

Public Prosecutor v Ong Tze Boon
[2016] SGDC 95

Case Number : TP 141020229811, MA 018/2016/01

Decision Date : 22 April 2016

Tribunal/Court : District Court

Coram : Carol Ling Feng Yong

Counsel Name(s) : DSP Toh Hock Guan Francis, for the Prosecution; Teo Choo Kee, Messrs C K Teo and Co, for the Accused

Parties : Public Prosecutor — Ong Tze Boon

22 April 2016

District Judge Carol Ling Feng Yong:

The Accused, 48 years old, pleaded guilty to a charge under section 65(b) of the Road Traffic Act (RTA), Chapter 276, in that he:

".....did drive motorcar SJP 8123Z, at the junction of River Valley Road by Hoot Kiam Road, Singapore, without reasonable consideration for other persons using the road, to wit, by failing to conform to the red light signal whilst going straight along River Valley Road by Zion Road, and resulting in a collision with motor taxi SHC 2261P, which was travelling from [his] left to right along Zion Road.....".

2 This offence under section 65(b), RTA is punishable with a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 6 months or to both.

3 I fined the Accused a sum of \$800 (in default 5 days' imprisonment) and imposed a disqualification of 3 months on all classes of licences on him. The Accused is dissatisfied with the order of disqualification and is appealing against it.

Facts

4 This accident happened on 13 April 2014, at about 6:19 am.

5 When the Accused failed to conform to the red light signal as he was driving his vehicle, going straight along River Valley Road, it resulted in a collision with a taxi which was travelling from the Accused's left to right along Zion Road. The in-car video footage from the taxi showed that the taxi was proceeding straight across the junction

on a green light in his direction. On impact, the traffic light was still showing red in the direction of travel of the Accused. There was no report of any malfunction of the traffic lights at the junction.

6 As a result of the collision, the taxi driver, a 44 year-old Mr Hong Wai Kit, suffered muscle sprains on his neck, right shoulder and right lower back. He sought his own medical attention and was given 3 days of medical leave. Where property damage was concerned, the front portion of the taxi was damaged. As for the Accused's vehicle, it was dented in the front.

7 At the time of the accident, the weather was fine and road surface was dry. Traffic flow was light and the visibility was clear.

Mitigation

8 The Accused, a first offender, through his Defence Counsel, informed the Court he had slowed down as he approached the junction. As far as he could remember, the traffic light signal was green. At paragraph 6 of the mitigation, the Defence Counsel stated that the Accused "*was paying close attention to the people milling at the left side of the road ahead*". As he travelled across the junction slowly, he heard a screeching sound and noticed a vehicle coming from his left (Zion Road). The Accused swerved to the right but could not avoid the collision. Accused "*was distracted by the people milling on the other side of River Valley Road and he might not have noticed that the traffic light had turned red for his side when he entered the junction*".

9 Defence Counsel mitigated that the accident had occurred due to a momentary lapse in observation and emphasized that the Accused was not driving recklessly or taking unnecessary risks. The Accused had always been a careful and skilful driver. He was not speeding. Counsel added that ironically, the Accused was trying to be careful and was looking out for people along the road side before he entered the junction. The Accused knows he could have kept a better look out and is sorry for what had happened.

10 In seeking to persuade the Court not to impose a disqualification on the Accused, Defence Counsel informed the Court that the Accused, a person actively involved in social and charitable causes, drives everywhere to attend to his busy itinerary of work, social and community activities. Driving himself around saves him valuable time. Defence Counsel submitted that the Accused's work and philanthropic activities would be seriously hampered if the Accused were to suffer a driving disqualification.

11 Lastly, Defence Counsel stressed that there were no aggravating factors and that the Accused's driving was not so grossly inattentive or inconsiderate as to warrant any punishment other than an appropriate fine.

The Order of Disqualification

12 The Prosecution had no submission on sentence. In addition to the fine of \$800, I ordered the Accused to be disqualified from driving for a period of 3 months. Even though not mandatory, I was of the view that a term of disqualification was necessary as part of the sentence to be imposed for this offence.

13 The discretion to impose an order of disqualification is derived from Section 42 of the Road Traffic Act. Section 42, RTA states that a court may order a disqualification on a person who "*is convicted of any offence in connection with the driving of a motor vehicle*". In considering the appropriate sentence for a person convicted of any offence connected with the driving of a motor vehicle, it must be accepted that the statute provides for an order of disqualification to be a clear sentencing option for a court dealing with driving offences. This should also

be the realistic expectation of accused persons as they come before the Court on a charge connected with the driving of a motor vehicle – that an order of disqualification may certainly be an integral component of the total sentence which the Court may eventually impose.

