

HONG KONG / JUDGMENT

R. v. CHENG CHI PUI

COURT

Court of Appeal

DECIDED

24 January 1997

CASE / FILE NUMBER

CACC591/1994

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bjbj& IN THE COURT OF APPEAL 1994, No. 591 (Criminal) BETWEEN THE QUEEN Respondent
and CHENG CHI PUI Applicant

Coram: Hon Mortimer JA, Mayo JA and Sears J. in Court Date of hearing: 24 January 1997 Date of
judgment: 24 January 1997

J U D G M E N T

Mayo JA giving the judgment of the Court: The applicant seeks leave to appeal against the sentence of four years imprisonment imposed upon him for being a participant in a conspiracy to steal cars and ship them to China. There are several salient features in this case. The first is that the prosecution was to a large extent dependent upon the testimony of a police officer who was an undercover participant in the conspiracy. He had received information from an informer concerning the activities of a syndicate who stole cars and shipped them to China. He posed as a party who was interested in purchasing cars for sale in China and took part in the arrangements which were made to obtain the cars. D1, D2 and D3 in the trial below were the main participants in these arrangements. The police officer PW2 agreed to take delivery of a Mercedes Benz and a Mazda motor car on the night of 28 April 1993. After the cars were brought to a site at Lok Ma Chau the applicant and various other men were arrested by a party of police officers who had been waiting in ambush. After his arrest the applicant made a cautioned statement to the police in which he claimed that his role was confined to that of being a middle man. The second feature of this case which has to be referred to is that during the currency of the trial before HH Judge Hawkes the applicant absconded. The judge decided in the circumstances pertaining to proceed with the trial. Mr Wong who represents the applicant submitted that the applicant had been entrapped and that this was a good reason to reduce the term of imprisonment which had been imposed. Having regard to the facts above recited there is no merit in this submission. He also suggested that on account of the fact that the applicant had absconded he had no opportunity to

make representations to the court at the conclusion of his trial. This is clearly not a valid contention. It was the applicant s choice that he absconded. These were serious offences. At the time of the offences car thefts were rampant. The overall sentence imposed was neither manifestly excessive nor wrong in principle. The application is dismissed. (Barry Mortimer) Justice of Appeal (Simon Mayo) Justice of Appeal (R.A.W. Sears) Judge of the High Court D.G. Saw, SACP for Crown Mr Richard Wong (DLA) for Applicant - PAGE - W[SO @& > @& > @& @& " & 6" IN THE COURT OF APPEAL Registrar, Supreme Court Normal Microsoft Word 8.0 IN THE COURT OF APPEAL Title _PID_GUID Microsoft Word MSWordDoc Word.Document.8

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