Ong Chin Keat Jeffrey v Public Prosecutor
[2004] SGHC 201

Case Number : MA 56/2004

Decision Date : 08 September 2004

Tribunal/Court : High Court

Coram : Yong Pung How CJ

Counsel Name(s) : Subhas Anandan, Tan Chee Meng, Melanie Ho and Clarence Lee (Harry Elias Partnership) for appellant; Benjamin Yim (Deputy Public Prosecutor) for respondent

Parties : Ong Chin Keat Jeffrey — Public Prosecutor

Criminal Law – Statutory offences – Misuse of Drugs Act – Interpretation – Whether necessary to adopt purposive interpretation of "trafficking" – Whether appellant's actions falling within ambit of "trafficking" even if purposive interpretation adopted – Sections 2, 5 Misuse of Drugs Act (Cap 185, 2001 Rev Ed)

Criminal Law – Statutory offences – Misuse of Drugs Act – Whether appellant's acts satisfying definition of "traffic" – Section 2 Misuse of Drugs Act (Cap 185, 2001 Rev Ed)

Criminal Procedure and Sentencing – Charge – Alteration – Entrapment carried out by Central Narcotics Bureau officers – Whether court should convict appellant on lesser offence than that arising out of entrapment

8 September 2004

Yong Pung How CJ:

1 The appellant, Jeffrey Ong Chin Keat, was convicted on one charge of trafficking in a Class A controlled drug under the Misuse of Drugs Act (Cap 185, 2001 Rev Ed) ("the MDA") for selling one tablet of Ecstasy to an undercover CNB officer, an offence under s 5(1)(a) of the MDA and punishable under s 33 of the MDA.

2 The appellant appealed against his conviction. I heard his appeal and dismissed it. I now give my reasons.

3 The charge against the appellant read as follows:

> You, Jeffrey Ong Chin Keat, Male, 30 years, NRIC S7305455I are charged that you, on the 15th day of July 2003 at about 11.40am, at Tiong Bahru MRT Station, Singapore, did traffic in a controlled drug specified in Class "A" of the First Schedule to the Misuse of Drugs Act, Chapter 185, to wit, by selling one (1) tablet marked "CU" which was analysed and found to contain 0.12 gram of N, a-dimethyl-1,3-(methylenedioxy)phenethylamine [*sic*], to one W/Sgt Jennifer Lim, an officer of the Central Narcotics Bureau, at S$80/-, at the said place, without any authorization under the said Act or the Regulations, made thereunder, you have thereby committed an offence under Section 5(1)(a) of the Misuse of Drugs Act, Chapter 185 and punishable under Section 33 of the Misuse of Drugs Act, Chapter 185.

4 At trial, a Statement of Agreed Facts ("SOAF") was agreed between the parties, and this was admitted under s 376 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("the CPC"). The appellant did not challenge the contents of the SOAF.

The Statement of Agreed Facts

5 According to the SOAF, on 14 July 2003, Staff Sergeant Patrick Chan was chatting on an Internet relay chat program ("IRC") under the nickname "Johnny" when he saw the appellant advertising the sale of Viagra in one of the chat rooms. SSgt Patrick Chan inquired into the price of the Viagra. After further inquiry by "Johnny", the appellant agreed to sell one Ecstasy pill to "Johnny". SSgt Patrick asked the appellant if he had any more Ecstasy to sell but the appellant answered in the negative. SSgt Patrick then obtained the appellant's mobile phone number and they proceeded to discuss the details of the sale of the Ecstasy pill *via* short message service ("SMS"). SSgt Patrick arranged to meet the appellant at Tiong Bahru Plaza the next day.

6 On 15 July 2003, an operation was planned to arrest the appellant. As part of this operation, another officer, Sergeant Vikas posed as "Johnny" in order to meet with the appellant. "Johnny" was also accompanied by Woman Sergeant Jennifer Lim. At the meeting, "Johnny" asked for the original price of $140 for the Ecstasy pill to be reduced to $40. "Johnny" told the appellant that $40 was the market price. The appellant said that his lowest price was $80 and he left since the price could not be agreed upon. Later, "Johnny" called the appellant on his handphone and agreed to the sale of the Ecstasy pill at $80. The appellant then met with "Johnny" and W/Sgt Jennifer Lim again at Tiong Bahru Plaza, and sold one Ecstasy pill to W/Sgt Jennifer Lim for $80. Shortly thereafter, the appellant was arrested at Tiong Bahru Mass Rapid Transit ("MRT") station by a party of Central Narcotics Bureau ("CNB") officers. A search was conducted on the appellant and a marked $50 note and three marked $10 notes were found clutched in his right fist.

