

Public Prosecutor v AXR
[2015] SGHC 257

Case Number : Criminal Case No 43 of 2015
Decision Date : 06 October 2015
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Ong Luan Tze and Sarah Ong (Attorney-General's Chambers) for the prosecution; Kanagavijayan Nadarajan (Kana & Co) and Krishna Ramakrishna Sharma (I.R.B Law LLP) for the accused.
Parties : Public Prosecutor — AXR

Criminal Law – Offences – Rape

Criminal Law – Offences – Unnatural offences

6 October 2015

Redacted

Tay Yong Kwang J:

Introduction

1 The accused is a Malaysian citizen. He was born in March 1964 and was 51 years old at the time of the trial. The accused is the victim's uncle, *ie*, his wife is the sister of the victim's deceased mother and therefore is the victim's maternal aunt.

2 The victim was born in August 1992. She was 12 years old when the earliest offences allegedly occurred on 25 February 2005. She turned 23 years old shortly before the trial.

The charges

3 The accused faced the following six charges (with the victim's name redacted as "V"):

That you, AXR,

1st CHARGE on 25 February 2005, at Blk [X] Marine Terrace, #[X], Singapore, did commit carnal intercourse against the order of nature on one [V], Female / 23 years old, (Date of Birth ("DOB"): XX August 1992), who was 12 years old on 25 February 2005, *to wit*, by penetrating the mouth of the said [V] with your penis, and you have thereby committed an offence punishable under section 377 of the Penal Code (Cap 224, 1985 Rev Ed).

2nd CHARGE on 25 February 2005, at Blk [X] Marine Terrace, #[X], Singapore, did commit an indecent act with a child, namely one [V], Female / 23 years old, (DOB: XX August 1992), who was 12 years old on 25 February 2005, *to wit*, by licking her at her vagina area, and you have thereby committed an offence punishable under section 7 of the Children and Young Person's Act (Cap 38, 2001 Rev Ed).

- 3rd CHARGE on 25 February 2005, at Blk [X] Hougang Ave 10, #[X], Singapore, did use criminal force on one [V], Female / 23 years old, (DOB: XX August 1992), who was 12 years old on 25 February 2005, with the intent to outrage her modesty, *to wit*, by rubbing her at her vagina area, and you have thereby committed an offence under section 354 and punishable under the same section of the Penal Code (Cap 224, 1985 Rev Ed).
- 4th CHARGE sometime in 2006, at Blk [X] Hougang Avenue 10, #[X], Singapore, did commit rape on one [V], Female / 23 years old, (DOB: XX August 1992), *to wit*, by penetrating your penis into her vagina, without her consent, and you have thereby committed an offence under s 375(b) and punishable under s 376(1) of the Penal Code (Cap 224, 1985 Rev Ed).
- 5th CHARGE sometime in 2006, at Blk [X] Tampines Street 11, #[X], Singapore, did commit carnal intercourse against the order of nature on one [V], Female / 23 years old, (DOB: XX August 1992), *to wit*, by penetrating the mouth of the said [V] with your penis, and you have thereby committed an offence punishable under s 377 of the Penal Code (Cap 224, 1985 Rev Ed).
- 6th CHARGE sometime in or around March 2008, at Blk [X] Hougang Ave 10, #[X], Singapore, did penetrate, with your finger, the vagina of one [V], Female / 23 years old, (DOB: XX August 1992), who was 15 years old in March 2008 and under 16 years old in age then, and you have thereby committed an offence under s 376A(1)(b) of the Penal Code (Cap 224, 2008 Rev Ed), and punishable under s 376A(2) of the Penal Code (Cap 224, 2008 Rev Ed).

4 The accused pleaded guilty to charge 6. At the end of the trial, I convicted him on all six charges. As charges 1, 3, 4 and 5 took place in 2005 and 2006, the applicable law was the Penal Code that existed before the amendments became operative on 1 February 2008.

