

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2019] SGHC 246

Criminal Case No 3 of 2019

Between

Public Prosecutor

And

- (1) Tan Swim Hong
- (2) Mohammad Reduan bin
Mustaffar
- (3) Nazeeha binte Abu Hasan

GROUND OF DECISION

[Criminal Law] — [Statutory offences] — [Misuse of Drugs Act]
[Criminal procedure and sentencing] — [Sentencing]

TABLE OF CONTENTS

PROSECUTION’S CASE	3
EVENTS LEADING UP TO THE ARREST OF TAN, REDUAN AND NAZEEHA	3
HSA ANALYSIS AND DNA EVIDENCE.....	6
URINE TESTS AND MEDICAL EXAMINATIONS.....	7
MOBILE DEVICES AND VIDEO FOOTAGE	7
STATEMENTS FROM TAN	7
STATEMENTS FROM REDUAN	14
STATEMENTS FROM NAZEEHA.....	17
CLOSE OF THE PROSECUTION’S CASE.....	20
DEFENCE’S CASE	20
TAN’S EVIDENCE	20
REDUAN’S EVIDENCE	22
NAZEEHA’S EVIDENCE.....	24
AHMAD’S EVIDENCE.....	25
THE APPLICABLE LAW	26
FINDINGS ON TAN.....	28
FINDINGS ON REDUAN	32
FINDINGS ON NAZEEHA	41
WHETHER NAZEEHA HAD PRIOR KNOWLEDGE OF REDUAN’S DRUG ACTIVITIES	42
EVENTS OF 23 SEPTEMBER 2016	44

CONCLUSION ON NAZEEHA	55
SENTENCE IN RELATION TO TAN	56
SENTENCE IN RELATION TO REDUAN.....	56
SENTENCE IN RELATION TO NAZEEHA.....	58

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Public Prosecutor
v
Tan Swim Hong and others

[2019] SGHC 246

High Court — Criminal Case No 3 of 2019

Audrey Lim J

29–31 January; 1, 14 February; 9, 10, 15–18 April; 7, 8 May; 23 August; 3 October 2019

15 October 2019

Audrey Lim J:

1 The first accused (“Tan”) is a Malaysian. The second accused (“Reduan”) and the third accused (“Nazeeha”), who is Reduan’s girlfriend, are Singaporeans. On 23 September 2016, Tan delivered a purple bag (“the Paper Bag”) containing one Daia washing powder box (“the Daia Box”) to Nazeeha at Lorong 26 Geylang, and Nazeeha brought it back to Reduan’s flat at Rezi 26 (“the Flat”). Reduan had asked Nazeeha to collect the item from Tan. The Daia Box was subsequently found to contain, among other things, a packet containing not less than 978.3 grams of crystalline substance, analysed and found to contain not less than 661.2 grams of methamphetamine (“the Drugs”).

2 Tan, Reduan and Nazeeha were tried jointly. They each claimed trial to one charge under the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”).

(a) Tan was charged with trafficking by delivering to Nazeeha the Drugs without authorisation, an offence under s 5(1)(a) of the MDA and punishable under s 33(1).

(b) Reduan was charged with abetting by instigating Nazeeha to traffic in the Drugs, by instructing her to collect the Drugs and transport it to the Flat without authorisation, an offence under s 5(1)(a) read with s 12 of the MDA and punishable under s 33(1).

(c) Nazeeha was charged with trafficking by transporting the Drugs from the vicinity of Lorong 26 Geylang to the Flat without authorisation, an offence under s 5(1)(a) of the MDA and punishable under s 33(1).

3 In closing submissions, the Prosecution stated that it would reduce the charge against Nazeeha to one of trafficking by transporting not less than 249.99g of methamphetamine. Nazeeha's plea was re-taken and she nevertheless elected to claim trial. Parties stated that there was no need to recall witnesses or take further evidence.

4 At the conclusion of the trial, I found that the Prosecution had proved beyond a reasonable doubt the charges against Tan, Reduan and Nazeeha, and I convicted them on their respective charges.

5 I found that Tan's role in the offence was restricted to that of a courier and that he was suffering from abnormality of mind that substantially impaired his mental responsibility within the meaning of s 33B(3) of the MDA, and I imposed the mandatory sentence of life imprisonment. Reduan did not qualify for the alternative sentencing regime under s 33B of the MDA and I thus imposed the mandatory death sentence on him. As for Nazeeha, I sentenced her to 24 years' imprisonment.

Prosecution's case***Events leading up to the arrest of Tan, Reduan and Nazeeha***

6 The events leading up to the arrest of the accused persons were not disputed, and were based the Central Narcotics Bureau (“CNB”) officers’ accounts of the operations leading to the arrest, as well as video footages. At about 6.05pm on 23 September 2016, Tan was spotted riding a motorcycle into Geylang Lorong 26 and turning into a small lane next to Rezi 26. A while later, Nazeeha was observed exiting the side gate of Rezi 26 and towards Geylang Lorong 26, and subsequently turning back and walking towards the small lane that Tan had turned into earlier.¹ Nazeeha had brought along a white envelope containing \$10 bills amounting to \$950 which she passed to Tan (“the Envelope”), and with the words “Ong salary for e Month September” written on the Envelope.² A short while later, Tan was seen leaving the small lane on his motorcycle. Nazeeha was also subsequently seen carrying the Paper Bag emerging from the small lane and entering Rezi 26 through its side gate.³

7 At about 6.25pm, Tan was arrested and the Envelope (with \$950) was seized from him. A smoking utensil and an improvised lighter, among other things, were seized from his flat.

8 Around 6.40pm, CNB officers raided the Flat and seized various items, which were subsequently analysed or examined.⁴

¹ 14/2/19 NE 38 (video footage).

² AB 239, 269, 272–273; 31/1/19 NE 31, 136 and 143; 16/4/19 NE 79.

³ 14/2/19 NE 39 (video footage).

⁴ AB 220–222, 308–310; 31/1/19 NE 96.

(a) First, on a shelf in the living room, the following were found – a Ziploc bag containing methamphetamine (“A1”)⁵; three weighing scales (“A2”, “A3” and “A4”), stained with methamphetamine⁶; and one “Classic Stamp” Album containing eight Ziploc packets each containing one tablet (“A5”) found to contain controlled drugs⁷.

(b) Second, on a chair in the living room, the Paper Bag (“B1”) containing the Daia Box (“B1A”) was found. The content of the Daia Box included, among other things, the Drugs (“B1A2A”)⁸ wrapped in torn green plastic (“B1A2”).

(c) Third, on the dining table the following were found:

(i) a black “Gucci” bag (“C1”)⁹ which contained various packets (“C1A” to C1D”) with smaller packets (“C1A1”, “C1B1”, “C1C1” and “C1D1”) containing methamphetamine and a digital weighing scale stained with methamphetamine (“C1E”);

(ii) a black “Gucci box” (“C2”)¹⁰ with packets containing methamphetamine, MDMA and nimetazepam;

(iii) a box containing empty sachets (“C3”, “C3A” to “C3F” and “C4”);

⁵ AB 103.

⁶ AB 132–134.

⁷ AB 104–111.

⁸ AB 112.

⁹ AB 113–116 and 138.

¹⁰ AB 117–120 and 139.

(iv) a black “Coin Album” (“C5”) with eight packets (“C5A” to “C5H”) containing methamphetamine¹¹; and

(v) a blue sticker label machine (“C6”) and one sheet of label stickers (“C7”).

(d) Fourth, on a table in the study room there were, among other things, three packets containing methamphetamine (“D1”)¹², two pieces of improvised smoking apparatus (“D2”), an “Impulse” sealer (“D5”), a packet of numerous empty white envelopes (“D6”), a clipboard with numerous papers (“D7”), six notebooks (“D8” to “D13”) and a money-counting machine (“D14”).

(e) Fifth, a stack of money amounting to \$19,200 (“E1”) and three rolls of white sticker labels (“E2”) were found in a drawer of the table in the study room.

9 When the CNB officers raided the Flat, the Daia Box was sealed and it was subsequently opened by the officers at the Flat.¹³ Reduan admitted that all the items seized from the Flat (at [8] above) belonged to him, except for two notebooks (“D8” and “D9”), the Paper Bag and the Daia Box. Nazeeha stated that the two notebooks were hers.¹⁴ They were subsequently arrested.

¹¹ AB 121–128.

¹² AB 129.

¹³ 30/1/19 NE 126–127; 31/1/19 NE 82, 87–88, 104, 117, 122.

¹⁴ 16/4/19 NE 23–30; 7/5/19 NE 28.

HSA analysis and DNA evidence

10 There was no dispute as to the integrity and proper custody of all the exhibits and the results of the various analysis by the relevant authorities. I set out the more material ones here.

11 First, based on the Health Sciences Authority (“HSA”) analysis, item B1A2A (inside the Daia Box) was found to contain not less than 978.3g of crystalline substance, which was analysed and found to contain not less than 661.2g of methamphetamine (*ie*, the Drugs).¹⁵

12 Second, Ms Ang Hwee Chen, an Analyst from HSA, submitted a report of her analysis of the DNA profiles obtained from the swabs of various exhibits seized from the Flat.¹⁶ Nazeeha’s DNA was found on the handles of the Paper Bag, the exterior surface of the Daia Box, the exterior and interior surfaces of three plastic bags (C1A, C1B and C1D), each containing various plastic packets of methamphetamine, and the sticker label machine (C6). Reduan’s DNA was found on the exterior surface of C1A.

13 Third, Ms Nellie Cheng from HSA examined the sticker label machine (C6) and 31 ziplock bags (C1A to C1D, C1A1 to C1D1 and C5A to C5H), and opined that it was possible that the sticker label machine was used to produce the printings on the 31 labels adhered to the 31 ziplock bags.¹⁷

¹⁵ AB 112, 221.

¹⁶ AB 140–156.

¹⁷ AB 164–169; 30/1/19 NE 96.

Urine tests and medical examinations

14 On 26 September 2019, Tan's, Reduan's and Nazeeha's urine samples were analysed and they each tested positive for methamphetamine.¹⁸ In particular, Tan was also referred to Dr Jerome Goh for psychiatric assessment in October and November 2016.¹⁹ Dr Goh opined that Tan was suffering from major depressive disorder around the time of the alleged offence, as he was facing work and financial stress. Dr Goh opined that Tan was suffering from an abnormality of the mind which had substantially impaired his mental responsibility for his actions around the time of the alleged offence. However, Tan was not of unsound mind.

Mobile devices and video footage

15 The Prosecution seized various mobile devices and SIM cards from the accused persons.²⁰ It also tendered the records of their messages found on various mobile and other devices²¹, and video footage capturing their movements on 23 September 2016.²² Where relevant, I will refer to them.

Statements from Tan

16 Seven statements were recorded from Tan, and their admissibility was not challenged.

¹⁸ AB 170–179.

¹⁹ AB 194–199; 30/1/19 NE 19–20.

²⁰ Exhibit D; Photos 120, 127, 131; 9/4/19 NE 45; 1/2/19 NE 16–18.

