

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2020] SGHC 231

Criminal Case No 62 of 2018

Between

Public Prosecutor

And

BMU

GROUND OF DECISION

[Criminal Law] — [Offences] — [Sexual assault by penetration]
[Criminal Procedure and Sentencing] — [Sentencing] — [Principles]

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Public Prosecutor

v

BMU

[2020] SGHC 231

High Court — Criminal Case No 62 of 2018

Dedar Singh Gill J

25 June 2020

28 October 2020

Dedar Singh Gill J:

Introduction

1 The accused faced 24 charges in the present case. He pleaded guilty to and was convicted on three charges of sexual assault by penetration under s 376(2)(a) of the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code”) and punishable under s 376(4)(b) of the Penal Code. These are as follows:

- (a) one charge of sexual assault by penetration committed sometime in August 2016 by using a finger to sexually penetrate the vagina of the victim without her consent (the “fourth charge”);
- (b) another charge of sexual assault by penetration committed sometime in August 2016 by using a finger to sexually penetrate the vagina of the victim without her consent (the “seventh charge”); and

(c) one charge of sexual assault by penetration committed sometime in the night of 28 April 2017 by using a finger to sexually penetrate the vagina of the victim without her consent (the “23rd charge”).

2 The accused consented to the 21 remaining charges being taken into consideration for the purpose of sentencing. With regard to each of the proceeded charges, I imposed a sentence of 11 years’ imprisonment and 12 strokes of the cane. I ordered the sentences for the fourth and the seventh charges to run consecutively and the sentence for the 23rd charge to run concurrently. The accused was sentenced to a total of 22 years’ imprisonment and 24 strokes of the cane, with the custodial sentence backdated to the date of remand, 7 May 2017. The accused has appealed against his sentence. I now set out my grounds.

Statement of Facts

3 At the time of the hearing, the accused was 36 years old and the victim was 13 years old. The accused is a divorcee and has a daughter who was then 14 years old. The accused was a logistics delivery attendant and the boyfriend of the victim’s mother at the material time.

4 The victim is the eldest of her mother’s three children. Her younger brother and sister were aged 11 and 9 years old respectively. Among the three children, the victim shared the closest relationship with the accused.

Background events

5 Following a divorce from the victim’s father in October 2002, the victim’s mother and her three children (including the victim) lived with the victim’s grandmother in a flat located in Woodlands (the “Woodlands Flat”).

The victim's mother and the accused began a romantic relationship sometime in 2013. The accused was known to the three children as "Uncle Adam". On occasion, he would stay overnight in the living room of the Woodlands Flat. The victim's mother and the three children slept in one of the bedrooms.

6 In July 2015, the victim's mother and her three children moved into a two-room rental flat (the "Flat"). In August 2015, the accused moved into the Flat. He purchased groceries for the household and, every two weeks, provided the victim's mother with an allowance of \$150 to \$200.

7 The household was akin to a family, and the accused assumed the role of a father figure to all three children. The accused and the three children did many things together, such as playing, watching television, travelling to Malaysia and going for walks and swims. On occasion, the victim would play with the accused's head and sit on his stomach when he was lying down.

8 In March 2016, the accused and the victim's mother quarrelled. Subsequently, the accused moved out of the Flat. In August 2016, he eventually moved back into the flat. While he lived at the Flat, the accused and the victim's mother had sexual intercourse about once or twice a week. It was sometime in August 2016 that the facts pertaining to the fourth and seventh charges, as set out below at [12] and [15] respectively, took place.

9 In December 2016, the victim's mother stopped having sexual intercourse with the accused because she became more religious. She did not want to have sex until the couple got married. Around the end of February 2017, the accused moved out of the Flat, though he still visited the household occasionally. The facts pertaining to the 23rd charge took place after the accused moved out, sometime on the night of 28 April 2017 (see [18] to [20] below).

