

Public Prosecutor v Mohd Raffiq Bin Mohd Aslam
[2004] SGHC 57

Case Number : CC 22/2003

Decision Date : 17 March 2004

Tribunal/Court : High Court

Coram : MPH Rubin J

Counsel Name(s) : Imran Abdul Hamid, Terence Tay and Woo Ka Wai (Deputy Public Prosecutors) for prosecution; David Rasif (David Rasif and Partners) and Goh Teck Wee (Goh Chang JP and Wong) for accused

Parties : Public Prosecutor — Mohd Raffiq Bin Mohd Aslam

Criminal Law – Offences – Murder – Penal Code (Cap 224, 1985 Rev Ed) ss 300, 302.

Evidence – Proof of evidence – Confessions – Retraction – Whether retracted confession can be relied upon to convict accused.

17 March 2004

MPH Rubin J:

1 The accused, Mohd Raffiq bin Mohd Aslam, a 42-year-old male Singaporean, was charged and tried before me for the murder of his former female colleague. The charge against him was that on 7 August 2002, sometime between 6.42am and 9.42am, he committed murder by causing the death of one Saratha Sangeo, aged 50, at Block 605 Yishun Street 61, #03-307, Singapore, an offence punishable under s 302 of the Penal Code (Cap 224, 1985 Rev Ed).

2 Four other charges preferred against him were stood down pending the determination of the capital charge.

3 The Prosecution's evidence, which was by and large not disputed by the accused, was as follows.

4 The accused was once a delivery driver with a laundry company known as Systematic Laundry Enterprise Pte Ltd ("Systematic") from early 2000 to March 2002. The victim was his colleague at Systematic. She lived at Block 605 Yishun Street 61, #03-307. The address of the accused, prior to his arrest, was Block 854 Woodlands Street 83, #01-96.

5 The accused first met the victim at their workplace. He had also during the period of his employment with Systematic, visited the victim at her residence, had eaten a meal or two there and, in the process, had come to know the husband of the victim, one Jaganathan Subrayan, an assistant technician with the Water Department of the Public Utilities Board ("PUB"), located at 752 Dunearn Road, Singapore. Although Jaganathan was classified as an assistant technician, his nature of work, according to his supervisor, Mr Tan Jin Teng, was merely to despatch documents to the PUB Headquarters at Somerset Road in the morning. After completing his despatch duties, he usually returned to his office around noon. He routinely reported for work between 7.00am and 7.55am on Mondays to Saturdays and returned home at 5.00pm, except on Saturdays when he logged off at 1.00pm. He was off on Sundays and alternate Saturdays.

Discovery of the body of the victim at her residence

6 On 9 August 2002, at about 8.05pm, the brother of the victim, one Supalan Sangeo, went to the victim's flat to look for her. He did so at the request of his mother, Mdm Kasi Krishnan, who became concerned when the victim, who usually telephoned her mother during her lunch breaks, failed to call her for two consecutive days.

7 When Supalan arrived at the victim's flat, he found the main wooden door of the flat locked. However, the flat's metal grille gate, although closed, was unlocked. There was a foul odour emanating from the flat. Supalan instantly contacted the police for assistance. In the event, the police arrived at the flat at about 8.15pm on 9 August 2002. Soon, with the assistance of the Singapore Civil Defence Force officers, the police made a forced entry into the flat and found the victim lying face down in a pool of blood in the living room.

8 Once inside the flat, the police noticed two handwritten notes, left through the gap below the door of the premises, by officers from the Ang Mo Kio Neighbourhood Police Centre, suggesting that the police had called at the flat on 8 and 9 August 2002 but having apparently received no response from within, had left the said notices requesting the occupants to call them.

9 On 10 August 2002 at about 1.05am, Dr Gilbert Lau, a forensic pathologist from the Centre for Forensic Science, Health Sciences Authority, conducted a preliminary examination of the body of the victim at the flat. He found several deep scalp lacerations on her head as well as bruising around her eyes. His opinion was that the death of the victim occurred one or two days prior to 10 August 2002, that is between 8 and 9 August 2002.

10 Subsequently, on 10 August 2002, Dr Lau conducted an autopsy of the victim. His conclusion, amongst other things, was that the death of the victim was due to a severe head injury that had resulted in extensive, severe fractures of the skull. He certified the cause of death to be blunt force trauma of the head. According to him, the injuries found on the head of the victim were sufficient in the ordinary course of nature to cause the death of the victim.

11 The evidence of the Criminal Investigation Department's Scene of Crime Unit was that there appeared to be no forced entry into the flat of the victim prior to the arrival of the police. The photographs taken at the scene suggested that the living room of the flat was by and large neat. Beside the victim's head were two orange pillow cases and a matching bedsheet. The bedsheet partly concealed a trail of blood which seemed to have started at the entrance of the kitchen towards the wall closest to the entrance of one of the bedrooms of the flat. There were also a few packets of food items inside a carrier bag on the floor near the body of the victim. At the kitchen area, a piece of cloth (a sarong look-alike) was placed over a glass panel window which overlooked the stairwell of the flat. The positioning of the said cloth would have prevented onlookers from seeing parts of the interior of the flat, that is, the kitchen and a portion of the living area.

12 Another very significant feature that came to be noted was that the victim was found to be without her *thali* on her neck. The court noted that the *thali* has special significance to Indian married women. It is generally regarded by traditional Indian women as sacrosanct. It is a unique ornament, made of gold, fashioned and inscribed with special propitious symbols, attached to a gold chain or saffron rope as circumstances would permit, offered by the bridegroom or members of his family, and placed around the neck of the bride at the culmination of the wedding ceremony. It is to be worn ever after and to adorn the neck of the married woman until her demise, her husband's demise or the dissolution of their marriage. It may not be removed from her neck except in dire circumstances.

13 Strangely, Jaganathan, the husband of the victim, was unavailable from about the night of 7 August 2002. He did not report for work on 8 August 2002. As it turned out, Jaganathan was found

injured, unconscious and bereft of his trousers somewhere at Yishun Industrial Park A, off Yishun Avenue 2. He was found to have suffered severe head injuries and was warded at the Intensive Care Unit of the Singapore General Hospital. He was initially a murder suspect in relation to the death of his wife but was subsequently given a discharge not amounting to an acquittal by the subordinate courts, shortly after the police had arrested and charged the accused of the present offence. The reasons given by the investigating officer, Assistant Superintendent of Police Ang Bee Chin ("ASP Ang") for charging an innocent man, require mention at this stage.

14 The investigating officer said that since there appeared to be no forced entry and no visible signs of robbery of the flat of the victim, the police was naturally interested in getting an account from the husband of the victim who happened to be the only other occupant of the flat. But curiously, Jaganathan was found injured somewhere else on 8 August 2002. What precipitated his arrest and the consequent charge against him was that when the investigating officer interviewed him, she was surprised by his constant smiling. Worse still, when the investigating officer asked him about the location of his wife's jewellery, he replied that they were in the "armoury". According to the investigating officer, although Jaganathan's interview was conducted with the help of a Tamil interpreter, the word "armoury" was uttered by the husband in English.