7 Investigations revealed that the appellant had previously sold Viagra pills to a customer over the Internet and had obtained the Ecstasy pill from the same customer in exchange. The Ecstasy pill was submitted to the Health Sciences Authority on 16 July 2003 for analysis. It was found to contain 0.12g of N, a-dimethyl-3,4-(methylenedioxy)phenethylamine, a Class A controlled drug listed in the First Schedule to the MDA.

The Prosecution's case

8 The Prosecution's case was based entirely on the SOAF, which was admitted under s 376 of the CPC. The Prosecution argued that the appellant should be found guilty of the trafficking charge because the elements of the trafficking offence under s 5 of the MDA had been satisfied by the appellant's own testimony and by his admissions in the SOAF.

The defence

9 The appellant's case at the trial below was based solely on issues of law. The appellant argued for the charge of trafficking to be reduced to that of possession on two grounds, namely that (a) the offence did not constitute "trafficking" under the MDA; and (b) the extent of the instigation from CNB inducing the appellant to sell the Ecstasy pill crossed the boundary of "fair and reasonable" entrapment.

10 In addition to the SOAF, the appellant raised additional facts in his defence and mitigation. He testified that in May 2003, a customer had asked for four pills of Viagra which were to be sold for $160 over the Internet. The appellant agreed to meet the customer, and gave the customer four pills in a strip. However, the customer had only $80, although the price was supposed to be $160. Instead of paying the remaining $80, the customer gave the appellant two pills, one of which was the Ecstasy pill mentioned in the charge. In cross-examination, the appellant claimed that he had taken the pills because he wanted the shortfall in the payment to him to be made up. He claimed that if he had not

taken the Ecstasy pills offered to him, and just accepted the $80 that the customer had with him, the customer might have tried to do the same thing again the next time, instead of paying the full amount. When the appellant returned home, he testified that he cut up one of the pills to see what it was like. He left the other pill, as well as fragments left from the first pill, on a shelf, and forgot about it.

11 About two months later, around July 2003, the appellant agreed over the Internet, to meet with SSgt Patrick to sell him one Ecstasy tablet at $150 (as per the SOAF). The appellant testified that when he was asked to supply seven more Ecstasy pills, he had replied that he did not have seven pills to sell as he was in the business of selling Viagra.

12 After his arrest, the appellant assisted the CNB by sending a text message to the person he had sold Viagra to. The appellant also testified that at the time of the transaction with "Johnny", he did not know the market price of Ecstasy. He further testified that apart from the one pill in question, he had never sold Ecstasy previously. When questioned by the Prosecution, the appellant further claimed that although he knew that Ecstasy was a drug, he did not know that the sale of Ecstasy was so serious as to merit a jail term. He however knew that it was wrong to buy Ecstasy, and when it was put to him, he agreed that it was wrong to sell the Ecstasy pill.

The decision below

13 The trial judge found the appellant guilty as charged and sentenced him to five and a half years' imprisonment and five strokes of the cane (see [2004] SGDC 130).

14 The trial judge held that the facts, both in the SOAF and the testimony of the appellant, established beyond a reasonable doubt that the appellant was guilty as charged. He also held that the arguments on law advanced by the appellant had failed to convince the trial court that the appellant was not guilty of trafficking, or that because of entrapment, he should be convicted only on the lesser charge of possession.

The appeal

15 On appeal, the appellant sought to overturn the conviction for trafficking and to substitute this with a charge of possession. The appellant based his appeal on two main grounds:

(a) that the offence did not constitute "trafficking" under the MDA but its true gravamen was one of possession; and

(b) that, due to "entrapment", the appellant should be convicted for possession under the MDA, and not trafficking.

16 I will now deal with each of these issues in turn.

Trafficking

17 On appeal, counsel for the appellant argued that the offence of "trafficking" under the MDA was not meant to apply to offenders such as the appellant, and that the appellant was not the "evil trafficker" envisaged by the drafters of the statute. The appellant argued that the MDA was aimed at punishing and deterring the traffickers who are truly and extensively trafficking in controlled drugs, and that the appellant did not fall within this category of offenders. The appellant also invited the court to consider the legislative intent of Parliament.

