

Public Prosecutor v Wang Zhijian and another appeal  
[2014] SGCA 58

**Case Number** : Criminal Appeals Nos 12 of 2012 and 4 of 2013  
**Decision Date** : 28 November 2014  
**Tribunal/Court** : Court of Appeal  
**Coram** : Chao Hick Tin JA; Andrew Phang Boon Leong JA; Tay Yong Kwang J  
**Counsel Name(s)** : Kelvin Lim (Kelvin Lim & Partners) and Jason Dendroff (J P Dendroff & Co) for the Accused; Mohamed Faizal, Hay Hung Chun and Timotheus Koh (Attorney-General's Chambers) for the Prosecution.  
**Parties** : Public Prosecutor — Wang Zhijian

*Criminal Law – Murder*

*Criminal Law – Special exceptions – Diminished responsibility*

[LawNet Editorial Note: This was an appeal from the decision of the High Court in [\[2012\] SGHC 238.](#)]

28 November 2014

Judgment reserved.

**Chao Hick Tin JA (delivering the judgment of the court):**

1 This was a tragic case involving the deaths of two women and a teenaged girl, with a second teenaged girl being seriously injured, in a single night of violence in the confines of a rented flat. Providing the backdrop to these events was the passionate, tortured and at times bizarre relationship between the man accused of the crimes and one of the deceased women.

2 The accused person is one Wang Zhijian ("the Accused"), a 48-year-old male Chinese national who was 42 years old at the time of the events. The four victims were all female Chinese nationals residing in the same flat. The first deceased is Zhang Meng ("Zhang"), who was in a romantic and sexual relationship with the Accused prior to her death. She was 42 years old at the time of her death. The second deceased is Feng Jianyu ("Feng"), the daughter of Zhang and 17 years old at the time of her death. The third deceased is Yang Jie ("Yang"), aged 36 at the time of her death. The sole surviving victim of the attacks is Li Meilin ("Li"), the daughter of Yang. She is now 21 years old and was 15 years old at the time of the events. The Accused faced the following four charges:

That you, **WANG ZHIJIAN**,

1<sup>st</sup> CHARGE

Sometime between 11.00pm on the 18<sup>th</sup> day of September 2008 and 12.49 am on the 19<sup>th</sup> day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]-[ZZ], Singapore, did commit murder by causing the death of one **ZHANG MENG** (Female/Date of Birth: 13 November 1966), and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

2<sup>nd</sup> CHARGE

Sometime between 11.00pm on the 18<sup>th</sup> day of September 2008 and 12.49 am on the 19<sup>th</sup> day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]-[ZZ], Singapore, did commit murder by causing the death of one **FENG JIANYU** (Female/Date of Birth: 23 August 1991), and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

### 3<sup>rd</sup> CHARGE

Sometime between 11.00pm on the 18<sup>th</sup> day of September 2008 and 12.49 am on the 19<sup>th</sup> day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]-[ZZ], Singapore, did attempt to murder one **LI MEILIN** (Female/Date of Birth: 10 February 1993), to wit, by slashing and stabbing her repeatedly with knives at various parts of her body including on her neck, lower back and face, with the intention of causing death to the said Li Meilin, and you have thereby committed an offence punishable under section 307(1) of the Penal Code, Chapter 224.

### 4<sup>th</sup> CHARGE

Sometime between 11.00pm on the 18<sup>th</sup> day of September 2008 and 12.49 am on the 19<sup>th</sup> day of September 2008, at Block [XX] Yishun Avenue 11 #[YY]-[ZZ], Singapore, did commit murder by causing the death of one **YANG JIE** (Female/Date of Birth: 3 April 1972), and you have thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

3 For convenience we will call these the 1<sup>st</sup> to 4<sup>th</sup> Charges respectively. The Prosecution stood down the 3<sup>rd</sup> Charge for attempted murder and proceeded with the 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> Charges for murder. Although it was not so specified in each of these murder charges, the Prosecution subsequently clarified that it was proceeding under s 300(a) of the Penal Code (Cap 224, 2008 Rev Ed) ("the Penal Code"), which reads:

#### **Murder**

**300.** Except in the cases hereinafter excepted culpable homicide is murder —

(a) if the act by which the death is caused is done ***with the intention of causing death*** ;

...

[emphasis added]

4 The Accused admitted that he had caused the deaths of Zhang and Feng. However, he did not admit that he had caused the death of Yang. For all three murder charges, the Accused relied on the defence of diminished responsibility found in Exception 7 to s 300 of the Penal Code, which states:

*Exception 7.*—Culpable homicide is not murder if the offender was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in causing the death or being a party to causing the death.

In relation to this defence, the psychiatric experts of both the Prosecution and the Defence agreed that the Accused was suffering from a psychiatric condition known as "adjustment disorder". However, the experts disagreed on whether the Accused's psychiatric condition had substantially

impaired his mental responsibility at the time he committed the offences.

