

HONG KONG / JUDGMENT

HKSAR v. LUK CHI WING

COURT
Court of First Instance

DECIDED
21 March 2007

CASE / FILE NUMBER
HCMA213/2007

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bjbj llant

Before: Deputy High Court Judge Line in Court Date of Hearing: 21 March 2007 Date of Judgment: 21 March 2007

J U D G M E N T

The Appellant pleaded guilty to an offence of causing wasteful employment of police, contrary to section 91(2) of the Criminal Procedure Ordinance. He was fined \$1,000. He argues that that is too much and invites me to bind him over. He tells me, and I have no reason to think otherwise, that he has had a fairly miserable time as, since he was a child, he has been bullied, that people have assaulted him and cheated him and made him bankrupt, that he suffers depression, and that on an occasion in the mid-90s, he was falsely accused by a man of robbery and that he was taken to the police station then and kept there for 12 hours. It turned out that it was a false complaint and the complainant was himself charged with this offence of wasteful employment of police time and he was only bound over. He said that, as regards the facts that led to the commission of this particular offence, the lady in question at the centre of the matter genuinely owed him money and would not pay and took the offensive against him of bombarding him with phone calls and that he went to the police and they could not help him, saying it was a civil matter and just change his telephone. He also says that his income as a man who gets commission for introducing tutors to people is, today, some \$3,000 a month. Then, at the time in the Magistrates Court, it was \$3,000-5,000 a month and that is what he instructed the duty lawyer, but the duty lawyer merely told the magistrate the top figure of \$5,000. He says it was all these things accumulated together made him commit the offence. What he did was to make a 999 call, saying that there was a female shouting for help at a certain address. The address was that of the lady who owed him the \$600. The police attended and found her to be sleeping there. They went to the public telephone booth from whence the Appellant made his 999 call and found him still talking

to the police on it. There cannot be many fines imposed in the magistracy these days that are less than \$1,000. I appreciate that \$1,000 to someone on a very low income hurts much more than someone who enjoys a greater income. The magistrate clearly took the course that she regarded as being fairly merciful, reflecting what she had been told by the duty lawyer and the plea of guilty. The Appellant before me in person today argues his case very nicely but, as I have pointed out to him, if a fine of this magnitude is not imposed, and suppose he was bound over, really, he gets away with this criminal behaviour for nothing. That cannot be right because wasting police time - and six police officers were involved in this matter - is a serious matter. The cost to society of the whole case following the crime will be much in excess of \$1,000. As regards perhaps the matter at the forefront of this Appellant's arguments, the fact that a man may have got too light a sentence in the mid-90s in his case of wasting police time, where this Appellant was the victim, all one can say is that two wrongs do not make a right. Accordingly, in my judgment, a fine of \$1,000 for this conduct meets the merits of the case. Accordingly, I shall confirm the order the magistrate made, dismissing the appeal against sentence. (P Line) Deputy High Court Judge

Representations: Ms Ho May-yu, Lily, Senior Government Counsel of the Department of Justice, f
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