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7, 1958

IN THE PRIVY COUNCIL

UNIVERSITY OF LONDON
W.C.1.

24 JAN 1958

ON APPEAL
FROM THE HIGH COURT OF THE COLONY OF SINGAPORE
INSTITUTE OF ADVANCED STUDIES

B E T W E E N

52091

MARY NG ... Appellant

- and -

THE QUEEN ... Respondent

C A S E F O R T H E R E S P O N D E N T

RECORD

10 1. This is an appeal from a judgment, dated the 17th June, 1957, of the High Court of the Colony of Singapore (Knight, J.), dismissing an appeal from a judgment, dated the 9th October, 1956, of the First Criminal District Court of Singapore, whereby the Appellant was convicted of an attempt to cheat. The Appellant was sentenced in the District Court to three months' imprisonment and a fine of \$5,000. In the High Court this sentence was reduced to three months' imprisonment and a fine of \$3,000, the District Judge having inadvertently imposed a fine in excess of his jurisdiction.

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2. The Appellant was tried upon two charges, viz. p.89

(i) Attempting to obtain from one Hou Suai Lian \$2,500 as a reward for inducing a magistrate to show favour to Hou Suai Lian in the exercise of his official functions,

(ii) Attempting to cheat Hou Suai Lian by representing to him that she was able to induce the magistrate to show him favour.

30 3. The statutory provisions relevant to this appeal are the following :-

Penal Code (Laws of Singapore, 1955, cap.119)

415. Whoever, by deceiving any person, fraudulently

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or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to 'cheat'.

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x x x x x

417. Whoever cheats shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

x x x x x

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

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x x x x x

511. Whoever attempts to commit an offence punishable by this Code or by any other written law with imprisonment or fine ... or attempts to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with such punishment as is provided for the offence; Provided that any term of imprisonment imposed shall not exceed one half of the longest term provided for the offence.

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Evidence Ordinance (Laws of Singapore, 1955, cap.4)

115. The court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct, and public and private business, in their relation to the facts of the particular case.

4. The following was the case for the Crown :-

pp.15-21

(1) Hou Suai Lian said he had been arrested on the 26th July, 1955 by the Narcotic Branch of the C.I.D. The case had eventually been fixed for hearing on the 29th February, 1956, and on that day he had been convicted and fined \$3,000 or six months' imprisonment in default of payment. On the 21st February, 1956 his wife had given him a slip of paper which had been left for him while he was out, on which was written a name and an address. The name was that of Kok Min Yin. He had gone to the address, and had arranged to meet Kok at a certain bar in the evening of 25th February. That evening he had gone to the bar with a friend named Liang, and there they had met Kok. Kok had said that the Appellant, the Fourth Magistrate's wife, had sent him to see Hou. Hou had asked him how he knew the Magistrate's wife, and Kok had replied that he had also been arrested in connection with opium and had spent \$2,500 with a guarantee that the case would be thrown out. They had eventually arranged to go and see the Appellant the next day. The next day Kok had taken Hou and Liang to the Appellant's flat. The Appellant had said that she was the wife of a Magistrate, and had produced a photograph showing the Fourth Magistrate with his arm round her. She had said that she had done many cases for people and those cases were thrown out, and the case against Hou would be thrown out if he could pay \$3,500. He had said he could not pay, and as he was about to leave the Appellant had given him her telephone number. The next day (27th February, 1956) he (Hou) had again visited the Appellant with Liang. After a little bargaining he had agreed to pay \$1,000. The Appellant had said "This money is wanted by the Magistrate not by me", and had then produced some jewellery and some building plans in order to show her affluence. She had then tried to speak to the Magistrate on the telephone but had been unable to get him. The next day (28th February, 1956) he had again visited her with Liang. The Appellant had said that the Magistrate would not take \$1,000, and had added that the smallest sum wanted would be \$2,500. She had said that if he did not pay he would the next day be fined \$3,000 and sent to gaol for six months. Hou had said he had no money and

