

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

District Arrest Case No 922312-2020 & Anor.

Public Prosecutor

Against

Liew Kai Lung, Karl

ORAL GROUNDS

TABLE OF CONTENTS

WHAT THIS CASE IS ABOUT (AND WHAT IT IS NOT ABOUT):.....	2
PLEA & PRESCRIBED PENALTY, FACTS, ANTECEDENTS, SUBMISSIONS:.....	3
▪ NO ACTUAL HARM CAUSED:	5
▪ NO POTENTIAL HARM CAUSED:.....	6
▪ NO MALICE	7
▪ PARKINSON’S DISEASE	8
CONCLUSION:	9

Public Prosecutor

v

Liew Kai Lung, Karl

District Arrest Case No 922312-2020 & Anor.

District Judge Eugene Teo Weng Kuan

30 March 2023

14 April 2023

14 April 2023

District Judge Eugene Teo Weng Kuan

1 These are my brief oral grounds where I address the main points. I reserve the right to add to them if the occasion subsequently calls for it.

2 The Prosecution informs that this case against Karl Liew is the concluding court chapter in the Parti Liyani saga. For various reasons, interest in that saga has been high, and it has been the subject of comment by many. Public interest in justice is always welcomed, but in the midst of all that chatter (which was sometimes heated & impassioned), one can easily lose track of how the case has meandered over the past 6 years and drop focus on what issue actually falls to be considered in the present case. For that reason, I think it is important to start by recounting what this case is about, and what it is not about.

WHAT THIS CASE IS ABOUT (AND WHAT IT IS NOT ABOUT):

3 Ms Parti Liyani was employed as a domestic helper at the household of Mr Karl Liew’s parents. Her employment was subsequently terminated by the Liew family, and she was sent back to Indonesia soon after. Mr Karl Liew had a number of dealings with Ms Parti Liyani during that entire period. Some of his conduct in those dealings were the subject matter of comment and review, but this case is not about any of that.

4 After Ms Parti Liyani was sent back to Indonesia, Mr Karl Liew made a number of statements to the Police against Ms Parti Liyani. As a result of all the materials which the Police reviewed, including materials from Ms Parti Liyani herself, 4 theft related criminal charges were brought against Ms Parti Liyani. This case is partly about *one* of those statements made by Mr Karl Liew: this being the subject matter of **“the false statement charge”** in MAC 908878/2020.¹ In gist, that charge takes issue with Mr Karl Liew for having furnished a false statement to the police about an offence of theft by Ms Parti Liyani, i.e. that he had found “119 pieces of clothings (sic)” which belonged to him inside boxes which had been packed by Ms Parti Liyani for shipping to her address in Indonesia. It is beyond dispute that this false statement contributed to Ms Parti Liyani being charged with theft of those “119 pieces” (in DAC 931428/2017).

5 Finally, when Ms Parti Liyani denied the criminal allegations and Mr Karl Liew was called to testify in court to justify his various statements against Ms Parti Liyani, he offered up testimony in court on a range of matters over several days. Out of the entirety of Mr Karl Liew’s testimony at that trial, the

¹ This being the subject matter of the TIC charge.

Prosecution has focused only on a small segment and charged Mr Karl Liew for having knowingly offered up false evidence in court in respect of that small segment: this being the subject matter of **“the false evidence charge”** in DAC 922312/2020. In gist, that charge takes issue with Mr Karl Liew for having told the district judge that two pieces of clothing (a cream polo ladies t-shirt and a red blouse) – which were in the 119 earlier alluded to – belonged to him when he knew that information was false, knowing it to be likely that he would thereby cause the district judge to use her lawful powers to convict Ms Parti Liyani of the theft of those two pieces of clothing. Both parties before me have taken pains to emphasise that Ms Parti Liyani was however not subsequently convicted of theft for those two pieces of clothing, and I fully acknowledge that point.

6 This case is only about those two charges as framed by the Prosecution. Other aspects of the original trial were the subject matter of comment and review, but this case is not about any of those other matters.

7 I have set out what this case is about for two primary reasons: so that those following this case may understand the outcome here in its proper context, and to acknowledge the point which the parties have made before me that this case must only be dealt with in the context as presented and only for the charges as presented.

**PLEA & PRESCRIBED PENALTY, FACTS, ANTECEDENTS,
SUBMISSIONS:**

8 For the two charges, Mr Karl Liew has accepted the Prosecution’s offer, and pleaded guilty to the false evidence charge and he has also admitted to the false statement charge and consented to it being taken into consideration by this

court for the purpose of his sentencing. The false evidence charge proceeded with is under section 182 of the Penal Code which carries a prescribed penalty of imprisonment which may extend to one year, *or* with fine of up to \$5,000, *or* with both. The prescribed penalty for the false statement charge is no less serious as it appears to be under the second limb of section 177 of the Penal Code. On the basis of his plea and his admission to the Statement of Facts as presented, Mr Karl Liew has been found guilty and convicted. The records show that Mr Karl Liew has a dated antecedent from his younger days where he was granted probation previously by the courts for some property related offences, but I did not think them relevant for present purposes and treated him as a first offender.