²¹ AB 877–897; AB 901–905; AB 906–916; AB 917–937; AB 938–1449; AB 1450–1501; AB 1502–1515; AB 1516–1566; AB 1567–2278; AB 3894–3902.

²² 14/2/19 NE 37–39; 9/4/19 NE 96–106; AB 3866–3877.

17 On 23 September 2016, Tan gave a contemporaneous statement after he was arrested (“Tan’s 1st Statement”) as follows²³:

(a) Tan knew Reduan from when they were working at a warehouse. On 23 September 2016, Tan collected a blue plastic bag containing the Daia Box from an Indian man, whom one Ahmad had told him to collect the Daia Box from and to deliver to Reduan. Tan placed the Daia Box outside his flat at Bedok, as he was “scared” and he knew there was something illegal inside the Daia Box.

(b) At about 5.50pm on 23 September 2016, Tan put the Daia Box into the Paper Bag and rode to Geylang Lorong 26 to deliver it to Reduan. When he arrived, he called Reduan to “quickly come and collect” the Daia Box. He then placed the Paper Bag and Daia Box near a flower pot near a condominium. Nazeeha came to collect it, handed him the Envelope and told him that it was for “the Indian man and [Tan’s] wages inside”. She also told him that there was \$950 inside the Envelope, of which \$200 was his “kopi money”. Tan would keep the \$200 and send the rest to Ahmad in Malaysia.

18 On 24 September 2016, after a charge relating to the trafficking of methamphetamine was read to Tan, his cautioned statement was recorded (“Tan’s 2nd Statement”).²⁴ Tan stated that he did not know what the “thing” was at the material time, he was not aware of where it came from, and he was instructed to hand the money to Reduan’s older brother in Johor Bahru.

²³ AB 275–281.

²⁴ AB 335, 413, 439–442.

19 On 26 September 2016, Tan made the following statement (“Tan’s 3rd Statement”):²⁵

(a) Since July 2016, Tan had been helping Reduan to deliver money to his brother Ahmad (who lives in Johor Bahru) once every two to three weeks, and Tan would receive \$200 “kopi money” from Reduan for his service each time. After a few deliveries, Tan began to suspect that the money might be from illegal activities as he had seen that “the amount was big” and that the money was in a “big bundle” when Ahmad opened the plastic bag containing the money in front of him.

(b) On 23 September 2016 at about 3.45pm, Ahmad called Tan to collect a plastic bag containing a box of detergent powder from a male Indian, just after the crossing at Woodlands Checkpoint, and to hand it to Reduan. Although Ahmad told Tan that it was “nothing dangerous”, Tan was reluctant to help Ahmad as he thought the delivery must be “for something illegal”. Nevertheless, he agreed to do so as he owed Reduan a favour for having helped him pay off some rental arrears, and Ahmad had informed him that if he did not assist with the delivery he would not get \$200 which he was supposed to receive for helping Ahmad deliver some money earlier that day.

(c) After crossing Woodlands Checkpoint, Tan picked up a blue plastic bag with the Daia Box from an Indian man and brought it home but left it outside his flat. He then called Reduan and told him that he would reach his place at about 6.00pm and if Reduan did not come and collect the Daia Box, he would leave it by the roadside.

²⁵ AB 355, 359–373.

(d) Tan removed the Daia Box from the blue plastic bag and placed it into the Paper Bag and rode to Geylang Lorong 26. When he arrived, he called Reduan and Reduan told him that Nazeeha would collect the Daia Box from him. Tan left the Paper Bag with the Daia Box near some flower pots as he was “feeling very scared” and thought that if the Daia Box really contained “Bai Fen”, an illegal drug which may carry the death penalty in Singapore, he would not see his wife again.

(e) Shortly after, Nazeeha appeared and handed Tan the Envelope. She told him that it contained \$200 for his “kopi money” and another \$750 for the Indian man from whom he had collected the Daia Box. Nazeeha told him to hand the \$750 to Ahmad. Tan told Nazeeha that he had placed the Daia Box near the flower pots, and then he left.

20 On 27 September 2016, Tan made the following statement (“Tan’s 4th Statement”):²⁶

(a) He did not know what the Daia Box contained until he was arrested. He did not open the Envelope. However, on this occasion it was different as the money was handed to him in an envelope, whereas on previous occasions Reduan would pass him bare cash.

(b) The smoking utensil in his flat was lent to him by Reduan, about two weeks ago. Reduan had given him some “bing” (drugs) to smoke for the first time and passed the smoking utensil to him at the same time. Tan knew it was an illegal drug.

²⁶ AB 356; 374–392.

21 On 30 September 2016, Tan made the following statement (“Tan’s 5th Statement”):²⁷

(a) The first time he took “bing” from Reduan was in April 2016. He became involved in Reduan’s drug activities around the same time. He knew that Reduan was working with a Malay man called “L”.

(b) On the first occasion, Tan was asked to deliver money to a Malay man in Johor Bahru. He collected a bag of money from L, who told him that it was RM\$18,000, and handed it to the male Malay in Malaysia. Tan believed that the transaction was for drugs. After delivering the money, he returned to Singapore where L gave him cash for his assistance. Subsequently Tan made a few more deliveries for L, for a cash reward.

(c) In July 2016, Reduan asked Tan for help again, and told Tan that he was working with Ahmad on drug activities. On that occasion, Tan had borrowed \$1,200 from Reduan. Reduan told him that after he assisted Reduan to deliver money to Johor Bahru each time, Reduan would deduct his reward of \$200 to repay the loan. Reduan also told him that he and Ahmad were dealing in small quantities of “Sejuk” (or “bing”). Tan then started delivering money for Ahmad and Reduan in the last week of July. Reduan also asked Tan if he could assist to collect “bing” for him on a subsequent occasion, for which he would be paid \$800. Tan agreed.

²⁷ AB 357; 393–396.

(d) In early August 2016, Reduan asked Tan to collect drugs in Singapore in addition to delivering money. Tan agreed as he wanted to repay the loan to Reduan. At Ahmad’s instructions, he met up with one “Boy Ask” who handed him a bag of coffee powder and told him there was Sejuk (“bing”) inside. Tan delivered the coffee powder to Reduan who told Tan that Tan did not owe him any more money.

(e) In the last week of August 2016, he helped to deliver money, but did not collect any cash reward of \$200 from Reduan as he had ordered some “bing” from Reduan for the same price.

(f) On 23 September 2016, when Ahmad asked him to collect the Daia Box, he was reluctant to do so as first, as he believed that it contained “bing”. He finally agreed as he wanted to return a favour to Reduan when Reduan had lent him money in his time of need.

(g) Ahmad and Reduan had ever informed him that they had obtained the help of others to deliver drugs to them directly.

22 On 1 October 2016, Tan stated that apart from helping Ahmad and Reduan to deliver money to Malaysia and to collect “bing” in Singapore, he also bought “bing” from Reduan since April 2016 (“Tan’s 6th Statement”).²⁸

23 On 4 October 2016, Tan made the following statement (“Tan’s 7th Statement”):²⁹

²⁸ AB 357–358; 397–400.

²⁹ AB 418; 506–514.

- (a) He wanted to change his previous statements and tell “the full truth” so that the authorities would be lenient with him.
- (b) He did not collect the Daia Box from an Indian man, but it was handed to him by Ahmad when he met Ahmad to pass him money from Reduan. Ahmad asked him to deliver the Daia Box to Reduan and Reduan would hand him money for it. Ahmad told him that the Daia Box contained “only a small amount of “bing” inside”, so when he brought the Daia Box into Singapore, he knew there was “bing” in it.
- (c) When Tan arrived in the vicinity of the Flat, he threw the Paper Bag with the Daia Box near some flower pots, and told Nazeeha where it was when she came down to meet him. Nazeeha told Tan there was \$950 in the Envelope and that Reduan was deducting \$50, hence Tan realised that he would only obtain \$150 (instead of the usual \$200).
- (d) All this while, Tan knew that he was sending money to Ahmad because Ahmad was sending drugs to Singapore for Reduan, including “bing”. Since April 2016, he has sent money to Malaysia on Reduan’s behalf around six to seven times.
- (e) He had only brought drugs into Singapore on one occasion, namely on 23 September 2016. Reduan had, in August 2016, offered Tan \$2,000 to bring in ecstasy, erimin 5 and ganja, but Tan refused as he did not know the quantity to be transported and was afraid of the penalty he might face if caught.
- (f) Nazeeha knew of Reduan’s drug activities because she was present every time Tan bought drugs from Reduan. However, Tan did not know if Nazeeha knew about the “bing” inside the Daia Box.

Statements from Reduan

24 Nine statements were recorded from Reduan and their admissibility were not challenged.

25 On 23 September 2016, Reduan gave a contemporaneous statement at the Flat (“Reduan’s 1st Statement”).³⁰ The “ice” in the Flat was obtained from Jalal and the ecstasy in the Flat belonged to Jalal. The Gucci bag and Gucci box belonged to Jalal. Reduan did not know what was in the Gucci box. He did not know who the Paper Bag and Daia Box belonged to as he was sleeping.

26 On 24 September 2016, after a charge relating to the trafficking of methamphetamine was read to Reduan, he stated as follows (“Reduan’s 2nd Statement”).³¹ Nazeeha and he consumed “ice” but they did not know the contents of the Daia Box. He had informed the CNB officer to wait in the Flat as the owner of the Daia Box would call him and retrieve it. The owner of the Daia Box sometimes stayed at the Flat.

27 On 28 September 2016, Reduan made the following statement (“Reduan’s 3rd Statement”):³²

- (a) He moved into the Flat around July 2016, and has been with Nazeeha for about one year. He knew Tan when they were previously working together. Ahmad was Reduan’s cousin who lived in Malaysia, and the last time Reduan spoke to him was about one month back.

³⁰ AB 321–328, 621–622.

³¹ AB 347–354.

³² AB 414, 443–447.

(b) On 23 September 2016, Jalal called Reduan to “go down” and collect “sabun cuci baju” (Malay for washing detergent) from Tan. Reduan asked Nazeeha to do so as he was tired and wanted to sleep, and asked her to pass \$950 to Tan as Tan had asked to borrow that amount. The next thing he knew, when he woke up, he was arrested by CNB officers.

(c) Reduan did not find it strange that Jalal had asked him to collect washing powder, as he was then in such a sleepy state that he “just agreed to what [Jalal] said”. When Jalal had previously brought coffee powder packets, Jalal told him that they contained “ice”, and Jalal would give some to him to smoke. However, he has never asked Tan to do anything illegal or collect anything from or send anything to Malaysia.

28 On 30 September 2016, Reduan made the following statement (“Reduan’s 4th Statement”):³³

(a) The drugs that belonged to him included A1 and D1 (“ice”), and A5 (ecstasy tablets), all for his personal consumption.

(b) The Gucci bag (C1), Gucci box (C2) and Coin Album (C5), and all the contents including the drugs therein, belonged to Jalal.

(c) He had asked Nazeeha to pass the Envelope with the cash to Tan as Tan wanted to borrow money from him. He wrote the words “Ong salary for e Month September” on the Envelope. The cash was not salary for Tan (whom he called “Ong”) but he was just making fun of Tan.

³³ AB 415, 448–490.

