

Zhao Zhipeng v Public Prosecutor
[2008] SGHC 125

Case Number : MA 34/2008
Decision Date : 06 August 2008
Tribunal/Court : High Court
Coram : Chan Sek Keong CJ
Counsel Name(s) : Raymond Lye and Cheryl-Ann Yeo (Pacific Law Corporation) for the appellant;
Christopher Ong (Attorney-General's Chambers) for the respondent
Parties : Zhao Zhipeng — Public Prosecutor

*Criminal Procedure and Sentencing – Sentencing – Mitigation – Corruption or match-fixing offences
– Internationalisation of S.League – Professional footballer approached by manager having effective
control of employment – Committing offence out of fear not personal greed – Factors to consider
in sentencing*

6 August 2008

Chan Sek Keong CJ:

Introduction

1 The appellant, a professional footballer who played for the Liaoning Guangyuan Football Club ("LGFC") in the S.League, Singapore's professional football league, was charged with the following charges under s 6(a) of the Prevention of Corruption Act (Cap 241, 1993 Rev Ed) ("PCA") for what is colloquially called "match-fixing" of a number of football games:

1st charge

You,
Zhao Zhipeng
...

are charged that you, on or about a day in the month of October 2007, at Block 157B, Tamarind Road, Serenity Park, #02-08, Singapore, being an agent, to wit, a professional footballer in the employ of [LGFC], did corruptly accept for yourself a gratification of a sum of \$2,000/- (Two Thousand Dollars) from one Wang Xin, the Team Manager of [LGFC], as a reward for having done an act in relation to your principal's affairs, to wit, having assisted to lose the match by at least 3 goals during the S.League football match played between Geylang United Football Club and [LGFC] on 3rd October 2007, and you have thereby committed an offence punishable under Section 6(a) of the Prevention of Corruption Act, Chapter 241.

2nd charge

You,
Zhao Zhipeng
...

are charged that you, on a day between 1st November 2007 and 12th November 2007, at Block 157B, Tamarind Road, Serenity Park, #02-08, Singapore, being an agent, to wit, a

professional footballer in the employ of [LGFC], did corruptly accept for yourself a gratification of a sum of \$2,000/- (Two Thousand Dollars) from one Wang Xin, the Team Manager of [LGFC], as a reward for having done an act in relation to your principal's affairs, to wit, having assisted to lose the match by at least 3 goals during the S-League football match played between Gombak United Football Club and [LGFC] on 1st November 2007, and you have thereby committed an offence punishable under Section 6(a) of the Prevention of Corruption Act, Chapter 241.

3rd charge:

You,
Zhao Zhipeng
...

are charged that you, on or about 12th November 2007, in Singapore, being an agent, to wit, a professional footballer in the employ of [LGFC], did corruptly agree to accept for yourself a gratification of an unspecified sum from one Wang Xin, the Team Manager of [LGFC], as an inducement for doing an act in relation to your principal's affairs, to wit, losing the match by at least 2 goals during the S-League football match played between Albirex Niigata Football Club and [LGFC] on 12th November 2007, and you have thereby committed an offence punishable under Section 6(a) of the Prevention of Corruption Act, Chapter 241.

2 He pleaded guilty to the second charge and consented to the two other charges ("the TIC charges") being taken into consideration for the purpose of sentencing. The punishment for each of these charges is a term of imprisonment not exceeding five years or a fine not exceeding \$100,000 or both.

3 The district judge sentenced the appellant to seven months' imprisonment and ordered him to pay a penalty of \$4,000 which represented the sums he had received from Wang Xin. The appeal before me was against the custodial sentence and not against the penalty. The appellant sought either a replacement of the jail term by an appropriate fine or a reduction in the length of the imprisonment.

4 I allowed the appeal and reduced the custodial sentence to five months (with the penalty remaining intact). I now give my reasons.

The facts

Background

5 The appellant is a People's Republic of China ("PRC") national. He was a professional footballer in China with the Shanghai Shenghua Football Club. In June 2007, he arrived in Singapore on loan to LGFC, to compete in the S.League 2007 season. The S.League 2007 season, which began in March 2007 and ended in November 2007, was LGFC's debut season in Singapore.

