### **FAMC No. 9 of 2024**

**[2024] HKCFA 18**

IN THE COURT OF FINAL APPEAL OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

**MIsCELLANEOUS PROCEEDINGS nO. 9 OF 2024 (CRIMINAL)**

(ON APPLICATION FOR LEAVE TO APPEAL

FROM HCMA NO. 34 OF 2023)

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BETWEEN

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|  | **HKSAR** | Respondent  (Applicant) |
|  | **and** |  |
|  | **LAM CHEUK TING (林卓廷)** | Appellant  (Respondent) |

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| Appeal Committee: | Mr Justice Ribeiro PJ, Mr Justice Fok PJ and  Mr Justice Lam PJ |
| Date of Hearing and Determination: | 8 July 2024 |

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| **DETERMINATION** |

**The Appeal Committee:**

1. Deputy High Court Judge Douglas YAU certified the following question under section 32(2) of the Court’s statute,[[1]](#footnote-1) namely:

“Upon a proper construction of s.30(l)(b) of the Prevention of Bribery Ordinance (Cap. 201) (‘the POBO’), in particular, the phrase ‘the identity of the subject person’, whether an offence under that section is committed when the defendant discloses the identity of the subject person by claiming that he is the subject of investigation by the Independent Commission Against Corruption (‘the ICAC’) in respect of an alleged or suspected offence not under Part II of the POBO only whilst, in fact and to the knowledge of the defendant, the subject person is the subject of investigation by the ICAC in respect of such an offence and also an offence alleged or suspected to have been committed under Part II of the POBO?”[[2]](#footnote-2)

1. We are satisfied that this question raises a point of law of the requisite importance which is involved in the decision and grant leave to appeal in respect thereof.
2. The appeal will be listed for hearing on 12 February 2025.

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| (R A V Ribeiro) | (Joseph Fok) | (M H Lam) |
| Permanent Judge | Permanent Judge | Permanent Judge |

Mr William Tam SC, DDPP, Ms Samantha Chiu, SADPP (Ag.) and Mr Timothy Chen, SPP (Ag.), of the Department of Justice, for the respondent (applicant)

Mr Erik Shum and Ms Christy Wong, instructed by Ho Tse Wai & Partners, for the appellant (respondent)

1. Cap 484. [↑](#footnote-ref-1)
2. [2024] HKCFI 728 (7 March 2024). [↑](#footnote-ref-2)