Pandiyan Thanaraju Rogers v Public Prosecutor
[2001] SGHC 136

Case Number : MA 237/2000, Cr M 11/2001

Decision Date : 18 June 2001

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : Suresh Damodara and K Sureshan (Colin Ng & Partners) for the appellant/applicant; Ravneet Kaur (Deputy Public Prosecutor) for the respondent

Parties : Pandiyan Thanaraju Rogers — Public Prosecutor

Criminal Law – Statutory offences – Prevention of Corruption Act (Cap 241, 1993 Ed) – Corruptly receiving gratification – Receipt of moneys by police officer – Whether objectively corrupt element present in transaction – Whether police officer has guilty knowledge – s 6(a) Prevention of Corruption Act (Cap 241)

Criminal Procedure and Sentencing – Appeal – Adducing fresh evidence – Conditions to be satisfied – Whether appellant should be allowed to adduce fresh evidence

Criminal Procedure and Sentencing – Sentencing – Manifestly inadequate – Sentence inconsistent with that imposed in similar cases – Whether corruption involving police officers should attract more severe sanctions

Evidence – Weight of evidence – Previous inconsistent statement – Weight to be accorded – s 147(6) Evidence Act (Cap 97)

: This was an appeal against the decision of District Judge Siva Shanmugam. On 2 September 2000, the appellant, Pandiyan Thanaraju Rogers, was convicted after a trial of one charge of corruption punishable under s 6(a) of the Prevention of Corruption Act (Cap 241, 1993 Ed) (`PCA`). He was sentenced to six months` imprisonment and ordered to pay a penalty of $1,700. The appellant was granted leave to lodge a petition of appeal against the conviction and the sentence out of time. He also filed a motion for leave to adduce fresh evidence at the hearing of the appeal. After hearing the submissions of counsel for the appellant and the DPP, I dismissed the motion and the appeals against conviction and sentence. In addition, I enhanced the sentence to nine months` imprisonment. I now give the reasons for my decision.

The charge

The charge against the appellant read:

> *You, Pandiyan Thanaraju Rogers, are charged that you on a day in April 1994, at Blk 38 Upper Boon Keng Road [num]25-2402 Singapore being an agent to wit, a Staff Sergeant in the Singapore Police Force, did corruptly accept from one Manjit Singh, a gratification of a sum of two thousand dollars ($2,000) as an inducement to do an act in relation to your principal`s affairs, to wit, to render assistance to the said Manjit Singh in his police case, and you have thereby committed an offence punishable under s 6(a) of the Prevention of Corruption Act, Chapter 241.*

The offence carries a fine not exceeding $100,000 or imprisonment for a term not exceeding five years or both.

The case for the prosecution

On 17 February 1994, Manjit Singh (`Manjit`), formerly a staff sergeant with the Singapore Armed Forces, was seriously assaulted while on his way to collect a debt on behalf of a moneylending business which was registered in the name of his wife. While he was hospitalised, his friend Silver Packiam (`Silver`) brought the appellant to visit him. The appellant was then a staff sergeant and second in command of Team D, Secret Society Branch, CID. He was introduced as a CID officer whom Manjit could consult. At that time, Manjit needed assurances and wanted to be kept apprised of the details of his assault case.

Upon his return from hospital, Manjit received threatening calls which he believed were connected to the assault. He was in fear and informed the appellant of his worries about the assailants. Manjit also mentioned his concern that the Singapore Armed Forces (`SAF`) may investigate the assault which could in turn affect his pension. He was aware that under the MINDEF General Orders, he was not permitted to take part directly or indirectly in the management of any commercial enterprise while still in the service of the SAF. The appellant gave Manjit his name card and told Manjit to contact him if he encountered any problems with police matters. On a subsequent occasion, the appellant asked Manjit, through Silver, for a loan of $2,000. Manjit acceded to the request. The appellant was aware that, as a police officer, he was only permitted to obtain loans from approved institutions and was not permitted to take a loan from a person believed to be an illegal moneylender.

