cloth and Yarn (Control) Order 1943, which required the sanction of the Provincial Government for the institution of proceedings against persons who

contravened any of the provisions of the Order. The court in *Morarka* held that facts constituting the offence charged in respect of which sanction was given should either be referred to on the face of the sanction or it must be proved by extraneous evidence that they were placed before the sanctioning authority. Where the facts were not referred to on the face of the sanction nor was it proved that they were before the authority, the sanction would be invalid and the court would lack jurisdiction to hear the case.

15 In my view, *Morarka* did not lend any support to the petitioner's contention, as a very different issue was involved in that case. *Morarka* was concerned with the requisite form and contents of the sanction under Clause 23 of the Order whereas the issue in this case was whether there was valid consent where the mens rea stated in the charges to which consent had been given was different from those that the petitioner subsequently faced in court.

16 The other cases cited by counsel for the petitioner also gave no support to his argument and can be distinguished from the present case. In those cases, the offence to which consent had originally been given constituted a separate and distinct offence from the one that the accused was subsequently charged with in court.

17 In *PP v Lee Chwee Kiok* [1979] 1 MLJ 45, the accused was originally charged with trafficking in dangerous drugs under s 39B(1)(a) of the Dangerous Drugs Ordinance and the Public Prosecutor's consent to prosecute had been given. At the trial the prosecution amended the charge to one of doing an act preparatory to trafficking under s 39B(1)(c) of the Ordinance. The court held that this was a distinct offence to which the Public Prosecutor's consent had to be obtained and that the trial was a nullity as consent had not been given to the amended charge.

18 The accused in *PP v Wong Cheong Yoon* [1992] 1 CLAS News 37 was originally charged with an offence under s 5(a)(i) of the Prevention of Corruption Act and the consent of the Public Prosecutor had been obtained under s 31 of the Act. At the trial, the prosecution amended the charges such that they alleged offences under s 6(a) of the Act. The court held that the amended charges concerned distinct offences under a different section of the Act and as the Public Prosecutor's consent had not been obtained, the court did not have the jurisdiction to hear the case.

19 The above cases had clearly laid down the proposition that the court had no jurisdiction to adjudicate the matter if the charge to which consent had been given alleged an entirely distinct offence from the one that the accused subsequently faced in court. The Public Prosecutor could not be said to have given his consent if he had applied his mind to an offence which was totally different from the one that the accused was later charged with. In the present case, however, the charge to which the Acting Attorney-General had originally given his consent did not concern an offence that was entirely different or distinct from the one that the petitioner was charged with in court. It was still the same offence of outrage of modesty under the same section of the Penal Code, save for the alleged mens rea. In my opinion, as the Acting Attorney-General had already applied his mind to the offence for which the petitioner was being prosecuted and had consented to the commencement of proceedings against the petitioner, the court did have jurisdiction to hear the case.

The plea of guilt

20 Counsel for the petitioner submitted that the plea of guilt was not unreserved, unqualified and unequivocal since the petitioner had informed the court during mitigation that he had a lot to drink before the alleged incident. It was also alleged that the petitioner was in a daze when the charges were read out to him in court.

21 Before an accused's plea of guilty is accepted, the trial judge must ensure that the plea is valid and unequivocal. A plea must be unequivocal in the sense that it must signify without doubt and qualification the admission by the accused to all the ingredients of the offence and all the averments of the charge: *Rajeevan Edakalavan v PP* [1998] 1 SLR 815.

22 The test in determining the validity of the plea of guilt had been definitively laid down in *Ganesun s/o Kannan v PP* [1996] 3 SLR 560 and *Rajeevan Edakalavan* (supra). It was held that the following safeguards must be observed before the plea would be deemed valid and unequivocal. First, the court must ensure that it is the accused himself who wishes to plead guilty. The accused should plead guilty by his own mouth and not through his counsel. Secondly, the court must ascertain whether the accused understands the nature and consequences of his plea. Thirdly, the court must establish that the accused intends to admit without qualification the offence alleged against him.

