

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2022] SGHC 59

Criminal Case No 49 of 2021

Between

Public Prosecutor

And

BVJ

JUDGMENT

[Criminal Procedure and Sentencing — Sentencing — Principles]
[Criminal Procedure and Sentencing — Sentencing — Benchmark sentences]
[Criminal Procedure and Sentencing — Mitigation]

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Public Prosecutor

v

BVJ

[2022] SGHC 59

General Division of the High Court — Criminal Case No 49 of 2021

Tan Siong Thye J

7 March 2022

18 March 2022

Judgment reserved.

Tan Siong Thye J:

Introduction

1 The accused [BVJ], the biological father, committed numerous horrific sexual assaults on his four young daughters. He had defiled, debased and egregiously molested four out of five of his daughters on multiple occasions. Only the youngest daughter was spared. Of the four daughters that he used as his sex objects, three of them were raped on multiple occasions over a long period of time. The sexual exploitation began with the oldest daughter when she was only six to seven years old.

2 The accused is a 45-year-old male Singaporean. He originally denied the charges and chose to claim trial. On the day of the trial, the accused decided to plead guilty. The accused faces a total of 33 charges. The Prosecution proceeds against the accused on seven charges (“the Charges”) and the remaining

26 charges are taken into consideration for the purposes of sentencing after the accused admitted to them (“the TIC Charges”). The accused pleaded guilty to the seven proceeded Charges which involved one daughter (“the victim”). The victim was the youngest of the four daughters whom the accused had sexually abused. The victim was only 12 to 13 years old when the accused sexually assaulted her. She is currently 16 years old. The proceeded Charges read as follows:

That you, [BVJ],

(a) sometime after 10pm on 16 November 2018 and before midnight on 17 November 2018, in the master bedroom toilet of Blk [xx] Canberra Street #[xx-xx], Singapore, did penetrate with your penis the vagina of [the victim], a woman then under 14 years of age (13 years old, date of birth: [xx] 2005), without her consent, and you thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 1st Charge”);

(b) sometime after 10pm on 16 November 2018 and before midnight on 17 November 2018, in the master bedroom toilet of Blk [xx] Canberra Street #[xx-xx], Singapore, did penetrate with your penis the mouth of [the victim], a woman then under 14 years of age (13 years old, date of birth: [xx] 2005), without her consent, and you thereby committed an offence under section 376(1)(a) and punishable under section 376(4)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 2nd Charge”);

(c) sometime between 1 September 2017 and 31 October 2017, at Blk [xx] Canberra Street #[xx-xx], Singapore, did penetrate with your penis the vagina of [the victim], a woman then under 14 years of age

(12 years old, date of birth: [xx] 2005), without her consent, and you thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 4th Charge”);

(d) sometime between 1 January 2018 and 16 November 2018, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did penetrate with your penis the vagina of [the victim], a woman then under 14 years of age (12 or 13 years old, date of birth: [xx] 2005), without her consent, and you thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 5th Charge”);

(e) sometime between 1 January 2018 and 16 November 2018, at night, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [the victim], a person then under 14 years of age (female, 12 or 13 years old, date of birth: [xx] 2005), to wit, by licking her vagina (skin-on-skin), intending to outrage her modesty, and you thereby committed an offence under section 354(1) and punishable under section 354(2) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 6th Charge”);

(f) sometime between 20 September 2018 and 16 November 2018, at night, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [the victim], a person then under 14 years of age (female, 13 years old, date of birth: [xx] 2005), to wit, by licking her vagina (skin-on-skin), intending to outrage her modesty, and you thereby committed an offence under section 354(1) and punishable under section 354(2) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 7th Charge”); and

(g) from 1 September 2018 to 6 September 2018, in Singapore, did ill-treat [the victim], a child under your care (13 years old, date of birth: [xx] 2005), by denying her food, and you have thereby committed an offence under section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 32nd Charge”).

The facts

3 The accused has been married to V6, a 41-year-old female Singaporean, since 10 November 2001. Besides the victim, they have four other children:¹

- (a) V2, a 19-year-old female Singaporean;
- (b) V4, an 18-year-old female Singaporean;
- (c) V5, a 15-year-old male Singaporean; and
- (d) E, a 12-year-old female Singaporean.

4 In addition, the accused has two other children from a previous marriage:²

- (a) F, a 23-year-old male Singaporean; and
- (b) V3, a 24-year-old female Singaporean.

5 From around 2008, the accused lived together with V6 and his seven children at Blk [xx] Ang Mo Kio Avenue [xx] #[xx-xx], Singapore (“the Ang

¹ Statement of Facts (“SOF”) at para 3.

² SOF at para 4.

Mo Kio Flat”). In around November 2017, they moved to Blk [xx] Canberra Street #[xx-xx], Singapore (“the Canberra Flat”).³

Facts relating to the Charges

6 In 2016, when the victim was in Primary 5, the accused called her into his room and showed her a pornographic video on his computer. The video depicted a man and a girl engaging in sexual acts. The accused told the victim that the girl in the video was in Primary 5 and that the man was her father. Thereafter, the accused made the victim pinky-promise not to tell anyone about this.⁴

7 That same year, the accused began sexually abusing the victim by touching her chest and buttocks. He also had sexual intercourse with her. This happened on several occasions from 2016 to 2018, usually at night when the victim’s mother, V6, was out working. These sexual acts took place in the accused’s bedroom. From 2017 onwards, when the victim was in Primary 6, the accused also began making the victim fellate him before he had sexual intercourse with her.⁵

8 Sometime in 2018, the accused told the victim that she needed to have sex with him every month, or else he would stop her from schooling. This frightened the victim, as she was afraid of staying home all day if she did not attend school. This meant that she had to spend more time with the accused at home who would sexually abuse her.⁶

³ SOF at para 5.

⁴ SOF at para 6.

⁵ SOF at para 7.

⁶ SOF at para 8.

9 The victim did not consent to any of the sexual acts with the accused. Whenever she verbally protested that she did not want to participate in the sexual acts, the accused would ignore her protests. The victim ultimately obeyed the accused because he was her father. She did not dare to physically resist or fight him, as she was afraid that he would turn aggressive and also feared that he would withdraw her from school.⁷

10 The victim did not tell anyone about the sexual abuse by her father because he made her promise not to and she did not want to be hated by him. She also feared that nobody would believe her and that she would be sent away from her family to stay in a girls' home.⁸

11 The victim was a virgin prior to the accused having sex with her.⁹

Facts relating to the 4th Charge

12 Sometime between 1 September 2017 and 31 October 2017, while the accused's family was still staying at the Ang Mo Kio Flat, the accused brought the victim with him to visit the Canberra Flat. The Canberra Flat was still under construction and had a cement floor. The victim was 12 years old at the time and in Primary 6.¹⁰

13 At the Canberra Flat, the accused asked the victim to take a shower with him. They bathed together in the toilet of the room that would ultimately become the accused's bedroom. After drying off with towels, but while they

⁷ SOF at para 9.

⁸ SOF at para 10.

⁹ SOF at para 11.

¹⁰ SOF at para 12.

were still naked, the accused brought the victim to a different room in the Canberra Flat – the one which would later become the victim’s bedroom. The accused spread some newspapers on the floor.¹¹

14 The accused told the victim to lie down on her back on the newspapers. After putting a condom on himself, the accused inserted his penis into the victim’s vagina and moved it in and out. This lasted for several minutes. The victim said that it was painful, but the accused said that it was simply because her legs were not in the correct position. He then bent the victim’s legs further and continued to have sex with her. Thereafter, they washed up at the master bedroom toilet and then went home to the Ang Mo Kio Flat. The accused again made the victim promise not to tell anyone about what happened.¹²

Facts relating to the 5th Charge

15 Sometime between 1 January 2018 and 16 November 2018, on a weekend afternoon when the victim’s mother, V6, was not at home, the accused called the victim into the master bedroom of the Canberra Flat. The victim was 12 or 13 years old at the time and in Secondary 1.¹³

16 The victim entered the master bedroom and the accused closed the door after her. The accused asked the victim to lie down on a light blue settee in the master bedroom. He told her to remove her bottoms and her panties. She complied. The accused inserted his penis into the victim’s vagina and had sex with her. The victim told the accused that it was painful but the accused ignored her and continued with the sexual intercourse. When the sexual assault was

¹¹ SOF at para 13.

¹² SOF at para 14.

¹³ SOF at para 16.

over, the victim washed herself in the master bedroom toilet. The accused again made the victim promise not to tell anyone about what happened.¹⁴

Facts relating to the 6th and 7th Charges

17 On at least two occasions in 2018, the accused conducted “body checks” on the victim and her two older sisters, V2 and V4.¹⁵

18 One incident occurred at night sometime between 1 January 2018 and 16 November 2018. At that time, the victim was 12 or 13 years old and in Secondary 1. V2 was 15 or 16 years old and V4 was 14 or 15 years old.¹⁶ The accused called the victim, V2 and V4 into the master bedroom one by one. When it was the victim’s turn to go inside the master bedroom, the accused told the victim to remove her bottoms and her underwear. Then he told her to lie down on the settee (as there was no bed in the master bedroom yet). He bent both of her legs and began to lick her vagina under the pretext of cleaning it. The victim felt uncomfortable and was in slight pain. After that, the accused took a photograph of the victim’s vagina with his handphone. He then asked her to put her clothes back on. The victim then went out of the room.¹⁷

19 Shortly after, the accused called the three girls back into the master bedroom together. He then called each of them over to him one by one, while the other two girls stood at a distance. When each girl went up to him, the accused showed her a photograph of her vagina on his handphone and told her

¹⁴ SOF at para 17.

¹⁵ SOF at para 19.

¹⁶ SOF at para 22.

¹⁷ SOF at para 20.

how to clean her vagina properly after menstruating. He then deleted the photograph in her presence.¹⁸

20 Another “body check” occurred subsequently in much the same way on another occasion. This second incident also happened at night sometime between 20 September 2018 and 16 November 2018. The accused called the same three girls (the victim, V2 and V4) into the master bedroom one by one. At the time of this second incident, the victim was 13 years old, V2 was 16 years old and V4 was 15 years old.¹⁹ This time, there was already a bed in the master bedroom. When it was the victim’s turn to enter the room, the accused told her to remove her bottoms and underwear and to lie down on the mattress of the bed. He then bent her legs and began to lick her vagina. Like the previous time, the victim told him it was painful. After that, the accused took a photograph of the victim’s vagina with his handphone. He then asked her to put on her clothes. After that, she went out of the room.²⁰

21 Like the previous time, the accused then called the victim, V2 and V4 back into the master bedroom. He then called each of them over to him one by one, while the other two girls stood at a distance. When each girl went up to him, the accused showed her a photograph of her vagina on his handphone and told her how to clean her vagina properly after menstruating. He then deleted the photograph in her presence.²¹

¹⁸ SOF at para 21.

¹⁹ SOF at para 26.

²⁰ SOF at para 24.

²¹ SOF at para 25.

