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

**[2019] SGHC 221**

Magistrate's Appeal No 9029 of 2019

Between

Ye Lin Myint

… *Appellant*

And

Public Prosecutor

… *Respondent*

---

# GROUNDS OF DECISION

---

[Criminal Procedure and Sentencing] — [Sentencing] — [Criminal intimidation by anonymous communication]

# Ye Lin Myint
# v
# Public Prosecutor

**[2019] SGHC 221**

High Court — Magistrate's Appeal No 9029 of 2019
Sundaresh Menon CJ
19 July 2019

18 September 2019

**Sundaresh Menon CJ:**

## Introduction

1 Over the course of a month spanning August and September 2017, the appellant waged a campaign of criminal intimidation and harassment against clients and prospective clients he had come to know in his capacity as an insurance agent, and also against members of the public. The appellant employed sophisticated means of concealing his identity, using anonymised email accounts and setting up a Bitcoin wallet in the hope of receiving payments anonymously. He also operated under the guise of various pseudonyms, including "Lord Voldemort" and "Dr Bruce Banner". His communications threatened the recipients with physical harm, reputational damage, loss of employment, and imprisonment, amongst other things. These communications caused considerable distress to those who were unfortunate enough to receive them, and reached a sufficiently large number of people that public disquiet was

occasioned. The appellant was ultimately discovered to be the author of these communications, and in all, 43 charges were brought against him.

2 The Prosecution proceeded with 13 charges. Five of these charges were brought for criminal intimidation by anonymous communication contrary to s 507 of the Penal Code (Cap 224, 2008 Rev Ed) ("PC"), and eight charges were for harassment by threatening communications contrary to s 3(1)(*b*) of the Protection from Harassment Act (Cap 256A, 2015 Rev Ed) ("POHA") and punishable under s 3(2) of that same Act. The appellant pleaded guilty to all these charges, and consented to the remaining 30 charges being taken into consideration ("TIC charges") for the purposes of sentencing.

3 The appellant was sentenced to a total of 29 months' imprisonment in the State Courts. He appealed on the grounds that that sentence was manifestly excessive. I heard the appeal on 19 July 2019, and dismissed it giving brief oral grounds at the time. I take this opportunity now to set out the detailed grounds for my decision, and also to set out a sentencing framework for the offence of criminal intimidation by anonymous communication under s 507 PC.

**Background**

4 The facts are drawn from the statement of facts to which the appellant admitted without qualification (the "Statement of Facts").

5 The appellant was formerly an insurance agent. He is a Myanmar national, and also a Singapore permanent resident. During the course of his employment as an insurance agent, the appellant became upset with several of his clients who failed to turn up for scheduled appointments with him, or had taken steps to cancel insurance policies that they had purchased from him. He

was also upset with prospective clients who had met with him but eventually decided not to purchase insurance policies from him. The appellant became disgruntled and angry, and felt that these persons had treated him badly and had disrespected him. In revenge, the appellant decided to embark on a campaign of criminal intimidation against them.

***The s 507 PC charges***

6 The appellant did this by means of communications which took the form of letters and emails. These were the subject of the five proceeded charges under s 507 PC. Four of the communications were sent as initiating communications where the appellant reached out to the recipients for the first time, while the remaining one was sent to follow up on an earlier communication.

7 The former category comprised fairly lengthy and detailed communications which contained essentially the same elements. First, the appellant addressed the recipient by name, demonstrating his familiarity with them. Second, the appellant adopted a false identity, varying from a single parent with a single sick child, to a single parent caring for three young children. Third, the appellant declared that he was desperate and in need of the recipient's help. Fourth, the appellant further reinforced his familiarity with the recipient's life, by asserting that he knew where they lived and worked and that he "basically… [knew] everything about [them]". In one of these communications, he also mentioned accurate details about the recipient's life by naming the recipient's workplace and identifying the recipient's daughter. Fifth, the appellant declared that this was only "Stage 1, introduction" and threatened that he would move on to "stage 2, 3, and so on", with the recipient's life getting "more miserable" with the advancing stages. Sixth, the appellant threatened to humiliate the recipient, or make him or her jobless, or destroy his or her

reputation, or even physically harm the recipient or the recipient's family members. Seventh, the appellant demanded that the recipient transfer him 1 Bitcoin at a specific wallet address. Eighth, the appellant asserted that reporting the matter to the police would be futile, and reminded the recipient that he was "desperate" and that the recipient had been specifically targeted. In this regard, he explicitly stated that "[he was] already inside and [the recipient] [could] not do anything to stop [him]". Finally, the appellant signed off under the pseudonym of "Lord Voldermort [*sic*]".

8 As regards the final email, the appellant targeted a recipient who had previously received one of his earlier threatening communications. In this later email, the appellant threatened that things would get worse for the recipient, because up to this point his actions had only been "warm ups". The appellant in the email in question threatened the recipient and his wife with irreversible attacks that would "destroy [the recipient's] life and reputation", and demanded an increased amount of 1.5 Bitcoin.

9 Each of the recipients of these communications felt alarmed by the communications and made a police report. For convenience, I refer to these individuals as the "first set of victims". The appellant explained that he had sent out these threatening letters and emails because he wanted the first set of victims to know that it was "not nice to do bad things to people who did not do anything to them". He had obtained the personal details used in the letters from his interactions with the victims, who were either his clients or prospective clients.

10 The communications which were the subject of the five proceeded charges were received on various dates between 16 August and 4 September 2017. The five communications that were the subject of the five TIC charges were received between 23 August and 7 September 2017.

***The POHA charges***

11 Some time after the appellant commenced this first spate of criminal behaviour, he came across a news article about unlicensed moneylenders harassing debtors for failing to repay their debts. He learnt from this article that in order to pressure the debtors to make payments, the moneylenders would resort to harassing the debtors' neighbours. The appellant took perverse inspiration from this article, and decided to harass not only the first set of victims, but also the neighbours and family members of those individuals. I refer to this latter category of individuals as "the second set of victims".

12 The appellant did not personally know any of the second set of victims. Instead, he randomly targeted these individuals and identified their addresses using Google searches.

