

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

Public Prosecutor

v

Sandhu D S

Magistrate Court – MAC 901864/2023 and others

19 February 2025

Carol Ling, District Judge

BRIEF GROUNDS OF DECISION

1 These are the brief reasons for my decision on sentence. If necessary, they will be supplemented with full written grounds.

2 The Accused claimed trial to four charges which arose from a single incident between him and a delivery rider, one Mr Eric Tan Chee Keong (“Eric”) The Accused is accused of fighting with Eric at the scene as well as using criminal force on Eric and two unknown persons who were also present at the scene. There was objective evidence of the incident in the form of footage from the Accused’s body-worn camera. There was also evidence in the form of oral testimony from the delivery rider, Eric himself.

3 Having heard the evidence of Eric, I find him to be a credible witness. He recounted the incident as best as he could from memory and there was no tendency to minimize his role or exaggerate the role of the Accused. Eric has also been convicted and punished for his role in the incident. I am satisfied that he is a truthful witness.

Charges of Criminal Force

4 The evidence relating to the charges of criminal force is supported by the footage. In respect of two of the charges, there were no complainants or any oral testimony. In relation to Eric, the footage showed the use of criminal force; Eric himself provided oral testimony,

5 I find that the actus reus required for an offence of using the criminal force is clearly made out on the evidence. However, that is not all that is required for an offence under section 352 of the Penal Code. There must be an intent on the part of the Accused to use such force,

knowing that it is likely to cause annoyance to the person on whom he may have used such force, for it to become criminal.

MAC 910865/2023 and MAC 910867/2023

6 On the evidence, there is a reasonable doubt whether the Accused had used such force knowing it would likely cause annoyance to the unknown grab rider and the member of the public:

- a) There is no complainant in either of these 2 charges. Whilst I agree with the Prosecution that it is not strictly necessary for the victim involved in such a charge to testify if he was actually annoyed, afraid or injured by the use of such force, the weakness in these charges lies in the lack of direct evidence as to the force used, the manner in which force was used, the interaction between the Accused and these persons, et cetera – indicators which the court may rely on to infer intent or knowledge on the part of the Accused to cause annoyance to these persons;
- b) Whilst the footage did show the Accused’s actions, it is not possible to infer the Accused’s intentions to annoy from the brief footage;
- c) Through it all, the Accused’s focus was clearly on Eric and his efforts to ensure that Eric remained on the scene until the police came. There is no evidence of any ill-will, negative prior interaction between the Accused and the 2 unknown persons on the scene – well-meaning bystanders who were trying to diffuse the situation - such that the court may infer an intention on his part to cause annoyance to them or knowledge that he would likely cause them annoyance, when he pushed them on their chest. Clearly, the motivation for the Accused’s conduct was the person of Eric, not these unknown persons. The context in which such force was used must be taken into account.
- d) The fact that the Accused may not have first informed the unknown grab rider or the member of the public to move aside so that he may continue recording Eric or to catch hold of Eric did not mean that he must have intended to cause annoyance to them when he pushed them away. Certainly, the Accused could have employed these means suggested by the Prosecution to achieve his ends but not doing so and instead choosing to push them away on the chest, did not mean that he did so knowing that it would likely cause them annoyance.

7 Overall on the evidence, there is a reasonable doubt as to whether the Accused had by such use, knew it was likely to cause annoyance to the unknown grab rider and the member of the public, in the volatile situation which presented itself. On these 2 charges, MAC 901865/2023 and MAC 901867/2023, I find that the Prosecution has not proven their case against the Accused on either of these 2 charges and do acquit the Accused accordingly.

MAC 901866/2023

8 As for MAC 901866/2023 where the Accused is alleged to use his left hand to grab the right upper arm of Eric, I am satisfied that the charge has been proven beyond reasonable doubt:

- a) The actus reus of the offence is not disputed - the Accused did grab Eric's right upper arm;
- b) I also find that the Accused knew that by so doing, he would likely cause annoyance to Eric. Eric had told the Accused to release him but the Accused did not. The Accused would have known that by continuing to hold on to the right upper arm of Eric, it would have annoyed Eric.

