Saravanan s/o Ganesan v Public Prosecutor
[2003] SGHC 273

Case Number : MA 38/2003

Decision Date : 03 November 2003

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : P Thirumurthy (Paul Tan and Partners) for appellant; Amarjit Singh (Deputy Public Prosecutor) for respondent

Parties : Saravanan s/o Ganesan — Public Prosecutor

Criminal Procedure and Sentencing – Appeal – Findings of fact by trial judge – Principles of intervention by appellate court – Whether findings of fact should be disturbed

Criminal Procedure and Sentencing – Trials – Calling of witnesses by the trial judge – Mandatory or discretionary – Whether trial judge had duty to call witnesses on behalf of unrepresented defendant – s 399 Criminal Procedure Code (Cap 68)

1 This was an appeal against the decision of district judge Eugene Teo Weng Kuan. The appellant, Saravanan s/o Ganesan, had claimed trial to a charge of possession of an offensive weapon without lawful authority or purpose in a public road or place under s 6(1) of the Corrosive and Explosive Substances & Offensive Weapons Act (Cap 65) ('the Act'). The district judge convicted the appellant and sentenced him to six months' imprisonment and six strokes of the cane. He appealed against conviction and sentence. After hearing the submissions of counsel for the appellant, I dismissed the appeal against both conviction and sentence. I now give my reasons.

The charge

2 The charge against the appellant read:

> … that you, on 17th day of February 2002 at or about 3.20 am, outside of Katong Village, along East Coast Road, near Joo Chiat Road, Singapore, which is a public place, did have in your possession an offensive weapon, to wit, a knife with blade about 15 cm in length, otherwise than for a lawful purpose, and you have thereby committed an offence punishable under Section 6(1) of the Corrosive and Explosive Substances and Offensive Weapons Act, Chapter 65.

The offence in the charge carries a maximum sentence of three years' imprisonment and a minimum sentence of six strokes of the cane.

Background facts

3 The appellant was at a pub in Katong ('the pub') on the date of his arrest with his 'sworn sister' Pushpa, her husband Suresh who was his 'sworn brother', Balakrishnan s/o Srigadan ('Balakrishnan') and some others.

4 The pub closed at about 3.00am on 17 February 2002. The Prosecution's key witness, the manager of the pub, Balraju Ranggersamy ('Balraju') left the pub for home. At that time he saw that a lorry was parked at the pub's entrance. He later saw this same lorry parked across the road from the pub. Balraju then saw a confrontation between two groups of Indians along Tanjong Katong Road and noticed that some of the customers from the pub were involved. The persons in the two groups were shouting, and moving forward and backward. The appellant admitted later that he and his

friends were involved in this confrontation.

5 One of the persons involved in the confrontation was waving a knife at the other group to intimidate them. Balraju called the police at this point and continued to observe the developing situation. *He did not see anyone else with a weapon nor did he see the knife being passed around*. Although Balraju did not have a good look at the person carrying the knife, he did observe that this person was of medium build and average height. He also observed that this person was wearing a 'black long-sleeve t-shirt and pants', and had shoulder length hair. The two groups ran off in different directions when the police arrived at the scene. Balraju did not notice where the person wielding the knife went.

6 National Service Probationary Inspector Andrew Tay Han Meng ('NSPI Tay') and Staff Sergeant Roslan Bin Amat ('Ssgt Roslan'), two of the police officers at the scene, spotted seven Indian subjects including the appellant near the lorry parked across the road from the pub. Passers-by shouted to the police officers that there was a knife on one of the subjects. The police officers proceeded to screen the subjects and conducted a physical check of the lorry. NSPI Tay found a knife ('the knife'), marked as Exhibit P3 at trial, hidden under a wooden plank in the back of the lorry. Upon questioning at the scene, the lorry driver, Balakrishnan, admitted that the knife belonged to him. NSPI Tay proceeded to arrest him for possession of an offensive weapon.