15 In the event, after the arrest of the accused and his arraignment, an application was made by the Prosecution for Jaganathan to be discharged from the case and he was accordingly given a discharge not amounting to an acquittal. According to the Prosecution, the subordinate courts do not have the powers to grant a discharge amounting to an acquittal in relation to capital charges.

16 It must be mentioned at this stage that medical evidence produced by the Prosecution showed that the head injuries found on Jaganathan had resulted in his losing his memory as to what had happened to him on the night of 7 August 2002. According to a medical report dated 28 August 2002 by Dr Tommy Tan, a Consultant of the Woodbridge Hospital, Jaganathan had been affected by the head injury and was not able to recall what had happened on the night of 7 August 2002. He could not remember anything that was being told to him and was not aware of his wife's demise. In Dr Tan's opinion, Jaganathan was and still is suffering from post-traumatic amnesia as a result of the severe head injury suffered by him on the night of 7 August 2002. Dr Tan added that the tests he had administered had satisfied him in coming to the conclusion that Jaganathan was not faking his answers.

17 To compound the matter, it was also evident that Jaganathan's verbal attributes were at all times limited. His supervisor at PUB testified that Jaganathan usually spoke very little and even then it was limited to monosyllabic replies. His colleagues too found him to be "super non-responsive".

Arrest of the accused

18 The missing *thali* as well as the missing jewellery of the victim led the police to Ban Hin Pawnshop Pte Ltd located at Block 924 Yishun Central 1, #01-342, Singapore. The enquiries by the investigating officer with the said pawnshop on 15 August 2002, established that the accused did pawn two gold chains, eight gold pendants and one gold stone pendant at the said pawnshop and had received a sum of \$1,100, at about 9.42am on 7 August 2002. The customer copy of the pawn ticket issued by the pawnshop bore the number B08/02/0997. The accused had subsequently, on 10 August 2002, sold the said pawn ticket to one Eminent Goldsmith & Jeweller (Pte) Ltd, a second-hand dealer located at 257 Selegie Road, #01-291 Selegie Complex, Singapore, for \$50.

19 Following the lead obtained from Ban Hin Pawnshop and confirmation from the victim's relatives as to the identity of the jewellery seized from the pawnshop, the accused was arrested at

about 8.23am on 22 August 2002 at Hotel 81 Classic located at Joo Chiat Road, Singapore.

20 After his arrest, the accused gave several statements to the police. Amongst them, fourteen were sought to be tendered in evidence by the Prosecution. After being assured by defence counsel that all the statements sought to be introduced in evidence were given voluntarily without any threat, inducement, promise or any form of oppression, the said statements (exhs P 201, 205, 206, 212, 215, 216, 217, 218, 219, 220, 221, 222 to 226, 228, 229, 230 and 231) were admitted in evidence. In essence, the statements bespoke of the accused attacking and injuring the victim on the morning of 7 August 2002 when there was no one inside the flat of the victim except for the accused and the victim, his grabbing the jewellery and some money from the flat of the victim, his subsequent pawning of the jewellery at Ban Hin Pawnshop, his meeting Jaganathan on the evening of 7 August 2002 when the latter was returning from work, his taking Jaganathan for dinner afterwards and later his assaulting Jaganathan with a metal bar at Yishun Industrial Park A.

21 In so far as is material, some significant segments of the statements require reproduction and they are as follows.

(a) A hand-written statement (exh P205) by the accused to ASP Ang at about 12.30pm on 22 August 2002:[\[1\]](#)

I, Mohd Raffiq Bin Mohd Aslam I/C 1467938/C of Blk 854 ... Woodlands St 83 know deceased Saratha since I was working in Systematic Laundromat. She was close to everybody and she like to loan out money and she did loan me a couple of hundred dollars. I know her husband casually and we met a couple of times. On that particular day on 7th August at 7.30 she call me to say that money is ready and come and collect. I told her I can only come earlier at 6+ as I have to go work. My intention going there was firstly to ask her why she spread gossip of me and my wife in work place as only she knows about this matter and at same time collect money. When I reach there husband was not around and she invite me to go in and tell me that she don't have full [amount] of 3k which I ask as her husband took part of it and will be back in the evening. I need the money urgently to settle my debts which I promised. At that same time nothing happen but she started talking of my personal affairs and that's when I hit her on her head which I really recall is 2-3 times. When I saw her on the floor I was scared and really don't know what to do. I took the money and search the drawer. Then she started telling me that she has no cash to give me. I was disappointed angry and panicked as I had debt to settle. I ransacked her drawer and took cash [amount] of \$1060-\$1070. At the same time the chain I pawn for \$1k and sold the paper as I was scared. This is when I realised what I had done and was very scared. After the incident close the [house] door and left. I did promise to bring her husband out for dinner and on that particular day I waited for him down the block and I brought him to dinner. During the dinner conversation he talk about not having money and wife control all the money.

(b) Statement (exh P206) recorded by ASP Ang from the accused at about 1.00pm of 22 August 2002:[\[2\]](#)

Q1 You have indicated that you hit the deceased's head 2 to 3 times inside the house. Did you use any weapon?

A1 Yes, I used a metal bar to hit her head. I had a metal bar in my car and I brought it along to her house. At first, I left the metal bar outside her house and she also saw it. At that point when she told me that she did not have the money and part of it was with the husband, I took the metal bar placed outside her house and used it to hit her head. My

intention was to take her money to settle my debts. When she started to shout, I panicked and I hit her on the head. After hitting her, and she was lying on the floor, I dragged her body to one side. That time, she was still alive. I also covered her blood with mattress pad and took a piece of cloth to cover the kitchen window.

Q2 Where is the metal bar which you used to hit the deceased?

A2 I threw it away at Yishun Industrial Park A.

(c) The cautioned statement (exh P201) written down by the accused given to ASP Lim Beng Gee from 4.15pm to 5.03pm on 22 August 2002:[\[3\]](#)

I Mohd Raffiq Bin Mohd Aslam wish to state that I have no intention whatsoever to hurt anyone. I was under tremendous [*sic*] pressure to sell my debts and also my marriage problem. I only need money and whatever I did as I say was not my intention. After doing what I did and found out that murder has taken place I was shock [*sic*] and scared. I know deceased personally and because of anger at her character I just wanted to hit her, after she started nagging at me. As I say earlier intention was just to get money and nothing else. It's hard to believe what I have done even until today.

(d) Statement (exh P217) recorded by ASP Ang from the accused from 2.05pm to 4.40pm on 28 August 2002:[\[4\]](#)

23 Sometime towards end of July 2002, at about 9.00 pm plus, I called Saratha at her house number from my handphone number 91038038 and asked her for a loan of \$3,000/-. Saratha asked me why I needed the loan and I replied that it was personal. I told her that I would repay her by monthly payments within the next 4 to 6 months. Saratha replied that she would discuss with her husband and call me back.

