

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

**[2020] SGHC 76**

Criminal Case No 32 of 2018

Between

Public Prosecutor

And

- (1) Mohd Zaini Bin Zainutdin
- (2) Mohd Noor Bin Ismail
- (3) Abdoll Mutaleb Bin Raffik

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**GROUND OF DECISION**

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

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**Public Prosecutor**  
**v**  
**Mohd Zaini Bin Zainutdin and others**

**[2020] SGHC 76**

High Court — Criminal Case No 32 of 2018

Aedit Abdullah J

23–25 October, 20–22, 27 November 2018, 28 January, 8, 21 March, 9 April  
2019, 26 February 2020

21 April 2020

**Aedit Abdullah J:**

**Introduction**

1 The three co-accused were all jointly tried and convicted for offences involving the importation of drugs. The previously issued grounds of decision in *Public Prosecutor v Mohd Zaini Bin Zainutdin and others* [2019] SGHC 162 (“Mutaleb’s GD”) dealt primarily with the conviction and sentencing of the third accused, Abdoll Mutaleb Bin Raffik (“Mutaleb”). The second accused, Mohd Noor Bin Ismail (“Noor”) has recently appealed and these grounds of decision address his conviction and sentence.

### **The alleged facts**

2 The alleged facts were already more completely set out in Mutaleb’s GD and are only summarised here for reference.

3 On the night of 10 September 2015 in Malaysia, the first accused, Mohd Zaini Bin Zainutdin (“Zaini”), Noor and a person referred to as “Apoi” packed 14 bundles containing not less than 249.63 grams of diamorphine into Zaini’s car.<sup>1</sup> The next morning, Noor drove the car (with Zaini inside) laden with the drugs into Singapore, to be delivered to Mutaleb.<sup>2</sup> This was pursuant to a conspiracy involving all four parties.<sup>3</sup> Noor and Zaini were arrested at Tuas Checkpoint.<sup>4</sup> Zaini then made a number of monitored calls to Mutaleb and the CNB arranged for a fake delivery to Mutaleb, who was then arrested.<sup>5</sup> The 14 bundles contained 6,434.8g of a substance which on analysis was found to contain not less than 249.63g of diamorphine.<sup>6</sup>

### **The charges**

4 Noor was charged under s 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”) read with s 34 of the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code”) for importing not less than 12 bundles containing 5,520g of substance which contained not less than 212.57g of diamorphine, in furtherance of the common intention with Zaini. Zaini also faced the same charge.

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<sup>1</sup> Prosecution’s closing submissions dated 25 February 2019 (“PCS”) at para 8

<sup>2</sup> PCS at para 8

<sup>3</sup> PCS at para 8

<sup>4</sup> PCS at para 1

<sup>5</sup> PCS at paras 9 to 10

<sup>6</sup> PCS at para 7

### **Conduct at trial**

5 Both Noor and Zaini indicated that they wished to plead guilty,<sup>7</sup> but as required under s 227(3) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (“CPC”), the matter proceeded to trial. Zaini gave evidence, which indicated that his involvement was limited to transportation.<sup>8</sup> Noor elected not to give evidence, choosing to remain silent.<sup>9</sup>

### **Closing Submissions**

#### ***The Prosecution’s Case***

6 The Prosecution relied on Zaini’s testimony at trial to prove the alleged facts. Zaini had testified that:<sup>10</sup> Apoi had given him the drugs;<sup>11</sup> he knew that they were heroin;<sup>12</sup> Noor assisted him to packing the drugs into the car;<sup>13</sup> and the both of them, in furtherance of their common intention, imported the drugs into Singapore.<sup>14</sup>

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<sup>7</sup> Notes of Evidence (“NE”) 23 October 2018 at pp 2 to 4; NE 21 November 2018 p 11 lines 21 to 23

