

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 206

Criminal Case No 36 of 2018

Between

Public Prosecutor

And

- (1) Chandroo Subramaniam
- (2) Kamalnathan a/l Muniandy
- (3) Pravinash a/l Chandran

JUDGMENT

[Criminal Law] — [Statutory offences] — [Misuse of Drugs Act]

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Public Prosecutor
v
Chandroo Subramaniam and others

[2020] SGHC 206

High Court — Criminal Case No 36 of 2018

Chan Seng Onn J

15–17 May, 25–27 July 2018, 26–29 March, 15, 17, 21, 22 May, 9–11 July
2019, 10–13, 24–26 March, 15 September 2020

1 October 2020

Chan Seng Onn J:

Introduction

1 In the present case, the three accused persons face the following charges for their alleged involvement in the trafficking of three blocks of vegetable matter containing not less than 1,344.5g of cannabis (“the Drugs”):

(a) Pravinash a/l Chandran (“Pravinash”), the third accused, is charged under s 5(1)(a) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”) read with s 5(2) of the said Act for having the Drugs in his possession for the purpose of trafficking.

(b) Chandroo Subramaniam (“Chandroo”) and Kamalnathan a/l Muniandy (“Kamalnathan”), the first and second accused persons respectively, each face a charge for abetment by engaging in a

conspiracy with Pravinash and each other to traffic the Drugs under s 5(1)(a) of the MDA read with ss 5(2) and 12 of the said Act.

2 All three accused persons claimed trial to their respective charges. Each of them is presently represented by a different set of defence counsel. In the course of the trial, which was spread over three years, some defence counsel were discharged for various reasons at different junctures and were replaced on each occasion by new sets of counsel. In this Judgment, I refer to Chandroo's counsel as "DC1", Kamalnathan's counsel as "DC2" and Pravinash's counsel as "DC3" (collectively, "the Defence").

3 It is the Prosecution's case that Pravinash and Kamalnathan, both Malaysians, worked in concert to deliver the Drugs to Chandroo. According to the Prosecution, Chandroo, who is a Singaporean, had ordered the Drugs from a Malaysian drug supplier for S\$4,000, and Pravinash and Kamalnathan had been tasked by the said supplier to bring the Drugs to Chandroo from Malaysia. At the time of their arrest at different locations, all of the Drugs were found in Pravinash's possession.

4 Pravinash's defence is a denial of knowledge of the nature of the Drugs. Pravinash claims that he had simply been assisting Kamalnathan to transport "books". Kamalnathan's defence is likewise a denial of knowledge. Kamalnathan claims that the items, later established to be the Drugs, belonged to Pravinash and that he had simply been helping Pravinash find a job in Singapore. He had allegedly harboured a belief at that time that the items in question were "certificates" that were for the purpose of helping Pravinash secure a job in Singapore. Chandroo denies any involvement in the arrangement to traffic the Drugs and provides various explanations for why he had met Pravinash and Kamalnathan on the day of his arrest.

5 After considering the evidence and the parties’ submissions, I find that the Prosecution has proven its case beyond a reasonable doubt with respect to each of the accused persons. I accordingly convict all three accused persons of the respective charges they face. I provide below the reasons for my decision.

The facts

The arrest of the accused persons

6 On 5 March 2016, at about 5.27pm, Kamalnathan and Pravinash entered Singapore through Woodlands Checkpoint (“the Checkpoint”). Kamalnathan was riding a motorcycle bearing registration number KCP8801, and Pravinash was riding as a pillion passenger. The items later established to be the Drugs were in their possession at the time but had not been discovered at the Checkpoint.¹ The Drugs were wrapped in paper foil (marked “A1A1”, “A1B1” and “A1C1”) and further secured with transparent adhesive tape (marked “A1A”, “A1B” and “A1C”); see also photo exhibits P7 to P13).

7 Having crossed the Checkpoint, Kamalnathan and Pravinash proceeded to Kranji MRT station, while keeping in contact with their “boss”, one Suren (“Suren”), who was in Malaysia. Suren had been giving them instructions on the delivery of the Drugs through Kamalnathan’s handphone. At Kranji MRT station, in a public toilet, the Drugs were placed into a black Adidas haversack (marked “A”) which had been carried by Kamalnathan and Pravinash.² There is some disagreement between the two of them as to who had physical possession of the Drugs and the black Adidas haversack when they crossed the Checkpoint,

¹ AB at 1133.

² AB at 1133.

and who had placed the Drugs into the black Adidas haversack at Kranji MRT station.

8 From Kranji MRT station, Kamalnathan and Pravinash proceeded to a nearby coffee shop (“the Kranji MRT station coffee shop”), located a few minutes away, to wait for instructions.³ They remained there for about one to two hours. Thereafter, upon receiving further instructions from Suren, the two of them made their way to a different coffee shop five to ten minutes away (“the second coffee shop”). At the second coffee shop, Kamalnathan continued to liaise with Suren over the phone. After about 15 to 20 minutes, Kamalnathan and Pravinash left at 9.17pm for Kranji Road.⁴

9 It was along Kranji Road that Pravinash and Kamalnathan met Chandroo. Chandroo was riding his motorcycle, which bore registration number FBG1274J. There is significant disagreement among the three accused persons as to the nature and purpose of their encounter, as well as their interactions during this meeting, which I will discuss in the course of this Judgment. It is nevertheless common ground that the three of them did interact and converse along Kranji Road that evening.

10 The three accused persons then left Kranji Road and attempted to regroup at the Kranji MRT station coffee shop. According to Pravinash, this was due to the presence of Central Narcotics Bureau (“CNB”) officers in the vicinity of the former.⁵ Chandroo arrived at the Kranji MRT station coffee shop shortly after, and waited for Pravinash and Kamalnathan; however, the latter

³ AB at 1133.

⁴ AB at 1188.

⁵ AB at 1134.

two did not stop at the Kranji MRT station coffee shop, and, according to Chandroo, simply “sped past”.⁶ Chandroo then rode off on his motorcycle.⁷ It was at this point that CNB officers moved in to arrest them.

11 Pravinash was arrested at the overhead bridge outside Kranji MRT station, with the Drugs in his possession. Kamalnathan was arrested near the bus stop in front of Kranji MRT station. Chandroo was arrested in the vicinity of Lian Hup Building. The CNB officers seized from the accused persons, *inter alia*, the following items:

- (a) Pravinash: The black Adidas haversack and one mobile phone (marked “PC-HP”). Three blocks of a brown substance were recovered from the haversack (marked “A1A1A”, “A1B1A” and “A1C1A” respectively; henceforth referred to collectively as “the three blocks”).
- (b) Kamalnathan: One Lenovo tablet (marked “KM-HP1”), one Nokia mobile phone (marked “KM-HP2”) and S\$20.55 in cash.
- (c) Chandroo: Two mobile phones (marked “CS-HP1” and “CS-HP2”) and one brown envelope (marked “B”) containing S\$4,000 in cash (marked “B1”). The cash marked B1 was all in S\$50 notes secured together with a single rubber band.

Drug analysis

12 On 7 March 2016, Station Inspector Yip Lai Peng (“SI Yip”) submitted the three blocks to the Health Sciences Authority (“HSA”) for analysis. The

⁶ 1D2 at p 1.

⁷ 1D2 at p 2.

chain of custody is not disputed (except for an allegation made by Pravinash in his supplementary written closing submissions, which I will address subsequently (see [94] below)). Upon analysis, the three blocks were found to contain a total of not less than 1,344.5g of cannabis, *ie*, the Drugs:

- (a) A1A1A was found to contain not less than 479g of vegetable matter which was analysed to be cannabis.⁸
- (b) A1B1A was found to contain not less than 428.1g of vegetable matter which was analysed to be cannabis.⁹
- (c) A1C1A was found to contain not less than 437.4g of vegetable matter which was analysed to be cannabis.¹⁰

None of the parties dispute the analysis of the seized drug exhibits and the results of the analysis thereof. Further, upon DNA analysis by the HSA's DNA profiling laboratory, Kamalnathan's DNA was found on the adhesive side of the tapes used to secure A1C1A.¹¹

The recorded statements

13 There being no challenge on grounds of voluntariness, all the recorded statements listed in the following paragraphs were admitted into evidence. There was some dispute, in particular with respect to the statements recorded from Kamalnathan, as to whether the recording officers accurately recorded all

⁸ AB at 911.

⁹ AB at 912.

¹⁰ AB at 913.

¹¹ AB at 926.

that Kamalnathan told them – I will address this in the course of my analysis (see [64], [65] below).

Pravinash

14 Four statements relating to the charge against Pravinash were recorded from him between 5 March and 10 March 2016 (collectively, “Pravinash’s statements”). They are as follows:

(a) On the day of his arrest (5 March 2016), at about 10.48pm, Senior Station Inspector Ng Tze Chiang Tony (“SSI Ng”) recorded a contemporaneous statement from Pravinash.

(b) The next day, 6 March 2016, at about 10.17am, Station Inspector Quah Yong Sen (“SI Quah”) recorded a cautioned statement from Pravinash pursuant to s 23 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (“CPC”). One Malliga Anandha Krishnan (“Malliga”) served as interpreter for Pravinash who chose to speak in Tamil.

(c) SI Quah recorded the following two long statements from Pravinash under s 22 of the CPC, with Malliga serving as interpreter (referred to collectively as “Pravinash’s long statements”):

- (i) a statement recorded on 9 March 2016 at about 2.15pm;
and
- (ii) a statement recorded on 10 March 2016 at about 2.34pm.

Kamalnathan

15 Seven statements relating to the charge against Kamalnathan were recorded from him between 5 March and 7 October 2016 (collectively, “Kamalnathan’s statements”). They are as follows:

- (a) On the day of his arrest (5 March 2016), at about 10.50pm, Staff Sergeant Muhammad Fardlie bin Ramlie (“SSgt Fardlie”) recorded a contemporaneous statement from Kamalnathan.
- (b) The next day, 6 March 2016, at about 10.15am, SI Yip recorded a cautioned statement from Kamalnathan pursuant to s 23 of the CPC. One Subramaniam s/o Palanisamy (“Subramaniam”) served as interpreter for Kamalnathan who chose to speak in Tamil.
- (c) SI Yip recorded the following five long statements from Kamalnathan under s 22 of the CPC, with Subramaniam serving as interpreter (referred to collectively as “Kamalnathan’s long statements”):
 - (i) a statement recorded on 8 March 2016 at about 6.20pm;
 - (ii) a statement recorded on 10 March 2016 at about 7.15pm;
 - (iii) a statement recorded on 12 March 2016 at about 1.17pm;
 - (iv) a statement recorded on 25 August 2016 at about 10.28am; and
 - (v) a statement recorded on 7 October 2016 at about 9.48am.

Chandroo

16 Six statements relating to the charge against Chandroo were recorded from him between 5 March and 18 July 2016 (collectively, “Chandroo’s statements”). They are as follows:

- (a) On the day of his arrest (5 March 2016), at about 10.40pm, Sergeant Yogaraj s/o Ragunathan Pillay (“Sgt Yogaraj”) recorded a contemporaneous statement from Chandroo.
- (b) The next day, 6 March 2016, at about 9.14am, SI Yip recorded a cautioned statement from Chandroo pursuant to s 23 of the CPC. Subramaniam served as interpreter for Chandroo who chose to speak in Tamil.
- (c) SI Yip recorded the following four long statements from Chandroo under s 22 of the CPC, with Subramaniam serving as interpreter (referred to collectively as “Chandroo’s long statements”):
 - (i) a statement recorded on 9 March 2016 at about 7.05pm;
 - (ii) a statement recorded on 11 March 2016 at about 11.10am;
 - (iii) a statement recorded on 11 March 2016 at about 4.24pm; and
 - (iv) a statement recorded on 18 July 2016 at about 10.24am.

The parties’ cases

17 I will now set out the parties’ cases briefly before delving into the relevant details.

The Prosecution's case

18 As noted earlier, the Prosecution's position is that Pravinash and Kamalnathan were tasked to deliver the Drugs to Chandroo. All three accused persons were privy to this plan; their meeting at Kranji Road was for this very purpose. Kamalnathan took charge of the consignment, and Pravinash followed his lead.¹² The accused persons dispersed from Kranji Road and attempted to regroup at the Kranji MRT station coffee shop because Kamalnathan suspected that they were being watched/tailed by CNB officers. For the same reason, the accused persons fled in different directions from the Kranji MRT station coffee shop, before being arrested eventually.

19 In relation to Pravinash, the Prosecution submits that the three elements of the offence of possession of the Drugs for the purpose of trafficking are satisfied, namely that Pravinash (a) was in possession of the Drugs; (b) knew that the Drugs were cannabis; and (c) possessed the Drugs for the purpose of trafficking.¹³

(a) It is not disputed that Pravinash had possession of the three blocks, later established to be the Drugs, at the time of his arrest.

