

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Originating Summons
No. of 2010

In the matter of an ex-parte application by the
Attorney-General for leave to apply for an order of
committal for contempt

And

In the matter of Section 7(1) of the Supreme Court of
Judicature Act, Cap 322 (2007 Revised Edition)

And

In the matter of Order 52 of the Rules of Court (2006
Revised Edition)

Between

Attorney-General
(No. I.D. number exists)

...Applicant

And

Bachoo Mohan Singh
(NRIC No. S 1079825F)

...Respondent

To: The Judges of the Supreme Court of the Republic of Singapore

STATEMENT PURSUANT TO ORDER 52 RULE 2(2)
OF THE RULES OF COURT

The Applicant is the Attorney-General. The Applicant's address is the Attorney-General's Chambers, 1 Coleman Street, #10-00, The Adelphi, Singapore 179803.

2. The relief sought herein is an order that the Attorney-General be at liberty to apply for orders of committal against the Respondent, and that the Respondent does pay to the Attorney-General the costs of and occasioned by these proceedings.

3. The grounds upon which the said relief is sought are that the said Respondent has made statements in the following documents that scandalise the Singapore Judiciary:

- (a) The Appellant's Written Submissions dated 12 August 2009 in Criminal Appeal No. 6 of 2009 and Criminal Motion No. 5 of 2008 ("The Appellant's Written Submissions");
- (b) The Appellant's Skeletal Submissions dated 12 August 2009 in Criminal Appeal No. 6 of 2009 and Criminal Motion No. 5 of 2008 ("The Appellant's Skeletal Submissions");
- (c) The Respondent's letter dated 7 December 2009 to the Honourable Assistant Registrar Ms. Ang Chin Pin ("the Letter to the Assistant Registrar"); and

- (d) The Respondent's Affidavit affirmed on 10 December 2009 in support of his application vide Originating Summons No. 1406 of 2009.

4. The Appellant's Written and Skeletal submissions and Affidavit were accepted for filing by the Supreme Court Registry on or about 12 August 2009 and on or about 10 December 2009 respectively. Under Order 60 rule 4 of the Rules of Court, any person may, on payment of the prescribed fee, be entitled to inspect and take a copy of such a document filed in the Supreme Court Registry. The said submissions and Affidavit were thereby placed on public record since their respective dates of filing, and were available for inspection by any member of public as of right from that date.

5. The Respondent wrote his Letter to the AR following the Assistant Registrar's refusal of the Respondent's application for a practising certificate on 24 November 2009. The Respondent also circulated his Letter to the AR by facsimile to the Attorney-General's Chambers and the Law Society of Singapore.

Scandalous Remarks in the Appellant's Written and Skeletal Submissions

6. The following passages in the Appellant's Written Submissions scandalize the Singapore Judiciary as a whole, and impugn the impartiality, integrity and

competency of the learned District Judge who heard the criminal proceedings against the Respondent at first instance.

Para. 225: **“DJ made up his mind early in the case ...”**

Para. 232: **“Bias ...”**

“The Learned DJ showed his bias and suspicions from a series of innocuous questions and remarks....”

Para. 234: *[The District Judge was **Taking on almost dislike of PW3, mocking and humiliating him.**]*

Para. 237: **“Advising the DPP to apply to cross-examine PW3.”**

“The Learned District Judge himself, having been a very experienced Prosecutor, saw the difficulties the junior DPP was having with PW3, then made a series of comments, hints and finally, blatantly advising the DPP to apply to treat PW3 as a hostile witness and to apply to cross-examine him.”

Para. 238: *“When counsel objected to a leading question, the Learned DJ again hinted to the DPP....”*

Para. 246: **“Some features of the trial in the Subordinate Courts indicating that the Learned District Judge had not brought an impartial mind to the hearing.”**

Para. 269: **“Other Matters indicating bias”**

“There are many other such remarks and comments made by the District Judge which give rise .. in my mind of a reasonable apprehension of bias on the part of the Judge. It may be due more to the fact that he had been a veteran Prosecutor that he did not bring to the bench the mind-set of impartiality that a Judge should possess. In fact, he tried the case with the mind-set of a Prosecutor...”