Facts relating to the 32nd Charge

22 Sometime in the evening of 1 September 2018, while they were living in the Canberra Flat, the accused got angry because the victim, V2 and V4 had brought their younger siblings (V5 and E) to the playground before finishing their household chores to his satisfaction.²²

23 As punishment, the accused did not allow the victim, V2, V4 and V5 to eat for the next four days. Thus, the victim, V2, V4 and V5 were not allowed to eat for five days in total from the evening of 1 September 2018 to the night of 6 September 2018. The accused threw away all the food in the house, including all the raw and frozen food in their refrigerator. The accused did not cook and also told V6 that she was disallowed to cook. When the accused and the other members of their family wanted to eat, they would dine out. There were large bottles of water in the refrigerator, but the accused bound these together with rubber bands so that he would know if the children tampered with them.²³

24 The accused also cut off the electricity supply to their lights, refrigerator and air-conditioner. When the house grew warm, the victim and her siblings fanned themselves with pieces of paper.²⁴

25 Over the course of the five days, the victim, V2, V4 and V5 drank tap water, and only managed to eat food that was smuggled to them without the accused's knowledge. For instance, V6 once managed to smuggle some packets of chicken rice to them to eat. On another occasion, V6 hid some biscuits and potato chips in their letterbox. V3's boyfriend then retrieved these snacks from

²² SOF at para 28.

²³ SOF at para 29.

²⁴ SOF at para 30.

the letterbox and smuggled them to the four children.²⁵ V3 also attempted to smuggle food from Subway into the Canberra Flat for her siblings, but the accused found out and threw the food away.²⁶

26 On the night of 6 September 2018, which was the eve of V6's birthday, the accused permitted the victim, V2, V4 and V5 to eat plain rice. From the next day onwards, they resumed eating and drinking as usual.²⁷

Facts relating to the 1st and 2nd Charges

27 On 16 November 2018 at about 9.13pm, V6 left the Canberra Flat to work the night shift as a sales assistant at Ang Mo Kio. Her shift started at 11.00pm and would end at 7.00am the next day. When she left home, the rest of the family was eating dinner at the table near the kitchen.²⁸ The victim was 13 years old at the time.²⁹

28 After dinner, the accused went into the master bedroom and signalled the victim to go to his room after she finished eating her dinner. When the victim entered the master bedroom, the accused instructed her to return to the room about half an hour later with a towel. Sometime after 10.00pm, the victim entered the master bedroom and the accused told her to lock the door. The victim complied.³⁰

²⁵ SOF at para 31.

²⁶ SOF at para 32.

²⁷ SOF at para 33.

²⁸ SOF at para 35.

²⁹ SOF at paras 42 and 43.

³⁰ SOF at para 36.

29 The accused told the victim to wash her private parts in the master bedroom toilet and she complied. After the victim finished washing herself, she put on her clothes. When she opened the toilet door to go out, the accused asked her to go back into the toilet, so she did. The accused entered the toilet with her and asked her to remove all her clothes. He too removed all his clothes. Whilst standing, the accused started to kiss the victim on the lips. He held and licked her breasts, then asked her to suck his penis to make it erect. The victim squatted and began to fellate the accused. As she was doing this, he also squeezed her breast with his hand, which she found painful.³¹

30 After the victim had fellated the accused for a while, he asked her to kneel on the floor and bend over in a praying posture, with her head down and her hands stretched forward. The victim did so on the toilet floor. The accused tried to insert his penis into the victim's vagina from behind, but he could not. He also touched her vagina with his fingers and she felt a sharp pain as his fingernails were sharp. The victim told him that it hurt, but he told her to bear with it.³²

31 When the accused failed to insert his penis into the victim's vagina from behind, he told her to lie on her back on the toilet floor. He then tried to insert his penis into her vagina again but was unable to. The victim told him that she was in pain because her back was lying on the raised boundary surrounding the shower area. The accused then led the victim out of the toilet and into the bedroom.³³

³¹ SOF at para 37.

³² SOF at para 38.

³³ SOF at para 39.

32 The accused laid his towel on the bed in the master bedroom, which the victim lay on. The accused inserted his penis into the victim's vagina and moved it in and out. The victim told him that it was very painful, but he told her to bear with it. Her legs were bent at the knees and the accused held her legs apart. He moved his penis in and out of her vagina for a while, then turned her onto her side and continued having sex with her. After a while, the accused withdrew his penis and ejaculated onto the victim's stomach.³⁴

33 The accused then told the victim to hold his ejaculate by cupping it against her body while walking to the toilet to prevent it from dripping. In the toilet, the accused washed his penis and told the victim to wash his ejaculate from her stomach and to wash her vagina. The victim complied and also took a shower. The accused told the victim not to tell anyone about what had happened. She then left his room.³⁵

Discovery of the offences

34 Sometime before midnight on 16 November 2018, V2 and V4 noticed the victim leaving the master bedroom after the final incident of rape (see [33] above). Finding it strange that the victim had showered there, they followed the victim and asked her what had happened. The victim then broke down and said that their father just had sex with her. She also revealed that this had been happening since she was in Primary 5.³⁶

35 V2 persuaded the victim to file a police report. They decided to go to a police station far away from their house so that the accused would not look for

³⁴ SOF at para 40.

³⁵ SOF at para 41.

³⁶ SOF at para 44.

them there. At around 12.21am on 17 November 2018, V2 and the victim left the Canberra Flat under the pretext of throwing rubbish. Instead, they ran down the stairs to go to a nearby block. They then took a Grab taxi which V2's boyfriend had booked for them to a police station at Bedok.³⁷

36 On 17 November 2018 at about 1.37am, the victim lodged a police report at Bedok North Neighbourhood Police Centre to say that her father had been sexually assaulting her. The victim was subsequently brought to KK Women's and Children's Hospital, where she was warded for a week. She then stayed at a children's home for about two weeks before returning home to the Canberra Flat.³⁸

37 After the victim and V2 left the Canberra flat on 17 November 2018, the accused searched for them at three different police stations, to no avail. Between 6.34am and 7.52am on 17 November 2018, the accused visited ten different websites on how to pass a lie detector test. The websites he visited included a WikiHow article titled "4 Simple Ways to Cheat a Polygraph Test (Lie Detector)" and a Mirror Online article titled "You can fool a lie detector test with just one simple movement – and get away with it". The accused was subsequently arrested by the Police on 17 November 2018 at 1.40pm.³⁹

Medical report

38 The victim was examined by Dr Wong Ker Yi ("Dr Wong") on 17 November 2018. Dr Wong is presently an associate consultant in the Division of Obstetrics & Gynaecology at KK Women's and Children's

³⁷ SOF at para 45.

³⁸ SOF at para 46.

³⁹ SOF at para 47.

Hospital. On physical examination, Dr Wong noted that the victim's hymenal opening appeared irregular, with deep notches noted at 8, 10 and 11 o'clock. A superficial 1cm vertical laceration was also noted at the victim's introitus, at the 6 o'clock position.⁴⁰

Psychiatric assessment

39 The accused was examined by Dr Vivekanandan Sivalingam ("Dr Sivalingam"), a consultant from the Department of General Psychiatry of the Institute of Mental Health, on 7, 14 and 20 December 2018. Dr Sivalingam opined that the accused was not suffering from any mental illness during the alleged offences, has no sexual perversions, and is fit to plead in a court of law.⁴¹

The accused's plea of guilt

40 The accused pleaded guilty to the Charges and also admitted to the Statement of Facts without qualification. The accused's counsel confirmed that the accused understood the nature and consequences of his plea and intended to admit to the offence without qualification. Accordingly, I found the accused guilty and convicted him on the seven proceeded Charges.

41 The accused also admits and consents to the 26 TIC Charges being taken into consideration for the purposes of sentencing. The TIC Charges read as follows:

- (a) sometime between 9 April 2015 and 7 May 2015, whilst in Singapore, did abet by instigating [V6] to intentionally pervert the course of justice, to wit, by instructing [V6] to persuade [V2] to provide

⁴⁰ SOF at para 48; SOF Annex A.

⁴¹ SOF at para 49; SOF Annex B.

false information to the Police, in order to exculpate yourself from sexual offences that you had committed, which offence was committed by [V6] in consequence of your abetment, and you have thereby committed an offence punishable under section 204A read with section 109 of the Penal Code (Cap 224, 2008 Rev Ed) (“the 3rd Charge”);

(b) sometime in 2014, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did ill-treat one [V2], a child under your care (11 or 12 years old, date of birth: [xx] 2002), to wit, you kicked her in the stomach and repeatedly hit her on the legs with a brown belt, and you have thereby committed an offence under section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 8th Charge”);

(c) sometime in 2014, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did penetrate with your finger the vagina of [V2], a woman then under 14 years of age (11 or 12 years old, date of birth: [xx] 2002), without her consent, and you have thereby committed an offence under section 376(2)(a) and punishable under section 376(4)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 9th Charge”);

(d) sometime in 2014, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did penetrate with your penis the vagina of [V2], a woman then under 14 years of age (11 or 12 years old, date of birth: [xx] 2002), without her consent, and you have thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 10th Charge”);

(e) sometime in 2014, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did penetrate with your penis the vagina of [V2], a woman

then under 14 years of age (11 or 12 years old, date of birth: [xx] 2002), without her consent, and you have thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 11th Charge”);

(f) sometime in March 2015, at night, at Blk [xx] Ang Mo Kio Ave [xx] [#xx-xx], Singapore, did penetrate with your penis the vagina of [V2], a woman then under 14 years of age (12 years old, date of birth: [xx] 2002), without her consent, and you have thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 12th Charge”);

(g) sometime in 2018, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [V2] (female, 15 or 16 years old, date of birth: [xx] 2002), to wit, you spread her vaginal lips apart with your fingers (skin-to-skin), intending to outrage her modesty, and you have thereby committed an offence punishable under section 354(1) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 13th Charge”);

(h) sometime in 2018, at night, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [V2] (female, 15 or 16 years old, date of birth: [xx] 2002), to wit, you squeezed her breasts with your hands, intending to outrage her modesty, and you have thereby committed an offence punishable under section 354(1) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 14th Charge”);

(i) sometime in 2004, at Blk [xx] Hougang Ave [xx] #[xx-xx], Singapore, did exhibit an obscene object to [V3], a person then under 20 years of age (female, 6 or 7 years old, date of birth: [xx] 1997), to wit, you showed her a pornographic video involving a woman masturbating

with a lollipop, and you have thereby committed an offence under section 293 of the Penal Code (Cap 224, 1985 Rev Ed) (“the 15th Charge”);

(j) sometime in 2004, at Blk [xx] Hougang Ave [xx] #[xx-xx], Singapore, did use criminal force to [V3] (female, 6 or 7 years old, date of birth: [xx] 1997), to wit, you circled her vagina with a cotton bud and with your finger (skin-to-skin), intending to outrage her modesty, and you have thereby committed an offence under section 354 of the Penal Code (Cap 224, 1985 Rev Ed) (“the 16th Charge”);

(k) sometime between November 2010 and December 2010, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did penetrate with your finger the vagina of [V3], a woman then under 14 years of age (13 years old, date of birth: [xx] 1997), without her consent, and you have thereby committed an offence under section 376(2)(a) and punishable under section 376(4)(b) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 17th Charge”);

(l) sometime between November 2010 and December 2010, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did attempt to penetrate with your penis the vagina of [V3], a woman then under 14 years of age (13 years old, date of birth: [xx] 1997), without her consent, and you have thereby committed an offence under section 375(1)(b) and punishable under section 375(3)(b) read with section 511 of the Penal Code (Cap 224, 2008 Rev Ed) (“the 18th Charge”);

(m) sometime in May 2012, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did ill-treat [V3], a young person under your care (14 years old, date of birth: [xx] 1997), to wit, you hit her face and stepped

on her back, and you have thereby committed an offence under section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 19th Charge”);