13 The contents of these communications were more varied than those which are the subject of the s 507 charges. In most of these communications, the appellant falsely represented to the recipients that one of the first set of victims was indebted to him. The appellant threatened the recipients with the prospect of his harassing *their* homes or workplaces, if they did not persuade the person concerned from the first set of victims to pay him what he was owed. Some of these communications went into graphic detail, such as warning of the recipient's "gate [being] on fire or red paint all over [the recipient's] unit". Others also raised the prospect of physical harm to the recipient's family. In one particularly troubling letter, the appellant threatened the recipient with "attacks" that would "leave [her] and [her] husband with scars in [her] life that are irreversible". And in another, the appellant threatened to "destroy [the recipient's] reputation, [her] career and [her] life within a month". Although the appellant did not know most of these individuals, he nevertheless made efforts

to personalise the threats. For example, he cautioned one victim against thinking that he would be safe because he lived in private property. The appellant signed off as either "Lord Voldemort", "Lord Voldermort" or "Dr Bruce Banner" in these communications.

14 Each of the individuals in the second set of victims felt harassed by the communications they received and reported the matter to the police. Significantly, one of them, a 65-year-old retiree, was sufficiently fearful of the threatened acts that he immediately took steps to meet his daughter to show her the letter, and then also arranged for his daughter to escort his grandchildren home while he reported the matter to the police.

15 Further, the appellant's actions also attracted significant media attention, and the Singapore Police Force and a Member of Parliament, Dr Lee Bee Wah, had to issue online advisories advising recipients of these communications not to respond to them and instead to report any suspicious activities.

16 This second wave of criminal behaviour took place in August and September 2017. The communications which were the subject of the eight proceeded charges were received between 21 August and 10 September 2017. The communications which were the subject of the remaining 25 TIC charges were received between 21 August and 12 September 2017.

***Details about the email accounts and Bitcoin address***

17 Where the communications took the form of a letter, the appellant signed off either as "Lord Voldemort", "Lord Voldermort" or "Dr Bruce Banner". Where the communications took the form of an email, the email was sent from either of two Protonmail accounts: LordVoldermort@protonmail.com or BruceBannerDr@protonmail.com. Protonmail is an email service based in

Switzerland that does not require users to give up any personal information in order to create an account; it also does not maintain any records of IP addresses from which the account is accessed. These measures enabled the appellant to remain anonymous when he sent emails to the victims using these accounts.

18 After the appellant's arrest, it came to light that he had created a Protonmail account sometime in July 2017, using his wife's Lenovo laptop. At about the same time in July 2017, the appellant had also created a Bitcoin wallet. He linked the LordVoldermort email account to this wallet, which enabled him to receive and transfer Bitcoin, a form of digital currency which can be transferred between individuals using peer-to-peer networks without the use of intermediaries such as banks. One of its key features is the preservation of anonymity.

***The appellant's arrest***

19 The appellant was only arrested after the police had conducted extensive investigations into the offences, recorded multiple statements from victims and used DNA evidence to trace the appellant.

**The decision below**

20 The appellant pleaded guilty, and the District Judge accordingly focused on questions of sentencing: see *Public Prosecutor v Ye Lin Myint* [2019] SGDC 36 ("the GD").

21 The District Judge dealt with the s 507 charges first. He noted that these offences concerned an aggravated form of criminal intimidation, as the threats had been communicated anonymously and had therefore produced in the victims greater uneasiness than would otherwise have been the case. He

reasoned that the point of attack was not localised and the victims were therefore susceptible to greater suspense and apprehension than if the threats had not been made anonymously. The District Judge noted that the threats made by the appellant in the instant case carried the same characteristics as those communications which would typically be made the subject of extortion charges in s 385 PC, in that they would likely have caused his victims to suffer "extremely real and intense" levels of anxiety and concern, much like extortion victims would. He therefore considered that the better comparison in this case was with extortion offences, and not with offences of criminal intimidation *simpliciter* in s 506 PC. This justified an upward adjustment of sentence as compared to conventional intimidation cases, and thus the sentencing tariffs for s 506 PC offences were less helpful. He ultimately accepted a sentencing matrix put forward by the Prosecution, to which the Defence had not objected: GD at [48]–[49].

22 The District Judge identified a number of aggravating factors which applied in this case: GD at [50]–[54]. First, he considered that the appellant's actions had been motivated by malice and greed, as evidenced by the many and serious threats the appellant had made as well as his demand for payment by Bitcoin. Second, he found that the appellant had displayed a high degree of premeditation, in his use of pseudonyms, untraceable email accounts, and request for cryptocurrency as payment. Third, he noted that the threats caused considerable generalised anxiety to the recipients. Fourth, he considered that there had been cynical misuse of confidential information by the appellant, who had capitalised on the knowledge he had acquired in the course of his work as an insurance agent to personalise his threats and make them more alarming and coercive.

23 As against these aggravating factors, the District Judge also considered that the scheme appeared to have been poorly thought through as the police were able with relative ease to triangulate the common denominator amongst the victims, namely that the appellant was or had attempted to become their insurance agent; and furthermore, the victims were unlikely to have gone through the complex procedure of attempting to make payment using Bitcoin: GD at [57]–[58]. While none of the victims actually did make payment, the District Judge did not consider this a mitigating factor. The District Judge also did not accept that the appellant's mild depression had any contributory link to the appellant's commission of the offences, and hence gave it no mitigating weight. The District Judge did accept that it was mitigating, however, that the appellant had pleaded guilty: GD at [71]. After taking into account these considerations, the District Judge accepted the Prosecution's submission that a 12-month sentence per charge would have been appropriate, but ultimately reduced the sentence to ten months' imprisonment per charge on the basis that he would run two of these sentences consecutively: GD at [78].

24 Turning to the s 3(2) POHA charges, the District Judge ordered a sentence of three months' imprisonment per charge. The District Judge noted that the appellant was focused on generating the "maximum impact" with his campaign of harassment, and had largely succeeded. The slew of threatening letters and emails was reported in the mainstream media by The Straits Times and Channel NewsAsia, and was the subject of advisories issued by the police and a Member of Parliament: GD at [81]. Community-wide alarm had been caused by the appellant's actions, and considerable police resources had been expended in tracing and identifying him: GD at [80] and [93]. The recipients of these letters had also felt a significant degree of harassment. The harm

threatened in the form of arson or physical hurt was serious, and mirrored the methods of unlicensed moneylenders oppressing debtors: GD at [82]–[83].