18 In the course of the hearing before me, counsel for the appellant conceded that Parliamentary debates were of no assistance to the appellant. Nevertheless, with reference to arguments advanced by counsel, I give my views below.

The meaning of "trafficking"

19 It was clear to me that there was no merit in the appellant's first ground of appeal. The trial judge had carefully considered essentially the same issues of law, and I concluded that he was correct in dismissing the appellant's arguments at trial. While it was legitimate under s 9A of the Interpretation Act (Cap 1, 2002 Rev Ed) to consider the purpose or object of the statute in construing its language, I agreed that the trial judge was right in adopting the plain meaning of the statute in the absence of any ambiguity in the provision.

20 In dismissing the appellant's arguments at trial, the trial judge held at [33] that:

> The evidence before the Court clearly established that the accused did sell the tablet of Ecstasy, which is a Class A controlled drug specified in the First Schedule to the MDA, to an undercover CNB officer. There was no authorisation under the MDA. The elements of the offence under s 5(1)(a) were made out.

21 The elements of the offence of trafficking in controlled drugs are set out under s 5 of the MDA:

> Trafficking in controlled drugs
>
> **5.** —(1) Except as authorised by this Act, it shall be an offence for a person, on his own behalf or on behalf of any other person, whether or not that other person is in Singapore —
>
> (a) to traffic in a controlled drug;
>
> (b) to offer to traffic in a controlled drug; or
>
> (c) to do or offer to do any act preparatory to or for the purpose of trafficking in a controlled drug.

22 "Traffic" is defined in s 2 of the MDA as:

> **Interpretation**
>
> **2.** In this Act, unless the context otherwise requires —
>
> …
>
> "traffic" means —
>
> (a) to sell, give, administer, transport, send, deliver or distribute; or
>
> (b) to offer to do anything mentioned in paragraph (a),
>
> otherwise than under the authority of this Act, and "trafficking" has a corresponding meaning; …

23 The trial judge had carefully considered the plain words of the MDA and concluded that the

appellant had committed the offence of "trafficking" under the MDA. I agreed that the trial judge was correct in holding (at [42]) that:

> It is within the context of the language actually used that one must construe the purpose of the Act, and there is nothing to indicate that the provisions target those who traffic in little, whether on a part-time basis or otherwise, from those who run it on a large scale, devoting the whole of their lives to the endeavour. …

24 The appellant cited the decision of *Ng Yang Sek v PP* [1997] 3 SLR 661, and alluded to the purposive approach taken by the Court of Appeal in that decision. The peculiar facts of *Ng's* case, which concerned the use of opium as an ingredient of medicinal plasters prepared within the context of Chinese traditional medicine, were clearly distinguishable from those in the present appeal. The appellant also cited the case of *Ong Ah Chuan v PP* [1980-1981] SLR 48 with reference to the "draconian penalties" prescribed for trafficking in drugs. The appellant's reference to *Ong Ah Chuan* was inapposite because, unlike in *Ng Yang Sek* or in *Ong Ah Chuan*, there was no ambiguity as to the appellant's guilt in the present case. Here, there was no doubt that the appellant had sold the drug. He had admitted to selling the drug, and had also admitted that he knew that he was selling Ecstasy.

25 As I previously observed in *Ho Yean Theng Jill v PP* [2004] 1 SLR 254 at [30]:

> Under s 9A of the Interpretation Act, a court may refer to extrinsic materials only in *limited circumstances*, for example, to ascertain the meaning of the provision when the meaning of that provision is *ambiguous or unclear*. [emphasis added]

26 From a plain reading of ss 2 and 5 of the MDA, the meaning of "trafficking" is clear and unambiguous in relation to the sale of Ecstasy for consumption as a drug. Furthermore, in the present appeal, the appellant did not dispute the meaning of the operative words "to sell" found in s 2 of the MDA. The appellant failed to show any reason why I should depart from the plain words of the statute. On a plain reading of the statute, and in view of the SOAF, the appellant therefore fell within the intended class of offenders targeted by the MDA.

Purposive interpretation of the MDA

27 In his written submissions, counsel for the appellant contended that if the trial judge had adopted a purposive interpretation of the meaning of "trafficking" in the MDA, the conviction on trafficking would have been overturned. It was obvious to me that such a conclusion could not be sustained because it ignores the fact that Parliament has consistently taken a serious view of Ecstasy-related offences.

