

Public Prosecutor v Iskandar bin Rahmat
[2015] SGHC 310

Case Number : Criminal Case No 50 of 2015
Decision Date : 04 December 2015
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Lau Wing Yum, Prem Raj s/o Prabakaran, Mansoor Amir and Sia Jiazheng (Attorney-General's Chambers) for the prosecution; Shashi Nathan, Tania Chin, Jeremy Pereira (KhattarWong LLP), Ferlin Jayatissa, Sudha Nair (LexCompass LLC) and Rajan Supramaniam (Hilborne & Co) for the accused.
Parties : Public Prosecutor — Iskandar bin Rahmat

Criminal Law – Offences – Murder

[LawNet Editorial Note: The appeal to this decision in Criminal Appeal No 39 of 2015 and the application in Criminal Motion No 14 of 2016 were dismissed, while the application in Criminal Motion No 17 of 2016 was allowed, by the Court of Appeal on 3 February 2017. See [\[2017\] SGCA 9.](#)]

4 December 2015

Tay Yong Kwang J:

1 The accused, Iskandar bin Rahmat, was born on 3 February 1979. He claimed trial to two capital charges of murder punishable under s 302 of the Penal Code (Cap 224, 2008 Rev Ed) ("the Penal Code"):

CHARGE

That you, Iskandar Bin Rahmat,

on 10 July 2013 (Wednesday), sometime after approximately 3.28 pm at No. 14J Hillside Drive in Singapore, did commit murder of one Tan Boon Sin, aged 67 years old, to wit, by inflicting multiple wounds with a knife to his face, neck, and chest with the intention of causing his death, and you have thereby committed an offence under s 300(a) punishable under Section 302(1) of the Penal Code (Cap 224, 2008 Rev Ed).

2nd CHARGE

That you, Iskandar Bin Rahmat,

on 10 July 2013 (Wednesday), sometime after approximately 3.33 pm at No. 14J Hillside Drive in Singapore, did commit murder of one Tan Chee Heong, aged 42 years old, to wit, by inflicting multiple wounds with a knife to his face, scalp, and neck, with the intention of causing his death, and you have thereby committed an offence under s 300(a) punishable under Section 302(1) of the Penal Code (Cap 224, 2008 Rev Ed).

2 The prosecution had a total of 102 witnesses. After discussions at a pre-trial conference with me one day before the trial, it was agreed that most of the prosecution's witnesses were not required for cross-examination. Accordingly, their conditioned statements were admitted by consent without the need for their attendance in court. Subsequently the prosecution also decided not to call one witness originally on its list (Dr Henry C Lee). Eventually, only 17 witnesses were required to testify for the prosecution in court. For the defence, only the accused gave evidence.

The prosecution's case

3 The prosecution proceeded under s 300(a) of the Penal Code for both charges. It alleged that the accused murdered Mr Tan Boon Sin ("D1") and his son, Mr Tan Chee Heong ("D2") in 14J Hillside Drive ("D1's house") with the intention of causing their deaths. The investigation officer, Deputy Superintendent Daniel Wong, recorded various statements from the accused. The accused's account of the events leading up to his arrival in D1's house and the events that happened after his departure from D1's house was largely not in dispute and formed part of the prosecution's case. The main contention was over the events that took place in D1's house over a period of about 30 minutes.

4 The accused joined the Singapore Police Force in March 1999 as a corporal. After secondary school, he enrolled in a polytechnic but left in his second year. He enlisted for national service in the police force and then joined it as a regular officer. He served with the Bedok Police Division and in 2007 successfully applied to become an investigation officer. The police force sponsored his diploma studies in management and police studies. He was an investigation officer until January 2013 and performed well in his work. At the time of the incidents stated in the charges, he was a senior staff sergeant.

5 After a short marriage, the accused divorced in early 2005. He started to experience financial difficulties from the liabilities incurred during the marriage. The financial problems stemmed from three loans that he had taken from Oversea-Chinese Banking Corporation ("the bank"): a housing loan, a renovation loan and a car loan. The flat and the car were eventually sold to pay off part of the debts owing by him. The bank took into account certain part-payments after he made enquiries but claimed that he still owed the bank \$61,599.66 as at June 2012.

6 On 4 October 2012, the bank filed a bankruptcy application which was served on the accused at his workplace on 25 October 2012. Court hearings followed. On 3 July 2013, he wrote to the bank's lawyer, offering an out-of-court settlement with a full payment of \$50,000. The bank accepted the offer but required payment by 4 July 2013, the date of the next bankruptcy hearing, failing which it would proceed with the bankruptcy application. The accused had less than \$400 when he made his offer. He did not attend the 4 July hearing. However, he called the bank's lawyer, who adjourned the hearing until 11 July 2013 for the accused to pay the bank the agreed amount of \$50,000 by that date. The accused had to pay the bank before the next court hearing on 11 July 2013 if he wanted to avoid bankruptcy. On 10 July 2013 (the day of the incidents in the charges), the bank's lawyer sent a payment reminder to the accused. There was no response and no payment. Accordingly, a bankruptcy order against the accused was made on 11 July 2013.

7 Before 11 July 2013, besides imminent bankruptcy, the accused's unsecured debts amounting to more than three times his gross monthly income meant that he was "financially embarrassed". That caused him to be subject to disciplinary action which meant possible dismissal from the police force. He was transferred from the investigation branch to the divisional operations room on 2 January 2013 as a result of internal investigations that started after a letter from the Insolvency and Public Trustee's Office was sent to his office in October 2012. He was also barred from carrying firearms.

8 In April 2013, the accused was charged with financial embarrassment by the Police Disciplinary Board ("PDB"). The disciplinary officer, Borhan bin Said ("Borhan"), explained to the accused the consequences of a finding of guilt which included dismissal or compulsory retirement. The disciplinary hearing was then rescheduled to 3 July 2013. At that hearing, the accused said he would obtain money from his cousin to repay the debts. Borhan, who adjourned the matter to 30 July 2013, said he might have mentioned to the accused that discharging his debts could mitigate the consequences of being found guilty. However, he did not threaten the accused about this. In truth, the accused did not have a cousin.

9 D1 was the owner of a motorcar workshop. The accused knew about D1 because on 8 and 20 November 2012, D1 lodged reports with the Bedok Police Division, stating that cash amounting to \$45,000 and gold coins were missing from his safe deposit box at Certis CISCO. The accused, who was initially assigned as the duty investigation officer for the case, learnt that a substantial sum remained inside the safe deposit box. At that time, he was already in financial difficulties. He brought home a copy of the police report which had D1's contact details.

10 The accused said he devised the plan to rob D1 on 8 July 2013 as the deadline for repayment drew near. He intended to call D1 and introduce himself as a Police Intelligence Department ("PID") officer. He would inform D1 that he had received information that his safe deposit box would be "hit" and he wanted to put a CCTV camera inside the box to catch the culprit. He would tell D1 to empty the box of its contents and to keep the operation a secret because the police did not know who was stealing from the deposit boxes.

11 On 10 July 2013, the accused executed his plan. He used a dummy CCTV camera which was in his home in Kim Keat. He removed its dome-shaped casing so that the lens and base could fit into a box in which he had cut a small hole. He positioned the lens to point towards the hole. He put the fake camera, his security pass, his warrant card, the copy of D1's police report, an anti-snoring wristlet and the cut-off part of an ear piece into a paper bag. He wore the clothes that he wore while he was an investigation officer. He also wore the wristlet and the ear piece to make it look like he had a "walkie talkie". To look professional, he also rented a car – a Nissan Sunny – from a car rental company in Sin Ming Drive for two days. He rode his scooter there to collect the car. He arrived around noon and checked out the car at about 12.20pm. He then left the scooter behind and drove to a public payphone at 226G Ang Mo Kio Avenue 1.

12 At about 1pm, the accused called D1 from the payphone. Telephone records showed that two conversations took place. One was at about 1pm for about eight minutes and the other at about 1.10pm for about 40 seconds. They spoke in Malay as D1 was not conversant in English. The accused introduced himself as a PID officer and said that he had information that D1's safe deposit box would be "hit". D1 agreed to put the dummy CCTV camera in the safe deposit box as requested. The accused wanted to meet D1 along Jalan Afifi in Paya Lebar, where Certis CISCO was located. However, D1 said the road was too narrow for him to park his car there and suggested that they meet at a Shell petrol station at Jalan Afifi at 2pm. The accused told D1 that he would be driving a car with the number, 2995. He did not give the prefix or suffix of the registration number so as to minimise the possibility of being traced.

13 The accused arrived at the petrol station first and went to scout around the vicinity for a place where he could park his rented car. When he returned to the petrol station, D1 had arrived in his silver Toyota Camry (which also had "14J" as part of its registration number, the same number and alphabet as D1's house address). He handed D1 the box with the dummy camera and asked D1 to place it in the safe deposit box and to remove his belongings from the safe deposit box. During the conversation, the accused pretended to use his "walkie talkie" by lifting his right wrist to his mouth

and saying "Roger, explaining to him". The accused said in court that D1 went to his car boot and retrieved an orange bag before driving to Certis CISCO with the dummy camera. The accused drove to Eunus Industrial Park to park the rented car. He then walked back to the petrol station to wait for D1 who returned shortly after.