6 LGFC is a joint venture between Liaoning Football Club and the Guangyuan Real Estate Company ("GREC"), both based in China. It was formed in late 2006 by a PRC national, Liu Jun, the director of GREC. After the formation of LGFC, Liu Jun appointed one Wang Xin, also a PRC national, as the general manager of LGFC. As general manager, Wang Xin had the power to select and sack players, coach and manage the staff of LGFC. The chairman of LGFC is a PRC national named Gu Wei who was the manager of GREC.

7 Sometime in mid-2006, one Steven Lee Thong How ("Steven Lee"), the Chairman of Paya Lebar Punggol Football Club (another club in the S.League), was in China to look for potential women soccer players. While he was there, he met Gu Wei, who expressed an interest in LGFC participating in the S.League 2007 season. Subsequently, Steven Lee assisted Gu Wei in recommending the team to the Football Association of Singapore ("FAS"), which is the governing body of football in Singapore and which had set up the S.League. After several meetings between LGFC and FAS, FAS invited LGFC to participate in the S.League 2007 season.

8 LGFC players and officials came to Singapore sometime in February 2007. Wang Xin had appointed a PRC national, Ding Zhe, as the head coach. Steven Lee was appointed by Gu Wei as the local vice-president of LGFC as he was based in Singapore and it was envisaged that he would oversee the accommodation and welfare of the PRC players. The players and officials, including Wang Xin, were housed in various units in Serenity Park Condominium at Tamarind Road.

9 It should be noted that, under the rules contained in *The S.League Football Association of Singapore Official Handbook: Rules of the S.League & Laws of The Game 2007* (Football Association of Singapore, 2007) ("the S.League Rules"), the LGFC players were required to sign an FAS-approved contract, which incorporated the Players' Code of Conduct and Professional Ethics ("Code of Conduct"), when they joined the S.League (see below at [41]). It was not disputed that they were briefed on the contents of the Code of Conduct, which included a prohibition on soccer betting and bribery in para 5:

No payment or offer of (or attempt to offer) any payment of any kind or form or of whatever nature shall be received by or be made to the Player with the intention to influence the result of any match organised or sanctioned by FAS, and any such communication received shall be reported immediately to, among others, the Club.

In the appellant's case, Steven Lee had interpreted and explained the Code of Conduct to him.

10 At the end of October 2007, the Corrupt Practices Investigation Bureau ("CPIB") received information that LGFC had not performed up to standard during an S.League match with Geylang United Football Club. This triggered investigations which led to the charges against the appellant.

Facts pertaining to the charges

11 Investigations revealed that Wang Xin had placed soccer bets on S.League matches through a PRC friend in China. This friend had used a PRC website "Huang Guan" to help Wang Xin bet on the matches. In order to ensure that the desired outcomes of the matches were achieved, Wang Xin enlisted the help of his team players. In the course of investigations, he was found to have approached eight players from LGFC to fix the score line for LGFC matches. Wang Xin would approach the players individually before the match and tell them to lose the match by a certain number of goals. If the desired outcome was achieved, Wang Xin would give the players a sum of money as a reward.

12 Wang Xin had approached the appellant on three occasions. The first occasion (forming the subject of the first charge) was prior to a match between Geylang United Football Club and LGFC played on 3 October 2007. It appears that Wang Xin instructed the appellant not to play to the best of his ability such that LGFC would lose the match by at least three goals. It was not denied that the appellant followed Wang Xin's instructions and a few days later was given a reward of \$2,000 by Wang Xin in return.

13 The second occasion (forming the subject of the second charge) took place before a match against Gombak United Football Club played on 1 November 2007, for which the appellant had been selected to play in the first eleven as a centre forward. Before the match, Wang Xin approached the appellant and told him that they needed to lose the match by at least three goals. Although Wang Xin did not then mention how much the appellant would receive as a reward, it was not disputed that the appellant expected a reward similar to the one given on the first occasion. During the match, the appellant did not play to the best of his ability and LGFC lost by a score line of 5-0. A few days later, the appellant was given \$2,000 by Wang Xin; it was not disputed that he knew the money was a reward for his contributing to the defeat in the match against Gombak United Football Club.