The Prosecution's case

5 The accused became the father figure in the victim's life after her father died in 2003. She looked up to him and called him "appa", which means father in Tamil. They met very often and spoke on the phone almost daily. The content of the conversations included sexual matters. The victim recalled telling the accused that her elder sister had brought her boyfriend home and that she had seen them naked in the room. He told her that it was normal for the couple to be engaged in such activities. He asked her to explain to him what they were doing. These conversations took place before 25 February 2005. Before that date, he also started touching her breast and vagina area. He told her that he would be upset if she failed to keep these acts a secret as she would not be a good girl. He also told her that he was helping her to grow and develop and used her elder sister as an example.

6 The victim remembered the sexual acts that happened on 25 February 2005 as her mother fell seriously ill that day. Her mother was taken to the intensive care unit ("the ICU") of Changi General Hospital in the morning after vomiting blood. That was also the first time that such sexual acts occurred (the victim clarified that while the accused had previously touched her, the physical contact was "not as what happened on 25th February"). Through the victim's classmate, the accused's wife contacted the victim, who was in school, and told her to return home where the accused was waiting

to bring her to the hospital. When the victim returned to her Marine Terrace flat (where the victim, her elder sister and their mother were residing then), the accused was watching pornography on his mobile phone. The accused told her that her mother had vomited blood but that they need not go to the hospital immediately as the mother was still in the ICU. He helped her to remove her clothes and made her sit on the sofa. He then put his penis into her mouth. He told her to just listen to him and he would bring her to see her mother. He moved his penis in and out of her mouth until he ejaculated. The victim was shocked and froze in her seat.

7 The accused also knelt down and licked her vagina. The victim felt uncomfortable and used her legs to push his shoulders back. She said that she wanted to go and see her mother. The accused told the victim to listen to him and they would go visit her mother. He assured her that the act was normal. The victim believed him as he was her "appa". She did not resist out of fear that she would not get to see her mother. The accused stopped when his wife called. They then went to the hospital. No one else was in the Marine Terrace flat at that time.

8 The victim's elder sister (who was with her boyfriend), the accused's wife and other relatives were also at the hospital. They stayed at the hospital for a few hours before leaving in the evening as they could not linger around the ICU. As the victim's mother was warded, the victim and her sister stayed the night at the accused's Hougang flat (the flat referred to in charges 3, 4 and 6). The victim slept on a bed in her cousins' bedroom. One cousin slept on another bed while the other cousin slept on a mattress that was placed between the two beds. In the victim's conditioned statement in the agreed bundle at page 4, she said that her cousins were sleeping on the floor.

9 The victim was not asleep. She was thinking about her mother. At one point, the accused entered the bedroom, slipped his hand under her shorts and used his finger to rub her vagina area over her panties. The victim, who was pretending to be asleep, pushed his hand away and used her blanket to cover herself. The accused then left the room. The victim felt uneasy and uncomfortable at being touched but did not tell anyone about the incident.

10 The victim claimed that the act of penis-vagina penetration happened in June 2006, although the month was not specified in charge 4. That meant that she was still below 14 years of age. The victim was in the accused's Hougang flat when he brought her into his room and asked her to remove her clothes. She complied as he was her "appa". After guiding her to his bed, he climbed on top of her, inserted his penis into her vagina and started thrusting. The victim told the accused that she felt pain and discomfort but she believed him when he said that it was normal. The victim was also afraid. The accused was big-sized and his weight rested on her. When she moved slightly, he balanced his left arm at her neck area. The victim thought that she had to listen to the accused or she would not be a good girl. She worried that her mother would be angry if she were naughty and would die (the hospitalisation on 25 February 2005 happened after her mother had a serious quarrel with her elder sister). After a while, the accused withdrew his penis from the victim's vagina, which bled. He told her to wash up and to put some ice on her vagina area and gave her money to take a taxi home to her Tampines flat. The victim moved officially from the Marine Terrace flat to the Tampines flat in July 2006, although she started living there even before that as the flat was vacant. In her conditioned statement dated 7 April 2015, she stated that the act of penis-vagina penetration happened sometime in 2006. During the trial, she explained that she could now recall the month as June as she had recently gone through some photos from her secondary school days which jogged her memory. She recalled having dyed her hair brown during the June holidays. Again, she told no one about the incidents as she had promised to keep the sexual acts secret.