14 D1 did not carry out the accused's instructions as the box and camera could not fit into the safe deposit box. After pretending to communicate on his "walkie talkie", the accused told D1 that he could place the camera without its box in the safe deposit box. D1 left in his car for Certis CISCO again. When D1 returned, the orange bag was on the floor of the driver's seat in his car. Certis CISCO's records confirmed that D1 accessed his safe deposit box twice that day. On the second occasion, he accessed the box at about 2.39pm and left at about 2.46pm. The owner of a safe deposit box has two keys. In D1's case, D1 kept one key while his wife held the other. Certis CISCO personnel do not keep any owner's keys and therefore the box could not have been opened without D1's or his wife's key.

15 The accused offered to escort D1 home as he was carrying a lot of money. He added that his "partner" would follow them in a car so as to convey the impression of an escort party. D1 agreed. As they started to leave, the accused lifted his wristlet to his mouth and said, "Proceeding back to house."

16 There was some congestion near the exit of the petrol station. D1's car crossed into the path of an Audi. The irate driver of the Audi, Hor Boon Long ("Hor"), approached D1's car and knocked on the driver's window. D1 lowered the window. Hor said to D1 words to the effect, "Uncle, what are you doing? What happened?". D1 immediately apologised by saying, "Sorry, sorry, sorry". Hor saw the accused (who he did not recognise at that time) seated in the front passenger seat looking at him. Hor said that the accused did not say anything and that he was not wearing a hat or sunglasses. After seeing D1's and the accused's photographs in the subsequent media reports about D1's death, he thought they looked familiar but could not recall where he had met them. It was only when the police called him to help in the investigations that he recalled the encounter at the Shell petrol station.

17 While in D1's car, the accused pretended to use his "walkie talkie" and then said to D1 that his "partner" could be delayed by traffic. Therefore, he had to be in D1's house for a while as D1's statement could only be recorded when his "partner" arrived with the statement form.

18 The accused and D1 arrived at D1's house at about 3pm. The house, a three-storey terrace house, is a corner unit in a row of houses with Hillside Drive running along its side and a dead-end access road running across its front. There are more houses on the other side of the access road. D1 opened the outer metal gates using a remote control in the car and drove his car into the compound, parking front-in in the porch. D1 then closed the gates using a remote control attached to the wooden main door. The wooden main door opens into the living room. From there, a short flight of three steps leads up to the dining area. The dining area is linked to a storeroom, a utility room with an attached toilet and a kitchen. No one was in the house except D1 and the accused. D1 and his wife lived there on their own since 2003 as their three children had moved out by then to set up their own families.

19 The only witness who could testify about the events in D1's house was the accused. The admissibility of his statements to the police was not disputed. In a statement recorded on 21 July 2013, the accused recounted:

43 In the house, I saw that he was carrying the orange fiber bag which I observed was in a

clear coloured plastic bag. He walked to the staircase of the house and placed it on the floor next to some other plastic bags. I have already showed the recorder where he placed this bag earlier.

44 Then he went into the kitchen while I sat at the sofa. He brought me an orange canned drink and offered it to me. After handing me the drink, he went to the kitchen again and returned with a straw for me. About one to two minutes later I asked him to open the gate so that I may step out to smoke. The reason for this was because the gate was closed and it would be hard for me to flee. I intended to grab the bag and run away. By asking him to let me out to smoke will make him open the gate for my getaway.

45 After smoking, I re-entered the house and he was going to close the gate but I told him not to since my 'partner' was arriving. He agreed and left it open. Thereafter I asked to be allowed to use the toilet and he brought me to the toilet located on the first floor of the house, in a room at the right of the dining area. While I was in the toilet, I prepared myself to walk out, grab the bag and run away. However, when I came out of the toilet, I saw that the bag was no longer at the bottom of the staircase.

46 I panicked and was looking around for the bag and could not find it. I saw him at the living room area using his handphone. When he ended his conversation, I quickly pretended to receive some communication on my walkie-talkie, and thereafter I told the old man to quickly grab his bag of belongings and we had to return to Cisco because someone had opened his safe deposit box. It was about 3.15p.m. by this time because I looked at my watch, and I also told the old man that I had suspected that it was the people from the next shift at Cisco who were responsible for the thefts.

47 He said "Ah...like that ah..." and appeared to be shocked. He then walked to the kitchen and used the telephone there. I do not know who he was talking to, I only mentioned to him to hurry up as we needed to go. He then came at me with a knife. He said "lu tipu sama gua" in Malay meaning I had cheated and lied to him. He went on to say that the CCTV I handed to him did not have any batteries and I tried to tell him that the CCTV does not require batteries.

48 Without saying further, he raised his right hand and I saw he was holding a knife in his right hand, with "pointed" end of the blade pointed upward from his palm. His hand was lifted above his head as he brought it downward towards me. I raised my right hand. I do not remember if I held his hand or the blade of the knife. I only saw the back of my hand bleeding at the area between my index finger and thumb. I was holding his hand and there was some struggle and I managed to take the knife from him.

49 After I took the knife from him, and while we were standing face to face near to the organ, I used the knife in my right hand, holding the knife with the "pointed" end of the blade pointed upward in my palm (recorder's note: accused illustrated this with his right hand, gesturing a finger above with his left hand), I began to stab him at his neck. He started to shout "Ah...Ah..." and so I used my left hand to cover his mouth to stop him from shouting and he bit me. As I tried to pull my left hand away from his mouth, I stabbed him a few more times at the neck area. It was a struggle and I could only swing my arm towards the neck of the old man and stab him there.

50 As I was stabbing him, I could feel his body jerking but he still had the strength to hold on to me. He was grabbing on to my shirt and my arms as I continued to stab him at the neck. I do not remember how many times I stabbed him, I stopped only when his body became soft. I was holding on to him and slowly lowered him to the floor. I cannot remember which part of his body I

was holding on to.

51 At this point, someone came into the house and I heard him shout "Pa". I took a glance at the old man and he was still alive because he was looking at me and his mouth was moving. The younger man was running towards me and the old man. He appeared to me to be wanting to punch me, I think his hands were clenched up like a fist. I then swung my arm toward the younger man. It was then that I realize that the knife was still in my hand. I stabbed the younger man also at his neck a few times. As I stabbed him he was also shouting "Ah..." and he fell to the ground. Even after I stabbed him at the neck, he was able to continue kicking me at my body. I do not remember if he said anything to me as he was kicking me. As I moved backward, he managed to stand up and we struggle for a while at the doorway. Both of us were shouting "Ah...", but I did not stab him anymore even though the knife was still in my hand. Afterwhile, I released my grip on the younger man and he ran out of the house. As I was struggling with the younger man, I could see he was bleeding from his neck area.

52 After he ran out, I knew I had to leave the house quickly. I turned and saw some pieces of paper on the floor beside the old man. When I first met the old man, he asked me to write my name and where I was from on a piece of parking coupon. I was afraid I could be identified by my handwriting and this piece of coupon was among the pieces on the floor. I took it away with me. I also saw the car key of the old man on the floor beside his right thigh. I picked it up and I walked towards the driver side of the old man's car. As I was walking, I saw my wristlet on the floor behind the sofa and I quickly picked it up and took it with me. I have been using this for some time and I was afraid that I could be identified through my DNA. I also returned to the toilet of the house and I took a hand towel to tie up the injury on my right hand.

53 I walked on the driver side of the old man's car and I saw that there was some blood on the side of the car and it's back and I also saw blood droplets on the floor of the porch and I thought the younger man could have left the place.

54 I entered the car and tried to start the engine, I had some trouble starting the car initially because it was a keyless vehicle, and I did not realize I have to step on the brake before I could start the car by pressing a button. The knife, the piece of paper and the car key of the old man, and my wristlet were placed on the front passenger seat of the car. Once it was started, I placed the car on reverse and drove it out. As I drove out from the house, the left mirror of the car hit the gate of the house. I do not think I hit anything else while I was reversing the car. Thereafter, I drove along the road till I got to Upper Serangoon Road. While I was driving, a number of motorists were sounding their horn. I felt it could be because of the blood on the surface of the car, so I did not stop and continued driving. I did not check how fast I was driving but I was trying to get away quickly.

20 It was agreed that the accused stabbed D1 and D2 in D1's house and the injuries were fatal. However, the prosecution alleged that the accused not only had the intention to rob but also had the intention to kill the two victims when he stabbed them multiple times in vulnerable areas such as the neck. The prosecution said that the accused brought the knife with him to D1's house and was the one who attacked D1. After he killed D1, when D2 arrived in his car outside the house, the accused waited behind the wooden main door and attacked D2 when he entered the house. The prosecution also asserted that the accused's right hand was cut during the incident with D2 and not during the earlier incident with D1. Further, D1 did not bite the accused's left hand. (The prosecution changed its position during closing submissions and accepted that D1 did bite the accused's left hand but only superficially as the bite marks were not pronounced).