23 In my view, there was a valid and unequivocal plea of guilt by the petitioner in the present case. In the court below, the third charge was read and explained to the petitioner in Tamil and the petitioner pleaded guilty. The notes of evidence clearly showed that the petitioner understood the nature and consequences of the plea. The prosecution then tendered the statement of facts, which was read to the petitioner and admitted by him without qualification. The petitioner was found guilty and convicted. The petitioner claimed that he was "in a daze" when the charges were read out to him. However, he also claimed that he was "clear" that the statement of facts read out to him merely stated that he had "suddenly touched the victim's right breast with his right hand" without mentioning that he had done so with a guilty intention or knowledge. I could not accept the petitioner's allegation of him being "in a daze" at the material time. No evidence was adduced to substantiate this allegation. I found it difficult to believe that he was in a daze when the charges were read out to him, since he was clear as to what was stated in the statement of facts, which was read out only shortly after the charges were read to him. To believe that the petitioner was in a daze would be to accept that his mind became clear within a very short span of time.

24 Counsel for the petitioner further submitted that, when the nature and consequences of the plea were explained to the petitioner, he was not informed that by pleading guilty he was waiving his right to compound the offence under s 199(1) of the CPC. Counsel argued that "nature and consequences" as contained in s 180(b) of the CPC connoted the following: (i) the nature of the charge; (ii) the punishment prescribed; (iii) the rights to which he forgoes or waives. Counsel cited the American case of *Boykin v Alabama* 395 USA 238 for support.

25 In my opinion, there was no merit in this submission. Section 180(b) of the CPC provides that, before a plea of guilty is recorded, the court must ascertain that the accused understands the nature and consequences of his plea and intends to admit without qualification the offence alleged against him. By "nature" of the plea, this meant that the accused must know exactly what he was being charged with. As for the "consequences" of the plea, the accused had to be aware of the punishment prescribed by the law so that he knew the possible sentence that he would receive upon conviction. There was no necessity to inform the petitioner of the possibility of the offence being compounded.

26 The case of *Boykin v Alabama* did not provide support to the petitioner's contention. It merely reaffirmed the principle that the court had to ensure that an accused who pleaded guilty had a full understanding of what the plea connoted and of its consequence. The majority of the Alabama Supreme Court held that, as there was no affirmative evidence on the record that the petitioner had entered his plea of guilt voluntarily, there was an error on which the decision should be reversed.

27 Counsel for the petitioner contended that the petitioner, by stating that he "had a lot to drink" in his mitigation plea, had qualified his plea of guilt. Counsel also submitted that the words "I had a lot to

drink" went to show that the petitioner was so intoxicated that he did not have or was not capable of forming the requisite intention or knowledge at the time the offence was committed and that the defence under s 86(2) of the Penal Code was available to the petitioner. Section 86(2) reads as follows:

> Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the offence.

28 Counsel for the petitioner relied on *Deonny ak Ugoh v PP* [1999] 1 MLJ 469, which was a decision of the Malaysian High Court. In that case, the appellants had pleaded guilty to the charges but had claimed in the probation officer's reports that they were under the influence of alcohol at the time the offence was committed. The lower court had adjourned the case before sentence was passed to enable probation reports to be prepared in respect of the appellants. The High Court held that, since there were allegations of drunkenness in the probation reports, it was the duty of the lower court to take those allegations into account in deciding whether the pleas of guilty were qualified or not. The court was of the view that the appellants' pleas of guilty ought to have been rejected by the lower court as they were not unequivocal and quashed the conviction and sentence.

29 In my view, this case did not assist the petitioner at all. The law in Singapore is that, if the mitigation plea qualified the earlier plea of guilt by indicating the lack of mens rea or actus reus, the accused would not be deemed to have admitted to the offence without qualification and the plea would be rejected by the court: *Ulaganathan Thamilarasan v PP* [1996] 2 SLR 534. In the present case, what the petitioner said in his mitigation plea was not sufficient to constitute a qualification or modification of the plea of guilt. It did not necessarily follow from the allegation that he "had a lot to drink" that there was an absence of mens rea for the offence. Although the petitioner claimed that he had consumed a lot of alcohol, no evidence had been adduced to show that he was so intoxicated that he could not form or possess the necessary mens rea.

30 As for the defence under s 86(2) of the Penal Code, it is settled law that, for the defence to be available, the accused has to prove on a balance of probabilities that by reason of his consumption of alcohol he was so intoxicated that he was incapable of forming any intention for the offence: *Suradet v PP* [1993] 3 SLR 265, *Juma'at bin Samad v PP* [1993] 3 SLR 338, *Indra Wijaya Ibrahim v PP* [1995] 2 SLR 442. In the present case, the petitioner had not adduced any evidence at all as to the quantity of alcohol consumed or as to the effect of the alcohol on his state of mind.