7 NSPI Tay then instructed Staff Sergeant Affendy Bin Idris to conduct a vehicular identification parade of the seven Indian subjects with the complainant, Balraju. At the vehicular identification parade, Balraju identified the appellant as the person he had seen with the knife by his 'dark shirt and clothing'. None of the other subjects at the vehicular identification parade were wearing clothing similar to those worn by the appellant. NSPI Tay arrested the appellant. The appellant and Balakrishnan were then escorted back to the police station for investigations.

8 The knife was described by the district judge as a sport knife with a sharp pointed blade measuring 15 cm in length with a molded rubber grip. I agreed fully with the district judge that the knife, being designed for cutting, stabbing or prying, was an 'offensive weapon' under s 2 of the Act which defines an 'offensive weapon' as 'any instrument which if used as a weapon of offence is likely to cause hurt'.

9 During police investigations, Balakrishnan retracted his earlier admission that the knife belonged to him. He informed the Investigating Officer ('IO') that he had only admitted ownership of the knife on the instructions of the appellant and that the knife did not, in fact, belong to him. The prosecution reviewed the evidence and decided not to take further action against Balakrishnan. Instead, Balakrishnan was called as a witness for the prosecution in relation to the charge against the appellant.

The prosecution's case

10 The prosecution's case was that the appellant was the person whom Balraju had seen using the knife to intimidate and threaten the members of the opposing group during the confrontation. This would, if accepted without more, constitute the offence charged under s 6(1) of the Act. An offence under s 6(1) is made out where the accused person is found in possession or in the control of an offensive weapon in any public road or place without lawful authority or purpose. The burden of proving such lawful authority or purpose is upon such person pursuant to s 6(2) of the Act. Therefore, the person seen by Balraju wielding the knife would be, *prima facie*, an offender under the Act.

11 There were, however, difficulties in the Prosecution's case. Balraju provided the only useful first-hand account of the events on the date in question for the prosecution. Further, Balraju did not get a good look at the person he saw carrying the knife and had identified the appellant as the offender during the vehicular inspection parade, based only on his attire and hairstyle. Significantly, Balraju could not identify the appellant in court as the offender.

The defence

12 The appellant disputed only one material portion of the charge against him. He claimed a lawful purpose for the possession of the knife – that he had disarmed one 'Siva', who by the appellant's account was the offender seen by Balraju. He had done this in order to prevent injury being caused to the other persons involved in the confrontation. Apart from this, the appellant admitted to all the other elements in the charge. The appellant did not dispute that, on the date of his arrest, he was wearing black clothing and that his hair was of shoulder length. The appellant recounted the following version of events to the court below.

13 The appellant said he was at the pub on 17 February 2002 with Pushpa, Suresh and three other friends. In the pub, the appellant met Balakrishnan and 'Siva'. 'Siva' had approached the appellant and his group for company and the appellant had obliged. During cross-examination, the appellant mentioned for the first time that 'Siva' was, like him, wearing a black shirt and had long hair.

14 The appellant and his group decided to go for supper when the pub was closing. Balakrishnan left the pub first with 'Siva' to drive the lorry closer to pick them up. The rest of the group made their way out of the pub soon after and the appellant stayed behind for a while to speak to one of the pub's bouncers. When the appellant rejoined the rest of his group outside the pub, he saw that they were in a heated argument with another group of six or seven Indians. The appellant tried to break up the argument but the other group attacked his group suddenly. There were about 15 people fighting and a few men in the other group were also wearing black shirts.

15 While the group was defending itself, the appellant turned and saw Pushpa restraining 'Siva', who was holding something in his hand. The appellant went towards them, fearing for Pushpa's safety. 'Siva' said to him that he was happy to have been accepted into the appellant's group and could not stand by as they were being attacked. The appellant realised that 'Siva' was intoxicated and was holding a knife.