21 According to the police investigations, D1 made two calls from his mobile phone to D2, one at about 3.21pm for about one minute and 16 seconds and the other at about 3.28pm for 25 seconds. The call that D1 allegedly made from the land line in the kitchen could not be traced. D2's subordinate, Vivien Ong, said that D2 (who was the director of an electronics company) left his office in the MacPherson area after receiving a call at about 3pm. He left the office lights on which he usually did if he would return shortly. He told her to take care of the office for a while and seemed normal.

22 House number 14H, Hillside Drive, which was the house adjoining D1's house, had a motion-activated CCTV camera pointed in the direction of the gates of that adjoining house. The CCTV footage from that camera showed D2 parking his car against the flow of traffic on the access road just outside D1's house before walking towards the gates of D1's house. About three minutes later, D1's car reversed out of the compound of D1's house towards the left of the screen, then sped forward and left a curved trail of blood on the road.

23 Salamah, a domestic helper was washing pots at the fenced backyard of her employer's house which was across the access road from D1's house. She estimated that she heard shouts and cries at about 3.30pm which caused her to look over the fence by standing on a mound of earth. The gates of D1's house were open. She saw D2 stagger out of the main wooden door. He was covered with blood and his hands were holding his neck. D2 went past the driver's side of D1's car (which was parked front-in) before collapsing on the ground behind it. The accused walked out of D1's house towards the passenger side of the car. He looked at D2 on the ground and walked round the back of the car before entering the driver's seat. He then reversed the car out of the compound of D1's house and drove away.

24 Fabian Anthony, a caretaker of the disused school building across the road at the side of D1's house, saw the Camry reversing over D2. D2's body was caught by the undercarriage of the car and dragged along the road as the car went along Hillside Drive and turned left into Upper Serangoon Road. Fabian ran after the car and shouted to try to alert the driver but he could not catch up.

25 D2's body was dragged under the Camry for almost a kilometre along Upper Serangoon Road. The horrifying scene was witnessed by other drivers who sounded their car horns repeatedly at the Camry. D2's body was finally dislodged near Kovan MRT station. The accused drove on to Eunus Industrial Estate and abandoned D1's car in a parking lot there. The car was found when a member of the public saw it after having heard the news about the missing car and informed the police about its location. He then went into the rented car that he had left there earlier that day. The accused kept the knife, the coupon, D1's car key and the wristlet in a bag which he put in his rented car. The accused then drove the rented car home to shower and to change his clothes. He packed his bloodied clothes and shoes into a plastic bag. He spoke briefly to his mother and asked for bandage. He bandaged the cuts on his right hand, packed some clothes and left his home.

26 The accused drove back to Upper Serangoon Road but in the opposite direction from his earlier drive from D1's house. He drove to East Coast Park where he eventually threw the bag containing the items picked up in D1's house and also his bloodied clothes and shoes into a canal. He drove back to Upper Serangoon Road again in the same opposite direction. Later that night, he drove to Sin Ming Drive to return the rented car by leaving it at the rental company's premises. He then went to his scooter and rode it to Johor Baru at about 11pm.

27 The accused stayed in hotels in Johor Baru over the next two days. On 12 July 2013, he sought treatment for his injured right hand at a clinic, telling the doctor that he had fallen from his motorcycle and hit a lamp post. The doctor there sutured his wounds and gave him some antibiotics.

That night, the accused was arrested by the Malaysian police while he was having tea in a restaurant. He was brought back to Singapore the next day.

28 On 18 July 2013, the police found the orange bag which D1 had used to keep the contents from the safe deposit box. D1 had apparently hidden it inside the storeroom at the dining area. The bag was among other things in the storeroom and stuffed under a chair.

29 Associate Professor Gilbert Lau ("Dr Lau"), a senior consultant forensic pathologist from the Health Sciences Authority (HSA), performed autopsies on D1 and D2. D1's body was found on the floor of the living room in D1's house, near the organ. He sustained 12 stab wounds and 15 incised wounds. These included five wounds to the neck, seven to the chest and nine to the face/scalp. All the wounds were likely to have been inflicted by a sharp instrument such as a knife. The substantive cause of D1's death was a deep and gaping incised wound that measured 8cm by 5cm across the front of the neck. This injury would have caused severe bleeding. The contributory cause of death was a stab wound to the left part of D1's chest. This wound was 13cm deep and was the deepest of all 12 stab wounds. The incised wounds included four injuries on D1's arms/hands, which were consistent with defensive injuries.

30 D2 sustained seven stab wounds and 13 incised wounds. There were four wounds to the neck and 13 to the face/scalp. A stab wound about 7 to 8cm deep on the right side of his neck likely caused his death. Three incised wounds on the forearm were consistent with defensive injuries. D2 also had extensive grazes on the face, trunk and limbs. These injuries were consistent with wounds caused by friction between the body and the road. Dr Lau said that the stab wound to the D2's neck was so severe that D2 would have been dead or at the brink of death before his body was dragged by the car. A dislodged tooth belonging to D2 was found on the floor of the house but it was not established how that tooth became dislodged.

31 The accused's bloodied sock prints in D1's house were analysed for DNA. The accused's sock prints were found in the living room, the dining room and the utility room. One sock print was just inside the entrance of the kitchen which adjoined the dining room. Some of his sock prints were also discovered close to the wall next to the wooden main door.

32 The knife was not recovered from the location provided by the accused (*ie*, in the canal at East Coast Park) despite the police's extensive searches. The accused denied that the knife was his but provided a description of the weapon as being shaped like a normal kitchen knife with a grooved blade. From the handle to the tip, it was slightly shorter than the breadth of an A4-sized piece of paper (which is 21cm long). He also did a sketch of what the knife looked like, drawing many small circles along the entire length of the cutting edge. Based on the police checks, D1 did not own a knife that was similar to the knife described.

33 D1's wife, Ong Ah Tang, said that she used only flat-edged knives at home. She was asked to check the knives in the house and she found no knife was missing. However, those were the knives she normally used. There could also have been old and disused knives in the other drawers in the kitchen.

34 D1's old friend and fishing buddy, Sherman Loh, accompanied the police to check D1's fishing equipment. He was familiar with where D1 kept the fishing gear and said that D1's fishing knives were not missing from a shed and a cupboard at the rear compound of D1's house. He said that he and D1 used slim knives with thin and smooth-edged blades so that bait would not tear when cut. The fishing knives used were also smaller than the one described by the accused as they would face problems clearing the checkpoints if they brought large knives for their fishing trips.

35 Dr Gilbert Lau said that if the dimensions provided by the accused were accurate, the blade would be too short to cause two of the stab wounds on D1 which were 11cm and 13cm deep. In his view, the blade of the knife used would have to be at least 13cm long.

36 The prosecution submitted that D1 could not have attacked the accused with the knife given D1's severe left knee injury that inhibited his movements. This was especially so given that D1 would have to descend the short flight of steps separating the living and dining rooms. When D1 was in Certis CISCO's premises to access his safe deposit box, the CCTV footage showed D1 walking in a wobbly manner, shifting his weight from side to side as he moved. D1's wife said that D1 had a chronic problem in the left knee that became progressively worse. He was due to undergo knee replacement surgery in August 2013. He walked with a limp and occasionally had to find support for balance although he did not use a walking aid as he found it embarrassing to do so. D1 continued to work and to go for boating trips to fish. His wife said that he could walk on flat ground but would fall down if he were pushed. D1's left knee problem eventually caused his right knee to weaken as well. Sherman Loh said that D1 alighted from his car very slowly because of his knee injury. He also walked slowly. When D1 was boarding or disembarking from a boat, his friends would help him carry his fishing equipment so that he could better balance himself.

37 D1's knee condition was confirmed by medical diagnoses which found severe osteoporosis in the left knee that would have inhibited his movement and the force he could generate with his upper body. D1 consulted Dr Brian Lee, an orthopaedic doctor, twice in 2011. An X-ray scan showed that D1 had evidence of osteoarthritis in both knees but which was worse in the left knee. An MRI (magnetic resonance imaging) scan showed severe osteoarthritis in the left knee. There was complete loss of joint cartilage in an extensive area.

38 D1 also saw another orthopaedic doctor, Dr Kevin Lee, who corroborated the diagnosis. Dr Kevin Lee last saw D1 on 3 July 2013, one week before D1's demise. He said that D1 was bow-legged and was already limping. He assessed that D1 would have been unable to run and would require some time to stand up if he fell unless he had some support. D1 did not seem to have any problems with his arms but the knee condition meant that he would not be able to move towards someone speedily. He opined that D1 would fall down at a push if he was swinging his arms at someone. Dr Brian Lee explained that lower limb disability affects balance and therefore the amount of force that a person could generate with the arms. However, D1 could still board a boat if his right knee was not bothering him as much. He could also drive as he would not need to use the left knee. (It was not disputed that the Camry driven by D1 had automatic gears.)

