

Public Prosecutor v Chan Siew Yin, Jeffrey
[2018] SGMC 20

Case Number : MCN 901763/2016, Magistrate's Appeal No. 9014-2018-01

Decision Date : 09 April 2018

Tribunal/Court : Magistrates Court

Coram : Eddy Tham Tong Kong

Counsel Name(s) : Deputy Public Prosecutors Mr Andre Chong Wei Min and Ms Rachel Tan Jia Qi for the Public Prosecutor; Defence Counsel Mr Eugene Singarajah Thuraisingam, Ms Teo Sher Min and Mr Chooi Jing Yen (M/s Eugene Thuraisingam) for the Accused

Parties : Public Prosecutor — Chan Siew Yin, Jeffrey

[LawNet Editorial Note: An appeal to this decision has been filed in MA 9014/2018/01.]

9 April 2018

District Judge Eddy Tham Tong Kong:

Introduction

The Accused, Chan Siew Yin, Jeffrey, a male Singaporean aged 53, had claimed trial to one charge of assault under section 352 of the Penal Code. At the end of the trial, I had acquitted him.

2 The Prosecution being dissatisfied with the verdict of acquittal has filed an appeal against it.

3 I will now set out my grounds of decision for the acquittal.

The Charge

4 The charge states that

“you [the Accused], on 25 June 2016, at or about 9.50pm, at No. 43 Jalan Loyang Besar #03-08, Singapore, did assault one Lee Gek Leng, to wit, by thrusting a 1 metre long wooden stick at Lee Gek Leng and kicking at him with your right leg, intending by such gestures to cause him to apprehend that you were about to use criminal force to him, and you have thereby committed an offence punishable under Section 352 of the Penal Code (Cap 224, 2008 Rev Ed).”

The Prosecution's Case

5 The Accused and Lee reside in the same block at no. 43, Jalan Loyang Besar with the Accused's unit at #03-08 located 2 levels directly above the Lee's unit at #01-08. On 25 June 2016, the police had responded to a '999' call in relation to a neighbourly dispute. The First Information Report constituted by the '999' call states

"Our neighbour from #01-08 is trying to enter our house. I need police immediately"

6 This call was later established to have been made by the Accused's wife. On arrival at the Accused's home, police officer Senior Staff Sergeant Mohamad Faizal ("SSSgt Faizal") found the Accused pinning down Mr Lee Gek Leng ("Lee") on the sofa. Both men were shouting at each other. SSSgt Faizal broke them apart and led Lee out of the house to try to calm him down. As Lee complained about pain to his genital area, SSSgt Faizal called for the ambulance which subsequently arrived and conveyed Lee to the hospital. A wooden stick was seized by the police at the scene.

7 The charge of assault on Lee by the Accused was not based on what had happened inside the Accused's unit but what took place just outside the main door of the Accused's home. The evidence adduced by the Prosecution on this part of the evidence was through the testimony of Lee as well as a video footage recorded by the Accused's son.

8 Lee testified that when he came home, he saw that the Accused was pouring urine and kerosene as well as "ladies' Kotex". Lee in anger went up to the Accused's unit to confront him to ask him why he did those things. However the door was locked. He knocked on the door and called out to the Accused but the Accused refused to come out. After knocking a few more times without getting any response, Lee decided to return to his unit. However just as he was walking down he heard the door of the Accused's unit open and the Accused shouting abusive words about his wife and mother, calling them prostitutes.

9 Lee, infuriated by the abuses on his wife and mother, turned back to go up to the Accused's unit to confront him. This time round, the Accused had opened his door, armed with a scout stick. He saw the Accused's wife was holding a chair too. However, he clarified later that he could not see that the Accused was holding a stick because of the plastic sheet covering the main door and he could not see clearly through the plastic sheet. He only knew that the Accused was holding a stick when the Accused poked the stick at his penis from inside the house while he was still standing outside. When the Accused did that, Lee then claimed that he dashed into the Accused's house to defend himself^[note: 1].

10 After he had gone into the house, he was attacked by the Accused who poked at him on his private part a few more times with the stick. As a result of the pain, he had covered his private part with both his hands. The Accused seized the opportunity to then pin him down on the sofa by sitting on the top of his stomach. The Accused passed the stick to his wife who then hit him with the stick on his groin area about 10 times. He also claimed that the Accused's son had punched him about 7-8 times on his abdomen area. As a result of the violence, his penis had bled profusely with a 3-cm cut and his face had suffered some bruises.^[note: 2]

11 The Accused's son who was inside the unit at the material time had recorded the incident using his handphone when Lee was still outside the main door. The video footage was admitted as evidence without any challenge. A transcript of the conversation captured in the footage the video footage from his recording was played in court and shown to Lee. A copy of the transcript as agreed by both prosecution and defence was also subsequently admitted as D18.