(n) sometime in June 2012, at a hotel in Balestier, Singapore, did attempt to penetrate with your penis the vagina of [V3] (female, 14 years old, D.O.B.: [xx] 1997), without her consent, and you have thereby committed an offence under section 375(1)(a) and punishable under section 375(2) read with section 511 of the Penal Code (Cap 224, 2008 Rev Ed) (“the 20th Charge”);

(o) sometime between March 2018 and May 2018, at Blk [xx] Canberra Street #[xx-xx], Singapore, did penetrate with your finger the vagina of [V3] (female, 20 years old, date of birth: [xx] 1997), without her consent, and you have thereby committed an offence under section 376(2)(a) and punishable under section 376(3) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 21st Charge”);

(p) sometime between March 2018 and May 2018, at Blk [xx] Canberra Street #[xx-xx], Singapore, did penetrate with your penis the vagina of [V3] (female, 20 years old, date of birth.: [xx] 1997), without her consent, and you have thereby committed an offence under section 375(1)(a) and punishable under section 375(2) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 22nd Charge”);

(q) sometime in 2018, at night, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [V4] (female, 14 or 15 years old, date of birth: [xx] 2003), to wit, you spread her vaginal lips apart with your fingers (skin-to-skin), intending to outrage her modesty, and you have thereby committed an offence

punishable under section 354(1) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 23rd Charge”);

(r) sometime in 2018, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [V4] (female, 14 or 15 years old, date of birth: [xx] 2003), to wit, you spread her vaginal lips apart with your fingers (skin-to-skin) and pinched one of her breasts with your hand (skin-to-skin), intending to outrage her modesty, and you have thereby committed an offence punishable under section 354(1) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 24th Charge”);

(s) sometime in 2018, in the master bedroom of Blk [xx] Canberra Street #[xx-xx], Singapore, did use criminal force to [V4] (female, 14 or 15 years old, date of birth: [xx] 2003), to wit, you massaged her breasts with your hand (skin-to-skin), intending to outrage her modesty, and you have thereby committed an offence punishable under section 354(1) of the Penal Code (Cap 224, 2008 Rev Ed) (“the 25th Charge”);

(t) sometime in 2016, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did ill-treat [V5], a child under your care (9 or 10 years old, date of birth: [xx] 2006), to wit, you punched him hard on his left eye, and you have thereby committed an offence under section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 26th Charge”);

(u) on 3 May 2018, at Blk [xx] Canberra Street #[xx-xx], Singapore, did ill-treat [V5], a child under your care (11 years old, date of birth: [xx] 2006), to wit, you punched him on the shoulders multiple times with both your fists, and you have thereby committed an offence under

section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 27th Charge”);

(v) sometime in 2007, at Blk [xx] Hougang Ave [xx] #[xx-xx], Singapore, did voluntarily cause hurt to [V6], to wit, you caned her arm, intending to cause her hurt and thereby causing her to bruise, and you have thereby committed an offence under section 323 of the Penal Code (Cap 224, 1985 Rev Ed) (“the 28th Charge”);

(w) sometime in May 2013, at Blk [xx] Ang Mo Kio Ave [xx] #[xx-xx], Singapore, did voluntarily cause hurt to [V6], to wit, you punched her repeatedly on the thigh and slapped her face repeatedly, intending to cause her hurt and thereby causing her hurt, and you have thereby committed an offence under section 323 of the Penal Code (Cap 224, 2008 Rev Ed) (“the 29th Charge”);

(x) from 1 September 2018 to 6 September 2018, in Singapore, did ill-treat [V5], a child under your care (11 years old, date of birth: [xx] 2006), by denying him food, and you have thereby committed an offence under section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 30th Charge”);

(y) from 1 September 2018 to 6 September 2018, in Singapore, did ill-treat [V4], a young person under your care (15 years old, D.O.B.: [xx] 2003), by denying her food, and you have thereby committed an offence under section 5(1) and punishable under section 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“the 31st Charge”); and

(z) on 1 September 2018, at Blk [xx] Canberra Street #[xx-xx], Singapore, did voluntarily cause hurt to [V2], to wit, you threw a plastic bowl at her face, causing it to hit her nose, intending to cause her hurt and thereby causing her hurt, and you have thereby committed an offence under section 323 of the Penal Code (Cap 224, 2008 Rev Ed) (“the 33rd Charge”).

The applicable law

Aggravated rape and aggravated SAP

42 The 1st, 3rd and 4th Charges concern aggravated rape under s 375(1)(b) read with s 375(3)(b) of the Penal Code. The 2nd Charge concerns aggravated sexual assault by penetration (“SAP”) under s 376(1)(a) read with s 376(4)(b) of the Penal Code.

43 The relevant portions of s 375 of the Penal Code are as follows:

375.—(1) Any man who penetrates the vagina of a woman with his penis —

(a) without her consent; or

(b) with or without her consent, when she is under 14 years of age,

shall be guilty of an offence.

...

(3) Whoever —

(a) in order to commit or to facilitate the commission of an offence under subsection (1) —

(i) voluntarily causes hurt to the woman or to any other person; or

(ii) puts her in fear of death or hurt to herself or any other person; or

(b) commits an offence under subsection (1) with a woman under 14 years of age without her consent,

shall be punished with imprisonment for a term of not less than 8 years and not more than 20 years and shall also be punished with caning with not less than 12 strokes.

44 The relevant portions of s 376 of the Penal Code are as follows:

376.—(1) Any man (A) who —

(a) penetrates, with A’s penis, the anus or mouth of another person (B); or

(b) causes another man (B) to penetrate, with B’s penis, the anus or mouth of A,

shall be guilty of an offence if B did not consent to the penetration.

...

(4) Whoever —

(a) in order to commit or to facilitate the commission of an offence under subsection (1) or (2) —

(i) voluntarily causes hurt to any person; or

(ii) puts any person in fear of death or hurt to himself or any other person; or

(b) commits an offence under subsection (1) or (2) against a person (B) who is under 14 years of age,

shall be punished with imprisonment for a term of not less than 8 years and not more than 20 years and shall also be punished with caning with not less than 12 strokes.

45 Regarding the rape offences, it is not disputed that the applicable sentencing framework is that set out by the Court of Appeal in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 (“*Terence Ng*”). It is also not disputed that the applicable sentencing framework for SAP offences was set out by the Court of Appeal in *Pram Nair v Public Prosecutor* [2017] 2 SLR 1015 (“*Pram Nair*”). Both frameworks involve a two-stage exercise:

(a) First, the court has to ascertain which of the three sentencing bands the accused’s offences fall within, having regard to the *offence-*

specific factors (factors relating to the circumstances of the offence, such as the harm caused to the victim and the manner by which the offence was committed). Once the appropriate sentencing band has been identified, the court derives an indicative starting point by determining precisely where within the range of sentences the present case falls.

(b) Second, the court calibrates the appropriate sentence for the accused by having regard to the *offender-specific* aggravating and mitigating factors, such as offences taken into consideration for the purposes of sentencing, the accused's remorse or his relevant antecedents, if any.

46 The sentencing bands under *Terence Ng* and *Pram Nair* are summarized in the table below:⁴²

Band	Description	<i>Terence Ng</i> (rape)	<i>Pram Nair</i> (SAP)
1	Cases with no or limited offence-specific aggravating factors	10-13 years' imprisonment, 6 strokes of the cane	7-10 years' imprisonment, 4 strokes of the cane
2	Cases of a higher level of seriousness involving two or more offence-specific aggravating factors	13-17 years' imprisonment, 12 strokes of the cane	10-15 years' imprisonment, 8 strokes of the cane
3	Extremely serious cases owing to the number and intensity of offence-specific aggravating factors	17-20 years' imprisonment, 18 strokes of the cane	15-20 years' imprisonment, 12 strokes of the cane

⁴² Prosecution's Sentencing Submissions ("PSS") at para 13.

47 The Court of Appeal in *Terence Ng* explained further at [53] that offences of rape disclosing any of the statutory aggravating factors in s 375(3) of the Penal Code will almost invariably fall within Band 2.

Aggravated outrage of modesty

48 The 6th Charge and the 7th Charge concern aggravated outrage of modesty (“OM”) under s 354(2) of the Penal Code. Section 354 of the Penal Code reads as follows:

354.—(1) Whoever assaults or uses criminal force to any person, intending to outrage or knowing it to be likely that he will thereby outrage the modesty of that person, shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with caning, or with any combination of such punishments.

(2) Whoever commits an offence under subsection (1) against any person under 14 years of age shall be punished with imprisonment for a term which may extend to 5 years, or with fine, or with caning, or with any combination of such punishments.

49 It is undisputed that the two-step sentencing framework for OM offences is set out in *GBR v Public Prosecutor and another appeal* [2018] 3 SLR 1048 (“GBR”) at [27]–[31] and [39]:

27 In line with *Terence Ng* at [39(a)], the court should first consider the offence-specific factors ... There are in my view three main categories of factors: the first two broadly relate to the *culpability* of the offender, and the third to the *harm* caused to the victim. ...

28 The first category of factors relates to the *degree of sexual exploitation*. These include the part of the victim’s body the accused touched, how the accused touched the victim, and the duration of the outrage of modesty (see *PP v Heng Swee Weng* [2010] 1 SLR 954 (“*Heng Swee Weng*”) at [22]). The offence is more aggravated if the victim’s private parts are touched, there is skin-to-skin contact (as opposed to touching over the clothes of the victim), and the sexual exploitation continued for a sustained period rather than a fleeting moment.

29 The court should next consider the *circumstances of the offence*. These include, but are not limited to:

- (a) *The presence of premeditation...*
- (b) *The use of force or violence...*
- (c) *The abuse of a position of trust:* ... Deterrence is a particular concern where there is an abuse of trust in an inter-familial context, given the difficulty in the detection of the offences and the considerable barriers faced by the victim in reporting them: see *PP v NF* [2006] 4 SLR(R) 849 at [40].
- (d) *The use of deception...*
- (e) *Other aggravating acts accompanying the outrage of modesty...*
- (f) *The exploitation of a vulnerable victim:* ... Concerns of general deterrence weigh heavily in favour of the imposition of a more severe sentence to deter would-be offenders from preying on such victims: see *Terence Ng* at [44(e)].

30 Finally, the court should have regard to the *harm caused to the victim*, whether physical or psychological. This would usually be set out in a victim impact statement.

The sentencing bands

31 Once the gravity of the offence has been ascertained based on the above non-exhaustive factors, the court should place the offence within an appropriate band of imprisonment. ... in my judgment, the sentencing bands should span the entire continuum up to the statutory maximum punishment of five years' imprisonment, as follows:

- (a) Band 1: less than one year's imprisonment;
- (b) Band 2: one to three years' imprisonment; and
- (c) Band 3: three to five years' imprisonment.

Caning should also be imposed if the facts and circumstances of the case warrant this as an additional deterrent. Adopting the principle in *Chow Yee Sze* ([25] *supra*) at [9], the starting point is that caning will be imposed where a victim's private parts or sexual organs are intruded upon.

...

39 Finally, the sentence that is ultimately imposed must take into account aggravating and mitigating factors which relate to the offender *generally*, but which are not offence-

specific. Aggravating factors include the number of charges taken into consideration, the lack of remorse, and relevant antecedents demonstrating recalcitrance (*Heng Swee Weng* ([28] *supra*) at [22(f)]). Mitigating factors include a timeous plea of guilt (which tends to show contrition, which would save the victim the trauma of having to testify in court, and which saves the resources of the state: see *Terence Ng* ([26] *supra*) at [69]), or the presence of a mental disorder or intellectual disability on the part of the accused (*Heng Swee Weng* at [22(g)]). ...

