

Tay Siew Gek Rachelgina Jasmine v Public Prosecutor
[2008] SGHC 176

Case Number : MA 198/2008
Decision Date : 20 October 2008
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Terence Teo Chee Seng (Able Law Practice LLC) for the appellant; Kan Shuk Weng (Deputy Public Prosecutor) for the prosecutor
Parties : Tay Siew Gek Rachelgina Jasmine — Public Prosecutor

Criminal Procedure and Sentencing – Sentencing

20 October 2008

Judgment reserved.

Choo Han Teck J:

1 The appellant is 25 years old and a mother of a three-year-old child. On 15 May 2007 she was convicted for an offence of drug consumption under s 8(b)(ii) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) which offence was committed on 5 March 2006. She was sentenced on 6 June 2007 to imprisonment of seven months, which she served until 27 October 2007 when she was released on a remission order. Thereafter she was placed on a drug supervision order for 24 months.

2 On 23 July 2008 the appellant pleaded guilty to a charge under s 323 read with s 34 of the Penal Code (Cap 224, 1985 Rev Ed) and was sentenced to three months' imprisonment. Three other charges were taken into account. These offences were committed on 5 March 2004, that is, two years before she committed the offence of drug consumption for which she went to prison. It is not known why the offences under appeal were dealt with later than that of the drug consumption charge. She appealed against the sentence of imprisonment.

3 Counsel for the appellant, Mr Teo Chee Seng, submitted that the punishment should be no heavier than a fine for three reasons. First, the appellant played a minor role in the case; secondly, that these offences took place too long before the one for which she had been imprisoned; and thirdly, since her release from prison in October 2007 she had been employed as a salesgirl with a renown jewellery shop and had been consistently ranked as the shop's top three salespersons.

4 The present offences took place in a pub in which two of her male friends got into an argument with another male who claimed to be a secret society member. The three men then started to fight and when the third man fell to the ground towards the end of the fight, the appellant kicked him and threw a beer mug at him. One of the men involved in the fight was fined \$1,000, the second was jailed for three months, and the third will be dealt with on 23 October 2008.

5 The sentence of three months imprisonment was not an inappropriate one in this case. There is, however, a strong reason why the appellant should be spared the jail term. One of the principal objectives of imprisonment is that the deprivation and hardship of incarceration will serve to remind the offender that he should lead a law abiding life thereafter, and not having to be jailed again. This objective appears to have been achieved here as the appellant had conducted her life in a manner as to indicate the lesson learnt. It seems to me that it would be counter-productive to send her back to prison for three months for an offence committed two years before the offences for which she served her imprisonment last June.

6 In the circumstances, I will set aside the sentence of three months imprisonment and impose a fine of \$1,000, and in default one week's imprisonment. She will be given a week from today to pay the fine.

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