# Chua Tiong Tiong v Public Prosecutor
# [2001] SGHC 182

**Case Number** : MA 342/1999

**Decision Date** : 16 July 2001

**Tribunal/Court** : High Court

**Coram** : Yong Pung How CJ

**Counsel Name(s)** : Edmond Pereira (Edmond Pereira & Partners) for the appellant; Bala Reddy and Tan Boon Gin (Deputy Public Prosecutors) for the respondent

**Parties** : Chua Tiong Tiong — Public Prosecutor

*Criminal Procedure and Sentencing – Sentencing – Whether sentence manifestly excessive – Corruption involving public servants – Public interest considerations – Consistency with sentence meted out to receiver of gratification – Whether giver of gratification more culpable than receiver*

*Criminal Procedure and Sentencing – Sentencing – Whether sentence manifestly inadequate – Appellant's previous antecedents – Recalcitrant offender – Purpose of s 6(b) Prevention of Corruption Act (Cap 241, 1993 Ed)*

: Before me, this appeal was adjourned no less than four times. It was originally scheduled for hearing on 9 January this year. On that occasion, I was informed that the appellant was unable to attend due to medical reasons. I was told that the appellant had recently undergone a triple heart-bypass operation. I adjourned the hearing till March. On 13 March, I was again informed that the appellant was unable to attend court. He was hospitalised and a medical certificate was tendered in his absence. I therefore allowed counsel`s application for a further adjournment.

Finally, when this appeal was fixed for hearing on 26 June, I decided not to adjourn the hearing any longer without first having an opportunity to see the appellant himself. When counsel again asked for another adjournment with a medical certificate in support, I declined, and informed counsel I wished to see the appellant appear in court the very same afternoon. I also refused counsel`s application to withdraw the appeal, for the very simple reason that I did not think it appropriate to do so in the absence of this appellant.

The appellant did not appear, despite his counsel`s numerous attempts to locate him. In this instance, I revoked bail and issued a warrant of arrest for him. On 27 June, I saw counsel and the deputy public prosecutor (`DPP`) again, who informed me that the appellant was still at large, but the police and officers from the Corrupt Practices Investigation Bureau (`CPIB`) were working on this matter. I reiterated my position that I would not be granting leave to withdraw the appeal. In the meantime, I adjourned the appeal until such time as the appellant was arrested.

On 9 July, the appellant turned himself in at Mr Edmond Pereira`s office, and asked Mr Pereira to represent him in this appeal and take over the case from Mr Subhas Anandan, who had been representing him previously. Mr Pereira subsequently informed the police of the appellant`s presence, and he was arrested at Mr Pereira`s office.

On 10 July, I granted Mr Subhas`s application to be discharged, and Mr Pereira`s corresponding request that he be the appellant`s counsel on record. I also heard the appellant`s appeal against sentence. After giving this matter considerable thought, I dismissed the appeal, but enhanced the appellant`s sentence to 48 months, together with a fine of $100,000 in default another 24 months. I now give my reasons.

***The facts***

The appellant was convicted by District Judge Jasvender Kaur of one charge of bribing one Lim Poh Tee (`Lim`), then Acting Inspector of the Violent Crime Squad at the Jurong Police Division Headquarters, under s 6(b) of the Prevention of Corruption Act (Cap 241, 1993 Ed) (`PCA`), to provide assistance and insider information relating to arrests arising from his illegal moneylending activities. Lim was convicted in the same trial of a corresponding corruption charge of providing the appellant with such assistance and information relating to such illegal activities.

I heard Lim`s appeal against sentence in the early part of the year and dismissed it. The facts culminating in the appellant`s arrest, charge and conviction of his offence were substantially similar to those which I set out in my grounds of judgment dismissing Lim`s appeal (see **Lim Poh Tee v PP** [2001] 1 SLR 674 ), which allows me the luxury of not regurgitating the facts again in this appeal.

It is no secret that the appellant is the now infamous `Ah Long San`, a well-known illegal moneylender operating from the vicinity of Geylang. By his own admission, he started his business from as early as 1980, and it soon spread island-wide. Throughout the years, the appellant charged interest varying from 5% to 20%. In 1990, the appellant claimed he gave up illegal moneylending to become a legitimate businessman. At present, he owns a karaoke lounge and a coffeeshop.

According to him, the reason for giving up this lucrative, though illegal, business was that the law was catching up on him. He had been fined on several occasions for being an illegal moneylender and no longer wished to pursue the business for fear of being arrested and imprisoned.