12 When the video footage was played in court, it was clear as to what had exactly transpired outside the unit when Lee came up to confront the Accused. The recording showed that the Accused was facing Lee through an open door and a thick plastic sheet separating them with Lee standing on the outside while the Accused was inside his house. The Accused was holding a stick. Lee had shouted at the Accused to come out several times. He had also asked him why he had poured sugar. The Accused remained in the house and responded several times that he was "protecting", "defending" and that he was "warning" Lee. He also told Lee that he had called for the police. However Lee continued to demand that the Accused come out and used a string of Hokkien vulgarities at him. Lee was also seen hitting the plastic sheet separating them.

13 At one point, Lee moved forward and aggressively hit the plastic sheet several times and tried to open it while at the same time saying the words "Kaninabei chibai I beat you ah!" The Accused thrust the stick through the plastic sheet at Lee and Lee instinctively reacted by swinging his hand downwards to fend off the thrust and also taking a step backwards. There did not appear to be any contact between the stick and any part of Lee's body.

14 Lee then became even more infuriated and shouted at the Accused,

"Nabei gor chibai! You want to fight ah? Ha!"

The Accused responded by telling the Accused,

"You move of ah, I tell you ah,

I am defending my line ah!"

15 Lee continued to shout aggressively using Hokkien profanities asking the Accused to come out. He also pulled up his t-shirt halfway through his body once as if bracing for a fight. He also gestured with his index finger towards the Accused twice. On the second time, Lee had moved forward and jabbed his finger towards the Accused, hitting the plastic sheet. The Accused responded by kicking at the plastic sheet. No contact was made with Lee by the kick. Lee took a step back and then immediately pushed through the plastic sheet and entered the house to charge towards the Accused. He appeared to have grabbed the stick the Accused was holding.

16 The video scene then became very shaky at this stage but sounds of struggling and heavy breathing could be heard. There was a momentary scene of the Accused trying to hold Lee down with Lee holding onto the stick with his hand. The video footage went off scene again and the next moment when the scene was stabilised, the Accused was seen holding Lee down on the sofa facing each other. Lee was no longer holding the stick. They continued to exchange some words which conversation is set out in the transcript but they do not add to anything more to what had transpired earlier.

17 During cross-examination, Lee agreed that he only told the police that the Accused had thrown down sugar and did not mention about throwing of urine, kerosene, Kotex and condoms. However, he insisted that the Accused did throw all those items as alleged in his evidence in chief on the said day in question. It was put to him that this allegation of the throwing of all the items in addition to sugar was untrue as it was also not mentioned in an email sent in his name using his wife's email account dated 4 May 2017 in response to a claim for damages. Similarly in another letter dated 4 November 2016 under his name to the same recipient, Ms Kum Wen Pin of The Overseas Assurance Corporation Ltd, it was only alleged that in relation to the incident of 25 June 2016, the Accused had been throwing sugar down into his unit every day. There was no allegation that on the day of this incident that the Accused had also thrown the other items such as urine, kerosene, Kotex and condoms.

18 A photograph of the main door of the Accused was tendered and admitted as D3 which showed streaks of black paint on the door. It was put to Lee that he had splashed the black paint on the door to which Lee denied. Photograph D4 was tendered to show splatter of black paint on the lift lobby outside the Accused's unit while D5 showed some splatters of black paint on the floor of the lift lobby outside of the Accused' unit. Lee again denied that he was the culprit responsible for the black paint splatters in these areas.

19 D6-D8 photographs were tendered to show red paint splashes on different parts of the Accused's vehicle. Lee denied causing this act of splashing of the red paint.

20 D9, a photograph of a banner stating "Perverted Devil Bastard Jeffrey Chan II Suffer V. Tragic wrath for Littering, Vandalism & All Kinds of Wickedness!!!" was shown to Lee. He said he knew of this poster but asserted that it was his wife who had put up this banner. He claimed that the banner was put up to stop the Accused from further littering and vandalising his car.

