

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL  
ON APPEAL FROM THE COURT OF CRIMINAL APPEAL  
OF SINGAPORE

B E T W E E N :

ONG AH CHUAN

Petitioner

- and -

PUBLIC PROSECUTOR

Respondent

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RECORD OF PROCEEDINGS

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IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

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ON APPEAL

FROM

THE COURT OF CRIMINAL APPEAL OF SINGAPORE

(CRIMINAL APPEAL NO. 2 OF 1978)

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B E T W E E N :

ONG AH CHUAN

Appellant

-v-

THE PUBLIC PROSECUTOR

Respondent

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RECORD OF PROCEEDINGS

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RECORD OF APPEAL

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A

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Criminal Case No. 44 of 1977

Public Prosecutor

-v-

Ong Ah Chuan

B

Coram: Choor Singh J.

A.P. Rajah J.

GROUNDS OF DECISION

The Accused was charged and tried before us on the following charge:

C

"That you, Ong Ah Chuan on or about the 2nd day of June 1977 at about 12.00 noon in front of No. 270 Bukit Timah Road, Singapore, did traffic in a controlled drug specified in Class 'A' of Part I of the First Schedule to the Misuse of Drugs Act, 1973 (No. 5 of 1973) to wit, 209.84 grams of diamorphine without any authorisation under the said Act or the regulations made thereunder and you have thereby committed an offence under Section 3(a) of the Misuse of Drugs Act, 1973 (No. 5 of 1973) and punishable under Section 29 of the said Act".

D

On 2nd June 1977 at about 9.15 a.m., acting on information received, Acting Senior Narcotics Officer Yeo Kiah Hee (P.W. 6) and Assistant Narcotics Officer Ramli arrived on their motor-cycle at Block 26 Marsiling Drive, Singapore. They stationed

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themselves on the ground floor of Block 30 Marsiling Drive and commenced observations on the flat of the Accused, No. 235 - E Block 26 Marsiling Drive.

B

At about 9.30 a.m. Yeo (P.W.6) saw a motor car No. SX 9098, driven by the Accused, arriving at Block 26. The Accused parked the car in a lane next to Block 26. He then got out of the car, locked it, and walked towards the lift and staircase landing of the ground floor of Block 26. A few seconds later, the Accused was seen by the two officers walking along the corridor of the 5th floor of Block 26 towards his flat and entering it. Yeo (P.W.6) and Ramli continued to keep observation on the flat.

C

About an hour later Acting Senior Narcotics Officer, Yeo Ho Peng (P.W.7) and Assistant Narcotics Officer Chua Swah Hai arrived at Block 20 on their motor cycle. On their arrival they noticed that SX 9098 had been parked in the lane adjacent to Block 26. They signalled their arrival to Yeo (P.W.6) and Ramli and they too proceeded to keep observation on the Accused's flat and motor car SX 9098 from the ground floor of Block 28.

D

At about 11.25 a.m. the Accused was seen leaving his flat alone and walking along the corridor towards the lift and staircase landing. As he entered the staircase landing, he was out of sight of the

A                   officers for a few seconds. He was then seen  
                  coming out of the staircase landing on the ground  
                  floor of Block 26 carrying a plastic bag in his  
                  right hand. The Accused walked towards car  
                  SX 9098. On reaching it he unlocked the front  
                  passenger door, placed the plastic bag in the car,  
                  closed the door, walked towards the driver's door,  
B                   unlocked it and got into the driver's seat. He  
                  started the car and drove it in the direction of  
                  Admiralty Road. The four narcotics officers began  
                  to trail the Accused's car on their two motor cycles.  
                  The Accused proceeded towards the city along Admiralty  
                  Road and thence into and along Woodlands Road.  
                  At Bukit Panjang Circus, the Accused drove  
                  into Upper Bukit Timah Road towards Ewart Circus.  
                  At Ewart Circus, the car proceeded into Jalan  
C                   Anak Bukit and thence to Bukit Timah Circus.  
                  At Bukit Timah Circus the Accused drove into  
                  and along Dunearn Road towards Newton Circus.  
                  At Newton Circus the car turned left into Bukit  
                  Timah Road and stopped in front of No. 270 Bukit  
                  Timah Road. Throughout the whole journey which  
                  had taken a little over half an hour the officers  
D                   did not lose sight of the Accused's car. By this  
                  time the four officers, Teo (P.W.7), Chua, Yeo (P.W.6)