[emphasis in original]

50 The court in *GBR* set out the sentencing bands as follows:

32 Band 1 comprises cases at the lowest end of the spectrum of seriousness. These would include those which do not present any (or at most one) of the aggravating factors, for example, those that involve a fleeting touch or a touch over the clothes of the victim, and do not involve the intrusion into the victim's private parts. Caning is *generally* not imposed for this category of cases, although the possibility of caning is not excluded altogether; this depends on the precise facts and circumstances of each case. ...

33 Where two or more of the aggravating factors present themselves, the case will almost invariably fall within Band 2. Caning will nearly always be imposed, and the suggested starting point would be at least three strokes of the cane ... At the lower end of the band would be cases in which there was an absence of skin-to-skin contact with the private parts of the victim, for example, if the touching occurred over the victim's clothes. ...

34 At the higher end of the spectrum of Band 2 cases would be those involving the skin-to-skin touching of the victim's private parts or sexual organs. ...

35 The use of deception by the accused is also a relevant aggravating factor which would bring a case to the higher end of the spectrum of Band 2 cases. ...

...

37 Band 3 cases are those which, by reason of the number of the aggravating factors, present themselves as the most serious instances of aggravated outrage of modesty. Caning ought to be imposed, and the suggested starting point would be at least six strokes of the cane. These would include cases such as those involving the exploitation of a particularly vulnerable victim, a serious abuse of a position of trust, and/or the use of violence or force on the victim. ...

[emphasis in original]

Ill-treatment of child

51 The 32nd Charge concerns the ill-treatment of the victim under s 5(1) read with s 5(5)(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“CYPA”). The relevant portions of s 5 of the CYPA read as follows:

5.—(1) A person shall be guilty of an offence if, being a person who has the custody, charge or care of a child or young person, he ill-treats the child or young person or causes, procures or knowingly permits the child or young person to be ill-treated by any other person.

...

(5) Subject to subsection (6), any person who is guilty of an offence under this section shall be liable on conviction —

(a) in the case where death is caused to the child or young person, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 7 years or to both; and

(b) in any other case, to a fine not exceeding \$4,000 or to imprisonment for a term not exceeding 4 years or to both.

Submissions on sentence

The Prosecution’s address on sentence

52 The Prosecution’s sentencing position is a total of 32 years’ imprisonment and 24 strokes of the cane broken down as follows:⁴³

S/N	Charge	Sentencing position
1	1 st Charge Aggravated rape	16 years’ imprisonment and 12 strokes of the cane (consecutive)

⁴³ PSS at para 2.

	Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	
2	2 nd Charge Aggravated SAP Section 376(1)(a) p/u s 376(4)(b) of the Penal Code	14 years' imprisonment and 12 strokes of the cane
3	4 th Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	16 years' imprisonment and 12 strokes of the cane (consecutive)
4	5 th Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	16 years' imprisonment and 12 strokes of the cane
5	6 th Charge Aggravated OM Section 354(2) of the Penal Code	Three years' imprisonment and six strokes of the cane
6	7 th Charge Aggravated OM Section 354(2) of the Penal Code	Three years' imprisonment and six strokes of the cane
7	32 nd Charge Ill-treatment of child Section 5(1) p/u s 5(5)(b) of the CYPA	Seven months' imprisonment

Aggravated rape and aggravated SAP (the 1st, 2nd, 4th and 5th Charges)

(1) Offence-specific factors

53 The Prosecution submits that the present case falls within the middle to upper end of Band 2 of both the *Terence Ng* and *Pram Nair* frameworks, giving rise to an indicative starting point of at least 15 years' imprisonment for the aggravated rape Charges and at least 13 years' imprisonment for the aggravated SAP Charge. The Prosecution points to the number and intensity of the following offence-specific factors present:

- (a) Forcible penetration of a victim below 14 years: The sexual assaults started when the victim was in Primary 5.⁴⁴ She was between 12 and 13 years old at the time of the Charges. None of the sexual acts were consensual, and the accused would ignore the victim whenever she verbally protested or said that she was in pain.⁴⁵
- (b) Serious abuse of trust: Being her biological father, the accused held a position of trust and authority over the victim. He also had sole care of the victim on nights when her mother was out working and exploited this opportunity to sexually abuse the victim.⁴⁶
- (c) Sexual grooming and use of threats: When the victim was in Primary 5, the accused showed her a video of a man having sex with a girl, which he described as a "Primary 5 girl and her dad doing sex", in an attempt to make the victim perceive such acts as normal. In the same year, the accused began touching the victim's chest and buttocks and

⁴⁴ SOF at para 6.

⁴⁵ SOF at paras 9, 14, 17, 39 and 40; PSS at para 15.

⁴⁶ SOF at paras 7 and 35; PSS at para 16.

having sex with her, before escalating his offending to fellatio and sex from 2017 onwards. In 2018, the accused threatened to withdraw the victim from school if she did not have sex with him monthly.⁴⁷

(d) Premeditation: Besides grooming the victim, the accused would also wait for or actively create windows of opportunity to be alone with the victim, for example, when he brought the victim alone with him to visit the Canberra Flat which was under construction in order to commit rape (the 4th Charge).⁴⁸

(e) No use of condom during the 1st Charge and the 5th Charge of rape: This exposed the victim to the attendant risk of an unwanted pregnancy and sexually transmitted diseases (see *Chang Kar Meng v Public Prosecutor* [2017] 2 SLR 68 (“*Chang Kar Meng*”) at [21(b)]).⁴⁹

(2) Offender-specific factors

54 The Prosecution submits for an uplift of at least one year’s imprisonment on account of the TIC Charges.⁵⁰ Out of the 26 TIC Charges, 15 are for sexually abusing the victim’s three other sisters and nine of the 15 involve penetrative sexual offences. The Prosecution submits that the sheer number of similar TIC Charges justifies a significant uplift in sentence.⁵¹

55 The Prosecution argues that the accused’s plea of guilt should carry minimal mitigating weight as it can hardly be regarded as an expression of

⁴⁷ SOF at paras 6-8; PSS at para 17.

⁴⁸ SOF at paras 12-14; PSS at para 18.

⁴⁹ PSS at para 19.

⁵⁰ PSS at para 20.

⁵¹ PSS at para 22.

genuine remorse. First, before his arrest, the accused had prepared to hinder investigations by surfing the Internet on how to pass a lie detector test.⁵² Second, the accused only indicated his intention to plead guilty on the first day of trial on 21 September 2021, which was nearly three years after his arrest. This came after the criminal case disclosure conference process was completed and the accused had sight of the evidence in the Prosecution's case. By this time, the victims had to live with the anxiety and uncertainty of the criminal case and of preparing for it for years on end.⁵³

56 In any event, what little weight the accused's plea of guilt may have is "entirely outweighed by the scale and severity of his offending".⁵⁴

(3) Summary of Prosecution's position on sentences for aggravated rape and aggravated SAP

57 Thus, incorporating a one-year uplift from the indicative sentences at [53] above, the Prosecution proposes the following sentences:⁵⁵

- (a) 16 years' imprisonment and the mandatory minimum 12 strokes of the cane for each charge of rape (*ie*, the 1st, 4th and 5th Charges); and
- (b) 14 years' imprisonment and the mandatory minimum 12 strokes of the cane for the SAP charge (*ie*, the 2nd Charge).

⁵² SOF at para 47; PSS at para 24.

⁵³ PSS at para 24.

⁵⁴ PSS at para 25.

⁵⁵ PSS at para 26.

Aggravated outrage of modesty (the 6th and 7th Charges)

58 The Prosecution submits that the two aggravated OM Charges (the 6th Charge and the 7th Charge) would fall within the lower end of Band 3 in *GBR*. The Prosecution submits that the following factors alone would place the Charges at the upper end of Band 2 or the lower end of Band 3 in *GBR*:⁵⁶

- (a) The high degree of exploitation where the accused licked the victim's vagina; and
- (b) The circumstances of the offence, namely, the abuse of trust and the use of deception.

59 In addition, out of the 26 TIC Charges, six are for outraging the modesty of his other daughters.⁵⁷

60 Given all of the above, the Prosecution submits for a sentence at the lower end of Band 3 for each of the two aggravated OM Charges, namely, at least three years' imprisonment and six strokes of the cane.⁵⁸

Ill-treatment of child (the 32nd Charge)

61 An offence under s 5(1) read with s 5(5)(b) of the CYPA is punishable with up to four years' imprisonment and/or a fine of up to \$4,000. The Prosecution submits for a seven-month imprisonment term.

62 The Prosecution relies on the case of *Public Prosecutor v Z* [2003] SGDC 62 ("Z"), where the offender fed the victim, her nine-year-old

⁵⁶ PSS at para 30.

⁵⁷ PSS at para 31.

⁵⁸ PSS at para 32.

stepdaughter, a sleeping pill thrice a week because she wanted the victim to fall asleep. The offender was sentenced to nine months' imprisonment for this offence. The case "arguably involves greater danger than the present case in that inappropriately medicating a child could result in sudden and serious toxic effects."⁵⁹

63 The Prosecution also highlights that seven out of the 26 TIC Charges are for physically abusing other members of his family. This warrants an uplift in sentence.⁶⁰

64 Bearing in mind the accused's TIC Charges and the illustrative case of Z, the Prosecution submits for a sentence of at least seven months' imprisonment.⁶¹

The aggregate sentence

65 Pursuant to s 307 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"), the Prosecution submits that the sentences for the 1st Charge and the 4th Charge should be ordered to run consecutively. The rape offence in the 1st Charge was committed in September to October 2017 in the Canberra Flat while it was still under construction, and the rape offence in the 4th Charge was committed on 16 November 2018, just prior to the victim's police report. As each rape was a "separate and violent intrusion, with more than a year between them", they do not form part of the same transaction and, thus, the general rule of consecutive sentences for unrelated offences applies (see *Public Prosecutor*

⁵⁹ PSS at para 36.

⁶⁰ PSS at para 36.

⁶¹ PSS at para 37.

v Raveen Balakrishnan [2018] 5 SLR 799 (“*Raveen*”) at [41] and [69]; *Public Prosecutor v BND* [2019] SGHC 49 at [94]).⁶²

66 The Prosecution submits that a global sentence of 32 years’ imprisonment is “fully justified in this case, given the scale of the accused’s offending, both in terms of duration and the number of victims.”⁶³

67 The Prosecution argues that its sentencing position does not offend the totality principle. First, aggregate sentences far longer than 20 years’ imprisonment, the maximum punishment for aggravated rape, have been imposed in cases of serious sexual assault.⁶⁴ A sentence of 32 years’ imprisonment rightly reflects the heinous nature of the accused’s offending.⁶⁵ Second, though the accused does not have related antecedents, he cannot be regarded as a first-time offender given the myriad offences he committed before finally being apprehended. Further, the sentence cannot be said to eclipse the accused’s future prospects, as the accused would be 63 years old at the time of his release assuming he is entitled to one-third remission and the sentence is backdated to the date of his remand.⁶⁶

68 Thus, on the whole, a sentence of 32 years’ imprisonment is consistent with the totality principle and sentencing precedents involving prolonged father-daughter sexual abuse.⁶⁷

⁶² PSS at para 38.

⁶³ PSS at para 39.

⁶⁴ PSS at para 40.

⁶⁵ PSS at para 40.

⁶⁶ PSS at para 41.

⁶⁷ PSS at para 42.