25 The District Judge chose to run the sentences for two s 507 PC charges and three s 3(2) POHA charges consecutively, which yielded an aggregate sentence of 29 months' imprisonment.

## The parties' arguments on appeal

### *The appellant's arguments*

26 The appellant argued that the District Judge had failed to give appropriate weight to certain sentencing considerations in this case. First, he contended that the District Judge had failed to give sufficient weight to the mitigating circumstances of his case, namely that he was very ill and had been diagnosed with major or serious depression.

27 Second, it was submitted that the District Judge had failed to accord sufficient mitigating weight to the appellant's plea of guilt, the fact that he had co-operated with investigations and moreover, that he had sent out personal notes of apology to the victims and the Member of Parliament.

28 Third, the appellant argued that the District Judge had erred in applying the totality principle because he had ordered too many sentences to run consecutively, resulting in an unduly crushing and disproportionately long aggregate sentence. The appellant stressed that the threats – whether of physical harm, property damage, or damage to reputation – were never carried out. All the appellant had done was to send out "written menaces". Further, the appellant lacked any antecedents and possessed good character, these being factors to which the District Judge had not attributed sufficient weight.

29 Separately, the appellant also contended that the District Judge had misapplied the sentencing matrix for the s 507 PC offences. The District Judge had wrongly found the appellant to bear a medium level of culpability for acts that had caused moderate harm; instead, the appropriate assessment should have been a low level of culpability for acts that had only caused a low level of harm. Low harm was demonstrated by the fact that all the victims had done, despite their alarm, was to report the matter to the police; none of them had actually suffered any pecuniary loss, property damage, or harm to their reputations. Moreover, the alarm was confined to the individual recipients of the threatening messages because the appellant had not set out his threats in a public way, for example, by painting threats on the walls of the victims' residences as is sometimes done in unlicensed moneylending cases. Similarly, the appellant's low culpability was evidenced by the fact that he had only targeted those whose conduct he had perceived as rude or disrespectful to him. Greed or avarice had not been his primary motive.

***The Prosecution's arguments***

30 The Prosecution essentially defended the District Judge's decision in its submissions. The Prosecution contended that the District Judge was right to accept the sentencing matrix the Prosecution had put forward, as the sentencing matrix appropriately isolated the two principal parameters of harm and culpability which allowed a sentencing court to accurately gauge the seriousness of the crime. The District Judge also rightly took into account the relevant aggravating factors in this case, and correctly weighed them in the sentencing analysis. Thus a sentence of ten months' imprisonment for each s 507 PC charge was entirely justified.

31 The Prosecution also contended that the sentences ordered for the s 3(2) POHA offences ought to stand. The Prosecution argued that the District Judge had correctly identified and weighed the aggravating factors in this case, including the significant alarm caused to the second set of victims; the significant alarm caused to the public; the continuation of the appellant's malicious vendetta against the first set of victims; and the significant number of offences taken into consideration for the purposes of sentencing. A sentence of three months' imprisonment per charge was therefore appropriate.

32 The Prosecution summed up by arguing that the District Judge did not err in his application of the totality principle. Although the aggregate sentence of 29 months' imprisonment appeared to be significantly higher than the highest individual sentence ordered in this case of ten months' imprisonment per s 507 PC charge, it was difficult to say what the normal level of sentence was for the most serious of the individual sentences committed given the paucity of precedents on s 507 PC offences. It was sufficient that the global sentence fell just above the midpoint of the maximum prescribed sentence of four years' imprisonment for this category of s 507 PC offences. In any event, the sentence could not be described as crushing given the extensive criminality displayed by the appellant, who, driven by malice and greed, had committed 43 offences, carefully concealed his identity, and caused widespread alarm.

**Issues before the court**

33 Having regard to the parties' arguments, there were four issues before me in this appeal:

(a) First, what is the appropriate sentencing framework for s 507 PC offences?

(b) Second, how should the framework identified in (a) above be applied in this case?

(c) Third, did the District Judge arrive at the correct individual sentences for the s 3(2) POHA charges?

(d) Fourth, was the totality principle correctly applied?

## Issue 1: the appropriate sentencing framework for s 507 PC offences

### *The relevant legal provisions*

34 Section 503 PC creates the offence of criminal intimidation:

> **Criminal Intimidation**
>
> **503.** Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.

35 For present purposes, it is relevant to note that s 503 PC does *not* require that the victim actually experience alarm, distress or any other emotional state. It is sufficient for the offence to be made out that the threat is made with the relevant intention of causing the recipient alarm, or to cause the recipient to do something he was not legally bound to do, or not to do something he was legally entitled to do, as the means of avoiding the execution of such threat.

36 Section 506 PC sets out the punishment for criminal intimidation, where the communication is *not* made anonymously, and distinguishes between different categories of threatening communication:

> **Punishment for criminal intimidation**

> **506.** Whoever commits the offence of criminal intimidation shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both; and if the threat is to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or with imprisonment for a term which may extend to 7 years or more, or impute unchastity to a woman, shall be punished with imprisonment for a term which may extend to 10 years, or with fine, or with both.

37 Section 507 PC then adds an uplift of up to an additional two years' imprisonment in respect of the sentence ordered under s 506 where the communication *is* made anonymously:

> **Criminal intimidation by an anonymous communication**
>
> **507.** Whoever commits the offence of criminal intimidation by an anonymous communication, or by having taken precautions to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment for a term which may extend to 2 years, in addition to the punishment provided for the offence by section 506.

***Analysis***

38 It is clear from this trio of provisions that s 507 PC is not itself a freestanding offence-creating provision, but rather takes the form of an enhanced punishment provision. It provides an enhancement of two years' additional imprisonment on top of the imprisonment term that would ordinarily be ordered for the threatening communication. The baseline imprisonment term depends in turn on the content of the threatening communication, as the punishment provision in s 506 PC sets out different maximum imprisonment terms corresponding to the nature of the threat.

39 The reason why anonymous communications deserve enhanced punishment under the separate provision in s 507 PC is explained by the commentaries touching on the counterpart to s 507 PC in the Indian Penal Code 1860 ("IPC"), which served as the legislative progenitor for our Penal Code. In

*Dr Hari Singh Gour's Penal Law of India: Analytical Commentary on the Indian Penal Code* vol 4 (Law Publishers (India), 11th Ed, 2015), the authors explain that the principle behind s 507 of the IPC is this (at p 4899):

> The aggravating feature of this offence is the anonymity which accompanies the threat which produces in the receiver a greater uneasiness than when the author of the threat is known. Such a threat, moreover, shows greater malignity of mind, while the care taken to escape detection presents difficulties in proof, all of which make such an offender a fit subject of exemplary punishment.