<sup>8</sup> PCS at para 27

<sup>9</sup> NE 22 November 2018 p 13 line 11 to p 14 line 14

<sup>10</sup> PCS at para 27

<sup>11</sup> NE 21 November 2018 at p 25

<sup>12</sup> NE 21 November 2018 at p 31 lines 16 to 19

<sup>13</sup> NE 21 November 2018 at p 34 lines 1 to 10

<sup>14</sup> NE 21 November 2018 at pp 76 line 28 to 77 line 3

7 The Prosecution also relied on Zaini's statements to the CNB, which were consistent with Zaini's testimony at trial insofar as Zaini's and Noor's roles were concerned.<sup>15</sup>

8 As Noor elected to remain silent when called to give evidence in his defence, an adverse inference should be drawn against him pursuant to s 291(3) CPC.<sup>16</sup> Noor had been implicated by Zaini's evidence and statements, and had also been found to be driving the car in which the drugs were found.<sup>17</sup> It was incumbent on him to explain himself, but failed to do so.<sup>18</sup> He also did not cross-examine any of the Prosecution's witnesses and his cross-examination of Zaini only sought to confirm that he assisted Zaini to pack and deliver the drugs to Singapore.<sup>19</sup>

9 It was also argued that the presumption of possession under s 21 MDA and the presumption of knowledge under s 18(2) MDA applied against both accused, and no evidence was adduced to rebut them.<sup>20</sup>

### *Noor's Case*

10 Noor pleaded guilty to the charge.<sup>21</sup> It was noted that Noor had wanted to plead guilty at the start of the hearing, and that he had chosen not to give

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<sup>15</sup> PCS at para 28

<sup>16</sup> PCS at para 29

<sup>17</sup> PCS at para 33

<sup>18</sup> PCS at para 33

<sup>19</sup> PCS at para 33

<sup>20</sup> PCS at para 35

<sup>21</sup> Noor's closing submissions dated 19 February 2019 ("NCS") at para 30

evidence.<sup>22</sup> However, he maintained that he had no actual knowledge that the bundles were drugs, instead thinking that they were only cigarettes or electronic cigarettes,<sup>23</sup> and that he only knew that the bundles contained drugs after his arrest.<sup>24</sup> Nevertheless, he accepted that the presumption of knowledge would apply against him as he drove the vehicle into Singapore knowing that the bundles were in the vehicle.<sup>25</sup> He accepted that he should have enquired as to what were in the bundles when he had the chance to do so.<sup>26</sup>

11 It was emphasised that his involvement was only to assist Zaini, and his role at all times was that of a mere courier.<sup>27</sup> This was supported by Zaini's testimony at trial.<sup>28</sup>

12 It was also reiterated that there were no objections to the statements recorded from Noor.<sup>29</sup> In those statements, he had admitted to assisting Zaini in bringing the bundles into Singapore, but denied that he had actual knowledge that the bundles contained drugs.<sup>30</sup> Although Noor had initially lied in his first two statements, this was because he pitied Zaini, his cousin, and the court was

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<sup>22</sup> NCS at para 6

<sup>23</sup> NCS at para 27

<sup>24</sup> NCS at para 23

<sup>25</sup> NCS at para 28

<sup>26</sup> NCS at para 24

<sup>27</sup> NCS at para 13

<sup>28</sup> NCS at para 15

<sup>29</sup> NCS at para 7

<sup>30</sup> NCS at para 8

urged not make any adverse findings against him for not admitting to the charge earlier.<sup>31</sup> He was not a sophisticated person, with a low educational level.<sup>32</sup>

### **The oral decision**

13 I convicted both of them of the charges after trial.<sup>33</sup> However, Noor was not sentenced at the same time as the other two accused persons as the Prosecution applied to defer his sentencing, pending the resolution of other matters.<sup>34</sup> During Noor’s sentencing hearing, the Prosecution tendered a Certificate of Substantive Assistance (“CSA”) determining that Noor had substantively assisted the Central Narcotics Bureau (“CNB”) in disrupting drug trafficking activities within and outside Singapore.<sup>35</sup> I had also accepted that Noor was merely a courier.<sup>36</sup> Hence, Noor fulfilled the requirements of s 33(2) MDA and qualified for alternative sentencing under s 33B(1)(a) of the MDA. He was hence accordingly sentenced to life imprisonment and 15 strokes of the cane, the stipulated statutory sentence.<sup>37</sup>

14 Noor has now appealed against both his conviction and sentence. These grounds set out the reasons for the decision on both matters, but should be read together with Mutaleb’s GD.