Summary of Prosecution's address on sentence

69 Therefore, the Prosecution submits for a global sentence of 32 years' imprisonment and 24 strokes of the cane.

The Defence's plea in mitigation

70 In the mitigation plea, the Defence urges the court to impose a global sentence of not more than 26 to 28 years' imprisonment and 24 strokes of the cane.⁶⁸

S/N	Charge	Sentencing position
1	1 st Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	13 to 14 years' imprisonment and 12 strokes of the cane (consecutive)
2	2 nd Charge Aggravated SAP Section 376(1)(a) p/u s 376(4)(b) of the Penal Code	12 to 13 years' imprisonment and 12 strokes of the cane
3	4 th Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	13 to 14 years' imprisonment and 12 strokes of the cane (consecutive)
4	5 th Charge Aggravated rape	13 to 14 years' imprisonment and 12 strokes of the cane

⁶⁸ Plea in Mitigation ("PIM") at para 4.

	Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	
5	6 th Charge Aggravated OM Section 354(2) of the Penal Code	Two years' imprisonment and six strokes of the cane
6	7 th Charge Aggravated OM Section 354(2) of the Penal Code	Two years' imprisonment and six strokes of the cane
7	32 nd Charge Ill-treatment of child Section 5(1) p/u s 5(5)(b) of the CYPA	Not more than six months' imprisonment

Aggravated rape and aggravated SAP (the 1st, 2nd, 4th and 5th Charges)

(1) Offence-specific factors

71 The Defence submits that the present case falls within the middle range of Band 2 of both the *Terence Ng* and *Pram Nair* frameworks, giving rise to an indicative starting point of 14 to 15 years' imprisonment for the aggravated rape Charges and 12 to 13 years' imprisonment for the aggravated SAP Charge. The Defence bases its position on the following offence-specific aggravating factors:⁶⁹

(a) The victim's age and vulnerability;

⁶⁹ PIM at para 11.

- (b) The abuse of trust where the victim was the accused's biological daughter; and
- (c) The accused's premeditation and planning.

72 However, notwithstanding its recognition that the victim's age (being 12 to 13 years old at the time of the rape offences) is an aggravating factor, the Defence highlights that her age, in and of itself, should not be overstated as an aggravating factor. This is because the fact that a victim is below 14 years of age is already accounted for in the inherent nature of an offence under s 375(3)(b) of the Penal Code and for classifying the matter within Band 2 (*Public Prosecutor v UI* [2008] 4 SLR(R) 500 (“*UI*”) at [30]).⁷⁰

73 The Defence also argues that the present case does not fall within the upper end of Band 2 as there is no deliberate infliction of special trauma in this case.⁷¹ Cases that generally fall within the upper end of Band 2 involve the deliberate infliction of special trauma, which may include repeated rape in the course of one attack, further sexual degradation of the victim or where the offender knows he is suffering from a life-threatening sexually transmissible disease (*Terence Ng* at [44(i)]).⁷² The Defence also cites *Public Prosecutor v Ridhaudin Ridhwan bin Bakri and others* [2020] 4 SLR 790 at [23] for the proposition that “... harm caused to victims should not be regarded as an offence-specific aggravating factor as to do so would give this factor double weight.”⁷³ In the present case, there was no deliberate infliction of special trauma as the accused had used a condom for the 4th Charge and did not ejaculate

⁷⁰ PIM at para 13.

⁷¹ PIM at para 19.

⁷² PIM at para 20.

⁷³ PIM at para 23.

into the victim's vagina for any of the Charges.⁷⁴ There is also no evidence of exceptional serious physical or emotional harm suffered by the victims.⁷⁵ The Defence submits that the harm stated in the victim impact statements is already inherent in the offence itself.⁷⁶

(2) Offender-specific factors

74 The Defence submits that the mitigating weight of the accused's plea of guilt should be weighed against the aggravating weight of the TIC Charges. Thus, since the accused's plea of guilt spared the victims the trauma of having to testify in court, the effect of the TIC Charges is cancelled out by the mitigating weight of the plea of guilt (*Terence Ng* at [91]).⁷⁷ Accordingly, there should be no uplift to the indicative starting point based on the TIC Charges.⁷⁸

(3) Summary of Defence's position on sentences for aggravated rape and aggravated SAP

75 The Defence submits that the rape offences under the 1st, 4th and 5th Charges each warrant 14 to 15 years' imprisonment and 12 strokes of the cane, and the SAP offence under the 2nd Charge warrants 12 to 13 years' imprisonment and 12 strokes of the cane. There should be no uplift of sentence.

Aggravated outrage of modesty (the 6th and 7th Charges)

76 Bearing in mind the familial relationship between the accused and the victim, and that the accused had licked the victim's vagina, the Defence submits

⁷⁴ PIM at para 22.

⁷⁵ PIM at para 24.

⁷⁶ PIM at para 24.

⁷⁷ PIM at para 28.

⁷⁸ PIM at para 29.

that the present case falls within Band 2. The Defence refers to *BLV v Public Prosecutor* [2019] 2 SLR 726 (“*BLV*”), which also involved the offender, the victim’s biological father, licking the victim’s vagina.⁷⁹

77 The Defence argues that the number and intensity of the aggravating factors in the present case do not place it on the upper end of Band 2 or the lower end of Band 3, as cases falling within Band 3 involve a high degree of sexual exploitation and skin-to-skin contact.⁸⁰ One example is *Public Prosecutor v BMF* [2019] SGHC 227 (“*BMF*”), which fell within Band 3 as the skin-to-skin contact was particularly egregious, involving the continuous contact of the accused’s penis and the victim’s anus and vagina. For one of the charges, the accused had licked the victim’s vagina, before using both his finger and penis to rub against her vagina separately.⁸¹ The degree of sexual exploitation in the present case is lower than that in *BMF*, as the accused merely “licked [the victim’s] vagina without proceeding to further exploitative acts”.⁸²

78 Therefore, the Defence submits that the s 354(2) offences under the 6th Charge and the 7th Charge each warrant two to three years’ imprisonment and six strokes of the cane.

Ill-treatment of child (the 32nd Charge)

79 The Defence proposes an imprisonment term of not more than six months.⁸³ The Defence points to the case of *Public Prosecutor v BDB* [2018]

⁷⁹ PIM at para 52.

⁸⁰ PIM at para 53.

⁸¹ PIM at para 53(a).

⁸² PIM at para 53(b).

⁸³ PIM at para 56.

1 SLR 127 (“*BDB*”), where the offender had repeatedly abused her biological son to such an extent that he died. The Court of Appeal chose not to disturb the sentencing court’s decision to sentence the offender to (a) six months’ imprisonment for pushing the victim, causing him to fall backwards and hit the back of his head against a television console table; and (b) one year’s imprisonment for kicking the victim in the waist area and standing on his stomach with both of her feet for a few seconds after the victim fell down. The Defence argues that the aggravating factors in the present case are less intense than the following aggravating factors which were highlighted by the Court of Appeal in *BDB*:⁸⁴

- (a) The victim’s youth: In *BDB*, the victim was two to four years old during the offences. The victim in this case was 13 years old at the time of the offence.
- (b) Abuse of trust: Both the offender in *BDB* and the accused in the present case are biological parents of the respective victims.
- (c) The degree and duration of violence: Unlike in *BDB* which concerned a high degree of violence against the victim, there was no violence against the victim in the present case.
- (d) Intervention from Child Protective Services (“CPS”): Unlike the accused in the present case, the offender in *BDB* continued ill-treating the victim even after intervention by CPS.

80 Therefore, since the present case contains fewer aggravating factors than in *BDB*, a sentence of not more than six months’ imprisonment is appropriate.

⁸⁴ PIM at para 56(c).

The aggregate sentence

81 The Defence agrees with the Prosecution that the sentences for the 1st Charge and the 4th Charge should be ordered to run consecutively, with the remaining Charges running concurrently.⁸⁵

82 The Defence argues that there should be a downward calibration of the aggravated rape sentences from 14 to 15 years' imprisonment to 13 to 14 years' imprisonment, in line with the totality principle.⁸⁶ The Defence relies on *Public Prosecutor v AOM* [2011] 2 SLR 1057 ("*AOM*") to illustrate its point, where there were additional aggravating factors that are absent in this case, namely, the fact that the victim in *AOM* contracted Chlamydia. The High Court held that the sentence for rape should be calibrated downwards from 15 years' imprisonment to 13 years' imprisonment, "taking into account the totality principle and the fact that [the accused's] plea of guilt did at least spare the victim of reliving the traumatic ordeal".⁸⁷ This would yield a global sentence of 26 to 28 years' imprisonment.⁸⁸

83 The total strokes of the cane the accused faces, being 60, exceeds the limit of 24 strokes under s 328(6) of the CPC. The Defence argues that there should be no further imprisonment in lieu of caning under s 328(2) of the CPC.⁸⁹

⁸⁵ PIM at para 60.

⁸⁶ PIM at para 62(c).

⁸⁷ PIM at para 62.

⁸⁸ PIM at para 63.

⁸⁹ PIM at paras 65 to 66.

Backdating of sentence

84 Pursuant to s 318 of the CPC, the Defence requests for the accused's sentence to be backdated to the date he was first remanded, *ie*, 17 November 2018.⁹⁰ This is not contested by the Prosecution.⁹¹

Summary of Defence's plea in mitigation

85 The Defence submits for a global sentence of 26 to 28 years' imprisonment and 24 strokes of the cane, to be backdated to 17 November 2018.

My decision*Sentencing principles*

86 The accused's actions in subjecting his four very young biological daughters to multiple instances of sexual assaults are deeply horrific and horrendously reprehensible. This case clearly warrants the imposition of sentences that incorporate the sentencing principles of deterrence and retribution.

87 It is apparent from the Prosecution's and the Defence's submissions that both parties agree with these operative sentencing principles in this case. However, they differ on the application of these principles when it comes to the proposed appropriate deterrent sentences for the accused on the proceeded Charges. The differences in the proposed sentences on the proceeded Charges by the parties are discussed below at [93]–[94].

⁹⁰ PIM at para 67.

⁹¹ PSS at para 41.

88 First, on the principle of general deterrence, the Court of Appeal in *Lim Hock Hin Kelvin v Public Prosecutor* [1998] 1 SLR(R) 37 stated the following at [25(a)]:

Where an offender is placed in a position of trust by the parents or by the victims, the breach of trust justifies a substantial sentence on the ground of general deterrence. All those who have charge of children cannot abuse their positions for the sake of gratifying their sexual urges.

89 This is consistent with V K Rajah J’s findings in *Public Prosecutor v NF* [2006] 4 SLR(R) 849 (“*NF*”) at [40] and [42]:

40 ***Crimes of sexual assault are notoriously difficult to prosecute.*** For every victim that comes forward, unfortunately, so many others remain silent for a multitude of reasons. Not least of these are the fear of confronting the offender, the humiliation and the destabilising emotional conflict and turmoil that keep relentlessly swirling in a victim’s mind. Others, as Judith Lewis Herman in *Trauma and Recovery* (Basic Books, 1997) points out, simply cope with the trauma by “walling off” the incident and choosing to ignore that it happened, or preferring to view the incident as their fault: see [49] and [50] below. In cases of incest, the victim may face additional pressure from other family members not to expose the rapist out of an instinctive albeit misguided reaction to preserve the unity of the family and to avoid the publicity and shame that inevitably ensues from such a conviction. A victim of incest may *herself* wish to avoid these consequences and therefore choose not to report the matter. That such pressures are real and palpable are more than amply borne out in many of the cases examined earlier where the perpetrators have repeatedly, remorselessly and brazenly satisfied their perverse and predatory sexual inclinations and lust: see, for example, *PP v MU* ([29] *supra*) where the perpetrator tragically raped his daughter over a period of ten years.