40 Given that the sentence ordered under s 507 PC must latch on to the sentence ordered under s 506 PC, and is in that sense parasitical upon the latter, it is useful to note at the outset that the sentencing framework accepted below can only apply to cases of *general* criminal intimidation *made anonymously*. In other words, it cannot apply to communications which threaten death or grievous hurt, or which impute unchastity to a woman, these being communications that constitute a more aggravated form of criminal intimidation and subject to enhanced punishment in s 506 itself. Those situations did not present themselves on the present facts. With this caveat in mind, I turn to consider whether a sentencing framework ought to be adopted for s 507 PC offences.

*(1) A sentencing framework for s 507 PC offences is warranted in principle*

41 In my view, it is appropriate for this court to set out a sentencing framework for s 507 PC offences, although this framework ought not to be a "sentencing matrix" for the reasons I set out below.

42 As the parties and the District Judge have noted, there is a dearth of authorities dealing with s 507 PC offences. This calls for sentencing guidance from the High Court to assist lower courts in sentencing such offences

consistently. It is true that in undertaking this task, I do not have the benefit of reasoned decisions that detail and elaborate the various factual scenarios and relevant sentencing considerations that might arise across the spectrum of cases. But, as I made clear in *Logachev Vladislav v Public Prosecutor* [2018] 4 SLR 409 ("*Logachev*"), it is also possible for a court to develop a sentencing framework from first principles: *Logachev* at [33]. This case represents a useful opportunity to do so.

43 That said, the use of a sentencing matrix of the sort proposed by the Prosecution and accepted by the District Judge is not, in my judgment, the correct sentencing approach to adopt. As the Court of Appeal noted in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*") at [34], the use of a sentencing matrix depends on the court being able to isolate the "principal factual elements" of the offence. In my judgment, there would be significant difficulty in doing so in respect of offences caught by s 507 PC, because such offences are likely to occur in quite a wide range of factual situations.

44 There are two reasons for this. First, there is a wide range of factual situations that might fall to be captured by the offence-creating provision in s 503 PC. Section 503 PC criminalises those threats which are carried out with the intention of causing the recipient to feel alarm, to do something he was not legally bound to do, or not to do something he was legally entitled to do. The breadth of the statutory language employed in s 503 PC parallels that of s 182 PC, which criminalises the giving of false information to a public servant. Section 182 also speaks of the relevant intention in wide terms, with the offender having to "[intend] thereby to cause, or [know] it to be likely that he will thereby cause, such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit anything which

such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him". Section 182 PC was examined in *Koh Yong Chiah v Public Prosecutor* [2017] 3 SLR 447 ("*Koh Yong Chiah*"), a decision given by a three-judge bench of the High Court. There, the High Court expressed the view that because the offence could be committed in a wide range of situations for a wide range of purposes, it was difficult to define the interest the offence was intended to protect, and it was correspondingly difficult to categorise s 182 offences based on a set of "principal factual elements": at [48]. Similar concerns apply here.

45 Second, and focusing more narrowly on s 507 PC itself, the means by which the anonymous communication is conveyed can also take many forms. There are different lengths to which offenders might go to preserve anonymity and there are multiple ways by which a communication can be conveyed anonymously, for example, by way of letters or emails as in this case, or by way of text messages or an encrypted messaging service, or by painting a message on the walls of the recipient's residence, or even through the intermediary of another person who does not reveal the perpetrator's identity. All of these would form the necessary *actus reus*. It is therefore difficult to identify in the abstract a set of principal factual elements that would allow the court to properly categorise the offender's degree of culpability, and also the degree of harm caused, in s 507 PC offences. This, too, is a consideration that tends against the adoption of a sentencing matrix: see *Koh Yong Chiah* at [48].

*(2) The relevant sentencing considerations for s 507 PC offences*

46 In my judgment, the appropriate sentencing approach is instead a framework modelled on the two-stage, five-step sentencing framework set out in *Terence Ng* and adapted in *Logachev* (see in particular [73]–[75]). This

framework eschews a focus on the "principal factual elements" of the case and instead employs at the first step a general holistic assessment of the seriousness of the offence by reference to *all* the offence-specific factors rather than just the "principal factual elements": *Terence Ng* at [34] and [37]. For analytical clarity, the offence-specific factors can in turn be broken down into two main groups that go towards the offender's culpability and the harm caused by the offender's actions: see *Logachev* at [36]. This, in my view, would more fully capture the wide diversity of acts punishable under s 507 PC. I begin by setting out those sentencing considerations that are relevant to s 507 PC offences.

(A) Offence-specific factors

47 The following non-exhaustive offence-specific factors are relevant at the first step of the framework:

| **Offence-specific factors** | |
|---|---|
| Factors going towards harm | Factors going towards culpability |
| (a) The degree of alarm caused, or the extent to which the recipient was compelled to perform acts against his will or to refrain from exercising his rights<br><br>(b) Public disquiet<br><br>(c) Physical harm occasioned by the threat | (a) The degree of planning and premeditation<br><br>(b) The level of sophistication<br><br>(c) The duration of offending<br><br>(d) Abuse of position and breach of trust<br><br>(e) The offender's motive in committing the offence<br><br>(f) The degree to which the offender exploited his anonymity to cause alarm |

48 I will go into these factors briefly, beginning with the factors that go towards harm. A key factor in this category concerns the recipient's reaction to the threat. The essence of criminal intimidation is a threat. The purpose of making that threat is to cause the recipient either to feel alarm, or to provoke a reaction of some sort in terms of an act or omission which the recipient would not otherwise have made. By its very nature a communication of a threat alone would not cause the recipient physical harm; alarm is an emotional response. Similarly, the election to do or not to do something does not necessarily entail the recipient suffering physical harm. Thus, it is relevant in assessing the harm caused by the offence to focus on the degree of alarm experienced by the recipient, or the extent to which the recipient was made to do something he would rather not have done so as to avoid the threatened consequences, as these form the usual and direct response to the threat. The corollary of this is that if the recipient suffers physical harm, for instance in the course of acting in response to the threat, that may well be regarded as a separate aggravating factor depending on the circumstances.

