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

[2021] SGHC 100

Magistrate's Appeal No 9066 of 2019/01

Between

Ng Kum Weng

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law] — [Offences] — [Outrage of modesty]
[Criminal Procedure and Sentencing] — [Sentencing]

TABLE OF CONTENTS

Ng Kum Weng
v
Public Prosecutor

[2021] SGHC 100

General Division of the High Court — Magistrate's Appeal No 9066 of 2019/01
Kannan Ramesh J
22 January, 5 February, 31 March 2021

23 April 2021

Kannan Ramesh J:

Introduction

1 The appellant claimed trial in the District Court to four charges, all of which related to his interactions with three waitresses at a music lounge over the course of one night. Three charges were for the offences of using criminal force with an intent to outrage modesty under s 354(1) of the Penal Code (Cap 224, 2008 Rev Ed) ("the Code") and one charge was for the offence of insulting the modesty of a woman under s 509 of the Code.

2 The District Judge convicted the appellant on all four charges and imposed an aggregate sentence of 11 months' imprisonment and a fine of S$5,000. The District Judge's written grounds of decision dated 28 February 2020 can be found in *Public Prosecutor v Ng Kum Weng* [2020] SGDC 49 ("the GD"). The appellant appealed against the conviction in respect of all four

charges. However, the appellant only pursued his appeal against sentence in respect of three charges.

3 After hearing the parties, I dismissed the appeal. I provided brief reasons then. I now provide the full grounds of my decision.

Factual background

4 The offences occurred in the early hours of 12 December 2015. At that time, the appellant had patronised [B] Lounge in Tanjong Pagar Road ("the Lounge") with three friends ([DW2], [PW9] and [PW10]). He claimed trial to the following charges:

(a) The first charge (DAC-902408-2017) was in relation to using criminal force on one [V1], intending to outrage her modesty by sliding his hand on her right thigh, at or about 1.16am on 12 December 2015, an offence punishable under s 354(1) of the Code.

(b) The second charge (DAC-902409-2017) was in relation to using criminal force on one [V3], intending to outrage her modesty by using one of his hands to touch her chest in between her breasts, at or about 1.55am on 12 December 2015, an offence punishable under s 354(1) of the Code.

(c) The third charge (DAC-902410-2017) was in relation to insulting the modesty of [V3] by using his fingers to gesture to his friend that [V3]'s breasts were small, at or about 1.55am on 12 December 2015, an offence punishable under s 509 of the Code.

(d) The fourth charge (DAC-902411-2017) was in relation to using criminal force on one [V2], intending to outrage her modesty by poking her breast with one of his fingers, between 1.50am to 1.55am on 12 December 2015, an offence punishable under s 354(1) of the Code.

5 CCTV footage ("the Footage") at the Lounge did not capture the physical contact which formed the basis of the first, second and fourth charges. However, for the reasons below, I considered that the Footage sufficiently corroborated the accounts of the victims.

Evidence adduced at trial

6 On the first charge, [V1] testified that she was seated on a bench by the wall diagonally across from the appellant, who was seated at a table next to the wall with his friends. She had her back to the wall and was "playing with [her] phone". [V1] felt the appellant touch her right upper thigh, on her skin, and "got a shock". She testified that he had touched her by quickly sliding his right palm up her right upper thigh. She swept his hand away, stared at him and said, "Excuse me". The appellant then turned to his friend and hit the back of his own hand twice, implying that "he actually [knew] what he [was] doing". Thereafter, [V1] moved away from the appellant down the bench and sat there for a while. She later left and told [V2] about the incident. [V2] then told her that the appellant had also touched her inappropriately.

7 The appellant disputed [V1]'s version of events. He denied touching her. He testified that [V1] bumped into his back as she was walking to the bench, causing him to spill his drink on the polo T-shirt he was wearing. She did not apologise. He felt "extremely annoyed", reached over to [DW2], who was seated to his right, and commented that [V1] was a "Porky Pork" and likened

her hands to "pork trotter[s]". He explained that he reached over because he was "calling [DW2] to come" over so that he could make the derogatory remarks about [V1] to him. He explained that he raised his hands and turned back to look at [V1] (actions which were captured by the Footage) because he wanted to show her that her hands were like pig trotters and to make "a joke… that she's a chubby person". He testified that he then slapped his hand twice, which was also captured by the Footage, while remarking that she had "a very fat hand".

8 On the second charge, [V3] testified that she approached the appellant and his friends at the table for their consent to skip a song they had requested. She was standing between the appellant and one of his friends at the time. As she stood there, the appellant used his hand to touch her in the middle of her breasts over her clothing for less than a second. [V3] "got a shock" and tried to move away from him. She next saw the appellant make a gesture with his thumb and index finger pressed together to the friend beside him. As this happened just after he had touched her between her breasts, [V3] understood him as suggesting that her breasts were small. This gesture was the subject matter of the third charge. She moved over to stand on the other side of the appellant's friend as he had given her an "eye signal to move away from [the appellant]". Upset by the incident, she later walked from the table to the toilet at the back of the Lounge to calm herself before resuming work. [V3] only told one of the Lounge managers, [PW3], about the incident after he noticed her crying.

9 The appellant denied touching [V3] in between her breasts. He also denied that he intended to suggest that she had small breasts. He testified that he called [V3] "cheap" after she pestered his friends and him to buy more drinks, as a result of which [V3] became angry. He put his hand to her mouth to "ask her to shut up" and she pushed his hand away in annoyance. The appellant

further stated that the gesture which was the subject matter of the third charge was meant to convey to [V3] that she was "really insignificant and… nobody". In relation to the portion of the Footage which showed the appellant holding her arm, he explained that he intended to "make a statement…[to] let [her] know that [he was] very firm about it".

10 On the fourth charge, [V2] testified that she approached the appellant and his friends to ask them whether they wished to order food. The appellant then used the index finger of his left hand to point at her breast and made contact with the top part of her breast, on her skin. As he did this, he laughed and said in Cantonese that "[he] want[ed] to eat fish ball". She moved backwards as a result of the contact. The appellant again pointed at her breast but did not make contact this time as she had by then grabbed his hand.

11 The appellant disputed [V2]'s account. He testified that he was frustrated with [V2] as she was unable to understand his order, which included fish balls. In anger, he had pointed at her, but he denied touching her. He might have reached out to her only because he attempted to take an item such as a phone which she was probably holding.