24 Two to three days later, I called Saratha at her house number again from my handphone number 91038038. I asked her how was the loan and she said ok. I asked her whether her husband knows about the loan and she said "yes". I even said that if she wanted, I could even see her husband personally to talk and explain why I needed their help but she replied that he would not know anything because she controlled the money. However, I did told [*sic*] her that she must inform her husband about the loan but she replied, "he knows, he knows". It was during this conversation that Saratha asked me to come over to her house on 7 August 2002. She said that she would get the money on 6 August 2002 and to be safer, I should come on 7 August 2002.

25 For the next few days, on 28, 29 and 30 July 2002, I called Saratha at her house number once a day to talk about work. These calls were made at night from my handphone number 91038038 and each conversation lasted not more than 5 minutes. We talked about work. She asked me have I found a job yet and I told her 'yes' and I was working. We did not talk about the loan.

26 On 2, 3 and 4 August 2002, I also called Saratha at her house number a number of times from my handphone number 91038038 to ask her whether she could give me the loan earlier.

27 On 4 August 2002, sometime in mid afternoon, Saratha called me once from her workplace and asked me whether I could accept a lesser amount. I told her that if possible,

try to lend me \$3,000/- because I needed it urgently.

(Statement stopped at about 3.20 pm on 28 August 2002 for a toilet break.)

(Statement resumed at about 3.27 pm on 28 August 2002.)

28 On 5 August 2002, at about 6.00 am something, I called Saratha at her house number from my handphone number 91038038. I asked her whether the loan was confirmed. She replied that there should not be any problem. I also asked her whether she was working that day and she said she was. As I know that it was her husband's birthday, I asked her why she and her husband did not take off to celebrate the birthday and she told me that she would bring her husband to KFC at night. When I asked to speak [to] her husband, she said that he had already gone to work. Her husband always leaves home for work at about 6.00 am plus though he starts work at 8.00 am. Before we hang up, I told Saratha that I was going to work, which was not true because I was unemployed at that time.

29 On 6 August 2002, at about 10.00 pm plus, I called Saratha again at her house number from my handphone number 91038038. I asked her how, tomorrow confirmed? She said 'yes'. She also reminded me to come to her house earlier because she had to leave for work at about 7.00 am plus. I replied that I would be there before 7.00 am.

30 I am aware that Saratha usually left home for work at about 7.00 a.m. plus because she has ever told me before. She ever said that she had to walk all the way from her house to the bus stop in front of Yishun MRT Station in order to take a direct bus to work and as such, she had to leave home quite early. I also ever drove Saratha to our workplace once when I stayed overnight at my sister Jan's house at Block 600 plus Yishun. Jan's house is very near to Saratha's house.

31 On 7 August 2002, at about 6.00 a.m. plus, I left home. I drove to Saratha's house in my rented car bearing registration number ???1010?. It is a dark blue or black E200 Merz, which I have rented from a male Chinese by the name of 'Dennis' about one week ago at a rate of \$700/- to \$800/- per week.

(e) Statement (exh P220) recorded by ASP Ang from the accused from 2.20pm to 5.05pm on 2 September 2002:[\[5\]](#)

Question 1: You have read over your statement recorded on 1 September 2002. Do you have anything to add, delete or amend?

Answer 1: No.

Question 2: Could you elaborate on how he [*sic*] hit Saratha when you were in her house on the morning of 7 August 2002?

Answer 2: When Saratha was walking towards the main door and the left side of her body was facing me, I took the metal bar from the sofa and held one end of it with both my hands. When she turned her head to look at me, I used the metal bar and hit her on the left side of the head. I did not raise the metal bar above my head level. I just raised it near to my head and then swung it at her head. After the blow hit her, she shouted my name "Raffiq" and covered the left side of her head with one of her hands. She crouched slightly.

Before she dropped onto the floor, I hit her head with the metal bar again with both my hands holding one end of the bar. This time, I was standing behind her. I raised the metal bar higher, over my head level and swung it at her head. I cannot remember which part of the head I hit her. She dropped flat onto the floor. The front part of her body was touching the floor and her face facing sideways, in the direction of the sofa.

After that, I raised the metal bar again and hit her on the left side of the head. I was still standing behind her and holding one side of the metal bar with both my hands. I did not have to raise the metal bar over my head level. I just raised the metal bar higher, near to my head and swung it at the left side of her head. So far as I remember, I hit Saratha 3 times, cannot be more than that.

At this point, I realised that [there] was a lot of blood on the floor, near her face. She was also making some noise and moving her body slightly. The noise was very soft, like mumbling sound and I could not catch up with what she was saying.

I stood next to her body. I was near to the sofa. I bent my body down to look at where the blood was coming out from. I was not sure whether the blood was coming out from her head or her mouth but there was a lot of blood surrounding her face.

I panicked. I was scared at the sight of so much blood. I did not do anything to help her or stop the bleeding. But seriously, at that time, I did not think that my action would kill her. My thinking was to cause her hurt, take the money and leave the place.

I left the metal bar on the sofa near to her body. After that, I closed the gate and the main door and took a piece of cloth from the cupboard in the master bedroom to cover up the kitchen windows, which were already all closed up. It was a very natural instinct. I did not want anyone to see me in the house, in that condition.

After that, I searched through all the rooms. It was in her handbag in the master bedroom that I saw a black purse, which contained her IC and a Transit Link card. In the end, I only found \$10/- notes amounting to \$60/- to \$70/- in 2 drawers in the master bedroom and a \$1,000/- note in a drawer in the spare room. I did not manage to find other cash or valuables. I did not ransack the rooms. I do not know why I did not do so. Seriously, I was only looking for the amount that she agreed to lend me.

After finding the cash, I came out to the living hall. I dragged Saratha away from the pool of blood surrounding her face. She was having difficulty breathing and by putting her away from the blood, I thought it would help her to breathe better. She was still alive and I could hear some soft noise coming out from her nose [sic]. Her body was motionless. I did not do anything else to help her stop the bleeding.

After that, I took one piece of mattress pad and 2 pillow case covers to cover up the pool of blood because I was scared at the sight of so much blood. It was not because I was worried that people could see the blood.

After shifting Saratha's body to the side of the wall, behind the sofa, I took 2 gold chains with pendants from her neck because I have not found enough cash from the rooms. I only found \$1,060/- to \$1,070/- and I needed at least another \$1,000/-. All these money, I intended to pay to the housing agent 'Peter'. In a way, I felt pressurised by 'Peter' chasing after me for payment. When I removed the gold chains from Saratha's neck, she was still

alive but she did not stop me. I did not notice whether she was still able to move her body.

After that, I found a marketing bag and used it to contain the handbag, which contained the cash and gold chains with pendants. I left the house before 9.00 am.

(f) Statement (exh P221) recorded by ASP Ang from the accused from 2.45pm to 7.10pm on 3 September 2002:[\[6\]](#)

Question 2: You have said in your earlier statement that on the evening of 7 August 2002, at about 5.30 pm, you arrived at the carpark beside Saratha's block and you waited for her husband. What was your purpose of meeting up with Saratha's husband?