(b) Pravinash had actual knowledge that the three blocks were cannabis, *ie*, the Drugs because Pravinash told the CNB officers who arrested him that the three blocks were "ganja", which is a street name for cannabis. His actions were consistent with him having knowledge of the nature of the Drugs. In the alternative, the presumption of knowledge under s 18(2) of the MDA applies and has not been rebutted.

¹² Prosecution's Closing Submissions at para 6.

¹³ Prosecution's Closing Submissions at pp 42 to 52.

- (c) Pravinash shared Kamalnathan's intention to traffic the Drugs to Chandroo, and there is no indication of a contrary or different intention on Pravinash's part.

20 For Kamalnathan, the Prosecution submits that the three elements of the offence of engaging in a conspiracy with Pravinash and Chandroo to traffic in the Drugs are made out, namely that Kamalnathan (a) had jointly possessed the three blocks with Pravinash; (b) knew that the three blocks were cannabis, *ie*, the Drugs; and (c) had intended, together with Pravinash, to traffic in the Drugs by giving them to Chandroo.¹⁴

- (a) Kamalnathan brought the Drugs into Singapore in order to traffic in them. He had passed the Drugs to Pravinash for the latter to hand to Chandroo. Accordingly, Kamalnathan had joint possession of the Drugs with Pravinash.

- (b) Kamalnathan had actual knowledge that the three blocks were cannabis. In his statements, Kamalnathan states, amongst other things, that he knew he had entered Singapore on 5 March 2016 for the purpose of delivering drugs. He had completed such deliveries before and clearly knew what he was delivering on the day of his arrest. In the alternative, the presumption under s 18(2) of the MDA applies, and has not been rebutted.

- (c) Kamalnathan identified Chandroo as the intended recipient of the Drugs, and on the day of his arrest attempted to link up with

¹⁴ Prosecution's Closing Submissions at pp 53 to 74.

Chandroo to facilitate the delivery of the three blocks to Chandroo. His intention to traffic the Drugs is thus clear.

21 As for Chandroo, the Prosecution submits that the three elements of the offence of conspiring with Pravinash and Kamalnathan to traffic the Drugs to himself are made out, namely that Chandroo (a) was a party to the agreement for Pravinash and Kamalnathan to traffic the Drugs to him; (b) knew that the Drugs to be collected by him from Pravinash and Kamalnathan pursuant to that agreement were cannabis; and (c) intended to traffic the Drugs thereafter to other persons.¹⁵

(a) Chandroo’s account of events, *ie*, that he was intending to return money to his friend, one Kumar (“Kumar”), ought to be rejected, because the said account is inconsistent and unbelievable. In contrast, Pravinash’s and Kamalnathan’s implication of Chandroo is consistent and clear. It follows that Chandroo was in on the plan and had met the other two accused persons intending to collect the Drugs from them.

(b) As the intended purchaser and recipient of the Drugs, Chandroo must have known of their nature. The surrounding circumstances, *ie*, the timing of the meeting at Kranji Road late at night, the large amount of cash found on Chandroo to pay for the items to be collected by him, and his behaviour during the meeting with Pravinash and Kamalnathan, tell the same story. Chandroo accordingly had knowledge of the nature of the Drugs.

¹⁵ Prosecution’s Closing Submissions at pp 75 to 93.

(c) Based on the weight of the Drugs, and the absence of evidence demonstrating that Chandroo intended to only consume (and not on-traffic) the Drugs, it is inferable that Chandroo planned to further traffic the Drugs to other persons after purchasing and upon receiving them from Pravinash and Kamalnathan.

22 In proving its case as canvassed above, the Prosecution relies primarily on the following pieces of evidence:

(a) Pravinash’s, Kamalnathan’s and Chandroo’s statements (see [14], [15] and [16] above);

(b) Immigration and Checkpoints Authority (“ICA”) records demonstrating Pravinash’s and Kamalnathan’s movements into and out of Singapore in March 2016 (the “ICA records”);¹⁶

(c) the CNB Forensic Response Team (“FORT”) report on the internal memory of Kamalnathan’s Lenovo tablet (“the KM-HP1 records”);¹⁷

(d) the FORT report on the internal memory of Kamalnathan’s Nokia mobile phone (“the KM-HP2 records”) (KM-HP1 and KM-HP2 are collectively referred to as “Kamalnathan’s phone records”);¹⁸ and

¹⁶ AB at 961-963.

¹⁷ AB at 614.

¹⁸ AB at 707.

(e) the Singtel toll records for the Singapore phone number “90835501” that was linked to Kamalnathan’s Nokia mobile phone (“the toll records”).¹⁹

The Defence’s case

23 Each accused person advances a version of events which is, to varying degrees, inconsistent with the accounts of events provided by the other two.

(1) Pravinash’s case

24 Pravinash accepts that he entered Singapore on 5 March 2016 for an illegal purpose, and that he “assumed” that what he had been carrying into Singapore that day was drugs.²⁰ His defence is that he did not know of the nature of the Drugs. He had been tasked by Suren and one Pandian (“Pandian”) to assist Kamalnathan in delivering the three blocks from Malaysia to a customer in Singapore.²¹ Kamalnathan was the one in charge, and Pravinash simply followed the former’s instructions. He did so because Kamalnathan promised in return to help him get a motorcycle as well as find a job in Singapore.²²

25 Pravinash’s evidence is that on 5 March 2016, he and Kamalnathan carried the three blocks across the Checkpoint – Kamalnathan carried two of the three blocks, and he carried the last one.²³ He did so at Kamalnathan’s behest. Upon entering Singapore, Pravinash simply followed Kamalnathan’s

¹⁹ AB at 895.

²⁰ AB at 1132.

²¹ NEs, 12 March 2020, page 12, lines 4-15.

²² AB at 1132-1133.

²³ AB at 1133.

instructions. They headed to the Kranji MRT station coffee shop, and then to the second coffee shop, before eventually making their way to Kranji Road. Pravinash heard Kamalnathan liaising with a person on his mobile phone throughout their time in Singapore. He assumed that Kamalnathan was taking instructions from Suren.

26 At Kranji Road, Kamalnathan established contact with Chandroo by “signall[ing]” to the latter.²⁴ Kamalnathan stopped his motorcycle next to Chandroo’s. Upon making contact, Pravinash saw Chandroo hand money and two empty plastic bags over to Kamalnathan. He heard Kamalnathan tell Chandroo that they ought to regroup at the Kranji MRT station coffee shop due to the presence of “Police” in the vicinity. The meeting with Chandroo lasted two to three minutes. Kamalnathan then passed the two empty plastic bags to Pravinash, and they rode off. Nearby, at the industrial area near Kranji Road, the two of them placed the three blocks they had with them into one of the plastic bags given earlier to them by Chandroo. This plastic bag, now with the three blocks inside, was placed in the front basket of Kamalnathan’s motorcycle. They then made their way to Kranji MRT station. On the way, Kamalnathan instructed Pravinash to place the plastic bag containing the three blocks into the black Adidas haversack; Pravinash did what he was told and held on to the said haversack. The two of them eventually reached Kranji MRT station. Kamalnathan instructed Pravinash to go to the overhead bridge outside the station, where Pravinash was then arrested.

²⁴ AB at 1134.

(2) Kamalnathan's case

27 Kamalnathan's testimony in court is different from and inconsistent with the account of events in his long statements. I will address these inconsistencies below, but for now, it suffices to note that in closing submissions, Kamalnathan maintains the same position as that in his oral evidence, but disavows his long statements by, *inter alia*, challenging the statement recording process.

28 Kamalnathan's defence is that he knew nothing about the Drugs. He claims that he was tasked by Suren to bring Pravinash into Singapore for the purpose of helping the latter find a job. Suren was purportedly Kamalnathan's friend from some time ago.²⁵ In return for bringing Pravinash into Singapore, Kamalnathan would be paid RM200.²⁶ Kamalnathan was under the impression that the three blocks, which were seized from Pravinash, were "certificates" that were meant to help Pravinash secure a job. Based on this version of events, DC2 argues that Kamalnathan did not have knowledge of the Drugs and was not involved in the alleged conspiracy to traffic the Drugs to Chandroo.

29 The version of events put forward by Kamalnathan diverges from Pravinash's account. He claims that when he and Pravinash entered Singapore via the Checkpoint, he was not in possession of any of the three blocks. They were in Pravinash's possession.²⁷ Kamalnathan saw Pravinash carrying a black Adidas haversack when they met in Malaysia. After entering Singapore, they headed to Kranji MRT station – there, Pravinash entered a public toilet and

²⁵ NEs, 22 May 2019, page 10.

²⁶ AB at 1186.

²⁷ AB at 1187.

brought along the black Adidas haversack.²⁸ Kamalnathan waited for Pravinash at the Kranji MRT station coffee shop. After Pravinash came out of the toilet, he told Kamalnathan to call Suren to get instructions.²⁹ According to Kamalnathan, Suren then spoke with Pravinash using his (Kamalnathan's) mobile phone. After receiving instructions from Suren, the two of them headed to the second coffee shop.³⁰

30 After waiting ten to 15 minutes at the second coffee shop, Suren contacted Kamalnathan via phone, and informed him to meet "uncle" along "the side of a road". Kamalnathan then rode his motorcycle along Kranji Road with Pravinash as his pillion passenger. Kamalnathan spotted a man on a motorcycle with blinking lights waiting along the road and stopped beside him.³¹ This man was Chandroo. Chandroo then handed Pravinash S\$20 and gave Kamalnathan two plastic bags without prompting.³²

31 At this point, Kamalnathan claims to have received a phone call from Suren informing him that Chandroo was not "uncle", and that the "uncle" he was supposed to meet was at Kranji MRT station, specifically at the overhead bridge outside the station.³³ According to Kamalnathan, he then made his way to Kranji MRT station.³⁴ There, Pravinash went onto the overhead bridge to pass

²⁸ NEs, 22 May 2019, page 28, lines 19 to 26.

²⁹ AB at 1188.

³⁰ NEs, 22 May 2019, page 30.

³¹ NEs, 22 May 2019, page 34.

³² NEs, 22 May 2019, page 35, lines 27-31.

³³ NEs, 22 May 2019, page 37, lines 14-16.

³⁴ NEs, 22 May 2019, page 36, lines 1-6.

the “uncle” the “certificates”, while Kamalnathan used the bathroom.³⁵ Pravinash did so because he “kn[ew] uncle”, having passed the same uncle “certificates” before.³⁶ Shortly after, Kamalnathan was arrested by CNB officers.

(3) Chandroo’s case

32 Chandroo denies any knowledge of the conspiracy to traffic the Drugs. He claims that his meeting with Pravinash and Kamalnathan was on an entirely different premise – he was to repay a loan to his friend, Kumar. He had liaised with one Sathish (“Sathish”) in order to facilitate the said repayment. It was on Sathish’s instructions that Chandroo liaised with Pravinash and Kamalnathan at Kranji Road on the day of his arrest. At no point was Chandroo privy to the presence of the Drugs in their possession.

33 Chandroo states that he had purportedly been informed by Sathish to head to Sivan Temple at Kranji. When he reached Kranji Road at about 9.00pm, and as he was travelling on his motorcycle, he heard a horn, and “saw [two] persons seated on a motorcycle... and following [him] from behind”.³⁷ When Chandroo pulled over, the two persons on the said motorcycle also stopped beside him.³⁸ They were Pravinash and Kamalnathan, and he began conversing with them.³⁹ Chandroo understood them to be the men whom Sathish sent to collect Kumar’s money. Chandroo claims he then handed S\$20 and a plastic

³⁵ NEs, 22 May 2019, page 39.

³⁶ NEs, 22 May 2019, page 39, lines 1-3.

³⁷ 1D1 at p 4.

³⁸ 1D1 at p 4.

³⁹ 1D1 at p 5.

bag to Kamalnathan,⁴⁰ and was told by Kamalnathan to “wait at the Indian coffee shop in front” – this was a reference to the Kranji MRT station coffee shop.⁴¹

34 Chandroo did as he was told and headed to the Kranji MRT station coffee shop. When he reached, he stopped and waited; he then saw Kamalnathan and Pravinash “spe[eding] past” on the former’s motorcycle.⁴² Chandroo then rode off. He was later arrested by CNB officers who flanked him as he was riding his motorcycle.