28 As stated above, because the words of the statute were clear and unambiguous, a plain reading was sufficient and it was not necessary to adopt a purposive interpretation of the statute in the present appeal. Nevertheless, I was of the view that even if I had adopted a purposive reading of the MDA with reference to legislative intent as suggested by the appellant, the sale of the Ecstasy pill by the appellant nonetheless clearly fell within the ambit of "trafficking".

29 The appellant cited remarks made in Parliament on 9 November 1977 by Mr Chua Sian Chin (then Minister for Home Affairs) at the Second Reading of the Misuse of Drugs (Amendment) Bill (see *Parliamentary Debates, Official Report* (9 November 1977), vol 37 at cols 169–170):

> … This deterrent sentence is necessary to bring the message to recalcitrant drug addicts that the Government does not intend to see that time, money and efforts spent in rehabilitating them

should go down the drain. Further, it would also put these recalcitrant drug addicts out of circulation for a longer period, thereby reducing the demand for drugs as well as preventing them from contaminating and influencing others into drug addiction.

30 There was nothing in the above passage that related to legislative intent in relation to drug *traffickers*. The above passage dealt with deterrent sentences to deal with "recalcitrant drug *addicts*". In contrast, the present appeal was concerned with a simple case of the appellant selling an Ecstasy pill, which amounted to trafficking in drugs under the MDA.

31 There have indeed been relevant pronouncements pertaining to the trafficking of synthetic drugs, and of Ecstasy in particular. These relevant pronouncements are not only of no assistance to the appellant but, in fact, further supported my opinion that the appellant's arguments could not be sustained.

32 During the Second Reading of the Misuse of Drugs (Amendment) Bill on 1 June 1998, Mr Wong Kan Seng (Minister for Home Affairs) stated (see *Parliamentary Debates, Official Report* (1 June 1998), vol 69 at col 40):

> Firstly, psychotropic drugs are increasingly emerging as a major global threat …"Ice" and "Ecstasy" are examples of psychotropic drugs. These drugs are easy to produce and can be manufactured from easily obtainable chemicals and raw materials in makeshift laboratories … "Ecstasy" causes hallucinations, anxiety and can cause death by overheating of the body or dehydration …
>
> … MHA is not proposing at this stage to introduce the death penalty for "Ecstasy"-related offences. *Nevertheless, the penalties are still heavy as "Ecstasy" is a Class A drug.* For example, trafficking in "Ecstasy" currently attracts a maximum penalty of 20 years' imprisonment and 15 strokes of the cane, *and a minimum penalty of 5 years' imprisonment and 5 strokes of the cane.* [emphasis added]

33 During the recent Budget Debate on 12 March 2004, Mr Ho Peng Kee (Senior Minister of State for Home Affairs) reiterated Parliament's concern about the trafficking of synthetic drugs (see *Parliamentary Debates, Official Report* (12 March 2004), vol 77 at col 1297):

> Let me say that MHA takes a very serious view of what is happening on the drug scene. We are thankful that overall, the drug situation is well under control but *we are focusing now on synthetic drugs*, but, of course, not neglecting heroin abuse, seeing what more can be done. For example, *we are studying whether the penalty for trafficking of synthetic drugs should be enhanced to deter would-be traffickers*. We will look at that. The other area is that we will continue with strict enforcement. I think CNB does a good job to ensure that our laws are strictly enforced. [emphasis added]

34 Parliament has been consistently mindful of the problem of individuals trafficking in synthetic drugs like Ecstasy. The attention of Parliament has consistently been focused on strict enforcement and heavy penalties to deter would-be traffickers. Since Parliament has so clearly expressed its concern about deterring "would-be traffickers" who have not even begun selling drugs, it is absurd for the appellant to now argue that the MDA is any less concerned about dealing with "first-time traffickers" who have already engaged in the sale of drugs, albeit in a single transaction.

35 Thus, even if a purposive interpretation of "trafficking" were to be adopted in relation to the sale of Ecstasy, the actions of the appellant still fell squarely within the ambit of "trafficking" under

the MDA.

Whether there was trafficking

36 The appellant argued that despite the plain words of the MDA, his acts nevertheless should not be construed as "trafficking". However, I was of the view that whether the court proceeded on a literal or purposive interpretation of the MDA, the agreed facts and testimony of the accused made it clear that a simple case of trafficking has been made out.