Answer 2: My purposes were to bring Saratha's husband to dinner and at the same time find out about the loan. If I could get the remaining part of the loan from him, I could use it to settle some other debts. I did not think specifically what debts I wanted to settle. I told him that I wanted to celebrate his birthday for him. His birthday is on 5 August but I did not manage to go out with him on that day because Saratha brought him out.

...

Answer 4: ... I treated him as a friend and I wanted to celebrate his birthday for him. Even when I read from the newspapers that he was arrested and charged for the murder of Saratha, I feel bad because I have destroyed his life. ... Saratha's husband and I stayed at Yishun Industrial Park A for less than 20 minutes and by the time I left the place, it should be before 10.00 pm.

22 At the close of the prosecution case, defence counsel informed the court that he did not propose to make any submissions. Nevertheless, having regard to the evidence presented by the Prosecution up to that stage, the court found that the Prosecution had established a case against the accused, which if unrebutted would warrant his conviction. Consequently, the standard allocution was administered to the accused and the courses open explained to him. The accused elected to testify from the witness box and his evidence is as follows.

23 The accused is now 42 years of age. His highest educational attainment was up to GCE 'O' levels. He had been, at all material times, working as a motor car driver. He is married but has no children. He first came to know the victim when both of them were working at Systematic and they soon became close friends. He had been to her house, had meals there and in that process became acquainted with her husband Jaganathan. He had on a few occasions assisted the victim to collect money from borrowers who had taken loans from her. She had also on a few occasions enlisted his assistance to pawn items for her.

24 Narrating his personal circumstances, he said that around August 2002, he was financially in great trouble and was constantly pressurised by his creditors.

25 It was in these circumstances that he finally approached the victim for a loan of \$3,000. She agreed to lend him the sum and therefore an appointment was made by him to call upon her on the morning of 7 August 2002. Following the arrangement, he arrived at the victim's flat at about 6.15am that day. He was sure of the time as he could recall that it was 6.00am when he left his house.

26 It was about 6.15am he arrived at the foot of the victim's block of flats and after parking his car he rested in it for a while. He could recall that when he left his car, he glanced at his watch and

it was about 6.20am to 6.25am. He then started walking towards the residence of the victim.

27 As he was walking, he met the victim's husband Jaganathan who was standing just below the staircase. He was quite surprised to see Jaganathan. Jaganathan presently told him in simple English that his wife had asked him to hand over "this" because a relative was in her flat and both of them did not want the relative to know about the loan or why the accused was visiting her at the flat. Jaganathan then took out from his pocket some jewellery and a \$1,000 note which the accused accepted.

28 After handing over the jewellery as well as the cash of \$1,000 to the accused, Jaganathan told him that there was not much cash available at that moment. His wife had asked him to take them first and later in the evening, he would give the accused the remaining sum when they met for dinner. Jaganathan never mentioned at that time what the remaining sum was. When he asked Jaganathan where he was going, Jaganathan said he was leaving for work. The accused offered to give him a lift since he had the time, but Jaganathan declined and left by himself. The accused's decision then was to pawn the gold chains to raise cash. According to him, the victim had also in the past handed him gold items to pawn.

29 The accused then walked a short distance and arrived at a coffee shop which was close to the victim's block of flats. He had a drink there. Whilst at the coffee shop, he thought it was only fair to contact the victim to thank her for her help. He telephoned the victim from the coffee shop. After about six to seven rings, a lady picked up the phone whom the accused first thought was the victim. Realising that the voice he heard was not that of the victim, he said: "I am Raffiq here, is that Saratha?" The unknown female's first word was "Jaga". The second word she muttered was also "Jaga". The accused replied: "No, Raffiq here. Is Saratha there?" The person on the other side again said "Jaga". That was when he asked: "Is Jaga there?" There was no reply. He heard some background noise like that of a running tap but he couldn't be certain. He waited on the line but could not recall for how long. After a while, he turned off his mobile phone. Almost immediately, he rang the victim's number again but the line was busy. He then decided to call the victim later in the morning at Systematic. According to him, the above telephone call, particulars of which he was narrating, was made at about 6.45am on 7 August 2002.

30 After the telephone call, he stayed at the coffee shop for about another ten to 15 minutes before he walked to his car and drove off. As it was still early and as he had nowhere else to go, he drove to Yishun Central and parked his car near Ban Hin pawnshop. At about 9.00am he went to the said pawnshop and using his identity card, pawned the two gold chains. He asked for \$2,000 but was offered only \$1,100. He had then with him \$100 of his own cash.

31 After redeeming \$1,100 from the pawnshop, he drove to the taxi stand at Northpoint, Yishun where he had earlier arranged to meet a housing agent, one Peter at approximately 10.00am. At the appointed time, he met Peter and handed over to him \$2,000 in cash. After counting the amount, Peter asked for an additional sum of \$100 which the accused had promised him as "coffee money". Peter then returned to the accused a cheque which the accused had given him earlier on. All in, the accused gave Peter \$2,100. The accused then left the place with the intention of going to his mother's house. However, he changed his mind and stopped over at MacPherson Hawker Centre to have a meal. Later between 2.00pm and 3.00pm he drove home, freshened up and left home at about 6.00pm.

32 He then left for Northpoint again. There, after buying a packet of cigarettes from the nearby 7-Eleven store, he drove to the car park close to the victim's block of flats and parked his car near the bus stop. After a while, he saw Jaganathan walking towards him. He told Jaganathan to go home

and freshen up before they left for dinner but Jaganathan's reply was: "No need, very tired, go now hungry, let's go straightaway."

33 As both of them were travelling in the car driven by the accused, he wished Jaganathan "happy birthday". Jaganathan surprised the accused by handing over to him four \$100 notes, although the accused had not asked Jaganathan for anything. When handing over the money, Jaganathan said in Malay "*cukup*" (meaning enough). The accused presently took out the pawn ticket and showed him the amount \$1,100. They then drove off.

34 Whilst driving, the accused asked Jaganathan where he would like to go. He was told "Serangoon". Jaganathan told the accused that he used to go there with his colleagues and so the accused took him to Muthu's Curry. It was past 7.00pm and the dinner lasted for about 45 minutes.

35 After paying the bill, but before leaving the restaurant, the accused asked Jaganathan where he would like to go next. The accused invited Jaganathan to go for drinks and Jaganathan said "yes". He then asked Jaganathan, "Where?" Jaganathan replied "Geylang". On the way to Geylang, as they were passing along Mustafa Shopping Centre in the vicinity of Desker Road, Jaganathan suddenly asked the accused to stop the car and the accused obliged. In the event, both alighted and ambled off to Desker Road. There, Jaganathan pointed to an Indian woman and said that he felt like having sex. Jaganathan's exact word was "*main*" which means "play" in English.

