Kwan Peng Hong v Public Prosecutor
[2000] SGHC 164

Case Number : MA 82/2000

Decision Date : 11 August 2000

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : Ramesh Tiwary (Leo Fernando) for the appellant; Kan Shuk Weng and Gilbert Koh (Deputy Public Prosecutor) for the respondent

Parties : Kwan Peng Hong — Public Prosecutor

Criminal Law – Offences – Criminal force – Outrage of modesty – Accused touching complainant's breast – Whether offence proved beyond reasonable doubt – s 354 Penal Code (Cap 224, 1985 Rev Ed)

Criminal Procedure and Sentencing – Sentencing – Criminal force – Outrage of modesty – Benchmark sentence when private parts intruded – Whether sentence of ten weeks sufficient punishment

Evidence – Witnesses – Female witnesses in sexual offence cases – Whether evidence of female victim should be treated with special legal status

Evidence – Corroboration – Lack of corroboration in sexual offence case – Whether corroborative evidence required to justify conviction – Whether evidence unusually compelling or convincing

: Although this was a minor molest case, the appeal raised significant legal issues. Counsel based the appeal on the lack of corroborative evidence, the way the court ought to treat the female complainant`s evidence, how caution ought to be exercised in treating such evidence and whether the case had been proven beyond reasonable doubt.

The complainant`s allegation was that the appellant touched the side of her right breast on a bus. The whole case turned on pure issues of fact. It boiled down to whose evidence to believe, the female complainant`s allegation or the male appellant`s bare denial of the offence. The trial judge, Audrey Lim, went for the complainant, finding her much more credible than the appellant. He was convicted and sentenced to ten weeks` imprisonment.

After going through the record of proceedings and hearing the submissions from counsel for the appellant, I found no compelling reason, either on facts or law, to overturn the conviction or to regard the sentence as manifestly excessive. I dismissed the appeal and affirmed the sentence.

The facts

As the whole case turned on issues of fact, I shall lay out the facts in detail here. There was a single charge under s 354 of the Penal Code (`PC`) against the appellant, for outraging the complainant`s modesty by touching the side of her right breast. The date, time and place of the incident, as well as the identification of the appellant, were not challenged. The defence was a bare denial of the offence.

The complainant was a student. The appellant was then a treasury officer with a bank. They had not met before the incident. On that day, the complainant boarded a double-decker bus (`the bus`). She took a right window seat on the upper deck. During the journey, the complainant was listening to her portable radio with earphones. She felt two touches before she became more alert. She confronted

the appellant on the third touch.

The complainant described the first touch as a `soft touch`. It was over the side of her right armpit towards the breast area. There was no movement and it lasted approximately four to five seconds. Thinking that it was an insect or the wire of the portable radio, she shuffled a little and adjusted herself.

The second touch happened some five to ten minutes later. Again, it was a soft touch, lasted about five seconds, and with no movement. She turned her head towards the area touched and saw a shadow from behind `pulling back`. She said the touch felt like it was by a hand. As she now suspected that it was the passenger seated behind her, she became more alert.

Within five minutes, the same touch came again, with the same sensation, at the same place. It did not last very long. When she felt it, the complainant immediately turned her head around. She saw a hand pulling back from the gap between her seat and the window, and that it belonged to the passenger sitting behind her, the appellant. She said the appellant was then leaning slightly forward, and when he pulled his hand back, he moved backwards leaning towards his seat.

She immediately stood up and asked him what he was trying to do. The appellant replied that he `just got excited`. The appellant however subsequently denied saying this. Shocked by the reply, she sat down and loudly told the appellant not to touch her again. She felt scared and angry. A male passenger across the aisle then told her to lodge a police report. The prosecution was unable to produce this male witness.

The appellant`s testimony was that during the bus journey, his mind was preoccupied with two things, namely, the currency exchange position that he had just created earlier in the morning, and the briefing which he was to give his colleagues later that morning. He said he was seated in a slouched position, with his knees propped up against the back of the complainant`s seat. He said he was holding his pager throughout the bus journey, with his hands resting on his laps, monitoring the foreign currency rates and various stock indexes.

The appellant said that, when he was confronted by the complainant, he thought that she was annoyed with him as he had propped his knees against her seat, or that his knees had clipped her hair in the process. He thus apologized to her. However, the appellant could not recall whether his knees had indeed clipped her hair. The complainant denied ever feeling that her hair had been clipped.