21 Photographs of D10-13 were shown to Lee. Lee admitted that the photographs were of him capturing his action of throwing balls of newspaper from inside the lift to the outside. However, he disputed that the newspapers were soaked with kerosene or any liquid. Instead he claimed that the newspapers were dry and that it was the Accused who had poured liquid onto the newspapers in an attempt to frame Lee. Lee said that he threw the newspapers out of anger, in order to take revenge, in retaliation to the Accused's act of littering^[note: 3].

22 Lee was next shown a series of photographs D14 to D15. He admitted that the photograph showed him walking in the carpark towards the direction of the Accused's car. However he disputed that the photograph D15 showed him holding a yellow lid cover of a trash can. Instead he claimed that the yellow object was either coffee or Nescafe, which he would normally bring to work.

The Defence case

The Evidence of the Accused

23 The Accused's version is that even before Lee came into his unit on the day in question, there had been several incidents involving Lee in the past.

24 The first happened in 2010. Referring to the photographs of D3-D5, the Accused informed that after a shopping trip, the family came home to find their front door and the entire lobby including the lift area splashed with black paint. The matter was reported to the police. He suspected Lee to be the culprit but he did not have any CCTV camera installed then to capture the incident. Since then he had placed a big plastic sheet covering the front door to protect his property against further damage.

25 The next incident involved the splashing of red paint on his vehicle in 2014 or 2015. The Accused took the photographs of D6-D8 evidencing red paint splashes on his vehicle. He confirmed Lee to be the culprit as the CCTV of the estate had captured Lee doing a "pre-attack reconnaissance"^[note: 4]. By that he meant the estate CCTV had captured him throwing a plastic bag of water. He believed that was Lee trying to hone in on the throw so that he could do it the next time with red paint^[note: 5].

26 He took the photograph D9 showing the banner with the words that were targeted at him, put up by Lee's wife and his maid in 2014.

27 The next incident recounted was the throwing of newspaper balls soaked in some solvent. The Accused claimed that Lee had thrown such balls many times in May 2016 but his CCTV as sited could not capture Lee carrying out the act as Lee was doing it from inside the lift. However 10 days, after the incident of 25 June 2016, on 5 July 2016, the Accused had relocated the CCTV to point it at the lift and this time it managed to catch Lee in the act. The photographs D10-D13 were screen grabs from this footage which showed Lee standing inside the lift holding a newspaper ball in his hand and thereafter stretching out his hand to the outside of the lift and throwing the ball to the outside of the lift. The Accused denied that he had poured solvent on the newspapers.

28 Finally, the Accused referred to an incident which happened in their residents' carpark sometime in 2015 when the Accused had just returned home together with his wife and son in the car. He noticed Lee walking menacingly towards their direction. Lee had picked up a yellow lid of the thrash can before that. Two

photographs D14 and D15 were produced. D14 showed Lee facing the Accused's vehicle while at a distance holding a white plastic bag. D15 showed Lee still with the white plastic bag in one hand but this time something quite roundish and yellow in colour in the other hand.

29 The Accused feared that Lee was going to throw the lid at their car so he drove out of the carpark to avoid Lee and waited just outside the estate for the assistance of police.

30 The Accused recounted all these incidents to show his frame of mind when Lee came to confront him at his main door. When Lee first came up to bang furiously and violently on his door knocker, the Accused was in the toilet. There was loud banging on the door, the sound of shuffling of the plastic sheet and attempt to open the lockset. The action of Lee triggered an intrusion alert which is a security system installed by the Accused. The Accused asked his wife to call for the police. At the same time, the security personnel from the security service provider called the Accused to check if there was an intrusion and to ask for directions to call the police. The Accused told the security personnel to call for the police.

31 The Accused's son had informed him that it was Lee who was at the door as he had identified him through the peephole. The Accused then went to open the door and saw that Lee had gone off. However he did not know where Lee had gone to, whether to the roof top or downstairs. The Accused then said in a loud voice that he had called for the police.

32 Thereafter, the Accused had closed the door and was discussing this incident with his wife and son to get all the facts. However, within a short moment, he could hear Lee was back again, shouting and hurling vulgarities at him.

33 The Accused proceeded to open the door. His first thought was to deter Lee from damaging his property as Lee sounded very aggressive and the Accused was concerned that he would do something like ripping off his plastic sheet. He also remembered the newspaper balls soaked with solvent and all the other past incidents and was concerned that Lee might cause damage such as setting fire to the house.

34 As Lee was advancing menacingly towards him shouting vulgarities, the Accused picked up a scout stick that was placed in the bin containing his umbrellas. That was also the time when his son started recording the event.