11 Sometime in 2006, the victim was alone with the accused in her Tampines flat. The accused cut a hole in a papaya and moved his penis in and out of the hole. He later stopped and inserted his

penis into the victim's mouth, moving it in and out a few times. The victim felt uneasy and uncomfortable but said nothing as the accused would just tell her that the act was normal. She did not resist as she did not know how to stop it or fight back. In March 2008, the victim was at the accused's Hougang flat when he inserted a finger into her vagina. As mentioned earlier, the accused admitted he did this act, set out in charge 6.

12 The victim did not understand the nature of the sexual acts at the material times. The accused told her that such things happened to every girl, that every girl had to go through these acts to mature as a woman and he was teaching her as her father was not around. There was sex education in school but the victim missed those classes. She did not attend school very often as she had to bring her mother to hospital for her appointments. She realised what sex was only when she was about 17 or 18 years old.

13 The victim was placed on probation for theft offences from 21 March 2011. Until an interview session with her probation officer on 25 April 2011, she had kept mum about the sexual incidents. She felt she had no close friends, did not trust her teachers and thought that no one would believe her. Her relatives were also very close to the accused – her mother referred to the accused as her best friend. The victim's disclosure to the probation officer came about when she was asked about her family background and relationships. The victim saw the officer as a counsellor who lent her a listening ear. The probation advised the victim to lodge a report but she was initially reluctant as she was not confident that she would be safe with her family after doing so. The victim eventually lodged a police report a month later on 26 May 2011, after a shelter had been arranged for her.

14 The victim was examined by a doctor from the Singapore General Hospital ("SGH"). Her hymen was found to have old tears suggestive of previous penetration. The victim was also examined by an Institute of Mental Health ("IMH") psychiatrist on 21 July 2011 and 11 November 2011. He found that she met the diagnosis of post-traumatic stress disorder resulting from sexual assaults. The psychiatrist was unavailable during the trial as he had moved overseas.

The case for the accused

15 The accused, his wife and the victim's elder sister gave evidence for the defence. Their testimonies were not entirely consistent with one another but the defence's case, as outlined broadly, was as follows.

16 The accused agreed that he had a close relationship with the victim that was akin to that of a father and his daughter. Their conversations started to include discussions about sex when the victim asked him questions about woman-and-woman relationships. These conversations, which started in 2006, eventually progressed to a sexual relationship.

17 On 25 February 2005, the accused and his wife took a taxi to the Marine Terrace flat after the victim's mother called them for help in the morning. The accused's wife accompanied the victim's mother to the hospital in an ambulance. The accused stayed behind and cleaned the flat, which had "big lumps of blood" in the toilet and the kitchen.

18 The accused's wife called the secondary schools of the victim and her elder sister to notify the siblings of their mother's condition. The elder sister was to leave her school in Bedok North and fetch the victim from her school in the Mountbatten area before returning to the Marine Terrace flat together. The victim was in Secondary 1 while her elder sister was in Secondary 5. On returning home, the siblings helped the accused to clean up the flat and they changed their clothes before leaving for the hospital together. At no time was the accused alone with the victim in the Marine

Terrace flat. The accused was in no mood for any sexual act given the bloody scene in the Marine Terrace flat.

19 At the hospital, the accused, his wife, the victim and her elder sister learnt that the victim's mother might not survive and were told to brace themselves for the worst. So they stayed there until the early hours of the next morning before returning to the accused's Hougang flat. The accused, his wife and their two sons slept together in the master bedroom. While the accused's children, who were in primary school, had their own bedroom, they always slept in their parents' bedroom. The victim, her elder sister and the accused's maid slept in the accused's children's bedroom.

20 The sexual acts – except for that of licking the vagina – did occur, but only in late 2007 or early 2008, when the victim was above 14. By that point, the accused and the victim had arrived at a mutual understanding that they wanted a sexual relationship. All the acts were consensual. The acts of penis-mouth penetration, rubbing the vagina area and penis-vagina penetration (*ie*, the acts in charges 1, 3 and 4) took place in the victim's Tampines flat, which she moved into in 2007. The victim and her mother did not move into the Tampines flat earlier in 2006 because her mother had financial problems and could not renovate the place until after the accused's wife helped her to secure a renovation loan.