The prosecution admitted into evidence, without any challenge as to their voluntariness, the appellant`s statements recorded on 28 October 1999 and 1 December 1999 by CPIB officer SSI Chin Yen Yen (`SSI Chin`) (exh P3). In exh P3, the appellant stated that he started visiting Manjit soon after their introduction. During the visits, Manjit frequently consulted him for professional advice on the case. Manjit was very worried about the assailants and sought the appellant`s advice. On his part, the appellant reassured Manjit and helped in whatever ways he could.

It was stated in exh P3 that the appellant subsequently asked Manjit for a loan through Silver. By then he knew that Manjit was involved in a moneylending business. Based on his long experience in the police force and the fact that Manjit was an SAF officer, the appellant suspected that it was an unlicensed and illegal moneylending business. He was aware that Manjit thought that he could assist the latter in his assault case. Manjit did not specify a dateline for repayment, or charge him interest for the loan which remained substantially unpaid.

Manjit was a witness for the prosecution. In court, he first stated that he was unable to recall if a conversation took place between them when the $2,000 was handed to the appellant; he later testified that the appellant simply took the money and left. The prosecution was granted leave pursuant to s 147(1) of the Evidence Act (Cap 97, 1997 Ed) (`EA`) to cross-examine Manjit on his previous statement to CPIB officer SSI Fong Hong Chin (`SSI Fong`), recorded on 28 October 1999 (exh P5). Manjit claimed that exh P5 was given involuntarily. After a voir dire to determine its voluntariness, the district judge admitted exh P5 into evidence for cross-examination and as substantive evidence pursuant to s 147(3) of the EA.

In exh P5, Manjit described the conversations which took place between them at the material times. He stated that the appellant endorsed Silver`s assurance that, since the appellant was from CID, he would be able to help if Manjit encountered any `problems` in future. At the same time, the appellant handed over his name card, telling Manjit to look for him if he needed anything or encountered any problems with regard to police matters. When the money was handed to the appellant, the appellant

repeated that Manjit could approach him for help if he encountered any problems with any matters in the future. The appellant also said that he would `check for [Manjit]` in relation to the assault case. Manjit felt obligated to the appellant since he was a police officer; furthermore, the appellant had promised to keep Manjit posted on his assault case and to help with any problems in the future. Manjit stated in his statement that he was under the impression that the appellant could keep him updated on the case and to help him in whatever ways. When confronted with exh P5, Manjit retracted the portions which implicated the appellant, claiming that they were inaccurate and had been made up on the directions of the CPIB officers.

The case for the defence

The appellant had joined the Singapore Police Force in 1971. At the time of the alleged offence in 1994, he was facing a financial crisis. He had been declared a bankrupt in 1990 and was considered a credit risk. As a result, he had to resort to taking loans from friends and relatives.

The appellant did not deny receiving $2,000 from Manjit but claimed that it was an innocent loan. Soon after they were introduced, he told Silver that he needed to borrow $2,000. Silver agreed to help by asking Manjit for a loan on his behalf. It was a friendly loan without interest, guaranteed by Silver. He explained that he borrowed the money from Manjit as Manjit was Silver`s close friend. He did not think that there was anything wrong with him taking a loan from Manjit as he merely suspected and had no proof that Manjit was an illegal moneylender. Furthermore, the loan was guaranteed by Silver. It was not disputed that Manjit did not specify a dateline for the return of the loan, nor chased him for its return. Nonetheless, the appellant asserted that he had indicated that the loan would be repaid in July or December of that year.

The appellant stated that he gave only general and not professional advice to Manjit. He denied taking advantage of his office by promising to assist Manjit in his police case. He claimed that he had not helped Manjit in any way and had in fact told Manjit that any queries should be directed to the relevant investigating officer in charge of his case. He did not want to be seen to be interfering with the investigations as this would have breached proper procedures. He did not at any time contact the investigating officer to find out the status of Manjit`s case. As for the loan, he had thus far repaid Manjit $300. As regards his statement exh P3, he refuted the incriminating portions of exh P3, explaining that they were inaccurate and did not reflect what he had meant to say.

The decision of the district judge

The district judge rejected Manjit`s allegation that exh P5 was recorded involuntarily or inaccurately and preferred the evidence contained in his previous inconsistent statement over his sworn testimony in court. The district judge described Manjit as a clever, cunning and an unreliable and dishonest witness. He was found to be not forthcoming in his answers and to have deliberately withheld evidence for fear of being charged for corruption.