I found the trial judge`s reasoning on this much more convincing. If indeed the complainant`s hair was clipped or the appellant`s propping up his knees behind her chair had made her uncomfortable, the feeling of discomfort would have been on a completely different area of the body, certainly not the side of the right breast.

After the confrontation, the complainant walked downstairs to the bus driver, Lim, and informed him that she had been molested and asked him to send her to the nearest police station to lodge a report. Lim testified that she was very angry. At that point, the bus had already passed the nearest police station. Lim then stopped the bus and told her to borrow a handphone to call the police instead.

Meanwhile, the appellant came downstairs and tried to explain that it was all a misunderstanding. However, the complainant proceeded to ask the other passengers in the bus for a handphone to call the police. No one could lend her a handphone. Finally, the appellant offered his handphone to her. She took it from him and dialed for the police, told them her location, that she had been molested and

that the offender was a Chinese. Lim testified that she was very angry throughout.

By then, the passengers in the bus were getting impatient with the delay. They wanted both the complainant and the appellant to get off the bus so that the rest of the passengers would not be held up for work. Lim opened the rear door, and some passengers alighted. The appellant asked the complainant to alight with him to settle the matter between themselves. She refused as she was afraid to deal with him alone. When the appellant alighted subsequently, the complainant followed him, fearing that he might run away.

At the bus-stop, the appellant told the complainant that he did not touch her breast and that she must have made a mistake. While waiting for the police to arrive, the appellant asked her whether she had informed the police of the right location. To that, she answered yes.

A police officer arrived soon after. The complainant immediately informed the police officer of the molest incident, recounting the three incidents of `soft touch`, and that the appellant, when confronted, told her that he `got excited`. The police officer noticed that the complainant looked very distressed, angry and almost in tears. In contrast, the appellant was very calm.

The police officer questioned the appellant who denied the offence and that he had said that he `got excited`. Instead, he claimed that he was holding on to the rail of her seat. When he was brought to the police station, he asked the police officer what redress he had against the complainant for making the allegations. Again, he was very calm throughout.

Another investigating officer recorded a cautioned statement from the appellant. It contained a bare denial. Nothing material turned on that. The appellant testified. There were no other witnesses.

The appellant`s submissions at trial

At the trial, counsel for the appellant suggested that a hand could not possibly have touched the complainant`s underarm and the side of her right breast without touching the nearby body parts. To this, the complainant replied that, although her arm was resting on her bag, it was not necessarily resting against the side of her body. She said the hand touching her was very straight. In re-examination, she clarified that she had been sitting with her arm slightly apart. During one of the incidents of touching, she had rested her forearm against the ledge of the window.

Counsel for the appellant also pointed out the appellant`s conduct after the incident. He did not attempt to escape. Instead, he offered his handphone to the complainant. He asked her to get off the bus to settle the matter between themselves. Whilst at the bus stop, he even asked the complainant whether she had informed the police of the right location. His s 122(6) CPC statement was not inconsistent with his testimony. Counsel thus submitted that such behaviour was not consistent with a person who had something to hide. In short, counsel relied on the consistency with which the appellant had maintained his defence.

For this, the trial judge reasoned that what the appellant had done was ***not inconsistent either*** with one who knew that he was in trouble. To run away in haste after being caught red-handed, would have aroused suspicion, making any subsequent defence much more unacceptable. There could have been reasons why the appellant did what he did, perhaps trying to pacify the complainant, hoping that she would relent and let the matter rest.

After all, the appellant was not uneducated or without his wits about him. He was calm throughout. I

would have thought that an innocent person would have reacted rather differently on being accused of such an offence. He most probably would have reacted with great indignation and intense exasperation.

Of course, these were but postulations and explications. Nevertheless, they were based on common sense and understanding of normal human behaviour. More significantly, they showed that the explanation by counsel for the appellant regarding his behaviour after the incident was not the only plausible one. If at all, such behaviour must be treated as double-edged. As I said in **Teo Keng Pong v PP** [1996] 3 SLR 329 at 339, a consistent defence does not always raise a reasonable doubt. I was not convinced that the appellant`s consistent defence in the circumstances and by itself was capable of casting a reasonable doubt.

Principle of treating female witnesses in sexual offence cases

Counsel for the appellant submitted that the trial judge failed to consider the complainant`s evidence with extreme caution, which the law required in sexual offence cases. Counsel brought up the issue of attributing to the female witnesses in such cases a special legal status.

