

HONG KONG / JUDGMENT

HKSAR v. LEE YORK SING

COURT

Court of First Instance

DECIDED

26 November 1999

CASE / FILE NUMBER

HCMA624/1999

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bjbj HCMA 624/1999 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE (Appellate Jurisdiction) MAGISTRACY APPEAL NO. 624 OF 1999 (On appeal from NKCC 498 of 1999)

BETWEEN HKSAR and LEE YORK SING

Coram : The Hon. Madam Justice Beeson in Court Date of Hearing : 26th November 1999 Date of Judgment : 26th November 1999

J U D G M E N T

The Appellant appeals against his conviction in the Magistracy on a charge of Trafficking. The grounds of appeal were chiefly that the Magistrate had relied on an admission of trafficking made by Appellant's common law wife, his co-defendant, when looking at Appellant's case and had imputed such admission to Appellant, and that the Magistrate erred in law in finding that the packaging of drugs could be classified as Trafficking when Appellant said he had packed it for the purpose of his wife's own consumption. Other grounds were that the Magistrate had wrongly admitted the Record of Interview as voluntary, that prejudicial evidence had not been excluded and that generally the conviction was unsafe. Having considered the Statement of Findings and the transcript I am satisfied that the Magistrate dealt with the evidence correctly, and, in particular he had considered Appellant's case separately from that of his co-defendant. There was sufficient evidence from which the Magistrate could find Appellant was trafficking; he was entitled to draw inferences from Appellant's admissions in his Record of Interview. In particular, the Appellant admitted the payment that he received for the packaging. Further, his admissions and the Record of Interview were made in answer to the specific suggestion or accusation that he had been trafficking. It is quite obvious reading the answers together that what he is admitting is

that he was helping to dispose of these items by packing them. That must amount to Trafficking in terms of the definition and this appeal is dismissed. Appellant sought leave to appeal against his sentence, his counsel suggesting that it would have been more appropriate in the circumstances for Appellant to have been sentenced as for a case of simple possession. I granted leave to appeal against sentence. Having considered the circumstances of the trafficking that show Appellant was a reluctant participant in a venture master-minded by his common law wife, and that his record shows he has not been involved in trafficking activities before; I consider that justice can be met by a shorter sentence. I quash the existing sentence of 15 months and substitute for it a sentence of 10 months imprisonment. (C-M. Beeson) Judge of the Court of First Instance Mary Sin, SGC, for DPP D. Tolliday Wright, DLA, for Appellant PAGE - PAGE - &`#\$ &`#\$ @\\SSLAI\\HP LaserJet 4 Plus Ne02: winspool HP LaserJet 4 Plus \\SSLAI\\HP LaserJet 4 Plus \\SSLAI\\HP LaserJet 4 Plus 1997 No Shirley Leung Magistrate Microsoft Word 8.0 Judiciary 1997 No Title _PID_GUID .doc[266_@ CAJ07 Microsoft Word Document MSWordDoc Word.Document.8

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