9 For the charges and context as presented, both parties submitted that Mr Karl Liew ought to be met with a fine of \$5,000 – being the maximum fine allowed under section 182 of the Penal Code. I have reviewed the submissions tendered by both sides, and having considered the matter in detail, I cannot agree that for the actions under consideration, they should met with a fine only. In its most concise form, this case is about a person who knowingly furnished a false statement to the police that someone has committed an offence, and who subsequently went to court to also furnish false testimony under oath to the judge to get that person convicted of that offence. Whilst I register the point that a wrongful conviction did not ultimately result, it does not change the fact that those actions just recounted are all innately serious and ought to be met with the clearest degree of condemnation. The result here must leave no one with any doubt about our tolerance for such brazen fraud in the face of the court, and upon the court. In my judgment, nothing less than an imprisonment sentence is due for such cases. I now briefly explain why the submissions made by the parties for a fine could not be accepted. In that regard, I make primary reference to the submissions by the learned DPP because the material parts (which

covered two pages) read like a mitigation and were lifted wholesale and repeated for effect by the Defence in its own Mitigation & Submissions on Sentence. Those parts conveniently form the main planks upon which the joint submission for a fine rested and which I need to respond to.

▪ **NO ACTUAL HARM CAUSED:**

10 DPP Chong indicated at [3] of his submissions that *“In considering the level of harm in this instance, we note that the District Judge did not, in fact, convict Ms Liyani of the theft of the cream polo T-shirt and the red blouse based on the accused’s testimony. The District Judge amended DAC 931428/2017 to remove both items of clothing from the charge at the conclusion of the trial.”* The implication was that no actual harm was caused because the false testimony did not result in a wrongful conviction. The Defence adopted and repeated this same point at [36]-[42] of its Mitigation & Submissions.

11 Respectfully, I think that submission takes an unjustifiably narrow and blinkered approach as to what ought to be considered as actual harm caused in this case. It takes no account that the false statement did (1) result in the police and the prosecution being misled and Ms Parti Liyani being investigated on those items, (2) did result in them bringing a criminal charge (albeit a small part of that charge) against Ms Parti Liyani, (3) did result in Ms Parti Liyani having to prepare and mount a detailed defence to that part, (4) did result in time & effort being expended by all parties at the trial to review the probity of Mr Karl Liew’s false evidence, (5) did result in submissions having to be prepared and tendered to court subsequently regarding that false evidence, and (6) did result in the judge having to review that false evidence independently in the light of all those submissions before coming to her own conclusion on the matter; these were all points which were part of the accepted context for the false evidence

charge and were part of the connected false statement charge which was admitted to and which was being taken into consideration, and I did not think it right to ignore them all. Even if the point of *causal connection* is applied narrowly, it is beyond dispute that the original judge's decision not to rely on Mr Karl Liew's testimony came at the end of a process which started with points (3), (4), (5) and (6) above, and all that was the result of Mr Karl Liew's decision to offer up that false evidence in court. When properly considered, there was no basis to conclude that there was no actual harm caused in the false evidence charge.

▪ **NO POTENTIAL HARM CAUSED:**

12 DPP Chong indicated at [3] of his submissions that *"In terms of potential harm (namely the possibility of Ms Liyani being convicted of the theft of the cream polo t-shirt and the red blouse), the two items of clothing would likely not have made a significant difference to the sentence to be imposed for DAC 931428/2017. The total value of the items set out in the amended charge was \$30,606 whereas the cream polo t-shirt and the red blouse were valued at \$150 each."* The Defence also adopted and repeated this same point at [43]-[55] of its Mitigation & Submissions.

13 Respectfully, I think this sentence-focused approach requires one to conveniently breeze past and ignore the fact that a wrongful conviction (in relation to those 2 items) would have already resulted together with all of its other attendant consequences, and that was something which I think we should be absolutely slow to do. The old saying about guilty men and innocent men comes to mind.² Whilst there are multiple variations of that saying, and some

² Widely attributed to the English jurist William Blackstone.

continuing debate over which outcome is really better and for who, I think it is beyond serious argument and we can all accept the basic notion which it tries to convey: that it is abhorrent for the justice system to result in the wrongful conviction of an innocent person and that efforts to prevent that must be taken. In this case, Mr Karl Liew's actions in the false evidence charge sought to precisely defeat some of those efforts just spoken about in order to bring about the outcome which no one should find palatable to stomach. The legitimacy of our justice system relies on the continuing faith which the public has that we will take all efforts to do what is right to ensure the probity of our processes and their results. In my judgment, those efforts must include responding properly to take appropriate punitive action whenever it is established that someone has sought to mislead and abuse the justice process to pervert its outcomes. It is a grave violation because it goes against our most cherished and foundational notions of right and wrong.