16 The opposing group shouted and taunted 'Siva'. 'Siva', angered, held up the knife, saying 'Come lah! Come lah!' The appellant then disarmed 'Siva' by twisting his hand and forcefully grabbing the knife somewhere between its blade and handle in order to prevent any injury from occurring. The accused claimed that he was then in a state of shock for a few seconds as he had never held such a weapon before. Following this, Pushpa pulled the appellant across the road towards Balakrishnan's lorry. Balakrishnan was surprised to see the appellant with the knife and asked the appellant how he had obtained it since the knife belonged to him. The appellant proceeded to follow Balakrishnan's instructions to hide it under a plank in the back of the lorry.

17 Soon after, a police car arrived and the knife was discovered by NSPI Tay. 'Siva', according to the appellant, had disappeared by this time. Balakrishnan was arrested after he admitted to the police that the knife belonged to him. The appellant was then lined up beside the lorry with the rest of the group, and was subsequently also arrested despite his protestations of innocence.

The decision below

18 I was satisfied that the district judge had considered the cases put forward by the prosecution and the defence exhaustively. He was fully aware of the difficulties in the prosecution's case. At the same time, he rightly held that the burden of proof in relation to the appellant's defence of lawful possession was upon the appellant. This was clear from the wording of s 6(2) of the Act which provides that in 'any prosecution for an offence under subsection (1), the onus of proving the existence of a lawful purpose shall lie upon the accused.'

19 At the close of trial, the district judge considered the main issue in contention: whether the appellant did in fact disarm 'Siva'. This was a question of fact on which two completely different versions arose. After giving consideration to the credibility and consistency of the witnesses for both sides, the district judge preferred the evidence of the prosecution and held that the appellant had failed to discharge the burden on him in relation to his defence of lawful possession. He found that the appellant did not disarm 'Siva' and in fact doubted the very existence of such a person. Instead he found that the appellant 'was armed with the knife, and that he used this to intimidate the other group'. Having made these findings of fact, the district judge was able to convict and sentence the appellant on the charge.

The appeal against conviction

20 The crux of this appeal was essentially whether these findings of fact by the district judge were 'plainly wrong' or 'against the weight of evidence', since these findings supported the conviction on the charge without more. Counsel for the appellant challenged the findings of fact by the district judge that the appellant was in possession of the knife and that the appellant had not disarmed 'Siva'. It was also submitted before me that the district judge had 'completely erred in law in failing to call material witnesses during the trial knowing that the appellant was defending himself in person.' I found counsel's challenge against the finding that the appellant was, at some point, in possession of the knife inexplicable as this much was admitted at trial. It was therefore unnecessary for me to address this.

Principles of appellate intervention with findings of fact

21 It is beyond question that an appellate court is reluctant to overturn a trial judge's findings of fact, especially where these findings of fact hinge on an assessment of the credibility and veracity of the witnesses at trial. There is a very high threshold to meet before an appellate court will be convinced by an appellant to intervene with such factual findings. The appellant must demonstrate that the contested findings were 'plainly wrong' or 'against the weight of evidence'. This principle has been consistently articulated in the cases: *Lim Ah Poh v PP* [1992] 1 SLR 713, *Ng Soo Hin v PP* [1994] 1 SLR 105, *Teo Keng Pong v PP* [1996] 3 SLR 329, *Sundara Moorthy Lankatharan v PP* [1997] 3 SLR 464, *Yap Giau Beng Terence v PP* [1998] 3 SLR 656 and more recently, *Shamsul Bin Abdullah v PP* [2002] 4 SLR 176.

22 The following findings of fact by the district judge therefore stood as *prima facie* correct:

(a) The appellant had intended to confront the other group on the date of his arrest.

(b) The appellant was on the way to supper in Balakrishnan's lorry, but had instructed Balakrishnan to make a U-turn in order to confront the other group.

(c) The appellant had been armed with the knife, and used it to intimidate the other group.

(d) The appellant hid Exhibit P3 in the lorry, and had instructed Balakrishnan on how to

explain it away if the police asked.