(d) He allowed Jalal to keep drugs at the Flat and helped Jalal to sell drugs. He also asked Jalal for drugs on behalf of others and informed Jalal to mark up the price so that he could obtain a small commission from helping Jalal to sell the drugs. He had about five customers who were all his friends, but Jalal was the one who sold the “ice” to them.

29 On 3 October 2016, Reduan stated as follows (“Reduan’s 5th Statement”).³⁴ Nazeeha was not involved in any of the drugs found in the Flat. She only smoked “ice” and only knew about the packet of “ice”, A1. He did not know if Ahmad was involved in sending drugs to Singapore or about the drugs in the Daia Box, as he did not deal with Ahmad on drugs.

30 On 4 October 2016, Reduan made a statement (“Reduan’s 6th Statement”)³⁵ stating that Jalal had given him the “ice” (A1 and D1).

31 On 24 November 2016, Reduan gave two statements to Assistant Superintendent Prashant (“ASP Prashant”) (“Reduan’s 7th Statement” and “Reduan’s 8th Statement”) essentially for ASP Prashant to obtain samples of his handwriting.³⁶

32 Finally, on 24 January 2019, Reduan on his own volition gave a statement (“Reduan’s 9th Statement”) as follows:³⁷

³⁴ AB 416, 491–494.

³⁵ AB 417, 495–505.

³⁶ AB 425–426, 580–581.

³⁷ AB 612–614.

- (a) His previous statements were “just lies”. He lied because he was afraid and did not mention Ahmad. If the CNB could not arrest Ahmad, as Ahmad was in Malaysia, he would “be dead”.
- (b) The “ice” in the Daia Box was from Ahmad and Tan passed it to him. It belonged to Ahmad and Ahmad had called him (on 23 September 2016) to ask him to hold on to it and wait for someone to come and collect it. While he was waiting, he was arrested.
- (c) All the items seized by the CNB belonged to Reduan.

Statements from Nazeeha

33 Eight statements were recorded from Nazeeha and their admissibility were not challenged.

34 On 23 September 2016, Nazeeha gave a contemporaneous statement at the Flat (“Nazeeha’s 1st Statement”) as follows.³⁸

- (a) Reduan was her boyfriend and she had known him for a year. They rented the Flat. On that day, he asked her to collect groceries from Tan and to pass the Envelope to Tan. She met Tan at the back alley of Rezi 26, passed him the Envelope and took the Paper Bag from him. At that time, she saw the Daia Box in the Paper Bag but she did not know what was in it. She brought the Paper Bag back to the Flat, placed it on the chair in the living area and went back to sleep.

³⁸ AB 243, 245–257.

(b) Nazeeha had collected groceries from Tan on two or three prior occasions, as Tan would obtain groceries from Johor, Malaysia, for them as it was cheaper there. However, on the previous occasions, there would normally be other groceries “in normal plastic bags”.

(c) The drugs found at the Flat, which she knew some of them to be “ice” and ecstasy, belonged to Reduan. She suspected he was selling drugs. She was aware that he consumed drugs and she had also done so.

(d) Nazeeha did not know the contents of the Envelope. She had ever handed Tan \$300 on a previous occasion for groceries that Tan bought, but it was not in an envelope.

35 On 20 October 2016, Nazeeha made the following statement (“Nazeeha’s 2nd Statement”).³⁹ Sometime in the evening, after Tan had called Reduan, Reduan asked her to go down and collect “barang barang” (“things”) from Tan. She understood this to be groceries because Tan usually delivered groceries to them. Reduan also asked her to pass the Envelope to Tan but he did not inform her of its contents.

36 On 25 October 2016, Nazeeha made the following statement (“Nazeeha’s 3rd Statement”):⁴⁰

(a) After she passed Tan the Envelope, Tan pointed to the Paper Bag that was on the pavement beside him. She picked up the Paper Bag and, after sitting down for a while to smoke, returned to the Flat and placed

³⁹ AB 419, 515–520.

⁴⁰ AB 420, 521–562.

the Paper Bag, which contained the Daia Box, in the living room. She then went back to sleep.

(b) Items A1 to A5, C1A to C1E (found in the “Gucci” bag), C3 to C6, D1 and D2, all belonged to Reduan. She had also seen the “ice” packets inside the Gucci bag and seen Reduan use C6 (sticker label machine) to print the weight and numbers on labels and stick them onto packets of “ice”.

(c) She knew that Reduan consumed “ice” and ecstasy and suspected that he sold “ice”. Reduan had once asked her to take packets of “ice” from the Gucci bag and weigh them.

37 Nazeeha gave another two statements on 25 and 26 October 2016 (“Nazeeha’s 4th Statement” and “Nazeeha’s 5th Statement” respectively) essentially for ASP Prashant to obtain her sample handwritings.⁴¹

38 On 26 October 2016 Nazeeha made a further statement (“Nazeeha’s 6th Statement”) as follows:⁴²

(a) She did not know Tan well, and had only seen him less than five times. Tan came to the Flat to deliver groceries. Reduan would ask Tan to buy groceries from Malaysia as they were cheaper. Reduan would check with Nazeeha what groceries to buy and she would inform him.

(b) Reduan would usually collect the groceries from Tan, but she had also done so. Whenever she collected groceries from Tan, Reduan

⁴¹ AB 421–422, 563–564.

⁴² AB 422, 565–570.

would pass her some money to hand over to Tan for the groceries. Reduan would give her about \$200 each time.

(c) Jalal is Reduan’s friend and they consumed “ice” together.

39 On 26 October 2016 Nazeeha stated as follows (“Nazeeha’s 7th Statement”).⁴³ Reduan did not inform her there was money in the Envelope. Whenever Tan bought groceries, Reduan would give her cash without an envelope.

40 On 21 November 2016, after a charge for trafficking of methamphetamine by possession was read to Nazeeha, she stated that she had nothing else to add (“Nazeeha’s 8th Statement”).⁴⁴

Close of the Prosecution’s case

41 At the close of the Prosecution’s case, I found that there was sufficient evidence against all three accused persons and called them to give evidence in their defence. They each elected to testify, and Reduan also called Ahmad.

Defence’s case

Tan’s evidence

42 Tan first met Reduan sometime in 2014. Around mid-2016, Reduan introduced Ahmad to Tan. Ahmad had called Tan, around five occasions (prior to 23 September 2016), to ask him to collect money from Reduan to deliver to Ahmad, and he would receive about \$200 from Reduan as “coffee money” for

⁴³ AB 423, 571–575.

⁴⁴ AB 424, 576–579.

his services. However, he did not know what the money (which he collected for Ahmad) was for.⁴⁵ Prior to 23 September 2016, Reduan had ever supplied drugs to Tan.⁴⁶ As for Nazeeha, Tan came to know her about three to five months before his arrest. He did not know her name but only knew that she was Reduan's girlfriend.

43 Around 6.30am on 23 September 2016, Ahmad asked Tan to collect money from Reduan. Tan then collected a blue packet from Reduan, proceeded to Johor Bahru around 12 noon, and handed it to Ahmad. Ahmad then handed him the Daia Box to pass to Reduan.⁴⁷ Initially, Tan was reluctant to deliver the Daia Box as he suspected it might contain something illegal. However he agreed to do so as he saw that the Daia Box was sealed, he did not think Ahmad would harm him and Ahmad had informed him that this brand of detergent was not sold in Singapore. Further it was already late and he had to pick up his wife from work so he did not want to waste any more time. He did not know the Daia Box contained drugs until he was arrested.⁴⁸

44 Later that day, he called Reduan and told him that he was going to his place. He rode to Geylang Lorong 26 with the Daia Box which he had placed in the Paper Bag, and arrived at about 6.00pm at a back alley of Rezi 26. He placed the Paper Bag containing the Daia Box next to some flower pots about five metres from his motorcycle, and called Reduan to collect the Daia Box. Reduan replied that Nazeeha would come downstairs and meet him. When Nazeeha

⁴⁵ 15/4/19 NE 11–12, 23, 66–68; 16/4/19 NE 3, 12.

⁴⁶ 15/4/19 NE 39, 60.

⁴⁷ 15/4/19 NE 13.

⁴⁸ 15/4/19 NE 14, 15, 28.

arrived, Tan pointed to the Paper Bag and told her that was what he was supposed to hand over to her. She then gave him the Envelope, told him it was from Reduan and that it contained \$200 and said that it was his “coffee money”, which was for sending money over to Ahmad that morning. Tan took the Envelope (without opening it) and rode off.⁴⁹

45 Tan stated that Reduan had on two previous occasions asked him to purchase groceries from Johor Bahru, as they were cheaper there, and Nazeeha would personally collect it from him. Tan would receive from Reduan \$200 in all on each occasion, to pay for the groceries with some remainder for his efforts. However, he did not purchase groceries for Reduan on 23 September 2016.⁵⁰

Reduan’s evidence

46 Reduan came to know Tan when they worked together. Ahmad was Reduan’s relative, and was residing in Malaysia as he was wanted in Singapore by CNB for drug offences. He started supplying drugs to Reduan, such as methamphetamine, ecstasy and eramine, and mostly relied on Tan to deliver the drugs. Reduan would pass money to Ahmad, and Ahmad would pass the drugs to Reduan, through Tan – this occurred around three occasions. Reduan also supplied drugs to Tan.⁵¹ Reduan also obtained his drug supplies from others. Apart from supplying drugs to others, Reduan sold drug paraphernalia and collected money in relation to drugs.⁵² Nazeeha knew that Reduan’s friends would smoke drugs with him at the Flat, as he had told her so.⁵³

⁴⁹ 15/4/19 NE 16–19, 43, 49.

⁵⁰ 15/4/19 NE 21–23, 70–71.

⁵¹ 17/4/19 NE 25–27, 48.

⁵² 16/4/19 NE 40–42; 17/4/19 NE 32.

47 On 23 September 2016 at about 7am, Reduan passed a parcel to Tan containing cash for Tan to pass to Ahmad.⁵⁴ At around 6pm, Tan called him to collect the Daia Box and told him that if he were late, Tan would just leave it behind. As Reduan had an upset stomach and needed to go to the toilet, he asked Nazeeha to collect the Daia Box. Reduan also told her to take the Envelope from his car to pass to Tan.⁵⁵ After Nazeeha left the Flat, Reduan went to the toilet and then back to bed.⁵⁶ When Reduan sent Nazeeha to collect the Daia Box, he did not inform her of its contents but merely told her to collect “sabun cuci baju” (Malay for washing detergent) from Tan.⁵⁷

48 Reduan had on two or three previous occasions asked Tan to buy groceries for him and then asked Nazeeha to collect the groceries from Tan. However, on 23 September 2016, he asked her to collect “sabun cuci baju”.⁵⁸

49 Reduan claimed that the Daia Box and its contents belonged to Ahmad. Ahmad wanted Reduan to deliver the Daia Box which Reduan knew contained methamphetamine to Ahmad’s customer, and Ahmad had informed him to hold on to the Daia Box until the customer called him to collect it.⁵⁹ At about 12am on 23 September 2016, Ahmad called Reduan⁶⁰ about the delivery of the drugs, and he told Ahmad that he would not accept more than 125g of

⁵³ 16/4/19 NE 65, 66.