Issues

35 Based on the parties’ cases, several discrete issues may be discerned vis-à-vis each of the accused persons. A number of these concern one pivotal question: *was there an arrangement between Pravinash, Kamalnathan and Chandroo for the Drugs to be delivered to the latter?* This is the central factual inquiry in the present case. If the answer is in the affirmative, several issues will be resolved in favour of the Prosecution, in particular the following:

- (a) whether Pravinash and Kamalnathan shared an intention to traffic the Drugs;
- (b) whether Kamalnathan had joint possession of the Drugs with Pravinash on the day of their arrest; and
- (c) whether Chandroo was part of an agreement with Pravinash and Kamalnathan to traffic the Drugs.

⁴⁰ 1D1 at p 5; NEs, 21 May 2019, page 3 line 17 to page 4 line 30.

⁴¹ 1D2 at p1.

⁴² 1D2 at p 1.

These, as will be explained, correspond to several of the elements of the charges that the accused persons face.

36 After addressing the aforementioned question, several issues remain that require further consideration, *viz*:

(a) In relation to Pravinash, the key issue pertains to the second element of the offence for which he is charged, *ie*, knowledge. Specifically, the question is whether he knew that the Drugs were cannabis.

(b) Similarly, for Kamalnathan, the key issue is whether he knew that the Drugs were cannabis.

(c) There are two residual questions with respect to Chandroo. First, whether he knew that the Drugs were cannabis. Second, whether he intended to traffic the Drugs thereafter, *ie*, on-traffic the Drugs after receiving them from Pravinash and Kamalnathan.

37 If the accused persons are found guilty, a separate question then arises at the sentencing stage. This is whether each of them may be considered mere couriers under s 33B(1)(a) of the MDA. I will first set out the elements of the relevant offences before I address each of the above issues in turn.

The elements of the offences

38 The Prosecution has, by and large, correctly identified the elements of the various offences for which the accused persons are being charged. I reiterate the salient portions of their written closing submissions below.

39 The three elements of the offence under s 5(1)(a) read with s 5(2) of the MDA are uncontroversial and were restated in the Court of Appeal’s decision in *Muhammad Ridzuan bin Md Ali v Public Prosecutor and other matters* [2014] 3 SLR 721 (at [59]) as follows:

- (a) possession of a controlled drug;
- (b) knowledge of the nature of the drug; and
- (c) the drugs were possessed for the purpose of unauthorised trafficking.

40 The elements of the offence under s 12 of the MDA of abetting by conspiracy an offence under s 5(1)(a) of the MDA have been framed with varying degrees of specificity and are phrased slightly differently in different cases. The Court of Appeal in *Chai Chien Wei Kelvin v Public Prosecutor* [1998] 3 SLR(R) 619 stated (at [76]) that the essential elements of abetment by conspiracy are: (a) the person abetting must engage with one or more persons in a conspiracy; (b) the conspiracy must be for the doing of the thing abetted; and (c) an act or an illegal omission must take place “in pursuance of the conspiracy in order to the doing of that thing”. The Court of Appeal in the subsequent decision of *Ali bin Mohamad Bahashwan v Public Prosecutor and other appeals* [2018] 1 SLR 610 (“*Ali bin Mohamad*”) stated that the *mens rea* elements for abetment of drug trafficking by way of a conspiracy are as follows:

- (a) the abettor must have intended to be party to an agreement to do an unlawful act (at [34]);
- (b) the abettor must have known the general purpose of the common design, and the fact that the act agreed to be committed is unlawful (at [34]); and

- (c) the abettor must have intended to traffic or pass on the offending drugs to someone other than himself (at [3], [76] and [78]).

In the light of the authorities above, the elements may be summarised as follows: where abetment by conspiracy in drug trafficking is concerned, what must be shown is that the abettor was privy to the plan to traffic the offending drugs, and intended to be part of that plan. The abettor must have committed an act or illegal omission pursuant to such a plan. Importantly, and although not expressly stated, it may also be gleaned from the line of authorities cited above that in addition to knowing that certain drugs were to be trafficked, the abettor must also know of the *nature* of the drugs intended to be trafficked pursuant to the conspiracy. This is part of the requirement of knowing, and intending to be a part, of the agreement to traffic illicit drugs. Lastly, the abettor must have intended the illicit drugs to be trafficked to someone other than himself.

41 Critically, these elements are also applicable in cases of a person abetting the trafficking of drugs *to himself/herself*. In particular, element (c) above comes to the fore in such situations: the abettor who is the purchaser or recipient of the drugs in the conspiracy must *not* be one who intends those drugs *only* for his own consumption but one who intends to *on-traffic* (eg, *on-sell*, *on-deliver*, *on-distribute*, or *on-transport*) the drugs in question to someone else (see *Liew Zheng Yang v Public Prosecutor* [2017] 5 SLR 611 at [33]–[47]; *Ali bin Mohamad* at [75]–[85]). This will be relevant for the discussion on Chandroo.

42 As for Kamalnathan who purportedly facilitated the delivery of the Drugs to someone else, *ie*, his co-conspirator Chandroo in the present case, the *mens rea* elements for the charge against him will be made out once the first two elements (see [40(a)] and [40(b)] above) are satisfied, *ie*, Kamalnathan

(a) intended to be a party to the agreement to traffic the Drugs to Chandroo, and
(b) knew of the general purpose of the agreement, and that the agreed act to traffic the Drugs to Chandroo is unlawful. The third element (see [40(c)] above) is necessarily made out once the first two elements are satisfied, as it follows that Kamalnathan must have intended those illicit drugs to be delivered to Chandroo.

43 I make a quick but important observation as regards the application of the case law reproduced above to the present case. As regards Pravinash and Chandroo, this is uncontroversial. The elements of the offence that have to be proven with respect to each of them are as reproduced at [39] and [40] above respectively. These broadly correspond with the Prosecution's submissions on the same (see [19] and [21] above).

44 For Kamalnathan, he is being charged under s 5(1)(a) of the MDA *read with ss 5(2) and 12 of the said Act*. Curiously, the Prosecution in their submissions appears to have framed the elements of his alleged offence in the context of a charge under s 5(1)(a) read with s 5(2) *simpliciter*, *ie*, absent the abetment by conspiracy limb (see [20] above). That said, this omission does not render the Prosecution's case defective: if the Prosecution does succeed in proving the elements set out in their submissions, they would indubitably fulfil the requirements of the abetment by conspiracy charge that Kamalnathan faces. If it is shown that Kamalnathan jointly possessed the Drugs with Pravinash, knew that the Drugs were cannabis and intended to traffic the Drugs to Chandroo,⁴³ then he would clearly have (a) intended to be a party to the agreement to traffic the Drugs to Chandroo, and (b) known of the purpose of the

⁴³ Prosecution's Closing Submissions at pp 53 to 74.

agreement. It goes without saying, then, that Kamalnathan must necessarily have intended that the Drugs be delivered or trafficked to Chandroo. I will thus proceed with my analysis based on the Prosecution's case *as indicated in their submissions*.

Whether there was an arrangement for Pravinash, Kamalnathan and Chandroo to traffic the Drugs

45 The central factual inquiry in this case can be parsed into two key questions: first, whether there was an arrangement between Pravinash, Kamalnathan and Chandroo to *meet* on 5 March 2016; second, what was the *purpose* of this meeting. I address these questions in turn.

Whether there was a plan to meet on 5 March 2016

46 In my view, there can be no doubt that there was an agreed arrangement for the three accused persons to *meet each other* on 5 March 2016. The evidence points emphatically to this conclusion. The *purpose* of this meeting known to or as understood by the three accused persons is a separate question, which I will address subsequently.

Pravinash's and Chandroo's evidence

47 Pravinash's evidence is unequivocal: he and Kamalnathan planned to meet Chandroo on 5 March 2016; he knew he had to deliver the Drugs to a customer in Singapore, and that he was assisting Kamalnathan in making the said delivery.⁴⁴ This customer was later established to be Chandroo.⁴⁵

⁴⁴ AB at 1132.

⁴⁵ AB at 1029, 1138.

48 It is significant that Pravinash had previous dealings with Kamalnathan where they similarly delivered drugs to different customers in Singapore. These consignments occurred in the days preceding 5 March 2016,⁴⁶ and are as follows:

(a) On 1 March 2016, Pravinash saw Kamalnathan pass a packet of “brown colour stones” to an Indian man in exchange for “a stack of money”.⁴⁷ This was done near Kranji MRT station.⁴⁸ Pravinash had never met the Indian man prior to this transaction; it appeared to him that Kamalnathan was able to identify the Indian man based on instructions from “Boss”, *ie*, Suren (it will be made clear in due course why this “Boss” could only have been Suren).⁴⁹ Pravinash had observed that Kamalnathan was always conversing with “Boss” on his mobile phone during their delivery of the “brown colour stones”.⁵⁰

(b) On 2 March 2016, Pravinash handed a “transparent plastic packet” of “brown colour stones” to a Chinese man near Kranji MRT station.⁵¹ He did so because Kamalnathan instructed him to pass “jama” to the said Chinese man. The “brown colour stones” had been hidden in a compartment of Kamalnathan’s motorcycle helmet.⁵² This is borne out by objective evidence that some of the protection foam at the top

⁴⁶ AB at 1130-1133.

⁴⁷ AB at 1131; NEs, 25 March 2020, page 5 line 17 to page 6 line 2.

⁴⁸ AB at 1130.

⁴⁹ AB at 1130.

⁵⁰ AB at 1130.

⁵¹ AB at 1131.

⁵² AB at 1131.

underside of Kamalnathan's motorcycle helmet (marked "KM-Helmet" – see exhibit P26) has been removed. I have examined KM-Helmet, which had been seized by the CNB officers, and there is indeed a hidden cavity inside. Pravinash also collected S\$2,500 from the Chinese man.⁵³ Kamalnathan did not interact with the Chinese man.

(c) On 4 March 2016, Pravinash again handed "jama" to an Indian customer.⁵⁴ He did so on Kamalnathan's instructions. The "jama" was contained in a haversack that Kamalnathan passed to Pravinash.⁵⁵ It appeared to Pravinash that Kamalnathan was able to identify the Indian customer after seeing the car driven by the said customer.⁵⁶

The above events are corroborated by documentary evidence in the form of the ICA records.⁵⁷ These records correspond with Pravinash's testimony. They show both of them entering Singapore on the aforementioned dates. It also bears mention that on these occasions, Pravinash knew or at least strongly suspected that the "brown colour stones" and/or "jama", which he had passed to customers, were drugs (I explain this subsequently; see [49] and [95(a)] below).

49 On 5 March 2016, Pravinash expected the arrangement to be the same, *ie*, that they were to deliver drugs to a customer in Singapore. Pravinash met Kamalnathan earlier that day, and saw the latter retrieve the three blocks from the ceiling of the apartment they were in. Pravinash conceded in his long

⁵³ NEs, 25 March 2020, page 10, lines 17-26; page 13, lines 12-26.

⁵⁴ AB at 1132.

⁵⁵ AB at 1132.

⁵⁶ AB at 1132.

⁵⁷ AB at 961-963.

statements that he had *assumed* that the three blocks were drugs “due to the previous times [he] had entered Singapore with [Kamalnathan] and the things that [Kamalnathan] told [him] to do”.⁵⁸ His confession demonstrates that (a) he knew that the items he had brought into Singapore between 1 March and 4 March 2016 were drugs, and (b) he was under the same impression on 5 March 2016.

50 It is irrelevant that Pravinash did not know of Chandroo’s identity prior to the planned delivery of the Drugs along Kranji Road. This does not preclude a finding that they intended to meet on that day to carry out the planned delivery of the Drugs. During the previous drug consignments between 1 March and 4 March 2016, Pravinash had also assisted Kamalnathan in making drug deliveries to *strangers*. According to Pravinash, their *modus operandi* was consistent: Kamalnathan and Pravinash would head to the Kranji area; there, the former would identify the intended customer whose identity, up to that point, would have been a mystery to them.⁵⁹ Based on Pravinash’s evidence and their conduct as described at [48] above, it is apparent that neither Kamalnathan nor Pravinash were acquainted with any of the customers they dealt with.

51 To ameliorate the difficulties with identifying an unknown customer, Kamalnathan would, on each occasion, obtain instructions from Suren on how to identify the intended recipient of the drugs they had been carrying. That this was Kamalnathan’s practice is supported by the documentary evidence, namely (a) the ICA records; (b) Kamalnathan’s phone records; and (c) the toll records.⁶⁰

⁵⁸ AB at 1132.

⁵⁹ AB at 1130-1131.

⁶⁰ AB at 961-963; AB at 614; AB at 707; AB at 895.