These various findings of fact support the two key findings on which the conviction rested: that the appellant did *not* disarm a 'Siva' and *therefore* was the offender seen by Balraju.

Did the appellant disarm 'Siva'?

23 The question here was simply this: whose version was to be believed? Balraju never saw anybody disarming the offender of the knife or that the knife even changed hands. This stood in stark contrast to the appellant's account.

Balraju's testimony

24 Counsel for the appellant sought to impugn the credibility of Balraju as a witness. Counsel submitted that Balraju's evidence was 'rigged with doubts' and that Balraju was 'in no position to affirm that the culprit was the appellant' since he did not see the culprit's face, nor did he see where the culprit went when the police came. I found this contention entirely misconceived. Balraju never professed to having seen where the offender went upon the arrival of the police, nor did he ever testify to seeing this person's face. His honesty and consistency in this latter respect has, ironically, resulted in the lack of any direct evidence against the appellant but at the same time it has strengthened his credibility as a witness. This Court did not have the advantage of seeing and hearing witnesses at trial. Thus, an appellate court will generally defer to the finding of the trial court that a witness is a witness of truth unless the trial judge was plainly wrong in so finding: *Garmaz s/o Pakhar v PP* [1995] 3 SLR 701. As such, the district judge's following assessment of Balraju stood:

> Their main witness, Balraju, provided a clear and consistent account as to what he saw that night…It is my opinion, after having seen the demeanour of this witness, that Balraju was a credible independent witness of truth. I accept that he did not know the accused, and I found nothing to suggest that he had motive to fabricate his evidence against the accused. He certainly had the opportunity to do so when he was asked whether he could recognise the accused in court. To this, he readily admitted that he could not. He did not seek to bolster or exaggerate his evidence. It is my opinion that Balraju was being completely forthright in his evidence.

Ridzuan's Testimony

25 In contrast, the district judge found the evidence given by the appellant and his witness, Ridzuan, riddled with inconsistencies and contradictions. The district judge could not accept Ridzuan as a credible witness for the following reasons:

(a) Ridzuan was not able to provide certain important details – his evidence covered only broadly the main events in sequence.

(b) There were inconsistencies between the appellant's and Ridzuan's accounts:

(i) Ridzuan had testified that the appellant disarmed 'Siva' almost immediately after approaching him, while the appellant himself had said that he did so only after five to seven minutes.

(ii) Ridzuan's testimony that there were four or five persons in the appellant's group contradicted the appellant's account that there were eight persons in his

group.

(c) Even though Ridzuan was supposedly the Chief Security Officer on duty that night, it did not occur to him to inform the police although he thought the fight was 'serious'.

(d) Ridzuan's explanation for his presence at the scene, i.e. that he wanted to prevent the troublemakers from returning to the pub, fundamentally undermined his credibility as a witness because the pub had already closed by then.

26 I came to the crucial question of whether the contested findings that the appellant did not disarm 'Siva' and *therefore* was the offender seen by Balraju were 'plainly wrong' or 'against the weight of evidence'. I was fully aware, as was the district judge below, of the difficulties in the prosecution's case. Having accepted Balraju's version of events as the truth, the district judge made the conclusion that the appellant was the offender seen by Balraju. This conclusion was an inference which the appellate court is in as good a position to make as the trial judge: *Awtar Singh s/o Margar Singh v PP* [2000] 3 SLR 439.

27 I found this inference made by the district judge entirely defensible by reason of the stark differences between the accounts from Balraju and the appellant. Having accepted Balraju as a witness of truth, the district judge was entitled to disbelieve the account given by the appellant and his witness, Ridzuan. This conclusion was made rather easier by the fact that there was only one material factual question in issue, i.e. whether the appellant disarmed 'Siva'. The appellant did not dispute that he had possession of the knife at some point. Further, Balraju had identified the appellant as the offender at the vehicular identification parade while the offender's distinctive features, i.e. the dark clothes and long shoulder length hair were still fresh in his mind. The appellant had those same exact features on the night of his arrest. The inference drawn by the district judge that the appellant was the offender seen by Balraju wielding the knife was therefore beyond reproach.

