IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2017] SGCA 25

Criminal Appeal No 21 of 2016

Between

SUVENTHER SHANMUGAM

… *Appellant*

And

PUBLIC PROSECUTOR

… *Respondent*

GROUNDS OF DECISION

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

TABLE OF CONTENTS

Suventher Shanmugam
v
Public Prosecutor

[2017] SGCA 25

Court of Appeal — Criminal Appeal No 21 of 2016
Sundaresh Menon CJ, Judith Prakash JA and Tay Yong Kwang JA
18 January 2017

4 April 2017

Tay Yong Kwang JA (delivering the grounds of decision of the court):

Introduction

1 The appellant is a male Malaysian, aged 22 at the time of the offences in May 2015. He pleaded guilty in the High Court to one charge of importing into Singapore not less than 499.9g of cannabis without authorisation, an offence under s 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA") and punishable under s 33 of the MDA. He also admitted to a second and similar charge of importing not less than 999.9g of cannabis mixture and consented to it being taken into consideration for the purpose of sentencing.

2 The Judge convicted the appellant and imposed a sentence of 23 years' imprisonment with effect from the date of arrest and the mandatory 15 strokes of the cane. In doing so, the Judge rejected defence counsel's submissions that

the minimum custodial sentence of 20 years should be imposed. The Judge's grounds of decision are published as *Public Prosecutor v Suventher Shanmugam* [2016] SGHC 178 ("the GD").

3 In this appeal, the appellant, who appeared in person, sought to persuade us to impose the minimum sentence. We found that the sentence imposed by the Judge was amply justified and dismissed the appeal. However, we said during the hearing that we would issue written grounds of decision setting out our views on two issues which arose, not just from the Judge's decision, but also generally in situations where the Prosecution decides to state a quantity of drugs in a trafficking or an importation charge that is lower than the actual quantity involved. In most such cases, that is done because stating the actual quantity would attract the death penalty as it exceeds the limit set by law ("the death penalty limit"). In this case, the death penalty applies where the quantity of cannabis is more than 500g. In some cases, although the actual quantity of drugs would not attract the death penalty, the Prosecution could have decided to state a lower quantity in the charge as a result of representations made on behalf of the accused, thereby resulting in a relatively less serious charge.

4 The first issue is what the indicative sentence should be when the quantity of drugs stated in the charge is just below the death penalty limit, as in the present case. Having reviewed the precedents cited to the Judge, we found that the sentences for importation of such an amount tended to cluster around the minimum sentence. Given that the quantity of drugs is an indicator of the potential harm that an accused person can cause, the sentence for an offence of drug importation or trafficking should, all things being equal, be proportional to the quantity of drugs involved. We did not think that the trend

of sentences clustering around the minimum sentence was consistent with this principle. In these grounds of decision, we set out the indicative range of sentences for the offence of unauthorised importation of between 330 and 500g of cannabis.

5 The second issue concerns the relevance of the actual quantity of drugs seized from the accused person. The Judge was of the view that the actual quantity was relevant to sentencing and could justify a higher sentence even though the charge was based on a reduced amount. This view was consistent with the decided cases in similar situations involving a reduced charge. We had some reservations about the correctness of this view and will explain why.

Background facts

6 On 16 May 2015, at about 5.10am, the appellant entered the Woodlands Checkpoint on a public bus. He proceeded to the Arrival Bus Hall and was cleared for entry into Singapore. As he appeared nervous at the x-ray counter, he was asked to remove his sweater. Officers from the Immigration and Checkpoints Authority found two blocks of vegetable matter wrapped in plastic and tucked at the waist and back of his trousers.[1] The first block was analysed and found to contain not less than 404.7g of cannabis and not less than 512.5g of cannabis mixture; the second, not less than 431.3g of cannabis and not less than 513.2g of cannabis mixture. In total, the two blocks were found to contain not less than 836g of cannabis and not less than 1025.7g of cannabis mixture.[2]

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1 GD at [4]

2 GD at [5]

7 The appellant brought the two blocks into Singapore on the instructions of a friend, one Bathumalai A/L Veerappen. Bathumalai had handed the two blocks in a plastic bag to the appellant with a promise to pay him for delivering them to an address in Singapore. While on the bus to Singapore, the appellant opened the plastic bag and recognised the smell of 'ganja' (the street name for cannabis). He took the two blocks out of the plastic bag and placed one under his shirt and his sweater at the front of his stomach and the other at the back of his pants.