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<sup>31</sup> NCS at para 11

<sup>32</sup> NCS at para 26

<sup>33</sup> NE 21 March 2019 at p 2

<sup>34</sup> NE 21 March 2019 at p 5

<sup>35</sup> NE 26 February 2020 at pp 1 to 2

<sup>36</sup> NE 26 February 2020 at p 2

<sup>37</sup> NE 26 February 2020 at p 4



### **Analysis of decision**

15 The actual act of importation was not in dispute. Noor did not deny that he was in possession of the drugs. He was arrested at the checkpoint with the drugs in the car, and had been driving the vehicle at the material time.<sup>38</sup> The issues were whether he had knowledge of the nature of the drugs, his involvement in the importation, and whether he had a common intention with Zaini to import the drugs into Singapore.

16 My decision on these issues had been set out in Mutaleb’s GD at [14] to [15]:

14 The elements of s 7 of the MDA were made out in relation to Zaini and Noor. Zaini’s evidence was consistent across his statements and oral testimony that Apoi had passed him the 13 bundles of drugs that were recovered from his car and that he knew that the bundles contained heroin. As for Noor’s refusal to give evidence in his own defence, I was entitled to draw an adverse inference against him from his decision to remain silent: s 291(3)(b) of the CPC. In any event, I was also satisfied that the relevant presumptions under ss 21 and 18(2) of the MDA operated against each of them, such that their possession of the bundles of drugs in Zaini’s car and their knowledge of the nature of the drugs were presumed. No attempt was made to rebut these presumptions. I therefore convicted both accused persons of the charges accordingly.

15 Of the three accused persons, Zaini and Noor qualified for alternative sentencing under s 33B as I found that they were only couriers involved in the transportation of the drugs in question. A certificate of substantive assistance was granted in respect of Zaini; he was sentenced to life imprisonment and 15 strokes of the cane. Noor’s sentencing was adjourned pending the resolution of other matters. As Mutaleb was not involved merely in the transportation of the drugs but had taken steps to purchase the drugs, the prescribed mandatory sentence applied; accordingly, he was sentenced to death.

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<sup>38</sup> PCS at paras 7, 20

17 In sum, Noor's conviction was founded on evidence from Zaini, the adverse inference against Noor from his silence, and the applicable presumptions under ss 21 and 18(2) of the MDA. Since he was a courier and was granted a CSA, he was subsequently sentenced to life imprisonment and 15 strokes of the cane. These are elaborated on below.

### ***The Evidence against Noor***

#### *Zaini's evidence*

18 As submitted by the prosecution, Zaini had testified at trial that:<sup>39</sup> Apoi had given him the drugs;<sup>40</sup> he knew that they were heroin;<sup>41</sup> Noor assisted him to packing the drugs into the car;<sup>42</sup> and the both of them, in furtherance of their common intention, imported the drugs into Singapore.<sup>43</sup> Zaini also testified that Noor had assisted him and brought in drugs with him before on a previous occasion.<sup>44</sup>

19 Zaini's evidence was not substantially challenged by Noor's counsel in cross-examination.<sup>45</sup> Instead, Noor's counsel confirmed with Zaini that Noor had indeed assisted him by driving and packing the drugs into the car, to deliver to into Singapore.<sup>46</sup>

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<sup>39</sup> PCS at para 27

