IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2025] SGCA 22

Court of Appeal / Criminal Motion No 9 of 2025

Between

Ramdhan bin Lajis

… *Applicant*

And

Public Prosecutor

… *Respondent*

JUDGMENT

[Criminal Sentencing and Procedure — Criminal review — Application for permission to make review application — Section 394H of the Criminal Procedure Code 2010 (2020 Rev Ed)]

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Introduction

1 The applicant, Mr Ramdhan bin Lajis (the "Applicant"), was convicted by a Judge of the High Court on a charge of trafficking in not less than 29.51g of diamorphine and was sentenced to suffer death. His appeal against his conviction and sentence was dismissed by this court on 1 March 2019. Subsequently, on 5 December 2023, he filed a criminal motion seeking permission to review this court's decision pursuant to s 394H(1) of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC"). This court heard and dismissed the motion on 1 August 2024.

2 The Applicant has now filed a *second* application for permission to review his conviction and sentence. After considering his affidavit and

submissions, it is clear to me that his application is devoid of merit and ought to be summarily dismissed without a hearing.

Facts and procedural background

Background facts

3 The full facts are set out in the High Court's grounds of decision in *Public Prosecutor v Ramdhan bin Lajis and another* [2018] SGHC 104 ("*Ramdhan*"). I briefly summarise the relevant facts and procedural history to contextualise the present application.

4 At about 1.05pm on 19 March 2014, one Mr Steve Crocker was seen boarding a car driven by one Mr Mohammad Firaza bin Ahmad. The Applicant was seated in the front passenger seat of the car: *Ramdhan* at [5]. About five minutes after boarding, Mr Crocker alighted from the car, where he was arrested by a group of officers from the Central Narcotics Bureau ("CNB"). Among the items found on Mr Crocker at the time of his arrest included (a) two bundles wrapped in black tape containing a total of not less than 29.51g of diamorphine (the "Drugs"), (b) a golden metal box containing four packets of heroin totalling not less than 0.63g of diamorphine, and (c) a brown envelope ("B1-PP1A envelope"): *Ramdhan* at [8] and [16]–[17].

5 At about 1.30pm, the car was intercepted by two vehicles from the CNB. At the time, the Applicant was counting certain sums of money which were scattered onto the floor mat of the front passenger seat in the course of the interception: *Ramdhan* at [7]. Among the items found in the car at the material time included (a) one brown envelope ("A1 envelope") containing cash totalling $4,600 bound with a rubber band, found on the floor mat of the front passenger seat of the car, (b) scattered cash amounting to $4,600, found on the floor mat

of the front passenger seat of the car, and (c) one white envelope containing cash totalling $3,850, found on the front passenger door compartment: *Ramdhan* at [9].

The trial and the appeal

6 The Applicant claimed trial to one charge under s 5(1)(*a*) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"). He was jointly tried with Mr Crocker in the High Court.

7 The Prosecution's case was that the Applicant had passed the Drugs to Mr Crocker in exchange for $9,200 while Mr Crocker was in the car. The Applicant's sole defence was that the alleged transaction never took place. The key issue at the trial was therefore whether the alleged transaction did occur.

8 Based on the evidence, the Judge was satisfied that the Prosecution had proven its case beyond a reasonable doubt. The Judge considered the following:

> (a) Mr Crocker's evidence was that the trip in the car was orchestrated to facilitate the transaction. This provided a cogent explanation as to why the Applicant and Mr Firaza would have driven a significant distance from Toa Payoh to the Cathay just to give Mr Crocker a short lift to Grange Road which lasted no more than five minutes: *Ramdhan* at [53]–[56].
>
> (b) There was objective forensic evidence that the A1 and B1-PP1A envelopes were manufactured consecutively from the same sheet of paper and on the same machine. It would have been exceedingly unlikely that the Applicant would have been in possession of an

envelope that was manufactured consecutively with an envelope in Mr Crocker's possession by sheer chance: *Ramdhan* at [63]–[64].

(c) The manner in which the money was found in the car was corroborative of Mr Crocker's evidence that he had passed two bundles of $4,600 each to the Applicant. Mr Crocker had provided these figures in his contemporaneous statements taken on the day of his arrest. His knowledge of the precise amount of money in the Applicant's possession was at odds with the Applicant's testimony that no transaction had occurred: *Ramdhan* at [69]–[70].

9 After convicting the Applicant and sentencing him to the mandatory death penalty, the Judge expressly granted an order for the Prosecution to dispose of the case exhibits, including for the total sum of $13,050 seized from the Applicant to be forfeited upon the conclusion of the appeal.