The principle is that the courts do, and must treat every witness, whether female or male, alike. This is entailed by the basic fundamental principle of equality. Every witness`s evidence is to be treated with caution and to be analysed with the necessary meticulous attention and care, as the facts of the case require.

Unless this is proven to be the case in the first place, it is objectionable to argue that extreme caution is required because female witnesses are prone to fantasizing, exaggeration and lies due to some sexual neurosis. From my numerous judgments in the last ten years, I hope I have made clear that the court will no longer entertain such an argument, whatever the attitude was twenty years ago. Such generalised categorisation of female witnesses in sexual offence cases, based on the perceived dangers of false accusation caused by sexual neurosis, jealousy, fantasy, spite or shame, is not acceptable to a Singapore court today. Such dangers can easily be present in other cases too. To bring this up again in cases involving sexual offence, without pointing to specific facts justifying such extreme caution in a particular case, is both disingenuous and rather offensive in my view, and incongruous with the societal norm today. There would need to be an evidential basis for suggesting that the evidence of the witness might be unreliable. Mere suggestions by counsel would not be sufficient.

However, I am aware that in cases involving sexual offences, making an allegation is easy and rebutting it rather difficult. That is why I said in **Tang Kin Seng v PP** [1997] 1 SLR 46 at 56 that evidence of such an allegation must be sifted with care. But this should be done in all cases, where the court is faced with two contested versions of events and has to choose one, for a decision one way or the other. I have elaborated further on this in [para] 31 to 38.

Examples of similar cases where the court has merely the allegation of the complainant and the bare denial of the accused include physical assault and bag-snatching cases. These are not sexual offence cases. It does not make a difference whether the complainant is a female or male. In such situations, the court must be extremely cautious in convicting the accused based solely on the allegation of the complainant. But this does not mean that the complainant has to be treated any differently compared to other witnesses, or be given a special legal status. The extreme caution required is not based on the sex of the complainant. Whenever the court has to either acquit or convict the accused based on a single allegation by a complainant, the heightened risk of miscarriage of justice would necessarily

prompt the court to be extremely cautious. It is a requirement necessitated by the amount of evidence available to the court to make a decision one way or the other, that impacts on the accused`s liberty.

Thus, the evidence of the complainant in a case involving a sexual offence need not be treated with any special legal status. Neither should it inhibit the trial judge from weighing such evidence in the usual way, bearing in mind such aspects of the human nature and behaviour as the trial judge considers to be material for that purpose.

Corroboration

Counsel for the appellant submitted that corroborative evidence was required before the conviction could be justified. Counsel also submitted that the trial judge had erred in concluding that the complainant`s evidence was so reliable or unusually convincing that a conviction based solely on her evidence was not unsafe. These submissions were interrelated. For clarity, I will address them.

Firstly, I am aware that, although the ease of making an allegation and the difficulty of refutation are not just confined to sexual cases, they are generally of more concern in sexual cases. It is in the nature of sexual offences, that often all the court has before it are words of the complainant against the denials of the accused. Therefore, the appeal is not atypical.

Secondly, I made clear in ***Tang Kin Seng*** that in Singapore there is no legal requirement for a judge to warn himself expressly of the danger of convicting on the uncorroborated evidence of a complainant in a case involving a sexual offence. But I also took great care to make clear that it is dangerous to convict on the words of the complainant alone unless her evidence is unusually compelling or convincing (**Tang Kin Seng v PP** [1997] 1 SLR 46 at 58, **Teo Keng Pong v PP** [1996] 3 SLR 329 at 340 and **Soh Yang Tick v PP** [1998] 2 SLR 42 at 50). In short, the court is to be extremely cautious in relying on the sole evidence of the complainant for a conviction. The phrase `unusually compelling or convincing` simply means that the complainant`s evidence was so convincing that the prosecution`s case was proven beyond reasonable doubt, solely on the basis of that evidence.

Thirdly, what is important is for the trial judge to analyse the evidence for the prosecution and for the defence with a view to deciding whether a conviction based solely on the complainant`s evidence is not unsafe. If it is not unsafe to so convict, the trial judge need not go further, except to explain clearly the reasoning behind the findings of fact.

Fourthly, if it is unsafe to convict, the trial judge should identify which aspect of the evidence is not so convincing. The trial judge should then look for supporting evidence and ask whether in taking the weak evidence, together with the supporting evidence, the trial judge is convinced that the prosecution case is proven beyond reasonable doubt.

