

Abuse of Process of Court in Kho Jabing's Case

It is a cherished principle in our legal tradition that a legal practitioner must do his utmost to uphold the administration of justice. He must also conduct proceedings before a court in a manner that maintains the fairness, integrity and efficiency of those proceedings.

2 In this context, it is important to set the record straight concerning the multiple applications filed by three lawyers who appeared before the courts on behalf of convicted murderer Kho Jabing ("Jabing") on 19 and 20 May 2016 -- namely Mr Gino Hardial Singh ("Mr Singh"), Ms Jeannette Chong-Aruldoss ("Ms Chong-Aruldoss") and Mr Alfred Dodwell ("Mr Dodwell").

3 The facts are clear. Jabing had brutally murdered a construction worker in 2008. His case was considered by both the High Court and Court of Appeal twice – once under the old law, and again after the law on murder was amended. The death penalty was imposed on him in both instances. After Jabing's rights of appeal had been exhausted, the Court of Appeal gave him a further opportunity to present arguments for his case to be reviewed.

4 In the conduct of his matter, the actions of Jabing's three lawyers amounted to an abuse of court processes. Simply put, this was a case where, after every legitimate avenue for legal challenge had been attempted and exhausted, legal opportunism prevailed.

5 First, Jabing's lawyers repeatedly raised old arguments that had either been dismissed by the Court or withdrawn by Jabing's previous lawyer in the review, Mr Chandra Mohan ("Mr Mohan").

6 For example, Mr Singh tried to argue that Jabing's eventual death sentence was not proper because one of the Court of Appeal judges, Andrew Phang Boon Leong JA ("Phang JA"), should not have heard both appeals. However, Mr Mohan had tried to make the same argument during the review, only to drop it subsequently. Mr Singh should have known that it is improper to file a fresh application containing the same ground that had been previously withdrawn. The Court of Appeal pointed this out and also held that it was not improper for Phang JA to have heard both appeals as they dealt with different issues.

7 Another example: On the same day that Mr Singh's application was due to be heard before the Court of Appeal, Ms Chong-Aruldoss and Mr Dodwell separately tried to file applications to argue that the death sentence imposed on Jabing violated the Constitution. Once again, these arguments were not new, for Mr Mohan had earlier raised them, and the Court of Appeal had dismissed them. Mr Dodwell eventually dropped his application, after the Court queried as to why both lawyers had attempted to file nearly identical applications.

8 Second, knowing that the criminal process had been exhausted, Ms Chong-Aruldoss and Mr Dodwell tried to skirt around the law by raising their arguments under the civil process. Both should have known full well that this type of collateral attack on a criminal decision was an abuse of the legal process.

9 Third, Ms Chong-Aruldoss and Mr Dodwell tried to have the execution stayed, and asked for the hearing of both Ms Chong-Aruldoss' application and her subsequent appeal after she failed to get a stay of execution to be postponed on the basis that they had not had sufficient time to prepare for the matter. And notwithstanding what he told the Court, Mr Dodwell was eventually able to argue the

appeal.

10 The actions of Mr Singh, Mr Dodwell and Ms Chong-Aruldoss are not in keeping with the paramount duty a lawyer owes to the Court. It is wrong for any lawyer to assert that his duty to the client allows the court's processes to be abused.

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