⁵⁴ 16/4/19 NE 36–37, 59.

⁵⁵ 16/4/19 NE 75, 79.

⁵⁶ 16/4/19 NE 38.

⁵⁷ 16/4/19 NE 25, 35, 48, 59, 76–77; 17/4/19 NE 14.

⁵⁸ 16/4/19 NE 78, 84–85.

⁵⁹ 16/4/19 NE 34; 17/4 NE 27.

⁶⁰ 16/4/19 NE 32–33.

methamphetamine from Ahmad. Ahmad assured him that the drugs would not be more than that amount. Reduan believed him. He explained that if he were caught with more than 250g of methamphetamine, this would attract the death penalty. At that time, he already had 125g of methamphetamine in the Flat. Moreover, in the past Ahmad would send no more than 250g of methamphetamine to Reduan for Reduan to supply to his own customers and Ahmad would comply with whatever amount Reduan had requested for.⁶¹

50 Reduan stated that Jalal did not provide drugs to him, although Jalal consumed drugs with him, and all the statements that he had given to CNB regarding Jalal were not true.⁶²

Nazeeha's evidence

51 Nazeeha moved into the Flat around late July 2016.⁶³ By then, she already knew that Reduan sold drugs paraphernalia and was involved in “ah long” activities or illegal moneylending.⁶⁴ About three weeks thereafter, or around mid-August 2016, she suspected and believed that Reduan was involved in drug trafficking, as she found a lot of methamphetamine in the Flat and saw Reduan sticking the “tapes” for small packets of methamphetamine.⁶⁵

52 She did not know Tan personally, although she had met him before. Prior to 23 September 2016, she had ever collected groceries from Tan on about

⁶¹ 16/4/19 NE 43; 17/4/19 NE 28.

⁶² 16/4/19 NE 35–39, 45, 47–48, 50.

⁶³ 7/5/19 NE 3.

⁶⁴ 7/5/19 NE 9, 96–97.

⁶⁵ 7/5/19 NE 10, 55, 114.

four occasions. She only collected the groceries if Reduan was not at home, otherwise Reduan would collect the groceries from Tan.⁶⁶

53 On 23 September 2016⁶⁷, Reduan received a call from Tan, whilst he and Nazeeha were in bed. Reduan told Nazeeha that Tan had called to send groceries, asked her to collect them and at the same time to take the Envelope from his car to pass to Tan. Reduan did not tell her what the Envelope contained. Nazeeha took the Envelope and went to look for Tan. When she saw him, she passed him the Envelope and only said “nah” to him. Tan then pointed to the Paper Bag on the ground near his motorcycle and told her “Nah, this is the barang-barang”, mumbled something that she did not understand, and then rode off. After stopping to smoke a cigarette, she returned to the Flat with the Paper Bag (which she saw contained the Daia Box), put it on the chair in the living room and went back to bed. Shortly after, CNB raided the Flat. When Tan told her it was “barang barang”, she understood it to mean groceries though she accepted that a literal English translation would be “stuff” or “things”.⁶⁸ Nazeeha did not know what groceries she was supposed to collect from Tan that day, and did not know the contents of the Daia Box but merely collected it on Reduan’s instructions.⁶⁹

Ahmad’s evidence

54 Ahmad had run away to Malaysia because he absconded from a urine test. He had never supplied any drugs to Reduan (through Tan or otherwise). He

⁶⁶ 7/5/19 NE 31–32, 133–134.

⁶⁷ 7/5/19 NE 15–20; 8/5/19 NE 12–13.

⁶⁸ 7/5/19 NE 23–24.

⁶⁹ 7/5/19 NE 43–45.

denied calling Reduan on 23 September 2016 to arrange to send methamphetamine to him. However, Ahmad had on two previous occasions received money from Reduan through Tan, as he had allowed Reduan to rent out his car after he absconded to Malaysia.⁷⁰

The applicable law

55 In *Muhammad Ridzuan bin Md Ali v Public Prosecutor and other matters* [2014] 3 SLR 721 at [59], the court summarised the elements to be proved for a charge of trafficking under s 5(1)(a) read with s 5(2) of the MDA:

- (a) possession of a controlled drug (which may be proved or presumed pursuant to s 18(1) of the MDA);
- (b) knowledge of the nature of the drug (which may be proved or presumed pursuant to s 18(2) of the MDA); and
- (c) possession of the drug was for the purpose of trafficking which was not authorised.

56 Where the Prosecution seeks to prove the fact of possession, it must prove that the accused was in possession of the receptacle and that he knew that it contained something, which may later be established to be the drugs in question (*Zainal bin Hamad v Public Prosecutor and another appeal* [2018] 2 SLR 1119 at [12]). The Prosecution need not prove that the accused specifically knew that he was in possession of drugs – that question is an inquiry that arises when considering the question of knowledge (at [12]–[13]). Once it is proved that the accused had physical control over or possession of the receptacle that

⁷⁰ 18/4/19 NE 8–15.

contains the thing in question, the court is entitled to infer that he had knowledge of the existence of that thing. The accused then has to discharge the evidential burden by raising a reasonable doubt that this was not the case. The Prosecution may also rely on the presumption of possession under s 18(1) of the MDA, which an accused can rebut by showing that he did not actually know that the thing was in his possession, such as if it was slipped into his bag or planted without his knowledge: *Adili Chibuikwe Ejike v Public Prosecutor* [2019] 2 SLR 254 (“*Adili*”) at [34] and [71].

57 Under s 18(2) of the MDA, the accused is presumed to know the specific drug that he is proved or presumed to have had in his possession: *Obeng Comfort v Public Prosecutor* [2017] 1 SLR 633 (“*Obeng Comfort*”) at [35]. He may rebut that presumption by proving on a balance of probabilities that he did not know the nature of the controlled drug, such as by proving that he genuinely believed that he was in possession of something innocuous such as washing powder when it was in fact heroin: *Nagaenthiran a/l K Dharmalingam v Public Prosecutor* [2011] 4 SLR 1156 at [23] and [27]. The accused should be able to say what he thought or believed he was carrying: *Obeng Comfort* at [39].

58 Section 12 of the MDA provides essentially that the abettor of an offence under the MDA will be guilty of the offence and punishable in the same manner. For abetment by instigation, there must be the *actus reus* of “active suggestion, support, stimulation or encouragement” of the primary offence, and the *mens rea* of intention for the primary offender to carry out the conduct abetted: *Mohamed Affandi bin Rosli v Public Prosecutor* [2019] 1 SLR 440 at [60]; *Chan Heng Kong and another v Public Prosecutor* [2012] SGCA 18 at [34].

Findings on Tan

59 The Prosecution contended that Tan knowingly possessed the Drugs in the Daia Box when he delivered the same to Nazeeha, and also knew the nature of the Drugs (*ie*, that they were methamphetamine). Alternatively, the Prosecution relied on the presumptions of possession and knowledge under ss 18(1) and 18(2) of the MDA.⁷¹ The Defence did not dispute that the presumptions were engaged.⁷²

60 It was not disputed that Tan was in possession of the Daia Box, he knew it contained something, and he agreed to deliver it to Reduan although Nazeeha collected it.⁷³ This amounted to “trafficking” under s 2 of the MDA. I found that Tan knew that the Daia Box contained drugs and, in particular, methamphetamine.

61 First, Tan’s statements were revealing.

(a) In Tan’s 1st Statement, he stated that he “knew” there was “something illegal inside the [Daia Box]”.

(b) In Tan’s 3rd Statement, he explained that Ahmad had asked him to deliver (what was eventually) the Daia Box to Reduan, but Tan was initially reluctant to help because he thought “the delivery must be for something illegal”. In court, Tan confirmed that the statement was correct.⁷⁴ Whilst waiting for Nazeeha to collect the Daia Box, he was

⁷¹ PCS at para 14.

⁷² 16/4/19 NE 18–19; D1CS, para 11.

⁷³ D1CS, paras 11–12.

⁷⁴ 15/4/19 NE 67.

feeling “very scared” as he thought that if the Daia Box contained drugs, he would not be able to see his wife again.

(c) In Tan’s 5th Statement, he again stated that when Ahmad told him to collect the Daia Box, he was “really reluctant” to agree at first because he believed that it contained “bing”. In court, Tan stated that “bing” was “ice” (or methamphetamine) and he knew it was illegal to bring “bing” into Singapore.⁷⁵

(d) Pertinently, in Tan’s 7th Statement, Tan stated that Ahmad had informed him that there was “bing” inside the Daia Box and hence when he brought the Daia Box into Singapore, he “knew there was “bing” inside”.

62 In court, Tan claimed that Ahmad told him that the Daia Box contained “bing” in a joking manner and so he did not believe what Ahmad said.⁷⁶ I rejected Tan’s explanation that he did not believe Ahmad when Ahmad told him that the Daia Box contained “bing”. He did not explain in any of his statements that he did not believe Ahmad that the Daia Box contained “bing” because Ahmad had said so jokingly. He ultimately conceded in court that he believed the Daia Box contained methamphetamine because Ahmad had told him there was “bing” in it, and in any event he “had his suspicions” that the Daia Box contained something illegal.⁷⁷ Further, Tan had stated that he knew that Ahmad and Reduan were involved in drug activities and Reduan had previously

⁷⁵ 15/4/19 NE 36–37.

⁷⁶ 15/4/19 NE 40–41.

⁷⁷ 16/4/19 NE 4; 15/4/19 NE 77.

supplied methamphetamine to him. His claim that Ahmad was joking was thus unbelievable.⁷⁸

63 Second, Tan’s account of his actions did not make sense. He claimed that he initially did not want to deliver the Daia Box because he suspected it might contain something illegal, but after he saw that it was sealed he agreed to do so.⁷⁹ But if he suspected that the Daia Box contained something illegal, it was strange he did not check just because it was sealed, especially when he knew of Ahmad’s and Reduan’s drug dealings. It was irrelevant that he claimed that it was late and he had to pick up his wife, that he thought Ahmad was a friend and would not harm him, and that the brand of detergent was not found in Singapore.⁸⁰ The bottom line was that he did not attempt to dispel his suspicious at all, and in any event, he admitted that he was not even purchasing groceries for Reduan on that occasion.

64 Third, Tan’s conduct after he took the Daia Box was telling. He refrained from bringing the Daia Box into his flat as he was “scared” because he knew it contained something illegal. When he arrived at Geylang Lorong 26, he called Reduan and told him to “quickly come” and collect the Daia Box; and he decided that if Reduan did not collect it soon, he would leave it by the roadside so that it would not “attract attention easily”. He was clearly in a hurry to leave the Daia Box behind. Tan said that he was very scared because if the Daia Box contained drugs, he would not be able to see his wife again. He then left the Paper Bag with the Daia Box next to some flower pots to disassociate

⁷⁸ 15/4/19 NE 74–76; 16/4/19 NE 4; AB 507 (Tan’s 7th Statement).

⁷⁹ 15/4/19 NE 14.