The district judge also found that the appellant`s statement, exh P3, was accurately recorded. On the totality of the evidence, he held that all the elements of the charge had been made out. In his view, the transaction contained an objectively corrupt element and the appellant possessed the requisite guilty knowledge that what he was doing was corrupt. Accordingly, he was convicted of corruptly accepting a sum of $2,000 as an inducement to render assistance to Manjit in his police case.

The motion to adduce fresh evidence

At the commencement of the appeal, Mr Damodara, counsel for the appellant, sought to adduce fresh evidence comprising:

(1) a certified true copy of a certificate of service dated 29 January 1994 issued by the SAF certifying that Manjit was released from service due to optional retirement on 30 January 1994;

(2) a letter dated 27 September 2000 issued by the Ministry of Defence stating that Manjit`s net commuted pension gratuity was credited into his bank account on 4 February 1994.

Mr Damodara argued that the documents proved that, at the time of the assault on 17 February 1994, Manjit was no longer in active service with the SAF and had already received his pension payment. He submitted that this would in turn show that the district judge wrongly convicted the appellant on the erroneous basis that Manjit parted with the $2,000 in return for the appellant`s assistance in ensuring that there were no repercussions against him for his involvement in the moneylending business while still in active service with the SAF.

It is settled law that three conditions must be satisfied before fresh evidence may be received pursuant to s 257 of the Criminal Procedure Code (Cap 68):

(1) non-availability - that the evidence could not have been obtained with reasonable diligence for use at the trial;

(2) relevance - that the evidence would probably have an important influence on the result of the case though it need not be decisive;

(3) reliability - that the evidence must be apparently credible, although it need not be incontrovertible.

See **Rajendra Prasad v PP** [1991] 2 MLJ 1 at 4A; **Juma`at bin Samad v PP** [1993] 3 SLR 338 at 343G-I.

The reliability of the documents was not in issue before me in light of the DPP`s concession as to their authenticity.

In my view, the motion could be dismissed solely on the ground that the intended evidence was irrelevant and would not have an important influence on the outcome of the case. The district judge had concluded that the appellant was

> *enjoying a reciprocal relationship with [Manjit] in that he was receiving a loan from [Manjit] in exchange for exercising his powers and connections in office to reassure [Manjit], to keep [Manjit] appraised [**sic**] of developments in his assault case and to render assistance whenever possible.*

From a review of the evidence and the district judge`s grounds of decision, it was obvious that Manjit`s concern over the possible impact on his pension was not his sole or even his prime motivation for acceding to the appellant`s request for $2,000. To recall, Manjit was extremely concerned and worried about the assault and had been receiving threatening phone calls. He was in a

state of considerable distress as a result. The assistance which the appellant alluded to, and which Manjit envisaged, was general in nature and not specific to Manjit`s concern over his pension. Although the district judge alluded to Manjit`s concern about his pension in his grounds of decision, it was only a passing reference; his decision was patently not based on the date Manjit retired or received his gratuity. Rather the district judge concluded that the appellant accepted the loan from Manjit despite his suspicions that Manjit was an illegal moneylender and, in so doing, gave assurances and promises of assistance to Manjit. Under those circumstances, the dates of Manjit`s discharge from the SAF and his receipt of the pension gratuity were wholly irrelevant to the question of the appellant`s corrupt intent at the time he received the $2,000 from Manjit and bore no impact whatsoever on the district judge`s eventual findings.

In any case, regardless of the actual date of discharge, Manjit had admitted in the proceedings below that he was already involved in the moneylending business as of September 1993 when he was still in active service with the SAF. In my view, this underpinned Manjit`s concern about his pension. The point was not pursued by the appellant at the trial, where it was never the appellant`s defence that he knew or believed that Manjit was unconcerned about the assault case and the effect it might have upon his pension.

Turning finally to the requirement of non-availability, I was also not satisfied that the information contained in the documents could not have been obtained with reasonable diligence for use at the trial. In his supporting affidavit, the appellant stated that he coincidentally met Manjit after his conviction and casually asked him when he left the SAF. It was only after his query that Manjit later reverted with the documents in question. Mr Damodara contended that it was not within the appellant`s control to obtain the documents from the Ministry of Defence as they related to the employment of Manjit who was a prosecution witness.