...

42 That instances of rape should justly cause judicial disquiet is borne out by the fact that while current statistics show that crime has broadly fallen, the number of reported rapes for the months of January to June 2006 has not abated. More significantly, 95% of the reported rape cases involved rapists who were known to their victims. In my view, our courts would be grievously remiss if they did not send an unequivocal and uncompromising message to all would-be sex offenders

that ***abusing a relationship or a position of authority in order to gratify sexual impulse will inevitably be met with the harshest penal consequences***. In such cases, the ***sentencing principle of general deterrence must figure prominently*** and be unmistakably reflected in the sentencing equation.

[emphasis in original in italics; emphasis added in bold italics]

90 The notorious difficulty of prosecuting intrafamilial sexual abuse is clearly borne out in the prolonged length of time it took for the accused's sexual assaults to be uncovered. The victim tearfully revealed to her sisters about the accused's rape on 16 November 2018 when they saw her leaving the accused's bedroom, followed her to her bedroom and asked her what had happened. This was two years after her father had started raping her. The accused's bold actions in repeatedly abusing each of his four biological daughters demand that the principle of general deterrence must be the basis of his punishment.⁹²

91 Second, the accused's recalcitrance and premeditation in the commission of his sexual assaults on his daughters warrant a sentence that incorporates the principle of specific deterrence. This serves as a warning to the accused that his persistent sexual exploitation of his biological daughters must be met with the full force of the law. The High Court in *Public Prosecutor v Fernando Payagala Waduge Malitha Kumar* [2007] 2 SLR(R) 334 stated at [43]:

The length of time a particular scam or offence has gone undetected would be yet another relevant consideration in sentencing. ... The relevance of this is as a sentencing consideration may also be tied to the recalcitrance of the offender. *In the case of a hardened offender, he would have repeatedly committed a pattern of offences without any sign or acknowledgment of contrition or remorse.* The longer the period of time over which the offences have been committed, the more irrefutable it is that the offender manifests the qualities of a

⁹² PSS at para 5.

habitual offender. *Specific deterrence is incontrovertibly an important sentencing consideration in such cases.*

[emphasis added]

92 The High Court in *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 (“*Law Aik Meng*”) also stated the following at [22]:

Specific deterrence is usually appropriate in instances where the crime is premeditated: *Tan Fook Sum* ([18] *supra*) at [18]. This is because deterrence probably works best where there is a *conscious* choice to commit crimes.

93 Third, according to the sentencing principle of retribution, the sentences imposed must reflect and befit the seriousness of the crime.⁹³ This principle is especially apt for cases of grievous sexual assault. This is consistent with Menon CJ’s pronouncements in *AQW v Public Prosecutor* [2015] 4 SLR 150 at [19]:

Penetrative sexual activity is regarded as the most serious because it represents the greatest intrusion into the bodily integrity and privacy of the minor, and involves the highest potential for physical, psychological and emotional damage to the minor. Hence *the perpetration of such activity on a minor* represents the greatest degree of exploitation as compared to other forms of sexual activity and accordingly, *merits greater sanction*.

[emphasis added]

94 While the lost innocence and virginity of the victims cannot be regained or restored, I must consider the victim impact statements when deciding whether the punishment imposed reflects the degree of harm occasioned by the offences and the accused’s culpability in committing them (see *Public Prosecutor v ASR* [2019] 1 SLR 941 at [128], citing *Public Prosecutor v Logmanul Hakim bin Buang* [2007] 4 SLR(R) 753 at [46]).

⁹³ PSS at para 8.

Aggravated rape and aggravated SAP (the 1st, 2nd, 4th and 5th Charges)

95 It is not disputed that the mandatory minimum caning of 12 strokes applies for the aggravated rape Charges and the aggravated SAP Charge. The sole issue is the length of the imprisonment term for each of the proceeded Charges. In that regard, both the Prosecution and the Defence agree that the accused's actions warrant a substantial imprisonment term as they agree that deterrence is the appropriate sentencing principle. This is also borne out in their proposed sentences, which are not poles apart. There are two differences in the Prosecution's and the Defence's submissions on sentence.

96 First, the Prosecution submits for an indicative starting point of at least 15 years' imprisonment for the aggravated rape Charges and at least 13 years' imprisonment for the aggravated SAP Charge.⁹⁴ On the other hand, the Defence submits for an indicative starting point of 14 to 15 years' imprisonment for the aggravated rape Charges⁹⁵ and 12 to 13 years' imprisonment for the aggravated SAP Charge.⁹⁶ The difference boils down to whether the offences are properly classified as falling within the *middle* end of Band 2, or the *upper* end of Band 2. Both the parties agree that the appropriate sentences should be in Band 2. However, the Prosecution argues that the sentences should be within the middle and upper end of Band 2,⁹⁷ while the Defence contends that the sentences should be within the middle of Band 2.⁹⁸

⁹⁴ PSS at para 14.

⁹⁵ PIM at para 25.

⁹⁶ PIM at para 43.

⁹⁷ PSS at para 14.

⁹⁸ PIM at paras 25 and 43.

97 Second, the Prosecution submits for a one-year uplift from the indicative starting points (see [96] above), on the grounds of the TIC Charges and that the accused's plea of guilt is of no mitigatory value.⁹⁹ However, the Defence submits that there should be no uplift on sentence as the mitigatory value of the accused's plea of guilt cancels out the aggravating effect of the TIC Charges.¹⁰⁰

98 I shall deal with these differences in turn.

Offence-specific factors

99 I find that the present case falls in the middle to upper ranges of Band 2 of the *Terence Ng* and *Pram Nair* frameworks. This arises from the following aggravating factors, the first three of which are agreed by the parties.

(1) Statutory aggravating factor

100 The accused forcibly raped the victim on multiple occasions when she was below 14 years of age. The default position when dealing with aggravated sexual offences is to start at Band 2 of the *Terence Ng* and *Pram Nair* frameworks. I have elaborated on my reasons for finding as such in *Public Prosecutor v BRH* [2020] SGHC 14 at [38]–[44]. Thus, the effect of this statutory aggravating factor is that the case invariably falls within Band 2.

(2) Abuse of position and breach of trust

101 It is clear that the accused abused his position of responsibility and the trust reposed in him as the victim's biological father. It is patently and wholly unacceptable that the accused sexually assaulted the victim when he had sole

⁹⁹ PSS at para 20.

¹⁰⁰ PIM at para 28.

care of the victim while V6 left the house at night to work the night shift. The accused exploited and took advantage of these opportunities to sexually assault the victim without detection (see [7] above). This was the accused's *modus operandi* for the 1st, 2nd and 5th Charges. The abuse of trust in this manner is indubitably an aggravating factor. This is acknowledged by both the Prosecution and the Defence.¹⁰¹

(3) Premeditation

102 The evidence is clear that the accused premeditated his sexual assaults on the victim. The accused would take deliberate steps to isolate the victim from the rest of the family before committing the sexual offences. A key example is the incident in the 4th Charge, when the accused brought the victim to the Canberra Flat alone, which was then under construction, in order to isolate her from the rest of the family and raped her (see [12] above). Another example is the incident giving rise to the 1st Charge and the 2nd Charge, where the accused signalled to the victim to enter the master bedroom after she had finished eating her dinner. He also told the victim to return to the bedroom in half an hour with a towel. This was done ostensibly in a bid to give the rest of the family the false impression that the victim was merely taking a shower in the bedroom (see [28] above). The accused's predatory behaviour in grooming the victim from the time she was in Primary 5 by showing her an explicit video of a girl allegedly having sex with her father (see [6] above) also constitutes evidence of premeditation. The aggravating value of his premeditation is undisputed by both the Prosecution and the Defence.¹⁰²

¹⁰¹ PSS at para 16; PIM at paras 16-17 and 39.

¹⁰² PSS at para 18; PIM at paras 18 and 41-43.

(4) Sexual grooming and use of threats

103 The accused had coerced the victim into having sex with him through an insidious combination of sexual grooming and threats. When the victim was in Primary 5, the accused attempted to normalise the idea of her having sex with him. He did it by showing her a pornographic video of a man and a girl engaging in sexual acts and describing it as a Primary 5 girl having sex with her father (see [6] above). Subsequently, there was a clear escalation in the gravity of the accused's incursions into the victim's pure and uncorrupted body. From 2016, the accused advanced to touching the victim's breasts and buttocks and having sex with her. This further escalated to fellatio and sex from early 2017. In 2018, the accused threatened to stop her from schooling if she did not have sex with him monthly (see [8] above). The accused's use of sexual grooming and threats to satisfy his sexual perversion are aggravating factors that justify severe punishment.

(5) Failure to use a condom

104 This appears to be the only significant point of divergence between the Prosecution's and the Defence's sentencing positions. I disagree with the Defence's argument that there was no deliberate infliction of special trauma as the accused had used a condom for the 4th Charge and did not ejaculate into the victim's vagina for any of the proceeded Charges.¹⁰³ This argument ignores the other instances when the accused did *not* use a condom (the 1st Charge and the 5th Charge), which outnumber the number of times the accused did (only once).

105 I agree with the Prosecution that the accused's failure to use a condom during the incidents in the 1st Charge and the 5th Charge put the victim at risk of

¹⁰³ PIM at para 22.

an unwanted pregnancy and sexually transmitted diseases.¹⁰⁴ This is an aggravating factor that cannot be ignored (*Chang Kar Meng* at [21(b)]).

106 Having regard to all of the above, I find that this case falls within the middle to upper end of Band 2 of the *Terence Ng* and *Pram Nair* frameworks, thereby giving rise to an indicative starting point of 15 years' imprisonment for the rape offences and 13 years' imprisonment for the SAP offence.

Offender-specific factors

(1) TIC Charges

107 The accused has admitted and consented to the TIC Charges being taken into consideration for the purposes of sentencing. It is trite that the presence of TIC charges may result in an uplift in sentence, especially where the TIC charges and the charges proceeded with are similar in nature (*Terence Ng* at [64(a)]; *UI* at [38]).

108 A brief overview of the sexual offences committed against the other victims in the TIC Charges as summarised by the Prosecution in the Prosecution's Closing Submissions is as follows:¹⁰⁵

- (a) V3: When V3 was 6 to 7 years old, the accused showed her a pornographic video (the 15th Charge) and touched her vagina (the 16th Charge). When V3 was 13 years old, the accused inserted his finger into her vagina without her consent (the 17th Charge) and attempted to rape her (the 18th Charge). The accused again attempted to rape her when she was 14 years old (the 20th Charge). When V3 was 20 years old, the

¹⁰⁴ PSS at para 19.

¹⁰⁵ PSS at para 21.

accused digitally penetrated her vagina without her consent (the 21st Charge) and raped her (the 22nd Charge).

(b) V2: When V2 was 11 to 12 years old, the accused digitally penetrated her vagina without her consent (the 9th Charge) and raped her on three separate occasions (the 10th, 11th and 12th Charges). When the matter came to the police's attention in 2015, the accused got his wife V6 to persuade V2 to provide false information to the police in order to exculpate himself from these offences (the 3rd Charge). This run-in unfortunately did not stop him from reoffending.¹⁰⁶ Later on when V2 was 15 to 16 years old, the accused molested her by touching her vagina (the 13th Charge) and squeezing her breasts (the 14th Charge).