⁸⁰ 15/4/19 NE 15.

himself from these, instead of waiting to hand them directly to Reduan or Nazeeha. While these alone may not necessarily show that Tan had knowledge that the Daia Box contained methamphetamine, his conduct must be considered in totality with the rest of the evidence above. In particular, it disproved his claim that he did not believe Ahmad when Ahmad told him the Daia Box contained “bing”. Indeed, in court, Tan agreed that at the material time, he strongly suspected that the Daia Box contained methamphetamine and that was why he left it outside his flat and then by the roadside when he arrived at Geylang Lorong 26.⁸¹

65 Finally, I rejected the Defence’s submission that Tan’s major depressive disorder around the time of the offence, taken with the fact that he was not well-educated, showed that he did not know the specific nature of the drug.⁸² For starters, Tan did not even rely on this reason as his defence. Even if he were suffering from major depressive disorder and was lowly educated, this did not therefore mean that he was unaware of what he was carrying at the material time, or that his claim that he thought he was carrying washing powder should be believed. I reiterate that Tan had claimed to have had previous dealings with Reduan and/or Ahmad in relation to drugs. In Tan’s 5th Statement, he claimed to have helped deliver drugs, and related Reduan’s offer to him in August 2016 to transport drugs. Reduan had also supplied him with methamphetamine to consume⁸³, and Ahmad had informed him that the Daia Box contained “bing”.

⁸¹ 16/4/19 NE 5–6.

⁸² DICS at para 30.

⁸³ AB 377.

66 At this stage, I deal briefly with Ahmad's testimony. He denied supplying drugs to anyone.⁸⁴ Nevertheless I preferred Tan's and Reduan's evidence in this regard. There was no reason for them to lie, particularly to implicate themselves in the drug transaction on 23 September 2016. If Reduan was close to Ahmad,⁸⁵ it would not make sense for him to implicate Ahmad in relation to the Drugs unless Ahmad was indeed involved.

67 Hence, I found that Tan knew that the Daia Box contained drugs and that he knew of the nature of the drugs, independent of the presumptions. Tan's suspicion and deliberate refusal to inquire were evidence which, against the backdrop of all the other evidence, sustained a factual inference that he had actual knowledge of the specific nature of the drugs (*Adili* at [45]), in this case methamphetamine. Moreover, Tan's possession of the Daia Box (containing the Drugs) was for the purposes of trafficking – he admitted he intended to deliver it to Reduan and had passed the Daia Box to Nazeeha – and without authorisation. Accordingly, I was satisfied that the elements of the charge against Tan had been proved beyond a reasonable doubt, and I convicted him on the charge. Even on an alternative analysis relying on the ss 18(1) and 18(2) presumptions, for the same reasons stated above, I would not have found Tan to have rebutted the presumptions on a balance of probabilities.

Findings on Reduan

68 Reduan stated that he instructed Nazeeha to collect “sabun cuci baju” on 23 September 2016 from Tan. Reduan admitted he *knew* the Daia Box (or what Tan was delivering) contained methamphetamine. Reduan stated that he and

⁸⁴ 18/4/19 NE 10.

⁸⁵ 18/4/19 NE 13–14.

Ahmad were involved in the drug trafficking business together and they had an on-going arrangement to deliver drugs from Malaysia to Singapore and the money from the drug activity would be couriered from Singapore to Malaysia.⁸⁶

69 As to whether he intended Nazeem to carry out the conduct of trafficking not less than 661.2g of methamphetamine, this is bound up with his defence that he had an agreement with Ahmad to accept delivery of no more than 125g of methamphetamine on that occasion. Reduan's case is that, in the past, Ahmad would send no more than 250g of methamphetamine to him for him to supply to his customers ("the 250g Arrangement"). This amount referred to the gross weight⁸⁷ but the limit of 250g in gross weight logically meant it would be below the capital amount when looking at net weight. I disbelieved Reduan's defence.

70 First, the existence of the 250g Arrangement, and pursuant to that the agreement with Ahmad not to deliver more than 125g of methamphetamine on 23 September 2016, are not supported by Reduan's own account of what he would do generally, and what he did on 23 September 2016.

71 Reduan claimed that, on previous occasions that he obtained drugs from Ahmad, he would check that the amount of methamphetamine in each delivery complied with the 250g Arrangement by doing a visual inspection inside his car, with Tan waiting outside his car to take away the excess (if any).⁸⁸ When questioned about how he knew the drugs actually weighed 250g or less just by a visual inspection, Reduan then claimed he kept a weighing machine in his car

⁸⁶ 17/4/19 NE 60.

⁸⁷ 17/4/19 NE 77.

⁸⁸ 17/4/19 NE 72–73, 77.

and would weigh the drugs.⁸⁹ Yet, specific to the Daia Box delivery, Reduan did not attempt to weigh or even do a visual inspection of the drugs therein, despite his claim that he already had some 125g of methamphetamine in the Flat and knowing that if the total amount found in his possession exceeded the 250g threshold it would attract the death penalty.

72 Reduan's claim that he had no time to check before he was arrested by CNB officers⁹⁰ rang hollow. In fact, after instructing Nazeeha to collect the delivery from Tan, he went to the toilet (based on his narrative) and then went back to bed. Nazeeha also came back to the bedroom to join him, after she had placed the Paper Bag and Daia Box in the living area. This was a case in which Reduan did not bother to check, and not one where he had no time to do so.

73 When pressed further as to why he went back to bed instead of waiting for Nazeeha to return with the Daia Box for him to inspect, Reduan stated that the Drugs were not his and he trusted Ahmad.⁹¹ I am aware that Ahmad is Reduan's relative and (on Reduan's account) they were close, and Reduan claimed that before 23 September 2016 Ahmad complied with whatever amount he requested.⁹² However, the fact remained that the situation at hand was unprecedented. This was the first instance where the consignment of drugs was, as Reduan claimed, to be passed to Ahmad's customer (as opposed to being ordered by Reduan for his own customers).⁹³ Further, Reduan's claim that he did not weigh the drugs in the Daia Box because he trusted Ahmad, contradicted

⁸⁹ 17/4/19 NE 78.

⁹⁰ 17/4/19 NE 29–30.

⁹¹ 17/4/19 NE 30.

⁹² 16/4/19 NE 43.

⁹³ 17/4/19 NE 28–29.

his own evidence that in previous transactions with Ahmad he had weighed the drugs (and did so immediately (see [71] above)) to ensure that they complied with the 250g Arrangement.

74 Second, the evidence contradicted the existence of the 250g Arrangement. Although Reduan claimed that Ahmad told Reduan that he would not send more than 125g of methamphetamine, Ahmad denied this.⁹⁴ Whilst Ahmad had disassociated himself completely from any drug transactions, the point remained that Reduan's claim was not substantiated by him. Nor do the text messages relied upon by Reduan support his case.

75 Reduan pointed to a message ("the Message") he sent, on 16 August 2016, which stated "the most I can kick 250".⁹⁵ However, the Message was sent to a contact named Ijai and not to Ahmad. Mr Masih (Reduan's counsel) confirmed that there were no messages between Reduan and Ahmad on the alleged 250g Arrangement.⁹⁶

(a) In any case I did not consider that the Message, when read in context, referred to Reduan trying to limit his exposure to below the capital amount. Some 10 minutes before Reduan sent the Message, he had sent another message to Ijai asking "how many to standby" "because many order", whereupon Ijai replied to ask for "500". Indeed, after sending the Message stating "the most I can kick 250", he sent Ijai another message to explain "because one stick is another customer's". I agreed with the Prosecution that, reading the messages together, Reduan

⁹⁴ 18/4/19 NE 10.

⁹⁵ 17/4/19 NE 61–62; Supplementary Agreed Bundle (Vol 3), p 3432.

⁹⁶ 17/4/19 NE 63, 65.

was unable to supply more than 250g of methamphetamine not due to any policy about dealing beyond a particular weight, but due to him having more than one order.⁹⁷ Indeed, Reduan’s explanation to Ijai why he could only supply 250g of methamphetamine to Ijai “because one stick is another customer’s” would suggest that Reduan was dealing with more than 250g of methamphetamine at the same time.

(b) Even though Reduan’s policy (as he claimed) was not to have at any one time more than 250g of methamphetamine and thus not to sell an amount exceeding 250g, Ijai had asked Reduan for 500g. I rejected Reduan’s explanation that Ijai had asked him for 500g of methamphetamine because Ijai saw Tan pass to Reduan a pack (which contained 250g of methamphetamine) and Tan had another “stick” in his motorcycle. As Reduan admitted, Ijai would not have known whether the “stick” contained drugs let alone the amount, and there was no evidence that Ijai knew the quantity of drugs in the pack that Tan had passed to Reduan. Further, if Reduan’s policy was that he would not deal with more than 250g of methamphetamine at a time, it was strange that his reply to Ijai (when Ijai asked for 500g) was that he could only “kick 250” because “one stick is another customer’s” when it would have been more logical to inform Ijai of his policy.

76 Additionally, on 14 July 2016, Reduan sent Nazeeha a message stating:⁹⁸

⁹⁷ PCS at para 67.

⁹⁸ Exhibit G, p 6.

Plz pray for me....and forgive me for the sins that i do it to u.....Ong sounds different...but i try...**to take the 1kg frm him**...if happen i get caught...plz tell all my bro that u knew...it because of Ong. let him die [emphasis added in bold]

Reduan admitted that he was informing Nazeeha that he would be collecting 1kg of “ice” from Tan.⁹⁹ Given how damaging this message was to his case, Reduan then claimed that he made up a story in that message because he wanted Nazeeha’s attention and to persuade her not to abort their baby (whom Nazeeha was pregnant with at that time).¹⁰⁰ Even assuming that the above message was sent whilst Reduan and Nazeeha were in a quarrel, as Mr Masih suggested, I disbelieved Reduan because there was no link between the text of the message and his purported attempt to seek Nazeeha’s attention. Nothing in the message suggested that Reduan was persuading or pleading with Nazeeha regarding their baby. When asked how a message like that would have persuaded Nazeeha not to abort their baby, he could not give a satisfactory explanation, and merely claimed that what he told her (that he was going to take 1kg from Tan) was something that “came to [him] out of a sudden”.¹⁰¹ Indeed, any mention of the baby came in a message *some 30 minutes later* (after a series of messages exchanged between them) from Reduan to Nazeeha asking, “1 question before I go ... Do you keep the baby?”¹⁰² I accepted the Prosecution’s point that even if Reduan’s explanation were true, it would have made no sense for him to

⁹⁹ 16/4/19 NE 57.

¹⁰⁰ 16/4/19 NE 57; 17/4/19 NE 17.

¹⁰¹ 16/4/19 NE 56–57; 17/4/19 NE 18–19.

