



Summary of Judgment

Secretary for Justice (“SJ”) v Hui Chi Fung (“Hui ”)

HCMP 830/2021; [2022] HKCFI 839

Decision : Respondent was guilty of criminal contempt, with costs to SJ on indemnity basis. Delivery of sentencing decision to be fixed on another date.

Date of Hearing : 24 February 2022

Date of Judgment : 2 June 2022

Background

1. Hui faced criminal charges in four sets of criminal proceedings¹. He was granted court bail in all the proceedings and gave undertakings to surrender to court on the return dates appointed by the court.
2. In DCCC 958/2020, Hui’s bail was also subject to, *inter alia*, the condition that he shall not leave Hong Kong except for official business provided that he would furnish to the Police with an itinerary no less than 72 hours prior to his departure.
3. On 27 November 2020, Hui’s solicitors provided to the Police an itinerary regarding his trip to Denmark. Based on Hui’s representations that he was invited to go to Denmark for official business, his travelling restriction was lifted. Hui then left Hong Kong on 30 November 2020. He never returned and failed to surrender to custody at the time appointed by the Court in all the aforesaid criminal proceedings. Consequently, warrants of arrest were issued against the Respondent.
4. On 17 June 2021, the SJ applied for leave to commit Hui for criminal contempt on the ground that Hui misled the Court and failed to surrender to custody, which amounted to interference with the due administration of justice. The Court of First Instance heard the criminal contempt application on 24 February 2022 in Hui’s absence. On 2 June 2022, the CFI found Hui guilty of criminal contempt.

¹ They are DCCC 958/2020, WKCC 3842/2020, WKCC 4002/2020 and 4003/2020.



Key issues

5. Issues in this action are:

- (i) the law of contempt as applicable to the present case; and
- (ii) the application of the law to the evidence in the present case.

Department of Justice's Summary of the Court's rulings

(Full text of the judgment at

https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=144674&currpage=T)

Law on Contempt

6. In order to find Hui liable for criminal contempt, the Court must be satisfied that his conducts were conducts calculated to prejudice or interfere with the due administration of justice as a continuing process and are inherently likely so. Mere failure to appear in court to answer his bail is not itself sufficient for criminal contempt. Additional conducts which amounted to an interference with the due administration of justice must be involved. There must also be a real risk that public confidence in the due administration of justice would be undermined.
7. SJ must therefore prove to the satisfaction of this Court that both the *actus reus* and the *mens rea* in criminal contempt have been met. The standard is one of beyond reasonable doubt. A party is guilty of criminal contempt of knowingly putting forward a falsehood to deceive the Court and that also be regarded as constituting a direct interference with the administration of justice. (§§ 9-11)

Application of the law to the evidence – Hui deliberately deceived the Court, thus he was guilty of contempt

8. The Court was satisfied that Hui colluded with certain persons in Denmark in making all necessary arrangements in orchestrating his departure and then evaded court proceedings against him by furnishing false documents (i.e. invitation letters and itinerary) to the Police and the Court. It is clear that the Hui deliberately misled the Court (and the Police) into believing that he departed Hong Kong on duty visit to Denmark and would return to Hong Kong to answer court bail in the criminal proceedings against him; when in fact, it was a premeditated attempt to flee the jurisdiction. (§§12-17)
9. Hui continued to display his displeasure or dissatisfaction towards the legal system in Hong Kong in his Facebook posts which further reinforcing that his conducts on absconding were calculated to deceive the Court. (§ 18)



10. It is clear that the Respondent has made a conscious decision not to be present throughout these contempt proceedings. (§ 19)

11. The sound administration of justice demands that Hui respected his bail conditions and undertaking. His failure to appear in the court inevitably caused delay and disruption to the court proceedings. The Court is satisfied beyond reasonable doubt that the Respondent's conducts were calculated to interfere with and/or impede the due administration of justice. As a result of his deception and abscondment, there is a real risk that public confidence in the due administration of justice will be undermined. Thus, the Court found Hui guilty of criminal contempt. (§ 20)

12. After announcing the Judgment in open court, the Court awarded costs to the SJ to be assessed on indemnity basis. The Court will deliver the sentencing decision on Hui on another date to be fixed.

Civil Division

Department of Justice

2 June 2022