(c) V4: When V4 was 14 to 15 years old, the accused molested her on three occasions by touching her vagina and pinching and massaging her breasts. All contact was skin-to-skin (the 23rd, 24th and 25th Charges).

109 The sheer number of similar TIC Charges, with nine sexual penetration offences out of the 26 TIC Charges, speaks volumes about the accused's perverse exploitation of his own biological and vulnerable daughters. The Prosecution alleges that "this case speak[s] to the fact that [the victim's] sexual abuse, horrific as it was, was only part of the picture."¹⁰⁷ The number and nature of the TIC Charges reinforce the need for specific deterrence. The accused had destroyed the sacred and pristine bodies and the virginity of almost all his daughters. Out of his five daughters, only the youngest was spared from his horrific sexual perversion. For this reason, I agree that the TIC Charges warrant a one-year uplift in sentence.

¹⁰⁶ PSS at para 21.

¹⁰⁷ PSS at para 21.

(2) Plea of guilt

110 In *Terence Ng*, the Court of Appeal held at [73(c)] that the mitigating value of a plea of guilt should be assessed in terms of (i) the extent to which it is a signal of remorse; (ii) the savings in judicial resources; and (iii) the extent to which it spared the victim the ordeal of testifying.

111 I note that the Defence’s argument is based on *Chang Kar Meng*, where the Court of Appeal held at [47] that “offenders who plead guilty to sexual offences, even in cases where the evidence against them is compelling, ought ordinarily to be given at least *some* credit for having spared the victim additional suffering” [emphasis in original].¹⁰⁸ I wish to point out that in the present case, the belated nature of the accused’s plea of guilt meant that the victim still suffered when she had to relive her harrowing experiences during the numerous trial preparation interviews. However, I acknowledge that the victim was spared the agony and embarrassment of cross-examination at the trial.

112 I note the Prosecution’s submission that the accused’s plea of guilt was belated and did not appear to be motivated by genuine remorse.¹⁰⁹ His first indication to plead guilty was raised three years from the time of his arrest. Does the accused’s plea of guilt arise because he was remorseful and wanted to spare his daughters from the anxiety and agony of revisiting the horrific events? His actions seem to suggest that he pleaded guilty for self-serving reasons, hoping for a lenient sentence. The accused clearly knew that what he did to the victim and his other daughters were serious criminal acts. In the early morning of 17 November 2018, after he had forcefully raped the victim, he realised that the victim and V2 were not in the house. He immediately went to search for them.

¹⁰⁸ PIM at para 27.

¹⁰⁹ PSS at para 24.

He suspected that they might have gone to the police station to report the rape. That was why, of all places, he went to three police stations to look for them.¹¹⁰ When he could not find them, he was worried that the police would come and arrest him. In anticipation of his pending arrest, he quickly surfed the internet for ways to pass the lie detector test (Polygraph Test).¹¹¹ Thus, he was not going to admit to the sexual assaults on his daughters as he wanted to lie and deny the charges. This intention to pervert the course of justice brings me to refer to an incident in 2015 when V2 reported the accused for the sexual assault on her to the police. The accused told V6, his wife, to persuade V2 to lie to the police so that he could be exculpated from the sexual offences. This charge of perverting the course of justice is the 3rd Charge against the accused which is taken into consideration for the purpose of sentencing. He managed to get away with the sexual offences in 2015 and he hoped he could do the same in 2018. The accused was prepared to lie to the police and maintained his innocence until recently when his case was fixed for trial and he realised the avalanche of evidence against him. Thus, he knew that it was hopeless to deny the charges. Hence, his plea of guilt was not because he was contrite or that he wanted to spare his daughters from recalling the dreadful events. The victim, on the other hand, had undergone numerous trial preparation interviews before the accused finally pleaded guilty. She had to recall those unpleasant moments in her life which I am certain she would like to erase from her memory if she could.

113 Even if there is any residual mitigatory weight of the accused's plea of guilt, it pales against and is outweighed by the aggravating value of the TIC Charges. As stated by the Court of Appeal in *Terence Ng* at [71], "in cases that were especially grave and heinous, the sentencing considerations of retribution,

¹¹⁰ SOF at para 47.

¹¹¹ SOF at para 47.

general deterrence and the protection of the public would inevitably assume great importance, and these cannot be significantly displaced merely because the accused had decided to plead guilty.”

114 Therefore, having regard to the totality of the circumstances surrounding the accused’s plea of guilt, I find that no sentencing discount should be accorded to the accused on account of his plea of guilt.

Summary of sentences on the aggravated rape and aggravated SAP offences

115 In summary, I find that the present case falls within the middle to upper end of Band 2 of the *Terence Ng* and *Pram Nair* frameworks. The sheer number and intensity of the accused’s sexual assaults against four of his biological daughters warrant a one-year uplift from the indicative starting sentence. Therefore, for all the above reasons, I find that the following sentences are warranted:

- (a) 16 years’ imprisonment and the mandatory minimum 12 strokes of the cane for each aggravated rape offence (*ie*, the 1st, 4th and 5th Charges); and
- (b) 14 years’ imprisonment and the mandatory minimum 12 strokes of the cane for the aggravated SAP offence (*ie*, the 2nd Charge).

Aggravated outrage of modesty (the 6th and 7th Charges)

116 Like the aggravated rape Charges and the aggravated SAP Charge, the sentencing positions of the Prosecution and the Defence regarding the aggravated OM Charges do not deviate too much. In brief, the Prosecution’s sentencing position for each Charge is at least three years’ imprisonment and

six strokes of the cane,¹¹² while the Defence's sentencing position for each charge is two years' imprisonment and six strokes of the cane.¹¹³

Offence-specific factors

117 As an indicative starting point, I find that the present case falls within the upper end of Band 2 to the lower end of Band 3, based on a confluence of the following aggravating factors:

(a) The high degree of sexual exploitation where the accused licked the victim's vagina. This is an intrusive act that caused the victim discomfort and pain (see [18] and [20] above).

(b) The circumstances of the offence, namely the presence of premeditation, the abuse of a position of trust, and the use of deception. Premeditation is evident in the manner with which the accused called the victim and her sisters into the master bedroom one by one. The accused also employed deception to mask his wrongdoing by explaining to the victim that he was merely teaching her how to clean her vagina properly after menstruating (see [19] and [21] above).

118 The present case is analogous to *BLV*, where the sentence of two years' imprisonment and six strokes of the cane was imposed on the offender, who was the victim's biological father. While the High Court did not expressly state the Band in which the case falls within, it can be inferred from the sentence imposed that the court considered the case to fall within the upper end of Band 2 to the lower end of Band 3. In that case, for each fellatio charge, the offender would,

¹¹² PSS at para 32.

¹¹³ PIM at para 54.

after positioning the victim on the bed, remove her clothes and lick her vagina. The victim would resist by bringing her legs together, but the offender would press his hands against her thighs to keep them open. Those incidents usually lasted a few minutes.

119 Weighing all the facts and circumstances relating to the 6th and 7th Charges, I find that the present case falls within the upper end of Band 2 and the lower end of Band 3, with two to three years' imprisonment and six strokes of the cane as an indicative starting point.

Offender-specific factors

120 Out of the 26 TIC Charges the accused faces, six are for outraging the modesty of his other daughters:

- (a) In 2004 when V3 was 6 to 7 years old, the accused circled her vagina with a cotton bud and his finger skin-on-skin (the 16th Charge).
- (b) In 2018 when V2 was 15 to 16 years old, the accused touched her vagina skin-on-skin (the 13th Charge).
- (c) In 2018 when V2 was 15 to 16 years old, the accused squeezed her breasts (the 14th Charge).
- (d) In 2018 when V4 was 14 to 15 years old, the accused touched her vagina skin-on skin (the 23rd Charge).
- (e) In 2018 when V4 was 14 to 15 years old, the accused touched her vagina and pinched her breast skin-on-skin (the 24th Charge).
- (f) In 2018 when V4 was 14 to 15 years old, the accused massaged her breasts skin-on-skin (the 25th Charge).

The number of similar TIC Charges reinforces the need for specific deterrence and an upward calibration of the appropriate sentence.

121 As for the mitigatory weight of the accused's plea of guilt, my analysis at [112]–[114] above applies here. The sheer number and intensity of the similar TIC Charges for the aggravated OM offences have significant aggravating value and outweigh any mitigatory weight of the accused's plea of guilt. Thus, no sentencing discount is warranted based on the accused's plea of guilt.

Summary of sentences on the outrage of modesty offences

122 Having regard to all of the above, I find that the accused's offences under s 354(2) of the Penal Code each warrant three years' imprisonment and six strokes of the cane.

Ill-treatment of child (the 32nd Charge)

123 I shall set out a brief summary of the facts relating to the 32nd Charge. The 32nd Charge refers to one incident which stretched over five days. The accused had gotten angry with the victim, V2, V4 and V5 for failing to complete their chores to his satisfaction. As a result, he banned the four children from eating and drinking for five days. As this occurred during the September school holidays, the children had no other means of getting food except for the occasional meal or snack slipped in by their mother (V6), V3 or V3's boyfriend without the accused's knowledge. They were eventually allowed to eat plain rice the night before their mother's birthday.¹¹⁴

¹¹⁴ SOF at paras 28-33; PSS at para 33.

124 The accused's actions in starving his children over a small matter is deplorable. I find that seven months' imprisonment for this Charge is an appropriate sentence.

125 The gravity of the offence is aggravated by a number of factors:

(a) First, the accused, as the biological father of the victim, has a duty to protect and care for her and her siblings. By completely preventing them from eating and drinking, the accused betrayed this critical position of responsibility, confidence and trust reposed in him as the biological father of the victim, V2, V4 and V5. As the Court of Appeal stated in *UI* at [33], a parent who betrays that relationship and harms his or her child will generally stand at “the *furthest* end of the spectrum of guilt” [emphasis in original].

(b) Second, the accused went to great lengths to ensure the victim, V2, V4 and V5 would not have any food or drink, going so far as to bind bottles of water in the refrigerator and dispose of all the food in the house (see [23] above). He also confiscated food which was snuck to the children by the other family members (see [25] above). This pattern of conduct points to a systematic isolation and starvation of the victim, V2, V4 and V5 far exceeding the threshold of mere discipline.

126 Having regard to the above, I find that the facts of the present case warrant an imprisonment term slightly lower than that in *Z*. In *Z*, the offender's actions in feeding a sleeping pill to the victim three times a week resulted in potentially greater and toxic harm being done to the victim.¹¹⁵

¹¹⁵ PSS at para 36.

127 I note the Defence's argument that the aggravating factors relating to the 32nd Charge are not as numerous or intense as in *BDB*, as there was no violence. While the presence of violence is a factor to consider in determining the appropriate sentence, the absence of violence does not *ipso facto* mean that the ill-treatment of the child is less severe. One must look at all the circumstances of the case, including the manner with which the accused ill-treated the child and the duration of the abuse. In this case, there was a calculated, slow starving of a child for five days, which is unnecessary and unjustifiable.

128 Further, I find that the seven other TIC Charges related to the physical abuse of four of the other victims warrants an uplift in sentence. Some of these incidents are marked by intense spurts of violence. I summarize these TIC Charges below:

- (a) In 2012 when V3 was 14 years old, the accused hit her face and stepped on her back (the 19th Charge).
- (b) In 2014 when V2 was 11 to 12 years old, the accused kicked her in the stomach and repeatedly hit her on the legs with a brown belt (the 8th Charge). In 2018 when V2 was 16 years old, the accused threw a plastic bowl at her face which hit her nose (the 33rd Charge).
- (c) In 2016 when V5 was 9 to 10 years old, the accused punched him hard on his left eye (the 26th Charge). In 2018 when V5 was 11 years old, the accused punched his shoulders multiple times with both his fists (the 27th Charge).
- (d) In 2007, the accused caned his wife, V6, on her arm (the 28th Charge). In 2013, he punched her thigh and slapped her face

repeatedly (the 29th Charge). These are offences under s 323 of the Penal Code.