10 The relevant period during which the accused sexually abused the victim in the Flat was between 26 February 2016 and 28 April 2017, a time span of 14 months. During this period, the victim was nine to ten years old. The accused committed the acts at night when the victim's mother was not beside the victim, who the accused knew slept on the extreme right side of her two siblings. He did so because (a) the victim's mother did not satisfy his sexual urges, and (b) the victim's grandmother did not accept him into the family and the accused wanted to get back at her by abusing the victim, who was her grandmother's favourite grandchild. What follows are the particulars of the three proceeded charges, namely the fourth, the seventh and the 23rd charges.

Facts relevant to the fourth charge

11 One night in August 2016, when the victim was ten years old, she was sleeping on a sofa bed in the living room along with her siblings. The accused, who wore only a pair of pants without a top or underwear, and the victim's mother were sleeping in a bedroom.

12 Sometime during the night, the accused laid down beside the victim (who was sleeping sideways on the sofa cushions) and pulled her close to him. Covering both the victim and himself with a blanket to conceal his actions, the accused pulled the victim's shorts and panties down to her thighs, spat saliva on his palm, and rubbed her buttocks and vulva with his fingers. The accused then sexually penetrated the victim's vagina with his finger without her consent. As a result, the victim felt a sharp pain in her vagina which she had not felt before.

13 Thereafter, the accused rubbed his erect penis between her anus and vagina for a few minutes. The victim also felt pain. When the accused stopped

his actions, the victim pulled her shorts up and washed herself up in the toilet. She continued to feel pain in her vagina.

Facts relevant to the seventh charge

14 A few weeks later, in the same month of August 2016, the victim, along with her siblings, was in the Flat sleeping on the living room's sofa cushions. The victim's mother and the accused, who wore only a pair of pants without a top or underwear, were sleeping in a bedroom.

15 Sometime during the night, the accused laid down beside the victim and pulled her close to him. Covering both the victim and himself with a blanket to conceal his actions, the accused pulled the victim's shorts and panties down to her knees, spat saliva on his palm, and rubbed her buttocks and vulva with his fingers. The accused then sexually penetrated the victim's vagina with his finger without her consent. Consequently, the victim felt a sharp pain in her vagina. Moreover, the victim could not move her body because the accused had grabbed her close to him.

16 Then, the accused rubbed his erect penis between the victim's anus and vagina. The victim felt a lot of pain. Once the accused stopped, the victim pulled her shorts up and washed herself in the toilet. After this episode, the victim felt pain when she urinated.

Facts relevant to the 23rd charge

17 On 27 April 2017, the victim's mother, having been hospitalised, entrusted the accused to take care of the victim and her two siblings. On 28 April 2017, the accused fetched the victim from school because she had a fever.

18 On the night of 28 April 2017, the victim and her siblings were sleeping on a mattress in the Flat's living room. By the time that the accused returned from visiting the victim's mother in hospital, the siblings were asleep. At the material time, the accused was wearing only a pair of shorts without a top or underwear.

19 Sometime later that night, the accused laid beside the victim, who was sleeping sideways on the mattress. He covered both the victim and himself with a blanket to conceal his actions. After pulling the victim's pants and panties down to her knees, the accused pulled her towards him.

20 On this occasion, he began by rubbing his erect penis between her anus and vagina. Spitting saliva into his hand, he rubbed the victim's vulva with his fingers. The victim felt pain. The accused then sexually penetrated the victim's vagina with his finger without her consent. The victim experienced sharp pain in her vagina.

Subsequent events

21 Subsequently, the accused slid his hand into the victim's bra to squeeze and pinch her breasts. The victim felt pain and tried to pull his hand away, but to no avail. When the accused stopped, the victim pulled her pants and panties up and went to the toilet to wash herself.

22 On 30 April 2017, the victim's mother was discharged after being hospitalised for three days.

23 On 5 May 2017, the victim told her primary school teacher that the accused had touched her private parts. The victim did not want the accused to touch her anymore. She was worried that the accused would use her mother's

illness as an excuse to stay overnight again. Accordingly, the victim's school alerted the Ministry of Social and Family Development. That same day, the victim's Child Protection Officer lodged a police report that the victim had been sexually assaulted by the accused. Later that day, the accused was arrested.