12 [V3] related her interactions with the appellant to her sister, [PW5], who also worked as a waitress at the Lounge. [PW5] was attending to customers at another table. As a result, [PW5] confronted the appellant. A commotion ("the Commotion") resulted during which the appellant was slapped by an unidentified lady. The police were called to the scene and the appellant was arrested. The appellant alleged that the victims and the Lounge management colluded to fabricate the allegations against him. This was because the appellant had been rude to the victims and the Lounge management was attempting to

"deflect attention away from their hooliganism". The Prosecution submitted that there was no evidence to support this.

Decision below

13 The District Judge found that the four charges were made out on the strength of the testimonies of the victims and the Footage, which he regarded as corroborative of their evidence. He found the victims' testimonies clear, complete and coherent. He also found that the Footage "effectively debunked" the appellant's claim that the victims had falsely implicated him because he had behaved in a "boorish" manner towards them, as it showed him having a good time. He thus concluded that the appellant's claim was a "recent invention".

14 The District Judge also found that the appellant had entered a "partial admission" in his long statement dated 13 December 2015 ("the Long Statement") following the incident. The appellant had stated therein, *inter alia*, that "due to [his] drunken state it [was] possible that [he] might have molested those girls in the pub", consisting of "about two to three girls"; although he "[did] not remember exactly what had happen[ed]". The District Judge was of the view that the accounts given by the appellant's friends were "guarded and unclear", did not exactly coincide with his version, and were "plainly contradicted" by the Footage. Finally, he considered that there was no credible evidence before the court which suggested any possible motive for the victims or the Lounge management to collude to make false allegations against the appellant.

15 On the first charge, the District Judge noted that the Footage showed little indication of [V1] bumping into the appellant. The Footage showed him swaying and reaching towards [V1], who then reacted. The Footage further

showed that words were "clearly… exchanged between them" and the appellant was later seen to beat his own hand in "what appear[ed] to be an apologetic gesture".

16 On the second charge, the District Judge found that the Footage showed the appellant's hand reaching out towards [V3]'s chest. He was of the view that contact had been made. As for the third charge, the District Judge found that the appellant had pointed at [V3]'s breasts and made a gesture that suggested that they were small.

17 On the fourth charge, the District Judge found that the Footage corroborated [V2]'s version of events in that it showed her recoiling when the appellant extended his hand towards her cleavage.

18 On this basis, the District Judge convicted the appellant.

19 On sentence, the District Judge noted that the applicable framework in relation to the s 354(1) charges (the first, second and fourth charges) was set out in *Kunasekaran s/o Kalimuthu Somasundara v Public Prosecutor* [2018] 4 SLR 580 ("*Kunasekaran*"). Chan Seng Onn J had set out three sentencing bands for the s 354(1) offence (at [49]):

(a) Band 1: less than five months' imprisonment;

(b) Band 2: five to 15 months' imprisonment; and

(c) Band 3: 15 to 24 months' imprisonment.

20 In determining the appropriate sentencing band, the court had to first consider the offence-specific factors (*ie*, the degree of sexual exploitation, the

circumstances of the offence, and the harm caused to the victim) before making offender-specific adjustments based on aggravating and mitigating factors (*Kunasekaran* at [45] and [48]).

21 In the present case, the District Judge analysed as follows:

(a) The offence under the first charge was at the low end of Band 1. Though there was skin-on-skin contact, the touch was fleeting and did not involve a private part. Also, there was no prior interaction between the appellant and [V1]. Accordingly, the District Judge imposed a fine of S$3,000, in line with precedents that imposed fines for similar offences.

(b) The offence under the second charge was at the low end of Band 2. Although the contact was fleeting and not skin-on-skin, the area was nonetheless an intimate one (*ie*, between the breasts). The District Judge noted that the touch was fleeting only because, as shown by the Footage, [V3] had reacted when she saw the appellant's hand reach out towards her breasts. The Footage also showed that the appellant had persisted in trying to outrage [V3]'s modesty, as he had reached towards her a few times before successfully touching her. Accordingly, the District Judge imposed a term of six months' imprisonment. This was adjusted down from eight months' imprisonment based on the totality principle.

(c) The offence under the fourth charge was at the low end of Band 2. There was skin-on-skin contact which was very close to [V2]'s private part, *ie*, the top part of her cleavage. Though the touch was fleeting, this was only because she had reacted by moving backwards and holding her hand up to cover the area. The Footage showed that the appellant was

> persistent in that he had tried to touch her chest again but was blocked. Also, the offence did not appear to be on the spur of the moment as the Footage showed that [V2] was walking away from the table when the appellant had called her back to his side. Accordingly, the District Judge imposed a term of five months' imprisonment. This was adjusted down from seven months' imprisonment based on the totality principle.

22 The District Judge was also of the view that none of the offender-specific factors significantly shifted the starting points he arrived at under the first step in the *Kunasekaran* framework. He considered, amongst others, that (a) the appellant did not deserve any accommodation for having committed the offences while inebriated, (b) the convictions were recorded after a full trial, and (c) the personal circumstances concerning his likely loss of employment were "not so exceptional as to displace the clear public interest to be served" in "robustly" dealing with such offences.

23 Finally, the District Judge imposed a fine of S$2,000 for the offence under the third charge. The appellant made no submissions on the sentence for the third charge. He accepted that it was within the normal sentencing range. The Prosecution also stated that it was consistent with the typical range of fines imposed for the offence.

The appeal against conviction and sentence

The appellant's submissions

24 The appellant submitted that the District Judge erred in assessing the Footage, as well as the credibility of the victims and the appellant's friends at the material time. He contended that the evidence of the victims was internally

and externally inconsistent. He further contended that the District Judge (a) erred in finding that the Long Statement was a "partial admission", and (b) failed to consider collusion or the real risk of collusion between the victims and the Lounge management. Alternatively, he submitted that there was prejudgment or apparent bias on the part of the District Judge, and that "the appearance of a real likelihood of prejudgment" should also be considered. Finally, the appellant appealed against the sentence for the first, second and fourth charges on the basis that they were manifestly excessive.

25 First, the appellant submitted that the District Judge erred in finding that the Footage corroborated the evidence of the victims and contradicted his. On the first charge, the submission was that the District Judge erred in rejecting the appellant's evidence that [V1] had bumped into him, or in not giving him the benefit of the doubt that this was possible. The appellant pointed out that [V1] had agreed in cross-examination that he would have had to reach over towards her in order to slide his hand up her thigh as claimed as he was approximately 50 cm away from her. As the Footage did not show that he had reached over, the appellant argued that this "categorically exonerate[d]" him of the first charge.