I observed that what was purportedly critical to the appellant, however, were not the documents per se but the information contained therein. It was apparent to me that the appellant had simply not taken any earlier steps to obtain the information pertaining to the date of Manjit`s discharge from the SAF. If the appellant genuinely believed that the date Manjit left active service was of crucial importance to his defence, he could have requested for the requisite documentary records through the investigator, the prosecution or even the court before or during the trial. At the very least, his counsel could have posed the appropriate questions to Manjit when he was on the stand. In fact, the defence did not dispute or challenge Manjit`s testimony that he retired from the SAF in March 1994. No satisfactory explanation has been proffered as to why such steps could not have been taken with reasonable diligence prior to or during the trial.

I fully recognise that the court may in some instances, allow additional evidence to be called even though it could not be strictly said that the evidence was not available at the time of the trial, if it can be shown that a miscarriage of justice has resulted. Such evidence may be taken if it is necessary in the interest of justice. This situation will arise only in the most extraordinary and extenuating circumstances, which may include the fact that the offence is a serious one attracting grave consequences and the fact that the additional evidence sought to be adduced was highly cogent and pertinent and the strength of which rendered the conviction unsafe: ***Juma`at bin Samad v PP*** (supra at p 347G); **Lee Yuen Hong v PP** [2000] 2 SLR 339 at [para]66. In my view, such extenuating circumstances did not exist in the present case. As I explained earlier, the evidence sought to be adduced would not have had an important influence on the actual outcome of the case. Accordingly, I dismissed the appellant`s application to adduce the documents in question.

The appeal against conviction

Turning to the appeal against conviction, the following two main grounds of arguments were raised before me:

(1) that the district judge erred in relying on Manjit`s previous inconsistent statement to the CPIB - exh P5;

(2) that there was no objectively corrupt element in the transaction.

MANJIT`S PREVIOUS STATEMENT - EXH P5

Manjit`s previous inconsistent statement, exh P5, was a critical piece of evidence incriminating the appellant. In urging me to overturn the conviction, Mr Damodara argued that the district judge failed to consider the fact that exh P5 was admitted after a voir dire, and he also erred in accepting exh P5 as the truth, without giving due regard to the relevant considerations when assessing the weight to be attached to the statement.

At the outset, I noted that it was wholly unnecessary for the district judge to have conducted a voir dire to determine the voluntariness of exh P5. This was recently confirmed by the Court of Appeal in **Thiruselvam s/o Nagaratnam v PP** [2001] 2 SLR 125 at [para]45, 47 where it was held that there was nothing in s 147(3) of the EA which required the admissibility of a previous inconsistent statement of a witness to be subject to the test of voluntariness. The voluntariness of the statement is, however, a factor to be taken into consideration when determining the weight to be accorded to the statement.

The other factors to be considered in assessing the weight to be accorded to the statement are set out in s 147(6) of the EA and elaborated in **Selvarajan James v PP** [2000] 3 SLR 750 , **PP v Tan Kim Seng Construction** [1997] 3 SLR 158 and **Chai Chien Wei Kelvin v PP** [1999] 1 SLR 25 . These considerations relate to the accuracy of the statement and refer to the contemporaneity of the statement; whether the maker had any incentive to conceal or misrepresent the facts; the explanations for the inconsistency; the context of the statement; and the cogency and coherence of the statement.

Upon a review of the district judge`s grounds of decision, I was satisfied that the district judge was at all times mindful of these factors, especially the long lapse of time between the material incident and the recording of exh P5. The district judge nonetheless eventually concluded that exh P5 contained the truth and could be relied upon. Although exh P5 was recorded on 18 October 1999, some six and a half years after the incident, Manjit was then able to provide a fairly coherent and cogent detailed account of his conversations with the appellant. The drastic erosion of Manjit`s memory some eight months later in the court proceedings was therefore quite surprising. While the long lapse of time was a cause for caution, particularly in relation to the details of dates and the sequence of events, what was not so malleable, however, was the tenor and contents of the conversations, Manjit`s impressions of the precipitating events, his motivation for handing $2,000 to the appellant and whether the loan was repaid. Although the appellant had laid much emphasis on SSI Chin`s evidence that the witnesses had difficulty recollecting the events in 1995, this did not advance his case since Manjit`s statement was recorded by a different officer, SSI Fong.