37 First, the appellant knew that the pill that his customer had passed to him was Ecstasy. This was admitted by the appellant in the SOAF, and under cross-examination:

Q: Did he tell you that what the pill [*sic*] he was giving you was an Ecstasy pill?

A: He told me these 2 pills is [*sic*] Ecstasy.

…

Q: Satisfied that they were Ecstasy pills [*sic*]?

A: Yes, I was satisfied with the Ecstasy pills …

38 Second, the appellant knew that buying and selling Ecstasy was illegal:

Q: You knew it was wrong to receive Ecstasy from this person?

A: Yes, buying Ecstasy is wrong.

…

Put: On 15 Jan 2003, you were at Tiong Bahru MRT station.

A: Yes.

Put: On that date, you sold one ecstasy tablet to W/Sgt Jennifer Lee.

A: Yes, it was to the guy.

Put: Did so without any authorisation under the law [*sic*].

A: I know it is wrong.

39 Finally, the appellant intentionally sold the Ecstasy pill to a customer for $80, with knowledge of the nature of the drug. This clearly satisfies the definition of "traffic" under s 2 of the MDA, which

includes "to sell".

40 Liability for the offence of trafficking under the MDA should not hinge on the capacity or background of the appellant, but on whether the appellant in fact engaged in acts of trafficking. Arguments that the appellant was a "one**l**time seller" and not a "big-time trafficker" or "evil trafficker", may be relevant for purposes of mitigation and sentencing, but are not relevant considerations for purposes of conviction.

41 As I previously observed in *Aw Sei Kui v PP* [1998] 2 SLR 722 at [50]:

> The actual 'harm' done by a speeding offence or by possession of a minuscule amount of a prohibited drug may be insignificant, but that fact would not qualify either offender as exempt from punishment under the de minimis principle. In such instances, meaning can only be given to the law if it blankets the entire range of offenders, for the cumulative effect of many slight offences causes great harm to society as a whole. Naturally, however, the culpability of any particular offender will be reflected in the sentence he receives — but he is guilty of an offence nonetheless.

Entrapment

42 The appellant based a great deal of his case on the issue of entrapment. This issue had already been argued extensively at trial by counsel and had been carefully considered by the trial judge. After considering the appellant's arguments in the light of the SOAF, I was of the view that there was no merit in the appellant's submissions in relation to entrapment.

43 The trial judge observed correctly that there are four possible arguments that can generally be made in relation to entrapment: (a) entrapment as a substantive defence; (b) the exclusion of evidence obtained through entrapment; (c) entrapment as a reason for a stay of proceedings; and (d) entrapment as a reason for the court to exercise its discretion to convict the accused on a lesser offence than that arising out of the entrapment. The appellant's submissions on appeal centred on (c) and (d), and he did not rely on (a) and (b). Thus, I shall deal with the first two points only briefly.

Entrapment as a substantive defence

44 As affirmed by the Court of Appeal in *Amran Bin Eusuff v PP* [2002] SGCA 20, it is trite law that entrapment is not a valid defence to a charge. In the present appeal, it is sufficient to note that the appellant had rightly conceded that entrapment was not a valid defence.

The exclusion of evidence obtained through entrapment

45 The trial judge considered the case of *SM Summit Holdings Ltd v PP* [1997] 3 SLR 922 for the position that entrapment may possibly render evidence obtained, prejudicial or inadmissible. However, on appeal, the appellant did not argue for the exclusion of evidence obtained through entrapment, neither did he challenge the decision of the trial judge on this issue. Therefore, this line of argument was also of no assistance to the appellant.

Entrapment as a reason for stay of proceedings

46 The appellant sought to place a great deal of emphasis on the case of *R v Looseley* [2001] 4 All ER 897. This case reflects the position in English law that where a defendant can show unfair entrapment, the court may grant a stay of proceedings to prevent an abuse of process. However, it

was plain to me that this case was of little, if any, assistance to the appellant.

47 Counsel for the appellant argued at length about the merits of the decision in *Looseley*. However, during the hearing before me, counsel for the appellant conceded that the local position on entrapment was consistent with the decision in *R v Sang* [1979] 2 All ER 1222, as affirmed locally in *How Poh Sun v PP* [1991] SLR 220, and recently re-affirmed in *Amran Bin Eusuff v PP* (at [44] *supra*).