9 The right of a private defence does not arise in this situation as it was clear that the Accused was not defending himself when he held Eric's upper arm. All the evidence points to the fact that all the Accused was seeking to do at the material time was to restrain Eric's movements and ensure that he did not leave until the police arrived.

10 Doing so was also not the same as effecting a private arrest on another individual. The circumstances do not show that the Accused was effecting a private arrest of Eric. In the Accused's testimony, he admitted he did not even know what that fully meant. The Accused cannot now turnaround post-event and say he was effecting a private arrest to justify his conduct at the scene.

11 I agree with the Prosecution that the Accused had no authority to hold on to Eric at the material time. He was already recording the incident and already knew there was a registration number on Eric's e-bike. Even if Eric had left the scene when the police arrived, there would have been recourse. The Accused would likely have known that by holding Eric's arm and restraining him against his wishes, it would annoy Eric.

12 Considering the totality of the evidence: on MAC 901866/2023, I am satisfied that the Prosecution has proven the charge against the Accused. I find him guilty and convict him on the charge accordingly.

MAC 901864/2023 - Charge of Affray

13 Under section 267B of the Penal Code, the charge of affray is made out when 2 or more persons disturb the public peace by fighting in a public place.

14 The footage from the body-worn camera was helpful in providing objective evidence as to the events which unfolded that afternoon. The key portions of the footage showed the following:

- a) The Accused was obviously agitated when Eric used a vulgarity on him after the Accused told him to move his e-bike to park it elsewhere. The Accused initiated the first physical contact when he pushed Eric's left shoulder;
- b) Subsequently, as Eric was moving his e-bike away, the Accused, clearly still agitated, pushed Eric's left back shoulder once again. This time, Eric reacted by throwing a punch at the Accused;
- c) What followed after was a scuffle between Eric and the Accused in public where both of them were reaching for each other. Accused was heard to utter the word "come"; the evidence was that his fists were clenched and held at chest level at the material time. Eric at this time, attempted to kick the Accused. This was enough to attract the attention as well as intervention of the public.

15 To my mind, the evidence was sufficient to show that there was a fight between Eric and the Accused. There may not have been multiple or a continuous exchange of blows as one may expect in a full-blown fight but the physical interaction between Eric and the Accused seen in the footage was sufficient to constitute a fight. There was participation by both parties in this physical interaction. As highlighted by the Prosecution, the Accused was captured constantly lunging forward to push, grab or pull Eric towards him, and using force to hold him. The Accused was aggressive in the interaction; his clenched fists and his utterance of the word "come" was clearly an invitation to Eric to fight. Eric was equally reactive physically. In his evidence, the Accused himself admitted to having a scuffle with Eric. I agree with the

Prosecution that public peace was clearly disturbed when members of the public had to step in to stop both Eric and the Accused from further physical interaction.

16 On the evidence, I do not find that the Accused was defending himself in the course of the interaction with Eric. In addition, I was unable to believe the Accused's assertion that the word "come" uttered by the Accused was directed at his colleague, Christina. It was clear from the footage that the Accused was directing it at Eric, whilst the Accused stood in a ready-to-fight mode.

17 On the evidence, I am satisfied that the Prosecution has proven the charge of affray against the Accused beyond a reasonable doubt. On MAC 901864/2023, I do find the Accused guilty on the charge and convict him accordingly.

18 In summary:

MAC 901864/2023 – Accused is found guilty and convicted

MAC 901865/2023 – Accused is acquitted

MAC 901866/2023 – Accused is found guilty and convicted

MAC 901867/2023 – Accused is acquitted

Carol Ling
District Judge

Deputy Public Prosecutor Santhra Aiyiyasamy for the Public Prosecutor
Raj Joshua Thomas/Vigneesh Nainar (Tang Thomas LLC) Ho for the Accused