28 Further, it was clear to me that the findings of fact of the district judge did not hinge on Balraju's testimony alone. The following other factors were laid out by him in his grounds of decision.

Balakrishnan's Testimony

29 The account given by Balakrishnan about the behaviour of the appellant just before and after the incident dovetailed with Balraju's version of events. The district judge had accepted Balakrishnan as a credible witness despite certain inconsistencies in his testimony at trial and the fact that he had initially admitted ownership of the knife. Again, given that the district judge had the benefit of seeing and hearing Balakrishnan, I accepted this assessment of veracity.

30 I found the following portions of Balakrishnan's testimony, which were *unchallenged by the appellant* during cross-examination to be significant:

(a) The appellant and his friends had boarded Balakrishnan's lorry just before the confrontation, and the appellant had asked Balakrishnan to make a U-turn for some 'unfinished business'.

(b) The appellant and his friends had alighted from the lorry to confront the other group.

(c) The appellant had instructed Balakrishnan on how to explain to the police the presence of the knife in the lorry.

31 Balakrishnan's account showed that the appellant and his friends had intended to confront the other group, implicating the appellant with a state of mind that supported a conviction upon the charge. It also provided more material that stood in contradiction to the testimony of the appellant.

Coincidences and improbabilities in the appellant's version

32 The district judge found that the appellant's version of events involved a list of 'curious coincidences' which led to real doubt regarding the very existence of 'Siva'. They were as follows:

(a) The claim that 'Siva' was also dressed in black and also had long hair. The district judge rightly found it perplexing that the appellant mentioned these features of 'Siva' for the first time only when he was challenged during cross-examination.

(b) The only person in the appellant's group who escaped on the date of the incident was 'Siva'.

(c) The appellant was unable to offer any assistance in tracing 'Siva' and had no further details of 'Siva' apart from his first name.

(d) Attempts by the police to locate 'Siva' proved futile.

(e) Apart from Balakrishnan, all the other persons in the appellant's group of friends were unavailable at trial to testify on the appellant's behalf.

33 Further, the district judge found the following aspects of the appellant's version of events improbable:

(a) That the appellant had managed to turn and see Pushpa with 'Siva' during the sudden attack by the other group even though the situation was 'messy and chaotic'.

(b) That the appellant had managed to extricate himself from the melee in order to go and help Pushpa.

(c) That the appellant had felt fear for Pushpa's safety when it was clear from the appellant's own account that 'Siva' was not attacking Pushpa. This appeared inconsistent in light of the fact that the other members of his group actually being attacked were in more urgent need of help.

(d) That the appellant's hands were uninjured, given that the appellant would have had to hold the sharp blade to forcefully take the knife from 'Siva' in order to disarm him.

(e) That even though the appellant had the courage to disarm a drunk wielding a knife, he was 'blur' and 'shocked' immediately after taking the knife, and had stood rooted to the ground in a 'stupor' holding and staring at the knife for a few seconds.

Failure by the appellant to question Balakrishnan

34 The district judge found it highly suspicious that the appellant had failed to seek confirmation on the existence of 'Siva' from Balakrishnan, who was the only member from his group available at trial. This was especially so since the appellant was very conscious of the need to prove the existence of 'Siva' for his defence, given that the district judge had explained to the appellant that

this burden was upon him.

35 The district judge also found it extremely difficult to understand the appellant's failure to put his version of events to Balakrishnan when the latter was on the stand. This was especially so given that Balakrishnan's version of events was in direct contradiction to the appellant's own version and inculpated the appellant with the intention to confront the other group.

36 The district judge could not accept that these omissions on the part of the appellant were due to ignorance. The appellant had represented himself competently at trial and was, according to the district judge, 'not a simpleton'. The district judge justifiably concluded that the appellant did not want to risk an outright denial from Balakrishnan that would have weakened his case further.