36 At first the accused did not understand why Jaganathan pointed at that Indian woman to him but soon realised that Jaganathan wanted him to approach her for the transaction. The accused presently approached her, pointed at Jaganathan and asked her "How much?" and the woman replied "\$50". The accused then paid her and arranged to meet Jaganathan later at the car. He then left the place and waited outside his car. In less than 15 minutes, Jaganathan returned smiling, re-entered the car and told him the words, "come, Geylang" and so they left for Geylang.

37 The accused did not know the desired destination of Jaganathan in Geylang. He asked Jaganathan where he normally drank. Jaganathan gave the accused directions to the place he wanted to go in Geylang. Just before a Shell station along Geylang Road, the accused was asked by Jaganathan to stop the car. The accused then parked his car just outside the petrol station. Whilst both of them were walking towards a coffee shop located nearby, Jaganathan pointed to a group of Thai women and told the accused in Malay "*mahu lagi*" (want again).

38 Jaganathan wanted to have sex with a Thai woman and this time also the accused approached the woman as Jaganathan stood behind him. The accused approached the woman and pointed at Jaganathan. The woman mentioned "\$50". The accused then paid her and she led Jaganathan away. The accused told Jaganathan, "finish, come back", and he pointed at the coffee shop. He then went to the coffee shop to relax.

39 After 15 to 20 minutes, Jaganathan returned. The accused asked Jaganathan, "so fast?" and Jaganathan replied, "ok". He asked Jaganathan what he wanted to drink. Jaganathan said, "Tiger". He asked Jaganathan how many bottles he could drink. The reply was: "I, my friend sit here, four/five bottles can finish." The accused told Jaganathan that he had not much time as he had another appointment later that night. The accused ordered two to three bottles of Tiger beer for Jaganathan and one Red Bull for himself. That was when Jaganathan started to drink alcohol.

40 By the time they left the coffee shop, Jaganathan had finished two to three large Tiger beer bottles, and the accused two "Red bulls". Jaganathan did not have any alcohol at Muthu's Curry earlier on. They were at the Geylang coffee shop for about 45 minutes.

41 Whilst drinking at the coffee shop, the accused struck up a conversation with Jaganathan. He asked Jaganathan how he was able to visit Geylang so often and Jaganathan replied: "Work friends *belanja* [treat], work friends *belanja*" He asked Jaganathan whether his wife knew about all this. Jaganathan instantly placed his index finger on his lips. The accused took it to mean "don't tell her".

42 The accused asked Jaganathan: "You never *belanja*." Jaganathan started to mumble, "Wife *lokek, lokek*" (stingy). Jaganathan said: "Friend, money all can, I all cannot." When the accused queried Jaganathan what he meant by that, Jaganathan told him that he and his wife "*gadoh*" (fought) the night before.

43 Jaganathan mentioned further: "Go work, go work, only give \$10. Friends ask *semua kasi*." The accused understood the words of Jaganathan to mean that his wife would give all her money to her friends. Jaganathan remained silent for a while. The accused then asked Jaganathan: "Are you angry?" Speaking very slowly, he told Jaganathan that he was sorry he had so many money problems and only Jaganathan and the victim could help. He assured him that he would try to pay them back as soon as possible. At this point, Jaganathan gestured by stretching his open right palm towards the accused and he understood that to mean "leave it", "be quiet" or "let's not talk anymore".

44 The accused then decided to leave the place and told Jaganathan, "come, let's go". Thereafter, Jaganathan emptied his glass and soon they left Geylang at about 9.00pm.

45 As both of them were walking towards the car, the accused told Jaganathan not to be afraid and that he would take him home. Jaganathan was a little reluctant to leave the place. He suggested to the accused that they remain there for a few more drinks. The accused did not relent and told Jaganathan, "no, enough" and pulled Jaganathan away to his car, as he needed to get back. As he was driving from Geylang with Jaganathan, the latter requested the accused to take him to a temple at Yishun. Although the accused felt the sudden request to be somewhat odd, he nonetheless agreed to take Jaganathan to the temple in Yishun. Eventually, as they were nearing Yishun, the accused asked Jaganathan the location of the temple. Jaganathan was visibly intoxicated by this time and merely gestured with his hand.

46 Both of them finally reached Yishun Industrial Park A and arrived at a spot in front of a temple but Jaganathan signalled to the accused to drive further ahead.

47 Realising that it was not a through road, the accused told Jaganathan of this fact. Jaganathan, presently, pointed to his trousers. The accused realised that Jaganathan wanted to urinate. He then stopped the car and told Jaganathan that there was nobody in the vicinity and he could alight and urinate by the side of the road. Jaganathan alighted and relieved himself on the grass verge. The accused also came out of his car and lit a cigarette. He then went to open the boot of his vehicle where he always kept his shoes. The accused claimed that he was in the habit of driving only in his socks and slippers.

48 While he was walking towards the boot, Jaganathan came close to him and said: "You want money?" The accused replied that he was still short of \$500. Jaganathan commented, "*susah*" (difficult). The accused asked him why.

49 It was at this juncture that Jaganathan told him, in English, "\$1,000 give today but she and me yesterday no go home". The accused did not quite understand what Jaganathan meant by that. Jaganathan then added, "*pukul Saratha*" meaning that he had hit Saratha. Jaganathan then put his hand to his forehead. He was facing the accused at that moment and both of them were still behind the boot when Jaganathan told him, "problem, help". When the accused tried to find out what the

problem was, Jaganathan after repeating the Malay words, "*pukul Saratha*", uttered a threat, "no help, tell police chain you take, chain you take". The accused did not quite grasp what Jaganathan was saying. Jaganathan continued, "you problem, I Saratha problem." The accused queried: "What problem?" Jaganathan replied: "Money *semua habis*." According to the accused, it meant, "it's all finished". Then Jaganathan pointed to the accused and this time touching him, uttered the words, "chain, chain".^[7]

50 The accused suddenly realised that Jaganathan was demanding the return of the chain handed to him earlier that morning. Immediately, he took out the pawnshop ticket and presented it to Jaganathan but Jaganathan pushed his hand away. Jaganathan said "*thali, thali*" and gestured with his hands as if he was demanding its return. That was the first time he heard the word "*thali*" from Jaganathan. The accused then put the pawnshop ticket back in his pocket.

51 Jaganathan pointed his finger towards the accused and said "*susah*" (difficult). The accused then pushed Jaganathan away. The reaction from Jaganathan was swift. He said, "tell police, *thali* you take". The accused was immediately alerted to the implication behind the words of Jaganathan. Jaganathan wanted the "*thali*" back. If not, he would tell the police that the accused was the person who took the "*thali*". Jaganathan, addressing the accused, continued, "help, give you \$1,000". The accused instantly pushed Jaganathan away and as a result the latter fell onto the grass verge. It was then that the accused took the metal bar from his car boot and hit Jaganathan once at the back near his shoulder. Jaganathan dropped on the grass verge. He wanted to get up but the accused hit him again. After this incident, as far as the accused could recall, he threw the metal bar on the grass verge. He then closed his car boot and walked quickly to the driver's seat. However, before he re-entered his car, he returned to where Jaganathan was lying, put his hand inside Jaganathan's trouser pockets and removed Jaganathan's wallet and a key chain inside the pocket. While he took the key chain, Jaganathan grasped his hand. The accused, however, pushed him away and later departed from that area.