26 On the second charge, the appellant submitted that the District Judge had incorrectly rejected his evidence that he was annoyed with [V3] on the basis that the Footage showed him smiling at her. The appellant criticised the Footage as being too grainy and unclear for the appellant's face to be discernible. Also, the Footage did not show any contact between the appellant's right hand and [V3]'s chest.

27 On the third charge, the appellant submitted that the Footage did not show him pointing at [V3]'s breasts, as found by the District Judge.

28 As for the fourth charge, the appellant submitted that the Footage did not show that he had poked [V2] in the breast. The Footage did not also show the appellant extending his hand towards [V2]'s cleavage, she recoiling, and he trying to touch her again.

29 Second, the appellant submitted that the District Judge erred in finding that the victims were consistent and credible witnesses. Further, as the Footage did not show him committing the *actus reus* of the offences, there was no corroborative evidence of the victims' account. Accordingly, the victims' evidence had to be "unusually convincing" to form the basis of a conviction.

30 The appellant also submitted that the District Judge erred in his assessment of the credibility of his friends ([DW2], [PW9] and [PW10]) at the material time. Further, the appellant pointed out that the Prosecution did not suggest to his friends that they were not telling the truth. Accordingly, he argued that *per* the rule in *Browne v Dunn* (1893) 6 R 67 ("*Browne v Dunn*"), the Prosecution should have been treated as accepting their testimony.

31 Third, the appellant submitted that the District Judge erred in finding that the Long Statement amounted to a "partial admission". The statement did not objectively amount to a confession, and was also qualified by the fact that the appellant had repeatedly stated that he was very drunk and could not remember things.

32 Fourth, the appellant submitted that the District Judge failed to consider the possibility of collusion between the victims and the Lounge management

for the reasons stated in [12] above, *ie*, because [PW5] had "launch[ed] herself at the [appellant] and/or the [appellant's] table" and the appellant had been slapped in the Commotion. The appellant asserted that the victims and the Lounge management had good reason to "embellish their evidence".

33 Fifth, the appellant submitted that the District Judge "fail[ed] to keep an open mind" and exhibited apparent bias. In particular, he allegedly "advise[d] the Prosecution directly and reminded them to properly prepare the Prosecution's witness[,] otherwise there would be a '*field day in cross-examination*'" [emphasis in original]. In this regard, the appellant contended that District Judge fell into error in refusing to allow the Case for the Prosecution ("CFP") or the Summary of Facts to be admitted into evidence for the purpose of cross-examination of the Prosecution's witnesses, when the Prosecution was allowed to use the Case for the Defence ("CFD") to cross-examine him. The appellant also contended that the District Judge approached his review of the Footage with "a pre-judged view that the [a]ppellant had at least acted inappropriately", as he went beyond the Prosecution's case in making certain adverse findings against the appellant and his friends that were in any event against the weight of the evidence.

34 The appellant took issue with the sentence for the first, second and fourth charges but accepted the sentence for the third charge, as noted at [23]–[24] above. As regards sentencing, he also accepted the *Kunasekaran* framework. He submitted that:

> (a) The sentence of a S$3,000 fine for the first charge was manifestly excessive when considered against the relevant sentencing precedents, and ought to be adjusted down to a S$1,500 fine.

(b) The sentence of six months' imprisonment for the second charge was manifestly excessive as the offence ought to fall within Band 1 and ought to be reduced to six weeks' imprisonment. The appellant relied on the following, that: (a) no private parts were intruded upon, (b) the touch was fleeting with no skin-on-skin contact, and (c) the victim was not vulnerable and there was no exploitation by him.

(c) The sentence of five months' imprisonment for the fourth charge was manifestly excessive as, amongst others, the appellant had only touched her momentarily. The appellant argued that the sentence ought to be reduced to six weeks' imprisonment.

The Prosecution's submissions

35 The Prosecution submitted that the District Judge did not err in convicting the appellant, and the sentences imposed were not manifestly excessive.

36 First, the Prosecution submitted that the District Judge applied the correct principles in determining the credibility of witnesses. Although the District Judge did not use the words "unusually convincing", he nonetheless found the victims clear, consistent, coherent and credible, as noted at [13] above. He had correctly assessed them according to the principles on determining witness credibility as set out in *Farida Begam d/o Mohd Artham v Public Prosecutor* [2001] 3 SLR(R) 592 at [9] — namely, bearing in mind the demeanour of the witness; the internal consistency in his or her evidence; and the external consistency between his or her evidence and extrinsic evidence. The Prosecution further submitted that in any event, the "unusually convincing" standard only applied where the witness's uncorroborated testimony formed the

sole basis for conviction: *PP v GCK and another matter* [2020] 1 SLR 486 ("*GCK*") at [89] and [104]. The test did not apply in the present case as the victims' testimonies were corroborated by objective evidence in the form of the Footage. The Prosecution also submitted that the evidence of the victims was internally and externally consistent. The Prosecution contended that their evidence was consistent with the Footage as well as the accounts of the other witnesses.

37 Second, the Prosecution submitted that the District Judge was correct not to have placed weight on the evidence of the appellant's friends. They were asked in court whether they recalled or saw the appellant's acts. In response, they said that their view was blocked or that they did not remember any contact by the appellant. The Prosecution submitted that the District Judge correctly rejected [DW2]'s testimony on the appellant's conduct *vis-à-vis* [V1], as he was evasive and eventually stated he did not recall the nature of the interactions between the appellant and [V1]. This was despite the appellant's own evidence that he had gestured rudely and had engaged in name-calling. The District Judge was also justified in finding on the basis of the Footage that [DW2] and [PW10] would have seen the appellant's conduct *vis-à-vis* [V2] and [V3].

38 Third, the Prosecution submitted that the District Judge was correct in not accepting the evidence of the appellant. His evidence that he was constantly annoyed by the victims was inconsistent with the Footage, which showed him "having a good time". Also, his evidence contradicted the Long Statement and cautioned statements, and the CFD. In this regard, the District Judge correctly allowed the Prosecution to cross-examine the appellant on the CFD, as it was prepared based on his recollection and instructions to counsel. As the appellant admitted this to be the case, the CFD was a previous statement reduced to

writing on which the appellant could be cross-examined, pursuant to s 147 of the Evidence Act (Cap 97, 1997 Rev Ed) ("EA"). On the other hand, the CFP was drafted by the Prosecution without input from the Prosecution's witnesses.