Finally, in analysing the evidence, the trial judge must weigh it carefully, always bearing in mind the relevant aspects of human nature and behaviour. But it would be wrong to be bogged down by technicalities, especially when they have no logical bearing to the case in hand. Our approach is clear. We have left behind a technical and inflexible approach to corroboration and its definition (**Tang Kin Seng v PP** [1997] 1 SLR 46 at 60-63 and **Soh Yang Tick v PP** [1998] 2 SLR 42 at 52).

Instead, our approach is liberal, ensuring that the trial judge has the necessary flexibility in treating relevant evidence as corroborative. This is in line with the approach of other jurisdictions. What is important is the substance and the relevance of the evidence, and whether it is supportive or

confirmative of the other weak evidence. Essential qualities of corroborative evidence are its independence, admissibility and whether it implicates the accused in a material particular.

Even if the evidence is capable of corroboration, whether it does supply corroboration still depends on all the circumstances of the case. The trial judge must pay particular consideration to the extent to which the evidence that is capable of corroboration does provide the corroborative evidence to satisfactorily dispel any doubt on the guilt of the accused. This flexible approach to corroboration ensures that proper weight is given to the right evidence and no undue weight is assigned to some evidence merely because it is called `corroboration`.

As I said in **Khoo Kwoon Hain v PP** [1995] 2 SLR 767 at 776, **Soh Yang Tick v PP** [1998] 2 SLR 42 at 53 and **Tan Pin Seng v PP** [1998] 1 SLR 418 , although s 159 EA ensures that the complainant`s former statement was capable of being corroborated, it was not independent evidence and thus had little additional evidential value. I also said in **Tang Kin Seng** [1997] 1 SLR 46 at 65 that the evidential value of a prompt complaint did not render her complaint more credible. The fear that her reaction or distress might have been simulated or feigned has to be borne in mind. Here, the trial judge was aware that the complaint was not an independent piece of evidence and was essentially self-serving.

From the grounds of judgment, the trial judge was aware of all these issues. Counsel for the appellant relied heavily on the perceived unreliability of the complainant`s testimony. In short, counsel alluded to the risk of fabrication or concoction. In the circumstances, the trial judge correctly regarded the following as credible evidence:

a she did not know the appellant before this incident;

b the complaint was made immediately;

c the distress accompanying the complaint;

d the distress confirmed by both the bus driver and the police officer;

e there was no reason to suspect any collusion between her and the persons she complained to;

f she had no reason to frame him.

The trial judge also rightly took into account the fact that there was no hesitation in her reaction to what she perceived to be a molest incident. It was done in public and in full view of other passengers in a public bus. Furthermore, the trial judge also bore in mind that there was a great difference between touch on the side of the right breast and having one`s hair clipped or the feeling of discomfort as a result of someone`s knees propped behind one`s chair.

Counsel for the appellant did not raise the possibility of misconception. Neither was it dealt with by the trial judge. However, I thought it prudent to go on and consider the possibility that the complainant might have mistaken that someone had touched her breast when in reality it did not happen. If the appellant`s distress was the result of a wrong perception, when there was none, then her distress could not be a corroborative evidence. However, this possibility ought to be discarded as the complainant only became suspicious and alert after two touches and the charge was against the third touch.

Furthermore, when the complainant turned back to look at the appellant immediately after the third

touch, she noticed that the appellant was then leaning forward and, when he pulled his hand back, he moved backwards leaning towards his seat. The appellant would not have been in such a position if, according to his evidence, he had been seating in a slouched position throughout the bus journey, with his knees propped up against the back of the complainant`s seat.

Standard of proof beyond reasonable doubt

The thrust of the submission of counsel for the appellant was that reasonable doubt had been cast. The points in the preceding paragraphs were linked to this ultimate issue. The question was whether the doubts as raised were real or reasonable, or whether they were merely illusory or fanciful. It is only when the doubts were real or reasonable that the prosecution had not discharged its burden, and the appellant was entitled to an acquittal (**Tang Kin Seng** [1997] 1 SLR 46 at 68, **Teo Keng Pong** [1996] 3 SLR 329 at 339).

Taking into account all these circumstances, I did not see how the appellant`s evidence was capable of casting reasonable doubt on the prosecution`s case. The trial judge was right to treat the complainant`s evidence as unusually convincing, that she was telling the truth and had no reason to lie. The trial judge`s findings of fact that the case had been proven beyond reasonable doubt were amply justified. I did not find this a proper case to disturb the conviction.