A

and Ramli, who were close on his tail and had also turned left into Bukit Timah Road and stopped their motor cycles some 10 yards or so behind car SX 9098. The Accused alighted from the car, locked it and walked away from it in the direction

B

of the officers. By this time, Yeo (P.W.6), who had been riding pillion, got off the motor cycle and proceeded towards the Accused. Chua, who had also been riding Pillion on the other motor cycle, joined him. Yeo (P.W.6) approached the Accused and after identifying himself as a Government man, detained him. He then seized a bunch of keys

C

from the Accused's hand and proceeded to search him. From the Accused's waist front trousers pocket he recovered a plastic bag containing light brownish powder, which he suspected to be diamorphine Hydrochloride. Thereupon he immediately placed the Accused under arrest and instructed Chua to handcuff him. The Accused was escorted to motor car SX9098 by Chua and Yeo (P.W.6) and from in between the front seats of the car Yeo (P.W.6)

D

seized a plastic bag, inside which there was another plastic bag containing some clothing and

A

a parcel wrapped in a Chinese newspaper. Yeo (P.W.6) unwrapped the parcel in the presence of the Accused and found yet another plastic bag which contained brownish granular solids which he suspected to be Diamorphine Hydrochloride. The said light brownish powder and the said brownish granular solids were sent to the Department of Scientific Services where Mr. Lim Han Yong, the Government Chemist, analysed the said light brownish powder and the said brownish granular solids and found the diamorphine content of each of them to be 3.84 grams and 206.0 grams respectively.

B

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At the close of the prosecution case Counsel for the Accused submitted that the Accused on the evidence before the Court had no case to meet on the charge as framed. He submitted that as the Accused was merely carrying the diamorphine and as there was no evidence of its being delivered to anyone the Accused was not trafficking within the meaning of the Misuse of Drugs Act 1973.

D

In support of his proposition he cited the case



A

of Seow Koon Guan v. P.P. Cr. App. 4 of 1977  
(the Seow Case) and two Canadian cases namely,  
(1) Regina v. MacDonald and Regina v. Harrington  
& Scosky (1963) 43 W.W.R. 337 (the Canadian Drug  
Case) and (2) Rex c. McMyn (1941) 4 D.L.R. 268  
(the Canadian Potatoes Case).

B

In our view the Seow Case did not help the  
Accused. There the accused was charged with being  
in possession of 55.48 grammes of diamorphine for  
the purpose of trafficking in a controlled drug  
and thereby committing an offence under section  
3(c) of the Act. The Court of Appeal ruled that  
although possession per se of a controlled drug  
constituted an offence under Section 6(a) of the  
Act, a person in possession of such a drug can be  
charged with and found guilty of an offence under  
Section 3(c) of the Act only if it is proved that  
he did or offered to do any act preparatory to or  
for the purpose of trafficking therein. The facts  
in the instant case are that the Accused transported  
in a car heroin from Woodlands to 270 Bukit  
Timah Road, The decision in

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Seow's case was therefore inapplicable.

The headnote to the Canadian Drug Case reads as follows :

"Mere possession of one-quarter ounce of pure heroin, with no other attendant circumstances, held, not to justify an inference of trafficking.