In cases of this nature, there is always a possibility that the giver of the alleged bribe might have a motive to conceal or misrepresent facts to lessen his own culpability. Looking at exh P5 in totality, however, it was readily apparent that Manjit had simultaneously incriminated himself by revealing his role and intention in acceding to the request for $2,000. The argument that Manjit might have chosen to conceal or misrepresent certain facts to evade his own culpability thus held somewhat less weight.

This was to be contrasted to his demeanour in court where he was found to be not forthcoming and intentionally withholding evidence for fear of being charged for corruption.

In the proceedings below, Manjit asserted that exh P5 was untrue as he was threatened; that he wanted to avoid inconvenience and to leave CPIB quickly. These explanations were rightly rejected by the district judge after careful consideration. Manjit had been a staff sergeant in the SAF for some 20 years and was unlikely to be affected by such alleged threats or considerations. Furthermore, Manjit had read, amended, signed and affirmed the truth and voluntariness of the statements. The district judge had the benefit of observing all the relevant witnesses in court. He found the CPIB witnesses who had testified as to the recording of the statement to be truthful while describing Manjit as a `clever and cunning witness` and `an unreliable and dishonest witness`. In this regard, it is trite law that an appellate court would be reluctant to disturb the findings of fact made by the trial judge, especially when they were based on his findings as to the demeanour and veracity of the witnesses. I therefore found no basis for diminishing the weight to be accorded to exh P5 on the strength of Manjit`s bare allegations.

In any event, exh P5 was not the only evidence which incriminated the appellant. It was corroborated by the appellant`s statements, exh P3 where the appellant admitted his suspicion that Manjit was an illegal moneylender; that Manjit frequently consulted him for advice and was very worried about the assault; that he reassured Manjit and helped him whatever ways he could; that he thereafter asked Manjit for a loan; that he knew that Manjit thought that he could assist Manjit in his assault case; that Manjit did not charge him any interest, nor specified a deadline nor chased him for the return of the $2,000.

When the appellant was cross-examined on exh P3, he sought to challenge its accuracy, claiming that they did not accurately reflect what he intended to say. I observed that this contention was gravely impaired by his failure to put the allegation to the recording officer. Furthermore, the appellant was no ordinary lay witness. He was a highly experienced investigating officer who must have been aware of the necessity to ensure the accuracy of the statement, especially in light of the serious nature of the allegation.

For the foregoing reasons, I found that the district judge was fully entitled to conclude that exh P5 contained the truth of the matters stated therein and to rely on it over Manjit`s oral testimony in court.

WHETHER THERE WAS AN OBJECTIVELY CORRUPT ELEMENT IN THE TRANSACTION

In order to determine whether the $2,000 was accepted corruptly, there must be: (1) an objectively corrupt element in the transaction which is to be established by ascertaining the intention of the receiver and whether such intention tainted the transaction with an objectively corrupt element given the factual matrix. This was an objective inquiry essentially based on the ordinary standard of the reasonable man and to be answered only after the court had inferred what the appellant intended when he entered the transaction; and (2) guilty knowledge that what he was doing was corrupt by the objective and ordinary standard: **Chan Wing Seng v PP** [1997] 2 SLR 426 ; **PP v Low Tiong Choon** [1998] 2 SLR 878 ; **Fong Ser Joo William v PP** [2000] 4 SLR 77 .

Mr Damodara next contended that the district judge erred in finding that there was an objectively corrupt element in the transaction. He argued in particular that the sum of $2,000 was merely a loan and not a gift; that the appellant had only dispensed general advice and only intended to render emotional support; that there was no evidence that he used or was going to use his position as a police officer to assist Manjit; that there was no evidence of the specific assistance which he was

supposed to render.

I saw no merit in his submissions and accordingly rejected it for reasons which I shall shortly elaborate upon. There was no doubt in my mind that there was sufficient evidence supporting the finding of an objectively corrupt element in the transaction.