39 The accused was assessed to be of sound mind at the time of the incident in question. Dr Jerome Goh, a senior consultant psychiatrist of the Institute of Mental Health and Woodbridge Hospital examined the accused on five occasions in July and August 2013. The accused faced two stressors – the bankruptcy proceedings and the internal disciplinary proceedings. These issues led him to choose a course of action (to "rob"/"cheat" in order to pay off his debts and to continue working) that resulted in fatal consequences for the victims. However, he concluded that the accused had no mental illness at the time of the offences. The accused himself consistently denied having any depressive or psychotic symptoms around the material time. There was no discernible impairment in his functioning. He did not show any sign or symptom of mental illness and while his mood was subdued, he was not depressed. By all accounts, the accused appeared his usual self to those around him, including his superior at work, his family members and his girlfriend. He did not relate his financial problems to them. The accused's superior officer, Nurussufyan bin Ali, said that the accused's work performance in the operations team was unaffected despite the internal investigation. He accompanied the accused to both hearings before the PDB. He was not close to the accused but observed that he looked his usual self and appeared confident that he could repay the loan with his

cousin's help. In the period between the two PDB hearings, the accused helped to organise a team function and helped to book and pay for a chalet.

40 The prosecution's original stand was that the injury on the accused's left hand was not a bite mark. The accused's injuries were medically examined on 13 July 2013 after he was brought back from Johor Baru. Dr Lim Hock Hin, a medical doctor at Healthway Medical Group, observed a red mark of about 2cm by 2cm on the left hand below the thumb. He recorded the mark as a human bite because that was what the accused told him. However, Dr Lim would defer to Dr Tan Peng Hui, a visiting consultant forensic odontologist attached to the HSA who examined the same injury.

41 Dr Tan Peng Hui, an expert in the examination of bite marks, testified that the wound on the accused's left hand was not consistent with a human bite mark as there were no rectangular or linear marks that resembled the biting edges of the front teeth. Linear marks would be present if there was contact with teeth in a struggle. He said that evidence of a bite mark would not have disappeared between 10 July 2013 and 13 July 2013 when he examined the accused's hand.

42 However, in the prosecution's closing submissions, the prosecution was content to accept the accused's assertion that he was bitten by D1 during the struggle when he tried to cover D1's mouth to stop him from shouting.

43 The accused had two lacerations on his right hand which were sutured in Johor Baru. The accused told Dr Lim Hock Hin that the injuries came from grabbing a knife. Associate Professor Cuthbert Teo Eng Swee, a senior consultant forensic pathologist with the HSA, examined these wounds. He observed two separate wounds. One measured 3.5cm and stretched from the palm (below the base of the thumb) to the web space between the thumb and the index finger. The other wound measured about 3cm from the region of the web space to the back of the hand. The gap between the two wounds at the web space was 0.4cm. Dr Teo also noted some abrasions and bruises on the accused's right forearm and hand, including linear abrasions which could be cuts from a sharp object.

The accused's case

44 The undisputed facts leading up to and after the events in D1's house will not be restated here. The accused's evidence in court was materially consistent with his police statements. The overall tenor of his evidence was that on 10 July 2013, his only intention was to deceive D1 into removing his money from his safe deposit box so that he could steal the money which he needed urgently to pay the bank. The accused said he wounded D1 in the exercise of his right of private defence and in response to a sudden fight. Similarly, he wounded D2 in exercising the right of private defence and during the panic and fear of a sudden fight. The accused submitted that if it is found that he exceeded the right of private defence, his actions would not reflect an intention to cause death but an intention to cause injuries sufficient in the ordinary course of nature to cause death under s 300(c) of the Penal Code, an offence for which the death penalty is not mandatory.

45 The accused earned a gross monthly salary of about \$4,000 and was the main contributor to the household expenses. He paid the monthly rental of \$1,700 for the Kim Keat flat and helped pay for the family's groceries. He was very stressed by the bank's demands as he had never faced such a big debt before. He disputed the quantum and was unclear as to how the bank could have concluded that there was a shortfall after the sale of the car and the flat and the repayments that he made. He claimed that answers were not forthcoming despite his attempts to verify the purported debt.

46 The accused recalled he was the duty investigation officer when D1's first police report was lodged on 8 November 2012. He was initially the officer-in-charge and had to create a "crime file"

which would be forwarded to Inspector Adrian Quek, the senior investigation officer who was assigned to handle all reports concerning thefts from Certis CISCO's safe deposit boxes at that time. It was for the purpose of the crime file that he directed his assistant investigation officer to ask D1 if there was still money in the safe deposit box. There was still money left there. D1 testified that he had a "passing idea" that this was an opportunity for him to obtain some money. He brought an extra copy of D1's police report home as he was desperate that he would not be able to provide for his family. In his police statement, he also said that he kept a copy of the report as he had a "distant thought" to rob D1.

47 The accused's supervisors found out about the bankruptcy application in October 2012. The accused said he was very sad when he could no longer work as an investigation officer because of the internal investigations. He was removed from a job he loved and felt unsupported by his superiors who did not believe his explanation about the bank's claim. His investigation allowance of \$350 a month was also taken away and this affected him slightly. However, he said he did not share his situation with anyone as he felt embarrassed to be investigated for financial embarrassment. To try to resolve the matter, he voiced his disagreement on the claim amount to the bank and at court hearings but nothing came out of those attempts.

48 The accused was left fearing for his job as it was "made certain" to him at the PDB hearing in April 2013 that he would be dismissed from the police force if he failed to settle the debts. DSP Borhan told him that he would have no choice but to recommend that course of action if he could not resolve the debt issues. The accused was demoralised as police work had been his only job. He did not know where else to work for an equivalent income. After the PDB hearing, the accused continued to attend the court hearings and attempted to resolve the matter with the bank. He said that the bank did not disclose to him the proof of his indebtedness despite his requests. He felt like he was at a dead end.

49 At the PDB hearing on 3 July 2013, DSP Borhan told him that he would adjourn the matter until the end of the month for him to settle the matter. The accused said in his statement that DSP Borhan told him that he had no choice but to sack the accused if the issue was not settled. The accused said that he would try to get the money from his cousin. He said this to assure the officers that he had a source of funds so that they would stop pressurising him to settle the debt. As the accused's defending officer was going on leave in the last two weeks of the month, he effectively only had two weeks to settle the debt. After the hearing on 3 July 2013, he therefore wrote to the bank's lawyer to propose the \$50,000 out-of-court settlement. He chose that amount because he thought that was a sum that the bank would agree to.

50 At this point, the accused said he was stressed and desperate as he had no alternatives. There was a court hearing the next day (4 July 2013) which was adjourned subsequently for one week pending resolution of the matter. The accused felt even more desperate as he would be made a bankrupt in a week if he could not pay the debt. He did not share his problems with anyone as he was not the sort of person who would do so. As the deadline for payment drew close, the accused remembered the police report that D1 made. The report was kept in his drawer at home. It was only on 8 July 2013 that he hatched the plan to cheat D1, take the money from him and run away.

51 The plan was put into action on 10 July 2013. The dummy CCTV camera was bought two years ago (but never used) when his sister complained that their clothes disappeared when they were put out to dry in the corridor of their flat. The wristlet was also bought a few months earlier over the Internet. It was only on 10 July 2013 that he used his iPad to check on D1's address, which he figured was a house. That day was also the first time he met D1. The accused said he took steps to ensure that he would not be identified. He thought that D1 being an old man would not recognise him.

Even if D1 could subsequently describe him to the police, there were many others who matched the same description. The accused also wore his reflective Oakley sunglasses while he was with D1. He did this to conceal his face. Therefore, the Audi driver, Hor, could not have seen him looking at him.

52 When D1 and the accused arrived at D1's house in the Camry, D1 pressed a button in his car to open the outer gates. The accused recalled that the car's left side view mirror hit the gate but D1 did not react. He parked his car in the porch. D1 closed the outer gates but the accused did not see him doing so. However, in his police statement, the accused stated that D1 closed the gates "using a remote control attached to the door of the house".

53 The accused took off his shoes and entered the living room through the wooden main door. He kept his socks on. D1 went up to the dining room and placed the orange bag among some plastic bags on the floor near the staircase that leads up to the second floor of the house ("the staircase"). D1 went into the kitchen and brought out a canned drink for the accused. At that point, the accused wanted to take the orange bag and run. However, the outer gates were closed and he did not know how to operate the gates. To get D1 to open the gates, he said he wanted to smoke outside. He noticed that D1 opened the gates using a button near the wooden main door.

54 The accused went out to the access road area outside the compound of D1's house to smoke. After the accused had smoked for about five minutes, he re-entered the house. D1 wanted to close the gates but the accused told him not to as his "partner" would be arriving soon. The gates were left opened. At that point, the accused still wanted to take the bag and run but had no opportunity to do so as D1 was standing near the orange bag. The accused then asked to use the toilet. D1 led him to the utility room adjoining the dining room. There was a toilet inside the utility room. While in the toilet, the accused prepared himself "to walk out, grab the bag and run away". However, when he came out of the toilet, he saw that the orange bag was no longer at the bottom of the staircase. He panicked and looked around for the bag but could not see it anywhere.