In her judgment, the district judge doubted if the appellant had ever given up his illegal moneylending business. Right up to the late 1990s, it was common knowledge that a loan shark by the nickname Ah Long San operated island-wide. In fact, the police knew of Ah Long San and his activities, and had been keeping a close watch on him.

It is convenient at this juncture to briefly recall the appellant`s conviction. The appellant and Lim frequented the Lido Palace Nite Club (`Lido Palace`) on several occasions since 1996. These visits were always at the expense of the appellant. In return, Lim not only tampered with the administration of the criminal justice system by abusing his authority to release one Lee Hwee Leong (`Lee`), suspected of working for the appellant in his illegal moneylending business, from custody but also recruited junior police officers to provide him with information on loan shark cases with the intention of passing on such information to the appellant so as to allow the latter and those under him to evade the clutches of the law. The appellant subsequently footed their entertainment bills when these junior officers frequented Lido Palace. By doing so, the appellant insidiously cloaked the entertainment provided in a veil of normalcy and acceptability, shrouding his ulterior motive under the fa+ade of being a generous man.

The district judge convicted the appellant and Lim in a joint trial as follows (at [para ]232 of her grounds of decision):

> *I was satisfied beyond a reasonable doubt that both [the appellant and Lim] knew each other by late 1996 at the latest; that [Lim] got himself involved in Lee`s case because he had been asked by [the appellant] to help out; that [Lim] invited [other junior officers] to Lido Palace after Lee`s case; that he introduced [the same junior officers] to [the appellant] and intentionally made it known to him that they were investigating moneylending cases at Jurong; that [the appellant] provided free entertainment to [Lim] to make him beholden to*

*him with the corrupt intention of seeking his assistance in the event he required his help in his moneylending activities; and that [Lim] thereafter requested [the same junior officers] to forward him information on loan shark cases reported at the station to pass to [the appellant] to enable him to alert his runners to escape conviction. I therefore found that the entertainment was given and accepted corruptly.*

For his offence, the appellant was sentenced to imprisonment for 18 months. He appealed against his sentence.

***Appeal against sentence***

Counsel`s arguments were straightforward. He contended that the imposition of a custodial sentence of 18 months upon the appellant`s conviction of a single charge under the PCA was manifestly excessive. Comparing like cases, he argued that, given the relatively small amount of the gratification, in the form of paid entertainment by the appellant for Lim and his fellow police officers, the sentence meted out was highly disproportionate. Similar cases drew more lenient sentences, and there were no special reasons why the present case warranted a heavier punishment: **PP v Tan Liang Ann** [1998] 2 SLR 893 and **Tang Keng Boon v PP** [2000] 1 SLR 535 .

Particularly, counsel drew my attention to two cases. The first was **Meeran bin Mydin v PP** [1998] 2 SLR 522 . In this case, the accused pleaded guilty to two charges of corruption for bribing an immigration officer to assist him in obtaining social visit passes for various Indonesian nationals to enter Singapore via the Woodlands Checkpoint. On each of the charges, he was sentenced to nine months` imprisonment. I heard his appeal and dismissed it. Equally, in **Lim Sze Leng v PP** (Unreported) , the accused was sentenced to 15 months` imprisonment on each of his three charges for bribing officers at the Sembawang Drug Rehabilitation Centre to smuggle tobacco into the centre.

In his reply, the DPP urged me to disregard the cases relied upon by counsel because of the extreme gravity of the appellant`s offence, and the public interest involved. There were several aggravating factors pertaining to the appellant which were also absent in those cases cited.

I accepted the grave issue of public interest at stake in the present case. Eradicating corruption in our society is of primary concern, and has been so for many years. This concern becomes all the more urgent where public servants are involved, whose very core duties are to ensure the smooth administration and functioning of this country. Dependent as we are upon the confidence in those running the administration, any loss of such confidence through corruption becomes dangerous to its existence and inevitably leads to the corrosion of those forces, in the present case the police force, which sustain democratic institutions. I highlighted this in ***Meeran bin Mydin v PP*** (supra), approving the words of the trial judge in that case (at [para ]18):

*Acts of corruption must be effectively and decisively dealt with. Otherwise the very foundation of our country will be seriously undermined.*

In 1960, this very same position was emphasised by the then Minister for Home Affairs when the PCA was presented before Parliament for its second reading:

*The Prevention of Corruption Bill is in keeping with the new Government*

> *determination to stamp out bribery and corruption in the country, especially in the public service.* ***The Government is deeply conscious that a Government cannot survive, no matter how good its aims and intentions are, if corruption exists within its ranks and its public service on which it depends to provide the efficient and effective administrative machinery to translate its policies into action.****[Emphasis is added.]*

Over the years, whilst we have had considerable success in keeping mainstream corruption in check, there are still instances of corruption which seep through our system. On my part, I have sought to deter corruption through harsher punishment for lawbreakers in this area, but success has not been total, and the judiciary still hears a steady stream of such cases. In many instances, the cases involve reprehensible public servants, contrary to their responsibility of acting as instruments preserving the efficiency, peace and stability of this nation. This not only erodes the confidence of the general public in their duty of service, but also reflects poorly on those public servants who stick by the law. Specifically for police officers, their role as guardians of our streets, our crime-fighters, to police our society becomes a ridicule.

In dismissing the previous appeal by Lim, who was a very senior police officer, I drew attention to the severity of his offence of accepting the appellant`s gratification (supra at [para ]31):

> *As was correctly observed by the district judge, it was highly reprehensible that Lim intentionally drew two junior officers into the web of corruption and in that way rendered more police officers beholden to [the appellant`s] corrupt gratification. Not content with personally betraying the trust reposed upon him, he sought to similarly corrupt other junior officers who would have looked up to him as a role model and for guidance. He was after all a senior officer and a key appointment holder at Jurong Police Division Headquarters with subordinate officers under his command. By insidiously cloaking the entertainment in a veil of normalcy and acceptability, Lim was effectively recruiting a cadre of police officers who would be similarly beholden to [the appellant]. He further instigated the junior officers to act contrary to their duties and to assist [the appellant] and his associates to evade criminal liability. His conduct showed that he was prepared, not merely to make enquiries into investigations on [the appellant`s] behalf, but to actively interfere in the course of police investigations and to subvert the due administration of the criminal justice system. I further noted that Lim had demonstrated absolutely no remorse for his conduct and had cast spurious and unsubstantiated allegations against various law enforcement officers in the course of his defence. Lastly, Lim had a prior conviction for a wholly unrelated offence of corruption.*

In my judgment dismissing Lim`s appeal, I endorsed the general principle that in most cases the giver of gratification bears equal culpability to that of the receiver. Sentences meted out should therefore be similar in terms. There are cases where a giver will not warrant a similar punishment as that of the receiver, such as when a giver was under compulsion or some form of pressure to give. In that situation, it is reasonable to punish the receiver more harshly than the giver. Conversely, there are instances where a giver bears equal, if not more, culpability than the receiver, and this is when the giver intends to corrupt the establishment of law and order for his private gain, and/or gives or offers bribes to pervert the course of justice. In these cases, the giver deserves more punishment. In my view, the appellant fell squarely into the latter category.

In the light of these considerations, there was no way in which the appellant`s sentence could be

viewed as manifestly excessive. In comparison with Lim, who was given a two-and-a-half year imprisonment sentence, only the contrary conclusion seemed logical to me; that the appellant`s sentence was manifestly inadequate.

I found it difficult to understand why the district judge did not slap the appellant with a harsher sentence. After all, the severity of the appellant`s actions was made clear in her judgment (at [para ]240):

> *... He did not have the mitigation of having pleaded guilty or having shown an iota of remorse. This was also not a case of a frightened man who had on the spur of the moment offered a small bribe for a minor offence. On the contrary, [the appellant] deliberately corrupted the establishment of law and order in order to aid his illegal moneylending activities. Again, I did not find the smallness of the gratification to be an important consideration. What was important was that [the appellant`s] objective was to deliberately undermine the impartiality of the police enforcement system by providing the free entertainment at a lavish nightclub.*

I could not, and did not, for a moment underestimate the appellant`s act of corruption. His acts alone defined the root of the whole web of corruption spun around law enforcement officers, instigating them to forgo their sworn duty in favour of various temptations. In the present case, he had bribed Lim so that he could not only evade criminal prosecution but also perpetuate his own criminal activities, and advance his illegal deeds to benefit himself. Lim then sought the assistance of other junior officers. It was my understanding that these junior officers were then subjected to probes by the CPIB. None of these would have occurred without the appellant`s active participation in the first place. Short of taking the law into his own hands, the appellant was implicitly buying into the police force to forward his criminal activities. His elaborate bribery scheme was well disguised, and enabled him, by his criminal activities, uncontrolled freedom from the law. It perverted the course of justice, and made a mockery of the police force.