How the trial judge arrived at the findings of fact

This was a trial of facts, almost exclusively by oral evidence. These same issues invariably arise in all Magistrate`s Appeals in cases involving sexual offences, particularly molest cases. As I see it, the crux of the problem is simply that the appellants did not agree with the trial judges` findings of fact. Their dissatisfaction arose mainly because they could not see how the trial judge could have reasonably arrived at such findings of fact.

I mentioned in **Tang Kin Seng v PP** [1997] 1 SLR 46 at 68 that:

> *[i]n Singapore, it is the trial judge`s mind that is relevant. However, as trial judges, unlike juries, have to give reasons for their decision, there is the safeguard that an appellate court may intervene if he attaches undue weight to some piece of evidence.*

In **Lim Ah Poh v PP** [1992] 1 SLR 713 at 719, FA Chua J said:

> *in examining the evidence, an appellate court has always to bear in mind that it has neither seen nor heard the witnesses and has to pay due regard to the trial judges` findings and their reasons therefor.*

I take the opportunity to make this clearer.

In a case like this, the trial judge must always bear in mind that the objective of the trial is to arrive at reasonable and safe findings of fact. In the absence of circumstances which generate suspicion, every witness is to be presumed to be credible, until the contrary is shown. Defence counsel and the prosecution have the burden of raising the question of the credibility of each other`s witnesses. It is

not a rule that a witness is to be presumed false until he is proven to be true.

The trial judge must also bear in mind that, among other factors, the amount of credibility to be given to the witness depends mainly on his ability to discern and comprehend what was before him, what has taken place, his opportunities of observation, the degree of accuracy with which he was accustomed to marking the passing events, and his integrity or honesty in relating them.

In such a case, the trial judge must also bear in mind that the weight to be attached to the witness`s evidence, among other factors, depends on his honesty, his ability, the number and consistency of the evidence, and conformity of the evidence with experience, and the coincidence of the evidence with other collateral circumstances.

For honesty and integrity, the trial judge must be open to any prevailing motive or inducement of the witness not to speak the truth. For the ability to speak the truth, the trial judge should take into account, among other factors, the opportunities that the witness has for observing the facts, the accuracy of the witness`s powers of discerning and the faithfulness of his memory in retaining the facts. For consistency, the trial judge must be aware that many seeming consistencies, will prove, upon closer scrutiny, to be in substantial contradiction, and vice versa. As to the conformity of the testimony with experience, the trial judge must be receptive to whether the facts related were such as ordinarily would occur in human experience. As to the coincidence of the evidence with collateral and contemporaneous facts and circumstances, the trial judge must carry out close inspection of the evidence, comparing its details with each other and with contemporary accounts and collateral facts, if any.

These are not and cannot be exhaustive. The trial judge has an onerous duty in assessing the veracity of the witnesses, the credibility of the evidence and the weight to be attached to the evidence. Ultimately the trial is a factual process, and not that of some mathematical truth-searching. Be that as it may, the trial judge`s reasoning must be as systematic, detailed and reasonable as possible.

The whole purpose of the guideline in ***Tang Kin Seng*** is simple. If the trial judge goes through this approach systematically, he will be much less likely to get tripped over certain dangerous or prejudicial reasoning pitfalls. The analysis of the evidence, with the amount of weight to be attached to it, will become more systematic, and less prone to impression and subjectivity.

Such a procedural guideline ensures that justice is both done and seen to be done. It shows how the trial judge has reasonably arrived at his conclusions, especially in cases where the complainant`s words are pitted against the accused`s denials.

The appellate court would not have the advantage of observing the demeanour and behaviour of the witnesses, unlike the trial judge. Thus, as a rule, the appellate court would not disturb findings of fact unless they are reached against the weight of the evidence, are plainly wrong or there remains a lurking doubt (s 261 CPC, **Lim Ah Poh v PP** [1992] 1 SLR 713 at 719, **Teo Keng Pong v PP** [1996] 3 SLR 329 at 342, **Ng Soo Hin v PP** [1994] 1 SLR 105 , **Sundara Moorthy Lankatharan v PP** [1997] 3 SLR 464 , **Tan Chow Soo v Ratma Ammal** [1969] 2 MLJ 49).

However, the appellate court will not be able to do so unless the trial judge shows very clearly ***how and why*** he reasons on the evidence presented. Unless the trial judge`s reasoning is shown with sufficient clarity and comprehensiveness, the appellate court will not be able to detect any possible unsafe or prejudicial reasoning that may have taken place.