8 Cannabis and cannabis mixture are both Class 'A' drugs, as specified in the First Schedule to the MDA. Based on the amounts of cannabis and cannabis mixture that the appellant was charged with, the appellant faced the following range of sentences as stated in the Second Schedule of the MDA. For unauthorised importation of 330–500g of cannabis or 660–1000g of cannabis mixture, the minimum sentence is 20 years' imprisonment and 15 strokes of the cane and the maximum is 30 years 'imprisonment or imprisonment for life and 15 strokes of the cane. The range of sentences for trafficking in these drugs (an offence under s 5 of the MDA) is identical.

Decision Below

9 Before the Judge, the appellant's defence counsel put forward three mitigating factors in support of his submissions that the minimum sentence of 20 years' imprisonment should be imposed. First, the appellant's plea of guilt indicated genuine remorse. Second, the appellant had cooperated fully with the CNB in their investigations. Third, the appellant was a first-time offender.[3]

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[3] Certified Transcript (1 July 2016) at p 15, lines 9–15; p 16, lines 15–16; p 16, lines 17–18 (Record of Proceedings, Vol 3)

10 The Judge placed little weight on these factors.[4] In his view, the appellant pleaded guilty only after being arrested in very incriminating circumstances. He did not assist the investigators to apprehend the person who was to collect the drugs from him when he was asked to do so in the CNB follow-up operation. Although he was a first-time offender, he had committed the offence for easy money despite being gainfully employed at the time of the offence.

11 The Judge was of the view that when the Prosecution decides to proceed on a reduced non-capital charge, "the accused cannot be sentenced on the basis of the actual quantity of drugs involved". "However, when it comes to imposing custodial sentence within the prescribed range, it is right that regard be given to the actual amount of drugs involved, and a higher sentence be imposed if the court finds it appropriate".[5] The Judge supported this proposition by reference to three High Court cases (*Public Prosecutor v Rahmat bin Abdullah and another* [2003] SGHC 206 ("*Rahmat*"), *Public Prosecutor v Kisshahllini a/p Paramesuvaran* [2016] 3 SLR 261 ("*Kisshahllini*"), and *Public Prosecutor v Nguyen Thi Thanh Hai* [2016] 3 SLR 347 ("*Nguyen*").

12 The Judge also emphasised that the second charge was taken into consideration for the purpose of sentencing. The Judge considered that a higher sentence would generally be appropriate when the offences taken into consideration are similar to the principal offences and aggravate them.[6] He

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4 GD at [13]

5 GD at [18]

6 GD at [24]

opined that in the present case, there was a significant amount of cannabis mixture, whether one looked at the weight that formed the basis of the charge or the actual weight recovered from the accused. The Judge held that the sentence for the principal offence should be enhanced on account of that.[7]

13 The Judge noted that the appellant had put forward "scant mitigation". He observed that the appellant had "knowingly carried the drugs for reward" and had the "benefit of having the weight of the cannabis reduced in the principal charge so that he avoided the death penalty", as well as having the second charge taken into consideration instead of being proceeded with as a separate offence.[8] The Judge therefore disagreed with defence counsel's submissions for the minimum sentence and instead imposed a sentence of 23 years' imprisonment and 15 strokes of the cane.

Parties' submissions

14 Since the Judge was bound by law to impose 15 strokes of the cane, the only issue before us was whether appellate intervention was warranted in respect of the imprisonment term of 23 years.

15 The appellant made two points in the handwritten submissions he filed for this appeal. First, he urged us to consider the mitigating factors. He was working and supporting his family at the time of the offence, he was full of shame for what he had done, he was a first-time offender determined never to reoffend and he was still young and hoped to be of better use to society in future.

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7 GD at [26]

8 GD at [27]

16 Second, he cited five unreported cases involving trafficking or importation of Class 'A' drugs. These were all cases in which the minimum sentence of 20 years was imposed (save for one case where the sentence was 20 years and 6 months' imprisonment) even though the prosecution exercised its discretion to charge the offender for a lower amount of drugs than was actually trafficked or imported, such that the amount stated in the charge was below the death penalty limit.