These show that Kamalnathan was in close contact with Suren either during, before or after each of their entries into Singapore:

(a) The ICA records reveal that Pravinash entered Singapore on 1 March 2016 at 6.42am, and exited Singapore at 9.11am.⁶¹ Kamalnathan entered Singapore at 6.41am, and left Singapore at 9.12am.⁶² The KM-HP1 records show that Kamalnathan received an incoming call from a contact named “Suren” that morning at 8.21am.⁶³ They spoke for a minute and 11 seconds. This shows that Kamalnathan had been in contact with Suren while they were in Singapore on that day for the drug delivery to the Indian man (see [48(a)] above).

(b) On 2 March 2016, Pravinash entered Singapore at 6.08am, and exited Singapore at 9.05am.⁶⁴ Kamalnathan entered Singapore at 6.07am, and left Singapore at 9.05am.⁶⁵ The toll records show that Kamalnathan received eight calls from the number “601128686205” between 6.21am and 7.33am, and made three outgoing calls to the same number between 6.14am and 7.20am.⁶⁶ This number was saved under the contact “Suren” in the “USIM” SIM card that was seized together with Kamalnathan’s Nokia mobile phone.⁶⁷ Further, the KM-HP1 records show that Kamalnathan made an outgoing call to “Suren” that

⁶¹ AB at 963.

⁶² AB at 961.

⁶³ AB at 619.

⁶⁴ AB at 963.

⁶⁵ AB at 961.

⁶⁶ AB at 909.

⁶⁷ AB at 720.

morning at 9.44am.⁶⁸ It is hence clear that Kamalnathan was in close contact with Suren that morning.

(c) On 4 March 2016, Pravinash entered Singapore at 5.15pm, and exited Singapore at 7.39pm.⁶⁹ Kamalnathan entered Singapore at 5.14pm, and left Singapore at 7.39pm.⁷⁰ The toll records show that Kamalnathan received two calls from Suren at 5.26pm and 6.01pm respectively, and made five outgoing calls to Suren between 5.20pm and 5.58pm.⁷¹ Again, it is clear that they were in constant contact.

The necessary inference from the above is that Kamalnathan sought instructions from Suren during each entry into Singapore and was hence able on each occasion to identify the intended recipient of the relevant drug consignment. This is consistent with Pravinash's claim that Kamalnathan had always been the one who identified the intended customer during their drug deliveries. Pravinash and Kamalnathan were thus never impeded by a lack of prior knowledge as to the intended customer's identity.

52 Pravinash's account of the specific events on 5 March 2016 shows that they adopted an identical *modus operandi* with respect to Chandroo. Pravinash saw Kamalnathan speaking to Suren on Kamalnathan's mobile phone prior to the link-up with Chandroo. This is confirmed again by the ICA records and Kamalnathan's phone records:

⁶⁸ AB at 619.

⁶⁹ AB at 963.

⁷⁰ AB at 961.

⁷¹ AB at 907-908.

(a) The ICA records show that Pravinash entered Singapore at 5.28pm, and Kamalnathan at 5.27pm.

(b) The KM-HP2 records show that Kamalnathan had, between 5.33pm and 9.45pm, dialled the contact “Abg Sp” a total of 13 times.⁷² Between 5.43pm and 9.55pm, he had received six calls from “Abg Sp”.⁷³

(c) In Kamalnathan’s Nokia mobile phone, the contact “Abg Sp” has the phone number “01128686205”.⁷⁴ This phone number is saved as “Suren” in Kamalnathan’s Lenovo tablet.⁷⁵ As mentioned earlier (see [51(b)] above), the same number (preceded by the international dialling prefix ‘60’) is also saved as “Suren” in the “USIM” SIM card that was seized alongside Kamalnathan’s Nokia mobile phone.⁷⁶ In other words, “Abg Sp” is Suren.

It is clear from the above that Kamalnathan was in constant contact with Suren on 5 March 2016 while he and Pravinash were in Singapore. The irresistible inference is that, as before, Kamalnathan would identify the intended customer based on instructions given to him by Suren.

53 Critically, Pravinash then saw Kamalnathan (a) establishing contact with Chandroo along Kranji Road; (b) speaking to Chandroo; and (c) receiving some money and plastic bags from Chandroo (see [26] above).⁷⁷ These show

⁷² AB at 713-714.

⁷³ AB at 716.

⁷⁴ AB at 713.

⁷⁵ AB at 614.

⁷⁶ AB at 720.

⁷⁷ AB at 1134-1135.

that Kamalnathan could, and in fact did, identify the intended recipient of the Drugs: Chandroo. That Chandroo responded to Kamalnathan shows that Chandroo was in on the act as well. The only logical conclusion is that the meeting between the three of them was certainly not serendipitous or unplanned. I see no reason to reject Pravinash's account, which is consistent, corroborated, and is in fact self-incriminating.

54 Chandroo's evidence to a certain extent also confirms this. While he asserts that their meeting was for a different purpose, he does not dispute that Pravinash and Kamalnathan were the persons he had intended to meet that evening. As noted, Chandroo's position is that he was due to return money to his friend, Kumar.⁷⁸ On 5 March 2016, he understood Pravinash and Kamalnathan to be the persons that he was to hand the money to (see [33] above).⁷⁹ Chandroo has never once said that Pravinash and Kamalnathan were *not* the persons he intended to meet that evening.

The various deficiencies in Kamalnathan's evidence

55 Kamalnathan's version of events is different: he asserts that Chandroo was *not* the person he and Pravinash had intended to meet. His case at trial is that he entered Singapore to assist Pravinash in handing over "certificates" to an "agent" who would help Pravinash find a job. Kamalnathan asserts that Chandroo was not the aforementioned "agent". He constantly refers to Chandroo as "*abang*" (for example, in his contemporaneous statement),⁸⁰ but asserts that "*abang*" and "agent *abang*" were different persons. It is the latter,

⁷⁸ 1D1 at pp 3-4.

⁷⁹ 1D1 at p 4.

⁸⁰ AB at 1099.

ie, “agent *abang*”, and not “*abang*”, who was the intended recipient of the Drugs. If what Kamalnathan asserts is true, then it could possibly be argued that Chandroo and the other two accused persons had not arranged to meet on 5 March 2016 – the meeting with Chandroo would have been merely fortuitous or a case of mistaken identity.

56 However, I do not accept Kamalnathan’s version of events. As correctly observed by the Prosecution,⁸¹ Kamalnathan’s account involving “agent *abang*” only emerged during trial. It contradicts the position in his contemporaneous statement, wherein he states that he was tasked to give the Drugs to “*abang*”; when shown a photo of Chandroo by SSgt Fardlie, he confirmed that Chandroo was the said “*abang*”.⁸² Kamalnathan insists that he had told the officers who recorded his statements about the separate existence of “agent *abang*”, but they had failed to record this. This however was never put to any of the relevant officers, and Kamalnathan accordingly cannot now rely on such an argument (see *Harven a/l Segar v Public Prosecutor* [2017] 1 SLR 771 (“*Harven*”) at [66]). The above shows that the story involving “agent *abang*” is an afterthought on Chandroo’s part.

57 In any event, Kamalnathan has not adduced a shred of evidence evincing the existence of “agent *abang*”. In fact, the available evidence points to the opposite conclusion: “agent *abang*” does not exist. Pravinash and Chandroo both testify that there was an agreement to regroup at the Kranji MRT station coffee shop after the three of them had met along Kranji Road.⁸³ Pravinash also confirms that they did so to evade CNB officers; conceivably, the plan to

⁸¹ Prosecution’s Closing Submissions at para 158.

⁸² AB at 1099.

⁸³ AB at 1134.

regroup was to facilitate the smooth delivery of the Drugs to Chandroo at a location where they believed CNB officers would not be present. Kamalnathan has not convincingly disputed their evidence. If Chandroo was *not* the intended recipient of the Drugs, and if Kamalnathan knew this, why did Kamalnathan instruct Chandroo to regroup at the Kranji MRT station coffee shop? It is Kamalnathan's own position that Suren informed him over the phone *during* the meeting at Kranji Road that "agent *abang*" was not at Kranji Road, but at the overhead bridge outside Kranji MRT station. If so, surely Kamalnathan would not have arranged for a subsequent rendezvous at the Kranji MRT station coffee shop but would have instead made a beeline for Kranji MRT station together with Pravinash. While Kamalnathan asserts that he did so, his evidence flies in the face of what both Chandroo and Pravinash have stated and what the CNB officers have observed; in fact, Pravinash's evidence is, as mentioned, *self-incriminating*, and no reason has been offered as to why Pravinash would lie about this matter. Tellingly, when confronted with this issue during cross-examination, Kamalnathan could only offer a bare denial.⁸⁴

58 I add, importantly, that the incredible nature of Kamalnathan's defence *as a whole* confirms that he is not a credible witness; his bare assertions, unsupported by evidence, cannot be accepted. I will explain this in greater detail when discussing Kamalnathan's account of the *purpose* of the accused persons' meeting at Kranji Road (see [63]–[67] below). For present purposes, based on the reasons above, it is apparent to me that Kamalnathan changed his evidence during trial in an attempt to exculpate himself. He attempts to distance himself from the Drugs. By (a) suggesting that Chandroo was *not* the intended recipient of the Drugs, and (b) asserting that there was a different recipient in his mind,

⁸⁴ NEs, 11 July 2019, page 9, lines 13 to 27.

Kamalnathan conceivably thought that he could deny involvement in the transaction even if Chandroo came clean and pointed the finger at him. However, as explained, his story is defective on multiple counts, and irreconcilable with Pravinash's and Chandroo's testimony. I therefore reject Kamalnathan's assertion that he did not intend to meet Chandroo on the day of their arrest. It is clear to me that Chandroo was, at all times, the person who Pravinash and Kamalnathan planned to meet on 5 March 2016.

59 The next question that arises concerns the *purpose* of the meeting along Kranji Road that evening.

The purpose of the meeting on 5 March 2016

60 On this issue, I prefer Pravinash's evidence as canvassed earlier (see [47] above), and reject Kamalnathan's and Chandroo's evidence. This is based on my assessment of the veracity of their respective accounts, as well as the significance of the events that occurred when the accused persons met along Kranji Road.

The veracity of the accused persons' accounts on the purpose of the meeting

(1) Pravinash's evidence

61 Pravinash's evidence, as noted at [47] above, is that the meeting at Kranji Road was for the purpose of delivering the three blocks to Chandroo.⁸⁵ He had been instructed by Suren and Pandian to assist Kamalnathan in this

⁸⁵ AB at 1130-1133.

endeavour.⁸⁶ Pravinash's account has been consistent throughout the proceedings.⁸⁷

62 Pravinash has no reason to lie; Kamalnathan and Chandroo have not provided any reasons for why Pravinash would have had an impetus to be dishonest in this regard. Pravinash's evidence on the nature of the meeting, which incriminates Kamalnathan and Chandroo, is *not* self-serving or exculpatory. By accepting that their meeting was for the purpose of completing the delivery of the three blocks, it would have been clear to Pravinash that he was inculcating himself as well: he was accepting that he was involved in a drug-related transaction. His substantive defence is a different one – he denies knowing the true nature of the contents inside the three blocks. This defence does not detract from the fact that his evidence on the purpose of the meeting at Kranji Road only served to further implicate him, as it demonstrates his involvement in what he knew was an illegal enterprise.⁸⁸ In this regard, the Court of Appeal's observation in *Chan Kin Choi v Public Prosecutor* [1991] 1 SLR(R) 111 ("*Chan Kin Choi*"), despite its relative vintage, is apposite (at [34]): "the incriminating parts [of a statement are] likely to be true whereas... excuses [do] not carry the same weight". Indeed, as a matter of common sense (and as I pointed out during the course of the trial), to lie to say one has committed an offence is the last thing anybody would do.⁸⁹

⁸⁶ AB at 1130.

⁸⁷ Prosecution's Closing Submissions at para 130.

⁸⁸ AB at 1132 ("After seeing the 'Books', I knew that they were [something] illegal... I assumed the 'Books' are drugs...").

⁸⁹ NEs, 9 July 2019, page 35, lines 10 to 12.

(2) Kamalnathan's evidence

63 In stark contrast, Kamalnathan's account is self-serving and his story morphed throughout the proceedings. The problems plaguing Kamalnathan's testimony on "agent *abang*" (see [56] and [57] above) are not limited to that aspect of his evidence. Indeed, Kamalnathan's *entire defence* involving the delivery of "certificates" to "agent *abang*" only surfaced during trial. This defence cannot square with the account of events in his statements. In his contemporaneous statement, Kamalnathan admits that he brought "a wrong thing", *ie*, the Drugs, and not "certificates" into Singapore at the behest of "Malaysia[n] people".⁹⁰ In his long statements, the following excerpts are relevant:⁹¹

19 ... Pandai said to bring 'jaman' into Singapore. I asked what 'jaman' [is]. He said they called it chocolate. I asked [him what chocolate means]. Pandai said Suren told him cannot say but to call it... chocolate. *When I heard that, I suspect[ed] that it might be drugs. I didn't like the job... I did not want this kind of job of bringing drugs into Singapore...*

...