21 While the victim had ceased contact with the accused and his family after the police report was lodged, this arose from a quarrel that took place on the death anniversary of the victim's maternal grandmother in early May 2011. The victim's mother had quarrelled with her sisters over money issues. The victim got involved in the disagreement. The accused's wife stopped the commotion, admonished the victim for her rudeness when speaking with the adults and then ordered the victim to leave the flat. The victim left angrily and threatened to shame the accused's family.

The decision of the court

22 The accused's position at the trial could be summarised as follows:

- (a) Charge 1 – the act of penis-mouth penetration occurred but in 2007 or 2008 and in the victim's Tampines flat.
- (b) Charge 2 – the licking of the victim's vagina never occurred at any time.
- (c) Charge 3 – the rubbing of the victim's vagina area occurred but in 2007 or 2008 in the victim's Tampines flat. The act was consensual.
- (d) Charge 4 – the act of penis-vagina penetration occurred but in 2007 or 2008 in the victim's Tampines flat. The act was consensual.
- (e) Charge 5 – the act of penis-mouth penetration occurred in the Tampines flat but in 2007 or 2008.
- (f) Charge 6 – the accused admitted this charge.

23 Therefore, except for charge 2 (which the accused denied totally) and charge 6 (which he admitted totally), the accused admitted all the acts alleged and only took exception to the year in which they occurred and/or the place where they occurred. The accused said that the acts occurred in late 2007 and early 2008 at the victim's new Tampines flat. Further, all the acts were consensual.

24 In a trial for sexual offences, the court must analyse the evidence for the prosecution and the defence and decide if the complainant's evidence is so reliable that a conviction based solely on it is not unsafe: *Tang Kin Seng v Public Prosecutor* [1996] 3 SLR(R) 444 at [44]. In allegations of this nature, the court must be aware of the dangers of convicting solely on the alleged victim's testimony as well as the importance of convicting only on testimony that, when weighed against the overall backdrop of the available facts and circumstances, contains that ring of truth which leaves the court satisfied that no reasonable doubt exists in favour of the accused: see *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [39]. This was especially so in this case given that some years had elapsed since the sexual acts in question.

25 On the whole, I found that the victim was clear and consistent and never wavered on material points. The way the events came to light after all those years was not planned by the victim. Even after the probation officer informed her that she should make a police report, she hesitated for a month. In my view, the acts of penis-mouth penetration and licking the vagina did occur when the accused was alone with the victim on 25 February 2005 in the Marine Terrace flat. The victim explained convincingly that her ability to trace the events to that date was because that was when her mother was hospitalised after vomiting blood. That was also the day when the alleged sexual incidents started. The victim maintained the same date when she lodged the police report on the sexual incidents on 26 May 2011 and when she was examined by the SGH doctor on 10 June 2011. She had nothing to gain from singling out a specific date, especially if she was not in fact alone with the accused that morning.

26 The accused's defence that nothing could have happened on 25 February 2005 was unsustainable. In a police statement that was recorded on 19 December 2012, he admitted that he had been physically intimate with the victim on the day that her mother was admitted to hospital after vomiting a lot of blood. He was cleaning up at the victim's place and was alone with her when she returned to flat. He said that they kissed and touched each other; he also massaged her vagina. The accused was served with the charges on 22 May 2014. He had ample opportunity to clarify the particulars of the charges or to deny them but he merely expressed remorse in his cautioned statements. If the victim had indeed returned to the Marine Terrace flat with her elder sister on 25 February 2005, such that the sexual acts could not have occurred, there was no reason why the accused did not inform the police at various points throughout the investigation process.

27 The accused said that he blindly acknowledged and responded to the charges that were read to him as he was in very confused state. He wanted to admit all the charges that were read to him and leave the police complex as soon as possible. This explanation was not credible. Almost three years had passed since he was first confronted with the allegations in 2011. Even if he was just planning to shoulder the blame because he felt guilt for having committed sexual acts with the victim, he would have stopped short of taking the blame for the act of licking the vagina, as his case in court was that he did not do that.