24 Following his arrest, the accused was assessed at the Institute of Mental Health ("IMH"). A report from the IMH dated 1 June 2017 (the "IMH report") states that the accused had no depressive or psychotic symptoms prior to 27 April 2017. However, the accused was found to have experienced adjustment disorder around that time. The IMH report also states that, at or around the material time, the accused was not of unsound mind and was fit to plead in court.

Decision on conviction

25 The accused pleaded guilty and admitted to the facts set out in the Statement of Facts without qualification. Accordingly, I convicted the accused on those three charges.

Sentencing

Charges taken into consideration

26 The accused admitted and consented to 21 other charges being taken into consideration for the purpose of sentencing. The charges are summarised as follows:

Charge No	Offence	Date	Details
1	s 354(2) of the Penal Code	Between early morning of 27 April 2017 and night of 28 April 2017	Accused rubbed his penis between the victim's anus and vagina
2	s 354(2) of the Penal Code	Between 26 February 2016 and 1 March 2016	Accused touched the victim's buttocks and thighs and rubbed her vulva with his fingers
3	s 354(2) of the Penal Code	August 2016	Accused rubbed the victim's buttocks and vulva with his fingers
5	s 354(2) of the Penal Code	August 2016	Accused rubbed his penis between the victim's anus and vagina
6	s 354(2) of the Penal Code	August 2016	Accused rubbed the victim's buttocks and vulva with his fingers
8	s 354(2) of the Penal Code	August 2016	Accused rubbed his penis between the victim's anus and vagina
9	s 354(2) of the Penal Code	November 2016	Accused rubbed the victim's buttocks and vulva with his fingers
10	s 376(2)(a), punishable under s 376(4)(b) of the Penal Code	November 2016	Accused penetrated the victim's vagina with his finger
11	s 354(2) of the Penal Code	November 2016	Accused rubbed his penis between the victim's anus and vagina

12	s 354(2) of the Penal Code	December 2016	Accused rubbed the victim's buttocks and vulva with his fingers
13	s 376(2)(a), punishable under s 376(4)(b) of the Penal Code	December 2016	Accused penetrated the victim's vagina with his finger
14	s 354(2) of the Penal Code	December 2016	Accused rubbed his penis between the victim's anus and vagina
15	s 354(2) of the Penal Code	January 2017	Accused rubbed the victim's buttocks and vulva with his fingers
16	s 376(2)(a), punishable under s 376(4)(b) of the Penal Code	January 2017	Accused penetrated the victim's vagina with his finger
17	s 354(2) of the Penal Code	January 2017	Accused rubbed his penis between the victim's anus and vagina
18	s 354(2) of the Penal Code	27 April 2017	Accused rubbed the victim's vulva with his fingers
19	s 376(2)(a), punishable under s 376(4)(b) of the Penal Code	27 April 2017	Accused penetrated the victim's vagina with his finger
20	s 354(2) of the Penal Code	27 April 2017	Accused squeezed and pinched the victim's breasts

21	s 354(2) of the Penal Code	28 April 2017	Accused rubbed the victim's vulva with his fingers
22	s 354(2) of the Penal Code	28 April 2017	Accused rubbed his penis between the victim's anus and vagina
24	s 354(2) of the Penal Code	28 April 2017	Accused squeezed and pinched the victim's breasts

The Prosecution's address on sentence

27 The Prosecution stressed that the main sentencing principles in the present case were deterrence and retribution. Deterrence is necessary to protect children from sexual exploitation (*Public Prosecutor v NF* [2006] 4 SLR(R) 849 at [42]), while retribution features in all cases of serious sexual assault (*Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 at [63]).