22 Suren then continued calling me every day. I kept rejecting him. I told him that I did not want this kind of job... On one day during the night, [Suren] called me and told me that there is a boy who should be brought into Singapore...

...

29 On 5 March 2016, I met up with the boy... *I knew that the boy ha[d] drugs on him...* I suspected because the money [RM200] was too much just purely for sending the boy into Singapore...

[emphasis added]

⁹⁰ AB at 1099.

⁹¹ AB at 1184, 1185, 1187.

The above excerpts, as well as Kamalnathan's contemporaneous statement, are irreconcilable with his oral evidence. If it indeed were the case that Kamalnathan was labouring under the misimpression that he was bringing Pravinash into Singapore for the sole purpose of delivering "certificates" to the "agent", the necessary conclusion is that the reproduced portion of Kamalnathan's long statements are *self-incriminating lies*. I am not convinced that this could have been the case. It beggars belief that Kamalnathan would have given the statement that he did if he truly did not know of the illegal nature of the enterprise he was getting involved in.

64 Kamalnathan has not been able to justify his departure from the account of events in his statements. While he alleges that his statements were wrongly recorded and tries to challenge the statement recording process, these attempts are unmeritorious. The Prosecution has comprehensively set out the numerous allegations made by Kamalnathan at paragraphs 59–61 of their written closing submissions, and I do not propose to reproduce those paragraphs here.⁹² What is important is that all of Kamalnathan's allegations are spurious and to be given short shrift for the following reasons:

- (a) Multiple allegations were levelled against SSgt Fardlie, including *inter alia* that SSgt Fardlie had fabricated portions of Kamalnathan's contemporaneous statement. These serious allegations, if true, would amount to gross misconduct by SSgt Fardlie. Yet, Kamalnathan could not provide any evidence of such misconduct. Nor could he provide any reason why SSgt Fardlie would have wanted to sabotage him by fabricating evidence.⁹³ That Kamalnathan signed on the

⁹² Prosecution's Closing Submissions at paras 59–61; see also para 118 onwards.

⁹³ NEs, 10 March 2020, page 25, lines 15-20.

contemporaneous statement after it had been read back to him further suggests that there could not have been fabrication of the nature alleged.⁹⁴

(b) It was never put to SSgt Fardlie that he had fabricated portions of Kamalnathan’s contemporaneous statement. Nor was the issue pursued at any meaningful length in cross-examination. Accordingly, Kamalnathan is precluded from making a submission to that effect (see *Harven*, [56] *supra*, at [66]).

(c) The same may be said vis-à-vis SI Yip’s recording of Kamalnathan’s long statements. While Kamalnathan alleges that SI Yip had failed to record his defence concerning the delivery of “certificates” to an “agent” in Singapore, (i) there is no evidence of such an omission; (ii) it was never put to SI Yip that such an omission had been made; and (iii) the issue had not been meaningfully explored with SI Yip in cross-examination.

65 In this regard, the observations of V K Rajah JA in *Thong Sing Hock v Public Prosecutor* [2009] 3 SLR(R) 47, which concern the evidence of public servants such as investigation officers, ought to be reiterated:

35 ... [i]n *Registrar of Vehicles v Komoco Motors Pte Ltd* [2008] 3 SLR(R) 340 (“*Komoco*”), the Court of Appeal observed at [38] that:

In the absence of cross-examination, the only justification for not believing a sworn statement, especially one from a state official... is ***if documentary or other oral evidence is adduced to disprove it***.

Although *Komoco* was concerned with a state official performing an administrative function, I was of the view that the reasoning

⁹⁴ AB at 1048-1051; NEs, 10 March 2020, page 35, lines 17-20.

in *Komoco* should generally ***apply to a sworn statement by a police officer*** as well...

[emphasis added in bold italics]

Kamalnathan's statements were admitted into evidence via SSgt Fardlie and SI Yip, both of whom gave their evidence on oath. Thus, absent any concrete evidence demonstrating that the relevant officers had made such omissions or were engaged in such misconduct, I find it hard to believe any of Kamalnathan's bald allegations. I am of the view that his *self-incriminating* account in his statements is a better representation of what actually occurred on 5 March 2016 (see *Chan Kin Choi*, [62] *supra*, at [34]).

66 Kamalnathan is also dishonest about his role in the attempted delivery of the three blocks to Chandroo. I am totally unpersuaded by Kamalnathan's repeated assertions that Pravinash was the one in charge of the entire operation, and that he had merely been sent to Singapore to help Pravinash secure a job. As noted, Pravinash and Kamalnathan had entered Singapore in the days preceding their arrest to carry out several successful drug deliveries (see [48] above). What is pertinent is that the toll records and Kamalnathan's phone records paint a clear picture of who had been in charge all this while. I have alluded to this in my earlier analysis of the documentary evidence (see [50]–[53] above). To reiterate, I am satisfied that it was Kamalnathan, *not* Pravinash, who had always been in contact with Suren at the material time. This was also the arrangement on 5 March 2016. Kamalnathan received instructions from Suren and acted upon them; Pravinash simply followed his lead.⁹⁵ The FORT analysis on the mobile phone seized from Pravinash confirms this. In stark contrast to the constant communication between Kamalnathan and Suren, there

⁹⁵ AB at 1133-1134.

was never *any* contact between Pravinash and Suren even though Pravinash was also carrying his mobile phone on the day of his arrest.⁹⁶ If Suren wished to liaise with Pravinash, he could have easily done so. That he did not points strongly to the conclusion that Pravinash was never the one in charge of the drug delivery operations. The significance of my finding in this regard is clear: Kamalnathan was repeatedly and dishonestly trying to shift the blame to Pravinash.

67 The aforementioned discrepancies in Kamalnathan’s evidence naturally deal a significant blow to his credibility. Kamalnathan is obviously trying to play down his culpability. He backtracks from a self-incriminating position. He recants his statement that he had brought drugs into Singapore, and instead characterises the meeting with Chandroo as an innocuous one involving the delivery of “certificates” in support of Pravinash’s job search in Singapore. He also paints Pravinash as the mastermind, and himself as a blind follower. In the circumstances, I am not persuaded by his evidence. To be clear, I accept that there may be some truth to Kamalnathan’s narrative on the “certificates”, *ie*, that there was some semblance of a plan to help Pravinash secure a job in Singapore. Pravinash alluded to this in his long statements.⁹⁷ However, Pravinash qualified that Kamalnathan had agreed to help him find a job *subject* to him assisting Kamalnathan with the delivery of the three blocks.⁹⁸ Accordingly, and for the above reasons, I am of the view that Kamalnathan is only being partially truthful in his “certificates” narrative. He may have agreed to help Pravinash find a job in Singapore. However, he deliberately omits a most

⁹⁶ Prosecution’s Closing Submissions at para 31; AB at 723.

⁹⁷ AB at 1132.

⁹⁸ AB at 1133.

critical detail: they had entered Singapore that day (*ie*, 5 March 2016) with the clear and specific purpose of delivering the Drugs to Chandroo; helping Pravinash find a job in Singapore might well have been on their agenda *but for another time and on another day*. I do not believe that there was any arrangement to meet an employment agent in Singapore who was to be handed any of Pravinash's certificates late that same evening on 5 March 2016. Chandroo never once said that he was an employment agent. No other person claiming to be an employment agent had appeared on the scene to meet up with Kamalnathan and Pravinash late that same evening in relation to job offers or the collection of Pravinash's certificates.

(3) Chandroo's evidence

68 Chandroo's version of events equally cannot stand up to scrutiny. Chandroo testifies that he had met Pravinash and Kamalnathan for the purpose of passing them money that was to be returned to Kumar, his friend in Malaysia. Several aspects of his evidence, however, are deficient.

69 First, his account of events is not cogent. In his contemporaneous statement, Chandroo's position is that all of the S\$4,000 found on him was to be returned to Kumar, because the latter had loaned him the same amount.⁹⁹ His story subsequently changed; in his long statements, Chandroo states that S\$2,000 was meant to be returned to Kumar, S\$1,000 was meant to be payment for his house in Malaysia and for his family's expenses, and the remaining S\$1,000 was for his own expenses.¹⁰⁰ Then, during trial, Chandroo inexplicably changed his evidence again and claimed that S\$2,000 was meant for Kumar,

⁹⁹ P140 at Q14 and A14.

¹⁰⁰ 1D3 at para 33.

and S\$2,000 was meant to be payment for his house.¹⁰¹ The inconsistency between his three versions of events is never satisfactorily explained, and casts a pall over the veracity of his evidence.

70 The above notwithstanding, Chandroo's version of events that he settled on at trial simply does not add up. The eighty S\$50 dollar notes (amounting to a total of S\$4,000) that were seized had been bundled together as one bundle and was tied with a single rubber band;¹⁰² this bundle of notes was placed in a single envelope. If it were true that the money was to be divided in the proportion indicated in the preceding paragraph (*ie*, S\$2,000 for Kumar and S\$2,000 for payment for his house as per his evidence at trial), one would expect Chandroo to have packaged the money differently. By the time the three accused persons met along Kranji Road, Chandroo would have been due to pass the money to Pravinash and Kamalnathan. It would have been extremely inconvenient for Chandroo to have counted and repacked the money there and then, when he would have had ample time to do so *before* meeting Pravinash and Kamalnathan. After all, according to him, Kumar's loan to him had been outstanding for some time, and it was *he* (Chandroo) who had arranged for the loan to be repaid that day.

71 Further, Chandroo's case is that Kumar did *not* ask for the loan to be repaid in March 2016. It was Chandroo who wished to repay the loan at that point.¹⁰³ Chandroo subsequently applied for a separate *interest-bearing* loan in January 2016, at his own volition.¹⁰⁴ I do not understand why Chandroo had felt

¹⁰¹ NEs, 21 May 2019, page 26, lines 4-9.

¹⁰² 1D2 at para 20.

¹⁰³ NEs, 21 May 2019, page 58, lines 1-8.

¹⁰⁴ NEs, 21 May 2019, page 58, lines 5-7.

a need to repay Kumar at that particular point in time. This is especially so given that the loan from Kumar was, on Chandroo's evidence, an *interest-free* loan.¹⁰⁵ Chandroo has not offered any convincing explanation in this regard.

72 Furthermore, if the repayment of Kumar's loan was indeed "urgent", as Chandroo asserts, it is not clear why repayment of the loan could not have been made earlier, in February 2016. After all, according to Chandroo, he had taken out a loan application in January 2016 for the purpose of repaying Kumar; the said loan had been disbursed to his bank account in February 2016.¹⁰⁶ When questioned on this point by the Prosecution, Chandroo could only baldly assert that he was "unable to go to Malaysia".¹⁰⁷ This is unsatisfactory. Chandroo accepts that he made frequent trips into Malaysia,¹⁰⁸ and offers no reasons as to why he could not have done so in February 2016 in order to personally repay Kumar. I would add that for him to then urgently arrange to repay Kumar a large sum of money via proxy (*ie*, through someone else that he may not have been acquainted with) just a month later does not make much sense. Furthermore, since Kumar did not ask for repayment of the *interest-free* loan, it does not seem logical at all for Chandroo to take up an *interest-bearing* loan to repay an *interest-free* loan on an urgent basis.

73 The veracity of Chandroo's evidence is also shown up by Pravinash's and Kamalnathan's testimony. Pravinash and Kamalnathan both incriminated Chandroo. Pravinash's consistent testimony is that he saw Kamalnathan identify

¹⁰⁵ NEs, 21 May 2019, page 56, lines 19-20.

¹⁰⁶ NEs, 21 May 2019, page 58, lines 9-11.

¹⁰⁷ NEs, 21 May 2019, page 58, lines 17-18.

¹⁰⁸ NEs, 21 May 2019, page 55, lines 23-25; page 55 line 31 to page 56 line 1; page 57, lines 22-24.

Chandroo as the intended recipient of the three blocks, and that they made contact along Kranji Road for that purpose. Upon his arrest, Pravinash was shown a photo of Chandroo, and he identified Chandroo as the “customer” who was the intended recipient of the three blocks.¹⁰⁹ Kamalnathan similarly identified Chandroo as the “uncle” who was to be the recipient of the “certificates” (*ie*, the three blocks according to Pravinash).¹¹⁰ In the light of this, Chandroo’s version of events that the meeting was for him to pass money to Pravinash and Kamalnathan to return a loan to Kumar in Malaysia must be rejected. Both Pravinash and Kamalnathan do not allude in their testimony to any collection of loan money on behalf of Kumar from Chandroo.