B

Transporting drugs for mere personal purposes or use, as distinct from transporting for other purposes, does not of itself afford sufficient evidence of the offence of trafficking. 'Transport' in the definition of 'traffic' in Sec. 2(i) of the Narcotic Control Act, Can, 1960-61, Ch. 35 is not meant in the sense of mere conveying or carrying or moving from one place to another, but in the sense of doing so to promote the distribution of the narcotic to another".

The facts in the Canadian Drug Case was as follows :

C

"Harrington, followed soon after by Scosky, was seen to enter the washroom of a service station in which was secreted a cache (No. 31) estimated to contain one-quarter ounce of pure heroin wrapped in a particular Vancouver newspaper of recent date. The appellants remained in the washroom for a short period, then emerged and left the service station premises together in a motor car which, for some time thereafter, was kept under observation by the occupants of a police car. An immediate search of the washroom showed that the drug cache was missing.

D

Later one of the pursuing police officers picked up pages of a newspaper identified as of the same dates as the wrapping on the drug package, which was seen to be ejected from the car occupied by the appellants.

A

It was shown that one-quarter ounce of pure heroin when mixed with lactose and placed in gelatin capsules, would make up not less than 100 capsules such as are commonly used by drug addicts. Both appellants were shown to have been addicted to the use of drugs".

B

It is to be noted that in this Canadian case the decision was based on the provisions of the Narcotic Control Act, Canada 1960 - 61 Chapter 35 which provisions do not find a place in our Act. For this reason, if not for any other, we were of the view that this case had no relevance in the construing of our Act. It is further to be noted that no heroin was found on or in the possession of any of the two accused nor was there any evidence that they had transported heroin.

C

Therefore we rejected this case as not pertinent to the instant case. Here we would like to refer to our judgment in the case of P.P. v. Teh Sin Tong (Unreported Criminal Case No. 28 of 1976 Criminal Appeal No. 17 of 1976) where we convicted the accused under section 3(a) of the Act of having transported heroin from Johore Bahru to the Woodland Custom's Checkpoint, Singapore.

D

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The conviction has been upheld by both the Court of Criminal Appeal and the Privy Council and our reasons for so convicting have not been disturbed.

B

The Canadian Potatoes Case relates to the violation of an Order of the B.C. Coast Vegetable Marketing Board. The Order that was being violated is not set out in the reported case. We are therefore unable to say how this case can be of any assistance in determining what the word 'transport' should be construed to mean in the context of our Act.

C

We rejected counsel's submission and as the prosecution had made out a case against the Accused which, if unrebutted, would warrant his conviction, we called on him to make his defence.

D

In his defence the Accused said that on the 2nd June 1977 at 11.25 am . he left his flat 235E, Block 26 Marsiling Drive in his car SX 9098 to meet his friend Ah Hoe at about 12 noon at No. 270 Bukit Timah Road from where they were to go to Pulau Ubin to obtain employment for

A

themselves with the help of his father in law who was working on the island. He took with him in his car, which he was driving, some clothing and some "white powder" (Peh Hoon). He had no intention of delivering the "white powder" to anyone. All the "white powder" he took was for his personal consumption and the reason for his taking with him such a large quantity was that it would have been difficult for him to come out of Pulau Ubin every now and then to obtain his supply of the powder. He said that he had bought the large quantity of "white powder" for \$2000/- a few days before his arrest as it was cheaper to buy it in bulk. The Accused did not call any witness on his behalf.

B

C

D

Counsel for Accused submitted as a matter of law that for the Accused to be found guilty of trafficking as charged the prosecution had to show that the Accused transported the heroin for the purpose of delivering or sale. He relied on the cases he had cited to us previously.

A

We rejected his submission as not valid to the instant case.

B

The Accused's defence depended entirely on his credibility. Apart from his word, there was no evidence that he was a drug addict; that he had a father in law at Pulau Ubin; that he was on his way of Pulau Ubin when arrested and that he was taking the large quantity of heroin found in his possession to Pulau Ubin for his own consumption. The Accused did not impress us as a truthful witness. In our judgment the Accused was not speaking the truth and had invented his story to escape the consequences of his criminal act. We therefore rejected his defence.

