

## Case Digest (English Translation)

### HKSAR v 李龍現 (Lee Lung Yin Alex) and Others

WKCC 313/2023; [2023] HKMagC 5

(West Kowloon Magistrates' Courts)

(Full text of the Court's Reasons for Sentence in Chinese at

[https://legalref.judiciary.hk/lrs/common/ju/ju\\_frame.jsp?DIS=151452&currpage=T](https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=151452&currpage=T))

Before: Mr Law Tak-chuen Peter, Principal Magistrate

Date of Sentence: 20 March 2023

*Sentencing – conspiring to do acts with seditious intention – guilty plea – publishing seditious posts on online social media – displaying seditious publications at a physical stall for sale – contents of publications elaborately planned and promoted – Defendants committing the crime jointly – Defendants playing different roles in the crime should hold different degrees of criminal responsibility*

1. The three Defendants were charged with one count of conspiring to do one or more acts with a seditious intention, contrary to s. 10(1)(a) of the Crimes Ordinance (Cap. 200). They were accused of conspiring to promote, sell and/or display for sale publications concerning the social unrest and violent events in 2019 (“the publications”) on Facebook and Instagram as well as at a temporary stall, with an intention to bring into hatred or contempt or to excite disaffection against the HKSARG (examples of such seditious content including “No Rioters, Only Tyranny”), to excite inhabitants of Hong Kong to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Hong Kong as by law established (examples of such seditious content including a flag displaying the slogan “Liberate Hong Kong, Revolution of Our Times”), to incite persons to violence, and/or to counsel disobedience to law or to any lawful order (examples of such seditious content including “With the loss of the righteous, Hong Kong needs

‘revolution’”). Each Defendant pleaded guilty to the charge.

2. Held, sentencing the three Defendants to 5, 8 and 10 months’ imprisonment respectively, that:

- (a) Doing an act with a seditious intention was of a serious nature, regardless of its form. When assessing the seriousness of the seditious acts in question, the Court had to consider the overall actual circumstances of the case.
- (b) All offences of sedition were of a preventive nature, but the sentencing court had to convey the message that if the sentence failed to have a deterrent effect, it would have a serious impact on the society, and all citizens would have to suffer different degrees of harm. Generally speaking, deterrent sentences should inevitably be imposed to suppress such conduct.
- (c) In this case, the Defendants went beyond merely posting seditious messages on social media, and had taken actual actions, including designing, producing and printing the publications, promoting the publications through social media, and displaying them for sale at a physical stall. The contents of the publications were also carefully selected and elaborately planned. The acts were not carried out individually, but involved division of labour and cooperation among the Defendants. Furthermore, by displaying and selling the publications in a physical stall during the festive seasons of Christmas and Chinese New Year, it was obvious that they wanted to take advantage of the flow of people during the festive seasons to enhance the sale.
- (d) Although the social unrest in 2019 had subsided for a while, some people had not yet got over it, and they could be easily provoked by even a slight instigation. Most of the people who bought the publications were sympathetic to, or even agreed with, the violent conduct of the protesters and the slogans they chanted at the time. Showing them the publications for sale would have an adverse effect on them and the society as a whole, sowing the seeds of a crisis.
- (e) The three Defendants played different roles in the case and

should hold different degrees of criminal responsibility. Four hundred copies of the publications had been made which was not a small scale, and even though the number of followers of their social media platforms was not too many, factors such as committing the crime jointly and with premeditation, the provision of financial and manpower support, and offering the publications for sale to targets who were at risk also had to be taken into account.

- (f) D1 was not healthy at the time, and it was rare to find him participating in the events actively. Thus a starting point of 10.5 months was adopted. Apart from the one-third discount on account of his guilty plea, the Court exercised its discretion to further reduce the sentence by 2 months as his health had deteriorated rapidly while in custody. As a result, the sentence was reduced to 5 months' imprisonment.
- (g) Apart from selling the publications at the stall, D2 also actively promoted the publications on his own social media platform. Hence, the Court was of the view that he had played an important role, and adopted a starting point of 12 months. After the one-third discount on account of his guilty plea, it was reduced to 8 months' imprisonment, and there were no other grounds for further reducing his sentence.
- (h) D3 was the primary offender. She rented the stall and was responsible for designing and producing the contents of the publications. She even elaborately devised ways to not provide the author's name and the publisher's information as a cover-up. The Court adopted 15 months as the starting point for sentencing. After the one-third discount on account of her guilty plea, she was sentenced to 10 months' imprisonment, and there were no other grounds for further reducing her sentence.