<sup>40</sup> NE 21 November 2018 at p 25

<sup>41</sup> NE 21 November 2018 at p 31 lines 16 to 19

<sup>42</sup> NE 21 November 2018 at p 34 lines 1 to 10

<sup>43</sup> NE 21 November 2018 at pp 76 line 28 to 77 line 3

<sup>44</sup> NE 21 November 2018 at p 35

<sup>45</sup> NE 21 November 2018 at pp 34 to 35

<sup>46</sup> NE 21 November 2018 at p 34

*Noor's evidence*

20 Noor did not testify and his counsel did not cross-examine any of the Prosecution witnesses.<sup>47</sup> Nevertheless, he did give various statements which were admitted:<sup>48</sup>

- (i) Contemporaneous statement on 11 September 2015 (“Contemporaneous Statement”);<sup>49</sup>
- (ii) Cautioned statement on 14 September 2015 (“Cautioned Statement”);<sup>50</sup>
- (iii) Long statement on 16 September 2015;<sup>51</sup>
- (iv) Long statement on 17 September 2015;<sup>52</sup>
- (v) Long statement on 23 September 2015;<sup>53</sup>
- (vi) Long statement on the morning of 5 November 2015;<sup>54</sup>  
and
- (vii) Long statement on the afternoon of 5 November 2015.<sup>55</sup>

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<sup>47</sup> PCS at para 13

<sup>48</sup> NCS at paras 7 to 8

<sup>49</sup> Prosecution’s Bundle of Documents (“PBOD”) at p 347

<sup>50</sup> PBOD at pp 482 to 487

<sup>51</sup> PBOD at pp 490 to 493

<sup>52</sup> PBOD at pp 494 to 515

<sup>53</sup> PBOD at pp 518 to 524

<sup>54</sup> PBOD at pp 619 to 633

<sup>55</sup> PBOD at pp 634 to 643

21 Noor did not contest the admissibility or voluntariness of any of his statements.<sup>56</sup> Even though not relied on by the Prosecution, I found that Noor's statements supported that he was culpable, although not sufficient to show culpability on their own.

22 Initially, Noor denied knowledge of the bundles. In the Contemporaneous Statement, Noor denied knowing what was in the bundles and who they belonged to.<sup>57</sup> In the Cautioned Statement, he also denied knowing what was in the bundles and said that if he knew that Zaini was bringing illegal things, he would not have followed Zaini.<sup>58</sup> In his long statement on 16 September 2015, Noor admitted to driving the vehicle.<sup>59</sup>

23 Subsequently, in the further statement on 17 September 2015, Noor confessed that he had lied in the first two statements.<sup>60</sup> He had denied knowledge of the bundles as he pitied Zaini.<sup>61</sup> In later long statements, he confessed to helping Zaini hide the black bundles in the car. In the statement on 23 September 2015, Noor said that on the night of 10 September 2015, Zaini asked Noor to pass him three black bundles and Zaini placed them inside the space behind the cover under the steering wheel.<sup>62</sup> In the statement on the afternoon of 5 November 2015, Noor confessed that Zaini had asked him to hide bundles in

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<sup>56</sup> NCS at paras 7 to 8

<sup>57</sup> PBOD at p 347-1

<sup>58</sup> PBOD at p 486

<sup>59</sup> PBOD at p 498

<sup>60</sup> PBOD at p 494

<sup>61</sup> PBOD at p 494

<sup>62</sup> PBOD at p 519, para 31

the boot.<sup>63</sup> In the same statement, Noor said that he had seen Zaini remove a bundle from behind the bottom left panel of the floorboard of the front passenger seat, while they were driving on the way to Singapore.<sup>64</sup>

24 However, in all of Noor's statements, he denied knowing that these black bundles were drugs until he was told by the narcotics officer after his arrest.<sup>65</sup> Noor's position was that he thought the bundles were illegal cigarettes, as he had seen Zaini import these cigarettes previously.<sup>66</sup>

25 Despite Noor feigning ignorance, I found that his own statements supported that he had knowledge that they were drugs.