The consequences of the appellant`s actions were far-reaching. If not appropriately stopped, or deterred, the entire foundation of our criminal justice system, and the very institution policing such activity, would be compromised. Morale would be affected, so would the integrity of the other enforcement agencies in Singapore. The very nature of the police and their responsibilities require that we repose trust and confidence in them, and the appellant`s success in corrupting one, or some, albeit a tiny proportion, of the force necessarily demands that we punish all responsible parties, particularly the sole instigator, severely.

It is a fundamental precept of our criminal justice system that every man must be held accountable to the rule of law, without exception. The appellant`s conduct struck at the very heart of this precept by attempting to subvert the due administration of criminal justice by interfering with the proper course of police investigations. Looking at this case in essence, the appellant was seeking to buy the integrity of the police force, and it was this integrity which formed the cornerstone of the maintenance of law and order in Singapore. As Chan Sek Keong J (as he then was) warned in **Abdul Salam bin Mohamed Salleh v PP** [1989] SLR 909 [1990] 1 MLJ 136 :

> *Public confidence in policing and the investigating of crime will diminish unless police officers perform their duties without fear or favour.*

The appellant was no angel in disguise. His previous antecedents spanning the last three decades involved not only unlicensed moneylending but also disorderly behaviour and using criminal force to deter a public servant from discharging his duties. While there was no previous offence for corruption, the present offence arose from his moneylending business, and was closely related to his previous convictions for unlicensed moneylending. All these demonstrated the need for a sentence which would sufficiently deter him from future criminal conduct. He was clearly a recalcitrant offender and his present conviction simply demonstrated his increasing disregard of the law.

In the course of his submissions, the DPP conceded that I could not, and should not, take into account the appellant`s roles in previous cases where several other police officers were convicted of accepting bribes from him, not least because he was never charged with those offences as a giver. These cases included **Hassan bin Ahmad v PP** [2000] 3 SLR 791 , **Fong Ser Joo William v PP** [2000] 4 SLR 77 , **PP v Sim Bok Huat Royston** (Unreported) . I should therefore make clear in no way was my consideration in the present instance blinded by the fact that the appropriate sentence for the appellant was not to punish him for those roles. No doubt the appellant may have been responsible for numerous acts of notoriety involving not one officer, but a segment of the police force, thus raising the stakes, but I was mindful that any sentence imposed cannot be done in a vacuum, and must always be based on established principles of law. Therefore, since the appellant was never charged, nor convicted in those previous cases, I was careful not to let the opposite view affect my judgment here. Any punishment here was to fit the crime, not the criminal.

Similarly, whilst I was conscious of the fact that the appellant still faced 28 outstanding charges against him, 23 of them under the PCA, this did not cloud my decision in considering his appeal. It was, for all intents and purposes, irrelevant. Whether or not he will be found guilty or not of those charges was still a matter not known, and until then, I should give him the benefit of the doubt and consider him innocent until proven guilty by a court of law.

This brought me to the appropriate sentence for the appellant. Needless to say, I found the district judge`s sentence overly lenient. The PCA was enacted for a single purpose, namely to provide for the more effectual prevention of corruption in Singapore. Section 6(b), the offence which the appellant was charged and convicted of, stipulated a maximum sentence of five years, and/or a fine not exceeding $100,000. This underlined the severity of the offence, in the hope that like-minded individuals would consider the consequences before embarking on any such act. On my part, giving effect to the punishment prescribed under s 6(b), I was of the view that a sentence of 48 months and a fine of $100,000 (in default 24 months` imprisonment) would be the appropriate sentence.

There are four pillars of sentencing: retribution, deterrence, prevention and rehabilitation. Criminal courts play their part by ensuring that the sentences of offenders mirror these pillars. The sentence imposed on the appellant not only served to punish him, it also sought to deter potential offenders, through fear of punishment, and to influence offenders who have been appropriately sentenced not to offend again. At the same time, it was meant to restore the faith that our police force is crime and corruption free.

***Conclusion***

Money is not everything, and certainly cannot buy the appellant out of troubles with the law. The time has come for the appellant to pay his dues to a law-abiding country. The enhanced sentence was meant to stop his illegal moneylending activities, incapacitate him from doing further harm to the society at large, and put an end to the embarrassment which his actions have caused to the police force.

**Outcome:**

Appeal dismissed; sentence enhanced.



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