52 After the incident, the accused, after driving aimlessly for a brief period and reminiscing about the events of that night, decided to visit the flat of the victim. He was curious to find out what Jaganathan meant to tell him that night and what had really happened. However, before reaching the victim's flat, he telephoned the victim's residence number, once or twice, but no one picked up the receiver and this was about 10.00pm that night.

53 He used the public phone at the void deck of the block to call the victim's flat. He did not make use of his mobile phone as he was using a Hi-Card and its value was low.

54 After the accused had parked his car, he looked up the block of flats and noticed that the flat of the victim was in darkness. He went up the staircase and walked towards the victim's flat. On arrival, at the entrance to the flat of the victim, he found the grille gate unsecured but the main door locked. He took off his shoes, left them outside the entrance, knocked on the door a few times and receiving no response, he unlocked the main door using the key taken from Jaganathan and went into the flat.

55 The flat was in darkness. When he switched one light on, he noticed a large piece of orange cloth covering the floor. As he moved further in, he also observed a piece of cloth, covering the kitchen window. He then climbed onto the sofa in the living room to have a view.

56 Directly behind the sofa, he could see the victim lying face down. He was shocked and scared. He called out the victim's name a few times. After that he stepped down from the sofa, switched off the light, looked around and closed the main door. He pushed back the gate and closed

it. Thereafter, he put on his shoes and left the flat. This was sometime before 11.00pm. He was in the flat for about five minutes.

57 After leaving the victim's flat, moments before reaching his car, he threw the keys to the victim's flat into a dustbin and drove away from Yishun.

58 He recalled that the key had a boomerang key chain. After he left Yishun, he was in a state of fear as he realised that Jaganathan had in fact hurt his wife.

59 The accused claimed that even after visiting the victim's flat that night, he did not know whether the victim was already dead or not. He remembered seeing a pool of blood inside the house, but his only thought at that particular moment was to get away from the scene as soon as possible. He was in a state of panic. Knowing that he had hit Jaganathan that night and that he had pawned the chain using his own name in the morning of 7 August 2002, he felt that Jaganathan could easily claim that it was the accused who had injured the victim.

60 After leaving Yishun, he drove to Tiong Bahru MRT station as he had made an appointment at 12.00 midnight to hand over the Mercedes Benz SBU 1010 to one Faizal.

61 The accused was arrested on 22 August 2002 whilst at a hotel in Geylang. By then he had already learnt that the victim was dead and Jaganathan had been arrested. He learnt about the victim's demise through a Chinese newspaper and learnt about Jaganathan's arrest through the news.

62 The accused was shocked when he read about Jaganathan being arrested and charged for the murder of his wife. He did not know what Jaganathan had told or would tell the police. He was thinking of the jewellery that he had pawned and the dinner he had given Jaganathan on 7 August 2002.

63 The accused was also at that time facing the threat of divorce proceedings by his wife. His marriage was in shambles and he believed that there was little else to live for. His debts remained unpaid and the financial pressure was mounting.

64 The state of his mind at that time was to be free from all his troubles, his debts and his marriage. He was remorseful for having hit Jaganathan. He felt that if he were to go to prison, no one would be able to touch or harm him anymore.

65 In essence, the accused denied causing hurt or inflicting any blows on the victim. He maintained that the gold jewellery and the cash of \$1,000 were handed to him by Jaganathan on the morning of 7 August 2002. He did not enter the flat of the victim nor did he meet the victim on the morning of 7 August.

66 In sum, the defence of the accused was that he never assaulted the victim. The thrust of his defence was that his confessions, albeit being voluntary, were made up by him out of remorse for having badly injured Jaganathan on the night of 7 August 2002 and his total disenchantment with life in this world, owing largely to his overwhelming financial and matrimonial troubles. His present change of mind was because of the fresh ray of hope injected by his wife as well as his late realisation that he was not the person who had caused the death of the victim. His suggestion was that Jaganathan was the person responsible for the death of the victim. In the event, he substantially retracted each and every incriminating averment contained in his 14 statements given to the police upon his arrest.

Closing arguments

67 In his final submissions, defence counsel urged the court to disregard the incriminating statements made by the accused to the police, contending that those statements were all concocted by the accused because of his remorse for causing hurt to Jaganathan and his feeling depressed over his mounting personal, financial and matrimonial troubles. The concluding part of counsel's submission (paras 67 to 79) was as follows:

67. It is submitted that several doubts arise from the evidence.

68. First, could the murder have been caused by Jaganathan himself? Jaganathan had confessed to Raffiq that he had hit Saratha.

69. Jaganathan had attempted to get Raffiq to be his alibi and promised Raffiq \$1000.00 if Raffiq was prepared to say that Raffiq had been with him on the night of 6 August 2002.

70 In this respect, there is also the evidence that there was another female person who had picked up the receiver at the deceased's home on the 7 August 2002.

71. It is significant that expert testimony by Dr Gilbert Lau, PW52, places the time of death to be as early as 1 a.m. on the 9th August 2002. This was clearly at a time Jaganathan would have been with the deceased.

72. Evidence was also led by Ang Hwee Chen, PW14, Ang's report appears at page 60 of the PI bundle. Evidence was led that a DNA profiling of Jaganathan was made and the report was marked as P278.

73. Evidence was led of the meticulous high standards of the protocol. Yet, none of the samples found in the flat or the fingernail cuttings matched that of the Accused person. Instead, it was the blood of Jaganathan that was found at position 'N' in the photographs. This was close to where the cloth covering the kitchen window was found.

74. We submit that it was blood. The prosecution themselves have referred to it as blood and the sample was referred to as blood at several points in the PI bundle although not conclusively blood, this was so as PW14 admitted that it could be negative as there are only trace amount available. Be that as it may, it did appear as blood and had passed of [*sic*] the first of the two tier test for blood.

75. The prosecution could not explain why Jaganathan's blood was found at the scene of the murder. This was although he was called as a prosecution witness and was present in court to explain why his blood was found at the murder scene.

76. On the other hand, none of the deceased's blood was found on Raffiq's clothes. Neither were they on his shoes despite the evidence showing that the shoes were rigorously examined for any DNA samples.

77. This, in itself has raised a reasonable doubt in the prosecution's case.

78. It bears noting that the prosecution did initially charge Jaganathan for the murder of the deceased. The charge has not been withdrawn.

79. There was also evidence that the *thali* had a cultural significance between the husband and the wife. Removing a *thali* would be tantamount to a symbolic break in the relationship

between the husband and the wife.

79. We submit that the court should not place weight on the Accused statements. The fact that the Accused had pawned the deceased jewellery has been sufficiently explained. Coupled with the presence of Jaganathan's blood at the scene of the crime, we submit that the prosecution has failed to prove their case beyond the reasonable doubt. The prosecution must show that the cumulative evidence drives the court to one inevitable and inexorable and to one and one conclusion only. This they have failed to do. Accordingly, we urge your Honour to grant the Accused an acquittal.