5 Following a 10-day hearing, the trial judge ("the Judge") delivered his judgment on 30 November 2012, reported as *Public Prosecutor v Wang Zhijian* [2012] SGHC 238 ("the Judgment"). He found the Accused guilty of murder under s 300(a) of the Penal Code in relation to the 4<sup>th</sup> Charge and sentenced him to suffer death. However, in relation to the 1<sup>st</sup> and 2<sup>nd</sup> Charges, the Judge found the Accused had succeeded in raising the defence of diminished responsibility. Hence the Accused was convicted of the lesser offences of culpable homicide not amounting to murder in relation to the 1<sup>st</sup> and 2<sup>nd</sup> Charges. The Judge reserved passing sentence on the 1<sup>st</sup> and 2<sup>nd</sup> Charges pending the outcome of any appeal that might be lodged by either or both the Prosecution and the Accused against his decision. In the event, cross appeals were lodged: Criminal Appeal No 12 of 2012 ("CCA 12/2012") is the Prosecution's appeal against the acquittal of the Accused on the 1<sup>st</sup> and 2<sup>nd</sup> Charges of the murder offences, and Criminal Appeal No 4 of 2013 ("CCA 4/2013") is the Accused's appeal against the conviction and sentence imposed in respect of the 4<sup>th</sup> Charge.

## **Background facts**

### ***Relationship between the Accused and Zhang***

6 The background facts to these appeals are set out in the Judgment. In brief, the Accused first met Zhang in China in 2005, and they soon began a romantic relationship. In 2007, Zhang's daughter Feng came to Singapore to study, and she was accompanied by Zhang. They rented two bedrooms in a three-bedroom flat at Yishun Avenue 11 ("the Flat"). Zhang and Feng stayed in the master bedroom ("Bedroom 3") of the Flat, which had an attached bathroom. The other bedroom (Bedroom 1) was used from time to time by Zhang's friends and relatives. It was occupied by the Accused when he made his three trips to Singapore (see [9] below) to visit Zhang between July and September 2008. Yang and her daughter Li were the tenants of the remaining bedroom in the Flat ("Bedroom 2") and were unrelated to the Accused and Zhang.

7 As stated, the Accused and Zhang began a relationship in China and the Accused's undisputed evidence was that this relationship was not a smooth one as she was then married. When Zhang's family found out about her association with the Accused, they objected to it. Some of Zhang's family members even went to the Accused's home and workplace to harass him. The Accused also recounted an incident where he was confronted by Zhang's family members and received death threats from her brother. To avoid such harassments, the Accused had to change his place of residence frequently. He was also unable to continue working as a result. He chose to retire early and received over RMB\$300,000 (about S\$60,000) as retirement funds.

8 The Accused maintained that he continued to love Zhang despite her family members' objections and her "extreme" character. Unsurprisingly, their relationship was tumultuous. According to the Accused, Zhang attempted suicide on two different occasions when he tried to break up with her. The intensity of their relationship is evidenced by the following extract from the Accused's statement ("the Long Statement") recorded by the police pursuant to s 121 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("the CPC") on 24 September 2008:

15. ... She also offered to write a letter in blood to reaffirm her love for me. She asked me to reaffirm my love for her and I did. She used a needle to prick one of her right fingers. She wrote Chinese characters in blood stating '我爱王志' on a piece of A4 paper. She stopped writing the blood letter as she complained of pain. She then asked me to prick my finger which I did and I wrote the remaining '健我要嫁给他' in blood on the same piece of paper. I kept that piece of blood

paper. After that she asked me to show my love for her. I continued to write the 'blood love letter' to the effect 'I love her until I died' in Chinese characters. ...

The Accused's explanation of the tattoos on his body in his Long Statement recorded on 2 October 2008 also provides a glimpse into their tortured relationship:

Sometime in the beginning of May 2007, I had my first tattoo at my back. I tattooed Zhang Meng's face and half-body on my back and a rose at the bottom. I did it to express my sincere love for Zhang Meng. I tattooed a snake on my left shoulder while a skeleton and heart on my right shoulder. The snake symbolize the viciousness of Zhang Meng. The skeleton resembled the 'dead god' slowly and gradually swallow[ing] my heart, and the 'dead god' referred to Zhang Meng. I had the two tattoos on my shoulders simultaneously in January this year. ...

The Accused stated that Zhang was difficult to maintain because she liked a lavish lifestyle. With Zhang's expenditure and his own losses in the stock market, his retirement funds were soon reduced to RMB\$50,000.

9 In November 2007, Zhang's daughter, Feng, secured a place in a secondary school in Singapore. Zhang decided to accompany her to Singapore. She suggested that the Accused come to Singapore to be with her, and promised to help him find work. Before Zhang's death, the Accused visited Singapore three times. The Accused's third visit to Singapore was on 9 September 2008. During this visit, he stayed in Bedroom 1 until the fateful events nine days later on 18 September 2008.