10 His appeal against his conviction and sentence was dismissed by this court in CA/CCA 23/2018 ("CCA 23") on 1 March 2019 with brief oral grounds. This court agreed with the Judge that the forensic evidence clearly showed that the Applicant had received the A1 envelope from Mr Crocker. The Applicant's defence thus collapsed as he had no back-up case as to why he received the money from Mr Crocker.

11 Subsequently, on 13 June 2022, an application was made by an officer of the CNB to the Magistrate's Court for the forfeiture of the monies seized from the Applicant during his arrest. In the report filed in support of this application pursuant to s 370(1)(*a*) of the CPC, it was stated that the sum of $13,050 was found to be "proceeds from drug trafficking".

The first review application

12 On 5 December 2023, the Applicant filed CA/CM 46/2023 ("CM 46") for leave to make a review application under s 394H of the CPC. He was one of several prisoners awaiting capital punishment who filed such applications seeking to impugn the validity of their convictions on the basis that copies of their correspondence with various external parties when they were in prison (the "Disclosed Correspondence") had been forwarded by the Singapore Prison Service without authorisation to the Attorney-General's Chambers.

13 The Applicant was originally represented by Mr Ong Ying Ping until two days before the hearing, when Mr Ong wrote to inform the court that he was seeking to be discharged as counsel. The court granted him the discharge sought because it appeared that his clients, including the Applicant, were pressing him to raise arguments that came into tension with Mr Ong's responsibilities as an advocate and solicitor and an officer of the court.

14 This court heard and dismissed the criminal motions on 1 August 2024 with written grounds subsequently published in *Pausi bin Jefridin v Public Prosecutor and other matters* [2024] 1 SLR 1127 ("*Pausi*"). Apart from the issue of the Disclosed Correspondence, the Applicant had also raised a host of new arguments including allegations that the Prosecution had failed to disclose material evidence and that the test for wilful blindness had not been satisfied: *Pausi* at [64(c)] and [66(b)]. The court noted that these arguments did not rise to the level of being sufficient material on which it could conclude that there had been a miscarriage of justice.

The parties' submissions

15 On 11 March 2025, the Applicant filed the present application, his supporting affidavit and his written submissions. He raises the following arguments:

(a) First, he relies on new evidence in the form of a letter from the CNB dated 23 June 2022 ("Letter") in which the CNB informed the Applicant that cash totalling $13,050 had been forfeited "as it was ascertained to be from illegal debt collecting activities". According to the Applicant, this Letter is consistent with his defence that he was merely a debt collector.

(b) Second, he argues that the Prosecution failed to address the source of the $3,850 which was found in the white envelope. The Prosecution also failed to address the reason why Mr Crocker gave him the sum of $9,200. He now appears to accept that he did receive the money from Mr Crocker but argues that he received it in his role as a debt collector.

(c) Third, he submits that the Prosecution failed to discharge its burden of proving the facts of possession and trafficking beyond a reasonable doubt. He challenges the credibility of Mr Crocker's evidence and suggests that the Drugs were already in Mr Crocker's possession before Mr Crocker boarded the car.

(d) Fourth, he contends that the Prosecution failed to disclose the statements of two witnesses who were material to his defence and that such non-disclosure was a breach of the Prosecution's disclosure obligations.

(e) Fifth, he challenges the propriety of the Public Prosecutor's decision not to issue him a certificate of substantive assistance ("CSA").

16 In addition, he alleges that he had intended to raise these arguments at the hearing of CM 46 but was unable to do so owing to Mr Ong's failure to include these points in his submissions and Mr Ong's subsequent discharge as his counsel.

17 In response, the Prosecution filed its written submissions on 17 April 2025. The Prosecution argues that the Applicant should not be allowed to bring a second review application, and further, that any new material introduced by the Applicant in the present application is not sufficient for the court to conclude that there has been a miscarriage of justice.

18 On 2 May 2025, the Applicant wrote in to court seeking permission to file a reply to the Prosecution's submissions. The court granted this request on 6 May 2025 and directed the Applicant to file his reply by 16 May 2025. In his reply, the Applicant further elaborates on two issues. First, he argues that certain portions of Mr Crocker's testimony were not adequately addressed by the Prosecution. According to the Applicant, Mr Crocker had testified that in addition to the drugs contained in the golden metal box, he had carried two additional sachets with him in his haversack before he met with the Applicant in the car. This casts doubt on the issue of whether the Applicant was ever in possession of the Drugs. Second, the Applicant repeats his submission that the Prosecution had failed to discharge its disclosure obligations by failing to disclose the statements of two witnesses who were material to his defence.