49 In addition, it is helpful to distinguish between the harm caused to the recipient and those closely related to the recipient, focusing on the *personal* anxieties and concerns felt by those individuals as a result of receiving the threatening communications, as compared to the sense of public disquiet and unease felt by the public at large who, although they have not received such communications, might justifiably feel that public order is threatened. Where the threats are made on such a scale as to provoke anxiety in the general public, that may rightly be regarded as a separate aggravating factor.

50 I turn now to the factors that go towards culpability. The first four of these are well-established and were canvassed in *Logachev* at [56]–[59] and [62]. I therefore consider them only very briefly here. In short, the degree of

planning and premeditation and the level of sophistication are both concerned with the amount of planning and thought that goes into sending the threatening communications *and* preserving the offender's anonymity. Next, the duration of offending may also be a relevant factor where there is a sustained campaign of threatening communications being sent. The short point is that serial offending is an aggravating factor, though the sentencing court should be careful not to incorporate this as a separate aggravating factor in determining the sentence for an individual offence if the point has been adequately addressed by choosing to run more sentences consecutively – see further at [76] below. Similarly, where the offender is able to target the recipients only because he has misused confidential information which has come into his hands by virtue of his position in relation to the recipients, that too will increase his culpability.

51 The fifth factor, which examines the motive of the offender, is also a consideration that goes towards determining the offender's culpability. This is not a new development in sentencing. In *Zhao Zhipeng v Public Prosecutor* [2008] 4 SLR(R) 879 at [37], Chan Sek Keong CJ observed that "motive affects the degree of an offender's culpability for sentencing purposes", such that "[p]ersons who act out of pure self-interest and greed will rarely be treated with much sympathy", while "those who are motivated by fear will usually be found to be less blameworthy". I developed this observation further in *Vasentha d/o Joseph v Public Prosecutor* [2015] 5 SLR 122 at [40], where I noted that a person who engages in drug trafficking activities "for personal gain would bear a higher degree of culpability than one who becomes involved only because he was coerced or threatened into doing it, or was exploited by virtue of his low intellectual ability or naivety". Similarly, See Kee Oon JC (as he then was) set out a helpful survey of the considerations that might go towards illustrating different types of motive in *Lim Ying Ying Luciana v Public Prosecutor and*

*another appeal* [2016] 4 SLR 1220 at [45]. Notably, See JC noted that the commission of an offence out of malice or spite has been considered an aggravating factor, citing *Lim Siong Khee v Public Prosecutor* [2001] 1 SLR(R) 631 at [21], whereas the existence of a pressing financial need which causes the commission of the offence might be considered a mitigating factor, citing *Lai Oei Mui Jenny v Public Prosecutor* [1993] 2 SLR(R) 406 at [10].

52 A sentencing court which seeks to account for the offender's motive in conducting the sentencing assessment should bear in mind two key principles. The first is that motive ought not to be confused with intention. Intention, as a type of *mens rea*, is one of the elements of an offence. Motive is not. Instead, the offender's motive explains *why* he committed the offence. Although it will almost always be relevant to the sentencing inquiry to consider what the offender's motive was, it can also be the case that no motive can be discerned on the facts, in which event this should not feature in the sentencing analysis.

53 The other key principle to bear in mind is that a finding as to motive should not be treated as necessarily aggravating or mitigating in and of itself. As the authorities cited at [51] above show, an offender's motive may heighten his culpability, but equally it may reduce culpability. It all depends on the precise motive in question. Motive is therefore an offence-specific factor, but not necessarily an aggravating one in and of itself.

54 I turn then to consider the sixth offence-specific factor, which concerns the degree to which the offender exploited his anonymity to cause alarm. The use of anonymity is considered aggravating because the recipient suffers a heightened sense of unease from being unable to identify the person behind the threat, and consequently to assess its gravity or when or how it might manifest: see [39] above. Where this sense of unease or apprehension is exacerbated by

the actions of the offender, his culpability will be heightened. This can take the form of the offender devoting greater efforts towards concealing his identity, as where he makes use of several anonymising layers or technologically sophisticated means to more effectively maintain his cloak of anonymity. The victim correspondingly feels a greater degree of unease and alarm from being unable – either personally or even with the assistance of the authorities – to peel back the layers of anonymity to discover the identity of the offender and thus to gauge the reality of the threat.

55 Another way the offender might exploit his anonymity is to capitalise on it to strike terror in the hearts of his victims. Thus, even without the use of sophisticated technological means or the deployment of layers of anonymity, a victim's sense of distress might be palpably increased where the offender refuses to reveal when, where or how he might act on the threat, such that the victim feels the need to constantly be on guard against it.

56 Similarly, the victim might be left distressed where the offender exploits privileged information to skew the information asymmetry as between him and his victim in the offender's favour. Such a victim would understandably feel exposed by the offender's proven familiarity with him, his family and his routines, all while the victim knows nothing about the offender.

57 Although the use of anonymity is an element of the s 507 PC offence, where anonymity is exploited so as to maximise the alarm or apprehension felt by the victim, the *degree* to which anonymity is exploited is something a sentencing court can take into account in determining the offender's culpability. It bears reiterating, however, that the employment of anonymity is not an aggravating factor in and of itself.

58 Further, a sentencing court should be mindful not to double count the offence-specific factors in its sentencing assessment. I observed in *Logachev* at [38] that the categories or labels used to describe these offence-specific factors may not always be watertight. The sixth factor here, concerning the degree of exploitation of anonymity, illustrates this. The use of sophisticated technological measures to enhance the offender's anonymity is likely to involve a high degree of planning and premeditation, the use of sophisticated means, and also the exploitation of anonymity to maximise the victim's alarm. In such a situation the sentencing court should be careful to give the appropriate weight to each factor as would ensure that the offender's culpability is properly assessed, and should be wary of assessing the offender's culpability merely by the number of factors that are enlivened by the facts.