28 The Prosecution categorised the present case as one in Band 2 of the sentencing framework established in *Pram Nair v Public Prosecutor* [2017] 2 SLR 1015 (“*Pram Nair*”) at [119] and [159] for sexual assault involving penetration (“SAP”) offences. Band 2 prescribes a sentencing range of ten to 15 years’ imprisonment. In particular, the Prosecution identified seven offence-specific factors placing the present case within the mid-to-high range of Band 2, namely (a) the fact that the offences took place at the victim’s place of residence; (b) the victim’s young age; (c) the accused’s abuse of trust and position; (d) the victim’s serious psychological harm; (e) the involvement of planning; (f) the accused’s vindictive motivation; and (g) the long period over which the offences took place.

29 With respect to the victim’s serious psychological harm, the Prosecution relied on the Victim Impact Statement (“VIS”), which was recorded from the victim on 8 June 2020. Among other things, the VIS discloses that “[o]ccasionally, [the victim] would still be having flashbacks” and that “[s]ometime[s], [the victim] would cry whenever [the victim] thought about what [she] had been through and [her] childhood innocence being robbed off by [the accused]”.

30 Having arrived at the indicative starting sentence of at least 13 years’ imprisonment, the Prosecution contended that, in relation to offender-specific factors, (a) the accused’s guilty plea was of limited value given the grave and heinous nature of the offences; (b) the 21 charges taken into consideration operated in favour of an uplift in sentence; and (c) the offender’s lack of relevant antecedents was, at best, a neutral factor. Nevertheless, taking into account both the offender-specific aggravating factors and the mitigating factors, the Prosecution was prepared to calibrate the indicative starting sentence downwards to at least 12 years’ imprisonment. Since two of the three sentences would run consecutively, the Prosecution submitted for an aggregate sentence of at least 24 years’ imprisonment.

The Defence’s plea in mitigation

31 The Defence submitted that this was a case falling within Band 1 of the sentencing framework in *Pram Nair* ([28] *supra*), which attracted a sentence of seven to ten years’ imprisonment per charge. In respect of the offence-specific factors, the Defence argued that (a) the prior relationship between the accused and the victim was not automatically an aggravating factor; (b) the accused acted opportunistically rather than with premeditation; (c) the accused was not

violent; and (d) the physical or psychological harm occasioned to the victim was not of the requisite severity.

32 With regard to the offender-specific factors, the Defence noted that the accused was untraced for any other offences and that the Prosecution had proceeded with the more severe charges. The Defence also highlighted that the accused displayed remorse at an early juncture. In his address to the court, the accused also sought for leniency given his personal circumstances and the fact that his own 14-year-old daughter relied on him for provision. Finally, the Defence placed reliance on the IMH report and contended that some weight ought to be given to the accused's adjustment disorder. For these reasons, the Defence submitted for an aggregate sentence of between 16–18 years' imprisonment.

Decision on Sentencing

33 Pursuant to s 376(4)(b) of the Penal Code, the prescribed punishment for each of the charges is imprisonment for a term of not less than eight years and not more than 20 years and mandatory caning of not less than 12 strokes. Given that the offender had been convicted of three charges, at least two of the sentences had to run consecutively under ss 328(1) and 328(6) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"). Accordingly, the accused faced a mandatory minimum of 16 years' imprisonment and caning of 24 strokes. There was, as such, common ground that the accused would face 24 strokes of the cane. My decision on sentence thus focused on the term of the custodial sentence.

34 There was also no dispute that *Pram Nair* establishes the applicable sentencing framework for SAP offences. The Court of Appeal in *Pram Nair* at

[158] recognised that the applicable framework for rape offences as set out in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 (“*Terence Ng*”) could be transposed into the context of SAP offences. Thus, a sentencing court would be required to (at [119]):

... (a) identify the number of offence-specific aggravating factors in a case, (b) determine, based on the number and intensity of the aggravating factors, which of the three sentencing bands the case falls under, (c) identify where precisely within the sentencing band the case falls in order to derive an indicative starting sentence, and (d) adjust that indicative sentence to reflect the presence of any offender-specific aggravating and mitigating factors (*Terence Ng* at [73]).