14 The third occasion (forming the subject of the third charge) was in respect of a match against Albirex Niigata Football Club played on 12 November 2007. Again, the appellant was approached and followed Wang Xin's instructions (this time to lose the match by at least two goals) by not playing to the best of his ability. The appellant expected to receive a similar sum of \$2,000 as a reward. However, payment was not in fact made as the appellant was arrested on 14 November 2007.

15 Wang Xin absconded from the jurisdiction before he could be arrested.

The mitigation plea before the district judge

16 The mitigating factors raised before the district judge were: (a) the young age of the appellant (he was 27 years old); (b) he was an only child; (c) his conviction meant that he would be barred from playing football professionally forever; (d) he had co-operated with the police and pleaded guilty at the first available opportunity; (e) he was a first-time offender; and (f) he did not gain financially from the \$2,000 bribe as he was entitled to a \$1,200 bonus if LGFC won a match in which he played and a further \$1,200 if he played well. In effect, the appellant gave up \$2,400 to play well in order to be paid \$2,000 to play badly.

17 His counsel also submitted that the appellant had committed the offences out of fear of his manager, Wang Xin. Counsel pointed out that Wang Xin had absolute power within LGFC, having appointed the team coach and been given the mandate to select and sack the players. The appellant feared that he would be sacked and sent back to China if he did not follow Wang Xin's instructions. Indeed, he had been transferred to play football in Singapore precisely because Wang Xin had sacked eight players from LGFC in June 2007 and replacements were needed. Wang Xin also had control over the movements of the appellant as he had custody of the appellant's passport, work permit and bank book.

18 His counsel also submitted that the appellant feared for his family back in China as Wang Xin had repeatedly mentioned his triad connections in China. On numerous occasions, Wang Xin had apparently boasted to the appellant about the disappearances of those who had declined to follow his instructions.

19 Counsel referred to the unreported District Court case of *PP v Chow Kwai Lam* District Arrest Case No 31501 of 2006 ("*Chow Kwai Lam*") in which a football coach was sentenced to a fine of \$50,000 for offering a bribe of \$200 to \$300 to a player in Paya Lebar Punggol Football Club as an inducement for intentionally allowing the opposing team to score two to three goals in a match between that club and another football club. Counsel suggested that the present case was less serious since the appellant was neither a coach nor in a similar position of authority, and that therefore the appropriate sentence in this case was a fine of less than \$50,000.

The Prosecution's submissions before the district judge

20 The Prosecution did not make a submission on the sentence but clarified that *Chow Kwai Lam* was a case of attempted bribery where the player had reported the offender to the police before the match was played. It also pointed out that the appellant's offence involved a popular sport with a large following and that it had brought into disrepute the game of football in general and the S.League in particular (see *Kannan s/o Kunjiraman v PP* [1995] 3 SLR 757 at 763, [24] where Chief Justice Yong Pung How emphasised this point). The Prosecution also provided a list of sentences imposed in previous match-fixing cases for the district judge to consider.

The decision of the district judge

21 The district judge accepted the Prosecution's submission (see *PP v Zhao Zhipeng* [2008] SGDC 38 ("the GD") at [19]) that match-fixing offences would tarnish the reputation of the sport, the S.League and Singapore. At [20] of the GD, he referred to the following passage (by Yong Pung How CJ) in *Rajendran s/o Kurusamy v PP* [1998] 3 SLR 225 at [127]:

Corruption in soccer must never be condoned. The wider public interest justified a severe sentence meted out for offenders. In recent years, the S-league has gained prominence on the local football scene, and its coverage on local television has increased. What started out as an experimental football league for various local clubs in Singapore has now become much of an international affair of high standards, with many professional foreigners earning a living playing football in Singapore. Many people, including youngsters, look up to these footballers, local and foreign, as examples to follow. If I were to be lenient to any particular footballer, ... it would send out a wrong message, not only to potential footballers playing in Singapore that we are not tough on football crimes, but also in setting a bad example to football fans for not preserving the name of the game in the spirit of sportsmanship.

