

Lim Chin Yen v Public Prosecutor
[2009] SGHC 78

Case Number : MA 197/2008
Decision Date : 03 April 2009
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Spencer Gwee Hak Theng (Spencer Gwee & Co) for the appellant; Lee Lit Cheng (Deputy Public Prosecutor) for the respondent
Parties : Lim Chin Yen — Public Prosecutor

Criminal Procedure and Sentencing

3 April 2009

Judgment reserved

Choo Han Teck J:

1 The appellant was convicted of two charges of cheating, an offence punishable under s 420 of the Penal Code (Cap 224, 1985 Rev Ed) and seven charges of attempted cheating, punishable under s 420 read with s 511 of the Penal Code, at the end of a trial. She was sentenced to a total of ten months' imprisonment. She appealed against her conviction and sentence.

2 The background facts can be found in the grounds of decision of the District Judge, *viz*, *PP v Lim Chin Yen* [2008] SGDC 339. The appellant was accused of cheating a Statutory Board, *viz*, the Standards, Productivity and Innovation Board (SPRING Singapore). SPRING Singapore administered a scheme, that is the Local Enterprise Technical Assistance Scheme (LETAS), in which small and medium enterprises could obtain, from SPRING Singapore, up to 50% of the cost of a consultancy project. In order to be eligible for the LETAS grant, an application had to be submitted to SPRING Singapore for its approval of the project to be carried out. In this application, the applicant and the consultant would provide information about the company, the objectives and duration of the project and the consultancy fees involved. Both the applicant and the consultant would have to declare that the facts and information provided in the application were true. If the proposed project was approved, SPRING Singapore would inform the applicant and the consultant of the amount of money that could be claimed by the applicant for the project. Before a claim could be made, the project would have to be completed and the applicant would have to make full payment to the consultant. The applicant would also have to submit a claim form that had to be accompanied by a report prepared by the consultant company, setting out what was done and achieved under the project, with supporting documentation evidencing full payment. To prevent over-declaration of the cost of the project in order to obtain a higher grant, the applicant and the consultant were required to declare in the claim form that the consultant company did not and would not be giving any refund or rebate to the applicant for the project.

3 The appellant was the sole proprietor of Review Communications. She was also a director and shareholder of MediaBank Asia Pte Ltd ("MediaBank"). Both Review Communications and Mediabank share the same premises. The nine charges relate to applications for the LETAS grant by nine different applicants. Review Communications was the consultant company in all these cases. In eight of the charges, the appellant was accused of making false declarations, stating that the project in question had been completed, overstating the scope of the project in question, and declaring that no refund of any moneys had been made. In relation to the remaining charge, she falsely declared that

she had not refunded any money to the applicant.

4 The evidence relating to each of the cheating charges showed a common *modus operandi*. The appellant or an employee of Review Communications and Mediabank, one Johnny, would tell the applicants about the LETAS grant and would inform them that they would be able to have websites built or upgraded for free or at a small fee. The applicants were told that they need not pay anything, or at most, a small fee, as they would only be required to pay over the LETAS grant disbursed by SPRING Singapore as payment. The project proposals submitted to SPRING Singapore in support of the applications were exaggerated so as to justify a higher project cost. An inflated project cost was reported to SPRING Singapore in all the applications. All the projects were said to cost \$22,000, regardless of the size and nature of the applicant's business. Based on the reported cost, a grant of over \$9,000 was approved in each case. Following the approval of the grant, the Appellant would send a quotation for the grant sum to the applicant in question from Mediabank for services which overlapped in scope with the project purportedly undertaken by Review Communications for which the grant was given. This was the basis for the later transfer of the grant sum to Mediabank. In the meantime, the applicant was asked to pay Review Communications the sum of \$22,000. Once that was done, the Appellant would refund either the whole of the \$22,000 or \$22,000 less a small payment or deposit to the applicant by way of cheques from Mediabank or personal cheques from the appellant. The refund was disguised as payment by Mediabank to the applicant in question for either Mediabank's web banner being placed on the applicant's website, or for a recycling project, or as a refund for the cancellation of an exhibition. All of the applicants testified that the \$22,000 from Mediabank was meant to be a refund of the same amount that they had paid to Review Communications for the purpose of obtaining the LETAS grant.

5 The evidence established clearly the *actus reus* required for the offence of cheating. That said, the remaining issue would be whether the requisite *mens rea*, of dishonesty, was present. In this respect, there was nothing to refute the clear inference to be drawn from the acts of the appellant, namely, that she had intended to cause SPRING Singapore to pay out various sums of money under the LETAS scheme which it would not otherwise have done. Counsel for the appellant, Mr Gwee, attempted to portray the appellant as a simple-minded person who had no intention to commit the offence of cheating. The objective facts indicate otherwise; in particular, the complex *modus operandi*. The appellant had clearly intended to manipulate the system in an illegitimate way. There was thus no basis for me to interfere with the conviction.

6 Having regard to sentencing precedents, the elaborate nature of the scheme, the significant role of the appellant, and the various mitigating factors, I am of the opinion that the sentence imposed by the District Judge was not manifestly excessive.

7 For the above reasons, the appeal is dismissed.

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