C

D

After considering all the evidence before us we found that (1) the Accused had on the 2nd June 1977 between the hours of 10.25 a.m. and 12 noon transported 209.84 grams of diamorphine without authorisation, (2) the said heroin which he had so transported was not for his personal consumption and (3) he was guilty of the offence of trafficking as charged,

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We accordingly convicted the Accused  
and passed the mandatory sentence of death  
on him.

JUDGE

B

JUDGE

C

Singapore  
15th May 1978.

D

A Filed this 8th day of December 1978

IN THE COURT OF CRIMINAL APPEAL REPUBLIC OF SINGAPORE

CRIMINAL APPEAL NO. 2 OF 1978

(IN THE MATTER OF HIGH COURT CRIMINAL CASE NO.44 OF 1977)

Between

ONG AH CHUAN

.....Appellant

And

THE PUBLIC PROSECUTOR

.....Respondent

PETITION OF APPEAL

TO: THE HONOURABLE THE JUDGES OF THE COURT OF CRIMINAL APPEAL,  
SINGAPORE

C The Humble Petition of ONG AH CHUAN

SHOWETH:

1. Your Petitioner, the Appellant herein, was on the 3rd  
4th and 5th April, 1978 tried in the High Court comprising  
Mr. Justice Choor Singh and Mr. Justice A.P. Rajah on the  
following charge :

"That you, Ong Ah Chuan on or about the 2nd day  
of June 1977 at about 12.00 noon in front of No.  
270, Bukit Timah Road, Singapore, did traffic  
in a controlled drug specified in Class 'A' of Part  
1 of the First Schedule to the Misuse of Drugs  
Act, 1973 (No. 5 of 1973) to wit, 209.84 grammes of  
diamorphine without any authorisation under the  
said Act or the regulations made thereunder and  
you have thereby committed an offence under Section  
3(a) of the Misuse of Drugs Act, 1973 (No. 5 of  
1973) and punishable under Section 29 of the  
said Act".

D On the 5th April 1978 your Petitioner was convicted on the said  
charge and sentenced to suffer death.

2. Your Petitioner is dissatisfied with the conviction  
and sentence on the grounds following :-



A. The Learned Trial Judges erred in law :-

- A
- (1) In rejecting the submissions of counsel for the Appellant that mere transportation of diamorphine without any evidence of corresponding activities for the purpose of distribution to others does not amount to trafficking.
- (2) In rejecting the Canadian Case of Regina v. MacDonald et al Regina v. Harrington & Scosky reported in 1963 43 WWR 337 on the ground that the decision in the Canadian case was based on the provisions of the Canadian Narcotic Control Act 1960 - 1961 (Cap. 35) which provisions do not find a place in our act and hence the case had no relevance in the construing of our act when the Canadian Narcotic Control Act is in most ways similar to our Misuse of Drugs Act, 1973 (No. 5 of 1973) if not more extensive especially the definition of 'traffic'.
- B
- (3) In rejecting the Canadian case of Rex v. McMyn reported in (1941) 4 D.L.R. 268 on the ground that the Order referred to in this case is not set out in the case when the most pertinent provision of that Order regarding the violation was set out in the judgment of O'Halloran J.A.
- C

B. The Learned Trial Judge erred in law :-

- (4) In failing to consider or sufficiently consider the defence of the Appellant which is consistent with innocence and therefore the Trial Judges must consider whether it might reasonably be true although not convinced of the truth of the Appellant's defence.
- D
- (5) In drawing inappropriate inferences adverse to the Appellant and in rejecting his evidence.

A

(6) In implicitly drawing an adverse inference against the Appellant for not calling his father in law from Pulau Ubin to be a witness for the defence when the defence is under no such duty so to call witnesses to testify on his behalf.