(B) Offender-specific factors

59 Offender-specific factors do not directly relate to the commission of the offence in question, and are generally applicable across all criminal offences, as I made clear in *Logachev* at [36]. Thus, the following non-exhaustive considerations will be relevant at this stage of the analysis:

| **Offender-specific factors** | |
|---|---|
| Aggravating factors | Mitigating factors |
| (a) Offences taken into consideration for sentencing purposes | (a) A guilty plea |
| (b) Relevant antecedents | (b) Co-operation with the authorities |
| (c) Evident lack of remorse | |

60 These factors are well-established, and I do not go into them in detail here.

61 The above factors are not exhaustive of all the considerations that might present themselves in a s 507 offence, but account only for the more common features of such offences. I take this opportunity to clarify also that the sentencing framework is set out on the basis that the case is contested, because, as the Court of Appeal pointed out in *Terence Ng* at [40], the mitigating value of a plea of guilt cannot be fixed but is personal to the particular offender.

*(3) The appropriate sentencing framework for offences punishable under s 507 PC*

62 Having canvassed the relevant sentencing considerations for s 507 PC offences, I now set out the five steps of the sentencing framework, which is modelled on that set out in *Logachev*.

63 The first step involves the identification of the offence-specific factors which present themselves on the facts, so as to identify (a) the level of harm caused by the offence and (b) the level of the offender's culpability. Harm and culpability may each be broadly divided into three categories scaled according to increasing severity.

64 The second step is to identify the indicative sentencing range that would apply to the offence in question. At this point, I clarify that the sentencing framework applies only to s 507 offences which are founded on the base offence in s 506. In other words, the framework does not apply to the enhanced forms of criminal intimidation involving threats of death or grievous hurt or arson, or imputing unchastity, for which s 506 itself already provides enhanced punishment. These scenarios do not present themselves on the present facts and additional sentencing considerations might be relevant to them. The maximum sentencing range in the present framework is therefore an imprisonment term of four years, comprising the maximum range of two years' imprisonment

provided under s 506 and adding onto that the additional sentencing range of two years' imprisonment specified by s 507.

65 With this maximum sentencing range in mind, the following sentencing matrix is appropriate:

| **Harm** / **Culpability** | **Slight** | **Moderate** | **Severe** |
|---|---|---|---|
| **Low** | Fine or 0–6 months' imprisonment | 6–12 months' imprisonment | 12–24 months' imprisonment |
| **Medium** | 6–12 months' imprisonment | 12–24 months' imprisonment | 24–36 months' imprisonment |
| **High** | 12–24 months' imprisonment | 24–36 months' imprisonment | 36–48 months' imprisonment |

66 Once the applicable indicative sentencing range is identified, the third step involves the identification of the appropriate indicative starting point within that range. This involves examining the *offence*-specific factors once again to obtain a more particular sense of what the appropriate starting point would be in terms of sentence.

67 The fourth step involves making adjustments to the indicative starting point after taking into account *offender*-specific factors. It is possible that this will result in the sentence moving out of the indicative sentencing range originally identified, but where this occurs a sentencing court must set out clear and coherent reasons why this should be done: see *Logachev* at [80].

68 The fifth step involves making further adjustments to the sentence to take into account the totality principle.

**Issue 2: application of the framework to the present case**

69 I now apply the framework to the facts of the present case. In my judgment, the following offence-specific factors going towards culpability presented themselves on these facts.

70 First, the appellant was motivated by malice and greed. The appellant invoked the prospect of physical harm to the victims or their loved ones, financial ruin, public humiliation, reputational damage, and even arrest and imprisonment. The wide range of threats made, and the dire consequences promised, evidenced a calculated and malicious attempt to terrorise his victims into submitting to his demands. The appellant was also motivated by greed, because he demanded one Bitcoin from each of his original victims. One Bitcoin was worth about $6,600 in value at the material time. Although it is to be expected in cases of this nature that threats will not be made without the recipient being asked to do something, the value of the thing asked for is relevant in discerning the offender's motivations, and the value of the Bitcoin demanded here was substantial. The appellant was not satisfied merely with causing his victims alarm, as his counsel strenuously sought to argue before me. Instead, he also hoped to extract unlawful gains from his victims.

71 Both in his written submissions and in oral argument before me, the appellant made much of the fact that he was only targeting those against whom he bore a grudge. His actions were put across as a harmless attempt to "ventilate his anger and inner psychological tension/stresses". I disagreed. The evidence showed that the appellant took deliberate steps to preserve his anonymity so as to more effectively cause his victims alarm, and his victims did feel alarm exactly as he intended. It was also difficult to see how the appellant being motivated by vengeance was exculpating or mitigating in any way.

72 Second, the appellant displayed a high degree of planning and premeditation in carrying out these offences, as evidenced by his use of sophisticated technological measures to evade detection. One month before the appellant embarked on this criminal venture in mid-August 2017, the appellant created the anonymising Protonmail accounts and Bitcoin wallet in July 2017. The appellant was essentially throwing up two separate walls of anonymity: the anonymising Bitcoin wallet address was linked to the LordVoldermort Protonmail account, which was itself designed to maximise anonymity by not requiring the creator of the account to yield any personal details or information: see [17] above. Taken alone these might be innocuous actions, but given the proximity in time in which they occurred to the appellant sending out the threatening communications, it could readily be inferred that the appellant invested a great deal of forethought into how he would preserve his anonymity. These acts were therefore aggravating.

73 I add, however, that because the appellant's use of sophisticated technological means to conceal his identity was evidence of his planning and premeditation, I combined these two factors and considered them together as one. I reiterate my observations earlier at [58] that the categories are not watertight and a sentencing court must not be distracted merely by the number of labels put forward, which might obscure the true gravity of the offender's actions.

74 Third, the appellant abused his position as an insurance agent in order to carry out the s 507 offences. The appellant came to acquire the victims' personal details because they were either his clients or prospective clients. The appellant used this information against them to heighten their fear and distress. Indeed, the way he did so bordered on the cruel, by capitalising on those details which would make the victims feel most vulnerable. Thus, in one example, he

identified the victim's daughter and also named the victim's employer. In another, he named the victim's sister. The appellant's cynical misuse of confidential information was plainly an abuse of position and a breach of trust and confidence.

75 Fourth, the appellant exploited his anonymity to maximise the alarm caused to his victims. Putting aside the fact that the appellant deliberately planned to use and did use sophisticated means to conceal his identity, which are considerations I have already accounted for above, the appellant leveraged on the anonymity he had created so as to heighten the anxiety and distress felt by his victims. The appellant intentionally made use of revealing details about the victims' lives so as to accentuate the asymmetry of knowledge between him and his victims. The appellant also made certain that the victims were palpably conscious of this imbalance of knowledge and power by explicitly telling them that they were powerless to stop him. For example, several victims were told that he "[knew] everything" about them, was "already inside" and the victims "[could not] do anything to stop [him]". It was not enough for the appellant simply to hide behind the veil of anonymity; he wanted his victims to be acutely aware of their vulnerability. This calculated effort to capitalise on his anonymity was seriously aggravating.

