

HONG KONG / JUDGMENT

HKSAR v. SAJED MAHMOOD MINHAS

COURT

Court of First Instance

DECIDED

23 August 2007

CASE / FILE NUMBER

HCMA715/2007

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bjbj HCMA715/2007 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION COURT OF FIRST INSTANCE (Appellate Jurisdiction) MAGISTRACY APPEAL NO. 715 OF 2007 (On Appeal From ESCC 495 OF 2007)

BETWEEN HKSAR Respondent and SAJED MAHMOOD MINHAS Appellant

Before : Deputy High Court Judge M. Poon in Court Date of Hearing : 23 August 2007 Date of Judgment : 23 August 2007

J U D G M E N T

AUTONUMOUT This is an appeal against conviction for possession of a dangerous drug, contrary to section 8(1)(a) and

- (2) of the Dangerous Drug Ordinance, Cap. 134. AUTONUMOUT Two police officers raided the flat as specified in the particulars of the charge. The appellant was seen sitting on a bed holding a transparent bag containing the drugs in question in his left hand. He threw the packet onto the table in front when police officers entered. AUTONUMOUT The appellant's case was that he did not hold any packet of drugs as the police alleged. The packet of drugs was on the table, and it belonged to the woman tenant inside the flat. AUTONUMOUT The appellant did not give evidence but he called two defence witnesses (and) to give evidence. DW1 testified as to the circumstances why he was there at those small hours and how he came to be pushed into the flat by the police officers, whilst DW2, a woman tenant at the flat, testified the drugs in question belonged to her. Both of them said that the packet of drugs was on the table and at no time did the appellant hold such in his hand. What the appellant did today at this appeal hearing is just to reiterate that the magistrate should not have believed the prosecution witnesses and disbelieved the defence witnesses called by him.

AUTONUMOUT Much time was spent at the trial in cross-examining the 1st prosecution witness as to the alleged inconsistencies between his evidence and his statement. The magistrate was alive to such inconsistencies. He accepted the explanations offered and concluded such were not material inconsistencies and would not render that officer's evidence unreliable. He found the two police witnesses honest and credible. AUTONUMOUT Having carefully considered the evidence of the defence witnesses, the magistrate found it to be contrary to common sense and not believable. AUTONUMOUT Respondent counsel has correctly pointed out that cases like this turn on credibility. In judging that issue, the magistrate had benefit over me in that he heard and saw the witnesses and I have not. There is nothing in the Statement of Findings which leads me to think that the assessment by the magistrate was based on other than sound observation and reasoning. AUTONUMOUT There is ample evidence to find a conviction. This appeal is dismissed and I affirm the conviction. (M. Poon) Deputy High Court Judge Mr Paul Ho, SGC of the Department of Justice, for HKSAR The Appellant 1udk 1udk (#p# &`#\$ XoOe&t\ XoOe&t\ XoOe&t\ XoOe&t\ XoOe&t\ XoOe&t\ XoOe&t\ #V\$z @W 5 [-<. o2O` n h>h @W 5 @W 5 W~rh & 6" HCMA.dot setup Microsoft Word 9.0 Judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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