IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 258

Magistrate's Appeal No 9085 of 2023

Between

Adri Satryawan Pratama

… *Appellant*

And

Public Prosecutor

… *Respondent*

EX TEMPORE JUDGMENT

[Criminal Law — Road Traffic Act – Careless driving]
[Criminal Procedure and Sentencing — Sentencing — Appeals]

Adri Satryawan Pratama
v
Public Prosecutor

[2024] SGHC 258

General Division of the High Court — Magistrate's Appeal No 9085 of 2023
Vincent Hoong J
10 October 2024

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Vincent Hoong J:

Introduction

1 The Appellant pleaded guilty to a single charge of careless driving causing grievous hurt, an offence under s 65(1)(*a*) punishable under s 65(3)(*a*) read with s 65(6)(*d*) of the Road Traffic Act (Cap 276, 2004 Rev Ed) (the "RTA"). With his consent, a second charge of careless driving causing hurt, which is an offence under s 65(1)(*a*) punishable under s 65(4)(*a*) of the RTA, was taken into consideration for sentencing. The District Judge ("DJ") sentenced the Appellant to six weeks' imprisonment, disqualified him from holding or obtaining all classes of driving licences for five years and prohibited him from driving any motor vehicle in Singapore for five years: *Public Prosecutor v Adri Satryawan Pratama* [2023] SGDC 102 ("GD"). In the present appeal against sentence, the Appellant submits that the imprisonment term

should be substituted with a fine of $4,000. He does not challenge the disqualification and prohibition orders.

2 I begin with a preliminary matter. The Appellant was sentenced according to the framework established in *Sue Chang v Public Prosecutor* [2022] SGHC 176 ("*Sue Chang*"), this being the prevailing framework at the time. However, a three-judge panel of the High Court in *Chen Song v Public Prosecutor and other appeals* [2024] SGHC 129 ("*Chen Song*") has since expressed a preference for a different framework.

3 The question therefore arises whether the present appeal should be dealt with according to the old *Sue Chang* framework or the new *Chen Song* framework. The Appellant applies the *Chen Song* framework in his written submissions.[1] The Prosecution, meanwhile, submits that it suffices to dispose of this appeal that the sentence imposed was consistent with the framework laid down in *Sue Chang v Public Prosecutor* [2022] SGHC 176 ("*Sue Chang*").[2] In the alternative, however, the Prosecution also submits that the sentence imposed is in accordance with the *Chen Song* framework.[3] Although judicial pronouncements are by default retroactive in nature (see *Adri Anton Kalangie v Public Prosecutor* [2018] 2 SLR 557 at [43]), the court in *Chen Song* applied the *Sue Chang* framework to one of the appeals before it (*ie*, Erh Zhi Huang, Alvan's appeal in HC/MA 9204/2022) on the basis that this was the applicable framework at the time the offender in that appeal was being sentenced: *Chen Song* at [163]–[169]. In so doing, the court signaled that the new framework was

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1 Appellant's Written Submissions dated 30 September 2024 ("AWS"_ at [4].

2 Respondent's Written Submissions dated 30 September 2024 ("RWS") at [21], [32].

3 RWS at [33]–[42].

only to apply prospectively. As the Appellant is similarly situated to the offender in HC/MA 9204/2022, the present appeal should likewise be determined by reference to the *Sue Chang* framework. I would add that the choice of framework is unlikely in any event to affect the result of the present appeal. As the court observed in *Chen Song*, the application of both frameworks "would likely result in the same or similar outcomes": *Chen Song* at [120].

4 I now turn to the substance of the present appeal. The first broad argument advanced by the Appellant is that the DJ erred in pegging the level of harm at the higher end of the moderate range. I do not accept this submission.

5 Turning first to the harm caused to Goh Paw Leng ("Goh"), the DJ rightly noted: (a) the nature and location of her injuries, some of which were to vulnerable parts of the body, although there was no evidence of permanent disability; (b) the necessity for multiple non-minor surgical procedures; and (c) the moderate period of hospitalisation and the lengthy period of medical leave: GD at [58]–[59].

6 According to the Appellant, the DJ failed to appreciate that Goh's 139 days of hospitalisation and medical leave did not accurately reflect the severity of her injuries. This argument is unmeritorious. The DJ expressly noted that Goh had only been admitted to hospital for 30 out of these 139 days: GD at [59]. Bearing this qualification in mind, the DJ was plainly entitled to consider the overall length of Goh's hospitalisation and medical leave as one of several relevant factors in assessing the level of harm.

7 Next, the Appellant complains that insufficient information was made available to allow an assessment of the severity of Goh's injuries. By way of

background, counsel for the Appellant had earlier written to Tan Tock Seng Hospital ("TTSH") seeking further information about Goh's injuries, but this request was denied because Goh did not consent to the provision of this further information. Counsel for the Appellant had also sought disclosure of the specific queries posed by Investigation Officer Goh Wei Li ("IO Goh") in response to which the medical report dated 21 May 2021 had been prepared, but this request was also rejected. In my view, the Appellant's complaint is entirely spurious. The medical report dated 21 May 2021, and the clarification report dated 1 June 2022 speak for themselves. They present a more than adequate picture of the nature of Goh's injuries, which on any view were plainly serious. There was simply no need for information about, for example, the number, depth or length of the lacerations to Goh's pancreas and liver.