74 From the above, it is clear that Pravinash’s testimony on the purpose of the meeting at Kranji Road is the most cogent and credible. In contrast, Kamalnathan and Chandroo are demonstrably dishonest, and their evidence is littered with multiple inconsistencies which serve only to undermine their veracity.

The accused persons’ interactions along Kranji Road

75 The manner in which Pravinash and Kamalnathan interacted with Chandroo along Kranji Road further corroborates Pravinash’s evidence that the purpose of their meeting was to traffic the three blocks. I again accept Pravinash’s account of events, which is largely clear and consistent. He testifies that Kamalnathan was the one who identified and established contact with Chandroo. Pravinash then saw Kamalnathan receive “a Singapore \$10 note”

¹⁰⁹ AB at 1029, 1138.

¹¹⁰ AB at 1201.

from Chandroo, as well as “two white plastic bags”.¹¹¹ While there is a minor inconsistency in his evidence as regards the money passed to Kamalnathan (Pravinash confirms that he only saw S\$10 being exchanged, whereas Chandroo and Kamalnathan claim it was S\$20), I do not see this as consequential. Furthermore, the exchange took place at night and as such, Pravinash might not have had a clear view of the amount of money that Chandroo passed over to Kamalnathan. What is material is that it is undisputed that some money had in fact been passed by Chandroo to Kamalnathan. As for the plastic bags, Kamalnathan subsequently handed these over to Pravinash, who then kept them in the black Adidas haversack. Pravinash also heard Kamalnathan giving Chandroo instructions to regroup at the Kranji MRT station coffee shop. Kamalnathan did so because Pravinash had alerted him to the presence of “Police” in the vicinity.¹¹² Specifically, Pravinash told Kamalnathan that he “felt someone was watching [them]”.¹¹³

76 Chandroo’s evidence on the events at Kranji Road, as per his long statements, corroborates Pravinash’s account to some extent. As mentioned, Chandroo states that he handed S\$20 and a plastic bag to “the rider”, *ie*, Kamalnathan.¹¹⁴ Chandroo was then told by Kamalnathan to wait at the Kranji MRT station coffee shop.¹¹⁵ This important fact of having to meet again at another location emanating from Chandroo by and large mirrors Pravinash’s evidence. While there is a minor inconsistency in Chandroo’s evidence, *ie*, he claims he passed only *one* plastic bag to Kamalnathan (and not two), this is in

¹¹¹ AB at 1134-1135; NEs, 12 March 2020, page 24, lines 1-4.

¹¹² AB at 1134.

¹¹³ NEs, 13 March 2020, page 17, lines 4-9.

¹¹⁴ 1D1 at p 5.

¹¹⁵ 1D2 at p 1.

my view immaterial. Pravinash's and Kamalnathan's evidence is that there were two plastic bags; indeed, two plastic bags were in fact recovered by the CNB officers (marked "A1" and "A2" respectively). More importantly, what is crucial is that Chandroo accepts that an exchange of this nature occurred with Kamalnathan.

77 Kamalnathan's evidence on the specific events at Kranji Road is, yet again, inconsistent.

(a) His initial evidence in his long statements is that Pravinash, not Suren, pointed him to the direction of Chandroo. Kamalnathan also states that he was given instructions by Suren to leave Pravinash with Chandroo, although it is unclear why this was not eventually done. He also claims that when they met, Chandroo handed "some plastic bags" to Pravinash.¹¹⁶ After this, Kamalnathan rode off with Pravinash as his pillion passenger. No mention is made of the planned rendezvous at the Kranji MRT station coffee shop, or them being alerted to the presence of CNB officers nearby.

(b) In the course of his long statements, however, his story changes – he claims that Suren did *not* give him instructions to leave Pravinash with Chandroo.¹¹⁷ He also makes no mention of seeing Chandroo pass any plastic bags to Pravinash, and instead claims that Pravinash *told him* that Chandroo had handed him (Pravinash) two plastic bags. Again, he does not mention that he had informed Chandroo to regroup at the Kranji MRT station coffee shop.

¹¹⁶ AB at 1189.

¹¹⁷ AB at 1197.

(c) At trial, Kamalnathan states that Chandroo had given him two plastic bags. When the inconsistency between this position and that in his statements was pointed out to him at trial, he claimed that his statements had been wrongly recorded. Yet, this allegation was never put to SI Yip or the interpreter, Subramaniam.¹¹⁸

When confronted during cross-examination with Chandroo's and Pravinash's version of events, Kamalnathan again could only offer a bare denial.¹¹⁹ In the light of the conspicuous internal contradictions in his evidence, his lack of credibility (see [67] and [74] above), and Pravinash's consistent evidence to the contrary, I disregard this portion of Kamalnathan's testimony. I instead prefer Pravinash's and Chandroo's account of the relevant events, *ie*, that they had in fact arranged for a regrouping at another location (the Kranji MRT station coffee shop).

78 Pravinash's and Chandroo's account of having to meet again at another location is significant. As the Prosecution rightly points out, that the accused persons saw the need to regroup when alerted to the presence of CNB officers in the vicinity speaks to the conclusion that they were involved in illicit/illegal activity.¹²⁰ I agree that there would have been no good reason to regroup if the intended transaction was merely an innocuous one such as a handing over of educational certificates or monies for the repayment of a loan.

79 Indeed, the fact that a second meeting (at the Kranji MRT station coffee shop) was convened casts serious doubt over both Kamalnathan's and

¹¹⁸ Prosecution's Closing Submissions at para 161.

¹¹⁹ NEs, 11 July 2019, page 7 line 9 to page 8 line 2.

¹²⁰ AB at 1134.

Chandroo's evidence on the *purpose* of the meeting. If Kamalnathan and Pravinash were indeed intending to hand over "certificates" to someone in Singapore at the meeting, why would Kamalnathan see the need to convene a second meeting at the Kranji MRT station coffee shop? The certificates could simply have been handed over at Kranji Road. Kamalnathan does not satisfactorily explain or justify the need for the second meeting at the Kranji MRT station coffee shop. Likewise, Chandroo could have simply handed the money he owed Kumar over to Pravinash and Kamalnathan at Kranji Road. There is again no need for a second meeting at the Kranji MRT station coffee shop, and no satisfactory explanation has been provided by Chandroo for the same. Both Kamalnathan and Chandroo have not offered any reasons to explain why Pravinash would have lied about the reason for the regrouping at the Kranji MRT station coffee shop, *ie*, a detection of the presence of CNB officers in the vicinity of Kranji Road where they had first met up. Indeed, there were undercover CNB officers nearby trailing and observing them discreetly.

80 The same may be said as regards Chandroo's handing over of two plastic bags to Kamalnathan. Preliminarily, it is unclear as to who instigated the handing over of the said plastic bags. Kamalnathan asserts that Chandroo did so without prompting; Chandroo claims Kamalnathan asked for the plastic bags;¹²¹ and Pravinash takes no position, simply stating that he saw the plastic bags being handed over. Even so, this uncertainty is inconsequential. What is important is this: why did the plastic bags have to be handed over if the sole purport of the meeting was for Kamalnathan to hand "certificates" over to Chandroo, and/or for Chandroo to return money to Kumar via Pravinash and

¹²¹ NEs, 21 May 2019, page 4, lines 28-30.

Kamalnathan? When confronted with this fact, Kamalnathan's response was self-evidently unsatisfactory:¹²²

- Court: So you did not ask. Then the---Chandroo took the plastic bag from his motorcycle and gave it to you.
- Witness: Yes.
- Court: And did he say anything when he gave you the plastic bag?
- Witness: He didn't say anything. He gave---he took the plastic bag, gave it to me and I handed it to Pravin.
- Court: Oh, you all understood what the plastic bag was for. I mean, somebody gives me a plastic bag and for what? Why do you give me a plastic bag?
- Witness: I didn't understand anything from his giving me the plastic bag, Your Honour.
- Court: That's why we don't understand.
- Witness: But I think Pravin understood what the plastic bag was for because I took the plastic bag and I gave Pravin the bag.
- Court: Oh, because you give Pravin the bag, then Pravin will understand. So I have a situa---two motorcycles meet, all they meet is to exchange plastic bags. And then you don't know. I'm not sure whether the uncle knows. Pravin knows. Is that the situation?
- Witness: Yes.

81 Besides being an inadequate explanation for why Chandroo handed over plastic bags to them, Kamalnathan's response is yet another manifestation of his attempt to point the finger at Pravinash, and to distance himself from the transaction. The extent of Kamalnathan's lack of candour is staggering. For the reasons provided earlier (see [66] and [67] above), I do not accept his testimony.

¹²² NEs, 11 July 2019, pages 8 and 9.

Kamalnathan knew what the plastic bags were for. Pravinash's and Kamalnathan's subsequent actions reveal the true reason for the giving of the plastic bags, and that Kamalnathan was privy to this: as noted earlier (see [26] above), Pravinash stated that at the industrial area near Kranji Road, he and Kamalnathan had placed the three blocks into one of the plastic bags. Again, Kamalnathan has not provided reasons for why Pravinash's self-incriminating evidence in this regard should not be accepted.

82 As for Chandroo, he has simply offered no convincing reason for his handing over of the plastic bags. When questioned at trial, he simply claimed that he "[did] not know" why Kamalnathan needed a plastic bag.¹²³ According to him, he did not question Kamalnathan's request. In the light of my conclusion that Pravinash's credible testimony ought to be preferred, Chandroo's bald and empty assertion of ignorance in this regard simply does not support his case.

83 The inexorable conclusion based on my analysis above is that the purpose of the meeting along Kranji Road on 5 March 2016 was for Pravinash and Kamalnathan to deliver the three blocks comprising the Drugs to Chandroo. That was the reason why after being handed the plastic bags, Kamalnathan and Pravinash subsequently rode off to a secluded location, took out the Drugs from the black Adidas haversack they had with them and placed the Drugs into one of the plastic bags with the intention to hand the plastic bag with the Drugs inside to Chandroo.¹²⁴ There is no other tenable explanation for why the accused persons behaved in the way they did during their meeting.

¹²³ NEs, 21 May 2019, page 5, lines 1-3.

¹²⁴ AB at 1135.

84 As mentioned earlier (see [35] above), my factual finding that the three accused persons had an arrangement to traffic the Drugs has several implications in relation to the elements of the offences. I will explain why this is so as I address, below, the elements of the offences with respect to each accused.

My decision on Pravinash

85 There is no dispute that the first element of the offence under s 5(1)(a) of the MDA is satisfied. Pravinash was in possession of the Drugs at the time of his arrest. Further, based on my factual finding above that there was an arrangement among the three accused persons to traffic the Drugs to Chandroo, it follows that the third element of the offence is made out. Pravinash shared an intention with Kamalnathan to traffic the Drugs to Chandroo. It is for this purpose that they entered Singapore together and liaised with Chandroo on 5 March 2016.

86 The crux of the matter is therefore the issue of knowledge. I deal in turn with each of the two alternative limbs: actual knowledge and the presumption under s 18(2) of the MDA.

Whether Pravinash had knowledge of the nature of the Drugs

Actual knowledge

87 On the issue of actual knowledge, the Prosecution’s primary position is that Pravinash, when questioned by Senior Staff Sergeant Kannan s/o Radhamani (“SSS Kannan”) on the contents of the black Adidas haversack,

informed SSS Kannan that the said bag contained “ganja” (see [19(b)] above).¹²⁵ It is undisputed that “ganja” is a street name for cannabis. Pravinash disagrees that he mentioned such a word to SSS Kannan.

88 There is evidence that Pravinash did mention “ganja” when questioned on the contents of the black Adidas haversack: (a) Staff Sergeant Muhammad Helmi bin Abdul Jalal’s (“SSgt Helmi”) entry in the CNB field diary,¹²⁶ and (b) the conditioned statements taken from SSS Kannan,¹²⁷ Station Inspector Mohammad Abdillah bin Rahman (“SI Abdillah”),¹²⁸ and Senior Station Inspector Chin Chee Hua (“SSI Chin”).¹²⁹ In the three aforementioned conditioned statements, SSS Kannan, SI Abdillah and SSI Chin all state that Pravinash had informed SSS Kannan that the black Adidas haversack contained “ganja”. The latter two CNB officers had been informed of this by SSS Kannan. Similarly, SSgt Helmi’s entry in the field diary was based on what SSS Kannan had told him.

89 DC3 takes issue with the above, and argues that (a) the evidence above from SI Abdillah, SSI Chin and SSgt Helmi constitutes “a hearsay conversation”; (b) the conditioned statements mentioned above were recorded “in a cut and paste manner” and are hence “highly prejudicial”; and (c) Pravinash never signed against any written recording of him mentioning the word “ganja”.¹³⁰ I address each of these contentions in turn.