My decision

The requirements set out in s 394J of the CPC are not met

19 Section 394H(1) of the CPC requires the Applicant to first obtain leave from the appellate court before making a review application. For leave to be granted, the applicant must show a legitimate basis for the exercise of the court's power of review. This would require the applicant to demonstrate that the material which he will be relying on is "almost certain" to satisfy the requirements under s 394J of the CPC: *Pausi* at [48].

20 Under s 394J(2) of the CPC, an applicant must satisfy the appellate court that there is sufficient material (being evidence or legal arguments) to conclude that there has been a miscarriage of justice in the criminal matter in respect of which the earlier decision was made.

21 For the material to be "sufficient", the material must satisfy *all* the requirements set out in ss 394J(3)(*a*)–394J(3)(*c*), as follows:

> (a) before the filing of the application for permission to make the review application, the material has not been canvassed at any stage of the criminal matter;
>
> (b) the material could not have been adduced in court earlier even with reasonable diligence; and
>
> (c) the material is compelling, in that it is reliable, substantial, powerfully probative and capable of showing almost conclusively that there has been a miscarriage of justice in the said criminal matter.

22 None of the grounds raised by the Applicant in the present application can meet these requirements.

23 First, the only new material that the Applicant relies on is the Letter from the CNB dated 23 June 2022. This Letter arose out of an enquiry by the Applicant seeking the return of the seized monies after the conclusion of his appeal. In response, the Letter states in the material part, "[p]lease note that Court Order has been issued to forfeit the said cash of SGD$13,050.00/- as it was ascertained to be from illegal debt collecting activities".

24 Contrary to the Applicant's submissions, this Letter does not assist his case. The Letter is expressed to be premised on a "Court Order" that was issued granting the forfeiture of the monies. In turn, the "Court Order" was issued based on the findings of the High Court and the Court of Appeal that the sum of $9,200 was paid by Mr Crocker to the Applicant in exchange for the Drugs. Indeed, at the end of the trial, the High Court granted an order for the disposal of the case exhibits in the manner specified by the Prosecution, which included the forfeiture of the sum of $13,050 upon the completion of the appeal (see [9] above). Further, it was expressly stated in the report filed by the CNB officer before the Magistrate's Court that the cash amounting to $13,050 seized from the Applicant were "proceeds from drug trafficking" (see [11] above). Given that the Letter is entirely administrative in nature and is premised on the various judgments and court orders which found that the sum of $9,200 was paid by Mr Crocker to the Applicant in exchange for the Drugs, it is clear that the Letter contained a clerical error which mistakenly stated that the sum of $13,050 was ascertained to be from illegal debt collecting activities. The Letter therefore does not amount to compelling evidence in showing that there has been a miscarriage of justice.

25 Second, the various arguments advanced by the Applicant regarding the sufficiency of the evidence securing his conviction cannot amount to sufficient material to conclude that there has been a miscarriage of justice. To summarise, these arguments relate to the Prosecution's alleged failure to adequately address the following issues: (a) the source of the $3,850 found in the white envelope; (b) the reason why Mr Crocker gave the Applicant the sum of $9,200; (c) Mr Crocker's testimony that he possessed two extra sachets of drugs in addition to the drugs contained in the golden metal box; and (d) the various inconsistencies in Mr Crocker's evidence which purportedly rendered him a wholly unreliable witness. Such arguments clearly could have been raised by the Applicant earlier with reasonable diligence. As this court conclusively held in *Kreetharan s/o Kathireson v Public Prosecutor and other matters* [2020] 2 SLR 1175 at [21], it is plainly insufficient for an applicant to attempt to re-characterise evidence already led below or to mount fresh factual arguments on the basis of such evidence. It is therefore unnecessary to address every point raised by the Applicant in so far as it does not raise any new evidence or material besides those available at the trial or on appeal: *Siva Raman v Public Prosecutor* [2024] SGCA 34 at [44].

26 I further observe that it was never the Applicant's case at the trial or on appeal that Mr Crocker had given him the cash as part of his debt collecting activities. The Applicant consistently maintained that he had given and received nothing from Mr Crocker during the time when Mr Crocker was in the car. It thus appears that the Applicant is seeking to advance a submission that is wholly inconsistent with the defence he had unsuccessfully mounted in the earlier proceedings.