35 In my judgment, there were three offence-specific aggravating factors in the present case. Two were particularly painful.

36 First, the victim was vulnerable due to her young age. The victim was ten years old at the time of the proceeded charges. She was, at the earliest instance of sexual assault, nine years old. As indicated at [15] and [21] above, she was not physically capable of resisting the accused’s advances or escaping his grasp. While the Defence accepted that the victim’s age was an aggravating factor, it argued that the case fell within Band 1 because “only one of the aggravating factors” had been engaged (*Terence Ng* at [50]). However, this was unsustainable given that the Court of Appeal in *Pram Nair* at [160] held that “where the offence of sexual assault by penetration discloses any of the two statutory aggravating factors in s 376(4) of the Penal Code ... [t]hese cases should fall within Band 2”. Since one of the statutory aggravating factors was invoked given that the SAP offences had been committed against a person under 14 years of age pursuant to s 376(4)(b) of the Penal Code, the present case was already well within Band 2. For the same reason, the High Court in *BLV v Public Prosecutor* [2019] 2 SLR 726 at [81] held that “the starting point was that the case fell within Band 2” as the victim there was also below 14 years of age.

37 Second, the accused abused his position. The Defence attempted to argue that the existence of a prior relationship between parties “could neither be treated automatically as an aggravating factor nor as a mitigating factor” (*Terence Ng* at [46]). However, the Defence conceded in its own mitigation plea that the accused was “a father figure to the victim”.¹ Indeed, the accused joined the household at a time when the family had previously lost a father and husband through divorce. Welcomed into the fold, the accused filled those shoes and quickly assumed the role of a father. He engaged the victim and her two siblings in leisure activities that parents typically enjoy with their children. And, of the three children, the victim shared the closest relationship with the accused. On one occasion, *ie*, just before the events of the 23rd charge, the victim’s mother even specifically entrusted the accused with the responsibility of looking after the victim while the mother was hospitalised. Relevant to the abuse of position is the additional fact that the offences were carried out in the victim’s home, in the very place where a child would have expected to find comfort and security. By abusing his position to commit the offences, the accused’s conduct constituted “a complete abnegation of his duty to act *in loco parentis*”: *Terence Ng* at [88]. Significantly, the Court of Appeal in *BPH v Public Prosecutor and another appeal* [2019] 2 SLR 764 at [69] found that the presence of two aggravating factors, namely that of an abuse of trust and vulnerability of the victim, would suffice to categorise a case “at least in the middle of Band 2 in the *Pram Nair* framework”. Accordingly, the presence of the two foregoing aggravating factors put the present case within the middle of Band 2.

38 Third, I agree with the Prosecution that the offences were carried out over a long period of time. The High Court in *Public Prosecutor v BQW* [2018]

¹ Mitigation Plea, para 9.1.

SGHC 136 (“*BQW*”) at [38] recognised that the commission of offences over a long time period (in that case, 15 months) would constitute an aggravating factor. In the present case, the commission of the offences was over 14 months.

39 Although the Prosecution argued on the basis of the victim’s VIS that she suffered serious psychological harm, I found that the harm caused in the present case did not rise to the level of anything beyond the normal consequences of such an offence, which is undoubtedly severe. In *BQW* at [43], the High Court observed that the “harm caused to the Victim ... was not an additional aggravating factor as there was no harm beyond that that is usually associated with the offences in question”. To take this further into account would be “giving that harm double weight”: *Public Prosecutor v BMR* [2019] 3 SLR 270 at [32]. The deleterious effects of the offence on the victim had already been built into the serious nature of the offence and the criminal sanctions that follow.

40 While the Prosecution contended that the accused had committed the offences by way of substantial planning, I am not persuaded that this was borne out by the facts. There was no need for the accused to devise a plan because, as noted at [37] above, the victim was under his charge and already at his mercy. The fact that the accused typically perpetrated the abuse at night only showed that he wanted to avoid detection, which is typical in a case of this nature. In *Pram Nair* at [134]–[138], the Court of Appeal drew a distinction between conduct that is premeditated and that which is opportunistic or done on the spur of the moment. Only the former was aggravating. In my view, in the present case, the accused exploited the opportunities available to him.

