

Case Digest (English Translation)

HKSAR v 崔駿民 (Chui Chun Man)

WKCC 4617/2021; [2023] HKMagC 6
(West Kowloon Magistrates' Courts)

(Full text of the Court's Reasons for Sentence in Chinese at
https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=151494&QS=%2B%7C%28wkcc4617%2F2021%29&TP=RS)

Before: Ms Heung Shuk-han Veronica, Acting Principal Magistrate
Date of Sentence: 20 March 2023

Sentencing – doing acts with seditious intention – convicted after trial – publishing a series of statements with seditious intention respectively on the open pages of a personal account and the Hong Kong Police Force's account on an online social media platform – making reference to NSL case law – deliberately exposing his identity as a police officer – immediate imprisonment the only appropriate sentencing option

1. The Defendant was convicted after trial of one count of doing acts with a seditious intention, contrary to s. 10(1)(a) of the Crimes Ordinance (Cap. 200). On 25 September 2021, a Senior Inspector of Police fell overboard and went missing during an anti-smuggling operation. Being a police constable then, the Defendant subsequently posted on his personal Facebook open page and the Facebook open page of the Hong Kong Police Force (“HKPF”) which had approximately 500,000 subscribers a series of open statements with a seditious intention, advocating that senior police officers and the HKPF should be brought into contempt and hatred and that disaffection should be excited towards them, instigating and provoking dissatisfaction against the Police, with an intention to bring into hatred or contempt or to excite disaffection against the HKPF, thereby bringing into hatred or contempt or exciting disaffection against the HKSARG and/or the administration of justice in Hong Kong, and/or raising discontent or disaffection

amongst the inhabitants of Hong Kong.

2. Held, sentencing the Defendant to 10 months' imprisonment, that:

- (a) Referring to *HKSAR v Ma Chun Man* [2022] HKCA 1151, the Court was of the view that in sentencing, regard had to be had to the overall actual circumstances of the case, as well as the gravamen of the offence of sedition, namely, (i) stopping people from persuading or encouraging others to commit crime, even if no one so persuaded or encouraged carried out the crime, and (ii) allowing intervention of the law at the earliest possible time to stop a person who had been incited from carrying out the relevant crime.
- (b) When considering the overall actual circumstances of the case, main attention should be given to the Defendant's conduct as well as the actual consequences brought by the offence, its potential risks and possible impact.
- (c) Although the overall social atmosphere in Hong Kong was gradually easing up at the time of the offence, the incidents arising from the violent and illegal social events in 2019 had not completely subsided, and there remained the concerns and risks that the society was susceptible to violent attacks. Under such circumstances, the conduct of the Defendant undoubtedly increased the risk of antagonism between citizens on the one hand and the HKPF and the HKSARG on the other.
- (d) At the time of the offence, the Defendant deliberately exposed his identity as a police officer and a public officer, for the obvious purpose of increasing his credibility, which undoubtedly magnified the effect of the incitement, undermining the credibility of the HKPF, subjecting them to a higher risk of violent attacks when enforcing the law, as well as adversely affecting the credibility of the governance of the HKSARG.
- (e) The Defendant deliberately published his public statements on Facebook which was an online social media platform widely used around the globe, and also deliberately posted the statements next to the police insignia on the Facebook open page

of the HKPF, obviously with the intention to quickly incite more people's hatred, contempt and disaffection against the HKPF, the HKSARG and the administration of justice in Hong Kong, and to raise discontent or disaffection amongst inhabitants of Hong Kong.

- (f) The culpability of the Defendant was very serious, and immediate imprisonment was the only appropriate sentencing option. The Court adopted 10 months' imprisonment as a starting point. There was no sentencing discount as the Defendant was convicted after trial. Neither his personal circumstances nor his mitigating grounds provided sufficient justifications for any reduction in sentence.

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