¹⁰² DC2S, para 175(a) and Annex A (see D2’s letter dated 16 August 2019); AB 2791 (s/n 1560).

mention 1kg as the weight of “ice” as he knew that the capital threshold was 250g.¹⁰³

77 Then, on 18 September 2016, Reduan sent Nazeeha a message (“Reduan’s 18 September message”)¹⁰⁴ which I found supported that he was dealing with consignments of methamphetamine above 250g:

tom: 5-\$300

yan: 12.5-\$500 (\$400 cash \$100 debt)

Ijal: 500- \$12500

Mark Tony: 2 - \$200

Jepon: 25- \$850 (Cash \$100 & Debt \$750)

Black: .5 (\$70)

Ben: .5 \$50

Homer: 5 \$400

[emphasis added in bold]

(a) Reduan explained that the first number next to each person’s name was the quantity of drugs ordered by that person, followed by the price of the drugs. He accepted that “Ijal 500 - \$12500” referred to Ijal who had ordered 500g of “ice” at \$12,500.¹⁰⁵ He denied that these were his customers, claiming instead that they were Mambo’s customers for whom he collected money (with the deliveries being made by Mambo’s people) in return for a fee.¹⁰⁶ Mambo was, according to Reduan, a Malaysian Indian man.¹⁰⁷

¹⁰³ PCS, para 82.

¹⁰⁴ Exhibit G, pp 26–27.

¹⁰⁵ 17/4/19 NE 53, 93.

¹⁰⁶ 17/4/19 NE 35, 46–47.

(b) I disbelieved Reduan that the persons in the message were Mambo's customers, and instead found that they were Reduan's customers. Reduan's 18 September message was sent by him to *Nazeeha*. There was no reason why Reduan would discuss Mambo's customers with her. Pertinently Reduan's 18 September message was preceded by a message from Nazeeha to Reduan (just two minutes before) asking about "sales" and another message (about 30 minutes before) stating "I just need the sales update". In my view, reading the messages in context, Nazeeha was asking Reduan for an update of *his* sales of drugs. Reduan's attempt to explain in court that he was informing Nazeeha that he was collecting money for "ah long" activities was unconvincing and flew in the face of logic when seen in the context of Nazeeha asking him about sales updates.

78 Third, this defence was the latest instalment in a series of substantially varied defences that Reduan advanced. Initially he denied all knowledge of the Drugs and contents of the Daia Box, and then claimed that Jalal had asked him to collect washing detergent on 23 September 2016. Then, in his final statement (Reduan's 9th Statement) he stated the Drugs belonged to Ahmad who told him to hold onto it for someone to collect, and at the material time, he did not know the amount of "ice" in the Daia Box. It was only in court that he then proffered a different version – that he had informed Ahmad that he would not accept more than 125g of methamphetamine and Ahmad had agreed to this.

79 I disbelieved Reduan's explanation for the change in his version of events. In Reduan's 9th Statement, he claimed he lied and did not mention

¹⁰⁷ 17/4/19 NE 35.

Ahmad because if the CNB could not arrest Ahmad, he would “be dead”. Yet, he did not mention in that Statement the conversation he had with Ahmad about not accepting more than 125g of methamphetamine, despite intending to tell the truth by that time (as he claimed)¹⁰⁸. In court, he explained that he only mentioned Ahmad so late in the day because he feared for his family’s safety, as there had been a fire at his ex-wife’s home and he thus “felt threatened” and was afraid that something might happen to his family, and he then told his ex-wife (and their children) to move home.¹⁰⁹ His account was not corroborated (*eg*, by his ex-wife whom he could have called), and pertinently, he did not mention that his ex-wife’s home was on fire *because he suspected that Ahmad had something to do with it*. Hence it was baffling what his ex-wife’s home being on fire had anything to do with him finally “coming clean” and implicating Ahmad in the Drugs.

80 Likewise, I rejected Mr Masih’s submission that in the alternative Reduan should be considered to be only “holding” the Drugs for Ahmad’s customers.¹¹⁰ Even if this were so, it would not advance Reduan’s case. There is a difference between a person holding the drugs to return them to their owner, and holding the drugs to pass them to a third party: *Ramesh a/l Perumal v Public Prosecutor and another appeal* [2019] 1 SLR 1003 at [110] and [114]. In the former, the person holds the drugs merely as “bailee” with a view of returning them to the “bailor”, and cannot, without more, be liable for trafficking because the act of returning the drugs is not part of process of supply or distribution of drugs. In the latter, the person falls within the definition of trafficking.

¹⁰⁸ 17/4/19 NE 82.

¹⁰⁹ 17/4/19 NE 82–83.

¹¹⁰ DC2S at para 192.

81 Mr Masih cited *Public Prosecutor v Muhammad Farid bin Mohd Yusop* [2015] 3 SLR 16 (“*Muhammad Farid*”),¹¹¹ but that case did not assist Reduan. Unlike in *Muhammad Farid*, where the accused had satisfactorily outlined his defence in his cautioned statement, Reduan only raised the 250g Arrangement defence on the stand in what I found to be an afterthought. Reduan’s position is also untenable in the light of the aforementioned circumstances.

82 Hence, I rejected Reduan’s claim that he thought the Daia Box (or delivery from Ahmad) contained no more than 125g of methamphetamine, and rejected Mr Masih’s submission that just because Reduan did not open the Daia Box, he did not know the amount of drugs inside.¹¹² Knowing in advance that Ahmad was sending him a consignment of drugs, he did not even bother to verify its amount. I thus disbelieved his volte-face to now claim he trusted Ahmad. Accordingly, I rejected Reduan’s defence and I was satisfied that the Prosecution had proved its case against Reduan beyond reasonable doubt.

Findings on Nazeeha

83 It was not disputed that Nazeeha lived at the Flat with Reduan and she had collected the Daia Box from Tan at Reduan’s behest to be transported or delivered to the Flat. There was no assertion that the Drugs were for consumption by Reduan or Nazeeha.

84 The Prosecution relied on the presumptions of possession and knowledge under s 18 of the MDA. Nazeeha’s counsel (Mr Dhillon) did not

¹¹¹ DC2S at para 169.

¹¹² DC2S at para 163.

dispute that the presumptions were engaged.¹¹³ The case turned on whether the presumption under s 18(2) had been rebutted, as Nazeeha knew the Daia Box contained something (her claim being that she was collecting groceries).

Whether Nazeeha had prior knowledge of Reduan's drug activities

85 Preliminarily, I deal with Nazeeha's prior knowledge of Reduan's drug activities, namely his drug consumption, selling of drug paraphernalia, and drug trafficking. By her admission, she knew for about a year, prior to 23 September 2016 and even before she moved to the Flat, that Reduan was consuming drugs and selling drug paraphernalia and that his friends came to the Flat to consume drugs. By her account, by mid-August 2016 (or 19 August 2016), she had suspected that Reduan was involved in drug trafficking activities.¹¹⁴

86 I found that Nazeeha did not just "suspect", but actually knew, that Reduan was involved in drug trafficking activities. She saw a lot of methamphetamine in the Flat and helped Reduan to pack the small packets of drugs away when she cleaned the Flat.¹¹⁵ She agreed there were a lot of drugs in the Flat and if Reduan was just consuming drugs, there was no reason why there would be multiple sachets of drugs in the Flat.¹¹⁶ While she claimed only to have a "strong suspicion" that Reduan was selling methamphetamine, she eventually admitted that she *believed* that he was doing so, because he would never give her a satisfactory or straight answer whenever she asked him whether he was

¹¹³ 16/4/19 NE 18–19.

¹¹⁴ 17/4/19 NE 79; 7/5/19 NE 63; 8/5/19 NE 19, 31–32.

¹¹⁵ 7/5/19 NE 10, 35–36.

¹¹⁶ 7/5/19 NE 45.

selling methamphetamine.¹¹⁷ On 14 August 2016, Reduan had asked her to weigh some methamphetamine and told her that it was for his consumption but she did not believe him.¹¹⁸ On 19 August 2016, Reduan sent her a message with names and numbers on them, and asked her to copy its contents. She stated that she believed the contents of the message related to drug transactions, that the relation was “obvious”, and that was why after she recorded its contents halfway in a notebook, she decided to stop doing so.¹¹⁹ Subsequently, on 17 September 2016, Reduan sent her a message, which she herself stated was a record of him collecting money for drugs.¹²⁰

87 I further found that Nazeeha had, since sometime in July 2016, suspected that Reduan was involved in drug trafficking. On 14 July 2016, Reduan sent a message to Nazeeha (see [76] above), which he admitted he was informing her that he would be collecting 1kg of “ice” from Tan. Nazeeha’s reply, one minute later, was “amek katne” which Reduan stated literally meant “take at where”, and which Nazeeha stated could mean “fetch where” or “take from where”.¹²¹ About 15 minutes later, Nazeeha sent another message to Reduan stating “Da amek dari ong lom?” (“Have you taken from Ong or not?”).¹²² I disbelieved Nazeeha’s explanation that she was “testing [Reduan’s] bluff”¹²³, and found that she knew Reduan was informing her that he was going to take 1kg of “ice” from Tan. This must be seen in the light that she had already known for some time

¹¹⁷ 7/5/19 NE 66–67.

¹¹⁸ 7/5/19 NE 68, 71;

¹¹⁹ 7/5/19 NE 72–76; AB 523 (Nazeeha’s 3rd Statement, para 21).

¹²⁰ 7/5/19 NE 115; Exhibit G, p 23 (s/n 82 phone message).

¹²¹ 17/4/19 NE 22; 7/5/19 NE 81.

¹²² 3SAB 2471.

¹²³ 7/5/19 NE 87.

that Reduan was involved in drug-related activities (see [85] above). Indeed, Nazeeha admitted in court that when Reduan sent the message to her, she knew that Reduan meant that he was going to collect 1kg from Tan, but also prevaricated and said that she did not know what Reduan was trying to convey to her by this message and attempted to fudge the issue.¹²⁴ If she truly did not know what Reduan was trying to convey in that message, she clearly made no attempts to clarify with him.

Events of 23 September 2016

88 I turn to the events of 23 September 2016. Nazeeha claimed that Reduan had asked her to collect “barang barang” and which she understood to mean groceries,¹²⁵ but he did not tell her what groceries to collect. Mr Dhillon focused on rebutting the presumption of knowledge under s 18(2) of the MDA,¹²⁶ pointing out that if Nazeeha knew she was collecting drugs she would not have been so blasé about the collection – Nazeeha had sat on the pavement and smoked a cigarette and then went to check Reduan’s car for signs of affairs with other women. Further, the Daia Box was sealed and Nazeeha did not suspect that Tan was involved in drugs.

89 I disbelieve Nazeeha’s claim that she thought she was collecting groceries and I found that the s 18(2) presumption has not been rebutted.

¹²⁴ 7/5/19 NE 92–94.

¹²⁵ 7/5/19 NE 23–24.

¹²⁶ D3CS, paras 31–32.

90 First, although Nazeeha’s unchallenged evidence was that she had collected groceries from Tan prior to 23 September 2016, Nazeeha admitted that practically everything about the delivery of the Daia Box was unusual.¹²⁷

(a) She had *not*, on or shortly before 23 September 2016, asked Reduan to get Tan to purchase any groceries, let alone soap powder, for delivery on that day. This was unlike previous occasions where she would inform Reduan when she needed groceries and what groceries she needed, and Reduan would then place the order with Tan.¹²⁸ Indeed, Nazeeha’s evidence was that after Reduan spoke to Tan on the phone on 23 September 2016 and asked her to collect “barang barang” from Tan, *her reply to Reduan* was that *she did not even order groceries that day*, to which Reduan said “Just a little bit” but then did not tell her what the groceries were.¹²⁹ Nazeeha also admitted that she was surprised when Reduan asked her to collect groceries that day; yet, she did not bother to ask Reduan what items of “barang barang” she was collecting or why Reduan had asked Tan to buy “barang barang” when she had not requested for any.¹³⁰

(b) Next, the item delivered (which she claimed Reduan did not even tell her what it was, save to say that it was “barang barang”) was also unusual. On previous occasions, the groceries would be placed in “normal plastic bags”,¹³¹ but on this occasion, the Daia Box was placed

¹²⁷ 8/5/19 NE 22–27, 68.