¹²⁵ Prosecution’s Closing Submissions at p 44.

¹²⁶ P138.

¹²⁷ AB at 970.

¹²⁸ AB at 979.

¹²⁹ AB at 982.

¹³⁰ Pravinash’s Closing Submissions at p 4.

90 It is unclear from Pravinash’s closing submissions whether DC3 is objecting to the *admissibility* of SI Abdillah’s, SSI Chin’s and SSgt Helmi’s evidence on the grounds of hearsay. Assuming this is indeed the intended argument, it is flawed. The evidence of the three CNB officers is merely *proof of the fact that SSS Kannan had communicated certain information to them*. The content of that information is simply that Pravinash had told SSS Kannan the following: that the black Adidas haversack contained “ganja”. In this sense, their evidence is not inadmissible hearsay. The Prosecution is not attempting to use SI Abdillah’s, SSI Chin’s and SSgt Helmi’s evidence as proof that the black Adidas haversack did contain cannabis. Nor is the Prosecution using that evidence as *direct* proof that Pravinash *did* say the word “ganja”. The latter is the purport of SSS Kannan’s evidence in his conditioned statement. Accordingly, the hearsay objection is unmeritorious.

91 As for DC3’s second objection, the allegation appears to be that the CNB officers fabricated the evidence in their conditioned statements. This is a tall allegation that was never meaningfully explored at trial. There is simply no proof that SI Abdillah, SSI Chin and/or SSgt Helmi fabricated their evidence. No reasons have been provided as to why they might have done so. I accordingly reject this allegation.

92 DC3’s third objection warrants some discussion. A difficulty with the Prosecution’s case is that Pravinash’s alleged mention of the word “ganja” was not recorded in Pravinash’s contemporaneous statement. This is problematic given that the very purpose of the contemporaneous statement is to capture statements such as these, *ie*, anything incriminating or exculpatory that an accused person may say in the immediate wake of his arrest. These statements are also typically recorded in a question-and-answer format. The accused would then sign against the statement to confirm its contents. Why then was SSS

Kannan's question and Pravinash's answer not recorded in this manner? This is not just any statement by Pravinash. If true, Pravinash would have, for all intents and purposes, *admitted to a drug trafficking offence* – he was arrested while in possession of the Drugs, and had admitted to knowing that the Drugs were cannabis. The CNB officers present would surely have noted the significance of such a confession; the failure to record the same in the medium (*ie*, the contemporaneous statement) designed specifically to capture such snapshots of the accused's behaviour post-offence is of some concern given Pravinash's denial of having uttered the word "ganja" at the time of his arrest.

93 With that said, I am of the view that the CNB officers' failure to record in Pravinash's contemporaneous statement his mention of the word "ganja" is *not fatal* to the Prosecution's case. It would indeed have been preferable if this had been done, as Pravinash would have then signed against such a statement and, in so doing, cleared up any doubt on whether he had mentioned the word "ganja". However, even in the absence of such a signed statement, SSS Kannan, a CNB officer who gave evidence under oath, has testified that Pravinash did mention the word "ganja". His evidence is corroborated by the evidence of three other CNB officers in that they had in fact been told by SSS Kannan that Pravinash had informed him (*ie*, SSS Kannan) that the black Adidas haversack contained "ganja". SSgt Helmi also made an entry in the CNB field diary¹³¹ of what SSS Kannan had told him. In the absence of any evidence of foul play or any motive or conspiracy on the part of these officers to frame Pravinash, I am persuaded that their testimonies are truthful.

¹³¹ P138.

94 At this juncture, I take the opportunity to address the allegations made by Pravinash in his further set of written closing submissions dated 15 September 2020. In essence, Pravinash alleges that there is a real dispute as to whether he had been taken to the Singapore Turf Club (located one minute away from Kranji MRT station) after his arrest; consequently, issues arise as to (a) the veracity of SSS Kannan’s evidence; and (b) the chain of custody of the Drugs. I find Pravinash’s allegations to be without merit for the following reasons:

(a) I accept that the Prosecution’s case with respect to SSS Kannan is not perfect, and there are certain questions over the sequence of events. Such questions arise because the fact that Pravinash had been brought to the Singapore Turf Club is not consistently mentioned in the CNB officers’ conditioned statements. With that said, my analysis at [93] above is pertinent. There is no proof that the *corroborated* evidence of the various CNB officers is a product of a malicious conspiracy. DC3 has not explained why SSS Kannan and his colleagues would go out of their way to frame Pravinash. More importantly, SSS Kannan and his colleagues stand to gain *nothing* from further “embellishing” their testimony with the inclusion of the Singapore Turf Club detail. This detail neither strengthens nor weakens the Prosecution’s case – it is simply a detail. Accordingly, I am not persuaded that the CNB officers had been dishonest about their account of events concerning the Singapore Turf Club.

(b) As for the chain of custody, I do not understand Pravinash’s argument. Whether or not SSS Kannan and his colleagues did bring Pravinash to the Singapore Turf Club has *no bearing whatsoever* on the question of *who had possession of the black Adidas haversack*. Even

taking DC3's argument at its highest, *ie*, the location of SSS Kannan and Pravinash in the moments after his arrest is unclear, this does *not* change the fact that the black Adidas haversack remained with the arresting officers throughout. Pravinash has not adduced evidence to the contrary. Nor has it been put to the relevant CNB officers, including SSS Kannan, that there was tampering or a failure to account for the whereabouts of the black Adidas haversack. This specific issue was never meaningfully explored. I accordingly do not accept that there was a break in the chain of custody.

95 It stands to reason, then, that the evidence of SSS Kannan establishes that Pravinash knew that the three blocks were cannabis. The rest of the Prosecution's arguments on actual knowledge strengthen this conclusion.¹³²

(a) First, Pravinash had a "holy shower" prior to his first entry into Singapore on 1 March 2016. When questioned by the court on why he went for this "holy shower", Pravinash could not satisfactorily justify why he did so.¹³³ The probable inference then is that he knew he was bringing illicit drugs into Singapore on that occasion and hence, he wanted some spiritual blessing. Importantly, his assumption on 5 March 2016 that the three blocks were drugs was *derived from his experience during previous forays into Singapore*, including the trip just a few days earlier on 1 March 2016 (see [49] above). It logically follows that Pravinash must have known on 5 March 2016 that he was carrying illicit drugs, much like his previous visits.

¹³² Prosecution's Closing Submissions at pp 46-48.

¹³³ NEs, 26 March 2020, page 35 line 13 to page 37 line 15.

(b) Second, Pravinash initially refused to help Kamalnathan bring the Drugs into Singapore. He stated in his long statements that he only agreed to assist Kamalnathan “one last time”, albeit with much reluctance.¹³⁴ The implication is that he must have already been aware then that he would be assisting to carry drugs into Singapore. At the very least, he must have expected the nature of the Drugs to be equally insidious (*ie*, potent or harmful to health) or dangerous (*ie*, that importation of the same would have led to severe penal consequences for him) as those drugs that he had seen during the consignments between 1 March and 4 March 2016.

(c) Third, Pravinash’s reaction to being arrested was to cry. He was despondent as he knew he was “going to spend many years in Singapore jail”.¹³⁵ The clear inference is this: Pravinash knew that he had been carrying prohibited drugs, and that he would face dire consequences for doing so.

(d) Finally, and as explained earlier in this Judgment, Pravinash admitted in his long statements that he had assumed even before he and Kamalnathan left Malaysia that the three blocks to be transported into Singapore were drugs based on his previous entries into Singapore with Kamalnathan (see [49] above).

96 By virtue of the foregoing, I find that Pravinash had actual knowledge of the nature of the Drugs. He knew that the three blocks comprising the Drugs were cannabis.

¹³⁴ AB at 1132-1133.

¹³⁵ AB at 1136.

The presumption under s 18(2) of the MDA

97 As I have found that Pravinash had actual knowledge of the nature of the Drugs, there is strictly speaking no need for me to consider the issue under s 18(2) of the MDA. For completeness, I will simply note the following: having been arrested while in possession of the black Adidas haversack containing the three blocks, it is undisputable that the presumption under s 18(2) of the MDA applies to Pravinash. It is also clear that Pravinash has not rebutted this presumption. My analysis in the preceding paragraphs concerning Pravinash's actual knowledge in fact buttresses the unrebutted presumption of knowledge that the three blocks comprising the Drugs were cannabis. Moreover, it is well-entrenched authority that an accused will not be able to rebut the s 18(2) presumption simply by claiming that he did not know the proper name of the drug that he had been carrying; he must go further by giving an account of what he thought it was (*Obeng Comfort v Public Prosecutor* [2017] 1 SLR 633 ("*Obeng Comfort*") at [39]). My analysis above leads to, *at the very least*, the conclusion that Pravinash knew that he was carrying *prohibited drugs* into Singapore. He also knew that the trafficking of the Drugs would result in severe penal consequences for him. Accordingly, and on the authority of *Obeng Comfort*, Pravinash has not displaced the presumption against him under s 18(2) of the MDA.

Conclusion on Pravinash

98 For the above reasons, I find that the elements of the offence under s 5(1)(a) read with s 5(2) of the MDA are made out beyond a reasonable doubt. I accordingly convict Pravinash of the charge he faces.

My decision on Kamalnathan

99 As with Pravinash, my finding above in relation to the arrangement among the three accused persons leads to the conclusion that Kamalnathan did intend to traffic the Drugs to Chandroo, and that he shared this intention with Pravinash (see [35] and [85] above). This satisfies the element of intention in the charge that Kamalnathan faces, *ie*, he intended to be a party to the agreement to traffic the Drugs to Chandroo (see [42] and [44] above).

100 That same factual finding also has implications on the issue of *joint possession*. As mentioned, the Prosecution avers that Kamalnathan had joint possession of the Drugs with Pravinash. An accused may be deemed to be in *joint possession* of drugs where (*Mohammad Azli bin Mohammad Salleh v Public Prosecutor and another appeal and other matters* [2020] 1 SLR 1374 at [52], [66], [68] and [70]):

- (a) he/she knows that the co-accused is in possession of some kind of controlled drugs (*ie*, in general); and
- (b) he/she consents to the co-accused's possession by (i) exercising a degree of power and authority over, and (ii) having some dealing between the parties in relation to the said drugs.

101 The former requirement is uncontentious. By being part of the arrangement to traffic the three blocks to Chandroo, Kamalnathan clearly knew that the black Adidas haversack, which Pravinash had been arrested with, contained some kind of illicit drugs. This may also be gleaned from Kamalnathan's contemporaneous statement, where he admits that he knew that

the black Adidas haversack contained illicit substances.¹³⁶ Pravinash's testimony, as canvassed earlier, confirms this.

102 As for the latter requirement as per [100(b)] above, by virtue of being part of the arrangement to traffic the three blocks to Chandroo, element (ii) (having some dealing between the parties in relation to the drugs) is satisfied. Element (i) is also fulfilled as I accept Pravinash's testimony that Kamalnathan was the one in charge, and reject Kamalnathan's assertion that he had just been following Pravinash's lead. As explained earlier, Pravinash's credible testimony ought to be preferred to Kamalnathan's inconsistent and dishonest account of events.

103 In any event, I accept Pravinash's testimony that Kamalnathan, while still in Malaysia on 5 March 2016, had retrieved the three blocks from the ceiling of Kamalnathan's rented apartment.¹³⁷ I also accept Pravinash's evidence that both he and Kamalnathan had physical possession of the three blocks when they entered Singapore. Pravinash stated that he had "tuck[ed]" one of the three blocks into his pants on Kamalnathan's instructions.¹³⁸ The other two blocks were with Kamalnathan. While Kamalnathan might not have physically held on to *all* of the three blocks at a given point in time, the above illustrates that Kamalnathan had control over and full access to the three blocks. Pravinash's evidence in this regard is self-incriminating and has not been seriously challenged.

¹³⁶ AB at 1099.

¹³⁷ AB at 1132.

¹³⁸ AB at 1133.

104 Accordingly, and bearing in mind my acceptance of Pravinash's testimony that Kamalnathan was the leader as between the two of them, I conclude that Kamalnathan had joint possession of the three blocks with Pravinash. In this light, DC2's contention that there is no "DNA evidence or any photographic video evidence" showing that Kamalnathan had physical possession or ownership of the three blocks/the black Adidas haversack misses the point.¹³⁹ Pravinash's credible evidence is sufficient to inculcate Kamalnathan. I have elaborated at sufficient length on why Kamalnathan's testimony must be rejected. In any event, given the incontrovertible evidence of Kamalnathan's DNA on the adhesive side of the tapes used to secure A1C1A (see [12] above), DC2's contention is demonstrably incorrect.

