

IN THE EASTERN MAGISTRACY OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION

HKSAR
v
CHAN YUK-FUNG

BRIEF FACTS

The demonstration on 1 July 2011

On 1 July 2011, the Hong Kong Confederation of Trade Unions ('HKCTU') held a demonstration ('**HKCTU demonstration**') which had been notified to the police. The police had issued a Letter of No Objection imposing conditions on the times, the locations, as well as the route of the public meetings and procession during the HKCTU demonstration. In particular, the demonstrators were to meet at the Victoria Park at 1400 hours and march to the Central Government Officers ('CGO') where a further public meeting would be held until 2000 hours. To facilitate the holding of the HKCTU demonstration, the police made prior traffic arrangements by way of temporary road closures and diversions. There were plans to re-open the roads affected as soon as practicable at the end of the HKCTU demonstration. The police did not receive any notification for holding any other public meeting/procession after 2000 hours on 1 July 2011.

Occupation of Queen's Road Central junction with Garden Road

2. From about 1930 hours (on 1 July 2011), outside the Cheung Kong Center, CHEUNG Kam-hung, Kenneth ('CHEUNG') used a loudhailer to urge demonstrators to stay in Central after the procession, to 'crowd out' the police station so as to play a big game with the government.

3. At about 2120 hours, the HKCTU demonstration ended at CGO. About 200 demonstrators left CGO and went to occupy the junction of Queen's Road Central with Garden Road ('**the QRC Junction**'), which was closed for the HKCTU demonstration but had yet to be re-opened. A police cordon was set up at the QRC

4. Between 2125 hours and 2155 hours, the police had given a total of six warnings to the demonstrators at the QRC Junction that their gathering there was an unauthorized assembly and had caused traffic obstruction. The police advised the demonstrators they could carry on their demonstration at Chater Garden but the advice was ignored.

Occupation of Connaught Road Central (Westbound)

5. At about 2228 hrs, the demonstrators suddenly broke through the police cordon at the QRC Junction and dashed through Des Voeux Road Central and Jackson Road to the westbound carriageway of Connaught Road Central ("CRC"). At the material time, 4 buses carrying a total of about 190 passengers travelling along eastbound Des Voeux Road Central were obstructed and delayed for about 10 minutes by the dashing demonstrators.

6. At about 2232 hours, the demonstrators occupied and completely blocked the part of CRC westbound carriageway to the north of the Cenotaph and the vehicular traffic along CRC westbound carriageway came to a standstill.

7. At about 2240 hours, HUNG Hiu-han ("HUNG") used a loudhailer to address the demonstrators that they had occupied CRC and disrupted the traffic flow.

8. At about 2244 hours, the defendant held a loudhailer for HUNG to speak into the microphone to address the demonstrators on CRC. HUNG said that the occupation of CRC by the demonstrators had disrupted the traffic flow of tunnels including the Western Harbour Tunnel. HUNG then led the demonstrators to chant slogans with the loudhailer held by the defendant.

9. At about 2249 hours, the defendant held a loudhailer for HUNG to speak into the microphone urging the demonstrators to sit down on the road. The defendant then took the microphone and spoke through the loudhailer and invited the nearby bystanders who were not reporters to come and join the demonstrators to sit in on the carriageway of CRC (eastbound). The defendant also urged the demonstrators to sit down on the carriageway of CRC.

10. At about 2258 hours, HUNG used a loudhailer to advise the demonstrators that when the police officers removed them, they should lock arms with one another and they did not need to talk to the police.

11. At 2302 hours, CHEUNG used a loudhailer to announce that about 2,000 people would join their demonstration. CHEUNG urged each of the small groups among the demonstrators to assign a person to send in the group's view as to the next step of action to CHEUNG. HUNG then used a loudhailer to urge the representative to go to her side and repeated the request made by CHEUNG.

12. Police identified that 11 vehicles (i.e. private cars, taxis, a bus and a light goods vehicle) were blocked by the demonstrators in the westbound carriageway of CRC at the material time. They had on average suffered 20-30 minutes delay until the police diverted the traffic in the area.

Occupation of Connaught Road Central (Eastbound)

13. At about 2332 hours, the demonstrators at the westbound carriageway of CRC suddenly climbed over the central divider and occupied the section of the eastbound carriageway of CRC near the City Hall. They immediately blocked the vehicles travelling along eastbound CRC. The vehicular traffic flow of that section came to a halt. Police identified 14 vehicles (mainly taxis) which were obstructed by the demonstrators. They had suffered 20-30 minutes delay until police diverted the traffic in the area.

14. At about 2332 hours and 2337 hours, the defendant held a loudhailer whilst HUNG spoke into the microphone and led the demonstrators to chant slogans including 'staying on the street'.

15. At about 2339 hours, CHEUNG announced that once the police started the removal action, those who had camera should record it, and they should sit on the ground and be relax and let the police to lift them.

16. At about 2339 hours, the defendant used a loudhailer to lead the demonstrators to chant slogans including "people have the right to assemble; police approval shall not be required".

17. At about 2344 hrs, HUNG also advised the demonstrators that there was no need to co-operate with the police apart from furnishing identity cards and telephone numbers.

18. Between 2246 hours on 1 July 2011 and 0002 hours on 2 July 2011, the police had given a total of four warnings to the demonstrators that they were holding an unauthorized assembly and they had caused obstruction to the

vehicular traffic of CRC. He asked the demonstrators to leave, otherwise they would be arrested. The demonstrators ignored his warnings. The police formed cordons to contain the demonstrators who refused to leave.

Arrests

19. At about 0008 hrs on 2 July 2011, police officers arrested a total of 93 demonstrators who had refused to leave despite repeated warnings and this included the defendant. Under caution, the defendant remained silent. The defendant refused to accept police bail and she was released.

Re-arrest of the defendant

20. Since January 2012, the police endeavoured to locate and arrest the defendant with a view to prosecuting her. The police had repeatedly attempted to contact her by phone on over twenty occasions. On two of those occasions, the police successfully contacted the defendant over the phone and she was informed of the intended prosecution against her and invited her to go to the police station to go through the charging formalities. The police had also paid ten odd visits to addresses connected to the defendant in an effort to locate her. The police had told the defendant's family members that the police were looking for her and provided police contact details. However, the defendant did not contact the police.

21. On 8 May 2013, the police located and re-arrested the defendant on the footbridge at CRC near Pedder Street. On the same day, the defendant was charged to appear at Eastern Magistracy on 10 May 2013 and she was released on bail.