

Public Prosecutor v Andy Sofiaan bin Rahmad
[2000] SGHC 167

Case Number : Cr Rev 8/2000
Decision Date : 14 August 2000
Tribunal/Court : High Court
Coram : Yong Pung How CJ
Counsel Name(s) : Daniel Yong (Deputy Public Prosecutor) for the petitioner; Rashidah Saheer (Surian & Partners) for the respondent
Parties : Public Prosecutor — Andy Sofiaan bin Rahmad

Criminal Procedure and Sentencing – Sentencing – Reformatory training – Order for reformatory training falls consecutive to previous term of reformatory training – Whether new sentence should commence on date of conviction for new charges – Whether new sentence, contrary to aim of reformatory training – Sch D para 4 Criminal Procedure Code (Cap 68, 1985 Rev Ed)

: Before district judge Kow Keng Siong on 16 February 2000, the respondent pleaded guilty to four charges, namely, one count of vandalism under s 3 of the Vandalism Act (Cap 341), committed when he cut his Electronic Monitoring Scheme (`EMS`) tag, and three counts of failing to report for urine testing contrary to reg 15 of the Misuse of Drugs (Approved Institutions and Treatment and Rehabilitation) Regulations 1976. The district judge sentenced him to reformatory training and ordered that the sentence commence on the same date as the respondent`s prior term of reformatory training. The Public Prosecutor brought a petition for revision for the sentence to commence on the date of conviction of the present charges, 16 February 2000. Before me, counsel for the respondent submitted that she was instructed not to oppose the petition. Nevertheless, I have set out these grounds to provide some clarification on the issues before the court.

Background

The case on revision concerned offences committed while the respondent was undergoing supervision following his release from the reformatory training centre (`RTC`). The respondent was first sentenced to reformatory training for offences relating to robbery and misuse of drugs on 10 March 1997. He served 31 months and 24 days of this sentence before being released from the reformatory training centre into aftercare supervision on 3 November 1999. This supervision was to expire on 9 March 2001. Pursuant to para 13, Sch D of the CPC, two of the conditions of supervision were that the respondent agree to be subject to urine tests as directed by his aftercare officer and that the respondent abide by the EMS agreement.

The respondent failed to present himself for urine testing on 3, 5 and 7 January. On 9 January 2000, he cut off his EMS tag. In addition, he had breached other conditions of his release with regard to his employment, curfew hours at home and reporting to his aftercare officer. On 13 January 2000, the respondent was remanded at Queenstown Remand Prison on the present charges. An Order for Recall to the reformatory training centre was subsequently issued on 25 January 2000. The respondent pleaded guilty to the present charges on 16 February 2000.

The petition for revision

I allowed a similar petition for revision on 6 April 2000 and this is reported at **PP v Mohamed Noor bin Abdul Majeed** [2000] 3 SLR 17. In that case, I referred to the reformatory training regime provided

in Sch D of the CPC, and referred specifically to para 4 of that Schedule, which reads:

If any person while under supervision, or after his recall to a reformative training centre, as aforesaid, is sentenced to corrective training or reformative training his original sentence of reformative training shall cease to have effect; and if any such person is so sentenced to imprisonment, any period for which he is imprisoned under that sentence shall count as part of the period for which he is liable to detention in a reformative training centre under his original sentence.

I found that para 4 applied to fact scenarios such as that of the present petition where a respondent was sentenced for offences committed during the supervision period following release from RTC. It was clear that in such circumstances, the existing RTC sentence `ceased to have effect` and the new RTC sentence should commence on the date of his conviction of the fresh offences.

However, some clarification is needed on the authorities discussed. The district judge in **PP v Mohamed Noor** had relied on **Ng Kwok Fai v PP [1996] 1 SLR 568** as holding any imposition of consecutive orders of reformative training to be inappropriate. Hence the order that the second sentence of reformative training was to commence on the same date as the first. In distinguishing **Ng Kwok Fai**, greater emphasis should be placed on the practical implications of these different fact patterns. In **Ng Kwok Fai**, I expressed the view that a sentence of imprisonment immediately consequent to reformative training would run counter to the aim of reformative training as it could undo what the reformative training was meant to do. I also held that consecutive terms of reformative training were not desirable, and hence ordered the second reformative training sentence imposed in **Ng Kwok Fai** to commence on the same date as the first.

This is to be distinguished from the fact sequence in cases such as **Mohamed Noor** and the present petition, where RTC sentences are ordered for offences committed while the respondent is under supervision post-RTC release. In these cases, the fact that an order for reformative training falls consecutive to a separate term of reformative training does not run counter to the aim of reformative training. This is because it is ordered after the respondent has substantially performed one sentence of reformative training. In other words, it is after the respondent has been given sufficient opportunity to benefit from reformative training. Paragraph 4 of Sch D provides that in such instances the first term of reformative training then ceases to have effect. It then falls to judicial discretion whether or not to order reformative training or imprisonment for the fresh charges. The fact of having committed offences while on supervision may indicate the success or otherwise of reformative training on the particular respondent and perhaps his personal resolve to `turn over a new leaf`. If the conviction so warrants, the court may order imprisonment. In this case, on the respondent`s charge of vandalism, he was liable to a fine of up to \$2,000 or imprisonment of up to three years and caning of not less than three strokes and not more than eight strokes. The court below was of the view that reformative training remained appropriate for the respondent. Furthermore, I noted the respondent`s submissions in mitigation and his father`s involvement in the present application provided encouraging signs not to disturb the order for reformative training.

Conclusion

For these reasons, I allowed the Public Prosecutor`s petition and revised the sentence of reformative training to commence on 16 February 2000.

Outcome:

Petition allowed.

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