41 The Prosecution argued that another aggravating factor in the present case was the vindictive nature of the offences, since the accused admitted that

he was motivated by a desire to get back at the victim's grandmother after she refused to accept him into the family. However, the authorities relied upon in support of this aggravating factor such as *Public Prosecutor v Leong Soon Kheong* [2009] 4 SLR(R) 63 ("*Leong Soon Kheong*") at [61] and *Lim Siong Khee v Public Prosecutor* [2001] 1 SLR(R) 631 ("*Lim Siong Khee*") at [21] are very different from the present case. In *Leong Soon Kheong*, the respondent was convicted on the offence of culpable homicide not amounting to murder pursuant to s 304(b) of the Penal Code. He was part of a group that assaulted an 18-year-old student who consequently died. The sentencing court below imposed a sentence of four years and nine months' imprisonment, taking into account the "provocation by the deceased who had wronged his assailants by misappropriating their haversack and had thereafter behaved arrogantly and remained unapologetic" (at [20]). In lengthening the sentence to seven years' imprisonment, the Court of Appeal affirmed that "[n]o one is entitled to exact violence in order to seek redress for grievances whether real or imagined" (at [61]).

42 In *Lim Siong Khee*, the accused was charged under the Computer Misuse Act (Cap 50A, 1998 Rev Ed) for accessing his ex-girlfriend's e-mail account and sending an e-mail to three of her friends containing lurid details of her purported intimate relations with him. Enhancing the sentence imposed by the sentencing court below, the High Court remarked that the accused "was completely malicious and vindictive" (at [21]).

43 Not only were these cases of a different nature, but it is not clear that they relied on vindictive motive as an *aggravating factor*. I accept that, in principle, a vindictive motive may in appropriate circumstances constitute an aggravating factor. This, however, was not such a case. The satisfaction of the perverted sexual desires of the accused appeared to be the primary motive.

44 The commission of the offence in the victim’s home was, in my view, a fact more relevant to the abuse of position and not a separate aggravating factor in the present case. I was not persuaded that the offence would have been any less severe if the accused had committed his offences elsewhere. In this regard, the Prosecution relied on remarks made in *Public Prosecutor v Chong Hou En* [2015] 3 SLR 222 at [68] and [78]. There, the accused attached a mini-camera to the tip of his shoe to take “up skirt” videos and also recorded his girlfriend’s family members in the shower. He pleaded guilty to five counts of insulting the modesty of a woman by intruding upon her privacy under s 509 of the Penal Code and one count of possession of 10,574 obscene films under s 30(1) of the Films Act (Cap 107, 1998 Rev Ed) (“Films Act”). The aggravating factor cited at [78] of that case was more precisely the grave “intrusion into the privacy ... at the home of the victims” in the context of the charges pursuant to s 509 of the Penal Code. The accused had taken obscene videos of his girlfriend’s family members at her house. This is clearly distinguishable from the case at hand.

45 Given the presence of three offence-specific aggravating factors, I found that the present case fell within the mid to upper range of Band 2 of the *Pram Nair* ([28] *supra*) framework. In particular, I arrived at an indicative starting sentence of 13 years’ imprisonment. The three custodial sentencing bands as elaborated in *Pram Nair* at [122] and [159] are summarised in the table below:

Band	Condition	Sentencing range
1	Cases with no offence-specific aggravating factors or where the factors are present to a very limited extent	Seven to ten years' imprisonment
2	Cases with two or more offence-specific aggravating factors	Ten to 15 years' imprisonment
3	Extremely serious cases due to the number and intensity of the aggravating factors	15 to 20 years' imprisonment

46 Next, I considered the offender-specific factors, particularly the charges taken into consideration (the “TIC charges”). Some of the TIC charges, such as the sixth, seventh and eighth charges, took place on the same occasion. There were, however, two factors that operated in favour of an uplift in sentence. The first was the sheer number of charges taken into consideration. Second, the s 354(2) charges involved the accused having made skin contact with the victim’s vulva, vagina, anus, buttocks and breasts. The accused, in a despicable manner, treated the innocent victim as his personal fiefdom to be violated according to his wicked desires.