39 Fourth, the Prosecution submitted that the District Judge was correct in not finding any collusion amongst the victims and the Lounge managers ([PW3] and another, [PW1]). The appellant did not show a plausible motive for colluding. Further, there was insufficient time in the period before the Commotion and the arrival of the police for them to have colluded. While [V1] and [V2] had talked to each other about what the appellant had done before the Commotion, they had no desire to escalate the matter to the police. They only wanted to avoid his table. Also, the fact that the victims separately relayed their accounts to the police officers at the scene, and only [V1] and [V3] went to the police station to record their statements, made collusion difficult. Finally, the Prosecution submitted that it was illogical to suggest that the two Lounge managers sought to deflect police attention from their own aggressive behaviour towards the appellant during the Commotion by falsely implicating the appellant. This illogicality stemmed from the fact that, during the Commotion, [PW1] had called the police regarding the incident involving [V3].

40 The Prosecution's further submission was that the appellant's allegations of judicial bias were unfounded. Strong language in the GD did not *ipso facto* suggest that the District Judge was biased. Where the evidence was poor, he was "entitled to call a spade a spade". Furthermore, nothing in the Notes of Evidence suggested any prejudging by the District Judge, and the appellant did not refer to any exchange recorded therein that suggested bias.

41 On sentence, the Prosecution submitted that (a) the District Judge had correctly applied the framework in *Kunasekaran* in relation to each of s 354(1) charges, and (b) imposed a fine within the typical range for s 509 charge. The District Judge had also correctly not applied a discount on account of, amongst others, the appellant's lack of remorse and his unexceptional personal circumstances in the face of, as mentioned in [22] above, the "clear public interest to be served" in "robustly" dealing with such offences.

My decision

42 It is well-established that the role of the appellate court is not to reassess the evidence in the same way a trial judge would. Rather, as noted by the Court of Appeal in *Haliffie bin Mamat v Public Prosecutor and other appeals* [2016] 5 SLR 636 at [32] and *Pram Nair v Public Prosecutor* [2017] 2 SLR 1015 at [55], an appellate court is restricted to considering:

(a) whether the trial judge's assessment of witness credibility is plainly wrong or against the weight of evidence;

(b) whether the trial judge's judgment is wrong in law and therefore unreasonable; and

(c) whether the trial judge's judgment is inconsistent with the material objective evidence on record. That said, the appellate court is in as good a position as the trial judge to assess the internal or external consistency of witnesses' testimony, or to draw the necessary inferences of fact from the circumstances of the case.

43 Bearing this in mind, I found that the District Judge did not err in finding that the charges had been proven beyond reasonable doubt. I now address the grounds raised by the appellant.

The applicable standard

44 As a preliminary point, I agreed with the Prosecution that the "unusually convincing" standard did not apply. The standard applies where there is no corroborative evidence and the testimony of a witness forms the *sole* basis of the conviction, *ie*, "the witness's testimony *alone* is sufficient to prove the Prosecution's case beyond a reasonable doubt": *GCK* at [89]–[90], citing *Teo Keng Pong v Public Prosecutor* [1996] 2 SLR(R) 890 at [73] [emphasis in original]. In the present case, although the Footage did not clearly capture physical contact between the appellant and the victims in each instance, it was independent evidence that was relevant to the charges. The Footage allowed the court to assess the veracity of the testimonies of the appellant and the victims by weighing their conduct at the material time as captured by the Footage against their testimonies. Further, apart from the Footage, there was also corroborative evidence in the form of the evidence of the Lounge management namely, [PW1] and [PW3]. As such, the "unusually convincing" standard was not applicable.

Assessment of Footage and witness credibility

45 I turn first to the appellant's submission that the District Judge erred in his assessment of the Footage and the credibility of the witnesses. I did not consider that the threshold for appellate intervention in this regard was met. In particular, I was of the view that the District Judge's conclusions were not

plainly wrong or against the weight of the evidence. His conclusions were in fact consistent with the material objective evidence namely, the Footage.

The first charge

46 [V1]'s evidence on the first charge was consistent with the Footage. The Footage showed [V1] pass behind the appellant as he was drinking from a glass and that he did not react as she did so. He simply continued drinking. Nor did the Footage show the appellant spill his drink on himself. The Footage was therefore inconsistent with the appellant's version of events, *ie*, that [V1] bumped into him as alleged. The District Judge was therefore entitled to conclude that the Footage contradicted the appellant's case in that it "show[ed] little indication that the [appellant] was bumped into by [V1]".

47 The Footage also did not suggest that the appellant "showed [any] sign of irritation", contrary to his claim of being annoyed as a result of being bumped into by [V1], as stated at [7] above. That was also the District Judge's conclusion. In fact, the Footage showed the appellant smiling at [PW5], who had arrived at his table after [V1] had passed behind him, before turning to look in [V1]'s direction. This hardly demonstrated "extreme" annoyance on the part of the appellant. Any irritation or annoyance would have been a consequence of [V1] bumping into the back of the appellant, causing him to spill his drink as she passed behind him. As the Footage did not show this, it stands to reason that the appellant's assertion that he was irritated and annoyed was untrue.

48 After the appellant turned to look at [V1], he was seen leaning over slightly towards her. She then looked up at the appellant. There appeared to be a short exchange of words between them and after the appellant raised his hands, [V1] got up and moved away from him. Right after she did so, he used one hand

to slap the other, before turning around to face her and again slapped his hand. The appellant thereafter continued his conversation with [DW2]. Even though the Footage did not capture the appellant touching [V1] or she sweeping his hand away, it was consistent with her evidence on the incidents that occurred as stated above at [6] — namely, the appellant's slight body movement towards her, their brief exchange, she moving away and he slapping his hand twice. That was also how the District Judge saw it.

49 The District Judge was entitled not to place weight on the evidence of [DW2], who was seated close to [V1]. [DW2] testified that he did not (a) see the appellant touch [V1] in any way or make any hand gesture at her, or (b) recall any conversations between [V1] and the appellant. The Footage was inconclusive as to whether [DW2] did see the offence take place, although it did show him facing the appellant at the relevant time, and turning around as [V1] and the appellant spoke. The District Judge was similarly entitled not to place weight on the evidence of [PW9] and [PW10]. They both testified that they did not recall any interaction between the appellant and [V1]. However, they were on the other side of the table and speaking with each other.