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p.24,11 18-21

had left. He had believed that the accused had something to do with the Magistrate, since the Magistrate had his arm round her in the photograph.

p.28,11 6-27

(2) Kok Min Yin said he had been arrested by the Narcotic Branch on the 18th January, 1956. On the 28th January, 1956 someone had taken him to see the Appellant, and the Appellant had talked about helping him and had asked for \$5,000. They had eventually arranged that he should pay her \$2,500 and should help her to get in touch with people involved in cases in the Fourth Magistrate's Court. The Appellant had given him a number of names which he had written in a notebook, and the first name was that of Hou. He had gone to see Hou because the Appellant had asked him to do so. He described the meeting in the bar in the evening of the 25th February, 1956, and corroborated Hou's account of the visit to the Appellant on the 26th February.

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pp.12-15

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pp.38-42

(3) Liang San Han, a friend of Hou, corroborated Hou's evidence about the meeting at the bar on the 25th February, 1956 and the visits to the Appellant on the three following days.

p.4,11 21-34;
p.91, p.49,
11.30-37

(4) Three slips of paper were produced which had been found in the drawer of the Appellant's dressing table in her flat. On two of these slips were written the names of people who had appeared in the Fourth Magistrate's Court in 1956 charged with opium offences. The notebook mentioned by Kok in his evidence was also produced. It contained the names of twelve persons who in 1956 had been charged with opium offences in the Fourth Magistrate's Court.

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p.6,11 4-10
pp.48-49

p.51,11 41-43

5. At the close of the case for the Crown the District Judge dismissed the charge of attempting to obtain \$2,500 as a reward for inducing the Magistrate to show favour, but called upon the Defence on the charge of attempting to cheat.

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p.52,11.10-12;
pp.97-98

6. The Appellant did not give evidence on oath but handed in a written statement. In this she said that she was on terms of familiarity with the Fourth Magistrate and his wife, but not on terms of intimacy with either of them. She said that Hou,

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Kok and Liang had come to see her at the end of February, 1956 to ask her to get in touch with the Magistrate in order to obtain the acquittal of Hou. She had replied that she was in no position to do so, and it was very wrong of them to come to her on such a matter. She had eventually become angry and insisted she could do nothing, and had expressed the hope that Hou would be convicted and heavily punished.

7. The Appellant called two witnesses, named Tan and Peck, who said they had been with her when Hou, Kok and Liang arrived. They had left the room while the Appellant talked to these three, and had eventually heard the Appellant saying in a loud voice that she could not interfere. A man named Lim gave evidence of certain threats made against the Appellant by Hou and Liang after Hou's conviction, but Lim was a man of bad character and the District Judge refused to believe his evidence.

pp.56-61

pp.62-65

8. After her witnesses had given evidence, the Appellant was allowed to put in a further statement, in order, as it was said, to clarify her first statement. In this second statement she said she thought she could have induced the Magistrate to show favour to Hou, but there had never been any question of her so inducing him.

p.65, l.24 -
p.66, l.5;
p.99

9. The learned District Judge said in his judgment that the Defence had contended that there was no proof of deceit, since the Magistrate should have been called to say whether he could be influenced by the Appellant. He did not think it was necessary for the Crown to call the Magistrate, as the fact whether he could be induced to show favour to Hou by the Appellant was a fact especially within the Appellant's knowledge. As the case for the Crown on the first charge depended entirely on the uncorroborated evidence of accomplices he had called upon the Defence on the alternative charge of cheating.

pp.69-75
p.72, l.27-p.73
l.3

p.73, l.4-7

Having considered the evidence, the learned Judge said he had no doubt that Hou and Liang were truthful witnesses. Kok was undoubtedly an accomplice, but he accepted his evidence because it was corroborated by Hou and Liang. He did not believe the evidence of Tan and Peck. He accepted Kok's statement that the Appellant had given Kok Hou's name.

p.74 l.36-
p.75 l.8.