8 Parenthetically, the Appellant also complains that no information was made available about the nature of Goh's fractures, which could have ranged from hairline to complex fractures. This argument is not open to him because his counsel had not sought further information about the fractures when writing to TTSH.[4] In any event, and most importantly, the DJ did not resolve any of the alleged ambiguities in the medical evidence against the Appellant. She did not proceed, for example, on the basis that the lacerations to Goh's pancreas and liver were numerous or particularly deep or long, or that the fractures were complex rather than hairline fractures. The Appellant therefore cannot claim to have been prejudiced by the absence of these further details. I would also add that the Prosecution has since voluntarily disclosed the specific queries posed

[4] ROA at pp 154–155.

by IO Goh.[5] Tellingly, the Appellant has not submitted that these cast a different light on the medical report.

9 The DJ also considered that the level of potential harm was significant: GD at [63]. The Appellant takes issue with this. He first challenges the DJ's assessment that he posed a greater risk of serious harm because he was driving a lorry as opposed to a normal-sized car. The Appellant argues that the level of potential harm is determined by "[s]peed and not size" and that "[a] car driven at a greater speed could cause more harm than a lorry at a slow speed".

10 This argument is wholly misconceived. It cannot be seriously gainsaid that, all else being equal, the careless driving of a larger and heavier vehicle poses a higher level of potential harm than the careless driving of a smaller and lighter vehicle. The Appellant next disputes the DJ's assessment that his driving posed a serious risk to other road users travelling along the CTE. He observes that the accident took place along a slip road leading to the CTE and not along the CTE itself. This argument rests on the mistaken assumption that the consequences of a road accident are invariably so fortuitously confined. Bearing in mind the narrowness of the part of the slip road along which the accident occurred, which the Appellant himself has been at pains to emphasise,[6] it is certainly not inconceivable that harm could have resulted to other road users travelling along the CTE.

11 For these reasons, I see no reason to disturb the DJ's assessment that the level of harm fell within the higher end of the moderate range.

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5 RWS at fnn 6, 16.

6 AWS at [26], [29].

12 Turning next to the Appellant's level of culpability, the DJ assessed this as low but rejected the argument that Goh was contributorily negligent in failing to place a vehicle breakdown sign before her broken-down car along the slip road: GD at [65]–[67]. The DJ did not accept this argument for two reasons. First, Goh's stationary car should have been obvious to the Appellant, despite the absence of a breakdown sign, because its boot was open, and she was standing outside: GD at [66]. Second, and in any event, Goh had not had sufficient time to take further steps because it was a very short time from the moment she had opened the boot of her car and the collision: GD at [67]. On appeal, the Appellant simply repeats his argument that Goh should have placed the breakdown sign. He has not engaged with any of the reasons given by the DJ for rejecting this argument below. I see no reason to disagree with the DJ and therefore dismiss this submission as well.

13 Finally, the Appellant claims in his Petition of Appeal that the DJ placed insufficient weight on the mitigating factors. I reject this submission, which the Appellant has abandoned in his written submissions. The DJ cited the Appellant's plea of guilt as a mitigating factor. She also drew attention to the assistance he had rendered to Goh and the fact that she had received civil compensation. In the circumstances, she reduced her starting point sentence of three months' imprisonment to six weeks' imprisonment: GD at [72].

14 Finally, I deal with the Appellant's general reliance on Erh Zhi Huang, Alvan's case, which came before the court in *Chen Song* as HC/MA 9204/2022. Erh's sentence was reduced on appeal to a fine of $4,000 and a disqualification period of five years. I do not accept that the present case compares favourably with Erh's case. In the first place, I do not agree that the Appellant's culpability

was lower than Erh's. The court regarded Erh's culpability as low on the basis that his offending conduct was simply a manifestation of the basic elements of the careless driving offence: *Chen Song* at [166]. A similar view was taken by the DJ in respect of the Appellant: GD at [65]. What is clear, however, is that the degree of harm caused by the Appellant was significantly greater than that caused by Erh. In Erh's case, there was no evidence that the victim would suffer any permanent hand disability, and he was assessed to be likely to be able to return to work: *Chen Song* at [165]. Although there was similarly no evidence of permanent disability in respect of Goh, her injuries were clearly more numerous, extensive and serious. Further, an offender-specific factor relevant in the Appellant's case is the further charge of careless driving, concerning the hurt caused to Goh's three passengers, which was taken into consideration. In all the circumstances, a substantial uplift from the $4,000 fine imposed in Erh's case was entirely warranted here.

15 For the reasons above, I am satisfied that the six-week imprisonment term is not manifestly excessive or otherwise wrong. I also see no reason to disturb the disqualification and prohibition orders imposed by the DJ. I add that I would have come to the same conclusion even on an application of the *Chen Song* framework. I therefore dismiss the appeal against sentence.

Vincent Hoong
Judge of the High Court

Mohamed Niroze Idroos (Niroze Idroos LLC) for the appellant;
Sunil Nair and Gabriel Lee (Attorney-General's Chambers)
for the respondent.