28 The accused claimed that he kept the documents concerning the case in his office and hid the details from everyone because he felt ashamed. He thought of defending himself only after his wife saw the charge sheets in May 2014. After discussing the case with her, he realised that the charges were inaccurate. In her evidence, the wife said that the accused showed her the charge sheets only in May 2014. She was shocked that the accused had agreed blindly to the charges, which she realised were problematic as the acts could not have taken place on 25 February 2005. If this were true, the fact remained that neither of them went to the police to correct the accused's earlier statements after May 2014. The accused was interviewed by an IMH psychiatrist in September 2014. Even then, he stated that the sex acts "happened around the years between 2005 and 2008, though he is not very sure about the exact period". In his police statement on 19 December 2012, he also

said that he started becoming intimate with the victim in mid-2005.

29 The evidence of the accused's wife was not credible. In all likelihood, she knew the details of the allegations, including the date on which they occurred, much earlier. She said that she had asked the accused many times about the allegations but he refused to divulge the details. She also said that the investigation officer would only say that there was a serious case going on. However, she stood as her husband's bailor from December 2012 and accompanied him to the Criminal Investigation Department's Serious Sexual Crimes Branch every month for about 1 ½ years. Even if he refused to disclose the details, she would have persisted and probed further, especially after learning that the case was serious. She was literate and worked as a bank manager. There were even discrepancies in what the accused told his wife before May 2014. The wife said that the accused had not told him that the complainant was the victim but the accused stated otherwise. When confronted with the contradiction in this important detail, she could only say that the accused was mistaken.

30 The evidence of the victim's elder sister similarly not credible. She testified that she returned home with the victim on 25 February 2005 and the accused was never alone with the victim that day. However, it defied logic for the elder sister to leave her school in Bedok North, fetch the victim from her school in the Mountbatten area and then bring her home to the Marine Terrace flat before going to the hospital with the accused. By the elder sister's own account, the victim, who was already in Secondary 1, was able to travel between home and school on her own. They took buses that departed in opposite directions in the morning. After school, the victim knew how to return home and to go to the student care centre situated below her block and had in fact done so on her own. In an urgent situation, an elaborate pick-up routine was even more unlikely.

31 There were also discrepancies in the accounts of the defence witnesses on whether there were neighbours inside the flat on 25 February 2005. The victim's elder sister said that when she brought the victim home, the accused and a neighbour's wife were cleaning up inside the flat. The accused's wife said that when she left with the victim's mother in the ambulance, there was a neighbour in the flat with the accused but this neighbour was a boy. In contrast, the accused said that the neighbours were around but they remained outside the flat.

32 As shown above, I found that the evidence given by the accused's wife and the victim's elder sister was skewed towards helping the accused to achieve a favourable outcome in his case. This affected the weight I gave to their evidence. The accused's wife said that he had been an important person in her life for the past 30 years, both emotionally and financially. They have two sons. She did not want to see him in jail for a long time. The victim's elder sister too was interested in the outcome of the accused's case. She regarded him and his family as her main source of family support. She is now living with them. While she spoke well of the accused, she voiced her disappointment with the victim for putting the accused and his family through a lot of misery and described her as manipulative. The victim's elder sister also said that she learnt about the details of the case, including the fact that the incidents allegedly occurred on 25 February 2005, only when she visited the lawyer's office about two weeks before the trial. However, she agreed to be the accused's witness in June or July 2014, *ie*, even before she knew what she was supposed to testify about. I accepted the Prosecution's submissions that this indicated that her testimony was an afterthought. If the accused and his wife had been so sure about the events on 25 February 2005 after they saw the charges in May 2014, they would have approached the victim's elder sister to verify the facts and inform the police of them immediately. They did not.

33 The victim's evidence in relation to the touching of her vagina area was also credible and consistent. The accused did admit to committing the act, except for the date and location. However, the victim was unlikely to have been mistaken about the date and the details of an incident that

occurred on the night that her mother was hospitalised in the ICU, as the traumatic event would have left a deep impression on her mind. On the other hand, while the defence's evidence was that the accused, his wife, the victim and her elder sister stayed at the hospital until the wee hours of the morning, their individual accounts were inconsistent. The accused and his wife said that they returned to their Hougang flat at about 3am to 4am and then slept. However, the victim's elder sister said that they returned only at 6am to 7am. On the accused's evidence that he woke up at 8am to go to work, that meant that the accused had hardly any time to sleep at all.