22 The district judge also accepted that deterrence was the predominant sentencing consideration here. He was of the view that the public interest in deterring match-fixing offences was in fact far greater today than in the earlier cases (at [21] of the GD), because:

The S-League has grown considerably since its beginnings in 1996. Matches now have an international dimension with the participation of both foreign players and foreign clubs. International interest is shown in the fact that Wang Xin could place bets on S-League matches with a website in China.

23 The district judge examined sentencing precedents which showed that S.League players had been sentenced to between five and six months' imprisonment for accepting bribes and throwing matches. These precedents are as follows:

(a) *Kannan s/o Kunjiraman v PP* ([20] *supra*): The first appellant was an ex-national player and committee member of Changi United Football Club. He was sentenced to 18 months' imprisonment and a penalty of \$5,000 under s 5(a)(i) of the PCA for corruptly receiving \$5,000 from a bookmaker as a reward for arranging an \$80,000 bribe to the goalkeeper of the Singapore team participating in the Football Association of Malaysia Premier League, to induce the goalkeeper to assist in reducing the winning margin of the Singapore team in its match against Perlis. The second appellant was the President of Changi United Football Club. He was sentenced to 30 months' imprisonment and a penalty of \$80,000 under s 5(a)(i) of the PCA, for receiving and keeping the \$80,000 meant for the goalkeeper.

(b) *Rajendran s/o Kurusamy v PP* ([21] *supra*): The first accused was a bookmaker. He was sentenced to a total of 18 months' imprisonment for promising to give gratification to a

football player in return for the football player arranging with his teammates to lose two football matches. The second accused was the bookmaker's employee who would pass the gratification (\$38,000 for the first match and \$3,000 for the second match) to the football player after each match. He was sentenced to a fine. The third accused was the football player's captain who agreed to take part in the arrangement. He was sentenced to a total of four months' imprisonment.

(c) *PP v Mirko Jurilj* District Arrest Cases Nos 36707–36709 of 2000: The accused was a foreign player in the S.League who agreed with another person to influence the results of S.League matches in return for the latter placing bets amounting to \$22,000 on the player's behalf on the outcome of the fixed matches. The accused was convicted of two charges under s 6(a) of the PCA and sentenced to five months' imprisonment on each charge, to run concurrently (*ie*, a total of five months' imprisonment).

(d) *PP v Lutz Pfannenstiel* District Arrest Cases Nos 36710–36712 of 2000: The accused was a foreign player in the S.League who agreed with another person to influence the results of S.League matches in return for the latter placing bets amounting to \$12,000 on the player's behalf on the outcome of the fixed matches. The accused was convicted of three charges under s 6(a) of the PCA and sentenced to a total of five months' imprisonment.

(e) *PP v Muhammed Hakim* District Arrest Cases Nos 2934 and 2935 of 2007 ("*Hakim*"): The accused was a professional football player who accepted gratification as an inducement to get a red card during a football match. He also offered gratification to another professional football player as an inducement to get a red card during the same match. The accused was sentenced to two terms of six months' imprisonment, to run concurrently (*ie*, a total of six months' imprisonment).

(f) *PP v Chow Kwai Lam* ([19] *supra*): The facts of this case have been described at [19] above.

The district judge regarded *Hakim* as reflecting a recent (and therefore more accurate) assessment of the seriousness of the pertinent offence, and reasoned that the appellant's offence was more serious than that of bribing someone to get a red card (see the GD at [32]). He distinguished *Chow Kwai Lam* on the ground that in that case no match was actually lost as a result of the accused's corrupt acts as the player had reported the accused to the authorities.

24 The district judge also noted that the TIC charges showed that the offence was not an isolated one. Thus, he felt that this was an appropriate case where the sentence should be enhanced in view of the TIC charges (at [37] of the GD).

25 As for the mitigating factors, the district judge took into account the appellant's co-operation with the CPIB and his plea of guilt. However, he was not favourably impressed by the arguments in respect of the appellant's fear of Wang Xin. He noted that the fear of losing a job was never a valid reason for committing an offence. He further reasoned that the fact that the appellant accepted the money suggested that what he had done was of his own volition and done without a guilty conscience (at [33] of the GD).