C. (7) The Learned Trial Judges erred in law in failing to make a finding that the Appellant was transporting the diamorphine for the purpose of facilitating its promotion or promoting distribution of the diamorphine to a or any third party eventually.

B

D. (8) The conviction on the charge is against the weight of the evidence and the probabilities of the case.

E. (9) The sentence imposed is manifestly excessive and wrong in law.

And your Petitioner humbly prays that the conviction and sentence may be set aside and that such order may be made thereon as justice may require.

C

Dated this 8th day of December, 1978

Solicitors for the Appellant

D

The address for service of the above named Appellant is care of Loh Lin Kok, Suite 1810, 18th Floor, High Street Centre, North Bridge Road, Singapore 6.

A

IN THE COURT OF CRIMINAL APPEAL OF THE  
REPUBLIC OF SINGAPORE

---

Criminal Appeal No. 2 of 1978

(In the Matter of High Court  
Criminal Case No. 44 of 1977)

B E T W E E N :

ONG AH CHUAN . . . . Appellant

AND

PUBLIC PROSECUTOR . . . . Respondent

B

Coram: Wee Chong Jin C.J.  
T. Kulasekaram, J.  
F.A. Chua, J.

ORAL JUDGMENT OF THE COURT  
DELIVERED BY WEE CHONG JIN C.J.

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C

The appellant, Ong Ah Chuan, was found guilty of unlawfully trafficking in 209.84 grams of diamorphine in contravention of Section 3(a) of the Misuse of Drugs Act 1973 and sentenced to death.

D

We do not need to set out the facts found by the trial judges as they are not now in dispute. In his defence he admitted possession of the diamorphine found on him and in the car he was driving but he said that he was taking it for his own consumption at Pulau Ubin, an offshore island, where he was going to find employment. The trial judges did not believe his evidence and found that he had invented his story of going to Pulau Ubin with the diamorphine for his own consumption, having bought such a large quantity as it was cheaper to buy it in bulk. They found he had not transported this diamorphine for his own consumption and accordingly found him guilty of unlawful trafficking.

A  
In the yet unreported case of Wong Kee Chin vs. Public Prosecutor (Court of Criminal Appeal No. 22 of 1977) this Court said :-

B  
"When it is proved that the quantity of diamorphine which the accused person was transporting (in the dictionary sense of the term) was two or more grams, a rebuttal presumption arises under section 15(2) that the accused had the said controlled drug in his possession for the purpose of trafficking. Proof of the act of transporting plus the presumption under section 15(2) would constitute a prima facie case of trafficking which if unrebutted would warrant his conviction. In those circumstances the burden of proof would clearly shift to the accused and he would have to rebut the case made out against him".

C  
Accordingly, it having been proved that the appellant had transported the diamorphine found on him in the car he was driving and the presumption under Section 15 of the Act that he had possession of the diamorphine for the purpose of trafficking not having been rebutted, the appeal must, in our judgment, be dismissed.

CHIEF JUSTICE,  
SINGAPORE

SINGAPORE, 17th January, 1979.

A CERTIFICATE OF RESULT OF APPEAL

CRIMINAL APPEAL NO. 2 OF 1978

IN THE COURT OF CRIMINAL APPEAL IN SINGAPORE

(In the Matter of High Court Criminal Case No. 44 of 1977)

B E T W E E N :

B  
ONG AH CHUAN . . . . Appellant  
AND  
THE PUBLIC PROSECUTOR . . . . Respondent

C  
In accordance with the provisions of Section 57(1) of the Supreme Court of Judicature Act (Chapter 15), I hereby certify that the above mentioned Appeal was called on for hearing on the 17th day of January 1979 and after reading the transcript of the evidence and adjudication and conviction and after hearing Mr. Loh Lin Kok, Counsel for the above named Appellant and Mr. Lawrence Ang, Solicitor General, Counsel for the Respondent:

IT WAS ORDERED that the Appeal be dismissed.