31 In any event, the offence in this case involved the mens rea of "knowledge" and not intention and the defence in s 86(2) was not available to the petitioner, as the defence applied only where the mens rea for an offence was intention and not other forms of mens rea: *Juma'at bin Samad* (supra). I had made the following observation in that case:

> It is to be noted that an anomalous consequence of the drafting of s 86(2) is that it applies only where the mens rea for an offence is intention, in contradistinction to offences requiring other forms of mens rea specified in the Penal Code, for example, knowledge or rashness. The result is somewhat disturbing; for example, s 86(2) would apply to a charge of murder under s 300(a), (b) or (c) but not to a charge of murder under s 300(d). However, the words of the provision are clear and the consequences though discomfiting are not of such degree of absurdity as would justify the court departing from a literal interpretation.

32 Counsel for the petitioner further alleged that the petitioner had informed the police officer, when his long statement was recorded, that he was so drunk that he did not have the guilty intention when the incident occurred. The petitioner was then told that such a defence was useless and that it was not necessary to bring him for a medical examination since he was sober at that time. Due to this misapprehension, the petitioner did not mention the fact that he was intoxicated when the cautioned statement was recorded.

33 In my opinion, these allegations should not be accepted, as they were not supported by any evidence. These assertions were untested and had not been disclosed in the record. Although the petitioner claimed that he was drunk, there was no evidence to substantiate this claim other than the bare assertion that he had "a lot to drink".

The Statement of Facts

34 Counsel for the petitioner argued that the Statement of Facts merely stated that the petitioner had "touched the victim's right breast with his right hand" and did not mention the necessary mens rea for the offence. Counsel therefore submitted that the court should exercise its revisionary powers and quash the conviction.

35 The court has a legal duty to scrutinise the statement of facts for the express purpose of ensuring that all the elements of the charge are made out therein: *Mok Swee Kok v PP* [1994] 3 SLR 140. This is an important safeguard where the accused pleads guilty to the charge, for otherwise there would be no way in which the court could decide whether the elements of the offence had been established, and thus no justification for convicting the accused: *Ganesun s/o Kannan v PP* (supra). A petition for revision can be presented on the ground that the statement of facts did not contain all the elements which constitute the offence charged. However, it was not the purpose of a criminal revision to become a convenient form of "backdoor appeal" against conviction for accused persons who had pleaded guilty to their charges. The governing principle was that the revisionary jurisdiction of the High Court should be invoked only if the court was satisfied that some serious injustice had been caused. The petition should only be allowed where it was manifestly plain that the offence charged was nowhere disclosed in the statement of facts tendered: *Mok Swee Kok v PP* (supra), *Ngian Chin Boon v PP* (supra), *Teo Hee Heng v PP* [2000] 3 SLR 168. It was only in such situations that the insufficiency of the statement of facts may be said to have resulted in grave and serious injustice: *Teo Hee Heng v PP* (supra).

36 In my opinion, no serious injustice had been caused in the present case and there was nothing palpably wrong in the decision of the court below. Although the mens rea for the offence had not been expressly particularised in the statement of facts, it was not "manifestly plain" that the offence of outrage of modesty was "nowhere disclosed in the statement of facts". The statement of facts had related that the accused "suddenly touched the victim's right breast with his right hand". Furthermore, the knowledge that the victim's modesty would likely be outraged could be inferred from the statement of facts. Given that the petitioner had asked for some wine from the victim and then suddenly touched the victim's right breast with his hand, it was very unlikely that the petitioner would not have known that such an act would thereby outrage her modesty.

37 For the above reasons, I denied the application for revision.

The appeal against sentence

38 Under s 354 of the Penal Code the use of criminal force with intent to outrage modesty is punished with imprisonment for a term which may extend to two years, or with fine, or with caning, or with any two of such punishments.

39 Counsel for the petitioner contended that the sentence of 12 months' imprisonment was manifestly excessive. Counsel submitted that the judge below had not given sufficient consideration to the following mitigating factors in this case:

> (1) The offence was committed on 1 November 2001 and the petitioner pleaded guilty on 2 November 2001.
>
> (2) The petitioner had no known antecedents.
>
> (3) The petitioner had fully co-operated with the police.
>
> (4) The petitioner had made known to the court that he had a lot to drink.
>
> (5) The petitioner only pleaded guilty to one charge and not to three.