34 As was the case with the other charges, the accused failed to give an adequate explanation for his responses to the police. In his statement to the police on 19 December 2012, he admitted to massaging the victim's vagina on the day that her mother was hospitalised for vomiting blood, *ie*, in February 2005. In court, he said that he had been in a very confused state when the statement was recorded. However, the accused had been given time to think about the details before he made the statement. He confirmed that he made the statement voluntarily and that it had been read to him before he signed it. Charge 3, which was served on him on 22 May 2014, originally contained an error – the location was stated to be the Marine Terrace flat instead of the Hougang flat. However, the particulars correctly stated that the act occurred on 25 February 2005. The accused failed to clarify that the act occurred in 2007 or 2008 and in the Tampines flat. As was the case with the other charges, he merely expressed remorse in his cautioned statement. I could not believe that he was not paying attention when the charges were being read out to him.

35 The dispute over the date of the act of penis-vagina penetration was significant because the victim's consent was irrelevant if she was below the age of 14 at the time. At the trial, the victim's evidence was that the act occurred in June 2006. Given that the charge was not amended from "sometime in 2006", I proceeded on the basis that the offence could have occurred after her birthday, *ie*, after she turned 14 in August 2006.

36 Even if the victim was 14 and above, she had not consented to the act of penis-vagina penetration. The original charge that was served on the accused on 22 May 2014 stated that the act took place with the victim's consent in the first quarter of 2006. This meant that the victim was below 14 years of age at that time. The investigation officer framed the charge "with her consent" because in his view, the victim had continued to have sex with the accused over a period of time and did not resist his advances. Indeed, the victim testified that she put up no resistance. However, it is clear that submission in the circumstances here could not be treated as implicit consent: see *Public Prosecutor v Iryan bin Abdul Karim* [2010] 2 SLR 15 at [123].

37 In this case, the victim was a young girl who regarded the accused as a father figure after losing her father. The evidence showed that she trusted him and obeyed his instructions because he was her "appa". When the accused initiated sexual acts with her and assured her that the acts were normal, she had no reason to doubt his words. I believed that the victim did not understand the nature of the acts. Even if she had some idea about sex, she would not have countenanced upsetting him because of the important position he occupied in her life at that time. She would simply have gone along with his wishes. In the circumstances, the compliance of the victim could not constitute consent to any of the sexual acts, including the act of penis-vagina penetration.

38 Similarly, the victim's silence could not be construed as indicative of consent. Given the dynamics of her relationship with the accused, her promise to keep his acts a secret and her lack of understanding of the nature of the sexual acts, it was understandable that she would keep quiet about the sexual encounters, as she did for several years. That was even more so if she did not have anyone that she could confide in. Indeed, it would have been very difficult for her to tell her family members about the sexual acts as they were also very close to the accused. Even if – as the victim's

elder sister suggested – the victim had close friends and teachers, personal matters of this nature were not easy to talk about with outsiders.

39 In any event, I could not accept the defence's contention that the act of penis-vagina penetration happened in late 2007 or early 2008. When the victim underwent a medical examination at SGH, she told the doctor that the first instance of penis-vagina penetration was in mid-2006, when she turned 14. She also told the IMH psychiatrist that the penetrative sex started in 2006 when she was 14. After the accused underwent a polygraph test on 7 December 2012, he told the police examiner that the acts of penis-vagina penetration took place about two or three times in the victim's house when she was "about 14 years old". This suggested that the acts took place at the latest before the victim turned 15 in August 2007. At the trial, the accused claimed that he had said the acts occurred when she was "above 14 years old" rather than "about 14". However, if the acts really occurred in late 2007 or early 2008, he would have told the examiner that the victim was about or above 15 years old.

40 The defence disputed the victim's evidence that she returned to the Tampines flat after the act of penis-vagina penetration. The victim said that her family moved officially to the Tampines flat in July 2006 but had actually moved in before that as it lay vacant. The defence produced a title document for the Tampines flat which showed that the transfer of the flat to the victim's mother was registered only on 9 October 2006. Further, the defence said that the victim moved into the Tampines flat only in 2007 as her mother was unfit for work and could not renovate the place until after she had secured a renovation loan. This took some time. However, the title document, which also showed that the victim's mother lodged a caveat in July 2006, was equivocal as to the date of the actual move into the flat. If the three-room Tampines flat was vacant, it made sense to move out of the one-room rental flat in Marine Terrace earlier. The accused's wife and the victim's elder sister said that the move into the Tampines flat took place only in 2007 but again, their evidence was inconsistent. The former said the move was in mid-2007 but the latter said it was in late 2007.