¹²⁸ 7/5/19 NE 132.

¹²⁹ 7/5/19 NE 15.

¹³⁰ 8/5/19 NE 36–37.

¹³¹ AB 254 (Nazeeha’s 1st Statement, Answer 48).

in the Paper Bag. On previous occasions where she claimed that Tan had bought groceries on their behalf, it would be foodstuff, but this time it was a box of soap powder. At this juncture, I note that when she was asked in examination-in-chief what items of groceries Tan would deliver, she named only food items – “dried goods”, “tidbits, chocolates, something for [her] to fry. *That’s all*” [emphasis added] – consistent with the examples given in her investigation statement.¹³² It was only upon *her own counsel expressly suggesting* to her whether Tan had previously delivered soap detergent, that Nazeeha then said she had; but despite claiming that Tan had previously delivered groceries on no more than four occasions, she could not recall how many of those occasions Tan had also delivered soap detergent.¹³³ Hence, I rejected Nazeeha’s evidence that prior to 23 September 2016 Tan had ever delivered soap detergent to her. This was not specifically mentioned in any of her statements; she “agreed” that Tan had previously done so only upon Mr Dhillon’s prompting; and in cross-examination, despite being asked what type of groceries Tan had previously delivered, she mentioned only food items.¹³⁴ Even if Tan had ever delivered soap detergent to Nazeeha or Reduan in the past, the fact remained that Nazeeha *did not inform Reduan to ask Tan to buy groceries (or anything at all, for that matter) on 23 September 2016*. In this regard, Reduan himself stated that soap powder was not “groceries”.¹³⁵

¹³² 7/5/19 NE 33; AB 565 (Nazeeha’s 6th Statement, para 27).

¹³³ 7/5/19 NE 33.

¹³⁴ 7/5/19 NE 131; 8/5/19 NE 23.

¹³⁵ 16/4/19 NE 84–85.

(c) Additionally, Nazeeha stated that she did not hand Tan any cash or pay him for the “groceries” on 23 September 2016, which was unusual and the first time this had happened. On this occasion, she gave Tan an envelope which she claimed not to know the contents of.

(d) Nazeeha admitted that the manner in which the “groceries” was handed to her on 23 September 2016 was also unusual. Instead of Tan passing the Paper Bag with the Daia Box to Nazeeha, he had left it by the roadside or pavement for her to pick it up.

91 Given that Nazeeha had not ordered anything from Tan to be delivered on that day, claimed that Reduan did not tell her what she was collecting from Tan, and found that everything about the delivery of the Daia Box was unusual, this should have put her on alert to verify with Reduan what “barang barang” he asked her to collect, or verify from Tan what was in the Paper Bag. This is especially, by her account, she had believed for at least a month prior to 23 September 2016, that Reduan was involved in drug trafficking, and she was at that time suspicious of Reduan.¹³⁶ Indeed, Nazeeha admitted in court that given the unusual circumstances of that day and of the transaction and her suspicions by then that Reduan was trafficking in drugs, she should have been suspicious about the Daia Box and checked its contents.¹³⁷

92 Second, I deal with Nazeeha’s claim that she did not bother to check the contents of the Daia Box, despite the unusualness of the transaction, because she was not suspicious that Tan would be involved in any drug-related activity, as he was a bubbly and jovial person and did not look like someone who would

¹³⁶ 8/5/19 NE 25.

¹³⁷ 8/5/19 NE 22–27, 68.

consume drugs.¹³⁸ Her claim was unconvincing. There was no logical link between whether a person was bubbly or jovial and whether that person was dealing in drugs, and Nazeeha agreed that even if a person did not consume drugs this did not mean that he could not be trafficking in them.¹³⁹ Her reason for not being suspicious of Tan did not hold water, given her claim that she did know Tan personally, and on the occasions that they had previously met, they never talked to each other.¹⁴⁰ On the contrary, I found that the message sent from Reduan to her on 14 July 2016 (see [76] and [87] above) showed that Nazeeha knew what illicit activity Tan was involved in. In court, Reduan admitted that by this time, Nazeeha had suspected his drug trafficking activities with Tan.¹⁴¹ I reiterate – Nazeeha conceded that she should have been suspicious of the Daia Box and its delivery given how everything about that transaction was unusual, and should have checked its contents.

93 Third, the delivery of the Daia Box happened in the context of Nazeeha having, by her own admission, believed for at least a month from mid-August 2016 that Reduan was trafficking drugs. Indeed, I found that the evidence established that she assisted or wanted to assist Reduan with his drug sales, at least by prompting him for updates.

94 On 19 August 2016, Reduan texted her a list of names paired with quantities, such as “Ustad – 1.25” and “Alip – 6.25”.¹⁴² Nazeeha replied with “Lol...”, “Still got sommore”, “That’s a lot”, “I wish i could exchange our

¹³⁸ 7/5/19 NE 26, 96; 8/5/19 NE 32–33.

¹³⁹ 8/5/19 NE 33.

¹⁴⁰ 8/5/19 NE 30.

¹⁴¹ 17/4/19 NE 24.

¹⁴² Exhibit G at p 7.

position” and “But u wouldn’t let me”. In cross-examination Nazeeha agreed that she understood all these to mean that Ustad has bought 1.25g of methamphetamine from Reduan and Alip had bought 6.25g of methamphetamine from Reduan, but claimed that she realised these records had to do with drug transactions only when she copied them down in the notebook around midnight (believing at the point of receiving the message that the list had to do with collection of money).¹⁴³ She claimed that the “exchange our position” text was her way of joking with Reduan.¹⁴⁴

(a) I disbelieved Nazeeha that she did not understand Reduan’s message at the point of receipt, and I found that she was not making a joke but expressing a wish to help Reduan with his drug activities. Indeed, Nazeeha’s explanation regarding her replies to Reduan was inherently contradictory – she stated that when she replied to his message (in particular by saying “But u wouldn’t let me”) she meant that Reduan would not allow her to help him with collecting money from others, but then later stated that when Reduan first sent her the message, she was not even aware of what that message related to.¹⁴⁵

(b) I also disbelieved Reduan that he could not remember why he sent to Nazeeha the 19 August 2016 message with the list of customers for drugs.¹⁴⁶ This is given that he knew the message had to do with drug transactions for customers and he claimed that these customers or drug

¹⁴³ 7/5/19 NE 75, 103–104.

¹⁴⁴ 7/5/19 NE 99.

¹⁴⁵ 7/5/19 NE 103–105.

¹⁴⁶ 17/4/19 NE 35–37.

transactions had nothing to do with Nazeemha.¹⁴⁷ I thus found that he was attempting to shield her, given that she had been his girlfriend and was also the mother of their son.

95 Subsequently, on 17 September 2016, Nazeemha texted Reduan asking “Today’s sales update please”. Reduan replied with a voice message stating that the sale would only be closed at 12am, and Nazeemha then replied “Ok” and “I’ll be expecting to receive a prompt for today’s sale by 12.15”.¹⁴⁸ Similarly, on 18 September 2016, Nazeemha texted Reduan that “I just need the sales update”, and half an hour later asked “Sales?” Reduan then replied two minutes later with a list of names, quantity and payment (eg, “tom: 5-\$300”), to which Nazeemha replied “Thanks” and “Ade lagi bende nk org buat tk” (“Is there anything else you want me to do”).¹⁴⁹

(a) I found that Nazeemha was asking Reduan about sales updates pertaining to his drug transactions and was assisting him to keep track of drug sales. I rejected her explanation that she was reminding Reduan about debts that he was supposed to collect because he had asked her to do so as he was forgetful. As Nazeemha accepted, a “debt” was different from “sales”.¹⁵⁰ Her evidence also morphed – she later stated that Reduan wanted her to remind him of the people that he *had already collected* money from, but subsequently said that she was not genuinely asking Reduan about sales updates but just “playing on with this texts”.¹⁵¹

¹⁴⁷ 17/4/19 NE 7.

¹⁴⁸ Exhibit G, pp 23–24.

¹⁴⁹ Exhibit G, p 26–27.

¹⁵⁰ 8/5/19 NE 38–39.

¹⁵¹ 8/5/19 NE 42–44.

(b) Moreover, the tenor of Nazeeha’s message on 17 September 2016 (“I’ll be *expecting* to receive a prompt for today’s sales *by 12.15*”) and her persistence in repeatedly asking him for sales updates on 18 September 2016 (when Reduan did not give her a sales update on 17 September)¹⁵² suggested that she was not merely *reminding* Reduan because he was forgetful, but rather that she was *expecting an update* from him – which belies a more significant role than Nazeeha has attempted to lead the court to believe.

(c) Further, prior to Nazeeha’s 17 September 2016 message asking Reduan about “Today’s sales update please”, he had sent her a message on the same day (“the 1.50am message”), which Nazeeha herself stated was a record of Reduan *collecting money pertaining to drugs*¹⁵³.

(d) Reduan’s explanation pertaining to the exchange of messages with Nazeeha on 17 September was equally strange. He claimed that the 1.50am message was about money owed by Mambo’s drug customers to Mambo, but then said that Nazeeha thought the money came from “ah long” activities and not from drugs but he did not know what “sales” she was talking about in her message.¹⁵⁴

(e) It was clear to me from their mutually contradicting accounts that Reduan and Nazeeha were each (unsuccessfully) attempting to feign ignorance and dissociate themselves from Reduan’s drug activities. Whilst Nazeeha claimed that, by 19 August 2016, she had suspected

¹⁵² 8/5/19 NE 44–46.

¹⁵³ 7/5/19 NE 115.

¹⁵⁴ 17/4/19 NE 42–44.

what Reduan was doing and did not want to have anything to do with his drug-related activities¹⁵⁵, her phone exchanges with him on a later occasion of 17 to 18 September showed otherwise.

96 Fourth, I preferred Tan’s account, over Nazeeha’s, of what transpired during the transfer of the Envelope on 23 September 2016, in that Nazeeha had informed him that the Envelope contained \$950 of which some of it was his “kopi” money.

97 The accounts in Tan’s 1st, 3rd and 7th Statements were broadly consistent. Tan’s 1st and 3rd Statements stated that Nazeeha told Tan the Envelope contained \$950, with \$200 being his “kopi” money. Tan’s 7th Statement stated that Nazeeha told him there was \$950 in the Envelope, but added that Reduan had deducted \$50 owed to him when Tan bought “bing” from him. I am cognisant that against this, Tan proffered two contradictory accounts. In examination-in-chief Tan claimed Nazeeha told him the Envelope contained \$200,¹⁵⁶ and in Tan’s 4th Statement, he stated he did not know the amount in the Envelope. In court he claimed he could not recall which version of events was correct, though he stood by his 7th Statement as it was fairly contemporaneous.¹⁵⁷

98 Undoubtedly there were inconsistencies in his accounts but that was because he was attempting to distance himself from the drug transaction on 23 September 2016 and thus prevaricated in his evidence. He initially made up a story about an Indian man in his earlier statements. He also claimed he had no

¹⁵⁵ 8/5/19 NE 59–60.

