

P.P. v. Baloo H. Daryani

Magistrates' Court No. 25 of CPF Summons No. 1375 of 1978

The defendant employed P.W.2 as a watchman for the months of December 1973 to January 1974 with a salary of \$150 per month. P.W.2 worked every evening from 6.30 p.m. to 7.00 a.m. of the next morning. In early February 1974, he left the defendant's employ and worked with Singapore Airport Terminal Services. His brother, P.W.3 took over the job from him with the defendant's approval. P.W.3 also worked as a watchman with the same salary until his dismissal in September 1977.

The defendant was charged under section 14 of the Central Provident Fund Act (Cap. 121)¹ for failing to pay contributions to the CPF in respect of his two employees, P.W.2 and P.W.3, for the period of their employment.

The defence was that the relationship was not that of employer-employee but only one of mutual convenience. With respect to P.W.3's

¹ The relevant portion of s. 14, Central Provident Fund Act reads:-
"If any person —

(b) fails to pay to the Fund within such period as may be prescribed any amount which he is liable under this Act to pay in respect of or on behalf of any employee in any month,...
he shall be guilty of an offence under this Act."

evidence, it was argued that as P.W.3 himself was liable to pay contributions his failure to do so rendered him an accomplice and as such, his evidence had to be treated with caution.

Held: (1) As the defendant was a bachelor staying alone in a bungalow with no live-in servant and as the bungalow was left empty at night when the defendant stayed out late, the fact that PW2 and PW3 were at the bungalow every night during the relevant period could only be because they had been employed by the defendant to look after his bungalow.

It is difficult to imagine that the defendant would otherwise allow, and PW2 and PW3 would choose to stay at the bungalow every night for 3 years bearing in mind that they had families of their own.

(2) Where an employee is also liable to pay contributions, it is the employer's duty to make the necessary deduction from his salary. Failure on the part of the employer to make such deduction does not in itself make the employee an accomplice. PW3 was not an accomplice.

[Summary by T. Shue]