55 D1 was then in the living room and using his mobile phone. The accused, who believed that D1 was conversing in Hokkien (a dialect he claimed to have little understanding of), returned to the living room. D1 walked to the area near the kitchen and ended the phone conversation. The accused then tried to get D1 to bring out the orange bag from where he had kept it in the house. He pretended to receive some communication on his "walkie talkie". He told D1 to quickly grab the bag as they had to return to Certis CISCO because someone had opened D1's safe deposit box. The accused estimated that it was about 3.15pm at that point. D1 looked surprised, walked to the kitchen and used the corded telephone (the telephone was mounted on the side of the kitchen cabinet near the kitchen's doorway). The accused, who was still in the living room, said he lost sight of D1. He did not know whom D1 was speaking to. He called out to him to hurry up as they needed to leave.

56 D1 emerged from the kitchen and started walking towards the accused at a normal pace with his arms by his side. When D1 was near the staircase at the dining room, he said in Malay that the accused had cheated him. He looked angry and said that the CCTV camera did not contain batteries. The accused said he was shocked that D1 had discovered his lie. The accused replied that batteries were not required for the CCTV camera but D1 continued walking towards him without responding. D1 raised his right arm near the flight of three steps. The accused saw that D1 had a knife in his right hand which was raised above the shoulder level. D1 held the knife such that the blade pointed upward. As D1 approached, he lifted his hand above his head and brought the knife downwards towards the accused. When the accused saw the knife, D1 was already within one and a half arms' length from him. The accused was standing near the organ in the living room area.

57 The accused grabbed D1's hand but D1 then pulled it away. This caused the knife to slice the

accused's hand causing the injury on his right hand. The accused shouted in pain but D1 came at him again in the same manner, *ie*, with the right arm raised. This time, the accused managed to wrest the knife from D1's hand. The accused now held the knife in his injured right hand with the blade pointing outwards. D1 was pulling at the accused. The accused swung the knife at D1's neck in a right to left motion. D1 remained strong and continued to tug at the accused and even tried to punch him. Therefore the accused could not get away. The accused stabbed D1 at his neck. D1 started to shout "Ah...Ah...". The accused used his left hand to cover D1's mouth to stop him from shouting and D1 bit his left hand. As the accused tried to pull his left hand away, he stabbed D1 a few more times at the neck area. D1 still had the strength to hold on to the accused. The accused estimated that he stabbed D1 a total of five to six times. Eventually, D1's grip on the accused softened and he started falling backwards. The accused was holding on to him and slowly lowered him to the floor.

58 The accused said in his statements that he stabbed D1 in the neck. He said that the neck was the only place he could swing his arm towards (this was also the case during his struggle with D2). He was not aiming at any specific part of the body. In court, he repeated that he did not intend to stab D1 in the neck or to stab him so many times. He said that the stabs could have landed anywhere as both men were moving around during the scuffle. He said that D1's height was around his eye level. Therefore, when he swung the knife at arm's length, the knife would land around D1's neck area. In his statements, the accused said he was aware that if veins or arteries were cut from stabs to the neck area, a lot of bleeding would result and that could lead to death if the person was not treated.

59 The accused said that D1 was quite strong. D1 was strong enough to keep pulling at the accused and still wanted to punch him even after having been stabbed once or twice. It was only towards the end that D1 stopped gripping him and his body became soft. D1 was still looking at the accused and appeared to be alive. His mouth was moving but the accused did not know what D1 was saying.

60 The accused said that D1 was walking normally and he did not even know that D1 had knee problems until the trial. However, the accused said that he noticed D1 limping at the Shell petrol station.

61 While the accused was putting D1 onto the floor, he heard someone shout "Pa!" from the wooden main door. D2 was two to three steps away from the accused. D2 ran immediately at the accused. The accused noticed that D2's hands were clenched. The accused stood up. D2 swung at the accused but the accused recalled blocking the blow with his left hand. The accused then swung his right arm towards D2. He wanted to retaliate with a punch to D2's face but did not realise that the knife was still in his right hand. As a result, the accused stabbed D2 in the face or at the neck area. The accused said his immediate concern was to run but D2 stood between him and the wooden main door. D2 continued to punch at the accused and could not be pushed away. As D2 kept pulling, pushing and punching the accused, the accused swung his arm wildly in a state of panic. He was not aiming at any particular part of D2's body. During the scuffle, the accused recalled that D2 fell backwards and kicked at the accused at the same time. They both fell to the floor. The accused said in his statement that he stabbed D2 in the neck for about five to six times before he fell to the floor. D2 managed to stand up whereupon another scuffle ensued. D2 subsequently turned around and ran out of the house. He was stooping slightly.

62 After D2 left the house, the accused decided that he had to leave as soon as possible. His right hand was bleeding and his clothes were drenched with blood. He felt disoriented and did not think he had time to search for the orange bag. D2 had run out of the house and was still alive. The accused said he went back into the toilet in the utility room to take a towel to wrap his right hand because he recalled seeing one there when he used the toilet earlier. He denied that he entered the utility room

after the scuffle with D1 and before D2 appeared. The non-detection of D2's blood in the accused's sock prints on the floor of the dining area and the utility room was possibly due to the fact that the struggle with D2 was closer to the wooden main door while the struggle with D1 took place around the organ near the flight of three steps. As there was already a lot of blood on the floor where the organ was, it was possible that he stepped on the blood which came from him and D1. D2's blood would therefore not be detected in the sock prints when he walked to the utility room.

63 When the accused returned to the living room, he saw D1's car key on the floor and picked it up. He also picked up the coupon as he had written "Rahman" and "PID" on it at D1's request when they met at the petrol station. He also picked up his wristlet and his sunglasses which had fallen off during the struggles. He then walked out of the house towards the front passenger side of D1's car to straighten the left side view mirror as it had folded in after hitting the gate when D1 drove in earlier. He then walked round the front of the car to the driver's side where he noticed blood on the side of the car. In his statement, he also said he saw droplets on the floor of the porch and thought that D2 could have left the house. He denied having seen D2's body on the ground at the back of the car.

64 When the accused was in the Camry, he initially had problems figuring out how to start the keyless ignition. However, he eventually managed to start the engine and reversed the car out of the outer gates. He recalled that the left side view mirror hit against the gate again but he did not encounter any resistance in the car's motion. As he drove out of Hillside Drive into Upper Serangoon Road, he heard the sound of car horns but thought that it was because the drivers had seen the blood stains on the side of D1's car. He did not know then that D2's body was being dragged by the car.

65 The accused said that after he showered, changed his clothes and left his flat, he initially drove around aimlessly as he was confused and did not know what to do. He contacted his supervisors and obtained a day's leave. When he drove back to Upper Serangoon Road, he found it strange that the traffic police had blocked a few lanes of the road as that was very far from D1's house. When the accused was at East Coast Park, he threw the bag containing the knife, coupon and bloodied items into the canal in the hope that it would flow out into the sea and would not be found. After that, he drove past Upper Serangoon Road again to go to the Toa Payoh housing estate where he bought a car charger to charge his mobile phone. He made up his mind to leave Singapore. After crossing the Woodlands Checkpoint, the accused stayed at one hotel for the first two nights before checking into another hotel on the third day (12 July 2013). On that day, he visited a doctor to seek treatment for his right hand. He told the doctor that he was injured after he fell off his motorcycle and hit a lamp post. He was arrested later that night while having tea at a restaurant.

66 The accused denied having brought the knife to D1's house. He believed that D1 could have taken the knife when D1 went to the kitchen. If the accused had brought the knife with the intention to kill D1, he would have done the act as soon as he entered the house while he had sight of the orange bag. He would have brought an extra set of clothes as he would expect blood to be on his clothes. He maintained that he planned to grab the bag, run out of D1's house to Upper Serangoon Road where he would flag down a taxi and escape. The accused said in his police statement that the cutting side of the blade had grooves on its surface. During his testimony, the accused clarified that the blade was not serrated but smooth. In the sketch done by him, the small circles that he drew along the cutting edge were to represent the matte finish of the blade. The accused also said that the dimensions of the knife given by him were only an approximation.

67 The accused also referred to the information in Dr Jerome Goh's psychiatric report. During his interviews with Dr Jerome Goh, the accused reported that he was in a state of panic. He panicked when D1 found out that he had been cheated and was even more shocked on seeing D1 come at him

with a knife. The subsequent events happened so fast that he was unsure of their sequence. He also reported panicking when D1 was about to strike him with the knife and when D1 bit his hand and pulled at his shirt. He was also "very panicky" by the time he reversed D1's car out of the compound of the house. The accused also relied on Dr Jerome Goh's finding that apart from the alleged offences, "he would not, by any measure, be assessed to be an individual with a violent propensity, especially someone at risk of committing severe violence". Asked about the accused's state of mind leading up to the incidents, Dr Jerome Goh said that his motivation was to avoid being made bankrupt and to continue to work in the police force. The accused related "very detailed planning" about robbing D1. Based on the accused's account of events, his intention was just to rob, take D1's money and run. However, Dr Jerome Goh cautioned that the accused's version of events was based entirely on self-report.