35 The Accused then explained in sequence the video footage concerning what had transpired. He confirmed the contents of the footage and the transcript that Lee was shouting at him to come out and accusing him of pouring sugar. He felt that Lee was challenging him to go out of his house and spoiling for a fight. He responded by calling his challenge to go out as threatening him as his response was "You threaten me?", to which Lee replied "I threaten you ah, come out, come out".

36 The Accused said he felt threatened and fearful and responded by issuing warnings to Lee, saying "I'm defending" and "I'm defending my line". Lee reacted to the Accused's warnings by spewing Hokkien profanities and challenging the Accused to come out several times.

37 The Accused did not respond in kind with profanities. Instead he maintained his stand of stating that he is warning Lee and that he is "defending". He further informed Lee that he had already called for the police.

38 At this stage, Lee responded by again asking the Accused to "Come out, come out, never mind". The video footage showed Lee coming forward to hit the plastic sheet saying "Kanninabei chibai! I beat you ah" while trying to push aside the plastic sheet.

39 The Accused immediately thrust his stick at Lee through the plastic sheet, causing Lee to take a step back. When the video footage was played at this juncture during cross-examination by Prosecution, Prosecution pointed out that the thrusting of the stick happened just before Lee had uttered the words "I beat

you ah” and right after the words “Kanninabei chibai”. Defence counsel agreed with this position^[note: 6]. However, on my own re-viewing of the video footage, I found that it happened very quickly and that the thrusting action appeared to happen just after the words “I beat you ah”. In any case, the two events happened very quickly and closely to each other and nothing much turns on this point as to whether the thrusting of the stick took place just before the words “I beat you ah” or after.

40 The Accused explained his action. He could see Lee was in a frenzied and aggressive state. He was worried that Lee was going to be violent and rip off the sheet to force his way into the Accused’s home. He was fearful for the safety of his family should that happen. Hence he had warned Lee to back off.

41 When Lee made his move by hitting the plastic sheet and attempting to move aside the plastic sheet, the Accused thrust the stick forward with the intention of preventing Lee from entering into his house. He likened it to warding off the attack of a wild dog. He also confirmed that his stick did not make any contact with Lee when he thrust the stick at him^[note: 7].

42 Lee after taking one step back, quickly regained his aggression by spewing another line of vulgarity “Nabei gor chibai! You want to fight ah”

43 The Accused then responded by stating “You move off ah, I tell you ah, I am defending my line” to tell Lee to back off and stay away. Lee appeared even more agitated and continued to use Hokkien profanities stating “kanninebai chibai, what you defend? What you defend?”. Lee also flapped his shirt up and down once at this stage. He continued to shout “Come out!” and “You pour sugar for what?” whilst advancing to the plastic sheet and hitting it with his index finger.

44 The Accused responded by kicking at the plastic sheet. He felt that Lee was even more aggressive now, flapping his shirt to expose the tattoos on his body. The Accused construed that Lee was poised to attack. Hence he kicked at the plastic sheet with a similar intention as the thrust of the stick which was to ward off Lee.

45 This time round, Lee immediately barged past the plastic sheet and both Lee and the Accused then engaged in a physical struggle and less than a minute later, the Accused had managed to pin Lee down onto the sofa. The Accused denied all the allegations of Lee that Lee had been assaulted by the Accused’s wife and his son at this stage whilst he was being pinned on the sofa.

The elements of the charge

46 The *actus reus* of the charge of assault as framed comprised the physical gestures of thrusting a wooden stick at Lee and kicking at him with the right leg. Clearly, this element has been proven as seen clearly on the video footage as well as admitted by the Accused.

47 What is being challenged and formed the crux of the trial is the second element which is the intention of the Accused when he performed these physical gestures of thrusting the stick and kicking at Lee. The charge, using the words of section 352 of the Penal Code, describes this element as “intending by such gestures to cause [Lee] to apprehend that you were about to use criminal force to him”.

48 “Criminal force” has been defined under Section 350 of the Penal Code as

“Whoever intentionally uses force to any person, without that person’s consent, in order to cause the committing of any offence, or intending by the use of such force illegally to cause, or knowing it to be likely that by the use of such force he will illegally cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force to that other”.

49 "Force" is in turn defined under section 349 of the Penal Code as

"A person is said to use force to another if he causes motion, change motion, or cessation of motion to that other, or if he causes to any substance such motion ...