76 I did not regard the appellant's serial offending as a separate factor because of the number of charges that had been proceeded with and given that the District Judge had, at least implicitly, taken this into account in choosing to run five sentences consecutively. I consider this further at [95] below. However, in the light of the four aggravating factors identified, I assessed the appellant's culpability as falling within the "high" level, albeit towards the low end of the range.

77 I turned then to consider those offence-specific factors which go towards harm. In my judgment, one factor presented itself on these facts. This was the alarm which was felt by the victims. I noted, however, that the Statement of Facts only recorded that "alarm" was felt by the victims, without specifying the degree of alarm experienced. Although the tone and tenor of the communications made it obvious that a significant degree of alarm was likely intended and likely felt, in the absence of words to that effect in the Statement of Facts I did not elevate the degree of alarm experienced by the victims and accepted that they simply suffered some "alarm".

78 Although the Prosecution suggested that the separate factor of fear caused to the general public was also raised, I did not consider that the evidence bore out this submission. The police advisory that was intended to quell the public disquiet was issued in response to the communications which were the subject of the s 3(2) POHA charges, and not the communications which were the subject of the s 507 PC charges, as the learned Deputy Public Prosecutor himself candidly admitted to the District Judge. Public alarm was therefore not an offence-specific factor that applied in respect of the s 507 PC offences.

79 Given that there was only one offence-specific factor which went towards harm, I considered that the harm caused here fell within "slight" harm. It is true that the recipients experienced alarm but, as I have noted above at [77], the Statement of Facts did not disclose that they suffered a high degree of alarm. I also recognised that none of the victims had actually suffered any pecuniary loss, property damage, or harm to their reputations (see [29] above), and accepted the appellant's submission that he had not adopted even more public methods of intimidating his victims, such as splashing paint on his victims' units as unlicensed moneylenders were wont to do. I therefore assessed harm as falling within the "slight" level in the matrix.

80 Turning to the sentencing matrix, the appropriate indicative sentencing range on the basis of the slight level of harm caused and the appellant's high level of culpability was a range of 12 to 24 months' imprisonment. On the facts of this case, I considered that the appropriate starting point within this sentencing range would have been 18 months' imprisonment.

81 Only one offender-specific factor applied on the facts, and that was the mitigating factor of the appellant's plea of guilt. The appellant argued in the appeal that the District Judge had failed to give the appropriate weight to this factor, but in my judgment the District Judge did not err in this regard. The District Judge expressly acknowledged the appellant's guilty plea in the GD at [100], and made adjustments at the level of the individual sentences to reflect this, as [70] and [78] of the GD make clear.

82 I deal briefly now with two other arguments the appellant made before me. First, the appellant attempted to argue that he was very ill at the time of the offences and suffered from an underlying depressive disorder that affected his ability to control his actions. This submission, however, was plainly ill-conceived and thoroughly debunked by the objective evidence. Although Dr Kenneth Goh, the psychiatrist from the Institute of Mental Health who examined the appellant, opined that the appellant had "an episode of mild depression at the time of the offences", Dr Goh was also clear that "[g]iven the large number of offenses [*sic*], the protracted time span and complex nature of the offending behaviour, it would be hard to say that his depression played any significant contributory role to his offending behaviour". Further, it was only later in February 2018 – several months after the offences were committed – that the diagnosis of major depression was made. There was therefore no foundation to the appellant's contentions that his depression had any

contributory link to his commission of the offences as would have carried any mitigating weight.

83 Second, the appellant also made much of the fact that the criminal venture was doomed to fail from its inception. Mr Foo, counsel for the appellant, stressed the significant technological hurdles the victims would have had to overcome to actually transfer the Bitcoin, and suggested that they would never have done so. It was said on this basis that the demand was never made with any serious intent. Indeed, the proof of this was in the fact that none of the victims ever did actually transfer the appellant any Bitcoin. As I made clear at the oral hearing, however, the short answer to this was simply that ineptitude by a criminal is rarely, if ever, a mitigating factor. The appellant fully intended the complexities of his criminal enterprise so that his identity could be concealed. If the victims had actually made transfers of Bitcoin, it was highly likely that the transfers would have been assessed as representing increased harm on the harm index or a separate aggravating factor entirely. Alternatively, more serious charges might have been brought.

84 In any event, the appellant was not as inept as Mr Foo made him out to be. The anonymising layers the appellant threw up *did* successfully conceal his identity for a substantial amount of time: extensive investigations involving the use of DNA evidence had to be conducted to trace the appellant, and the Prosecution clarified in oral submissions that the appellant was only arrested in September 2017, two weeks *after* the commission of the final offence.

85 The result, therefore, was that only one offender-specific factor, the appellant's plea of guilt, applied. I considered, having regard to the considerable evidence that had been painstakingly gathered by then, that an appropriate discount would have been a relatively modest reduction of two months'

imprisonment per charge, which would have resulted in an indicative sentence of 16 months' imprisonment per charge on the fourth step of the sentencing framework.

86 This brings me then to the fifth and final step of the sentencing framework, which requires the court to make adjustments to the individual sentences to take into account the totality principle. Because the totality principle has to apply to *all* the charges, however, I will deal with this last step below as I have yet to discuss the sentences for the s 3(2) POHA offences, to which I now turn.

**Issue 3: the appropriate sentence for the s 3(2) POHA offences**

87 Section 3(2) sets out the punishment for acts of harassment under s 3(1) of the POHA. The relevant provisions are reproduced here:

> **Intentionally causing harassment, alarm or distress**
>
> **3.** —(1) No person shall, with intent to cause harassment, alarm or distress to another person, by any means —
>
> …
>
> (*b*) make any threatening, abusive or insulting communication,
>
> thereby causing that other person or any other person (each referred to for the purposes of this section as the victim) harassment, alarm or distress.
>
> (2) Any person who contravenes subsection (1) shall be guilty of an offence and, subject to section 8, shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 6 months or to both.