The second and third charges

50 As for the second and third charges, the Footage showed the appellant motion for [V3] to come over to him, put an arm around her head and pull her face close to his. After [V3] pulled free, the appellant was seen holding her arm with his left hand and reaching towards her chest with his right. She then pushed a hand out, as if to stop him. [PW10] reached out for the appellant's left hand, seemingly to control him.

51 The Footage also showed the appellant motioning towards [V3]'s chest and making the hand gesture. This was pertinent to the third charge. [PW10] was again seen reaching out for the appellant's extended left hand and pulling it towards the table. [V3] moved to stand on the other side of [PW10], with her arms folded across her chest. Shortly after, she walked away from the table, and spoke with her sister, [PW5], who was at an adjacent table, before making her way to the back of the Lounge. A short while later, she was seen speaking to [PW3].

52 Significantly, contrary to the appellant's evidence, the Footage did not suggest that he told [V3] to stop harassing him and his friends to buy drinks. Nor did it support his claim that both he and [V3] were annoyed and he had put his hand to her mouth to ask her to "shut up". In fact, the Footage did not show that the appellant was displeased with [V3]. This also undermined [PW10]'s evidence that the appellant had probably asked [V3] to stop harassing them to buy drinks.

53 As the District Judge found, and I agree, the Footage was consistent with [V3]'s evidence, and inconsistent with the appellant's evidence. His conclusion that the second and third charges were thus made out was not plainly wrong or against the weight of the evidence. In fact, his conclusion was justified on the evidence.

54 In this regard, the District Judge was entitled not to place weight on the testimony of the appellant's friends, [DW2] and [PW10]. [PW9] was not pertinent as he was not at the table at the time of the offences that related to [V2] and [V3]. The Footage showed both [DW2] and [PW10] looking on, with the latter even intervening. While it was possible that [PW10] had glanced down

when the appellant had reached towards [V3]'s chest, as noted at [50] above, the Footage showed him reaching out for the appellant's hand to try and control him almost immediately after [V3] reacted to the appellant's action. Accordingly, [PW10]'s evidence that he reached out for the appellant's hand because "[the appellant] wanted to grab her arm or something", and not because he saw the appellant use one of his hands to touch [V3]'s chest, was at odds with the Footage. [DW2] testified that he did not see physical contact between the appellant and [V3] as his view was blocked by [PW10]. His evidence was therefore of no assistance to the appellant.

The fourth charge

55 The Footage corroborated [V2]'s account and contradicted the appellant's case on the fourth charge. I agreed with the District Judge's conclusion that it showed the appellant "extending his hand towards her cleavage, and [V2]… recoiling away." [DW2] and [PW10] also appeared to be looking on, with the latter reaching out to control the appellant's hand. [V2] subsequently appeared to block the appellant's hand as he reached towards her again. This was inconsistent with the appellant's evidence that there was no physical contact and that he merely scolded [V2] for not getting his order right.

56 It is significant that the Footage showed the appellant smiling and talking to his friends immediately after the incident. About 20 seconds after [V2] walked away from the table, [PW10] was seen leaning over to the appellant to speak with him. The appellant then initiated a fist bump gesture. The District Judge was therefore correct to conclude that the demeanour of the appellant and his gesture "powerfully contradicted the [d]efence [c]ase".

57 [DW2]'s testimony was again unhelpful as he said his view was blocked by [PW10]. [PW10]'s testimony was that he did not see the appellant poke [V2]'s breast. There were doubts whether this could be so. As noted above at [55], [V2] was seen recoiling away when the appellant extended his hand towards her cleavage. [PW10] was seen reaching out to control the appellant's hand. Seen together, there was no reason for [PW10] to do this unless it was to restrain the appellant from acting inappropriately towards [V2]. Further, as noted above at [56], after [V2] walked away, [PW10] was seen leaning towards the appellant to speak to him and the appellant responding with a fist bump gesture. Given these circumstances, for [PW10] to say that he did not see the appellant poke [V2]'s breast was difficult to accept.

Inconsistencies in the victims' testimonies

58 The appellant made much of alleged inconsistencies in the victims' testimonies. For example, in a statement to the police on 11 July 2016, [V2] was recorded as saying that she was fully clothed, and the appellant's finger had landed on her clothes. Later, [V2] testified that she was touched on the skin rather than over the clothing and explained that she recalled what she was wearing only after seeing the Footage in court. However, the inconsistencies did not render the District Judge's assessment of her credibility incorrect. Some imperfection in recollection did not mean that a witness was untruthful. If the witness's evidence was largely corroborated and consistent, some inconsistencies did not undermine its credibility: *Ng Chiew Kiat v Public Prosecutor* [1999] 3 SLR(R) 927 at [32]–[35]; *Public Prosecutor v Abdul Rahman Bin Sultan Ahmat* [2005] SGDC 246 at [19]; *Public Prosecutor v Cao Shengliang* [2020] SGDC 160 at [48]. Having reviewed the Notes of Evidence

and the Footage myself, I found that the District Judge was not incorrect in his assessment of the credibility of the victims.

The evidence of the appellant's friends

59 I did not see any infringement of the rule in *Browne v Dunn*. This is a flexible rule of practice that requires that any contradiction in a witness's evidence ought to be put to him so that he may explain: *Liza bte Ismail v Public Prosecutor* [1997] 1 SLR(R) 555 at [65], [68] and [70]. Its rationale is to grant a witness the opportunity to so "explain and clarify his or her position or version of facts before any contradictory version is put forth to the court as one of fact": *Parti Liyani v Public Prosecutor* [2020] SGHC 187 at [44]. The key therefore is whether there is a contradiction between the evidence of the witness and the submissions made on his testimony. However, as pointed out by the Prosecution (see [37] above), [DW2], [PW9] and [PW10] had in fact been asked whether they recalled the interactions between the appellant and the victims, and why the appellant acted in a certain way as captured in the Footage (see [49], [54] and [57] above). They stated that they did not recall the interactions or the reasons for the appellant's actions. In my view, to the extent that they were unable to recall these details, there was no inconsistency between their evidence and the Prosecution's submissions to warrant the application of the rule in *Browne v Dunn.* The Prosecution's submissions were not that the appellant's friends were lying but that they did not in fact witness the incidents and therefore were of no assistance to either the Prosecution or Defence on whether the offences had taken place.