17 The Prosecution made two broad arguments in its submissions. First, it urged us to apply to this case the approach to sentencing set out by Sundaresh Menon CJ in *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 ("*Vasentha*"). That approach involved using the quantity of the drugs in the charge to obtain an indicative starting sentence before making upward or downward adjustments to reflect the offender's culpability and the presence of any aggravating or mitigating factors. Applying that approach, the Prosecution submitted that the indicative starting sentence for trafficking not less than 499.9g of cannabis should be 26 years and 8 months' imprisonment. Therefore, the appellant's sentence of 23 years' imprisonment could hardly be said to be manifestly excessive, especially because there were a number of aggravating factors here, one of which was that the appellant had in fact been apprehended with 836g of cannabis, an amount which exceeded the death penalty limit. In this regard, the Prosecution aligned itself with the Judge's view that the actual amount of drugs imported was relevant to the sentence to be imposed.

18 Second, the Prosecution submitted that the imprisonment term of 23 years meted out by the Judge was consistent with the precedents for first-time

offenders facing charges of importing or trafficking not less than 499.99g of cannabis. The imprisonment terms in those cases ranged from 20 to 22 years.

Our decision

19 Where the actual quantity of drugs seized from the accused person exceeds the death penalty limit but the quantity stated in the charge falls just short of that, there appear to be two accepted practices in sentencing such accused persons. The courts have tended to mete out sentences that cluster around the minimum sentence. They have also accepted as a principle that the court can and should take into account the actual amount trafficked or imported by the accused person in deciding on the appropriate sentence. The actual amount is usually used to justify a higher imprisonment term.

20 As we mentioned at the outset of these grounds of decision, we have some reservations about these two practices. We will now explain these reservations before giving our reasons for dismissing the appeal.

Indicative sentences for unauthorised importation of 330 – 500g of cannabis

21 The sentence passed for any crime should be proportional to the gravity of the offence. Where the offence concerns the trafficking or importation of drugs, the gravity of the offence is measured by the quantity of drugs involved. The sentence imposed should thus be proportional to the quantity of drugs in the offender's possession. This principle has been recognized in our jurisprudence. For example, in *Public Prosecutor v Hardave Singh s/o Gucharan Singh* [2003] SGHC 237, Yong Pung How CJ noted at [15] that "the primary consideration of the sentencing court in deciding an appropriate sentence for a drug trafficking offence is the quantity of drugs in

the possession of the offender". In *Vasentha*, Sundaresh Menon CJ developed this point further, observing that the entire MDA sentencing framework with regard to trafficking rests primarily on the type and the quantity of the drugs (at [14]). The quantity of drugs (measured in terms of net weight) that has been trafficked would have a direct correlation with the degree of harm to society. Accordingly, quantity serves as a reliable indicator of the seriousness of the offence (at [19]).

22 It follows that a person charged for unauthorised importation of 499.99g of cannabis is regarded as one who can cause greater harm to society than one who imports 330g and should, all things being equal, be given a sentence at the higher end of the sentencing range to reflect the relative gravity of the offence. The amount stated in the charge in this case is 499.9g instead of 499.99g (as stated in some other cases) but the minute difference is of no concern to us. Since the number of strokes of caning is fixed, the only way to distinguish between the culpability of two persons importing different amounts of cannabis would be in the length of the imprisonment terms.

23 This conclusion is not, however, borne out by the decided cases. The sentences for the offence of trafficking or unauthorised importation of cannabis, where the amount in the charge is just short of 500g, appear to be at the lower end of the sentencing range of between 20 years' imprisonment and 30 years or imprisonment for life. We say this after having reviewed the following nine cases (six from the High Court, three from the District Court) involving accused persons who were convicted either of trafficking or of unauthorised importation of cannabis, the amounts involved being just short of 500g. Except in one case, the following accused persons were all first-time offenders:

(a) In *Public Prosecutor v Vasanthakumar A/L Balasubramaniam* (CC 26/2012, unreported) ("*Vasanthakumar*"), the accused pleaded guilty to a charge of trafficking 499g of cannabis. A second charge of trafficking 324.4g of cannabis mixture was taken into consideration. A term of imprisonment of 20 years was imposed for the trafficking charge.

(b) In *Public Prosecutor v Soorianarayanan A/L Sritharan* (CC 3/2008, unreported), the accused pleaded guilty to a charge of importing not less than 499g of cannabis. A second charge of importing not less than 999g of cannabis mixture was taken into consideration. A term of imprisonment of 22 years was imposed for the unauthorised importation charge.