26 The district judge also rejected the submission that the appellant had not benefited from losing the matches. His view was that this was not a factor that reduced the seriousness of the offence. He pointed out that there was no guarantee that LGFC would win or that the appellant would be given an individual bonus even if he had played to the best of his ability.

27 For all these reasons, the district judge sentenced the appellant to seven months' imprisonment and a penalty of \$4,000.

This court's decision

Deterrence

28 I endorse the approach that deterrence is the most appropriate and therefore the dominant sentencing principle in match-fixing offences. In my view, it is particularly appropriate in the context of match-fixing in the S.League, as I will elaborate in [30] to [32] below. In many corruption cases, the need for specific deterrence may be absent, depending on the role of the defendant, his culpability and the social harm that might be caused. In the present case, for instance, the appellant will not be able to offend again in Singapore as he will be repatriated to China. He might not even be able to re-offend in China if he is banned from playing professional football because of his conviction here. Nevertheless, there is clearly a need to impose a sentence which would act as a general deterrence against corruption in football games in Singapore.

29 The game of football, whether played by amateurs or professionals, provides particularly fertile ground for the growth of corruption among coaches, players and even officials. Since 1995, more than 15 players, officials, bookmakers and a referee have been convicted of match-fixing offences. The cases set out at [23] above demonstrate the different types of corrupt practices that can be perpetrated by officials, coaches, players and bookmakers alike. Some players are bribed to lose (or "throw") matches, or to lose matches by a certain margin; others to use extra effort to win matches, or to win matches by a certain margin. Players have even been bribed to commit fouls and get themselves "red-carded" and sent off the pitch (resulting in a weakened team playing against a stronger team). Bets are then placed on every kind of event or outcome, not only by the offerers of the bribes but sometimes even the recipients of the bribes. The only winners are the match-fixers. The losers are the innocent betting public as well as the S.League.

30 The aims of the S.League are admirable. Its mission statement reads as follows:

TOWARDS THE PROMOTION OF FOOTBALL EXCELLENCE IN SINGAPORE

To raise the quality of football to fully professional standards whilst instilling and promoting the ideals of sportsmanship and fair play

TOWARDS GREATER OPPORTUNITIES FOR FOOTBALL PROFESSIONALS

To provide a rich and fulfilling environment to enable football players and coaches to build a strong base of quality talent to compete internationally as well as gain recognition for the sport as a worthwhile career

TOWARDS A REGIONAL COMMUNITY-BASED FOOTBALL ENVIRONMENT

To raise, encourage and nurture community awareness and participation by providing high quality football worthy of community pride and loyalty

TOWARDS THE DEVELOPMENT OF YOUTH IN THE LOCAL FOOTBALL SCENE

To support the regional football clubs in their youth development programmes with a commitment to promote budding footballers and honing their skills and knowledge of football.

Apart from avid football fans, the general community has an interest in preserving football as a professional sport in Singapore for its social, recreational and economic value. It gives many economically disadvantaged youths the opportunity to use their football skills to become gainfully employed and to become useful members of society.

31 If corruption in the S.League is not checked, it will eventually destroy the reputation and commercial viability of the S.League. The demise of the S.League will be a great loss to its spectators, but more importantly will hamper the development of international football in Singapore.

32 Thus, those who seek to undermine the integrity of the S.League by engaging in, or assisting others to engage in, corrupt acts for monetary gain by "fixing" tournament matches must be deterred from doing so by appropriate deterrent sentences, either in the form of a heavy fine and/or custodial sentence. It is noted in *Sentencing Practice in the Subordinate Courts* (LexisNexis, 2nd Ed, 2003) at p 814 that:

In deciding if the custody threshold has been breached, the main determinant would be the mischief or likely consequence of the payment or acceptance of the bribe (eg did the corruption undermine the administration of justice, etc).

In the majority of cases cited in [23] above, custodial sentences have been imposed for match-fixing offences.