48 In any event, it was clear that the appellant had failed to appreciate the differences between *Looseley* and the present appeal. The appellant's case on the point of discretion to stay proceedings to prevent an abuse of process rested heavily on allegations that there was some sort of unfair entrapment carried out on the appellant by the CNB officers. In this regard, the appellant made reference to the case of *Nottingham City Council v Amin* [2000] 2 All ER 946, cited in *Looseley*, which described the test of unfair entrapment as whether the law enforcement officers in question behaved like ordinary members of the public. In that case, which concerned a police operation to flush out unlicensed taxi drivers, the actions of the police were deemed unobjectionable because the policemen involved had behaved like ordinary members of the public. Referring to *Nottingham*, the Court in *Looseley* observed that if the policemen in question had waved £50 notes at the taxi drivers or had pretended to be in distress, their behaviour would not have been that of ordinary members of the public.

49 To my mind, even if the principles espoused in the English cases above were held to be applicable to the present appeal, they were of no assistance to the appellant, because the agreed facts suggest that there was no excessive or unfair inducement. The appellant's own testimony confirmed that he had bargained repeatedly over the sale price of the Ecstasy pill, and that he had wanted to make up for lost profits arising from a previous transaction concerning the sale of Viagra to a customer. The appellant's allegation of "excessive inducement" to sell the Ecstasy pill was further weakened by the fact that the eventual sale price of $80 was actually lower than the price of $140 which had originally "induced" the appellant to first meet with the CNB officers in person at Tiong Bahru.

50 In this regard, the following passage from *Nottingham* (see [48] *supra* at 950), as cited by the Court in *Looseley* at [53], was instructive:

> … [I]t has been recognised that law enforcement agencies have a general duty to the public to enforce the law and it has been regarded as unobjectionable if a law enforcement officer gives a defendant an opportunity to break the law, of which the defendant freely takes advantage, in circumstances where it appears that the defendant would have behaved in the same way if the opportunity had been offered by anyone else.

51 The appellant was clearly motivated by financial gain, and any inducement offered by the CNB officers did not in itself create the offence. The mere fact that the CNB officers happened to play the role of purchaser did not detract from the fact that the appellant intentionally sold a pill that he knew to be Ecstasy in order to make a profit.

Entrapment as a reason for the court to exercise its discretion to convict the accused on a lesser offence than that arising out of the entrapment

52 Finally, the appellant argued that the entrapment carried out by the CNB officers constituted a reason for the court to exercise its discretion to convict him on a lesser offence (*ie* possession) instead of that arising out of the entrapment (*ie* trafficking). I took the view that the appellant's arguments in this regard were without merit.

53 The appellant's reference to the case of *Tan Boon Hock v PP* [1994] 2 SLR 150 was wholly inapposite. In para 55 of his written submissions, the appellant claimed that:

> Further, there is the interesting case of *Tan Boon Hock v PP* [1994] 2 SLR 150 where the Honourable Chief Justice intimated that the entrapment bringing about the offence may not have been appropriate.

54 The appellant's reading of my decision in that case was incorrect. *Tan's* case did not deal with the issue of entrapment, and it made no reference to any of the leading decisions on entrapment such as *R v Sang* and *How Poh Sun v PP.* Instead, *Tan*'s case dealt with the issue of "consent", or the appearance of consent, of an undercover police officer taking part in an operation to flush out homosexual activity in a secluded area. Moreover, *Tan's* case was a decision on sentencing, and had nothing to do with the court's discretion to convict the accused on a lesser offence. As I observed in that case at [9]:

> Consequently, although a technical offence under s 354 might have been committed, I am somewhat bemused that an accused caught in the manner described above should nevertheless be charged with the offence of outraging another's modesty; and should, furthermore, be sentenced not just to imprisonment but also to caning. In the present case, the appellant elected to plead guilty and so the above issues were not discussed. He chose solely to appeal against his sentence. *I will only say, therefore, that having regard to the events leading to his committing the offence charged, a sentence of imprisonment and caning was quite unwarranted.* [emphasis added]

55 The elements of trafficking were clearly satisfied in the present appeal. There was therefore no reason to amend the charge to one dealing with a lesser offence. Therefore, while the High Court has powers of amendment and alteration under s 256 of the CPC, the present appeal did not merit the exercise of those powers.

Conclusion

56 This was a simple case of trafficking. The present appeal did not merit a departure from the plain words of the MDA, and certainly did not merit a departure from the established line of local cases dealing with entrapment. For the above reasons, I dismissed the appeal.

Appeal dismissed.