



FOR IMMEDIATE RELEASE
10 APRIL 2017

THE CITY HARVEST CHURCH CASE
LAM LENG HUNG & ORS v PP
PROSECUTION FILES CRIMINAL REFERENCE

On 7 April 2017, in a split decision by a three-member bench of the High Court, the charges under section 409 of the Penal Code (Criminal Breach of Trust as an Agent) on which Pastor Kong Hee and five other appellants in *Lam Leng Hung & Ors v PP* had been convicted were reduced to charges under section 406 (Criminal Breach of Trust *simpliciter*). The full written grounds (including the dissenting judgment) of the High Court's decision were released on 7 April 2017.

2 The majority of the High Court ruled that being a director of a company or a society does not render a person to be in the business of an agent within the meaning of section 409 of the Penal Code. In doing so, the majority disagreed with another High Court decision in *Tay Choo Wah v PP* issued in 1976.

3 As a result of the reduction of the section 409 charges to section 406 charges, the High Court reduced the global sentences of the appellants from imprisonment terms ranging from eight years to 21 months, to terms ranging from three years six months to seven months.

4 Having carefully considered the written grounds, the Prosecution is of the view that there are questions of law of public interest that have arisen out of the High Court's decision, including and in particular, whether a director or a member of the governing body of a company or organisation who is entrusted with property, or with any dominion over property, is so entrusted in the way of his business as an agent for the purposes of section 409 of the Penal Code.

5 The Prosecution has accordingly filed a Criminal Reference today, to refer these questions of law to the Court of Appeal.

6 Under section 397(5) of the Criminal Procedure Code, the Court of Appeal, in hearing and determining any questions referred to it, may make such orders as the High Court might have made as the Court of Appeal considers just for the disposal of the case. If the Court of Appeal answers the questions referred in accordance with the Prosecution's submissions, the Prosecution intends to request that the Court of Appeal exercises its powers under section

397(5) to reinstate the appellants' original convictions under section 409 of the Penal Code and make necessary and consequential orders in relation to the sentences given.

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