27 Third, the Applicant raises for the second time (having raised it once in CM 46) issues relating to the Prosecution's alleged breaches of disclosure

obligations. As the court in *Pausi* highlighted (at [64(c)]), these issues ought to have been raised earlier if they were in fact thought to be relevant. In any event, the Applicant has also failed to explain how the alleged non-disclosures prejudiced his defence or compromised the process in any way such that there would be a miscarriage of justice. Importantly, neither of the witnesses whose statements the Prosecution is alleged to have withheld are central to the court's findings on whether the transaction had taken place (see [8] above).

28 Fourth, the Applicant's argument regarding the Public Prosecutor's decision not to issue him a CSA is plainly a non-starter. An application under s 394H of the CPC concerns the review of an earlier decision of an appellate court. The decision to issue a CSA is not made by the appellate court but by the Public Prosecutor and is thus irrelevant to any review application.

29 Consequently, the Applicant has not satisfied the conjunctive requirements in s 394J of the CPC and no legitimate basis for the court to exercise its power of review has been disclosed.

The application is statutorily barred by s 394K of the CPC

30 In any event, the application is barred by s 394K(1) of the CPC which provides that an applicant "cannot make more than one review application in respect of any decision of an appellate court". It follows logically that an applicant cannot make more than one leave application because that is the necessary prelude to a review application: *Pausi* at [43]. Further, this statutory bar applies even if a subsequent permission application is made on a different basis from the first: *Pausi* at [43]. Indeed, this court has previously observed that the drip-feeding of multiple applications raising different grounds in a bid to thwart the court's efforts to discharge its responsibility to dispose of the

matter timeously would amount to an abuse of the process of the court: *Nagaenthran a/l K Dharmalingam v Attorney-General and another matter* [2022] 2 SLR 211 at [17].

31 In the present case, the Applicant had used the one opportunity provided to him by statute when he filed CM 46. All the arguments raised in the present application could and should have been raised in CM 46. The only reason he has given for not raising these arguments earlier is to allege that his former counsel had failed to do so on his behalf. However, as the court explained in *Pausi* (at [15]–[16]), Mr Ong's request to discharge himself was justified because he considered that bringing these unmeritorious arguments would come into conflict with his duty as an officer of the court. This finding is fortified upon considering the merits (or lack thereof) of the arguments in the present application, which appears to be the same arguments that the Applicant had wanted Mr Ong to advance on his behalf. Moreover, the court in *Pausi* observed (at [20]) that no adjournment was necessary despite Mr Ong's belated application to discharge himself as counsel, because ample time had been afforded to the Applicant for all the relevant submissions and materials to be advanced. It is therefore not open for the Applicant to submit that Mr Ong's conduct took him by surprise such that he was unable to raise in CM 46 the arguments he now seeks to advance. The Applicant is therefore precluded under s 394K(1) of the CPC from filing any further review application.

There is no new material which warrants the court's exercise of its inherent power of review

32 Finally, it should be noted that, in the alternative to invoking the statutory power of review under s 394H of the CPC, this court has the inherent power to reopen a concluded criminal appeal to prevent a miscarriage of justice:

Pausi at [54]. However, as the court cautioned in *Pausi* (at [55] and [57(e)]), this power should not ordinarily be exercised in the absence of new material emerging after the dismissal of a prior review application. In the present case, there is no new material emerging after the conclusion of CM 46. Thus, there is no basis to invoke the court's inherent power of review.

33 Furthermore, the requirements for the exercise of the court's inherent power of review mirror the requirements for the court's statutory power of review. Consequently, if the material put forth by the applicant does not satisfy the requirements set out under s 394J of the CPC, the court cannot exercise its inherent power to reopen a concluded criminal appeal on the basis of the same material: *A Steven s/o Paul Raj v Public Prosecutor* [2023] 1 SLR 637 at [19]. As I have found that the application presents no legitimate basis for the court to exercise its power of review under s 394H of the CPC, it follows that there is likewise no basis for the court to exercise its inherent power of review.

Conclusion

34 For the above reasons, the present application does not disclose a legitimate basis for this court to exercise either its statutory or inherent powers of review. Permission is not granted to the Applicant to commence a review of this court's decision in CCA 23. The application is plainly without merit and is also statutorily barred. Consequently, I find it appropriate for the application to

be summarily dismissed without being set down for a hearing pursuant to s 394H(7) of the CPC.

Steven Chong
Justice of the Court of Appeal

The applicant in person;
James Chew and Heershan Kaur (Attorney-General's Chambers) for the respondent