The appellant's "partial admission"

60 The District Judge did not err in regarding the Long Statement as a "partial admission." The appellant had stated therein that it was "possible" he had molested two to three women in the Lounge. The investigating officer ("the IO") testified that the Long Statement was recorded after the appellant was examined for his blood alcohol concentration and had appeared sober. The IO also testified that the appellant had said that he was ready to give his statement. Although the appellant testified that he was "still intoxicated" at the time, this was a bare allegation and was against the evidence of the IO. It was difficult to believe the IO would have recorded the Long Statement while the appellant was intoxicated. It was relevant that there was no evidence to support the appellant's assertion that he was confused as to what he was saying. Also, the appellant's account that he merely assented to the IO's question on whether he molested two to three women was unconvincing. This was in any case denied by the IO. In any case, the Long Statement was not the primary basis for the District Judge's finding on the appellant's credibility. He placed more weight on the Footage. As noted in the GD, the Footage "completely contradict[ed]" the appellant's version of the events and his "hesitant and unconvincing delivery in court confirmed how contrived [his testimony] was". Having reviewed the Footage, I saw no reason to disagree.

The possibility of collusion

61 It was important that I set out the appellant's case on the real possibility of collusion. At trial, the appellant's case appeared to be that (a) the victims colluded because of his rude and boorish behaviour towards them, and (b) the Lounge management ([PW1] and [PW3]) colluded to "deflect attention away from their hooliganism" during the Commotion involving them, the appellant

and his friends, and the victims. In other words, there were different motives for the victims and the Lounge management. However, on appeal, the argument shifted. This time, it was submitted that the motives were the same for both the victims and the Lounge management, *ie* because of the appellant's rude and boorish behaviour towards the victims, *and* so as to deflect attention away from the conduct of the victims and the Lounge management during the Commotion. I have proceeded therefore on the case as presented on appeal though I noted that the shift in position raised questions as to the substance of the appellant's submission on motive.

62 In *AOF v Public Prosecutor* [2012] 3 SLR 34 ("*AOF*") at [210], the Court of Appeal endorsed the observations of Lord Mustill in *Regina v H* [1995] 2 AC 596 (at 616) on the two possible meanings of "collusion":

> … the word 'collusion' … may denote a wicked conspiracy in which the complainants put their heads together to tell lies about the defendant … [and is also] wide enough to embrace any communications between the witnesses, even without malign intent, which may lead to the transfer of recollections between them, and hence to an unconscious elision of the differences between the stories which each would independently have told … the two situations may be labelled ***'conspiracy'*** and ***'innocent infection'*** … *'conspiracy' [is] the deliberate and malicious fabrication of untrue stories whose details chime because that is what they are designed to do … such cases … must surely be a small minority by comparison with those where the witness statements show no more than the opportunity (although not necessarily the reality) of 'innocent infection'.* [emphasis in *AOF*]

63 It is clear that the appellant' case was one of *collusion* properly so called. As mentioned above at [12] and [32], the appellant suggested motive on the part of the victims and the Lounge management ([PW1] and [PW3]) because of the appellant's rude behaviour towards the victims and the Lounge management's efforts to "deflect attention away from their hooliganism." However, the burden

on the Prosecution to disprove the allegation of collusion only arises after the appellant has discharged his evidential burden by providing a plausible motive on the part of the victims and the Lounge management to collude to bring false charges against him: *AOF* at [215]–[217].

64 The District Judge noted that the appellant failed to adduce credible evidence of motive on the part of the victims to fabricate the allegations that were the subject matter of the charges proffered against him. His observation was correct in my view. There was a fundamental problem with the appellant's contention that one of the reasons why the victims colluded was to deflect attention away from their conduct during the Commotion. This was referring to causing the Commotion and the appellant being slapped by an unknown person in the midst of the fracas. However, as noted in [32] above, the Commotion was caused by [PW5] launching herself at the appellant and the appellant's table. This was clear from the Footage. If the Commotion was a reason to collude, this begs the question why [PW5] would cause it in the first place. If [PW5] had not caused the Commotion, there would be no reason to collude. Further, if the victims and the Lounge management colluded because the appellant had been rude to them, as he had also alleged, the obvious thing for them do was to simply call the police rather than cause a fracas. If so, it would be completely unnecessary to collude "to deflect attention away from their hooliganism". In fact, if the Lounge management had been part of the collusion, calling the police rather than causing a fracas would have been exactly what they would have suggested and desired. A fracas could have serious repercussions for the Lounge and its management. The Lounge management would not have wanted to precipitate the Commotion. Colluding to deflect attention from their conduct during the fracas would therefore not have been a consideration at all. The appellant recognised this in closing submissions where he stated: "Needless to

say, apart from attracting personal culpability, incidents of assault involving staff and management members would have serious implications on their operating licence".

65 Indeed, [PW5]'s conduct clearly pointed to anger towards something inappropriate that the appellant had done. Her conduct was therefore consistent with having been told by [V3], her sister, about the appellant's inappropriate behaviour. Seen in this way, it was contrived for the appellant to suggest that the victims and the Lounge management colluded to deflect attention from their conduct during the Commotion and because of the appellant's rude behaviour towards the victims.

66 There are further difficulties. First, I noted that the police had responded to two calls that night, one from [PW9] at 2.05am concerning the Commotion and the other from [PW1] a minute later reporting that there was a case of molest and that the alleged perpetrator was still at the scene. [PW9] testified that he could not recall if any other persons had called the police; and [PW1] testified that he did not know that [PW9] had called the police. [PW1] also testified that he called the police as he was informed that [V3] had been molested and was crying. It was clear that the call by [PW9] to the police was triggered by the Commotion. On the other hand, [PW1]'s call was to report the molest. The two calls were unconnected and were made for different reasons. As the two calls were close in time (a mere minute and six seconds apart) and neither [PW9] nor [PW1] was apparently aware of the other's call, it could hardly be said that [PW1]'s call was an attempt to deflect responsibility for the Commotion. If [PW1] did not know that [PW9] had called the police, it seems contrived to suggest that he had called the police in order to deflect attention from the conduct during the Commotion. In fact, if there was concern over the conduct

of the victims and the Lounge management during the Commotion, why would [PW1] have called the police in the first place? That is the last thing he would have wanted to do. As the Prosecution put it, "someone intending to avoid [p]olice involvement would quite obviously not call the [p]olice".