Given under my hand and the seal of the Supreme Court  
this 17th day of January 1979

D  
ASST. REGISTRAR  
SUPREME COURT, SINGAPORE.

Choor Singh, J. : Yes, anything else?

A D.P.P.: That's all, my Lords.

Choor Singh, J.: The Court will adjourn for a short while  
to consider the submissions.

(Court adjourns at 11.13 a.m.)

(Court resumes at 11.38 a.m. )

B Choor Singh, J.: We have considered carefully submissions  
made by Counsel for the Defence and the learned  
Deputy Public Prosecutor. We are of the opinion  
that if a person is conveying 209.84 grams of  
diamorphine in a motor-car, as alleged in the 1st  
Charge, he is transporting it and therefore  
trafficking in the said drug within the meaning  
of Section 2 of the Misuse of Drugs Act.

C Accordingly, we are of the view that the  
proper charge against the Accused should be a simple  
charge of trafficking under Section 3(a) of  
the Act by virtue of his transporting it.

We will have another short adjournment to  
enable the D.P.P. to amend the charge. Because you  
are at liberty, if you don't agree with the Court,  
if you want to proceed with the charge as it stands  
that is up to you. This is our opinion.

D (Court adjourns at 11.39 a.m.)

(Court resumes at 12.52 p.m.)

A D.P.P.: My Lord, having considered what your Lordships  
have said I am reverting to the original charge, my  
Lord, that is the 1st Charge.

Choor Singh, J.: Alright, let us have the original charge.

Let us mark it as Exhibit A so that there is no  
confusion. The charge on which the Prosecution  
are proceeding is to be marked Exhibit A. Have  
it read and explained to the Accused.

B

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THE ACCUSED IS CHARGED:

"Ong Ah Chuan, you are charged that you on or about  
the 2nd day of June, 1977, at about 12 noon, in  
front of No. 270 Bukit Timah Road, Singapore, did  
traffic in a controlled drug specified in Class 'A' Part  
1 of the First Schedule to the Misuse of Drugs Act  
1973, No. 5 of 1973, to wit 209.84 grams of diamorphine,  
without any authorisation under the said Act or the  
regulations made thereunder, and you have thereby  
committed an offence under Section 3 subsection (a)  
of the Misuse of Drugs Act, 1973, No. 5 of 1973,  
and punishable under Section 29 of the said Act."

C

(Accused claims trial)

---

Choor Singh, J.: Very well. Now that is the only  
charge against the Accused at this trial? The  
2nd Charge is stood down?

D.P.P.: Stood down.

D

(Chan fr. Thio @  
4.00 p.m. , 4.4.1978)

Verbatim  
Notes

A

"No case to meet"

Submissions by Mr. Loh : (ctd.)

Choor Singh, J.: It may be - I am not prepared to  
accept the case.

B

Mr. Loh: My Lord, all the other words do suggest  
transport, suggest that the thing has to be given  
to someone else in the ultimate.

Choor Singh J.: I am not concerned with that, Mr. Loh.

If you are carrying a large quantity of heroin in  
your car, 30 kilometres, from one place to another,  
you are transporting it and you are trafficking it  
within the meaning of Section 2. That is the  
judgment of this Court. If you are not happy,  
you can take it up somewhere else, in the Court  
of Appeal.

C

Mr. Loh: If your Lordship holds that view -

Choor Singh, J.: Yes.

Mr. Loh: I am just taking this case -

Choor Singh, J.: This case, the facts are different;  
one-and-a-quarter ounce and the defence say: I  
am carrying it for my own consumption.

Mr. Loh: My Lords, this case in spite of this does say  
that transportation -

D



'No case to meet'

A

Submission by Mr. Loh: (ctd.)

Choor Singh, J.: Well, I don't agree with what they say.

This is a judgment made, the law of a Canadian court, by which we are not bound.