40 The standard sentence for an offence where the victim's private parts or sexual organs have been intruded is nine months' imprisonment with caning: *Chandresh Patel v PP* [1995] 1 CLAS News 323. In that case, the accused had touched the vaginal area of a female passenger whilst flying aboard a Singapore Airlines flight. He pleaded guilty to the charge and was sentenced to three months' imprisonment. On appeal, the sentence was enhanced to six months' imprisonment and three strokes of the cane.

41 In *Tok Kok How v PP* [1995] 1 SLR 735 the petitioner had, whilst sharing the complainant's umbrella, repeatedly held her right shoulder with his right hand despite her protestations. He had also asked her if she was afraid of being raped and he had used the knuckles of his left hand to press onto her right breast. He was sentenced to nine months' imprisonment and three strokes of the cane. His appeal against sentence was dismissed. The court held that it was incorrect to say that the petitioner had in no way intruded the complainant's private parts. He had used his knuckles to press onto her right breast and this was no light infraction falling outside the category of cases held in *Chandresh Patel* to be deserving of custodial sentences with caning.

42 The sentencing guidelines have been applied in subsequent cases. In *Ong Buck Chuan v PP* (MA 323/96/01, unreported), the petitioner sat next to the victim on a bus and whilst the bus was moving, he folded his arms and used his fingers to touch the side of the left breast of the victim. He was a first offender and pleaded guilty. He was sentenced to six months' imprisonment and three strokes of the cane.

43 The petitioner in *Chee Huck Chuan v PP* (MA 262/96/01, unreported) pleaded guilty and was sentenced to nine months' imprisonment without caning as he was 63 years of age. In that case, the victim was making a call from a telephone booth when she felt someone grabbing her from behind. At the same time, she felt the same person touching her right breast. She managed to break free and the petitioner was subsequently arrested.

44 In my view, the sentence of 12 months' imprisonment was not manifestly excessive. I had noted in the case of *PP v George Nathan Edward* (MA No 144 of 2001) that in recent months the courts had witnessed an unchecked increase in the number of outrage of modesty cases, and as such a stiff sentence was necessary to deter like-minded persons from committing such crimes. The

circumstances in the present case were similar to those in *Chandresh Patel* and *Tok Kok How*, but there was an additional aggravating factor in this case – the petitioner had taken advantage of the victim three times during the journey from Osaka to Singapore. The petitioner had in the earlier flight sector i.e., the flight travelling from Osaka to Bangkok, touched the victim's right breast and had stroked her left cheek with his right hand. On the same flight travelling from Bangkok to Singapore on the same day, the petitioner again used his hand to touch the same victim's right breast when he asked her to serve him some wine.

45 Although the petitioner had pleaded guilty to the charge, the protection of the public from such intrusive behaviour of the petitioner had to be balanced against his plea of guilt. It is settled law that the plea of guilt does not automatically merit a discount in sentencing and might be overridden by other considerations. The court must consider the element of public interest before deciding whether to give a discount and in some cases the need to protect the public might outweigh any mitigating effect to be attached to an accused's guilty plea: *Sim Gek Yong v PP* [1995] 1 SLR 537. It has been subsequently reaffirmed that the protection of the public is an exception to the general rule that the plea of guilt would entitle the accused to a discount: *Lim Hock Hin Kelvin v PP* [1998] 1 SLR 801. The petitioner in this case had repeatedly outraged the modesty of the same victim and in my view his persistence in doing so had greatly reduced the mitigating value in his plea of guilt.

46 As for the weight to be attached to the fact that the petitioner was a first offender, I was of the opinion that the weight to be given to the petitioner's absence of antecedents would be greater where there was positive evidence as to his good character rather than the negative inference from the absence of antecedents. The petitioner being of good character, which might be an inference from the fact that he was a first offender, could be said to be irrelevant as a mitigating factor but relevant as an aggravating factor in that the offence was so much greater because he should have known better: see *PP v Tan Fook Sum* [1999] 2 SLR 523. Similarly, the absence of antecedents had to be weighed in the balance against other considerations, the most crucial of which was the public interest. Being a first offender did not necessarily entitle the petitioner to a discount in sentencing: *Sim Gek Yong v PP* (supra). The petitioner's allegation that he had "a lot to drink" would not be of any assistance to him either, as the commission of the offence while in a state of self-induced intoxication was not a mitigating factor: *Mani Nedumaran v PP* [1998] 1 SLR 411.

47 For these reasons, I dismissed the appeal against sentence and enhanced the sentence to 24 months' imprisonment.

Petition dismissed
Appeal dismissed.

Sgd:

YONG PUNG HOW
Chief Justice