¹⁵⁶ 15/4/19 NE 19.

¹⁵⁷ 15/4/19 NE 73.

idea what the remaining \$750 in the Envelope was for, but later admitted that Nazeeha had informed him that Reduan was deducting \$50 from him.¹⁵⁸ His initial evidence in court was that he did not know what was in the Daia Box, which was contradicted by his statements and subsequent testimony in court that Ahmad had told him it contained “bing”. As Tan finally stated in court, at the trial he was unable to remember clearly and would stand by what he said in the 7th Statement.¹⁵⁹

99 Further, Reduan claimed, in his statement, that he had informed Nazeeha to pass Tan \$950 and he confirmed in court that his statement was correct.¹⁶⁰ However, in his subsequent account in court, he claimed that he told Nazeeha there was money in the Envelope *but not the amount*.¹⁶¹ I disbelieved Reduan that he did not inform Nazeeha of the amount of money in the Envelope and I found that he was attempting to modify his testimony to disassociate Nazeeha from the drug transaction. It must be remembered that Nazeeha claimed she did not know the contents of the Envelope *at all*. Even by Reduan’s modified version in court, Nazeeha would have known the Envelope contained money.

100 As for Nazeeha, her own account was inconsistent. She claimed, for the first time in court, that she only said to Tan “nah” and nothing else. This version of her conversation with Tan was not in her statements. On the contrary, in Nazeeha’s 3rd Statement, she asserted that she had asked Tan where the bag was. However, in court she first denied she had mentioned this to ASP Prashant,

¹⁵⁸ 15/4/19 NE 54, 62.

¹⁵⁹ 15/4/19 NE 31, 53.

¹⁶⁰ AB 446 (Reduan’s 3rd Statement, para 9); 16/4/19 NE 38.

¹⁶¹ 16/4/19 NE 78–79.

then claimed that she could not recall how the conversation between her and Tan went but there “[wasn’t] much conversation”, before finally claiming that she could not recall specifically what the conversation was (when it was put to her that saying “nah” was an afterthought and untrue).¹⁶² I found Nazeemha’s assertion that she only said “nah” to Tan to be a belated attempt to disclaim knowledge of what exactly she was handing over to Tan.

101 Indeed, Nazeemha also claimed that, despite knowing there were words written on the Envelope¹⁶³, she could not see the words to be “Ong Salary for e Month September” (“the Words”) when she handed it to Tan. I disbelieved that she could not and did not see the Words on the Envelope before she handed it to Tan. I found that Nazeemha lied because the Words would have clearly informed that the Envelope contained money, and this would have gone against her defence that she did not know the contents of the Envelope.

(a) Nazeemha stated that she had slept with her contact lenses on, and when she woke up to go and collect groceries from Tan, her vision was blurry.¹⁶⁴ Yet, strangely, she could see the words on Reduan’s handphone, *which she admitted was much smaller in font size*, was able to change the password on his handphone, and was able to see Tan’s name appear (on the handphone) as the person who called Reduan on that day to collect the stuff. All these happened after she woke up and before she even took the Envelope to hand to Tan.¹⁶⁵

¹⁶² 8/5/19 NE 15–17.

¹⁶³ AB 517 (Nazeemha’s 2nd Statement, para 8).

¹⁶⁴ 8/5/19 NE 63–64.

¹⁶⁵ 7/5/19 NE 139; 8/5/19 NE 64, AB 517 (Nazeemha’s 2nd Statement, paras 6–7).

(b) Nazeeha then explained that although she had no difficulty reading what was on Reduan’s handphone, she could not read the Words on the Envelope because they were “faint” and “not bold” or “dark enough” for her to see.¹⁶⁶ But she subsequently conceded that the Words were clear¹⁶⁷; and this was consistent with my own observations of the Words that they were clearly written on the Envelope and in large font.¹⁶⁸

Conclusion on Nazeeha

102 I therefore rejected Nazeeha’s contention that she genuinely believed she was collecting groceries on that day, and found that she has not rebutted the presumptions under s 18 of the MDA. Even before 23 September 2016, Nazeeha already knew that Reduan was involved in drug activities. She admitted that the delivery of the “barang-barang” on 23 September 2016 was unusual, especially given that she had not ordered anything. Her reason for not verifying the contents of the Daia Box because Tan was a bubbly and jovial person whom she would not have suspected was involved in any drug, was unconvincing. The handphone messages between Reduan and her also showed that she wanted to assist him in his drug activities, to the extent of her actively prompting him for sales updates. I also found that she had seen the Words on the Envelope and known of its contents, and I accepted Tan’s account that Nazeeha had told him about some money in it being his “kopi money” – Reduan himself confirmed he had told Nazeeha there was money in the Envelope. Accordingly, I was satisfied that the elements of the charge against Nazeeha had been proven beyond a reasonable doubt, and I convicted her on the charge.

¹⁶⁶ 7/5/19 NE 139.

¹⁶⁷ 8/5/19 NE 34.

¹⁶⁸ See Exhibit I.

Sentence in relation to Tan

103 Given the quantity of drugs in relation to the charge against Tan, the prescribed punishment under s 33(1) of the MDA, read with the Second Schedule to the MDA, is death. However, under s 33B of the MDA, the court shall sentence the accused to life imprisonment, if he can prove on a balance of probabilities that he was merely as a courier (within s 33B(3)(a)) and that he was suffering from an abnormality of mind within the meaning of s 33B(3)(b).

104 I found Tan was a courier. The Prosecution accepted that Tan's involvement in the offence was limited to the activities of a "courier" within the meaning of s 33B(3)(a) of the MDA. ASP Prashant stated that based on investigations, Tan's role was limited to delivering drugs and there was no evidence that he was involved in selling or distributing drugs.¹⁶⁹ I was also satisfied that Tan had established on a balance of probabilities that he was suffering from an abnormality of mind that substantially impaired his mental responsibility for his acts and omissions in relation to his offence. The Prosecution did not challenge this and I saw no reason to doubt Dr Goh's report and assessment of Tan in this regard (see [14] above).

105 I therefore sentenced Tan to mandatory life imprisonment.

Sentence in relation to Reduan

106 Reduan was charged with abetment by instigating Nazeeha to commit an offence under s 5(1) of the MDA. Assuming that s 33B of the MDA applies to an abettor who instigates, the burden is on Reduan to prove, on a balance of

¹⁶⁹ 9/4 NE 112, 114.

probabilities, that his involvement was restricted only to the activities of a courier listed in s 33B(2)(a) of the MDA.

107 I found that Reduan had failed to show that his involvement was that of merely a courier. I had rejected his defence that he was merely holding the drugs for Ahmad's customer – Ahmad's evidence was unhelpful and did not support Reduan's case in any event. There was no evidence that what Reduan did was restricted to transporting, sending or delivering of the Drugs, or offering to do any of the aforementioned, within the definition of "courier" under s 33B(2)(a). His act of instructing Nazeeha to collect the Drugs from Tan was also not an act that was "preparatory to or for the purpose of" transporting, sending or delivering a controlled drug – which must be limited to facilitative and incidental acts (see *Zainudin bin Mohamed v Public Prosecutor* [2018] SGCA 8 ("*Zainudin*") at [91]).

108 I was cognisant that the court should look only to Reduan's role in respect of the charge for which he was tried (and in relation to the consignment of drugs which form the subject of the charge), in determining whether he was a courier. Nevertheless, as the Court stated in *Zainudin* (at [109]), it is imperative that the accused furnishes an explanation for his conduct if he is seeking to persuade the court that he is a mere courier, given that s 33B(2)(a) puts the burden on him to prove that he is a courier. Apart from his assertion that he was merely holding the Drugs for Ahmad's customers (which I disbelieved), Reduan had not shown me what he had intended to do with the Drugs, which were of a very large quantity.

109 In any event, as the Prosecution did not issue Reduan with a certificate of substantive assistance under s 33B(2)(b) of the MDA, Reduan could not avail

himself of the alternative sentencing regime under s 33B. I therefore passed the mandatory death sentence on him.

Sentence in relation to Nazeeha

110 The Prosecution submitted that the appropriate sentence should be at least 26 years' imprisonment, based on an indicative starting point of 29 years' imprisonment where the quantity of drugs was just below the capital threshold. Nazeeha had also assisted Reduan in his trafficking activities, including weighing drugs and keeping track of his sales records. As Nazeeha was financially dependent on Reduan and his drug trafficking business in particular, she benefitted financially from her assistance in his drug trafficking activities. Hence she was of low to medium culpability.

111 Mr Dhillon submitted that a sentence of 20 years' imprisonment would be appropriate. Nazeeha was not recruited by Reduan in his illegal drug enterprise and she did not receive any monetary benefit for her role. She also did not transport the Drugs in a sophisticated manner to avoid detection, and had cooperated in the investigations.

112 In *Adri Anton Kalangi v Public Prosecutor* [2018] 2 SLR 557 at [80] ("*Adri*"), the Court of Appeal held that the indicative starting sentence for trafficking in 217g to 250g of methamphetamine would be between 26 to 29 years' imprisonment and 15 strokes of the cane. In *Adri*, the Court upheld the sentence of 25 years' imprisonment and 15 strokes of the cane, where the accused had pleaded guilty to a charge of importing not less than 249.99g of methamphetamine. In *Pham Duyen Quyen v Public Prosecutor* [2017] 2 SLR 571, the Court of Appeal upheld the sentence of 24 years' imprisonment, where

the accused had claimed trial to a charge of importing not less than 249.99g of methamphetamine (the charge having been reduced to a non-capital offence).

113 I noted that Nazeeha had no antecedents. However, the quantity of methamphetamine in the amended charge was large, initially being capital in nature but subsequently reduced to just below the capital threshold. Further, apart from the fact that Nazeeha has no relevant antecedents and that she is young, there were no real mitigating factors such as a plea of guilt. Whilst there was no evidence that she had been “recruited” by Reduan in his drug trafficking activities, she had nevertheless assisted him willingly. I thus imposed a term of 24 years’ imprisonment.

Audrey Lim
Judge

Terence Chua, Jaime Pang and Teo Siqui (Attorney-General’s Chambers) for the Prosecution;
Low Cheong Yeow (Eugene Ho & Partners) and Kang Kok Boon Favian (Peter Low & Choo LLC) for the first accused;
Jameas Masih Bahadur (James Masih & Co), Skandarajah s/o Selvarajah (S Skandarajah & Co) and Khoo Shuzen Jolyn (Kelvin Chia Partnership) for the second accused;
Dhillon Surinder Singh (Dhillon & Panoo LLC) and Krishna Ramakrishna Sharma (Fleet Street Law LLP) for the third accused.