(c) In *Public Prosecutor v Sundar Arujunan* (CC 17/2007, unreported) ("*Sundar Arujunan*"), the accused pleaded guilty to two charges: one for the offence of trafficking not less than 499.99g of vegetable matter which was analysed and found to be cannabis, and the other for the offence of trafficking not less than 999.99g of vegetable matter which was found to contain tetrahydrocannabinol and cannabinol. A term of imprisonment of 20 years was imposed for each of the trafficking charges.

(d) In *Public Prosecutor v Vanmaichelvan s/o Barsathi and another* [2005] SGHC 78 ("*Vanmaichelvan*"), the accused pleaded guilty (after initially claiming trial) to a charge of trafficking not less than 499.99g of cannabis. A second charge of trafficking 458.91g of cannabis mixture was taken into consideration. A term of imprisonment of 26 years was imposed for the trafficking charge. The

accused had previous convictions for trafficking in diamorphine, as well as consumption and possession of the same drug.

(e) In *Rahmat* (see [11] above), there were two accused persons, each of whom faced a charge of trafficking not less than 499.9g of cannabis and a second charge for consumption of cannabis. They pleaded guilty. The first accused had seven other drug-related charges taken into consideration and the second accused had five. A term of imprisonment of 22 years was imposed on each accused persons for their trafficking charges.

(f) In *Public Prosecutor v Dhanabalan s/o A Gopalkrishnan* [2003] SGHC 178, the accused pleaded guilty to two charges, one for trafficking not less than 499.99g of cannabis and another for trafficking 749.99g of cannabis mixture. A term of imprisonment of 20 years was imposed for each charge of trafficking.

(g) In *Public Prosecutor v K Letchumanan A/L Karruppiah* [2017] SGDC 3 ("*Letchumanan*"), the accused was convicted after trial on two trafficking charges: one for trafficking 499.99g of cannabis, the other for trafficking 328.7g of cannabis mixture. A term of imprisonment was 25 years imprisonment was imposed for the charge of trafficking cannabis.

(h) In *Public Prosecutor v Loganathan Sevalingam* [2016] SGDC 9 ("*Loganathan*"), the accused was convicted after trial on two charges, one for unauthorised importation of not less than 499.99g of cannabis and the other for unauthorised importation of 321.6g of

cannabis mixture. A term of imprisonment of 22 years was imposed for the charge of unauthorised importation of cannabis.

(i) In *Public Prosecutor v Abdul Jalil s/o Abdul Kadar* [2011] SGDC 188, the accused pleaded guilty to a charge of unauthorised importation of 494.7g of cannabis and a charge of drug consumption. Another charge for importation and one for drug possession were taken into consideration. A term of imprisonment of 23 years was imposed for the charge of unauthorised importation of cannabis.

24 In the cases involving first-time offenders (*ie*, all except *Vanmaichelvan*), the imprisonment terms for the trafficking or unauthorised importation charges ranged from 20 to 25 years. In other words, they all fell within the lower half of the sentencing range even though the quantities of drugs stated in the charge were near the maximum in the weight range.

25 Admittedly, the low sentences in these cases could be explained by the presence of mitigating circumstances which, in some instances, were fairly exceptional. For example, in *Sundar Arujunan*, it was highlighted in mitigation that the accused had an IQ of 62, was mildly retarded and had deficits of assessment in social situations which resulted in him being easily manipulated by others. In *Vasanthakumar*, the accused had a genetic risk of developing muscular dystrophy and had feminine tendencies such that incarceration in a male institution would have a psychological effect on him. However, given that the sentences imposed in these two cases were the minimum sentence of 20 years, it is fair to say that even if those mitigating circumstances were not present, the length of the imprisonment term imposed would not have been significantly higher than 20 years. Thus these examples

do not detract from the overall trend of sentences being at the lower end of the range.

26 We do not think that such a trend is consistent with the need for proportionality between the potential harm to society and the sentence imposed. The decided cases suggest that a first-time offender charged with importing 499.99g of cannabis may expect to receive a sentence that is at the lower end of the sentencing range, one that is not significantly higher than an offender charged with importing 330g. Such a sentencing trend also does not seem consistent with the strong deterrent stance that Parliament has taken against drug offences. Parliament has, for this purpose, enacted a range of possible sentences starting at 20 years and reaching 30 years or even life imprisonment. It is therefore the duty of the court to consider the full spectrum of sentences in determining the appropriate sentence.