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p.75,11.13-19

Furthermore, the Appellant had not explained what she was doing with the names on the slips of paper which had been found in her dressing table. He had no doubt that the Appellant had tried to cheat Hou, and therefore found her guilty and sentenced her as set out in paragraph 1 of this Case.

pp.77-80

10. The Appellant appealed to the High Court. In her Petition of Appeal, dated 19th February, 1957, she raised various grounds of appeal, of which only one is now material. This ground was that as a result of not calling the Magistrate the Crown had failed to prove its case, since it had not proved any deceit.

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p.78,11.28-39

pp.82-84
p.82,1.28-p.83,
1.20

11. The appeal was heard by Knight, J. on the 12th June, 1957. The learned Judge gave judgment on the 17th June. He said it had been an essential part of the case for the Crown that the Appellant's representation that she was in a position to influence the Magistrate was false. The Magistrate, though present at the trial, had not been called, and it was argued that if he had been called he might have admitted that he was subject to the influence of the Appellant. Consequently, it was argued, the Crown had not shown any deceit.

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p.83 11.21-50

A presumption arose, however, under the Evidence Ordinance, section 115 that judicial acts had been regularly performed. It was not necessary that holders of judicial office should be called to deny any fraudulent allegation that they were subject to influence, and it was perfectly obvious that if the Magistrate had been called he would have denied it. The Appellant had herself said in her first statement that she had told Hou that she was not in a position to influence the Magistrate. She had varied this in her second statement (manifestly acting on advice), but this second statement contrasted very oddly with her earlier contention that she was only on terms of familiarity with the Magistrate. The omission to call the Magistrate, therefore, was not fatal to the conviction. After dealing with certain other grounds of appeal, the learned Judge said he fully agreed with the District Judge that the Appellant's guilt was proved by the lists of names and addresses found in her dressing table, of which she had given no explanation at all. The Appeal was accordingly dismissed,

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p.84,11.27-39

After dealing with certain other grounds of appeal, the learned Judge said he fully agreed with the District Judge that the Appellant's guilt was proved by the lists of names and addresses found in her dressing table, of which she had given no explanation at all. The Appeal was accordingly dismissed,

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p.84,11.40-45

the sentence being varied as set out in paragraph 1 of this Case.

12. The Respondent respectfully submits that on the evidence the learned District Judge was entitled to find that the charge of cheating was proved. It was established, by evidence which the learned Judge accepted, that the Appellant had made repeated offers to Hou, by which she had represented both that she was able to exercise influence with the magistrate to obtain Hou's acquittal, and that she intended to exercise such influence, if Hou paid her certain sums of money. Both by the statutory presumption and by the Appellant's own confession these representations were shewn to have been untrue. In her first statement, the Appellant said she was not in a position to exercise any influence over the magistrate. If, in spite of the irregular way in which it was admitted, weight is to be attached to the Appellant's second statement, the result remains the same, since in that statement she denied that she ever intended to exercise influence over the magistrate in Hou's case. It was clearly shown, therefore, that the Appellant tried to deceive Hou and fraudulently to induce him to pay her money.

13. The Respondent respectfully submits that the judgment of the High Court of Singapore was right, and this appeal ought to be dismissed, for the following (amongst other)

R E A S O N S

1. BECAUSE the evidence shewed the Appellant to be guilty of the offence of which she was convicted:
2. BECAUSE in convicting the Appellant of that offence the learned Judge of the District Court administered the law correctly.

J. G. LE QUESNE

No. 20 of 1957.

IN THE PRIVY COUNCIL

O N A P P E A L

FROM THE HIGH COURT OF THE COLONY OF
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B E T W E E N

MARY NG Appellant

- and -

THE QUEEN Respondent

CASE FOR THE RESPONDENT

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