68 The nub of the Prosecution's closing submission was that the accused, having been positively identified with the pawning of the victim's jewellery on the morning of her death and having given numerous voluntary statements admitting his guilt in very clear terms, was presently trying to escape from the dire consequences of the offence committed by him on the morning of 7 August 2002. It was further submitted by the Prosecution that the statements of the accused, given voluntarily by him, without any threat, inducement, promise or any form of oppression, subterfuge or coercion, soon after his arrest and thereafter, reflected the truth, albeit their present retraction. The Prosecution argued that many a detail found in those statements, in relation to what took place inside the flat of the victim on the morning of 7 August 2002, could not have been made up by someone who had not come face to face with the victim on the morning of 7 August 2002. Further, after highlighting a host of inconsistencies and improbabilities in the answers given by the accused in his cross-examination, the Prosecution submitted that it had discharged its burden of proving the guilt against the accused beyond a reasonable doubt and urged the court to convict him of the charge he was facing.

Findings and conclusion

69 At the close of the case, I reviewed all the evidence adduced in this case, and considered the submissions by the Defence as well as the Prosecution. It would perhaps be useful at this stage to recapitulate some preliminary aspects of the evidence which were largely undisputed and never put in issue at this trial. They include the following:

- (a) the accused and the victim were former colleagues and acquaintances;
- (b) the accused had also in the course of his acquaintance with the victim, come to befriend Jaganathan, the victim's husband;
- (c) the accused was under considerable financial trouble in August 2002;
- (d) the accused had visited the victim and Jaganathan in their flat on three occasions prior to 7 August 2002;
- (e) on 7 August 2002 the accused saw and met Jaganathan when the latter was leaving for work at about 6.30am;
- (f) Jaganathan was at work the entire working day in his usual work place on 7 August 2002;
- (g) the accused pawned the *thali* as well as other gold ornaments belonging to the victim sometime around 9.00am on 7 August 2002;
- (h) the accused met Jaganathan when the latter was on his way home from work on the

evening of 7 August 2002 in the vicinity of the victim's block of flats;

- (i) just around 6.00pm or thereabouts the accused took Jaganathan with him purportedly for dinner;
- (j) later that night the accused drove Jaganathan to Yishun Industrial Park A and there Jaganathan was hit on his head by the accused with a metal bar or pipe;
- (k) Jaganathan who lay hurt and unconscious in Yishun Industrial Park A was conveyed to the Intensive Care Unit of the Singapore General Hospital at about 12.03am on 8 August 2002;
- (l) Jaganathan is certified to be still suffering from post-traumatic amnesia;
- (m) the victim's body was found inside her flat on 9 August 2002;
- (n) the accused was arrested on 22 August 2002; and
- (o) he gave several statements to the police voluntarily (retracted at the trial), in the main, admitting that he assaulted and caused hurt to the victim on the morning of 7 August 2002.

70 It was also clear from the evidence adduced at the trial that on 9 August 2002, the police discovered the body of the victim in her flat. There were several injuries on her body, some very serious. The conclusion by the forensic pathologist was that she had succumbed to her injuries and the time of death was estimated to be about two days before 10 August 2002, the date of the autopsy. Her jewellery, including the embodiment of her marital status, her *thali*, was missing. Investigations by the police led them to the identification of the accused as the person who pawned her jewellery on the 7 August 2002 at about 9.00am. He was, in the event, arrested on 22 August 2002 and following his arrest, he had voluntarily and in most explicit terms, admitted to the police that he was with the victim alone on the morning of 7 August 2002, he attacked her with a metal bar which he had brought along with him that day, he removed some of her jewellery and cash and following that, he went to the pawnshop to pawn those jewellery.

71 But there was a different story at the trial. The accused denied any role in the offence. He claimed that his statements admitting the offence were fabricated by him. Those admissions, according to him, were as a result of his feeling sorry for causing hurt to Jaganathan and out of a sense of hopelessness and frustration with his life brought about by his mounting debts and matrimonial discord. His claim at the trial was that he never saw the victim on the morning of 7 August 2002, that he never inflicted any injuries on her and that Jaganathan had told him that the latter was the person who had injured the victim on the day in question. The issue for determination was where the truth lay.

72 In the course of criminal trials, the incidence of the accused withdrawing or retracting his or her confessions is not uncommon. In such a situation, the issue to be decided would be whether the confessions, admitted in evidence as being made voluntarily without any vitiating factors, could be relied on by the court to bring about the conviction of the accused. The law is well settled on this issue. In *Yap Sow Keong v PP* (1947) 13 MLJ 90, the Court of Appeal held that even if a confession had been retracted by the accused, the accused could still be convicted on the strength of the said confession alone so long as the court was satisfied that the confession was true. The said principle was re-affirmed by the Federal Court in *Osman v PP* [1965–1968] SLR 128 and later in *Ismail bin UK Abdul Rahman v PP* [1972–1974] SLR 232 where the Court of Criminal Appeal, after re-stating the above view, added that there was no requirement of any corroborative evidence to support the

confession.

73 In evaluating the claim of the accused that he was entirely uninvolved in the offence for which he was being prosecuted and that the real culprit was Jaganathan, I reviewed his testimony with great care. In the end, I came to conclude that what he said in his voluntary statements that he was indeed the person who inflicted injuries on the victim on the morning of 7 August 2002 was true and that his current protestations were all borne out of an attempt on his part to escape the rigours of the law. In this regard, reference ought to be made to a few, if not all, of the segments of his testimony which tended to thoroughly negate his credibility.

74 In relation to the statement, "[a]fter doing what I did and found out that murder has taken place I was shock [*sic*] and scared", appearing in the short cautioned statement (exh P201),^[8] recorded from him on the day of his arrest on 22 August 2002, he testified that what he "did" was in reference to Jaganathan and not to the victim.^[9] But almost immediately when the question was repeated by his counsel with an emphasis, he quickly did an about-face and said that at that time, he was confessing to the murder of the victim.^[10]

75 In my evaluation, his prevarication was very significant. Here was an accused who was asked to give a cautioned statement to a charge of murder which was clearly and unmistakably in reference to the victim, yet he would want the court to believe – initially at least – that his confession, or part of it, was in relation to the hurt he had caused to Jaganathan. In my view, the cautioned statement, in so far as it had been consistently admitted to have been made voluntarily, did not leave any room for doubt that the accused was at that time prompt in expressing his remorse and confessing his guilt for an act committed by him. The claim by the accused that he admitted the charge willingly, not because he was guilty of the charge but because of his concern for Jaganathan and his frustration with his life, was found by me to be improbable, and having paid close attention to his testimony in court, I had no hesitation in rejecting it as a blatant concoction.

