

Teng Cheng Sin v Law Fay Yuen (m.w.)
[2003] SGHC 76

Case Number : DA 38/2002/W
Decision Date : 02 April 2003
Tribunal/Court : High Court
Coram : Kan Ting Chiu J
Counsel Name(s) : Hee Theng Fong and Tay Wee Chong (Hee Theng Fong & Co) for the appellant;
Respondent in person
Parties : Teng Cheng Sin — Law Fay Yuen (m.w.)

Administrative Law – Natural justice – Allegations that trial not fair and impartial – Failure to give copies of documents to appellant – Referral by trial judge to incidents subsequent to complaint

Evidence – Documentary evidence – Medical reports – Whether direct evidence of assault

Family Law – Family violence – Orders for protection – Grant of personal protection order – Women's Charter (Cap 353, 1997 Rev Ed) s 65

1 The Family Court heard an application by a wife for a personal protection order against her husband. Both parties appeared in person at the hearing before a District Judge. After hearing them, the judge issued the order sought. The husband's appeal against the order came up before me.

2 The parties were married in 1990 and have three children. The marriage ran into difficulties and the wife Law Fay Yuen left the matrimonial home on 6 December 2001.

3 However, she would return to the house from time to time. The husband Teng Cheng Sin disapproves of this and believes that she should not do that without his consent or an order of court.^[1] She on the other hand feels that she is entitled to return to the matrimonial house.^[2]

4 When the wife returned to the house on the morning of 2 January 2002 matters came to a head. She had gone to the house as it was the first day of school and she went to pick up apparel and books for her two sons. She said that when her husband saw her he pulled her necklace on which she wore a whistle, and caused the necklace to break. She alleged that he then pushed her to the front gate of the house. When she held onto the gate he took his keys from his pocket and struck her hands with them. After she released her hold on the gate, he closed the gate.

5 She called for police assistance. The recorded message read "I having some problem with my husband. Require assistance." Another call was made by a person identified as Mr Sia that "A Chinese family is having a dispute."

6 The police arrived and attended to her. She went to the National University Hospital on their advice and made a police report at 1.35 pm, setting out her complaint against her husband. At about 3.21 pm she was examined by Dr Elaine Liu at the Accident and Emergency Department of the hospital. Dr Liu prepared a report on the examination. She set down the wife's account of the events, and noted that she had two abrasions on the right side of her lower neck and bruises and scratches on her forearms and hands. In a further report Dr Liu stated that she was unable to confirm if those injuries were self-inflicted or inflicted by an external party, and could only say that they were consistent with the history given by the wife. The wife obtained another report from Dr Perry Travers, a consultant at the Emergency Department at NUH who concurred that the injuries were consistent with the alleged assault.

7 The husband gave his account of the events of that morning at the hearing. He said (with emphasis added by me)

On 2nd January 2002 at about 9 am while I was brushing my teeth, preparing to go to work, my maid nervously told me that Complainant came again and packed two big bags of things to take them away. Immediately I rushed down but could not find anyone. I then saw Complainant standing on the grass patch. I told her not to disturb the kids as they are so pitiful. Complainant tried to get in on 2nd January 2002 to take away the uniforms.

I asked her to leave what she has taken and not disturb us further. *Complainant did not answer me and walked towards the gate.* Complainant lied saying that I pushed her all the way to the gate. She walked to the gate on her own. She also lied to say that I pulled her whistle. How could she blow the whistle if I had taken it away from the start. ... How could so many things happen in three minutes? Just before I closed the gate, *Complainant put her hand in between the gate. I tried to push Complainant's hand away because I saw her hand between the gate. The momentum of the gate caused it to hit both our hands.* I also sustained some abrasions but I could treat myself. The lesion is negligible.[\[3\]](#)

8 In this account, there was no altercation between them. He asked her to leave, she ignored him and went to the gate. He did not explain why it was necessary for him to go to the gate with her or to close the gate when her hands were on it.

