

**Publication: TODAY Online**

**Date: 22 September 2020**

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## **Why an independent, holistic review of the Parti Liyani case is necessary**



The case of Parti Liyani versus Public Prosecutor has generated much public interest and has naturally evoked strong reactions. It is a poignant story of how the justice system initially failed before recovering to prevent a travesty of justice.

The imperative and urgency to restore public trust and confidence cannot be under-estimated.

The case speaks to the importance of the rule of law in Singapore and how it is a state of affairs that must be constantly worked on by all stakeholders — the law enforcement agencies, the Attorney-General's Chambers (AGC), the legal profession, the courts, among others.

A quick recap of the case: Ms Parti, a foreign domestic worker formerly employed in the household of Mr Liew Mun Leong, was convicted in March 2019 of four charges of theft at the Liew household by the State Courts and sentenced to 26 months' imprisonment.

On appeal, the High Court overturned the convictions and acquitted her earlier this month.

Mr Liew was an accomplished public servant before becoming a highly-regarded corporate leader with celebrated successes in government-linked companies such as CapitaLand, the Changi Airport Group and Surbana Jurong. For his contributions, he was awarded the Meritorious Service Medal in the 2011 National Day honours.

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Not only did Justice Chan Seng Onn at the High Court find severe irregularities in the way the police handled the case, he was persuaded that that the Liew family took the pre-emptive step to terminate Ms Parti's employment suddenly and without giving her sufficient time to pack, so as to thwart any attempt at making a complaint to the Ministry of Manpower (MOM) on her illegal deployment to work for Karl Liew, the son of Mr Liew Mun Leong.

Justice Chan further noted that as Ms Parti had threatened to complain to MOM upon her sudden termination, both men lodged a police report in a bid to prevent her returning to Singapore to file a complaint with the MOM.

That the police, the prosecutors, and the district judge gave short shrift to the possibility of improper motive on the part of the Liew family in making the allegations of theft is worrying. That they fell for the allegations of theft, without carefully scrutinising them, has raised legitimate questions whether they were derelict in their duties and whether the checks and balances were adequate.

In this regard, there is merit in the calls for an independent review of the case which goes to the heart of the administration of criminal justice in Singapore.

Law and Home Affairs Minister K Shanmugam has said that the AGC, the police and MOM are looking into the matter.

The minister will also deliver a ministerial statement on the matter when Parliament next sits in October.

The Judiciary has not indicated publicly whether it would launch a probe into what it can be learned from this case. As Justice Chan's careful judgement established, the lower court's decision and reasoning was problematic and troubling.

It was riddled with fundamental errors such as not picking out the broken chain of custody for the items that were allegedly stolen and misapplying the legal and evidential burdens of proof.

The judge also did not appear to have kept an open mind to the arguments in court by Ms Parti's lawyer.

That the High Court overruled the trial court on every major finding of fact is significant. An appellate court has a very limited role assessing findings of fact made by the trial court.

Where findings of fact hinge upon the trial judge's assessment of the credibility and veracity of witnesses, the appellate court will only interfere if the finding of fact can be shown to be plainly wrong or against the weight of the evidence.

Should the appellate court wish to reverse the trial judge's decision, it must not merely entertain doubts as to whether the decision is right but it must be convinced that it is wrong.

Given the gravity of the matter where the police, the prosecutors, and the lower court judge appeared to have fallen way short of the expected standards, an independent review headed by a Supreme Court judge would be ideal.

This would enable the handling of the entire case to be examined holistically and without fear or favour. Such a review will do more to rebuild public trust and confidence in the administration of criminal justice in Singapore.

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It goes without saying that justice should not only be done but should manifestly and undoubtedly be seen to be done.

But what we have now are separate inquiries by the police, MOM, and the AGC. Such piecemeal inquiries, while helpful in informing us on what went wrong in each institution, are manifestly inadequate in identifying whether there were systemic issues or failures at play.

These include whether there is a subconscious bias in favour of public institutions such as the belief that the police went about their duties diligently, the prosecutors prosecuted without fear or favour.

Was there an innate tendency to place a disproportionate weight on the statements by trusted establishment figures?

The police, the prosecutors and the courts each have a separate and independent role to play in the administration of criminal justice. For example, the police investigate an alleged offence and make their recommendations to the AGC.

In turn, the AGC determines whether the investigation papers are in order, and whether it would be in the public interest to prosecute should they assess that an offence had been committed.

The courts have to decide whether the elements of the crime have been made and, if so, mete out the appropriate penalty.

But in Ms Parti's case, the glaring lapses by the police in the course of their investigation were not picked up by the AGC and the trial court.

The prosecutors appeared to have a "win at all cost" mentality, including employing what the defence lawyer said was a "sleight-of-hand" technique to demonstrate in court that a DVD player (one of the allegedly stolen items) was working when it wasn't.

It would be taking things too lightly to argue that we should not over-react to this case as it is probably an aberration.

Ms Parti's case is worrying as the criminal justice system did not function as robustly as it should, particularly where there was the massive asymmetry in power and resources between the state and Ms Parti on the one hand, and between the Liews and Ms Parti on the other hand.

The AGC had deployed two prosecutors for the trial and three prosecutors for the appeal. Is such an allocation of public resources the norm and, even then, justified given that there were no novel issues of law involved?

Furthermore, the outcome in the case could be said to be exceptional.

Ms Parti was fortunate to have the unyielding support of the non-governmental organisation, Humanitarian Organization for Migration Economics (Home), and the dedication of her lawyer, Mr Anil Narain Balchandani, who earned high commendation from Justice Chan for his handling of the case from trial to appeal.

Not all work permit holders may be as fortunate as Ms Parti in having this confluence of favourable factors, especially mounting an appeal against the lower court's decision. Had Ms Parti not appealed, a miscarriage of justice would have prevailed.

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There hasn't been a case like Ms Parti's in recent memory. Singaporeans will be watching closely the outcome of the inquiries and will demand a high standard of accountability.

How the authorities respond to the public disquiet generated by this case will impact significantly on public trust and confidence in key public institutions.

They will have to get to the bottom of this case, and how they go about it also matters immensely to the rule of law in Singapore.

#### ABOUT THE AUTHOR:

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