41 The defence also said that the act of penis-vagina penetration could not have occurred in the accused's Hougang flat because his parents-in-law and maid were also living there. But the fact that there were other people in the five-room flat did not mean that the act could not have taken place. In any case, the key issue in the act of penis-vagina penetration was whether valid consent existed on the basis that the victim was at least 14 years old. I found that there was no consent by the victim.

42 I also found that the act of penis-mouth penetration in charge 5 took place sometime in 2006. The accused did not dispute that the act occurred in the victim's Tampines flat. The accused, in his police statement on 19 December 2012, said that the act occurred for the first time at the victim's Tampines home. He could not recall the exact date except that she had just moved into the Tampines flat. He confirmed this fact at the trial. Since I had accepted that the victim moved into the Tampines flat in 2006 (see [40] above), it followed that the date on the charge of penis-mouth penetration (sometime in 2006) was accurate. The accused's belated claim at the trial that the sexual acts occurred in late 2007 or early 2008 was inconsistent with his responses to the police and the IMH psychiatrist that the acts of intimacy started in 2005 (see [28] above). He provided no reasonable basis for the inconsistency.

43 I believed that the victim, who was not legally trained, had no ulterior motive to fabricate details of the sexual acts that were peripheral to her but which might well lead to a heavier sentence for the accused. The defence suggested that the allegations came about out of the victim's anger with the accused's wife after the quarrel in May 2011, when the victim said that she would shame the accused's wife's family. However, the victim told her probation officer that she had been sexually

abused since she was 13 years old when they met on 25 April 2011. This was before the quarrel. The probation officer also said that the victim was undecided as to whether to lodge a police report until after arrangements had been made for her to stay in a shelter. The evidence did not support a picture of a vengeful and purposeful decision to lodge the complaint. Moreover, the accused was uninvolved in the quarrel. Given the defence's own position that he remained on good terms with the victim until 2011, she would not have treated her uncle as collateral damage and sought to put him away in prison with false allegations.

44 On the whole, the victim's evidence was unusually convincing and truthful. I had no reservations about its reliability. With the exception of the licking the vagina offence, the accused admitted that the other five sexual acts did take place. In my view, the victim did not concoct the act of licking the vagina which occurred contemporaneously with the act of penis-mouth penetration on 25 February 2005. Neither was there any reason for her to lie about the dates and/or location for the other acts. In contrast, the defence's evidence was inconsistent and lacked credibility. The extent to which the evidence of the accused's wife and the victim's elder sister could support the accused's version of events was severely limited by their lack of credibility as witnesses.

45 I therefore found the accused guilty and convicted him on all the charges. There was no reason to alter the particulars in any of the charges. I sentenced the accused as follows:

Charge No	Maximum sentence	Sentence
Charge 1	Life imprisonment, or up to 10 years' imprisonment and liable to fine	5 years' imprisonment
Charge 2	Up to \$5,000 fine or up to two years' imprisonment, or both (on first conviction)	1 year imprisonment
Charge 3	Up to 2 years' imprisonment, or with fine, or with caning, or with any two of such punishments	1 year imprisonment
Charge 4	Up to 20 years' imprisonment and liable to fine or to caning	15 years' imprisonment
Charge 5	Life imprisonment, or up to 10 years' imprisonment and liable to fine	5 years' imprisonment
Charge 6	Up to 10 years' imprisonment, or with fine, or both	2 years' imprisonment

46 I ordered the imprisonment terms for charges 1 and 4 to run consecutively and those for the other charges to run concurrently with the two consecutive terms. The accused was therefore sentenced to 20 years' imprisonment commencing from 10 September 2015 as he requested postponement of imprisonment for one week. No caning was imposed as he was above 50 years old.

47 The accused has filed a notice of appeal against his conviction on the first five charges and the sentences imposed.