Turning first to the surrounding circumstances at the relevant time, the appellant was clearly aware of Manjit`s anxiety, fears and concerns over the assault case. Manjit frequently asked and consulted the appellant on the case, sought assurances and wanted to be kept apprised of developments in the matter. He was under the impression that the appellant could keep him updated on the case. The appellant knew that Manjit looked upon him for help. He told Manjit that he would `check` on the assault case for him and repeatedly assured Manjit that since he was from CID, he could assist Manjit if he encountered any `problems` in the future; or if Manjit encountered any problems with regards to police matters. He also passed Manjit his name card and repeated his earlier assurances. When the money was given to the appellant, he again repeated this assurance. Viewed in totality, it was obvious that the appellant had deliberately made these repeated representations and assurances to Manjit; and would have realised that Manjit parted with the $2,000 in exchange for the appellant`s possible future assistance with regard to the case which Manjit was interested in. The facts certainly do not bear out the appellant`s claims that he was acting in the role of a Good Samaritan and was merely furnishing general advice and emotional support to Manjit.

I therefore agreed with the district judge`s findings that the appellant had allowed himself to be placed in a position where he would be beholden to Manjit and to provide him with future assistance as and when required. In many of the recent cases involving corruption, particularly on the part of police officers, the gratification was given to purchase the receiver`s goodwill and as a form of retainer for future unspecified services as and when required. The lack of any specific representation by the appellant as to the precise assistance to be rendered by him was not fatal to the charge. There is no necessity in law for an express request for a bribe or an express reference to a favour to be shown. Such a requirement has been held to be undesirable and unduly restrictive: **PP v Tang Eng Peng Alan** [1995] 3 SLR 131 at 135I. The transaction has to be viewed in a broad and pragmatic perspective. The prosecution need not prove that the receipt of money was an inducement for a specific corrupt act or favour, it being sufficient that it was given in anticipation of some future corrupt act being performed. As I had stated in ***Fong Ser Joo William v PP*** (supra at [para]25); **Hassan bin Ahmad v PP** [2000] 3 SLR 791 at [para]20:

> *it only sufficed ... that the payments were not made innocently, but to purchase the recipient`s servitude.*

This finding was further reinforced by the appellant`s own knowledge that he was prohibited from taking a loan from a person believed to be an illegal moneylender. The appellant`s explanations in this regard were highly unsatisfactory, he claimed that it was not wrong since he only had an unconfirmed suspicion of this matter. The appellant`s response is ludicrous, especially in light of his position as a senior and highly experienced police officer. The deliberate contravention of the prohibition under the circumstances was a further factor which supported the court`s findings as to the corrupt nature of the transaction: see ***Chan Wing Seng v PP*** (supra at [para]20-23).

As was rightly noted by the district judge, the terms of the loan and the circumstances under which it was granted shed critical light on its true nature. In this regard, Mr Damodara highlighted the prosecution`s ambiguous position as to the nature of the payment, that is, whether it was a loan or a gift. This submission was misconceived. The distinction was not really material since both loans and

gifts are included in the definition of `gratification` in s 2 of the PCA. What distinguishes the particular loan or gift is the corrupt element.

In this case, the appellant was in need of money and could not readily obtain other sources of financing due to his poor credit risk. He then sought the loan from someone who was a virtual stranger at the material time. The appellant and Manjit`s families may well have subsequently become close but that was wholly irrelevant. Despite their lack of acquaintance then, Manjit did not stipulate a specified deadline for repayment nor was any interest charged. This omission was particularly revealing since Manjit was himself involved in moneylending activities. Although Silver was the guarantor, Manjit did not at any time enforce the guarantee even though the loan had remained substantially unpaid to date. All these characteristics were highly unusual and militated against it being an ordinary loan. Taken together with the surrounding circumstances, they provided ample support for the finding that the $2,000 was accepted as an inducement to assist Manjit in his assault case.

It was also pointed out on behalf of the appellant that he had in fact sought the loan from his friend Silver. Mr Damodara argued that it was Silver`s idea to approach Manjit; and that Silver had approached Manjit on his own accord. In my view, the fact that Manjit may have been brought into the picture by a third party was completely irrelevant. The main question was whether at the time of the transaction, that is, when the money was handed to the appellant, the appellant possessed the requisite guilty mind. The offence need not necessarily be premeditated, so long as the requisite guilty mind was present at the point in time when the money was received.

