

Department of Justice expresses regret about a Next Magazine article

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In respect of the article entitled "Letting Go" published in the Next Magazine (the article) today (April 16), a spokesman for the Department of Justice (DoJ) made the following response:

1. The allegations of "letting go" or "footing the bill" contained in the article are totally unfounded.

2. The application for discharge of the warrant of arrest was made by the defendant, Ma Sik-chun (the Defendant). The DoJ had no right to prevent the Defendant from making the application, but could only deal with it in accordance with the law and evidence.

3. As regards the assertion contained in the article that "the DoJ even revealed its cards and announced that it would 'let go' [the Defendant]", the DoJ has clearly pointed out in its earlier press release and other responses that: (1) the Defendant was already notified in 2005 that there was no sufficient evidence available to continue the prosecution; (2) based on the notification in 2005, the Defendant made the said application with the court for discharge of the warrant of arrest by relying on, inter alia, the ground that the prosecution did not have sufficient evidence, and made submissions on that reason through his Senior Counsel at the hearing on April 14. Under such circumstances, it was not open to the Senior Counsel for the DoJ not to respond to, or to deny, the said ground relied on by the Defendant, since to take such a course would amount to misleading the court.

4. During the whole process from the receipt of the representations from the Defendant's legal representatives to his application for discharge of the warrant of arrest, and to the hearing of the application by the court, the DoJ had been seeking professional legal advice from independent

Senior Counsel, including whether there was insufficient evidence to continue the prosecution against the Defendant, as well as how to handle the Defendant's said application. Therefore, the allegation in the article that "the arrangement involved political considerations" was merely a groundless conjecture.

5. The article also suggested that colleagues in the DoJ "pointed the finger at the Secretary for Justice and the Director of Public Prosecutions", saying that the latter gave no explanation to the public after the court handed down the ruling on the application. Such a suggestion was totally unfounded. Those within the DoJ who handled the case have all along been involved in the communications and meetings with the independent Senior Counsel and fully appreciated that the DoJ's handling of the said application was based on the Prosecution Code and the applicable laws, and no political or any other inappropriate considerations were taken into account.

6. Regarding the false and misleading allegations contained in the article published in the Next Magazine, the DoJ expressed regret.

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