Provided that the person causing the motion, or change of motion, or cessation of motion in one of the following 3 ways:

(a) by his own bodily power;"

Analysis of the evidence on the charge of assault

50 In the present case, force had clearly been used by the Accused on Lee when he thrust the stick at Lee as well as when he kicked at Lee. This is because, by his own bodily power in executing those physical gestures, even though there was no physical contact with Lee, he had caused Lee to have a motion or change of motion ie by causing Lee to take a step back or halt his motion momentarily.

51 Such force would also clearly be without Lee's consent given that there was hostility between Lee and the Accused.

52 The difficulty with the charge, as pointed out by the Defence, is that the charge as framed did not specify the exact limb of the criminal force as defined under section 350 of the Penal Code. While it would have been preferable for the charge to make clear, I would say that the closest limb would be either "intending by the use of such force illegally to cause, or knowing it to be likely that by the use of such force he will illegally cause injury, fear or annoyance to the person to whom the force is used".

53 The Accused had stated that his intention was to ward off Lee as he perceived that Lee was very aggressive and poised to either attack or get into his house. The Accused wanted to deter Lee from doing that. It is clear to me therefore that the Accused had intended his force to either cause or knew it likely to cause fear of being hit such that this fear would cause Lee to back away from the plastic sheet.

54 The only ingredient in my view that has not been satisfied is that such force must be "illegal". The word "illegal" had not been defined in the Penal Code. I hence resorted to the ordinary meaning which would be "contrary to or forbidden by law" as defined by Oxford Living Dictionary (obtained through online search).

55 In my view, the act of the Accused is a very reasonable response to Lee's aggression. Lee was not merely standing still and asking the Accused to come out of his house to answer to his accusation. He was spewing vulgarities and advancing menacingly towards the Accused and had repeatedly touched the plastic sheet at the entrance into the Accused's unit. Lee had also openly challenged the Accused to fight at one point before the kicking incident. Lee's hostile words and physical aggression would have no doubt created a real fear in the Accused that he was about to enter his house since the Accused had refused to step out of his house.

56 Based on the video footage, in my view, Lee was clearly the aggressor at that stage. I therefore found that the Accused did not "illegally" cause fear to Lee as he was merely exercising his right of self-defence to prevent someone unwelcome from illegally trespassing into his home. He was exercising his lawful right to protect both his property and family from being harassed or harmed by Lee. He was sending out a message to Lee that if Lee were to persist to commit a trespass onto his property, he would be prepared to use force to defend it. This is evidenced both by his action of remaining steadfast inside his unit holding a stick accompanied by his words of "I am warning", "I am protecting", "I am defending my line" and "I will defend

with my life". In such circumstances, Lee ought to know that his action of hitting the plastic sheet and his attempt to trespass into the Accused's property would be met with some resistance by the Accused. He ought to know that such force by the Accused in response to his unlawful action would not be criminal.

57 The Accused's action of thrusting the stick through the plastic sheet as well as a kick at the plastic sheet without any physical contact with Lee would not be disproportionate to the threat being posed by Lee. The threat by Lee was very real. The two gestures of the Accused were in response to the action of Lee in hitting the plastic sheet in an aggressive manner. Based on my observation of the video footage, Lee was clearly showing an intention of wanting to barge through the plastic sheet, which he in fact did eventually despite the effort of the Accused.

58 I found that if the Accused really wanted to hit Lee, due to the close proximity, he could have easily done so. It was clear that his action was merely one of trying to get Lee to keep his distance.

59 The Prosecution during cross-examination had insinuated that the Accused ought to have kept the main door closed as he has already called for the police. His action of opening the door and holding the stick showed that he had the intention of escalating the situation. I disagree with such a characterisation. The Accused had experienced numerous incidents of harassment. Black paint splashes on his main door and corridor outside his unit, red paint on his car as well as newspaper balls soaked in solvent thrown at the front of this door – any reasonable person in the Accused's shoes would have genuine fear that Lee would be capable of causing harm to his property should he be allowed to remain at the front door. In such a tense situation, the Accused could not be faulted for opening the door so that he could see what Lee was doing and would therefore be in a better position to protect his property and family. As the saying goes, hindsight is 20/20, meaning that it is easy to know what the right thing to do is after something has happened.

60 I therefore found that the Prosecution had only managed to prove beyond reasonable doubt that Accused had intended Lee to apprehend that force would be used on him but not criminal force. Lee would have known that the Accused was merely exercising his right of self-defence having been warned by the Accused several times to back off. As not all the elements of assault had been proven beyond a reasonable doubt, I acquitted the Accused of the charge.

