

Public Prosecutor v Louis Pius Gilbert
[2003] SGHC 33

Case Number : CM 13/2002
Decision Date : 21 February 2003
Tribunal/Court : High Court
Coram : Yong Pung How CJ
Counsel Name(s) : Lawrence Ang (Principal Senior State Counsel), Winston Cheng and Sia Aik Kor (Deputy Public Prosecutors) for the applicant; Zero Nalpon (Nalpon & Company) for the respondent
Parties : Public Prosecutor — Louis Pius Gilbert

Criminal Law – Application by Public Prosecutor under s 60 of the Supreme Court Judicature Act (Cap 322) asking for question of law of public interest to be referred to the Court of Appeal – Whether motion be allowed.

1 The Public Prosecutor made an application under s 60 of the Supreme Court of Judicature Act (Cap 322) ('SCJA') asking for a question of law of public interest to be referred to the Court of Appeal. The matter arose from the Magistrate's Appeal No 196 of 2002, whereby the appellant Pius Gilbert Louis was sentenced to 10 years' imprisonment for causing grievous hurt under s325 of the Penal Code (Cap 224). As the judge sitting in the appellate capacity, I had employed the proviso to s 11(3) of the Criminal Procedure Code (Cap 68) to increase the appellant's sentence of imprisonment from 6 to 10 years, despite the fact that the maximum sentence for a s 325 offence is 7 years. The proviso reads, "Provided that where a District Court has convicted any person and it appears that by reason of any previous conviction or of his antecedents, a punishment in excess of that prescribed in this subsection should be awarded, then the District Court may sentence that person to imprisonment for a term not exceeding 10 years and shall record its reason for so doing." The Public Prosecutor's question of law for the determination by the Court of Appeal was framed as such:

Whether the proviso to s 11(3) of the Criminal Procedure Code (Cap 68) allows the District Court, and consequently the High Court in the exercise of its appellate jurisdiction, to impose a sentence beyond the maximum punishment prescribed for the offence.

2 Section 60(1) SCJA requires me to reserve for the decision of the Court of Appeal any question of law of public interest which has arisen from my determination of a matter in this case upon an application by the Public Prosecutor. I therefore allowed the motion and granted an order in terms of the Public Prosecutor's application.

Motion allowed