33 I agree with the district judge that the internationalisation of the S.League means that the public interest in deterring match-fixing offences is in fact far greater than in the earlier cases (see the GD at [21]). The S.League is a very young football league created for the purpose of raising the standard of football in Singapore, so that Singapore may create a name for itself in the international football scene. Initially, only foreign players were invited to play for the local clubs but foreign teams have now been participating in the S.League since 2003. The first foreign team (Sinchi Football Club from China, now defunct) only joined the S.League in 2003. Since then, four more foreign teams joined the league: Sporting Afrique from Africa (now defunct), Super Reds from Korea, Albirex Niigata from Japan and LGFC. This development has raised the international profile of the S.League, a factor the district judge took into account in imposing a custodial sentence of seven months.

34 Although the Prosecution did not provide any statistics on the size of the S.League's international fan base, it is reasonable to conclude that the presence of foreign teams and foreign players would generate greater interest among the international football community as to the prospects of playing in the S.League, as well as among the international betting community (as evinced by the creation of overseas websites that allow betting on S.League match results). Accordingly, I accepted the Prosecution's submission that match-fixing in the S.League now has the potential not only to stunt its organic growth as a healthy national football league, but also to damage the international profile of Singaporean football. I also found persuasive the argument that the impact of match-fixing on Singapore's international reputation must be viewed in the context of our nation's present drive to be a prime venue for prestigious international sporting events, such as the Formula One Grand Prix taking place in September 2008 and the Youth Olympic Games in 2010. On this basis, the public interest in sending out a strong signal about our stance against corruption has become even more urgent, since the potential impact of any damage to our image and reputation would be greater.

Sentencing precedents

35 The sentencing precedents demonstrate the courts' keen sensitivity to the relative culpability

of match-fixing offenders, in imposing sentences that have been finely calibrated to reflect the offenders' roles in the match-fixing and what they stood to gain. Cases on match-fixing typically involve three kinds of actors: the *giver*, the *conduit* and the *recipient* of the corrupt gratification. In principle, all of them bear equal responsibility for the offence (see *Sentencing Practice in the Subordinate Courts* at p 814, quoted at [37] below), but practical considerations sometimes determine who is charged and who is not charged by the Prosecution, eg, where the recipient is a public servant and the giver is a member of the public whose evidence is essential to the conviction of the public servant for demanding a bribe for performing his public duty. However, when it comes to sentencing, the focus should be on the degree of culpability of the particular offender in bringing about the match-fixing (see *Sentencing Practice in the Subordinate Courts* at p 814, quoted at [37] below). The sentencing precedents demonstrate that the status and position of the offender will affect the gravity of the sentence imposed on him (see the cases cited at [23] above).

36 I do not propose to go into the fine details of these precedents except to mention that the principal culprit, Wang Xin, has fled the jurisdiction and that I am concerned with the corrupt acts of his underling. On the basis of the sentencing precedents (see [23] above), the sentence of seven months' imprisonment imposed on the appellant was not manifestly excessive and would have been warranted but for the mitigating factor (discussed at [37]–[39] below) to which the district judge did not give sufficient weight. This factor was the precarious employment position of the appellant *vis-à-vis* his manager, Wang Xin, who had the power to deprive the appellant of the means to earn a decent living in Singapore as a professional football player. Furthermore, the appellant had arrived in Singapore for a bare five months when he was first approached by Wang Xin in October 2007. While these considerations would not excuse his offence or affect the type of sentence he deserved, they would affect the severity of the type of punishment meted out to him.

Mitigating factor: The appellant's fear of Wang Xin

37 The law has always recognised that motive affects the degree of an offender's culpability for sentencing purposes. Persons who act out of pure self-interest and greed will rarely be treated with much sympathy; conversely, those who are motivated by fear will usually be found to be less blameworthy. In Nigel Walker & Nicola Padfield, *Sentencing: Theory, Law and Practice* (Butterworths, 2nd Ed, 1996) at para 4.17, it is pithily stated that: "Motives matter: some are more disapproved than others. Greed is worse than need." In Nigel Walker, *Aggravation, Mitigation and Mercy in English Criminal Justice* (Blackstone Press Limited, 1999), it is stated (at p 103) that:

Motives for law breaking are usually of the aggravating kind, but occasionally they mitigate. Fear excites sympathy (except perhaps in courts-martial) and, when self-defence or duress ... is successfully pleaded, can excuse completely or mitigate heavily.