9 The family maid Sumiati bte Merdi also gave evidence at the hearing. She did not see the events. She heard the husband ask the wife to leave and the wife shouting back. She also heard a whistle, but she did not know who blew it. Then the husband left the house, and the wife called for the police.[\[4\]](#)

10 The district judge accepted the evidence of the wife. She stated in para 11 of the Grounds of Decision that

Whilst there exists the possibility that Mdm Law's injuries could have been self-inflicted, I have to make a finding on the evidence and I am of the view that this is unlikely on the facts. Apart from the opinions of the two doctors that the injuries were consistent with the case history provided by Mdm Law, there are also other important aspects of the case which bear close scrutiny. Mdm Law's description of the assault on 2 January 2002 was at all material times, lucid and generally consistent in content. She lost no time in gathering the evidence necessary to support her case. She lodged a police report on the day of the incident and sought prompt medical attention. She had called the police to the matrimonial home immediately after the incident. Contrary to what Mr Teng would have the court believe, she would have had little or no opportunity to fabricate the assault and to inflict injuries upon herself in the circumstances. I would accord due weight to the police and medical reports as these are contemporaneous records of the events of 2 January 2002 and the doctor's findings respectively.

11 She also referred to reports of Dr Liu and Dr Travers that the wife's injuries were consistent with an assault, and found it improbable that the injuries were caused by the momentum of the gate.[\[5\]](#)

12 The district judge had before her the wife's first information report, police report, and her evidence in court. The details of the incident varied in the accounts. That is acceptable given the different circumstances in which each account was given. The telephone call was a call for help more than a narration of the events. Police reports tend to be longer, but it is normally in court that the

details come out. The differences do not necessarily mean that the wife was not to be believed. It was sufficient that the wife's evidence was on the whole credible, as the district judge had found.

13 In the appeal, counsel appeared for the husband. The issues raised were

- (1) whether the abrasions on the wife's neck was self-inflicted,
- (2) whether the abrasions on the wife's arm was caused by the momentum of the gate which the husband was trying to close, and
- (3) whether the husband was deprived of a fair and impartial trial because (i) the district judge refused him to refer to any event of 31 August 2001 but allowed the wife to refer to an event of 24 August 2002^[6]; and (ii) he was not given copies of the photographs of the wife's injuries, Dr Perry Travers' medical report and the Complaint Form for the purpose of cross-examination.^[7]

14 The first two points on the cause of the injuries can be considered together. Counsel for the husband took issue with the district judge's reliance on the medical reports. He submitted that the doctors found that the injuries were consistent with the wife's claim, and did not confirm that she was actually assaulted.

15 While that is true, counsel made too much of it. The district judge did not regard the medical reports as direct evidence that the wife was assaulted by the husband. The reports were taken into consideration as part of all the available evidence. The district judge was right to take into consideration the fact that the medical findings were consistent with the wife's evidence.

16 Another complaint was that the husband was not given copies of the photographs, medical reports and forms.

17 The complaint was not that he was not allowed to see these documents during the hearing and it is not clear whether he had asked for copies of those documents.

18 At the hearing the parties appeared in person, and the hearing may not have been conducted to the same standard if counsel were briefed. It would have been wrong if the documents were not shown to the husband at all. If they were shown to him, and he needed time to study or make copies of them, he should be allowed to do that. But if he was shown and made no request that reduces the force of his complaint.

19 The complaint arising from the admission of the wife's evidence of another incident on 24 August 2002 was more significant. Counsel said that the husband was taken by surprise as well he would, since the hearing was properly in respect of an incident of 2 January.

20 The district judge should not have allowed evidence of a disputed incident which occurred two and a half months after the application was made.

21 However this error did not affect the essential validity of the order she made. The undisputed fact is that the wife believes that she has a right to return to the house, whereas the husband considers her a trespasser. This will continue to be a source of annoyance and hostility whenever the wife returns to the house.

22 Section 65(1) of the Women's Charter provides that

The Court may, upon satisfaction on a balance of probabilities that family violence has been committed or is likely to be committed against a family member and that it is necessary for the protection of the family member, make a protection order restraining the person against whom the order is made from using family violence against the family member.

23 As long as the parties maintain their positions (and there is no indication of any change), a repetition of the incident is likely. On that basis, an order is justified without reference to the disputed incident of 24 August.

24 In the light of the foregoing examination of the matters, I dismissed the husband's appeal.

[1] Notes of Evidence pages 4-5

[2] Notes of Evidence page 6

[3] Notes of Evidence page 9

[4] Notes of Evidence page 14

[5] Grounds of Decision para 17

[6] Appellant's Skeletal Arguments para 27

[7] Appellant's Skeletal Arguments para 29

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