Similarly, if the reasoning for arriving at the findings of fact is unclear, it is almost certain that the accused will be tempted to appeal. On the other hand, if the reasoning is clear and reasonable in the circumstances, there would be less tendency to do so, as the accused would know very well that the appellate court would be less inclined to overturn such a conviction.

Therefore, where there are keenly contested versions of events, the trial judge has the basic duty to lay down in a detailed and clear way how, why, the factors, evidence and considerations that he has taken or refused to take into account, the weight he has attached to them, in arriving at his findings of fact. On this, I would also refer to my judgment in **Syed Yasser Arafat bin Shaik Mohamed v PP** [2000] 4 SLR 27 . If the reasoning has been unreasonable or shows signs of bias or prejudice, then the appellate court will not hesitate to intervene.

From the grounds of judgment, the trial judge here did so with sufficient comprehensiveness and clarity. I found no compelling reason to fault her reasoning for arriving at her findings of fact.

Sentence

Counsel for the appellant submitted that the sentence of ten weeks` imprisonment was manifestly excessive. The sentence prescribed in s 354 PC is up to two years` imprisonment, or fine, or caning, or any two of such punishments. As I said in **Chandresh Patel v PP** (Unreported) and **Tok Kok How v PP** [1995] 1 SLR 735 , the benchmark for such an offence where a victim`s private parts had been intruded is nine months` imprisonment with caning. However, I also said in **Teo Keng Pong v PP** [1996] 3 SLR 329 that for an offender without antecedents who committed relatively minor acts of molest under s 354 PC, a fine may be more appropriate.

In ***Chandresh Patel*** , the offender, then a passenger aboard an SIA flight, touched the vaginal area of a female passanger on the flight. The sentence was six months` imprisonment with three strokes of the cane. In ***Tok Kok How,*** the offender, who had offered to share his umbrella with the victim, asked the victim if she was afraid of being raped and used the knuckles of his left hand to press onto her right breast while holding the umbrella over her. The sentence was nine months` imprisonment with three strokes of the cane. In **Teo Kok Ham v PP** (Unreported) , the offender, a taxi driver, fondled a sleeping female passenger and tried to pull down her bra. The sentence was six months` imprisonment without caning, as he was beyond 50 years of age.

In **Teo Keng Pong v PP** [1996] 3 SLR 329 , the offender, a tuition teacher, molested his student by caressing her thigh, squeezing her on the back, touching her left breast and kissing her on the cheeks and lips. For the five offences of caressing her thigh and squeezing her back, the sentence was a $2,500 fine, in default, five weeks of imprisonment. For the other two offences of touching her breast, the sentences were three and four months respectively, a total of seven months` imprisonment.

In ***Nordin bin Ismail v PP*** [1996] 1 ***CLAS News*** 250, the offender, a police constable, molested a woman police constable at a police station, by placing his hand on her shoulder and her waist respectively. I reduced the sentence to $500 fine, in default one week`s imprisonment for each of the two offences.

Here, it was amply justified for the trial judge to impose a sentence of imprisonment. The appellant had touched the underarm that included a small part at the side of the complainant`s right breast. It was a soft touch. It lasted only a few seconds. Although the act of molest was minor and neither force nor coercion was used, the touch was on a private body part of the complainant. In such

cases, there must be a sentence of imprisonment. The court must convey the disapprobation with which the court views such offences. The message must be unequivocal. The court will step in to maintain law and order, when individuals feel inclined to give in to certain impulses. And the court will maintain this with robust sanction. A fine will send a wrong signal to the public, at least in terms of deterrence.

The trial judge departed sharply from the benchmark. It was on the lower range on the scale of punishment for an offence of this nature. The trial judge stated that the two cases of ***Chandresh Patel*** and ***Tok Kok How*** differed significantly from the appeal. I agreed. Bearing in mind the appellant`s behaviour after the incident and that he had no antecedents, an imprisonment of ten weeks was sufficient punishment. I found no compelling reason to increase the punishment.

Conclusion

I found no valid argument on the law. I agreed with the trial judge that the complainant`s evidence was unusually convincing, that she was telling the truth and had no reason to lie. Clear reasoning was shown in the grounds of decision. The findings of fact were amply justified. I dismissed the appeal and affirmed the sentence.

Outcome:

Appeal dismissed.

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