Similarly, whether the appellant repaid or attempted to repay the loan in 1995 was also irrelevant to the charge which was for corruptly obtaining the gratification in question in the first place: see **PP v Tang Eng Peng Alan** (Unreported) at p 136A).

Mr Damodara also submitted that the appellant had merely rendered general advice and that there was no evidence that the appellant actually used his position as a police officer to render assistance to Manjit. This submission was misconceived. It is plain from the operation of s 9 of the PCA that it is not necessary for the appellant to have actually rendered any assistance. In ***Fong Ser Joo William v PP*** (supra at [para]26) which also involved a charge under s 6(a) of the PCA, I had expressly recognised that it is not necessary to prove the actual act of showing favour. Rather, it is the receipt of the gratification, together with the intention of the giver and the recipient, that is crucial.

The appellant did not make any specific arguments in relation to the district judge`s finding that his actions were so obviously corrupt by the ordinary and objective standard that he must know that his conduct was corrupt. I nonetheless went on to consider this critical aspect of the appellant`s mens rea. Ultimately, the question of the giver`s and receiver`s intention as well as the question whether the receiver possessed the guilty knowledge is a question of fact. In this regard, an appellate court would be slow to disturb those findings, especially where they were based on the demeanour of the witnesses, unless they are shown to be clearly wrong or against the weight of the evidence. On this issue, the district judge had arrived at his findings after a review of all the evidence and the appellant`s demeanour in court. Suffice to say that I was satisfied that the district judge`s finding was not reached against the weight of the evidence.

As explained above, I was satisfied that the appellant had accepted the gratification corruptly and accordingly dismissed the appeal against conviction.

The appeal against sentence

The appellant was sentenced to six months` imprisonment by the district judge and ordered to pay a penalty of $1,700. During the appeal, I was informed that the appellant was no longer pursuing the submission that the sentence was manifestly excessive. On behalf of the appellant, Mr Damodara pleaded that the appellant had been facing family and financial difficulties and had tried to repay the $2,000 in question. I had no hesitation in rejecting those arguments. In my view, these reasons were hardly mitigating in nature and could not merit a reduction in the sentence.

Although the DPP did not appeal against the sentence, I nevertheless went on to review the adequacy of the sentence imposed and enhanced the sentence to nine months` imprisonment. In my view, the sentence imposed by the district judge was manifestly inadequate and inconsistent with the sentences imposed in similar cases of corruption.

Crimes involving corruption on the part of police officers are extremely grave in nature and are viewed severely by the courts. The appellant was a senior and highly experienced officer, having served in the police force for some 29 years. At the material time, he occupied a fairly important position, being the second in command of Team D, Secret Society Branch, CID. Yet he was prepared to undermine the integrity of his office for his personal benefit and, in the process, betrayed the public`s trust and confidence in the police force. This was an aggravating feature of the offence. The district judge had imposed a sentence which was on the lower end of the scale. In my view, the sentence that he had imposed was more appropriate for cases involving corruption on the part of non-police officers. Where police officers are implicated, the courts have consistently imposed a sentence which is longer than six months in duration. As seen in recent cases, the sentences meted out to police officers convicted of corruption have ranged from nine months upwards. In ***Fong Ser Joo William v PP*** (supra) and ***Hassan bin Ahmad v PP*** (supra), the officers concerned were sentenced to nine months per charge; in **Lim Poh Tee v PP** [2001] 1 SLR 674 , the sentence of 30 months on a single charge was upheld on appeal; in **Sim Bok Huat Royston v PP** [2001] 2 SLR 348 , I had enhanced the sentence from nine to eighteen months on appeal. The facts of the present case do not warrant a different approach from that adopted in the above cited decisions. It appeared to me that the district judge had failed to fully consider the aggravating features of the offence or the usual tariffs applicable in cases of this nature. I had observed that in passing sentence, the district judge noted that the offence in question was committed some six years ago. I fail to see, however, how this factor could merit a sentence below that which was appropriate to the circumstances at hand.

Accordingly, I dismissed the appeal against sentence and enhanced the sentence to nine months` imprisonment.

Outcome:

Motion and appeals dismissed; sentence enhanced.