The decision of the court

68 The prosecution's case was similar to the accused's case in many aspects. The area of contention was really over the events that took place during the 30 minutes or so in D1's house on that fateful afternoon of 10 July 2013. The prosecution did not dispute the following events:

- (a) When D1's car arrived outside the house, the accused saw D1 open the outer gates using a remote control at the driver's seat. After parking the Camry front-in at the porch, D1 closed the outer gates using a remote control attached to the wooden main door.
- (b) The accused saw D1 carrying the orange bag containing the contents of his safe deposit box into the house and placing it near the staircase in the dining room among some other plastic bags. This is the staircase that leads up to the second level of the house.
- (c) D1 asked the accused to sit on the sofa in the living room and then walked into the kitchen to get the accused a canned drink. D1 returned to the kitchen to get a straw for the accused. D1 also set aside a canned drink and straw for the accused's "partner" who was supposedly going to the house soon.
- (d) The accused told D1 he wanted to go outside the house to smoke so that D1 would open the outer gates. After D1 opened the gates, the accused went out to smoke at the access road area outside the compound of the house. After about five minutes, he went back into the house. D1 wanted to close the gates but the accused told him not to as his "partner" would be arriving soon. D1 therefore did not close the gates.
- (e) The accused then asked D1 if he could use the toilet. D1 then led the accused to the toilet attached to the utility room (which was accessible from the dining room). The accused was in the toilet for about two minutes.
- (f) D1 used his mobile phone to call his son, D2, twice. The calls were made at 3.21pm (1 min 16s) and 3.28pm (25s).

69 The main points on which the prosecution's case was contrary to the accused's case are these. The prosecution asserted that the accused intended to kill D1 as part of his plan. For this purpose, he brought along a knife that was at least 13cm long (based on the deepest wound inflicted by the accused) to D1's house. At no time did D1 threaten or attack the accused. It was the accused who attacked D1 with the knife and inflicted multiple stab and incised wounds with it. During the attack, D1 bit the accused's left hand but the accused had not suffered the cuts on his right hand yet. After killing D1 but before D2 arrived, the accused walked around the house looking for the orange bag.

That was why his sock prints in the dining area and the utility room had D1's blood but not D2's. Similarly, the absence of the accused's blood in the utility room and in the adjoining toilet showed that his right hand could not have been injured and bleeding when he was walking around after killing D1. In his plans, the accused did not envisage that D2 would go to the house that afternoon but, after paying close attention to D1's telephone calls, he knew that someone would be arriving soon. He understood what D1 said during those calls. This was because he could understand simple Mandarin and Hokkien words (as the accused acknowledged during cross-examination). Expecting someone to arrive soon, he stood behind the wooden main door close to the adjoining wall to wait for that person. When D2 entered the house, he surprised and attacked D2. When D2 appeared on the scene, the accused intended to kill him too as he had no choice. The accused's right hand was injured during the struggle with D2. After D2 was attacked and staggered out of the house, the accused followed him outside. The accused walked along the passenger side of the parked Camry and round the back of the car to the driver's side. This was evidenced by the accused's blood on the metal grating of the drain in the porch on the passenger side of the car and by the eye witness account of Salamah from across the access road. He therefore saw D2 fallen on the ground. The accused did not adjust the car's left side mirror as the evidence showed no physical damage at its front portion, contrary to the accused's claim that D1 had caused the said mirror to come into contact with the gate as he drove the car into the porch. Further, there was only one drop of the accused's blood on that mirror. If he had used his bloodied hand or hands to adjust the mirror, it would have blood smudges.

70 The accused does not deny the acts of killing both D1 and D2. He denies that he had the intention to do so. He relies on the following exceptions in s 300 of the Penal Code:

(a) Exception 2 – Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defence of person or property, exceeds the power given to him by law, and causes the death of the person against whom he is exercising such right of defence, without premeditation and without any intention of doing more harm than is necessary for the purpose of such defence.

(b) Exception 4 – Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

Explanation – It is immaterial in such cases which party offers the provocation or commits the first assault.

71 I shall now consider the accused's evidence regarding his alleged plan to grab the bag of money, make a quick run to Upper Serangoon Road, stop a taxi along that road and then presumably ask the taxi driver to bring him to somewhere near where his rented car was parked in the Eunus Industrial Park. He did not think that D1, being an elderly man, would be able to identify him. When they met at the Shell petrol station for the first time, the accused merely flashed his security pass (which was enclosed in a protective casing) at D1 so it was not likely that D1 could remember his face. Moreover, the accused said, he took the precaution of wearing his reflective Oakley sunglasses throughout the time that he was with D1 so that his face was never fully exposed. He also introduced himself as "Rahman" instead of his real name, Iskandar bin Rahmat.

72 I will examine the accused's evidence on the basis that he never removed his sunglasses throughout the time he was with D1, contrary to the evidence of Hor, the driver of the Audi who had a brief encounter with D1 as they were trying to drive their cars out of the Shell petrol station. I accept that Hor could have been honestly mistaken when he said that the accused was not wearing any sunglasses and was in fact looking at Hor from the corners of his eyes. This was because Hor was

upset with the driver of the Camry, D1, not his passenger. His attention would therefore be focused on D1 instead of the accused who did not utter a word during the encounter. In any case, when Hor read the newspaper reports about D1 and D2 a few days later and saw the accused's and D1's photographs, he only found them familiar and could not recall where he had seen them before. It was only when the police called Hor to assist in the investigations that he recalled the incident at the petrol station.

73 Even with his sunglasses on, the accused was near D1 most of the time that they were together, in particular, while they were inside the Camry and then inside D1's house. It was the middle of the day and the accused did not have the advantage of the camouflage of darkness. D1's senses would be heightened because he was part of an apparently secret operation with the accused to catch the culprit who had stolen from his safe deposit box. It would be foolhardy in those circumstances to hope or to assume that a 67 year old with normal eyesight would not be able to identify the accused subsequent to their meeting. In any case, D1 would have been able to describe the accused's race, his approximate height and size, the accused's claim that he was a policeman and that he knew about D1's police report concerning the safe deposit box in Certis CISO. As a former investigation officer, the accused must have known that it would only be a matter of time before he was found out even if he had been successful in the professed plan to steal D1's money.

74 The distance from D1's house to where Hillside Drive intersects with Upper Serangoon Road is about 190m. The accused claimed that he was not familiar with and had not surveyed that area. He had reckoned from the address that D1's house was a landed property. In the morning of 10 July 2013, he did a search on his iPad and found out that the house was not very far from Upper Serangoon Road. He figured that he could easily run that distance and be able to outrun D1, who was much older than him, should D1 give chase, without knowing then that D1 had a severe knee problem.

75 In my opinion, the accused's professed grab-and-run plan involved so many contingencies that only a very foolish prospective thief would adopt it. The theft was going to be carried out sometime in the afternoon. The accused was going to hold a bag and sprint along a road with houses and other buildings nearby. There was every possibility that he would be seen by D1's neighbours or that D1 would chase him while shouting for help despite being 67 years old. Further, it will be recalled that the accused said he did not even know that D1 had knee problems and therefore would not be able to run. There was also the possibility that D1 might go after him in the Camry. Huffing and puffing as the accused would be when he reached Upper Serangoon Road, he must be able to catch a taxi very quickly and without alerting the taxi driver that something was wrong lest the taxi driver start noticing him and be able to identify him later when the theft became known. The accused did not appear to me to be such a foolish person. He would not have come up with such an inane plan. He claimed in court that he was going to take things as they happened, improvising along the way. However, it was obvious that his escape without being identified was crucial to his plans. His attitude about his escape plan after the intended theft stood in stark contrast to the meticulous planning that he made for the charade with D1 earlier that day. In my view, the accused's plan could not possibly be the simple grab-and-run described by him.

76 I now assume for the moment that the accused's plan that day was indeed a simple grab-and-run. There were ample opportunities for him to snatch the bag of money while he was at D1's house. Even if he really did not know how to operate the remote control for the outer gates, the golden moment came after D1 opened the outer gates as requested by him. The bag of money was still on the floor next to the staircase in the dining room. D1 was not constantly standing in the living room hallway blocking the accused's escape path. It was unbelievable that the accused chose to go out of the compound of the house to smoke for some five long minutes instead of looking for an opportune moment to grab the bag of money and go.

77 When the accused went back into D1's house after smoking and asked to use the toilet, D1 led him into the utility room to show him where the toilet was. The bag of money was still at the staircase area. The outer gates remained ajar. Here was another clear chance to put his professed plan into action. Again, the accused mysteriously did not seize that chance.

78 When the court questioned the accused about these squandered opportunities, he claimed that he already felt bad about wanting to steal D1's money and so did not want to cause any hurt to D1 by having to push him away since D1 was often standing near the bag of money. Even so, that could not explain his inaction when both of them were in the utility room as the accused could easily turn around and go for the bag without even nudging D1, much less hurting him. The accused's claim about not wanting to cause even slight hurt to D1 must also be contrasted with what he did with the knife subsequently.