105 The remaining issue pertains to the question of Kamalnathan's knowledge.

Whether Kamalnathan had knowledge of the nature of the Drugs

Actual knowledge

106 Four aspects of the evidence are cumulatively fatal to Kamalnathan's claim that he did not know of the nature of the Drugs: first, the evidence demonstrating that Kamalnathan had delivered similar drug consignments to customers in Singapore in the days preceding his arrest; second, his pivotal role in the attempted delivery of the Drugs on 5 March 2016 to Chandroo; third, the concessions in his long statements; and fourth, the evidence showing that his DNA was found on the adhesive side of the tapes used to secure A1C1A.

¹³⁹ Kamalnathan's Closing Submissions at para 15.

107 As noted above, the ICA records and Pravinash's evidence confirm that Kamalnathan had been involved in multiple drug transactions in the days preceding his arrest (see [48] above). Kamalnathan has not meaningfully challenged these aspects of the evidence. Each of these transactions involved various quantities of what appears to be different types of drugs, and all were conducted under Kamalnathan's charge. On each occasion, the drugs had been in Kamalnathan's possession prior to delivery. The transactions were always conducted covertly, at a desolate location near Kranji MRT station. On every instance, Pravinash simply followed Kamalnathan's instructions.

108 This was also the case on 5 March 2016. Pravinash had followed Kamalnathan's lead. The Drugs had been retrieved by Kamalnathan from the ceiling of the rented apartment they had been staying in.¹⁴⁰ The evidence shows that this apartment was rented by Kamalnathan – Pravinash's unchallenged evidence is that Kamalnathan paid for all their expenses when he stayed with Kamalnathan and his wife at the said apartment,¹⁴¹ and Kamalnathan's own evidence is that the rental for the apartment had been deducted directly from his monthly salary.¹⁴² Then, on 5 March 2016, it was Kamalnathan who liaised with Suren throughout (see [52] above), and Kamalnathan who coordinated the link-up with Chandroo. It was also Kamalnathan who then gave instructions for the three accused persons to regroup at the Kranji MRT station coffee shop.

109 With the above in mind, it is inconceivable that Kamalnathan did not know of the nature of the Drugs. Before each of the drug consignments, including the delivery of the Drugs on 5 March 2016, he would have had been

¹⁴⁰ AB at 1132.

¹⁴¹ AB at 1130; NEs, 13 March 2020, page 52, lines 10-14.

¹⁴² AB at 1177.

entrusted with the Drugs by Suren, Pandian, or one of their associates, and tasked to deliver the Drugs to Chandroo. It is Pravinash's consistent testimony that prior to the respective deliveries (including on 5 March 2016), the drugs were always in Kamalnathan's possession. The latter must have known what he had been in possession of, given that he handled the drugs on every occasion.

110 Kamalnathan's long statements confirm his knowledge. Therein, he stated the following:¹⁴³

63 I then alighted from the motorcycle and asked Pravin [what was inside the black Adidas haversack]. Pravin said "books" [were] inside. When I heard "books", I knew it was drugs but I did not know what drugs it was...

Kamalnathan's assertion that he did not know what type of drugs the "books" were does not make sense. By his own account, *he understood the mere mention of "books" to be an unequivocal reference to drugs*. Different drugs have different street names – that Kamalnathan could understand that "books" was a colloquial reference to a drug raises serious questions over his claim that he did not know what specific drug the word refers to. Consistent with this, SSgt Fardlie testifies that "books" is a street name for cannabis specifically.¹⁴⁴ His evidence, while not dispositive in and of itself, has not been seriously challenged and lends further credence to the notion that Kamalnathan must have known that the "books", *ie*, the Drugs, were cannabis.

111 Finally, Kamalnathan's DNA was found on the adhesive side of the tapes used to secure A1C1A (see [12] above). This all but confirms that he had handled the Drugs. Moreover, Kamalnathan's DNA was not found on the

¹⁴³ AB at 1198.

¹⁴⁴ NEs, 26 March 2019, page 15, lines 7-20.

exterior of the packaging or on the *non-adhesive* side of the tapes, but on the *adhesive side of the tapes* (ie, the underside). This suggests that he had *extensively* handled the Drugs in so far as he had been personally involved in the process of wrapping up the drugs found within the A1C1A bundle with adhesive tape. More importantly, it also indicates that he would have seen and known of the nature of the drugs *prior* to them being wrapped. This evidence, when considered alongside the other aspects of the evidence as mentioned above (including his dismal credibility which means that his bare assertions to the contrary must be rejected), allows me to conclude beyond a reasonable doubt that Kamalnathan knew of the nature of the Drugs.

112 Thus, I find that Kamalnathan had actual knowledge that the Drugs were cannabis.

The presumption under s 18(2) of the MDA

113 As with Pravinash, given my finding that Kamalnathan had actual knowledge of the nature of the Drugs, there is no need for me to address the issue under s 18(2) of the MDA. I conclude my analysis on Kamalnathan by making an observation similar to the one I made vis-à-vis Pravinash at [97] above. Having had joint possession of the Drugs with Pravinash, the presumption under s 18(2) of the MDA applies to Kamalnathan. I am not satisfied that he has displaced this presumption, because he was the one in charge of the Drug consignment, and clearly knew that he and Pravinash had been in possession of illicit drugs on 5 March 2016. Their prior entries into Singapore for the purpose of trafficking in various drugs from 1 March to 4 March 2020, the surreptitious nature of the meeting at Kranji Road, and Kamalnathan's central role in the attempted delivery of the Drugs all serve to buttress the presumption that he knew of the nature of the Drugs.

114 Finally, on authority of *Obeng Comfort* ([97] *supra*), even if Kamalnathan did not know that the Drugs were cannabis specifically, this would be insufficient to rebut the presumption under s 18(2) of the MDA. As the Prosecution correctly argues, Kamalnathan has only been able to assert what the Drugs were *not*, but offers no plausible explanation for what he thought the Drugs were.¹⁴⁵ This cannot suffice to exculpate him. His feeble explanation that he thought that the three blocks were certificates can be immediately dismissed because Pravinash could not conceivably have had so many (*ie*, three bundles worth of) certificates; even if these certificates could be bound into three separate bundles, they would not look anything like the three almost identical blocks in the first place. Furthermore, no explanation has been provided for why Pravinash's certificates were wrapped so securely with adhesive tape, which would have made it very difficult for his potential employers to take out the certificates to view them individually. His story simply does not add up.

Conclusion on Kamalnathan

115 Based on the foregoing, I find that the elements of the offence under s 5(1)(a) read with ss 5(2) and 12 of the MDA are made out beyond a reasonable doubt. I accordingly convict Kamalnathan of the charge he faces.

My decision on Chandroo

116 My finding that there was an arrangement among the three accused persons to traffic the Drugs to Chandroo resolves the first two elements of the charge Chandroo faces (see [40] and [41] above). The arrangement meant that Chandroo *intended* to receive the Drugs from Pravinash and Kamalnathan.

¹⁴⁵ Prosecution's Closing Submissions at para 155.

Pursuant to this arrangement, Chandroo liaised with Suren (and/or his associates) and went to Kranji Road on the evening of 5 March 2016 in order to receive the Drugs from Pravinash and Kamalnathan.

117 While DC1 has argued that there were no communications between Chandroo and the other two accused persons prior to 5 March 2016,¹⁴⁶ this does not aid Chandroo. I have analysed this point in detail (see [50] and [51] above). The night of their arrest may well have been the first time that Chandroo had met Pravinash and Kamalnathan. This does not mean that there could not have been an arrangement between them made through a third party, *ie*, Suren, who was in contact with both Chandroo and Kamalnathan. The fact remains that Kamalnathan managed to identify Chandroo at Kranji Road based on the physical features of Chandroo's motorcycle. The irresistible inference is that Chandroo had agreed with Suren, Pandian, or one of their associates, to purchase the Drugs, and that this plan was executed by Pravinash and Kamalnathan, with details of identification of Chandroo provided by Suren to Kamalnathan. It did not matter to Chandroo who Pravinash and Kamalnathan were; he had arranged to purchase the Drugs, and knew that the Malaysian drug syndicate would send people to facilitate the transaction on 5 March 2016. That he was not *personally acquainted* with Pravinash and Kamalnathan is entirely irrelevant.

118 Two further questions require consideration, which concern Chandroo's knowledge of the nature of the Drugs, and whether he had an intention to on-traffic the same.

¹⁴⁶ Chandroo's Closing Submissions at para 265 onwards.

Whether Chandroo had knowledge of the nature of the Drugs

119 In my view, there is no doubt that Chandroo knew that the Drugs were cannabis. He was the intended recipient and purchaser of the Drugs, and was privy to the plan to traffic the Drugs to him. I have explained why this is so (see [60]–[83] above). That being the case, several conclusions follow as a matter of course.

120 First, and having rejected Chandroo’s testimony that the S\$4,000 found on him was meant to be returned to Kumar, it is clear that this money was meant to be payment for the Drugs which he had purchased. As mentioned, the S\$4,000 was bundled together, secured with a single rubber band, and placed in a single envelope. All of these factors point to the irresistible conclusion that the bundled lump sum of money was to be handed over in a single transaction in exchange for the Drugs. Chandroo has not convinced me otherwise. Second, as the purchaser of the Drugs, Chandroo must have known what he was purchasing. I find it hard to believe that anyone would pay S\$4,000 for an unknown type and quantity of drugs.

121 The rest of the evidence only fortifies my conclusions. As pointed out by the Prosecution, the meeting was surreptitiously conducted at night along Kranji Road.¹⁴⁷ Further, and in line with my earlier observation (see [81] above), the plastic bags handed by Chandroo to Kamalnathan were meant to be used as carrier bags for the Drugs. Finally, and as made clear in the course of this Judgment, Chandroo has been dishonest on multiple counts (see [68]–[74]

¹⁴⁷ Prosecution’s Closing Submissions at para 191(b).

above). I thus reject DC1's submissions on this issue, which hinge on the veracity of Chandroo's testimony.¹⁴⁸

122 I accordingly conclude that Chandroo had actual knowledge of the nature of the Drugs which were to be delivered to him. In particular, I am satisfied that he knew that the Drugs, which he was purchasing for S\$4,000, were cannabis.

Whether Chandroo intended to traffic the Drugs after receiving them from Pravinash and Kamalnathan

123 The Prosecution's submission in this regard is that the weight of the Drugs, *ie*, 1,344.5g, demonstrates that they could not have been solely for Chandroo's personal consumption.¹⁴⁹ I agree with this inference. Chandroo has adduced no evidence demonstrating that he had such a heavy cannabis consumption pattern that would warrant him purchasing 1,344.5g of cannabis for a large sum of S\$4,000 in one fell swoop. In fact, Chandroo has not run a defence of consumption at all. His case, as mentioned, is that he met Pravinash and Kamalnathan to facilitate his returning of money to Kumar. Thus, and unsurprisingly, he has not led evidence of his consumption pattern that may have aided him in this regard. In the light of the above, the necessary and irresistible inference remaining is that Chandroo intended to *on-traffic* the Drugs to other persons.

124 The third and final element of the offence is thus also made out.

¹⁴⁸ Chandroo's Reply Submissions at para 57.

¹⁴⁹ Prosecution's Closing Submissions at para 192.

Conclusion on Chandroo

125 Accordingly, the elements of the offence under s 5(1)(a) read with ss 5(2) and 12 of the MDA are made out beyond a reasonable doubt. I therefore convict Chandroo of the charge he faces.

Sentencing

126 Having been convicted of the present charges, the accused persons are liable to be punished under s 33(1) of the MDA. The punishment prescribed under s 33(1) read with the Second Schedule of the MDA is death. The court nevertheless retains the discretion under s 33B(1)(a) read with s 33B(2) of the MDA to sentence an offender instead to life imprisonment and a minimum of 15 strokes of the cane, subject to the requirements in those provisions being met.

127 Section 33B(1)(a) of the MDA provides that if the two requirements set out in ss 33B(2)(a) and (b) are cumulatively satisfied, the court has the discretion not to impose the death penalty:

(a) The first requirement, in s 33B(2)(a), is that the acts of the accused were restricted to those listed in s 33B(2)(a)(i)–(iv) of the MDA, which have been referred to as those of a courier.

(b) The second requirement, in s 33B(2)(b), is that the Public Prosecutor certifies that the accused has substantively assisted the CNB in disrupting drug trafficking activities within or outside Singapore.

128 I shall now hear parties on all issues relating to sentencing.

Chan Seng Onn
Judge

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LLP) for the third accused.