88 The District Judge ordered a sentence of three months' imprisonment per s 3(2) POHA charge. I considered that this was an appropriate indicative sentence, subject to further adjustments necessitated by the application of the

totality principle. The District Judge correctly identified the relevant sentencing considerations, which I briefly summarise here. First, there was the considerable alarm caused to the second set of victims, all of whom made police reports, and one of whom arranged for his daughter to escort his grandchildren home. This showed that the fear and alarm caused was palpable and not in any way illusory. Second, the significant public disquiet caused by this second wave of criminality led to the police advisory being issued to the public at large that they ought not to act on the threats or demands of the appellant. Third, the appellant's serial offending was amply evidenced by the high number of proceeded charges (eight), and charges taken into consideration for the purposes of sentencing (25). Fourth, the harassing communications were made anonymously. Although it is an element of a s 507 PC charge that the threat be made anonymously, the same is not true of a s 3(2) POHA charge. The element of anonymity, which prevents the recipient from identifying the point of attack and consequently subjects him or her to a deeper sense of fear or unease about the threat manifesting from unknown persons at unknown times, must be considered aggravating.

89 None of the appellant's arguments concerning insufficient mitigating weight being accorded to his actions or character held any water. As with the s 507 PC charges above, only the appellant's plea of guilt had merit to it. In the circumstances, subject to any adjustments flowing from the application of the totality principle, an indicative sentence of three months' imprisonment per charge could hardly be said to be excessive, much less manifestly so.

90 I pause to note that the disparity between the indicative sentences which have been derived for the s 507 PC offences, and those for the s 3(2) POHA offences, might seem rather striking, given that there was not much difference in substance as to what was done: in both categories of offences threatening communications were made that caused the recipients to feel alarm. The threats

employed in the s 507 PC offences were more graphic and elaborate, but the reactions of the victims in both cases do not appear to have been significantly different. The difference in sentencing, however, simply follows from the fact that the sentencing ranges set out by Parliament for the respective offences are quite different. The sentencing range for the criminal intimidation offences punishable under s 507 PC, after taking into account the uplift of an additional two years' imprisonment for anonymous communications, is imprisonment of up to four years: see [38] above. In contrast, the total sentencing range provided under s 3(2) POHA is imprisonment of up to six months: see [87] above. It is a matter of prosecutorial discretion which charges ought to be brought. It is then up to the court to determine, within the sentencing range specified by Parliament, what the appropriate sentence is.

**Issue 4: the application of the totality principle**

91 The District Judge ordered that the sentences for two s 507 PC offences and three s 3(2) POHA offences should run consecutively for an aggregate sentence of 29 months' imprisonment. The appellant contended that this violated the totality principle, and the District Judge ought not to have run so many sentences consecutively.

92 I did not accept the appellant's arguments. Although the s 507 PC and the s 3(2) POHA offences occurred within a short span of time in two overlapping waves of criminality from August to September 2017, the victims of the offences for which the sentences were chosen to run consecutively were all distinct, and there was sufficient space in between the offences such that they could not be considered as falling within one transaction for the purposes of the one-transaction rule.

93 Further, the totality principle was not breached. The totality principle has two limbs to it, as I explained in *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Shouffee*"). First, the court should examine whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed. Second, the court should examine whether the effect of the aggregate sentence on the offender is crushing and not in keeping with his past record and future prospects: *Shouffee* at [54] and [57].

94 The Prosecution submitted that it was impossible to say what the normal level of sentences for s 507 PC offences ought to be given the dearth of authorities dealing with that provision. It was sufficient that the global sentence of 29 months' imprisonment fell above the midpoint of the maximum prescribed sentence for this category of s 507 PC offences of four years' imprisonment. I considered that this might be a useful proxy in applying the first limb of the totality principle. But the more important point was that the totality principle is a principle of limitation and proportionality that ensures that the global sentence is commensurate with the totality of the criminal behaviour: *Shouffee* at [80].

95 In *ADF v Public Prosecutor and another appeal* [2010] 1 SLR 874, the Court of Appeal observed (at [146]) that a court may consider running more than two sentences consecutively where factors including the following are present: (a) a persistent or habitual offender; (b) multiple victims; and (c) there being a pressing public interest concern in discouraging the type of criminal conduct being punished. The Court of Appeal expressed the view that "[in] the ultimate analysis, the court has to assess the totality of the aggregate sentence with the totality of the criminal behaviour". All three factors were present in this case. This was a case where the level of overall criminality was high given the total of 13 proceeded and 30 TIC charges, the sheer number of victims targeted,

and the significant public alarm that was caused. Running the five sentences consecutively was therefore appropriate to cater to the high degree of criminality displayed by the appellant.

96 That said, it was still necessary to examine whether the aggregate sentence that had been derived at this point in the sentencing analysis was an appropriate one. This was because, as I explained in *Shouffee* at [58], the totality principle is a consideration that applies at the end of the sentencing process and requires the court to take a last look at the facts and circumstances to assess whether the aggregate sentence was appropriate. The options available to a sentencing court at this stage include reassessing which of the sentences ought to run consecutively, or re-calibrating the individual sentences to arrive at an appropriate aggregate sentence: *Shouffee* at [59].

97 I return to the last step of the s 507 sentencing framework here. Having determined that the sentences for two s 507 PC offences and three s 3(2) POHA offences ought to run consecutively, I considered that an appropriate adjustment to the s 507 PC offences would have been to reduce the indicative sentence of 16 months' imprisonment to 14 months' imprisonment per charge. For the same reason, I would also have reduced the indicative sentence of three months' imprisonment for each of the charges under s 3(2) POHA to two months' imprisonment. It follows that on this analysis, the aggregate sentence would have been 34 months' imprisonment. This correspondingly means that the sentence of 29 months' imprisonment ordered by the District Judge might, if anything, have been on the low side.

98 The Prosecution, however, did not mount a cross-appeal against sentence. I therefore decided not to order a higher sentence and instead dismissed the appeal.

**Conclusion**

99 For the reasons given above, I dismissed the appeal and ordered the aggregate sentence of 29 months' imprisonment to stand.

Sundaresh Menon
Chief Justice

Foo Cheow Ming (Foo Cheow Ming Chambers) for the appellant;
Christopher Ong and Thiagesh Sukumaran (Attorney-General's Chambers) for the respondent.