79 The accused claimed that D1 found out about the fake CCTV camera and flew into a rage. How did D1 find out? The evidence showed that D1 dutifully placed the dummy camera in the safe deposit box as instructed. He handled the camera when the outer box had to be removed and must have seen that the battery compartment was empty as the cover on the bottom was missing. He either did not suspect anything about the camera or had queried the accused about it and was satisfied with the accused's explanation about the camera not needing any batteries. After all, D1 appeared to have been duped by the accused's constant hi-tech "wireless" communications on his wristlet and earpiece. The evidence also showed that the safe deposit box was not opened by anyone after D1's two visits that day.

80 It was suggested that D1 could have found out about the accused's charade when he spoke to D2 over the telephone. However, the evidence showed that when D2 left his office for D1's house that afternoon, he looked normal. He also left his office lights on, intimating thereby that he would be returning to the office quite soon. This would not be the case if he were rushing to D1's house upon both D1 and D2 discovering that there was a fraudster in the house. There was also no evidence of any call to the police having been made about the accused's trickery. D1's conduct that afternoon showed that he trusted the accused who said that he was an intelligence officer from the police. He obviously believed that it was a functional camera that he had placed in the safe deposit box. As D1 was not conversant in English and used to call his children for help if there were documents in English that he had to understand, in all probability, he had called D2 to go to the house that afternoon because he was expecting to give a statement to the accused's "partner".

81 Even if somehow D1 did find out that he had been duped by the accused, would he have become so enraged that he would immediately attack the accused with a knife that had a blade some 13cm long? Had he already concluded too that the accused was a fake police officer? The accused heard him talking near the kitchen entrance but did not see him take the knife. Since D1 was holding the knife in his right hand, it would have been difficult for him to use that hand to support himself as he went down the three steps from the dining room to the living room as the bannister was on his right when he was going down. In any case, the accused said that D1's right arm was raised and so it could not have been used for support when D1 was moving down the three steps into the living room. The condition of D1's knees would not have permitted him to move at the speed alleged by the accused or, at any rate, he could not have moved so fast as to take the accused who was in the living room by surprise such that the accused had no time to avoid the alleged attack.

82 The alleged sudden and complete change in D1's attitude was also not consonant with the evidence. He had been a trusting and hospitable person from the time he met the accused at the Shell petrol station until that fateful telephone call when he allegedly transformed suddenly into a knife-wielding, violent man. At the petrol station, when D1 was confronted by a much younger man

about his driving, he immediately said to Hor, "Sorry, sorry, sorry". One might be sceptical and say D1 showed a subdued attitude then as he had a police officer in his car and could not misbehave. However, his immediate and repeated apologies showed that he was not the explosive person that the accused made him out to be. D1's wife also testified that while she and D1 had quarrelled before, D1 was not a man given to violence against her or anyone else.

83 Based on all the evidence, I do not believe that D1 flew into a rage or that he was armed with the knife. In the first place, he could not have found out that the camera was a fake. I also cannot accept that he would want to hurt the accused with a dangerous weapon in his own house just because he found out that he had been tricked. After all, his money was still with him and the police was only a telephone call away. Even if he did not want to call the police in the accused's presence, he could have easily asked D2 over the telephone to do so. Although D1's weight and height (84kg and 170cm) were not vastly different from the accused's at that time (83kg and 173cm), D1 was much older (67) than the accused (34) and was certainly a whole lot less agile in his lower limbs. He was due to go for a knee operation not long after 10 July 2013. It was not possible that D1 would choose to have a one-to-one fight with the accused and that he would do so without having confirmed that the accused was not a police officer.

84 The accused's police statement and testimony in court mentioned that his left hand was bitten by D1 when he tried to cover D1's mouth to prevent him from shouting. The highest that the defence's case could go would be to say that the accused was afraid that D1's shouts would attract the attention of others and if those people went to D1's house in response, his whole ploy of wanting to steal the money would come to nothing and he would be exposed. However, it must be remembered that the accused had claimed that D1 attacked him with a dangerous weapon suddenly. He also said his right hand was wounded in the process of trying to disarm D1. In my opinion, it was totally inconceivable that a person in that situation, fearing for his life, would think of muzzling his attacker. The accused's anxiety in trying to prevent D1 from shouting showed that in truth it was he who was attacking the hapless D1 with the knife. The sheer number of wounds to very vulnerable parts of D1's body, compared with the relatively minor injuries on the arms and the hands of the accused, showed beyond all doubt that the accused was attacking D1 ruthlessly. The wounds to D1 were definitely not inflicted randomly. The accused targeted the vital areas of D1's body. It would be expected that the handle of the knife became slippery and therefore difficult to hold tightly as it became covered with D1's blood. The accused must have hurt his right hand amid all the thrusting and cutting movements of the knife in that hand against D1's person. There could be no doubt that the exceptions of private defence and sudden fight were totally inapplicable in the situation here.

85 Some may ask, if the accused really wanted to kill, why did he need so many strokes to kill a wobbly, old man like D1? Similarly, why could not the accused kill the unarmed D2 with a few deft strokes of the knife? It was certainly not an efficient killing. In this context, although the accused was a police officer trained in unarmed combat and in the use of firearms, he was not an accomplished assassin adept at killing with a few swift strokes of a knife. However, the overwhelming number and severity of the wounds inflicted by him on D1 and D2 also showed the ferocity and viciousness with which he attacked the two men.

86 Where D2 was concerned, it was clear to me that he had gone to D1's house at his father's request as D1 thought he was going to give a statement to the accused's "partner". When he entered the house, he would naturally be shocked and alarmed to see his father covered in blood being lowered onto the floor. Even if D2 charged at the accused with clenched fists upon witnessing the horrifying scene in the living room, he was doing no more than trying to protect his father or to apprehend the apparent assailant. The accused said he was still holding the knife in his right hand. Based on his evidence, when he was lowering D1 onto the floor, his right hand would be facing the

entrance of the house. D2 would therefore have seen him still holding the bloodied knife. If there was any right of private defence to be exercised, that right would clearly belong to D2 and not to the assailant. There was obviously no sudden quarrel (see exception 4 in s 300 of the Penal Code) since all that D2 managed to utter in apparent alarm was "Pa!" before he too became a victim of the relentless stabbing and slashing by the accused.

87 From the evidence set out above, there could be no doubt that the accused intended to kill D1 as part of his plan to obtain the money he urgently needed that day. For that purpose, he brought along the knife which he obviously hid from view. He could not risk being identified. There was no way he could have carried out a grab-and-run theft without being identified subsequently. D2 never featured in his original plan but when D2 appeared at the most inopportune moment in D1's house, he quickly became collateral damage. The accused could not allow D2 to live to recount what he had seen in the house. The accused had to silence completely the two persons who had seen him. The intention to kill D2 was formed there and then or just before D2's arrival in D1's house. It was incredible that the accused did not realize the knife was in his right hand when he hit out at D2 with his right arm. The multiple wounds on both D1's and D2's vital areas showed that they were cruelly, deliberately and forcefully inflicted. They could not have been the result of reactionary and defensive moves by the accused.

88 D2 was taller (177cm) than the accused (173cm). However, he was a whole lot lighter (56kg) than the accused (83kg) at that time. He could not have been so menacing and so strong that the accused had to retaliate with such ferocity and with so many stabs and slashes of the knife. The accused was not even hurt during the incident with D2. This time, the accused did not even attempt to muzzle someone who shouted "Pa!". There was no need to do so because plunging the knife into D2's neck was more much effective in silencing him.

89 The defence contended that if the accused had the intention to kill D1, he would have brought along an extra set of clothes to D1's house in anticipation of the blood splatters on his clothing during the killing. Further, the accused would not have left his getaway rented car so far away from the house. In my opinion, however, the accused was not expecting the bloodshed that eventually took place. He was going to kill an old man inside his house and that should not pose too much difficulty for him. The killing did not turn out to be as smooth and simple as he had hoped it would be. Further, he ended up having to kill another man because of the twist of events. It was not a case of knowing or expecting that so much blood would spill in the house. There was no clear evidence anyway that he did not bring an extra set of clothes with him. After all, the accused managed to switch vehicles in the Eunus area, drive the rented car home and go up to his flat on the fourth level of the block without anyone noticing him. Where the getaway car was concerned, one could equally argue that the accused did not want the car near D1's house because he did not want anyone to notice the unattended car in the vicinity as it would be easily traced to him as the hirer.