Findings of fact to be left undisturbed

37 In light of the foregoing, I was satisfied that the district judge was justified in preferring the prosecution's account on the evidence before him and in finding that the appellant did not disarm 'Siva' of the knife and was, indeed, the offender. The appellant had fallen far short from demonstrating that the district judge's findings of fact were 'plainly wrong' or 'against the weight of evidence' such that this Court may interfere with them.

Did the district judge wrongly fail to call material witnesses?

38 Counsel also submitted before me that the district judge had 'completely erred in law in failing to call material witnesses during the trial knowing that the appellant was defending himself in person'. Counsel further submitted that the district judge 'should have directed the prosecution to produce these material witnesses' at the scene, namely Pushpa and Suresh. I found these submissions utterly without merit.

39 Counsel drew my attention to s 399 of the Criminal Procedure Code (Cap 68) ('CPC') in his written submissions. Section 399 of the CPC reads:

> Any court may, at any stage of any inquiry, trial or other proceedings under this Code, summon any person as a witness or examine any person in attendance, though not summoned, as a witness or recall and re-examine any person already examined and the court shall summon and examine or recall and re-examine any such person, if his evidence appears to it essential to the just decision of the case.

In *Mohammad Ali bin Mohd Noor v Public Prosecutor* [1996] 3 SLR 276 at 284, I held that there were two limbs in s 399 of the CPC – the discretionary and the mandatory. In the discretionary limb, the court *may* recall or summon witnesses in order to reach a just decision on the case. In the mandatory limb, where it is 'essential to the just decision of the case', the court *shall* summon and examine any person as a witness. The question here was whether it could be said that the calling of Pushpa and Suresh was essential to the just decision of the case, given the difficulties present in the prosecution's case. I answered this question in the negative.

40 In *Mohammad Ali bin Mohd Noor* I held also that what was essential to the just decision of the case could not be defined categorically, but that the question could be clarified by asking whether a conviction in the absence of such evidence would be safe, or that an acquittal in such circumstances would amount to an injustice. Having satisfied myself that the district judge had sufficient and justifiable reasons to reach the findings of fact which supported a conviction upon the charge brought against the appellant, I was able to find that the production of Pushpa and Suresh as

witnesses was not essential for a just decision of the case. The curious coincidences and inherent improbabilities apparent from the appellant's version of events would still have existed even if other witnesses for the defendant were called at trial.

41 It was therefore the discretionary limb of s 399 of the CPC that is applicable here. In *Sim Cheng Hui v Public Prosecutor* [1998] 2 SLR 302 the Court of Appeal held that the discretionary power conferred upon a court to recall or summon witnesses should be exercised sparingly and judiciously to reach the just decision on the case. Indeed, utmost circumspection in the exercise of this power is imperative where there is likelihood of fresh evidence prejudicial to the accused arising (see *PP v Phon Nam* [1998] 3 MLJ 415 and *Ramli bin Kechik v PP* [1986] 2 MLJ 33, on the Malaysian Criminal Procedure Code equivalent of s 425). However, judicial circumspection here does not exist exclusively for the benefit of the accused. As articulated in *Ramli bin Kechik*, a section such as s 399 of the CPC is as much about the prevention of escape of a guilty person through some carelessness of the prosecution or the trial judge as the vindication of the innocence of the person wrongly accused. A 'just decision' under this section does not necessarily have to be a decision in favour of the defence.

42 It is pertinent at this point to state, as I did in *Mohammad Ali bin Mohd Noor v PP*, that generally no attack may be made on the failure of a court to call a witness notwithstanding that the judge may not have actually considered s 399 of the CPC in his decision. Any failure to call a witness would only be material where the mandatory exercise of the power pursuant to s 399 is in question. This was not the case at hand and the district judge could not be faulted as counsel had suggested.

