

MEDIA BACKGROUND BRIEF

PRIVATE PROSECUTION FOR CRIMINAL DEFAMATION

- (1) TAN HOCK LAY ROBIN v. FREDDIE KOH SIN CHONG, TAN WEE TIN, WILLIAM KWOK SENG KEE, NG KOK SEONG, ASHOK SHARMA, LOREEN TEO LEE LENG, NG JWEE PHUAN @ FREDERICK and SHAUL HASSAN**
- (2) TAN HOCK LAY ROBIN v. BALWANT SINGH s/o BACHOO SINGH**
- (3) RICHARD PHUA v. TAN WEE TIN**

The complainants and defendants were members of the Singapore Swimming Club. In March and June 2009, the complainants lodged Magistrate's Complaints against the defendants asking for summonses to be issued against each of them, alleging that the defendants had criminally defamed them. The defendants have indicated that they will be claiming trial to the charges. The cases have been fixed for mention in the Subordinate Court No. 4 on 16 October 2009.

Article 35(8) of the Constitution of the Republic of Singapore confers on the Attorney-General the power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence. The Attorney-General is of the view that these are appropriate cases for him to intervene and discontinue the proceedings because the cases are not sufficiently serious to warrant prosecution for criminal defamation.

The law of criminal defamation is not to be resorted to lightly. A person who feels that he has been defamed may institute a civil action against the alleged defendant. If his claim is well-founded, the court will award the appropriate damages and costs. Should his claim fail, however, he will be liable to pay the legal costs of the defendant. The prospect of payment of costs ensures that defamation suits are not instituted lightly.

No such limiting mechanism exists in respect of criminal defamation. Although the courts have power to award costs in criminal proceedings, this is uncommon; and unlike in civil proceedings, costs do not automatically follow the event. Moreover, it is only in the most serious cases that a person who has allegedly defamed another should face the prospect of a jail sentence. In the abovementioned cases, a term of imprisonment or fine is not appropriate.

The complainants have recourse to the civil courts if they wish to pursue their claims against the defendants.