67 Second, the time interval between the last incident involving [V3] and the call by [PW1] was short, about 10 minutes. If there was collusion first between the victims and then with the Lounge management, it must have taken place between the last incident involving [V3] and just before [PW5] launched herself at the appellant causing the Commotion. This was an even shorter period than 10 minutes. There was little time for the victims to first collude amongst themselves and then with the Lounge management with a view to making false allegations against the appellant.

68 Third, if there was in fact collusion between the victims and the Lounge management because of his rude and boorish behaviour towards the victims, they would have simply called the police and not triggered the Commotion, as noted at [64] above. It was contrived to suggest that [PW1]'s call was in order to deflect attention from a commotion which the victims themselves appear to have caused.

69 Fourth, the two reasons offered for why the victims and the Lounge management would have colluded were not reconciled. If the victims colluded because of the rude behaviour of the appellant towards them, it must have happened in the time period referred to in [67] above. If so, the collusion was not about deflecting attention from conduct during the Commotion as that could only have taken place after the Commotion. However, there was no evidence of any collusion post-Commotion. In any event, it was illogical to suggest that the

victims and the Lounge management would have colluded again post-Commotion (for a different reason) when they had already done so pre-Commotion.

70 I make a fifth and final point. The victims and the Lounge management would have known that the Lounge had CCTV cameras and therefore CCTV footage. They must have thus been aware that (a) the interactions between the victims, and the appellant and his friends could very well have been captured by the cameras, and (b) there was a real risk that their lie, if there was one, would be exposed by the Footage. For the collusion to work, they would have to be sure that there was nothing in the Footage that showed up the lie, which meant that they would have had to view the Footage before the police were called. However, there was no evidence that the victims and/or the Lounge management checked the Footage before calling the police. [PW1] testified that he only viewed the Footage in the presence of the police, following their request to view it. The victims were not present then. [PW3] further testified that the victims did not view the Footage before it had been handed over to the police, while it was still in the Lounge's possession. [V1] testified that she first saw the Footage during her first appointment with the IO in the police station. [V2] testified that she saw the Footage "much later" after the incident. [V3] testified that she was only shown the Footage after giving her statement to the police. These accounts were corroborated by the IO, who testified that he first showed the victims the Footage when recording further statements from them. [PW5] testified that she was first shown the Footage when she met the IO in end-September 2017. The Footage itself ran for three minutes after the last incident involving [V3], and did not show the victims conferring with each other.

71 All of the above suggested that the victims and the Lounge management did not collude or that there was even any real possibility of collusion.

Prejudgment and apparent bias

72 I found the appellant's submission of prejudgment and apparent bias without basis and unfortunate. I say unfortunate because there was nothing in the evidence that remotely suggested either.

73 The test for apparent bias is whether the circumstances "give rise to a reasonable suspicion or apprehension of bias in the fair-minded and informed observer": *BOI v BOJ* [2018] 2 SLR 1156 ("*BOI*") at [103(a)]. Such reasonable suspicion or apprehension arises when the observer would think that bias is possible. It cannot be a fanciful belief and the reasons for the suspicion ought to be capable of articulation with reference to the evidence: *BOI* at [103(c)]. Furthermore, the Court of Appeal in *BOI* clarified at [108]–[109] that prejudgment was a form of apparent bias which requires that:

> "… the fair-minded, informed and reasonable observer would, after considering the facts and circumstances available before him, suspect or apprehend that the decision-maker had reached a final and conclusive decision before being made aware of all relevant evidence and arguments which the parties wish to put before him or her, such that he or she approaches the matter at hand with a closed mind."

74 The appellant submitted an additional test of "a real likelihood of prejudgment" should be considered, as mentioned in [24] above. This was a submission unsupported by authority. Counsel for the appellant did not suggest how this test could be applied. The real likelihood of *bias* test was previously applied in the context of apparent bias prior to the decision in *BOI*, which clarified that the test should be one of a reasonable suspicion or apprehension

of bias, as noted above at [73]. As the test for *prejudgment* is already one based on a suspicion or apprehension in relation to the decision-maker, it was not clear what test counsel for the appellant was advocating.

75 The exchange in question between the court and the Prosecution (referred to as "Wong" in the transcript) which the appellant relied on to demonstrate prejudgment or apparent bias occurred after [V3] apparently failed to recognise herself in the Footage when on the stand:

Court:	I do not know the nature of the preparations which were done for trial.
Wong:	Yes, Your Honour.
Court:	But from the indications and the – if the witness comes back with an answer, "Is it me?", it doesn't indicate that the preparations were thorough enough.
Wong:	Yes, Your Honour.
Court:	This is a material witness.
Wong:	Yes, Your Honour.
Court:	I hope it's not going to be the case for your other material witnesses where they come to Court and then they say, "Is it me?"
Wong:	Yes, Your Honour.
Court:	This is serious proceedings so we need to have that degree of preparatory work done.
Wong:	Yes, Your Honour.
Court:	Okay. If this is just on the video itself, there are other areas in relation to what happened between them, conversations that happened between them, at the various points. And which that has not been covered, we're going to have a field day in cross-examination.
Wong:	Yes, Your Honour.
Court:	So use the period, go and do what you need to do, alright?

Wong: Yes, Your Honour.

76 In my view, the District Judge's suggestion to the Prosecution to better prepare its witnesses and prevent "a field day in cross-examination" offered no basis for concluding that there was prejudgment or apparent bias. The District Judge was entitled to instruct the parties to better prepare their case in order to ensure that time was not wasted: *BOI* at [100] and [126]. I noted that prior to this exchange, [V3] had required the Prosecution to replay the Footage four times in order to identify herself and other staff. She had also thrice asked "Is it me?". The District Judge was therefore perfectly entitled to express concern over the wastage of time. In any event, evidence improperly presented by the Prosecution would have hampered the appellant in meeting the Prosecution's case, as I had suggested to counsel for the appellant in the course of oral arguments.