These Charges, when seen in totality, paint a disturbing and tragic picture of the physical domination the accused enjoyed over the rest of his family. Thus, this warrants an uplift in sentence to reflect the sentencing considerations of deterrence and retribution.

129 Having regard to all of the above, I find that a seven-month imprisonment term for the 32nd Charge is an appropriate sentence.

The aggregate sentence

The one-transaction principle

130 The Prosecution and the Defence agree that the sentences for the 1st Charge and the 4th Charge should run consecutively.¹¹⁶ I am of the view that in addition to the 1st Charge and the 4th Charge, the 32nd Charge should also run consecutively.

131 Section 307(1) of the CPC provides as follows:

307.—(1) Subject to subsection (2), if at one trial a person is convicted and sentenced to imprisonment for at least 3 distinct offences, the court before which the person is convicted must order the sentences for at least 2 of those offences to run consecutively.

132 The general rule, as stated in *Raveen* at [54], is that “sentences for unrelated offences should run consecutively, while sentences for related offences forming part of a single transaction should run concurrently”. Whether multiple offences form part of a single transaction depends on whether they

¹¹⁶ PSS at para 38; PIM at para 60.

form a “single invasion of the same legally protected interest” (*Raveen* at [39]), citing D A Thomas, *Principles of Sentencing: The Sentencing Policy of the Court of Appeal Criminal Division* (Heinemann, 2nd Ed, 1979) at p 53).

133 The sentences for the 32nd Charge and the rest of the proceeded Charges entail the invasion of different legally protected interests. The nub of the former offence lies in the failure of parental responsibilities, while the remaining offences, being sexual in nature, concern the intrusion of the victim’s bodily integrity and virtue.

134 Therefore, I order that the 1st, 4th and 32nd Charges are to run consecutively, with the remaining Charges running concurrently.

Imprisonment in lieu of caning

135 The parties opine that it is not necessary to impose a further imprisonment term in lieu of the remaining 36 strokes of the cane under s 328(2) of the CPC. I have a contrary view. This is one of the worst cases of rape and SAP. The accused had taken complete advantage of his very young and vulnerable biological daughters to satisfy his sexual perversion over a prolonged period. To the children, the home is the haven where there is parental love, warmth, security, protection, solace, peace, harmony and equanimity. The accused destroyed the cherished values of the victims’ sanctuary and turned their home into a living hell. He had caused unimaginable misery and untold torment to them for several years. In my view, this is an appropriate case to impose imprisonment in lieu of the remaining 36 strokes of the cane. The accused and other similar would-be offenders must not think that they can get away with the statutory maximum of 24 strokes of the cane by committing numerous rapes and SAPs. The deterrent effect of the sentence must not only be reflected in the length of the imprisonment term but also in the punishment

of caning. However, the deliberation for the deterrent length of imprisonment and the sentence of imprisonment in lieu of the remaining 36 strokes of the cane must not result in double counting as it would be unfair to the accused. In this case, I am aware that the Prosecution is not seeking a separate term of imprisonment in lieu of the 36 strokes of the cane, as the Prosecution is of the view that 32 years' imprisonment is sufficient deterrent. Notwithstanding the Prosecution's submission, I am of the view that the sentence of imprisonment in lieu of caning for the remaining 36 strokes of the cane is appropriate for the reasons given above.

136 The imposition of imprisonment in lieu of the remaining 36 strokes of the cane is consistent with the principles and indicative guidelines laid out by the High Court in *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 ("*Amin*") at [89]–[91]:

89 ... In our judgment, if the court decides to enhance an offender's sentence, the extent of such enhancement should bear some correlation to the number of strokes of the cane that the offender has been exempted from. However, we would not go so far as to adopt a pro-rated approach. Rather, we consider that indicative ranges of sentences would better allow sentencing judges to calibrate the extent of the enhancement to fit the circumstances of each case.

90 We thus provide the following indicative guidelines:

- (a) one to six strokes avoided: up to three months' imprisonment;
- (b) seven to 12 strokes avoided: three to six months' imprisonment;
- (c) 13 to 18 strokes avoided: six to nine months' imprisonment; and
- (d) more than 19 strokes avoided: nine to 12 months' imprisonment.

91 Beyond this, in calibrating the precise extent of the enhancement, the court should have regard to the factors we have already discussed at [59]–[86] above. The court should identify the grounds which prompted it to enhance the

offender's sentence in the first place, and consider what length of imprisonment would be appropriate to address those concerns. Additionally, the court should also consider whether any factor which weighed against the enhancement of the offender's sentence might justify a shorter period of additional imprisonment.

137 Following the guidelines in *Amin*, the sentence of imprisonment in lieu of the 36 strokes of the cane would have been nine to 12 months' imprisonment. However, in view of the circumstances of the case, including the final aggregate sentence imposed and the fact that the accused will have to undergo 24 strokes of the cane, I find that seven months' imprisonment in lieu of the 36 strokes of the cane is appropriate and proportionate.

The totality principle

138 The first limb of the totality principle requires the court to consider whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed (see *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Shouffee*") at [54]). However, totality is not an inflexible rule but a helpful guide (*Law Aik Meng* at [60]). Thus, sentences far longer than the maximum of 20 years' imprisonment for rape have been imposed in cases of serious sexual assault where the offences are numerous and serious (see, eg, *Public Prosecutor v CBV* HC/CC 13/2021 (9 March 2021) where 33 years' imprisonment was imposed and *Public Prosecutor v BPN* HC/CC 93/2017 (26 February 2018) where 34 years' imprisonment and 24 strokes of the cane were imposed).¹¹⁷

¹¹⁷ PSS at para 42.

139 Under the second limb of the totality principle, the aggregate sentence may be moderated if it is crushing and not in keeping with the offender's past record and his future prospects (*Shouffee* at [57]).

140 The global sentence of 33 years and two months' imprisonment and 24 strokes of the cane is consistent with the totality principle. First, the sentence does not have a crushing effect on the accused, given the number and gravity of the offences and when viewed against the possibility that he would be 63 to 64 years old when released (see [67] above). Second, I disagree with the Defence that there should be a downward calibration of the sentence on the basis of the accused's plea of guilt.¹¹⁸ I have already considered the effect of the accused's plea of guilt on the sentence when calibrating the individual sentences. Further, while I note that there are additional aggravating factors in *AOM* that are absent in this case, namely, the victim's contraction of Chlamydia, there are still numerous aggravating factors in the present case. Some of these were echoed in *AOM*, such as the offender's unprotected sex with the victim and the use of deception. It is already bad to rape a girl. But to rape three young innocent biological children on multiple occasions over a prolonged period is monstrously heinous beyond any description. Further, he egregiously outraged the modesty of four out of five of his daughters and committed crimes against almost every member of his family. As if all these were not enough, he attempted to pervert the course of justice so that he would not face the music. This is a deserving case for the book to be thrown at the accused. Thus, I do not agree with the Defence that a downward calibration of the aggravated rape offences is warranted.

¹¹⁸ PIM at paras 62-64.

141 Further, the global sentence of 33 years and two months' imprisonment and 24 strokes of the cane reflects and befits the seriousness of the accused's crimes. In this regard, the victim impact statements make clear that the accused's sexual abuse has left them with lasting trauma and painful wounds. As it was the final assault of the victim that led to the police report, the victim expressed how there were times when she blamed herself that her siblings no longer had a father. Despite her family's support, she could not help but feel that she was fighting this emotional battle alone. She also stated that she would still have nightmares about the incidents at least once a month and has since lost trust in men. V2 stated that she remained silent about the abuse as she was afraid to break up her family, and that keeping silent was very painful for her. V4 fears ever having a father figure in their home again, as it would serve as a reminder of the accused's deeds.¹¹⁹ Though nothing can restore the victims' innocence or compensate for their suffering, a global sentence of 33 years and two months' imprisonment and 24 strokes of the cane appropriately reflects the atrocities committed against them and deters would-be offenders from venturing down the same path.¹²⁰

142 Notwithstanding that the accused is a first-time offender, the appropriate deterrent punishment is a global sentence of 33 years and two months' imprisonment and 24 strokes of the cane.

Summary of findings on sentence

143 In summary, my findings on sentence are as follows:

¹¹⁹ PSS at para 44; PSS Annex A.

¹²⁰ PSS at para 46.

- (a) Sentencing principles: Deterrence and retribution are the governing sentencing principles given the egregious facts, nature of the heinous offences and the relationship between the accused and the victims.
- (b) Aggravated rape and aggravated SAP offences (the 1st, 2nd, 4th and 5th Charges): The number and intensity of the accused's sexual abuse of his four biological daughters warrant 16 years' imprisonment and 12 strokes of the cane (for the 1st, 4th and 5th Charges each) and 14 years' imprisonment and 12 strokes of the cane (for the 2nd Charge).
- (c) Aggravated OM offences (the 6th and 7th Charges): Taking into account the circumstances of the offences, a sentence of three years' imprisonment and six strokes of the cane for each charge is warranted.
- (d) Ill-treatment of child (the 32nd Charge): Considering the aggravating factors and numerous other TIC Charges related to the accused's physical abuse of his family, a seven-month imprisonment term is appropriate.
- (e) The aggregate sentence: The sentences for the 1st Charge, the 4th Charge and the 32nd Charge are to run consecutively, with the remaining sentences to run concurrently. The total number of strokes of the cane imposed on the accused is 60 strokes for the six out of seven of the proceeded Charges. However, s 328(6) of the CPC limits the number of strokes to 24 strokes. A seven-month imprisonment in lieu of the remaining 36 strokes of the cane is appropriate. A global sentence of 33 years and two months' imprisonment and 24 strokes of the cane is consistent with the totality principle and is reflective of the sexual atrocities the accused committed against his four biological daughters.

144 The following table shows a breakdown of the global sentence I impose on the accused:

S/N	Charge	Sentence
1	1 st Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	16 years' imprisonment and 12 strokes of the cane (consecutive)
2	2 nd Charge Aggravated SAP Section 376(1)(a) p/u s 376(4)(b) of the Penal Code	14 years' imprisonment and 12 strokes of the cane
3	4 th Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	16 years' imprisonment and 12 strokes of the cane (consecutive)
4	5 th Charge Aggravated rape Section 375(1)(b) p/u s 375(3)(b) of the Penal Code	16 years' imprisonment and 12 strokes of the cane
5	6 th Charge Aggravated OM Section 354(2) of the Penal Code	Three years' imprisonment and six strokes of the cane
6	7 th Charge Aggravated OM Section 354(2) of the Penal Code	Three years' imprisonment and six strokes of the cane
7	32 nd Charge	Seven months' imprisonment

	Ill-treatment of child Section 5(1) p/u s 5(5)(b) of the CYPA	(consecutive)
8	Imprisonment in lieu of 36 strokes of the cane Section 328(2) of the CPC	Seven months' imprisonment (consecutive)

Conclusion

145 For all of the above reasons, I sentence the accused to 33 years and two months' imprisonment and 24 strokes of the cane. I order that his sentences of imprisonment be backdated to 17 November 2018, the date of his arrest.

Tan Siong Thye
Judge of the High Court

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