27 There are, however, cases where the sentencing judges have been mindful to impose a sentence proportional to the quantity of drugs involved. In *Public Prosecutor v Surendran Sukumaran* [2010] SGDC 491, the accused pleaded guilty to trafficking 444.3g of cannabis. The District Judge observed that the quantity trafficked was above the mid-range and that the minimum sentence would therefore not be appropriate (at [9]). The co-accused person's argument for imposing the minimum sentence was rejected on a similar basis in *Prosecutor v Vijaya Kumar s/o Govindasamy* [2011] SGDC 423 (at [22]). In *Letchumanan*, the District Judge made the following observation (at [51]) in sentencing the accused person to a term of 25 years' imprisonment for importing 499.99g of cannabis:

> In respect of the first charge, the weight of cannabis was limited to 499.99 g. This was just shy of the upper end of the weight band (500 g) which ought to have attracted the

> maximum imprisonment sentence of 30 years or at least close to the maximum imprisonment term.

28 Therefore, to ensure that the policy of the law on drug offences is given effect to, and to achieve consistency in sentencing, we agree with the Prosecution's submissions that we should apply the sentencing approach set out in *Vasentha* to the present case. The quantity of drugs that an accused person is charged with importing without authorisation should be indicative of a range of possible sentences. We note that *Vasentha* has already been applied to other types of drugs. The decision has been used to derive equivalent sentencing ranges for the offences of trafficking between 167–250g of methamphetamine (see *Loo Pei Xiang Alan v PP* [2015] 5 SLR 500 at [14]–[18]), between 200–600g of cannabis mixture (see *Public Prosecutor v Chandrasekran s/o Elamkopan* [2016] SGDC 20 at [20]) and between 0–330g of cannabis mixture (see *Public Prosecutor v Sivasangaran s/o Sivaperumal* [2016] SGDC 214 ("*Sivasangaran*") at [35]).

29 The sentencing range in *Vasentha* and that in the present case are different. It ranges from 5–20 years in the case of *Vasentha* and from 20–30 years or life imprisonment here. Further, the number of strokes of caning for the offence in *Vasentha* is variable whereas it is fixed here. Nevertheless, the approach in *Vasentha* is a useful guide to derive a sentencing range for the present offence. As explained in *Vasentha* at [45]–[46], the full spectrum of possible sentences should be utilised and the indicative starting points should be broadly proportional to the quantity of drugs trafficked or imported. However, the indicative starting point for the highest weight range should not be fixed at or close to the maximum sentence. This will leave sufficient room for the sentencing judge to adjust the sentence upwards to reflect the offender's culpability and the presence of aggravating factors. With these

considerations in mind, we think the following sentencing guidelines should apply to the unauthorised import or trafficking of cannabis:

(a) 330 to 380g: 20 to 22 years' imprisonment

(b) 381 to 430g: 23 to 25 years' imprisonment.

(c) 431 to 500g: 26 to 29 years' imprisonment.

30 The indicative sentences are starting points for arriving at an appropriate sentence and should obviously not be applied mechanistically without regard for the precise circumstances in each case. The indicative sentences seek to make the punishment fit the crime but it is of course equally important to ensure that the punishment fits the offender too. Thus, as mentioned in *Vasentha* (at [48]), the indicative starting sentence may be adjusted upward or downward to take into account the offender's culpability and the presence of aggravating or mitigating factors. It is possible, of course, that such upward or downward adjustments could result in the eventual sentence being outside the range of sentences. Where an accused cannot be caned because of gender or of age, the court should also consider the option of imposing a term of imprisonment of not more than 12 months in lieu of caning (see s 325(2) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed).

31 Bearing in mind our observation at [28] that *Vasentha* has been applied to other types of drug offences, it is possible to use the proposed sentencing range set out above for offences involving other types of drugs where the range of prescribed punishment is the same.

32 In future cases where an accused person is apprehended with a quantity of drugs that could have formed the basis of a capital charge and the

Prosecution decides to reduce the quantity in the charge to one that is below the death penalty limit, the Prosecution should state a quantity in the charge that would accord with its intended submissions on sentence, guided by what we have set out at [29] above.

The relevance to sentencing of the actual quantity of drugs found on the accused

33 We now turn to consider the second issue which involves the question of whether the actual quantity of drugs involved should be relevant in considering the appropriate sentence, in addition to the quantity of drugs stated in the charge.