Mr. Loh: Yes, my Lord, I am sure of that. What I mean to say is that this authority is -

B

Choor Singh, J.: I have recorded it, for the purposes of record it is down here: "see Regina versus Macdonald et al, WWR, page 337." So, alright, any other authority?

Mr. Loh: My Lord, I have got this case on transporting, no doubt of potatoes, in Canada. The only thing is, it defines the words transporting, also for illegal purposes, and it is this, the case of Rex versus McYin, reported in 1941 4 DLR, Dominion Law Report.

C

Choor Singh, J.: This case is Rex against McYin?

Mr. Loh: Yes, my Lord, page 268. My Lord, these are the two authorities that I would like to bring to your Lordships' attention. Perhaps I may be allowed to read them out tomorrow morning, my Lord?

D

"No case to meet"

A

Submission by Mr. Loh: (ctd.)

Choor Singh, J.: You see, the first one I have

already seen, Regina versus Macdonald: the facts are quite different. You see, you don't seem to appreciate our point, Mr. Loh. If your man was carrying one ounce of heroin, driving in his car, he can say: I am not transporting, I am a heroin addict, it is for my own consumption, that's different. But you are carrying such a large quantity, more than one pound, in a car. What is he going to do with it? Is it for his own consumption? His defence must be called. He is trafficking until proved to the contrary, the onus is on him, he has to tell us what he was doing carrying so much of heroin in his car.

B

C

Your are an ex- D.P.P., you should realise that. We can't just let him off like that.

Mr. Loh: My Lord, in the Canadian case it is the same to the extent that there is no other evidence except the mere fact of transporting.

'No case to meet'

A

Submission by Mr. Loh: (ctd.)

Choor Singh, J.: Well, there is very strong evidence against him, carrying such a large amount, coming out of his flat, putting it in his car, driving it, over 30 kilometres, 20 miles.

B

What was he going to do with it? Why was he taking it all the way from his house, from his flat? Surely commonsense says that he was going to distribute it or selling it or going to do something with it. Was he carrying it for his own consumption in his car? Why?

Mr. Loh: My Lord, I shall leave it to your Lordships.

C

Choor Singh, J.: I mean, we expect a more sensible case on which you can rely. It may very well help you if it fits his defence. We don't know what his defence is going to be. It may help you in his defence, it may not help you, but at this stage it can't help him at all. He had been caught redhanded carrying a large quantity of heroin in his car; he took it from his flat, put it in his car, drove the car over 30 kilometres, about 20 miles. When he stopped,

D

A "No case to meet"

Submission by Mr. Loh : (ctd).

Choor Singh J.: (ctd) got out of his car, he was arrested. It was found in his car. He has transported it, there is no getting away from that. In the Canadian case the facts are entirely different.

B Mr. Loh: That might be so, but I propose to rely on the principles later, as your Lordships says, at the end of the case if your Lordship is disposed to call his defence.

Choor Singh, J.: We can deal with this again after we have heard his defence, if it fits his defence.

C Mr. Loh: I leave it to your Lordships then.

Choor Singh, J.: Now, anything else? The potato case, likewise, is irrelevant because the carrying potatoes for a lawful purpose is not an offence. It is only when you carry it for an illegal purpose is it an offence. Here, heroin, possession of heroin, itself is illegal. So, again, it is the -

D

A

"No case to meet"

Submission by Mr. Loh (ctd.)

Mr. Loh: But I just venture to draw your Lordships  
to some of the dicta, attention to some of the  
dicta regarding what is the meaning of the  
word 'transport', if your Lordships see it  
evidence-wise - Perhaps this is another matter?

B

Choor Singh, J.: Well, we make it quite clear that  
we are going to call upon the Accused to enter  
upon his defence, but we are going to adjourn  
now.

The Court will resume tomorrow morning at  
10.30 a.m.

C

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(Court adjourns at 4.07 a.m. 4.4.78 to  
10.30 a.m. on 5.5.1978).

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