7. The following passages in the Appellant’s Skeletal Submissions likewise scandalize the Singapore Judiciary and impugn the impartiality, integrity and competency of the learned District Judge:

Para. 10: *“...On my part, I would say without reservation that, in my view, the District Judge was clearly bias. In addition, it was clear that he had not shed the mind-set of the seasoned prosecutor that he was.”*

Para. 12: *“The case ought not to have been fixed before the District Judge who heard it.... He was, effectively, no.2 or no. 3 in the Crime Division of the AGC when the CPIB, on the instructions of AGC, investigated me in March 2005... he could not have been as far removed from prosecutions as the Honourable Chief Justice must have been, as the Attorney-General. ”*

Para. 43: **“District Judge advised the DPP to apply to turn PW3 hostile and cross-examine him..”**

“- after 2 days of examination-in-chief and not getting anything from PW3, the Learned DJ, repeatedly hinted to the DPP to apply to cross-examine PW3... Even after leave was granted, he continually advised the DPP that he should be cross-examining as he had got leave.”

Para. 44: **“Case fixed before a very busy Judge”**

“It must be of concern that, a case with such devastating consequences for a lawyer was heard by a Judge who did not have the time nor the expertise to deal with it.”

Para. 45: **“Judge showed lack of knowledge of civil law”**

Not only did the DJ show that he had made up his mind well before the defence presented its case, he showed he did not know much about civil law.....”

Para. 48: **“Bias and Mind-set”**

*“Apart from any reasonable apprehensions of bias, which was clear to all those in court (apart from the DPPs), it is the **mind-set** of the Judge that is another cause for concern. He was a leading DPP having spent almost the whole of his legal career as a DPP and was made DJ in August 2005. In the case of *Ronnie Poh v DPP* [1966] 1 SLR 185 at pg 196 he tried to uphold (unsuccessfully) the conviction of the appellant, who had been convicted in the lower court, **on one single sentence** of his CPIB statement, **with the rest of the statement blacked out.** (It is not known if he was the prosecutor in the lower court). The*

Learned Judge was effectively, no.2 or no.3 in the Crime Section of the AGC until 1st August 2005 when he was made a District Judge”.

Para. 49: *“From the nature of some of the excessive interruptions and comments, it was clear to me, that the Learned DJ had not brought an open mind to the bench and had determined the issues adversely against me even before the close of the Prosecution’s case. Perhaps it was “unconscious bias” as in R v Inner West London Coroner, ex parte Dallaglio [2004] 4 AER 139 at 152”.*

Para. 50: *“The questions posed by the Learned DJ went beyond clarifying aspects of the evidence of the witnesses. In some instances they appeared rather to be directed at extracting concessions from the witnesses. For example, his asking PW3 if he had told me, that the price of \$490,000.00 was a bit high for a flat in Bukit Merah”.*

Para. 51: *“That he was bias and had made up his mind at an early state is obvious from his remarks and comments at the following pages of the Notes of Evidence:*

395 to 397

2384 & 2385

3036 & 3037

3042 to 3045

3049 to 3052

He even tried to assure me (twice) that he was keeping an open mind!”

8. The above passages from the Submissions and Skeletal Submissions filed by the Respondent in person constitute a scurrilous attack on the impartiality, integrity and competency of the learned District Judge. Taken individually and as a whole, they allege bias, impropriety and incompetence on the part of the learned District Judge, and are calculated to undermine the authority of the courts and public confidence in the administration of justice.

9. In particular, the Respondent has made the following allegations against the trial judge:

- (a) The trial judge lacked the time and the expertise in civil law to adjudicate over the offence of filing a false claim under section 209 of the Penal Code (Cap 224);
- (b) The trial judge had pre-judged the case against the Respondent by not bringing an open mind to the bench and making up his mind at an early stage. In addition, the questions he posed went beyond clarifications and “appeared rather to be directed at extracting concessions from the witnesses”.
- (c) The trial judge assisted the prosecution by advising the Deputy Public Prosecutor to apply for leave to cross-examine a witness, and urged the prosecution to ask such questions after leave had been granted.

- (d) The trial judge was biased as he had applied the mindset of a prosecutor, having been a veteran prosecutor prior to his appointment to the bench.

10. These allegations of bias, lack of impartiality and impropriety concerning a judge in the exercise of his judicial function necessarily have the inherent tendency to interfere with the administration of justice.

11. The offending passages also go beyond the realm of fair criticism of the trial judge's decision. The comments contained therein were not made in good faith nor within the reasonable bounds of common courtesy. They went beyond challenging the correctness of the decision, to impugning improper motive on the part of the decision-maker. This is exacerbated by the fact that the comments cast doubt on the Singapore Judiciary as a whole, by alleging that an experienced prosecutor would show bias in favour of the prosecution when appointed to judicial office, and would thus be incapable of according any accused person a fair trial. These comments go far beyond *bona fide* criticism of a particular decision. They strike at the heart of the integrity and professionalism of the Singapore Judiciary, and must have the undoubted effect of undermining public confidence in the administration of justice.