76 Commenting on his statement (exh P218)^[11] given to the police on 29 August 2002, where he had detailed what took place between him and the victim at her residence on the fateful morning of 7 August 2002, he said^[12] that except for the second and third sentences in para 33 of the statement which read: "I waited in my car for about 5 minutes. I rested in the car", the entire portions from paras 33 to 46 of that statement were untrue. When asked by his counsel why he had chosen to make those untrue statements to the police, his feeble reply was that it was solely on account of his feeling fed up with his life then.^[13] He added subsequently:^[14]

I've hit Jaganathan and after I found out that he was arrested and all because of that I took pity on him. I felt that I was responsible for what happened, that's why I wrote the statement.

Here again, I found the attempted explanation by the accused to be entirely disingenuous. According to the accused, he hit Jaganathan on the night of 7 August 2002 because of Jaganathan's unreasonable demands and some veiled threats by Jaganathan. Further, according to the accused, his earlier suspicions that Jaganathan had hurt the victim were confirmed when later that night he saw the victim on the floor of her flat motionless and still. It should have been apparent to him at that stage, that Jaganathan had indeed brutally hurt his wife. Why then should the accused feel pity for a villain who had earlier threatened to implicate him unjustifiably? In my evaluation, the accused again had not been truthful in his claims in court and the reasons he ascribed for confessing to the murder of the victim were rejected by me as dubious and contrived.

77 There were a host of significant improbabilities and inconsistencies in the evidence of the accused. Suffice it if I mentioned one further detail.

78 The accused testified in court that shortly after he had been handed over the *thali* and other gold ornaments by Jaganathan, he telephoned the flat of the victim to thank her for the assistance. However, what he heard was not the voice of the victim but the voice of another woman, saying "Jaga, Jaga". The other claim was that after he had left Jaganathan at Yishun Industrial Park A, he hastened to the flat of the victim and found her sprawled on the floor. These not-so-insignificant details did not seem to feature at all in any of his statements recorded from 22 August to 10 September 2002. Why would he want to keep these vital details to himself until the commencement of the trial? The inescapable inference was that the accused was fabricating all these details belatedly in a hopeless attempt to extricate himself from his present predicament.

79 In my finding, the accused could not have described the scene of crime in such detail in his statements without being there in the first instance. It was an undisputed fact that the accused was arrested on 22 August 2002 and that he was not shown beforehand any of the scene of crime photographs when he was detailing what supposedly happened at the victim's flat on the morning of 7 August 2002. In my evaluation, the accused had invented this story about his visiting the flat of the victim on the night of 7 August 2002 in order to explain how he came to know such details, including the piece of cloth covering the window of the victim's kitchen and the colour of the bedsheet covering the victim's body.

80 The accused suggested that it was Jaganathan who had caused hurt to the victim. The accused further claimed that Jaganathan also tried to offer him money for him to create an alibi. Unfortunately, Jaganathan was clearly under a disability to recount the events of the 7 August 2002, due to the brain injury inflicted on him by the accused. Nevertheless, the story that he had in fact handed over his wife's *thali*, of all things, on the morning of 7 August 2002 was something that defied credibility and belief. According to the accused, he never spoke to Jaganathan about the loan beforehand or his going to meet the victim on the morning of 7 August 2002. Therefore, it was extremely unlikely that Jaganathan would have expected the accused to be at the ground level of his flat at the time he was going to work. In any event, if Jaganathan was indeed unhappy with his wife lending money to all and sundry, it was extremely unlikely and most improbable that he would have come down from his flat on the morning of 7 August 2002 to hand over to the accused, of all things, his wife's *thali*, that too after causing hurt to his wife. In my view, the story narrated by the accused and pressed on by his counsel had no semblance of truth or cogency.

81 Defence counsel also raised an issue out of a small aspect of what appeared at first blush to be blood that was found in the kitchen area of the victim's flat, near the kitchen sink.^[15] Although scientific analysis established that it contained the DNA of Jaganathan, the evidence of Dr Christopher Syn Kiu Choong from the Centre for Forensic Science, Health Sciences Authority^[16] was that he could not conclude that the matter found and analysed was blood or other biological fluids.^[17] Although, according to the police, the stain found on the floor looked like blood, nothing significant, in my determination, seemed to turn on this aspect. First of all, Jaganathan was living with his wife in this flat. It would be totally consistent with the theory that the matter found on the floor, very close to the kitchen sink, could even be his blood from his spitting or from shaving or from any cut or abrasion not unusual in any household. To give a dimension of evil to the said discovery would be a quantum leap and irrational. In my view, Jaganathan was not involved with the hurt caused to her on 7 August 2002 and it was most unfortunate that the police initially proceeded to charge Jaganathan, a hapless man, for the murder of his wife. In the course of these proceedings, it became obvious that the investigating officer regrettably mistook, first of all, Jaganathan's mention of a Tamil word "*almari*" (same in Malay as well) which meant cupboard or wardrobe for the English word "*armoury*" and secondly his facial characteristics and mannerism for smiles.

82 After reviewing all available scientific data and evidence adduced at the trial, my conclusion

was that the statements given by the accused admitting his attacking the victim with a metal pipe or bar on the morning of 7 August 2002, notwithstanding their retraction, were found to contain the truth.

83 In my evaluation, the story by the accused, that he in fact duped the police and falsely confessed to the crime with which he was charged because at one stage he took pity upon Jaganathan, was wholly unworthy of belief. In my determination, the accused could not have narrated in such great detail what took place in the flat of the victim on the early morning of 7 August 2002, without his actual involvement in the said offence. In my view, his protestation of innocence at the trial and his current suggestion that the real villain was Jaganathan, was a cynical mix of lies and cant. In my finding, the Prosecution had proven its case against the accused beyond a reasonable doubt and the accused had not established his defence on a balance of probabilities. Having considered all the facts and arguments presented, I found the accused guilty of the charge on which he was tried. Consequently, he was convicted, and sentenced to death.

84 The other charges which were earlier stood down were withdrawn by the Prosecution and the accused was granted a discharge amounting to acquittal pursuant to s 177 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed).

[\[1\]](#) Page 418 of the PI Records

[\[2\]](#) Page 420 of the PI Records

[\[3\]](#) Page 367 of the PI Records

[\[4\]](#) Pages 442 to 444 of the PI Records

[\[5\]](#) Pages 458 to 462 of the PI Records

[\[6\]](#) Pages 464 to 466 of the PI Records

[\[7\]](#) Pages 1401 to 1402 of the Notes of Evidence

[\[8\]](#) Page 367 of the PI Records

[\[9\]](#) Page 1253 lines 23–25; p 1254 lines 6–9 and p 1255 lines 11–13 of the Notes of Evidence

[\[10\]](#) Notes of Evidence p 1255 lines 14–16

[\[11\]](#) Pages 445 to 452 of the PI Records

[\[12\]](#) Pages 1278 to 1284 of the Notes of Evidence

[\[13\]](#) Page 284 lines 23–26 of the Notes of Evidence

[\[14\]](#) Page 1286 lines 4–7 of the Notes of Evidence

[\[15\]](#) Photograph P25 – marking N

[\[16\]](#) PW-15

[\[17\]](#) Page 136 lines 23–27 of the Notes of Evidence; p 141 lines 1–21

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