



MEDIA BRIEF

CONTEMPT OF COURT PROCEEDINGS AGAINST MR ALAN SHADRAKE

- HEARING ON 18 OCTOBER 2010

1. In July this year, the Attorney-General obtained leave to commence contempt proceedings against Mr Alan Shadrake, the author of the book “Once a Jolly Hangman: Singapore justice in the dock” (“the Book”), for various statements made in the Book which impugn the impartiality, integrity and independence of the Singapore Judiciary.
2. The contempt proceedings were first heard in the High Court before the Honourable Justice Quentin Loh on 30 July 2010. The hearing was adjourned at the request of Mr Shadrake’s counsel for Mr Shadrake to file an affidavit to respond to the case against him.
3. The case was subsequently heard in open court before Justice Loh on 18 Oct 2010.

General policy underlying contempt proceedings of this nature

4. The contempt proceedings against Mr. Shadrake are about the preservation of the Rule of Law. These proceedings have been brought against Mr. Shadrake because he has engaged in a baseless denigration of the Singapore Judiciary. In a book that is ostensibly intended to advance the debate on capital punishment in Singapore, Mr Shadrake has accused the Singapore courts of dispensing unequal justice and deciding cases according to the instructions of the Singapore Government and/or the wishes of the ruling political party. Mr Shadrake’s outrageous and offensive allegations about the Singapore courts strike at the foundation of the Rule of Law in Singapore which is at the core of our system of Government.
5. The Rule of Law means that all are subject to the law and equal before the law. The Judiciary is the vital institution that ensures that the Law is respected and

enforced equally. An attack against this vital institution threatens to undermine the Rule of Law in our country.

6. This is because respect for and adherence to the Rule of Law rests on public confidence in the administration of justice by the Courts. Because of the integral role played by the Courts in maintaining the Rule of Law, public confidence in the Judiciary cannot and must not be allowed to be shaken by baseless attacks on its impartiality, integrity or independence. If public confidence in the administration of justice is allowed to diminish, so too would respect for the Rule of Law in Singapore.

7. The overriding public interest in protecting the administration of justice in Singapore requires that the law of contempt be used to punish conduct that impugns the impartiality, integrity or independence of our courts.

The law

8. The law provides that a person commits the offence of scandalising the court if he makes statements which have an inherent tendency to interfere with the administration of justice. In construing the statements in question, the court applies an objective test to determine the impression that the statements would convey to an ordinary reasonable person with knowledge of the relevant circumstances who reads the statements in their proper context.

The case against Mr Shadrake

9. Contempt proceedings were commenced against Mr Shadrake as he had made various baseless and scurrilous statements in his Book that scandalised the Singapore Judiciary by impugning the impartiality, integrity and independence of the courts in Singapore. Mr Shadrake further aggravated the contempt by misrepresenting the decisions of the Singapore courts in his attempt to advance his hypothesis.

10. In his affidavit, Mr Shadrake claimed that the offending statements in his Book were not contemptuous as they were not directed at the Singapore Judiciary, and that it was never his intention to impugn the integrity of the Singapore courts.

11. The Attorney-General has argued that Mr. Shadrake's defence was contrived and false. It is clear from an objective reading of the statements and the context in which they were made that the statements did refer or extend to the Singapore Judiciary. In fact, the words in the title of the Book – "Singapore justice in the dock" and a reference in the Book stating that Mr. Shadrake had unearthed "judicial scandals" – make it plain that Mr Shadrake's true intent was to put the entire Singapore judicial system on trial and to denigrate the Singapore courts.

12. While Article 14 of the Constitution of the Republic of Singapore (“the Constitution”) protects freedom of speech and expression, this freedom is not unfettered. The Constitution itself recognises that the right to freedom of speech and expression is subject to laws against contempt of court. The constitutionality of the law of contempt as a justifiable restriction on freedom of speech has been upheld in Singapore and other jurisdictions because contempt laws serve the overriding public interest in protecting the administration of justice.

13. This case is not about fair criticism of the judgments and decisions of the court. The law recognises that statements that constitute fair criticism are not contemptuous. However, to constitute fair criticism, the statements must be fair, temperate, made in good faith and not directed at the integrity or impartiality of the courts. The Attorney-General has submitted to the Court that Mr Shadrake’s baseless and unwarranted attacks on the integrity, impartiality and independence of the Singapore Judiciary cannot possibly come within any reasonable notion of fair criticism.

14. The Attorney-General has further submitted that Mr Shadrake’s offensive and scandalous statements about the Singapore Judiciary are neither fair nor respectful as he has claimed but are plainly and grossly in contempt of court. The fact that Mr Shadrake disagrees with Singapore’s laws and policies on drug offences and capital punishment does not give him any licence to undermine one of the key institutions charged with the responsibility to uphold the Rule of Law in Singapore. This is an especially pernicious case of grave and aggravated contempt as Mr Shadrake’s broadside attack is directed against our entire judicial system.

15. The hearing continues on 19 October 2010.

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