26 First, Noor had to have had known that at least three of the bundles in the present case were not cigarettes. He confessed that he had seen Zaini wrapping the bundles involved in the present case.<sup>67</sup> He was at Zaini's house when he saw Zaini wrapping "clear plastic packets containing what seemed like brown fertiliser".<sup>68</sup> There had been three packets on the table.<sup>69</sup> Noor picked it up and wanted to help Zaini wrap them.<sup>70</sup> Zaini refused his help and wrapped

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<sup>63</sup> PBOD at p 634, para 52

<sup>64</sup> PBOD at p 636, para 56

<sup>65</sup> PBOD at p 494, para 16; PBOD at p 518, para 27; PBOD at p 619, para 40; PBOD at p 636, para 58

<sup>66</sup> PBOD at p 636, para 58; PBOD at p 635, para 54

<sup>67</sup> PBOD at p 635, para 54

<sup>68</sup> PBOD at p 635, para 55

<sup>69</sup> PBOD at p 635

<sup>70</sup> PBOD at p 635

them on his own.<sup>71</sup> Later, Noor passed the bundles to Zaini who hid them under the steering wheel.<sup>72</sup>

27 Second, Noor confessed to helping Zaini hide drugs in the car and follow him to deliver them to Singapore on previous occasions.<sup>73</sup> He said that he had followed Zaini to deliver drugs into Singapore for about four times, excluding the time he was arrested.<sup>74</sup> Noor helped hide the “black bundles of drugs” into the left and right sides of the car boot.<sup>75</sup> Noor specifically described these items as drugs and heroin on his own accord, showing that he knew that the bundles were drugs and/or heroin. He referred to the bundles as “black bundles of drugs”,<sup>76</sup> and “clear packets of heroin”.<sup>77</sup> Since this was not told to him by the narcotics officer, he must have had known it for himself that the bundles on previous occasions had been drugs.

28 Third, Noor was also very familiar with Zaini’s *modus operandi*. He testified that Zaini received the drugs from Apoi at his house, and it would have had been wrapped in black tape.<sup>78</sup> However, there were times that Zaini would have to go out to collect the drugs and return home.<sup>79</sup> On these occasions, Zaini

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<sup>71</sup> PBOD at p 635

<sup>72</sup> PBOD at p 635

<sup>73</sup> PBOD at p 495

<sup>74</sup> PBOD at p 495, para 20

<sup>75</sup> PBOD at p 495

<sup>76</sup> PBOD at p 495

<sup>77</sup> PBOD at p 495

<sup>78</sup> PBOD at p 495

<sup>79</sup> PBOD at p 495

would bring back clear packets of heroin and wrap them himself.<sup>80</sup> Noor would not help out with the wrapping as he was not good at it.<sup>81</sup> Noor was able to describe that at times, Zaini “return[ed] home with about 3 to 4 packets of this heroin” and “about 40 rolls of black tape”.<sup>82</sup> He testified that “Zaini said that it needed to be wrapped properly so that the inner plastic layer is not torn when the receiver removes the layer of black tape”.<sup>83</sup> Hence, apart from witnessing the wrapping process in the present case, it was likely that he had also witnessed it on previous occasions and known that the black bundles were not always cigarettes.

29 For these three reasons, Noor’s own statements went against the assertion that he thought that the bundles were cigarettes, or that he did not know they were drugs. I noted that the Prosecution did not have the chance to cross-examine Noor on these points as he chose not to testify. Nevertheless, as shown below, an adverse inference can be drawn to this effect due to Noor’s silence.

30 Finally, it should be briefly noted that Mutaleb, who had the most active defence, did not substantially take issue or engage with Noor’s case; the primary issues taken up by Mutaleb concerned Zaini rather than Noor.