12. By reason of the filing of the Written and Skeletal Submissions in Criminal Appeal No. 6 of 2009 and Criminal Motion No. 5 of 2008, the Respondent has committed contempt of court. He has further aggravated the contempt by failing to apply to expunge the statements after having been informed on 24 September 2009 of the intent of the Attorney-General to commence proceedings for criminal contempt.

Scandalous Remarks in the Letter to the Assistant Registrar and the Respondent's Affidavit

13. In OS 1406 of 2009, which was an application by the Respondent for a Practising Certificate for 2009/2010, the Respondent made statements that scandalised the Singapore Judiciary as follows:

- a. In the penultimate paragraph in the Letter to the Assistant Registrar dated 7 December 2009 wherein he applied for Further Arguments to be heard, the Respondent stated :

“In the event that you are not disposed to granting my request, I intend to file a fresh application and request that the application be placed before an Assistant Registrar who had not been with the AGC at any time since March 2005 and not a spouse or partner of any of the DPPs or other legal officers in the team that prosecuted me.”

- b. In the Respondent's Affidavit filed on or about 10 December 2009 in support of OS 1406/2009, the Respondent stated that :

Para. 38: *“After I had received and read a copy of the Court of Appeal’s written decision, I wrote to the Hon Assistant Registrar Ms Ang Chin Pin referring her to the Court of Appeal decision and enquired if she would be prepared to hear further arguments. I also pointed out that if she was not disposed to granting my request, I intended to file a fresh application and will request the Registrar to place it before an Assistant Registrar who had not been with the Attorney General Chambers (sic) at an time (sic) since March 2005 and not a spouse or partner of any of the DPPs or other legal officers in the team that prosecuted me. My concern arose as a result of my being told that Ms Ang is the wife of one of the DPPs in the team of 3 DPPs that prosecuted me in the District Court. If that had been known to me earlier, I would have respectfully applied to her for her recusal.”*

14. The above paragraphs from the Respondent's Letter to the Assistant Registrar and Affidavit constitute a scurrilous attack on the impartiality, integrity and competency of the learned Assistant Registrar and the Judiciary of Singapore.

15. In the above paragraphs, the Respondent has alleged that:

- a. A judicial officer who has previously worked in any capacity in the Attorney-General's Chambers (whether as a prosecutor or otherwise), when a person is prosecuted by the Attorney-General's Chambers or is a spouse or partner of a prosecutor involved in the prosecution of that person, is incapable of carrying out his or her judicial duties impartially when conducting proceedings involving that person.
- b. The Learned Assistant Registrar was biased and lacked the impartiality to carry out her judicial duties.

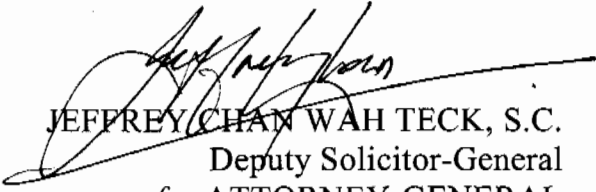
16. The Respondent's allegations of bias and impartiality of judicial officers and in particular the Learned Assistant Registrar, in his Letter to the Assistant Registrar and the Affidavit have the inherent tendency to interfere with the administration of justice.

17. The Respondent's allegations in the Letter to the Assistant Registrar and the Affidavit widens the scope of his attack that he has previously made on the integrity and impartiality of the Singapore Judiciary in the abovementioned offending passages of his Submissions, by alleging that all judicial officers who are in any way connected with the office of the prosecutor are biased and incapable of carrying out their judicial functions in an impartial way in judicial proceedings involving former accused persons.

18. The Respondent made the allegations in the Letter to the Assistant Registrar and the Affidavit after he was given reasonable opportunity to retract the offending paragraphs in his Written and Skeletal Submissions in relation to Criminal Appeal No. 6 of 2009 and Criminal Motion No. 5 of 2008 and given notice of the intent of the Attorney-General to commence proceedings against him for contempt of court. By such conduct the Respondent has aggravated the contempt of court.

19. The Applicant will rely on the affidavit of Deputy Principal Senior State Counsel Lee Sing Lit and the exhibits therein in support of this application.

Dated this 18th day of January 2010.


JEFFREY CHAN WAH TECK, S.C.
Deputy Solicitor-General
for ATTORNEY-GENERAL
SINGAPORE