38 In the present case, the greed motivating the offence stemmed mainly from Wang Xin who used his dominion over the appellant to exert pressure on the appellant to act in a manner that would assist his betting activities in China (see [11] above). The Prosecution does not dispute that the appellant's livelihood in Singapore depended largely, if not entirely, on Wang Xin. Counsel for the appellant tendered a letter from Steven Lee which revealed that, unlike other S.League clubs in Singapore, there was no executive committee or other similar entity to manage LGFC. Wang Xin, who had been directly hired by the owner and founder of the club, made all the important decisions himself, including the hiring and firing of coaching staff and players, as well as disciplinary decisions. In other words, LGFC was effectively controlled by Wang Xin.

39 Further, the evidence shows that the appellant lived together with all the other LGFC players and coaching staff in five apartments in Serenity Park, with Wang Xin's apartment doubling as the

club's office where meetings and discussions on club matters were often held. Meals were provided by a cook from China and buses ferried the players to and from training and matches. Far away from his usual support networks (*ie*, his friends and family in China) and cloistered in a world dominated by Wang Xin's presence, the appellant's sense of isolation and fear of antagonising Wang Xin were understandable. Although not amounting to the kind of duress that would exonerate him from guilt, this kind of environment would have affected his capacity for independent action. In such circumstances, I was of the view that the appellant's culpability was at the lower end of the scale and that it warranted a reduction of two months in the custodial sentence imposed on him.

Concerns regarding foreign clubs in the S.League

40 Earlier, I referred to the recent internationalisation of the S.League which has boosted public interest in professional football and made the local football scene more vibrant and dynamic. However, this case highlights the potential danger of allowing foreign clubs into the S.League without introducing proper checks and balances to guard against the abuse of powers by the owners and/or managers of such football clubs. Foreign players whose livelihoods depend on such owners and/or managers can easily be persuaded or even threatened to abet the latter in benefiting from betting on the results of S.League matches. FAS, as the governing body of the S.League, has oversight and stewardship of the foreign football clubs and therefore bears a special responsibility to ensure that they do not introduce and breed corruption into the S.League.

41 The S.League Rules (see [9] above) contain an elaborate structure of rules and regulations governing the participation of foreign players and teams in the S.League. Players have to abide by a Code of Conduct (see [9] above) which they must sign. With respect to corruption, para 5.1 of the S.League Rules provides as follows:

5.1 Corruption: What You Need To Know

- (a) All Clubs shall have in their possession a copy of the document titled "Corruption: What You Need To Know" (hereinafter "the Corruption Document").
- (b) Prior to the signing of the Players' Code of Conduct, a Club representative is to brief all Players thoroughly and clarify all existing doubts about the Players Code of Conduct as well as the Corruption Document.
- (c) A copy of the Corruption Document must also be extended to all Players.

42 However, this elaborate structure of rules and regulations was not sufficient to prevent the match-fixing by Wang Xin because FAS had little effective control over the foreign players brought in by LGFC. The example of LGFC shows that it is entirely possible for a foreign club to be managed and run on a daily basis by persons from the club's country of origin in the manner of a private fiefdom without any kind of meaningful oversight by the FAS. In such a situation, managers of such clubs may be able to wield a disproportionate influence over their players. Individual formalistic measures such as the compulsory Code of Conduct may not be enough to neutralise such influence. Thus, while the courts should recognise the need for general deterrence, they should also take into account the specific circumstances in which the offence took place. I expect that, as a result of this case, the FAS would have taken, or would be taking, steps to strengthen its supervisory structure so as to reduce the opportunities for managers and players, particularly foreign ones, to corrupt the S.League.

Conclusion

43 The appellant was a mere passive participant in the match-fixing offences and the sums which he received (amounting to \$4,000) were among the lowest received by those convicted of match-fixing (see the cases at [23] above). He committed the offence out of fear of Wang Xin rather than pure personal greed. However, I was also mindful of the increased international dimension of the S.League and the greater public interest in sending out a strong signal against corruption. In the result, I concluded that the appropriate discount in the appellant's sentence was two months. The appellant's sentence was thus varied to five months' imprisonment with the penalty of \$4,000 remaining intact.

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