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<sup>80</sup> PBOD at p 495

<sup>81</sup> PBOD at p 495

<sup>82</sup> PBOD at p 495

<sup>83</sup> PBOD at p 495

*The adverse inference*

31 I agreed with the Prosecution that an adverse inference should be drawn against Noor pursuant to s 291(3) CPC in light of his silence. Section 291(3)(a) provides:

If an accused... after being called by the court to give evidence or after he or the advocate representing him has informed the court that he will give evidence, refuses to be sworn or affirmed... the court, in deciding whether the accused is guilty of the offence, may draw such inferences from the refusal as appear proper.

32 Noor's defence was called upon at the close of the Prosecution's case.<sup>84</sup> I had found that the Prosecution's evidence at that point had met the requirements laid down in statute in s 230(1)(j) CPC and explained in *Haw Tua Tau v Public Prosecutor* [1981–1982] SLR(R) 133. Zaini's evidence, together with Noor's statements, indicated that Noor had brought the drugs into Singapore. Noor's knowledge of the drugs was inferable from his involvement and his statements.

33 There was thus a need for Noor to present some evidence in his defence. Refusal to give evidence at that point would entitle the court to draw adverse inferences, including the ultimate adverse inference that the accused was guilty of the offence (*Oh Laye Koh v Public Prosecutor* [1994] SGCA 102 at [14]).

34 I accepted the Prosecution's reliance on *Public Prosecutor v Kong Hoo (Pte) Ltd and another appeal* [2017] 4 SLR 421 ("*Kong Hoo HC*") for a number of propositions relating to the drawing of adverse inferences. In summary (*Kong*

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<sup>84</sup> NE 22 November 2018 at pp 13 to 14



*Hoo HC* at [53]):<sup>85</sup> an adverse inference would properly be drawn where the facts clearly call for an explanation which the accused ought to be in a position to give; an adverse inference may be drawn if the circumstantial evidence required that some explanation be given, even if the objective evidence does not itself establish guilt; the inference of guilt itself may be drawn in appropriate cases; an adverse inference cannot be used solely to support a weak case; and it should not be drawn if the accused's mental or physical condition makes it undesirable for him to give evidence.

35 The outcome in *Kong Hoo HC* was reversed by the Court of Appeal in *Kong Hoo (Pte) Ltd and another v Public Prosecutor* [2019] 1 SLR 1131 following a criminal reference on questions concerning the interpretation of the provisions in question; but the decision did not affect the findings in *Kong Hoo HC* pertaining to the drawing of adverse inferences.

36 Noor did not strenuously resist the drawing of an adverse inference. Nothing was mentioned in Noor's written closing submissions about the adverse inference to be drawn in light of the accused's silence.<sup>86</sup>

37 I found that an adverse inference should be drawn that Noor knew the bundles contained drugs. The evidence arrayed against him called for an explanation by him: Noor was arrested for driving a vehicle containing drugs; Zaini testified that Noor helped pack the drugs into the car (though I would note that there was no direct evidence from Zaini that Noor definitely knew that the bundles contained drugs); Noor's statements showed that he knew that three of

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<sup>85</sup> PCS at para 31

<sup>86</sup> NCS

the bundles contained brown fertiliser-like substance; Noor also confessed to having helped packed and delivered drugs with Zaini on previous occasions; and Noor knew and had seen Zaini's *modus operandi* of packing and importing drugs and heroin.

38 Against these circumstantial evidences, some explanation should have been proffered by Noor. A coherent testimony of why he had no knowledge of the nature of the drugs may have possibly rebutted the evidence arrayed by the Prosecution against him. His choosing to remain silent when such an explanation was expected, pertaining to his state of mind or knowledge, supported that an adverse inference should be drawn that he knew that the bundles contained drugs.

### ***The presumptions***

39 The two presumptions invoked by the Prosecution were those under s 21 and s 18(2) of the MDA.<sup>87</sup> These were raised as an alternative ground to support the conviction of Noor.