90 I will now deal briefly with the points on which the prosecution's case was contrary to the accused's case. Firstly, the prosecution contended that the accused did not suffer the cuts on his right hand when he attacked D1. This was because the accused's sock prints in the dining area and the utility room showed only D1's blood and none of D2's blood. Further, there were no droplets of the accused's blood on the floor in that room or in the adjoining toilet. According to the prosecution's version, the accused was walking around in the house looking for the orange bag of money before D2 arrived. He was not looking for a towel in the said toilet. In any case, the prosecution pointed out, there were towels on the kitchen worktop and one towel hanging on the kitchen door. There were also folded towels stored in the utility room. There was therefore no need for the accused to go into that toilet in order to find a towel to wrap his right hand. The accused maintained his evidence that his right hand was injured in the incident with D1 and not with D2. He surmised that he could have

cupped his bleeding right hand in the front of his shirt while walking to the toilet. I see no reason to disbelieve this aspect of his evidence especially since it was not shown that the accused's blood was oozing out uncontrollably. Further, the sock prints on the floor were generally linear, showing that the accused was moving in the direction of the toilet and not scurrying around in the utility room, which would probably be the case if he were searching for the bag of money. There was only one sock print at the entrance of the kitchen because, as he testified, he realised he had stepped into the kitchen by mistake when he wanted to go to the toilet the second time. The kitchen entrance was next to the entrance of the utility room and that strengthened his version. After all, he was not familiar with the layout of the house. It is understandable that he did not notice any of the other towels as he had just killed two persons and his only thought was to get the towel he had seen earlier when he used the toilet.

91 Following on the earlier hypothesis, the prosecution argued that after paying close attention to D1's telephone calls, the accused knew that someone would be arriving at the house soon. He therefore stood behind the wooden main door close to the adjoining wall to ambush that person. It was during the attack on D2 that the accused's right hand was injured. Here again, I see no reason not to accept the accused's version of the events. If he ambushed D2 and launched a surprise attack on him from behind when D2 entered the house, how did the cuts on the accused's right hand occur? The sock prints near the wall were so faint that they could not be seen with the naked eye. They had to be enhanced by the use of a chemical when the investigators went back to the house days after 10 July 2013. While D1's blood was on the wooden main door's knob, no blood was noticed on the wall there. That would not be likely if the accused had been waiting in that confined space for D2 to go into the house. I do not think therefore that the accused was hiding there after killing D1. The sock prints could be just his footsteps when he was walking around the living room earlier before the horrific events took place.

92 The next contested event was what happened in the porch after the badly injured D2 staggered out of the house. The prosecution said that the accused followed him out, walked along the passenger side of the Camry and round the back of the car to the driver's side and that the accused therefore saw where D2 had fallen. The accused said he did not follow D2 out. He only went out to the porch later when he wanted to get away from the house. He walked only as far as the left side mirror of the car because he wanted to push it out as it had been pushed in forcibly when D1 drove into the porch earlier and the mirror hit the gate.

93 In my opinion, the accused did run out after D2 because he could not risk having D2 raise the alarm. When he reached the area near the left side mirror of the car, he saw D2 collapsing onto the ground just outside the compound of the house. There was therefore no need for him to run out further towards the outer gates. This was consistent with the evidence that the accused's blood was found on the metal grating of the drain in the porch on the passenger side of the car and with the drop of his blood on the side mirror. I do not think that he went round the back of the car to get to the driver's side. There was no need to. Further, there were no more of his blood stains on the porch beyond the left side mirror. I am prepared to accept that Salamah, who was looking from the house across the access road, could have been honestly mistaken about this detail when she said that the accused walked round the back of the Camry.

94 On the other hand, I do not accept that the accused's purpose in going to the passenger side of the Camry was to adjust the side mirror. The evidence showed that the front portion of the side mirror had no noticeable physical damage despite his claim that the side mirror hit the gate when D1 was driving in. Further, it was highly unlikely that an allegedly frantic person who just realised that he had killed two men and who was trying to make his escape would be so concerned about road safety that he would first adjust the side mirror of the car. After having seen that D2 had collapsed, the

accused went back into the house, took the towel to wrap his injured right hand, picked up the things from the floor as stated by him and then went by the driver's side into the driver's seat.

95 The accused was obviously not telling the truth on this point concerning the left side mirror because he did not want to admit that he chased D2 and saw D2 fall onto the ground somewhere behind the car. He wanted to maintain his story that he was not aware that he reversed the car over D2's body. The prosecution's case was not that he committed murder by running the car over D2's body. Instead, it sought to use the incident to bolster its allegation that the accused had wanted D2 dead and was therefore completely nonchalant about running the car over his body.

96 In my view, the accused knew that the car would run over D2's body. However, that was not his purpose when he reversed the car out of the porch. Clearly, he would be anxious to drive away from D1's house and there was no other way to do that except to run over D2's body as it was in the path of the car. The only other alternative was to go out and drag D2's body to one side first but that would waste more time and risk being spotted by someone. After reversing the car into the access road, it was unfortunate that the low-profile undercarriage of the Camry caught hold of D2's body or his clothes. The car was the accused's means of escape and not a mean murder machine.

97 I now come to the issue about the knife. The defence submitted that the prosecution had no proof that the accused brought the knife to D1's house that day. Dr Lau could not rule out the possibility that more than one knife was used to inflict the wounds found on D1 and D2. Following from the evidence discussed earlier that the accused's plan necessitated that there be no witness to his crime, that D1 did not brandish a knife against the accused and that the accused did not enter the kitchen beyond its doorway, it must follow that the knife used in the killings was the accused's. This conclusion is buttressed by the fact that the accused seemed to know the knife's details despite it being covered with blood as it must have been after the horrific stabbings and slashings. He was able to recall that the knife had grooves and many small circles along its cutting edge. He did not voice any objection or make any correction when the knife in his drawing was referred to repeatedly as having a serrated or jagged edge. It was only during his oral testimony that he explained that he was describing a knife with a smooth edge to the police. The circles he drew represented actual circles that stretched from the "end of the knife to almost the tip of the knife" and which were darker in colour. The blade was two-toned, matte along the edge and shiny elsewhere.

98 In my opinion, the accused was trying to modify his evidence about the knife after having heard D1's wife testify that she did not have such serrated-edged knives in her kitchen and D1's fishing buddy that D1 did not use such knives in fishing. The accused was able to sketch the details of the knife's blade even though the details must have been obscured substantially by all the blood on it and despite claiming that he did not look at the knife closely while it was in his possession. The clear inference is that the accused had time to observe the knife before it became bloody in the continuous stream of events that day. That could only happen if the knife was with the accused some time before the attacks. The prosecution also referred to the 13cm-deep wound sustained by D1 and contended that the accused deliberately drew a shorter knife to mislead investigators. However, I do not think this last point would necessarily serve his defence. Whether the knife blade was long or short, his case was that it came from D1's hand, not his, and that he did use it on both D1 and D2 in the situation set out in his version of the facts. Moreover, he knew that he had got rid of the knife already.

99 There was also some debate during cross-examination of the accused that, being an experienced police officer, he knew the difference between robbery and theft. Therefore, when he mentioned to Dr Jerome Goh of IMH that he thought of robbing D1, violence and hurt were contemplated. The accused replied that he was speaking in layman's terms to the psychiatrist and

was not using legal definitions. I accepted his evidence because it was apparent from Dr Jerome Goh's report that the accused used the terms "rob", "cheat" and "steal" interchangeably (see page 10 of the report at 1 AB 270)

Conclusion

100 It follows from my findings that the accused caused the death of D1 and D2 by attacking them cruelly and relentlessly with the clear intention of causing death. The evidence did not admit at all of the possibility of the accused exercising the right of private defence against either of the two men. Equally, there was nothing to suggest that there was a sudden fight in the heat of passion upon a sudden quarrel, whether with D1 or D2. Even if exception 2 were to come into play, there would be no way that the accused could claim that he had no intention of doing more harm than was necessary for the purpose of private defence. Similarly, even if exception 4 could somehow be relevant, the accused would certainly not be able to plead that he had not taken undue advantage or acted in a cruel or unusual manner.

101 The accused is therefore guilty of murder within the meaning of s 300(a) of the Penal Code. I convict him on both charges accordingly.

102 Before I deal with the sentence, I express my gratitude to both the prosecution and the defence teams for their highly professional attitude and their full cooperation in the process of justice in agreeing to admit by consent evidence which was not controversial and in making concessions and re-assessing their respective positions as the evidence emerged. Both sides also did not take longer with the witnesses than was necessary. As a result, a trial that would have gone into the first half of 2016 was concluded within a few weeks in 2015.

103 The members of the police team involved in the investigations in this case have done tremendous work and thorough investigations from the very beginning. Their swift investigations led to the apprehension of the accused in Johor Baru, with the assistance of their counterparts in Malaysia. They were totally unbiased and professional in their investigations despite the fact that the accused was also a police officer.

104 The case exhibits may be disposed of by the police after any appeal or application for confirmation of sentence has been dealt with by the Court of Appeal.

105 I now come to the issue of sentence. Under s 302(1) of the Penal Code, whoever commits murder within the meaning of s 300(a) shall be punished with death. It is a mandatory sentence. As I have convicted the accused under s 300(a), it is now my solemn duty to pass the mandatory death sentence on Mr Iskandar bin Rahmat.

(The death sentence is pronounced by the court).

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