47 The offender-specific mitigating factor that I took into account was the plea of guilt at an early stage. I disagreed with the Prosecution that the grave and heinous nature of the offences necessarily displaced this consideration. The principles of deterrence and retribution, while undoubtedly central to the present case, did not necessitate the court discounting an early plea of guilt. Indeed, the Court of Appeal in *Terence Ng* ([34] *supra*) remarked at [68], “even in cases when the evidence ... is compelling, [offenders who plead guilty to sexual

offences] ought ordinarily to be given at least *some* credit for having spared the victim additional suffering” [emphasis in original]. I also had regard to the fact that the accused had a clean record and was a first-time offender.

48 However, I rejected the accused’s plea for leniency on account of his personal circumstances and the need to take care of his own 14-year-old daughter. The accused’s current state of affairs was merely the natural consequence of a custodial sentence and the circumstances did not, in this case, rise to the level of severe hardship.

49 Furthermore, I was of the view that no weight was to be given to the accused’s adjustment disorder. Although the accused was found to have had adjustment disorder, there was no evidence that the adjustment disorder “contributed to the commission of the offence”: *GCX v Public Prosecutor* [2019] 3 SLR 1325 at [40].

50 Finally, I considered the High Court’s decision in *BQW* ([38] *supra*), which the Defence had cited. In that case, the 57-year-old accused committed multiple sexual offences against the granddaughter of his employer. The abuse began in September 2015 and lasted for 15 months. At the earliest instance of abuse, the victim was seven years old. The accused eventually pleaded guilty to three charges under s 376(2)(a) and punishable under s 376(4)(b) of the Penal Code. There were nine charges taken into consideration comprising four aggravated SAP charges, four charges under the Child and Young Persons Act (Cap 38, 2001 Rev Ed) and one charge under the Films Act. In sentencing the accused to ten years’ imprisonment for each proceeded charge and 20 years’ imprisonment in aggregate, the sentencing court took into account, among other things, (a) the vulnerability of the victim, (b) the abuse of trust, and (c) the long period over which the offences had been committed. In my judgment, the

present case was more severe than *BQW* given the very close relationship between the accused and the victim resulting in a more egregious breach of trust and the sheer number of offences taken into consideration. These warranted a more robust sentence.

51 Having regard to the offender-specific factors and, in particular, the timeous plea of guilt, I adjusted downwards the indicative starting sentence of 13 years' imprisonment to 11 years' imprisonment for each proceeded charge. At least two of the sentences imposed for the charges had to run consecutively pursuant to s 307(1) of the CPC. As such, I ordered the fourth and seventh charges to run consecutively, with the 23rd charge to run concurrently with the fourth charge. Therefore, the accused was sentenced to 22 years' imprisonment and 24 strokes of the cane.

52 In sentencing the accused, I was mindful that the court should "be satisfied that the aggregate sentence is sufficient and proportionate to the offender's overall criminality": *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 at [73]. The aggregate sentence reflects the overall criminality of the accused's offences and is therefore not crushing.

Conclusion

53 For the reasons above, I sentenced the accused to 11 years' imprisonment for each charge, with two sentences (the fourth and seventh charges) to run consecutively. In sum, I imposed a global sentence of 22 years' imprisonment and 24 strokes of the cane. The custodial sentence was backdated to 7 May 2017, the date of the accused's remand.

Dedar Singh Gill
Judge

Eugene Lee, Kelly Ho and Tan Yen Seow (Attorney-General's
Chambers) for the Prosecution;
Sofia Bennita d/o Mohamed Bakhsh (Lexcompass LLC) for the
accused.