▪ **NO MALICE**

14 DPP Chong stated at [5] of his submissions that "*there was no evidence of malice or premeditation, and the accused did not take any active or sophisticated steps to bolster his lies in court.*" The Defence also adopted and repeated this same point at [56]-[62] of its Mitigation & Submissions.

15 I accept the point that there was nothing to infer malice. There was no basis for that since nothing has been placed before this court to explain why Mr Karl Liew did what he did; nothing at all to explain how a man can end up viewing the police investigations process, the prosecutorial process, and the obligation to tell the truth in court with such apparent callousness. In the absence of that material from the parties, sentencing was therefore baselined to the absolute minimum in terms of culpability.

▪ **PARKINSON'S DISEASE**

16 Finally, DPP Chong stated at [5] of his submissions that “*We are also mindful that the accused presently suffers from Parkinson’s Disease, which affects the impact that a custodial sentence will have on him. This is another factor we have taken into consideration in calibrating our sentencing position.*”

The implication here was that an imprisonment term would have a significantly disproportionate impact on Mr Karl Liew given his condition, such that one should not be ordered. The Defence also adopted and repeated this same point at [67]-[81] of its Mitigation & Submissions.

17 I accept the Doctor’s diagnosis that Mr Karl Liew suffers the disease, and that it was already afflicting him when he was called to court in 2018 to testify. I accept as well that it is a chronic and progressively debilitating disease which has all the effects as noted by the doctor. Whenever an offender pleads to be excused from imprisonment on account of ill-health, an evaluation is done as to whether the prisons can make such accommodations as required to cater to that offender’s ill-health. After this court probed the learned DPP on whether the prosecution had undertaken that evaluation, a letter from the Singapore Prisons Service was then tendered: it confirmed that the prisons can accommodate Mr Karl Liew’s condition.³ In my judgment, the proper application of the principles laid down in *Chew Soo Chun v PP* [2016] SGHC 6 on the consideration to be accorded to an offender’s ill-health results in a moderation of the imprisonment term which ought to be imposed in this case rather than a complete exemption as the parties suggest.

³ Singapore Prisons Service Letter dated 3 April 2023.

18 Drawing those main threads together, it was my judgment that the charge and facts of this case called for an imprisonment term. I reiterate that only the sharply focused charge and facts outlined at the start were considered, and nothing extraneous was allowed to influence sentence here. Having regard to the cases tendered, the other points made by learned counsel in mitigation on Mr Karl Liew's behalf, and the condition which he suffers from, I adjusted the term due significantly and now sentence him to imprisonment of two weeks for his false evidence charge.

CONCLUSION:

19 It may be difficult for Mr Karl Liew to accept this outcome when his learned counsel's efforts have wrought him a position by the Prosecution not to seek an imprisonment term against him. Sentencing is still the responsibility of the court, and perhaps the most intuitive way to appreciate how sentencing should be conducted here would be to consider what ought to be done if the tables were turned. I do not think Mr Karl Liew would take kindly to anyone falsely accusing him of being a criminal/petty thief or that he was guilty of some wrong-doing, and being dragged all the way through police investigations, and then subsequently being charged in court, expending time, effort and expense in his defence, suffering the associated anxiety and consequences to his public reputation throughout that process & period, in order to clear his name and prove his innocence. Rightly so. If Mr Karl Liew acknowledges that, then he ought to channel all of his righteous indignation in that scenario and demand that such behaviour of one who would deign to do that to him must be met with an appropriately robust penalty to deter such conduct and prevent others from suffering that same fate. That is precisely what this court is doing. The decision in this case seeks to protect all from being victimized like that, deter the act of intentionally bearing false witness in court, and preserve the integrity of our

PP v Liew Kai Lung, Karl

justice system. Lenient penalties for such conduct sends all the wrong signals about our tolerance for such behaviour. So, if it is appropriate to apply the rules in that manner to others, then it must be applied in the same manner to Mr Karl Liew as well, because our adherence to the *Rule of Law* means that none stand above it, and that it applies the same to everyone.

20 I will now hear parties on any application which they might have.



Eugene Teo Weng Kuan
District Judge

Deputy Public Prosecutors Kelvin Chong and Etsuko Lim for the
Public Prosecutor;
Mr Adam Muneer Yusoff Maniam for
Liew Kai Lung, Karl;