77 The alleged procedural error that the appellant articulated (see [33] above) was also without basis. It was open for the District Judge to have permitted the Prosecution to cross-examine the appellant on the CFD. Section 147 of the EA would have applied insofar as it was a previous statement made by him reduced into writing and relevant to the matters in the proceeding. As submitted by the Prosecution and noted at [38] above, the CFD was based on the appellant's instructions and he admitted to contributing to its contents. In this regard, the appellant had stated in court that he recalled "put[ing] out as much as [he could]" for the purposes of the CFD. That said, the provision ought to have been properly invoked: see, *eg*, the procedure outlined in *Lim Young Sien v Public Prosecutor* [1994] 1 SLR(R) 920 at [19]–[20]. More crucially, I did not see how admitting the CFD would have resulted in apparent bias as alleged by the appellant (see [33] above). I should mention that the situation has

now been addressed by s 258A of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) which allows cross-examination on the CFD. However, that provision did not apply to the present case as it only came into force on 31 October 2018 following the Criminal Justice Reform Act 2018 (No 19 of 2018).

78 The District Judge was also justified in not permitting the CFP and the Summary of Facts to be admitted into evidence for cross-examination by the Defence. These documents were not drafted on the instructions of the Prosecution witnesses. As such, they would not have been in a position to testify as to their contents.

79 For the reasons above, I dismissed the appellant's appeal against conviction.

The sentence imposed on the appellant

80 A sentence is said to be manifestly excessive where it is unjustly severe, and "requires substantial alterations rather than minute corrections to remedy the injustice": *Public Prosecutor v Siew Boon Loong* [2005] 1 SLR(R) 611 at [22]. It is trite that the mere fact an appellate court would have awarded a higher or lower sentence than the trial judge is insufficient to compel the exercise of appellate powers. It is important to remember that "the prerogative to correct sentences should be tempered by a certain degree of deference to the sentencing judge's exercise of discretion": *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [84], citing *Angliss Singapore Pte Ltd v Public Prosecutor* [2006] 4 SLR(R) 653 at [14].

81 As neither the appellant nor the Prosecution took issue with the sentence imposed by the District Judge for the offence under s 509 of the Code (*ie*, the

third charge), I only addressed the sentences imposed in respect of the offences under s 354(1) of the Code. I considered that (a) the sentences were well within the framework in *Kunasekaran*, and (b) there were no issues with the manner in which the offence or offender-specific factors were assessed.

82 On the first charge, I was not persuaded that the fine of S$3,000 was manifestly excessive. It was well within the range of less than five months' imprisonment for offences falling within Band 1 of the *Kunasekaran* framework. Further, the District Judge was justified in relying on the sentencing precedents of *Public Prosecutor v Marcus Ong Yong Qiang* (SC 911624/2017) ("*Marcus*") and *Public Prosecutor v Yujiro Tomita* (SC 901776/2018), both of which were cited by the Prosecution, in arriving at the sentence for the charge. In the former, the accused stroked the victim's thigh while the latter was dancing in a night club. The victim's boyfriend told the accused to apologise, but he refused. The accused pleaded guilty and was fined S$1,500. In the latter, the accused smacked the victim's buttocks once as she walked past him at a bar. According to the victim, the accused did not apologise when she confronted him. The accused pleaded guilty and was fined S$3,000. I was not persuaded by the appellant's attempt to draw comparisons between his case and *Marcus*; the appellant in the present case had, after all, claimed trial and put the victims through lengthy and rigorous cross-examination.

83 As for the second and fourth charges, the District Judge was correct in finding that the subject offences fell within Band 2 of the *Kunasekaran* framework. This was because the appellant touched the victims very close to their private parts namely, their breasts. I was therefore not persuaded by the appellant's efforts to distinguish his conduct from the sentencing precedents relied upon by the District Judge namely, *Public Prosecutor v Thompson,*

Matthew [2018] 5 SLR 1108 ("*Thompson*") and *Public Prosecutor v Adaikkalam Sivagnanam* [2018] SGMC 43 ("*Sivagnanam*"). In *Thompson*, the offender used his left hand to touch the victim, an air stewardess, on her right hip, her stomach and her lower breast in one motion. The High Court found that the offence fell within Band 2 of the *Kunasekaran* framework. The offender was sentenced to six months' imprisonment. As the first step in the *Kunasekaran* framework, the court took into account the psychological harm suffered by the victim and the fact that the offence was committed against an air transportation worker. At the second step in the *Kunasekaran* framework, the offender's clean record, good character and work credentials, which supported a lower probability of reoffending, were taken into account. In *Sivagnanam*, the accused touched the left breast of a restaurant waitress with his palm as she walked past, before removing it quickly. The accused claimed trial. The court found that the offence fell within Band 2 of the *Kunasekaran* framework and imposed a sentence of six months' imprisonment. The court noted that although there was contact with a private part, there was no skin-on-skin contact and the molest was not protracted: *Sivagnanam* at [89].

84 The appellant sought to compare his case with the decision in *Public Prosecutor v Mohd Taufik bin Abu Bakar and another appeal* [2019] SGHC 90 ("*Mohd Taufik*") where the offender, a police inspector, was sentenced to 12 weeks' imprisonment for a s 354(1) charge of pinching the nipple of a national serviceman, and 10 weeks' imprisonment for another s 354(1) charge of squeezing his buttock near the anus region. That case was distinguishable. It was significant that the victim there was male. The court concluded that the offences fell within Band 1 of the *Kunasekaran* framework as, *inter alia*, the degree of sexual exploitation was low. In this regard, the court observed that a male's nipple was not considered in the same way as that of a woman's and

there was no skin-on-skin contact, although the court did note that the offender's abuse of a position of trust was an aggravating factor: *Mohd Taufik* at [97]–[99], [101] and [103].

85 The District Judge was also justified in taking into account the offender-specific factors as he did. As noted at [82] above, the appellant was rightly not entitled to any sentencing discount on account of his claiming trial and subjecting the victims to lengthy cross-examination including "a spurious defence as to their motives", as the District Judge had observed. The fact that the appellant was a first-time offender was a neutral factor as it merely indicated the absence of an aggravating factor namely, *ie*, relevant antecedents. It is trite that the absence of an aggravating factor is not a mitigating factor: *Kunasekaran* at [65].

86 As such, the sentences imposed in the present case did not warrant appellate intervention. The District Judge was justified in ordering the imprisonment terms to run consecutively as the offences were distinct in terms of time, act and victim; and the global sentence imposed was not unjustly severe and could not be said to be manifestly excessive.

Conclusion

87 For the above reasons, I dismissed the appeal.

Kannan Ramesh
Judge of the High Court

Derek Kang Yu Hsien and Lulla Ammar Khan (Cairnhill Law LLC)
for the appellant;
Gail Wong and Samyata Ravindran (Attorney-General's Chambers)
for the respondent.