34 It appears to be a well-accepted practice that the actual quantity of drugs seized is considered relevant to the court's assessment of the appropriate sentence. This is evident in the GD, in *Rahmat* at [9], in *Nguyen* at [32], in *Kisshahllini* at [13] as well as the District Court cases of *Loganathan* at [49] and *Sivasangaran* at [20] and [34]. It can be seen from the decisions in *Kisshahlini*, *Nguyen*, *Loganathan* and *Sivasangaran* that the courts referred to the actual amount of drugs involved to explain why it would not be appropriate to impose the minimum sentence. This practice should no longer be necessary in view of the guidelines that we have set out at [29] above.

35 In this appeal, the Prosecution argued that one of the aggravating factors was that the actual quantity of cannabis seized was 60% higher than the quantity stated in the charge and that the actual quantity would justify a higher sentence within the prescribed sentencing range. It submitted that taking into account the actual quantity is analogous to a situation where the Prosecution proceeds on a lower charge of voluntarily causing hurt although

the actual hurt caused amounted in law to grievous hurt. The Prosecution argued that, in such a situation, the court, though bound to sentence the offender according to the sentencing tariffs for voluntarily causing hurt, must also take into account the actual injuries suffered by the victim in pegging the offender's culpability within the range of offending.[9]

36 The fact that the charge has been reduced from one which would have attracted the death penalty to one which would not is not relevant to sentencing. This principle was explained by Yong Pung How CJ in *Sim Gek Yong v Public Prosecutor* [1995] 1 SLR 537 at [15] in this way:

> The onus lies on the Prosecution in the first place to assess the seriousness of an accused's conduct and to frame an appropriate charge in the light of the evidence available. Once an accused has pleaded guilty to (or been convicted of) a particular charge, it cannot be open to the court, in sentencing him, to consider the possibility that an alternative – and graver – charge might have been brought and to treat him as though he had been found guilty of the graver charge.

We agree that the court should not "regard the DPP's decision to amend the charge to a non-capital one as justifying a higher sentence in itself" (*Rahmat* at [8]).

37 When an accused person is charged in respect of a lower quantity of drugs instead of the actual quantity involved, that lower quantity, which in practice would be just below the death penalty limit, is already used to justify a sentence at the higher end of the sentencing range (see above at [29]). To then use the actual quantity to justify a higher sentence within that range would appear to be creating an intermediate offence of sorts between

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9 Respondent's Submissions at para 36

trafficking or importing 330 – 500g of cannabis and trafficking or importing an amount in excess of the death penalty limit. We think that would not be right.

Whether the sentence was manifestly excessive

38 We now turn to explain why we dismissed the appeal against sentence.

39 First, the sentence was amply justified having regard to the second charge that was taken into consideration. It is uncontroversial, as the Judge rightly noted (at [23]–[24] of the GD), that outstanding offences which are taken into consideration for the purpose of sentencing are to be treated as aggravating the offence or offences proceeded with. This is especially so where the offences taken into consideration are similar to the principal offences. The Judge was therefore right to consider that the appellant's sentence for the offence of unauthorised importation of cannabis should be enhanced on account of the offence for unauthorised importation of cannabis mixture that was taken into consideration.

40 Second, the sentence that was imposed was at the lower end of the permitted punishment range of between 20 and 30 years or life imprisonment, in addition to the mandatory 15 strokes of the cane. The appellant's sentence could not be said to be excessive when compared with the sentences imposed in previous cases. In particular, the appellant's case is factually similar with *Soorianarayanan*. The accused person there was, like the appellant, a first offender, faced one charge of unauthorised importation of 499g of cannabis and had a second charge of unauthorised importation of 999g of cannabis mixture taken into consideration. His level of culpability appears to be indistinguishable from that of the appellant. When compared with the sentence

of 22 years' imprisonment and 15 strokes of the cane imposed in *Soorianarayanan*, the appellant's sentence of 23 years' imprisonment and 15 strokes of the cane could hardly be said to be manifestly excessive.

41 Third, having regard to the guidelines at [29] above, as the charge was for a quantity of drugs that was at the very top of the weight range, the sentence could in fact have been much more severe.

42 The arguments advanced by the appellant before us focused on a plea of mercy. The mitigating factors he raised were the same as those covered in his submissions before the Judge who had considered them when he decided the sentence. There was no ground for us to interfere with the sentence.

Conclusion

43 For the reasons given, we dismissed the appeal.

Sundaresh Menon Chief Justice	Judith Prakash Judge of Appeal	Tay Yong Kwang Judge of Appeal

Appellant in person;
Wong Woon Kwong and Chan Yi Cheng (Attorney-General's Chambers) for the respondent.