43 The district judge had rightly held that s 6(2) of the Act placed the duty squarely upon the appellant to prove the existence of a lawful purpose to avoid a conviction under s 6(1) of the Act. Section 107 of the Evidence Act (Cap 97) ('EA') further provides that the legal burden of proving the existence of circumstances bringing the case 'within any special exception or proviso contained…in any law defining the offence' is placed upon the appellant, failing which 'the court shall presume the absence of such circumstances'. It was therefore clearly neither for the court nor the prosecution to call witnesses to adduce factual evidence on behalf of the appellant to support his defence.

44 There are, further, strong reasons in principle for an emphatic rejection of counsel's argument that the district judge had a duty to effectively assist the defence by ordering the production of material witnesses in these circumstances. First, doing so would conflict with the statutory allocation of the burden of proof pursuant to s 6(2) of the Act and s 107 of the EA. Second, and more importantly, imposing such a duty upon the judge in these circumstances would be untenable and strike at the very root of the independence of the trial judge as an impartial and independent adjudicator. The onus of proof imposed by statute here does not shift to the judge, or the prosecution for that matter, simply because the accused was unrepresented. It is not for the judge to play the role of defence counsel. This was the basis for my decisions in *Rajeevan Edakalavan v PP* [1998] 1 SLR 815 and *Soong Hee Sin v PP* [2001] 2 SLR 253, where I rejected similar arguments that the trial judge had some form of duty to inform the unrepresented defendant of possible defence strategies. It bears repeating that a just decision in a criminal trial is not necessarily one in favour of the accused person.

45 Be that as it may, I found that the district judge had been more than accommodating towards the appellant, which must be in no small part due to the fact that he was unrepresented at trial, counsel having discharged himself. Prior to that, the appellant had approximately a year between his arrest and trial to prepare his defence with his lawyer. Nevertheless, the district judge had taken pains to impress upon the appellant the necessity for him to produce Pushpa and other material witnesses right from the start of trial. The appellant understood this, given his production of Ridzuan as a witness. After the defence was called and again at the end of the trial, the district judge gave

the appellant further opportunities to produce Pushpa and his other witnesses. The appellant, unfortunately, did not do so.

Appeal against conviction dismissed

46 The undisturbed findings by the district judge sufficiently constituted the offence, by the appellant, of being in possession of an offensive weapon without lawful authority or purpose pursuant to section 6(1) of the Act.

47 As explained above, I was satisfied that the appellant was the offender and accordingly dismissed the appeal against conviction.

Appeal against sentence

48 The appellant was sentenced to six months' imprisonment and six strokes of the cane by the district judge. On behalf of the appellant, counsel pleaded the fact that the appellant had subsequently hidden the offending weapon the knife in Balakrishnan's lorry. I found this completely unhelpful. The fact that this was done does not change the fact that the appellant was in possession of the weapon, nor does it provide him with any lawful authority or excuse.

49 Counsel also pleaded, on behalf of the appellant, the hardship that would result to the appellant's family because of his sentence and the fact that he had no previous convictions. I rejected both arguments without hesitation. I was unable to accept hardship upon the appellant's family as a mitigating factor to warrant a reduction in his sentence. I have consistently held that hardship upon an offender's family occurs inevitably as a consequence of his own criminal conduct, and carries little mitigating value save in very exceptional or extreme circumstances: *PP v Tan Fook Sum* [1999] 2 SLR 523 and *Ng Chiew Kiat v PP* [2000] 1 SLR 370. I did not find the appellant's circumstances either exceptional or extreme.

50 I was also satisfied that the sentence imposed by the district judge was in line with the sentencing benchmarks for the offence, and that the fact that the appellant had no previous convictions had already been taken into account. The usual sentence for a first offender who pleads guilty to the offence charged is six months' imprisonment and six strokes of the cane where the weapon is a knife. Given the circumstances of the offence and the overriding need to protect the public from the potential danger arising from the possession of such weapons in public places, I found the sentence meted by the district judge entirely proportionate and dismissed the appeal against sentence.

Appeals against conviction and sentence dismissed.