

Sundran Jaykumal - - - - - *Petitioner*

v.

The Public Prosecutor - - - - - *Respondent*

FROM

THE COURT OF CRIMINAL APPEAL OF SINGAPORE

ORAL JUDGMENT OF THE LORDS OF THE JUDICIAL
COMMITTEE OF THE PRIVY COUNCIL OF THE 14TH JULY 1981

Present at the Hearing:

LORD DIPLOCK

LORD BRIDGE OF HARWICH

SIR OWEN WOODHOUSE

[*Delivered by* LORD DIPLOCK]

The only ground upon which leave to appeal is sought in the present case is in order to challenge the constitutionality of section 121(6) and (7) and section 122(1) of the Criminal Procedure Code of Singapore.

Section 121(6) requires a person charged with an offence, or officially informed that he may be prosecuted for it, to be given a notice in writing advising him that if there is any fact which he intends to rely upon in his defence in court he should mention it then and warning him that, if he holds it back until he goes to court, his evidence may be less likely to be believed. Section 122(1) provides that at his trial the court may draw such inferences as appear proper from his failure to mention, in response to such a warning, a fact on which he has sought to rely.

So far from mentioning any exculpatory facts, the petitioner in the instant case, in response to the warning given to him under section 121(6), embarked upon a full confession, the accuracy of which was corroborated by real evidence discovered at the place where he had said that it would be found.

The petition in the instant case was lodged before this Board, (in *Haw Tua Tau v. The Public Prosecutor*, Privy Council Judgment No. 23 of 1981) had given its reasons for rejecting a similar challenge to the constitutionality of section 188(2) and section 195(1) and (2) of the Criminal Procedure Code which relate to the allocution to be addressed to the defendant when calling on him to enter on his defence and warning him that the court may draw such inferences as appear proper from his failure to give evidence on oath, if he should decide not to do so.

The reasons given by this Board for dismissing the appeal in *Haw Tua Tau* apply, *mutatis mutandis*, to the provisions of the Criminal Procedure Code which the petitioner would seek to challenge if leave to appeal were granted. Their Lordships are of the opinion that these provisions plainly do not contravene the Constitution.

Leave to appeal is accordingly refused.

In the Privy Council

SUNDRAN JAYKUMAL

v.

THE PUBLIC PROSECUTOR

DELIVERED BY
LORD DIPLOCK

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