

MA 9108/2015 AMOS YEE PANG SANG v PP

1 On the question of conviction on both charges, I see no reason to disagree with the DJ in most of her findings except for the qualifications that follow.

2 For the s 292 PC charge, I would add that depicting 2 naked bodies in that overtly sexual position, with or without the attendant words, must be obscene by the standards of any right-thinking society. A picture does not become obscene only when genitalia and/or penetration of sexual organs are explicitly shown. Depravity and corruption in s 42 Penal Code relate essentially to the mind. It is not necessary that the thoughts be acted out or that the particular sex act be a deviant one. It makes no difference even if a crudely humorous element is added so long as the overall effect is an overt sex act.

3 For the s 298 charge, the evidence shows that Mr Yee's methodology in his writings has been to use coarse and hard-hitting words to arouse emotions. For this purpose, he used vulgarities and insults to deliberately provoke the reader and to draw him out. For the words in the video clip in question, in particular the words mentioned in the charge, he employed the same methodology.

4 His statement to the police showed that he was "fully aware that this comparison was bound to promote ill-will amongst the Christian population". As pointed out by the learned Solicitor-General, how is ill-will different from wounding somebody's feelings? Mr Yee used offending words against the central figure of the Christian religion. There can be no doubt that he "deliberately intended" to arouse Singaporeans, Christians or not, into verbal combat with him.

5 Mr Yee had an apparently unhappy experience in the Catholic church. He mentioned in one of his police statements that he was "kicked out of the altar boys" for uttering a profanity at an altar boys meeting. He also mentioned that he was asked to leave the church when he spoke to a priest about his reservations about being confirmed in the faith. He described these incidents as possible "emotional catalysts" for him to turn away from Catholicism and embracing atheism, the major impetus of which was his advocacy of logic and reasoning. There was therefore a background when he wrote the words stated in the s298 charge. They were not innocent words uttered without real thought.

6 It does not matter that his words were also directed at another group of persons' non-religious and non-racial feelings so long as they hit the smaller group's religious feelings as well. All that is needed to prove a charge under s298 is a deliberate intention to wound religious or racial feelings, irrespective of whether there is also another intention, dominant or otherwise. Three carefully crafted sentences about a subject can deliver as much venom as 30 pages of text about another subject, especially when the subjects are then linked by analogy and said to be similar.

7 Many religions teach about forgiveness and letting go of hate. That does not mean that their followers are incapable of having their religious feelings wounded. In any case, to forgive does not mean to be impervious to hurt feelings from attacks and insults. It means that the person attacked or insulted not only does not retaliate in kind but chooses not to hold any grudge or any thought of revenge. If the words used are capable of wounding, using an objective standard, the prosecution does not have to show that specific individuals' feelings were so wounded.

8 On the issue of sentence, throughout the proceedings, Mr Yee has displayed an attitude of complete disregard for others that is hardly ever seen, whether among adults or among younger persons like him. That was his attitude from the start of investigations until just before the final hearing in the State Courts. In his handwritten s23 CPC statement to the police, the first sentence already contained a four letter word. He openly defied directions of the court and made sure people on the internet know about his bravado in giving no respect to absolutely anyone, whether it is the police, the court, someone who had just passed away and the people mourning him or an entire body of believers of a religion.

9 All this was done in the noble disguise of freedom of speech and a purported desire to generate genuine discussions and debate. His deliberate use of vulgarities and crude language and obscene depiction to provoke reaction seems like someone throwing stones at the windows of a neighbour's flat to force the neighbour to notice him, come out to quarrel or even to fight. This does not sound like freedom of speech at all. It is a licence to hate, to humiliate others and to totally disregard their feelings or beliefs by using words to inflict unseen wounds.

10 In these very rare circumstances, I think it would be wrong to keep focusing only on Mr Yee's age and to downplay all that he had said and done. The DJ's sentences were justified and correct in law. The period that Mr Yee had to spend in remand, as the learned Solicitor-General has said, and which exceeds the 4 weeks' imprisonment, was caused entirely by Mr Yee alone.

11 Mr Yee is obviously not a person without talent. He has a command of the English language which could be put to very good use. I hope that Mr Yee will wean himself away from his preference for crude and rude language. Real debate and rational discussion on social issues can flourish in an environment of goodwill, reasoning and civil language. We need not poison them with vulgarities or crude language.

12 I therefore dismiss the appeal against conviction on both charges and the appeal against sentence for the 2nd charge.

Tay Yong Kwang J
8 October 2015