14 Whilst the sentence of a fine or a jail term when meted out for these offences will certainly serve its objective, it has been suggested that an order of disqualification is a power which may be “*employ[ed] more frequently, since it is disqualification which the motorist fears rather than a fine. Disqualification serves a double purpose, in that it is firstly, the punishment most feared by the motorist and therefore the most effective deterrent, and secondly, it keeps the careless of dangerous driver off the road for a period and does that practical amount of good*”.^[note: 1]

15 A similar sentiment was expressed in the case of Public Prosecutor v Mohd Isa [1963] MLJ 135. This was a case which involved a mandatory 1-year disqualification period. Judge Thomson CJ ended his oral judgment with these words: “*.....in my experience the most satisfactory penalty for most motoring offences is disqualification. A fine is paid once and then forgotten. A disqualification means that for 365 days, the accused person is reminded every morning that it is a bad thing to break the law and so where an order for disqualification is made, except of course in serious cases of being drunk in charge or dangerous driving, the quantum of the monetary penalty imposed is of minor importance*”.

16 The fact that the Accused in this present case has chosen to appeal only against the disqualification period imposed on him, is testament of the correctness of the views held above.

Should the Accused be disqualified?

17 It is imperative for a motorist to obey traffic light signals. This must be one of the most fundamental rules of driving for any motorist. A simple obedience to traffic light signals by motorists is crucial in ensuring traffic order on the roads. In this case, the offence of driving without reasonable consideration committed by the Accused involved an illegality, that of failing to conform to a red light signal, which resulted in a collision with a vehicle who had the right of way. I share Defence Counsel’s thoughts, that fortunately, the taxi driver in this case suffered only slight injuries in this accident.

18 I was not particularly impressed with the reasons the Accused gave for his failure to conform to the red light signal. The Accused himself stated that he was familiar with this road as he takes this route to Mount Faber for his training every Sunday morning at about 6 am. Instead of keeping a look-out for the traffic lights as he approached them, being well-aware of them, he allowed himself to be distracted by the people milling on the left side of the road and failed to notice the red traffic light signal in his direction of travel.

19 Beating a red light is a non-excusable conduct by any motorist, regardless of the reason. As recognised, “*driving is an inherently dangerous activity. It is also a privilege accorded to persons, who through a series of properly administered tests, have demonstrated that they are capable of meeting the standards expected of a reasonably competent driver. Hence, when [one] elects to drive a vehicle, they should expect the law to hold them to these standards*”^[note: 2], with obeying a traffic light signal being one of the most basic expectations.

20 A disqualification order combines three sentencing objectives: punishment, protection of the public and deterrence^[note: 3]. In the present case, I was of the view that a term of disqualification was warranted. Deterrence would be one of the key objectives in sentencing offences of this nature and an order of disqualification would meet that objective aptly. Section 65(b), RTA provides for a maximum fine of \$1000 or to imprisonment for a term not exceeding 6 months, or to both. Given the facts of this case, a fine would suffice. An \$800 fine, as the one I

have imposed, may be "*paid once and forgotten*". It would be the disqualification, with its attendant inconvenience and costs, that would serve to emphasize to the Accused the need to be a more careful and responsible driver on the roads in future.

Conclusion

21 Considering the totality of circumstances of this case, I imposed a 3-month disqualification on the Accused, apart from the \$800 fine. It is a term of disqualification sufficient to achieve its sentencing objectives, yet not too punishing on the Accused. This term of disqualification is within the range of terms of disqualification generally imposed in the Traffic Court for plead-guilty cases of a similar nature under section 65(b) of the RTA. The sentences imposed in such cases are finely distinguished by the presence of any aggravating or mitigating features, including the injuries of the victims involved.

22 The Accused's driving ban has been stayed, pending the hearing of the appeal, or until such time the appeal lapses.

[note: 1]Public Prosecutor v Chiam Liang Kee [1960] MLJ 163

[note: 2]Jali bin Mohd Yunus v PP [2014] 4 SLR 1059, at para 36

[note: 3]Edwin s/o Suse Nathen v Public Prosecutor [2013]4 SLR 1139, para 13

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