Analysis on the principle of de minimis

61 Alternatively, if I am wrong on this finding and that an offence assault can be technically made out on the evidence, I found that, based on the principle of *de minimis* as encoded in section 95 of the Penal Code, in that the harm caused is so miniscule or "slight that no person of ordinary sense and temper would complain of such harm", there is no offence disclosed.

62 In the case of *Teo Geok Fong v Lim Eng Hock* [1996] 2 SLR(R) 957, which arose out of a private summons, the appellant was found by the trial judge to have slapped the respondent, her estranged husband, once on his cheek. The appellant had during divorce proceedings returned to the family home with her nephew to remove her belongings from the home. The respondent followed her around the matrimonial home with his camera to take pictures of her activities. After the appellant had completed her tasks and while waiting for the lift, she became fed-up with the respondent who persisted with the photo-taking. Out of annoyance and anger, she slapped the respondent causing him to lose his balance and the camera to fall to the ground. She was fined \$300 on being convicted after a trial for voluntarily causing hurt. On appeal, the High Court agreed with the finding of fact that the slap was made deliberately by the appellant. However, the High Court held that on the facts, the harm caused to the respondent by a mere slap was so slight that a person of ordinary sense and temper and in the position of the respondent would not complain of such harm. The High Court relied on 2 factors:

- i. it was a single slap and there was no evidence of a scratch or even a mark. The respondent did not bother to seek medical attention thus evidencing that the injury was minor.

ii. the circumstances which led to the incident were taken into account. The parties were in the midst of a matrimonial dispute, tensions were running high and they were incommunicado. The respondent was partly to blame as he had to a certain extent, annoyed and provoked the appellant by following her around the flat and taking photographs of her movement up to the point when she was leaving the flat and waiting at the lift lobby. .

63 Here, I found that given that Lee was the aggressor, about to commit an offence of criminal trespass and was in fact behaving in a disorderly and abusive manner, the act of assault, which did not result in any harm other than causing Lee to momentarily desist from his illegal action, has satisfied this criteria of being a harm that is so slight that no person of ordinary sense and temper would complain of such harm. There was no contact made and any shock or fear invoked in Lee from the movement made by the Accused was very negligible. In fact after the kick, Lee showed no fear by immediately barging into the Accused's home.

64 What a just result in this case should be is even clearer when I took into account the circumstances leading to the incident. The entire episode was caused by Lee behaving in a totally unreasonable and abusive manner. I found his allegation of the Accused littering his premises to be unfounded and wholly inconsistent. He claimed that he had questioned the Accused over why the Accused was harassing his wife and littering his home with bottles, condoms, Kotex, kerosene and urine when it was clearly shown in the video footage that he had only accused the Accused of throwing sugar. Lee continued to behave in a stubborn and unreasonable manner even in court. He obstinately insisted that it was the Accused who was using Hokkien vulgarities instead of him, in blatant disregard for the incontrovertible evidence of the video footage showing the contrary. Lee also incredibly insisted that he was the one who said that he would call the police to come^[note: 8] when it was so clear in the video footage he said nothing of the sort and instead it was the Accused who had told Lee that he had called for the police. Lee was also prone to embellish his evidence against the Accused, making all sorts of unfounded allegations against the Accused's wife and son which were not borne out by the video evidence.

65 The Accused had good grounds based on the past incidents with Lee to believe that Lee had been behind all the acts of mischief on his property. With this background knowledge, the Accused would have reasonably comprehended that Lee who was behaving in an aggressive manner would pose danger to him and his family should he enter his home. In such a tense situation wholly contributed by Lee himself, I find that no person of ordinary sense and temper would complain about the act of the Accused in preventing Lee from entering his house.

66 I found accordingly that, on the facts, it would be most apt to apply the principle of *de minimis* as encapsulated in section 95 of the Penal Code to acquit the Accused.

[note: 1]Record of Proceedings, Day 1 , page 43 lines 22-24

[note: 2]Record of Proceedings, Day 1 , page 52 lines 11-19

[note: 3]Records of Proceedings, Day 1, page 80, lines 13-15

[note: 4]Records of Proceedings , Day 1 page 103 lines 18-21

[note: 5]Records of Proceedings, Day 1, page 42 lines 10-20

[note: 6]Records of Proceedings Day 1 Page 172 lines 11-27

[note: 7]Records of Proceedings Day 1 page 130 lines 9-18

[note: 8]Records of Proceedings Day 1 page 45 lines 30-31