40 Section 21 MDA reads:

If any controlled drug is found in any vehicle, it shall be presumed until the contrary is proved, to be in the possession of the owner of the vehicle and of the person in charge of the vehicle for the time being.

It is concerned with the presumption of physical possession: someone who is in charge of a vehicle is presumed to have the drugs in his possession. Noor drove

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<sup>87</sup> PCS at para 35

the vehicle, and was therefore in charge of it. Under s 21, he was presumed to have the drugs in his possession.

41 Section 18(2) MDA reads:

Any person who is proved or presumed to have had a controlled drug in his possession shall, until the contrary is proved, be presumed to have known the nature of that drug.

Thus, Noor being presumed to have the drugs in his physical possession is by operation of s 18(2) presumed to have known of the nature of the drug.

42 With these two presumptions, Noor was presumed to have possessed the drug and known its nature. These, combined with Noor's act of driving the drugs into Singapore, fulfilled the elements of the charge of importing drugs into Singapore.

43 Noor failed to introduce any evidence that would rebut the presumptions. He was silent at trial. Nothing came in by his counsel's cross examination of Zaini. No evidence was adduced that was relevant in rebutting the presumptions. In the circumstances, by virtue of these presumptions, Noor was guilty of importation of the drugs into Singapore. Taken together with Zaini's evidence and Noor's statements, Noor was guilty of such importing with common intention. The charge against him was thus made out.

44 The above reasons were sufficient to conclude that Noor was guilty of the charge of importation with common intention.

### ***Sentence***

45 I found that Noor satisfied the requirements of either s 33B(2)(a)(i), (iii) or (iv) of the MDA. His involvement was limited to the transportation of the

drugs. Even though Noor was involved in wrapping the bundles in tape before they were put into the vehicle,<sup>88</sup> that activity was directly connected to the transportation of the drugs, and did not alter the character of Noor's involvement as being concerned only with transporting or delivery. Alternatively, that activity could have been classified as being preparatory to transporting or delivering the drugs.

46     Aside from his limited involvement as a courier, Noor was also given a CSA and fulfils s 33B(2)(b). Given the findings above, he met the requirements of s 33B(1)(a) and qualified for alternative sentencing, for a sentence of imprisonment for life and not less than 15 strokes of the cane.

47     Noor declined to say anything in his mitigation, and left his sentence to the court.<sup>89</sup> The Prosecution also did not address on sentence and did not press for capital punishment.<sup>90</sup>

48     I did not find that the case warranted the imposition of the death sentence. Noor's role was limited, and there was nothing in the commission of the offence that would have required such sentence to be imposed.

49     Accordingly, I imposed a sentence of imprisonment for life, with 15 strokes of the cane. This was backdated to 11th September 2015, the date of arrest.<sup>91</sup>

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<sup>88</sup>     NE 21 November 2018 at p 27

<sup>89</sup>     NE 26 February 2020 at p 2

<sup>90</sup>     NE 26 February 2020 at p 2

<sup>91</sup>     NE 26 February 2020 at p 3 line 16 to p 4 line 13

### **Conclusion**

50      These were the reasons for Noor's conviction and sentence.

Aedit Abdullah  
Judge

Lau Wing Yam, Kenny Yang and Soh Weiqi (Attorney-General's  
Chambers) for the prosecution;  
Lee Yoon Tet Luke (Luke Lee & Co) and Sukdave Singh s/o Banta  
Singh (Winchester Law LLC) for the first accused;  
Aw Wee Chong Nicholas (Clifford Law LLP) and Mahadevan  
Lukshumayeh (Lukshumayeh Law Corporation)  
for the second accused;  
Hassan Esa Almenoar (R Ramason & Almenoar), Diana Foo (Tan  
Swee Swan & Co) and Sheik Umar bin Mohamad Bagushair (Wong  
& Leow LLC) for the third accused.

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