### ***Zhang's humiliating and abusive treatment of the Accused***

10 The Accused's evidence was that he was subjected to humiliating and abusive treatment by Zhang during his second and third trips to Singapore. Zhang would not allow the Accused to leave Bedroom 1 when anyone else was in the Flat. As a result, the Accused claimed that on several occasions he had to urinate and defecate into plastic bags in Bedroom 1 because the room did not have an attached toilet. Zhang also prohibited him from interacting with anybody else in the Flat. According to the Accused, he was made to prepare meals for Zhang and Feng but was only allowed to eat their leftovers afterwards. He stated in his Long Statement recorded on 25 September 2008 that:

46. During my 2<sup>nd</sup> trip to Singapore, ... Zhang Meng disallowed me to leave my bedroom. She did not want me to meet the tenants. I suspected Zhang Meng did not want the tenants to know our relationship. [Feng] disliked me and Zhang Meng told me to stay in the bedroom most of the time. I spent my time reading newspapers, magazines and playing cards by myself. There were two main reasons for Zhang Meng who prohibited me from leaving the room whenever the tenants and [Feng] were in the house. The first reason being [Feng] disliked me, secondly Zhang Meng did not want me to see or talk to the tenant [Yang]. I felt myself confined in that bedroom. She controlled all my movement. I felt I was being suppressed.

11 The Prosecution did not dispute this aspect of the Accused's evidence. In fact, the sole surviving victim, Li, who appeared as the Prosecution's witness, testified that the Accused rarely walked around the Flat, and that each time she saw the Accused, he kept his head down and did not acknowledge her presence. She also said that the Accused "doesn't go to the toilet". The Judge accepted this aspect of the Accused's evidence and noted that it was relatively consistent with what he had told the two psychiatrists who had examined him about two years apart, as well as his oral testimony in court (see the Judgment at [12]).

12 According to the Accused, he was aggrieved by Zhang's treatment of him but did not stand up to her out of love and fear. He said Zhang would scold him, humiliate him and hit or bite him when she was angry. When queried about a bruise on his chest and scratch marks near his groin region, the Accused responded, in his Long Statement recorded on 2 October 2008, as follows:

Actually I feel very embarrassed to reveal this. Zhang Meng bit my chest and scratched my groin region days before the 18 September 2008 for no reason of (sic) reason. It was common for her to do so, whether she was happy or not.

When asked why he stayed with Zhang and came to Singapore yet again when their relationship was so unhappy, the Accused said he felt he was "her private property" and that Zhang would harass his family members when she could not find him.

### **The attack on Zhang and Feng**

13 We now turn to the events of 18 September 2008. The facts leading to Zhang's and Feng's deaths are not disputed. As the Judge found (at [13] of the Judgment), on the day of the incident, the Accused and Zhang had an argument in Bedroom 1. The Judge said that the argument took place at 8pm but the Accused in his Long Statement recorded on 25 September 2008 said that it happened after 9pm; the difference is however not material. The argument was apparently triggered by Zhang's demand for money from the Accused to buy crabs for dinner. In response, the Accused told her not to spend money wastefully and counselled her to save the money instead. As a result, Zhang became angry and started berating the Accused with vulgarities. In the Accused's statement recorded by the police pursuant to s 122(6) of the CPC ("the Cautioned Statement") on 19 September 2008, he stated that:

Zhang Meng humiliated and used vulgarities words on me. She scolded me poor fellow. In actual fact, I have some savings but she spent all for me. She wanted money from me to buy crab. I did not give it to her. She said I am a poor fellow and how can I afford to support her. I told her I have spent all my savings on her. What she expects from me? She even said that I was produced by dogs and donkey. She everyday confined me in the house and only allow me out once to purchase goods. I was not allowed to go to the toilet. On hearing all these, I became very angry.

14 The Judge observed (at [14] of the Judgment) that Zhang's berating of the Accused on the evening of 18 September 2008 was, proverbially speaking, the "straw that broke the camel's back". After the argument, Zhang went to sleep. However, the Accused, while lying down on his mattress in the same room, could not fall asleep. Instead, he was angry with Zhang for what had happened. In his Long Statement recorded on 25 September 2008, he stated:

49. ... I sat on the same mattress and remained there. I was angry with her. We had the heated exchange of words for more than an hour. All the past events with Zhang Meng came to my mind. I recalled that all these while I had been cheated by her. I also recalled how her family members humiliated and abused me physically and verbally. The more I thought, the angrier I felt. I 'lost' everything because of her. When I had nothing now, she asked me to get out. I felt suppressed in my heart. I was unable to cry out even though I wanted to.

50. I lay on the mattress but could not get to sleep. I looked at the time on my handphone and it was few minutes short to 11.00pm. I continued to lay there and thought of the unpleasant memories with Zhang Meng. For the past two years, I did not have a good sleep on most nights.

...

52. At around midnight, I left my bedroom to the kitchen to have some air. I wanted to relieve stuffiness stuffed in my chest. I did not feel good. At that time I could feel my blood flow rushed up to my head, it seemed that my head was going to explode. I grabbed a knife from the cutlery shelf and headed for my bedroom.

15 Thus on the Accused's own account he lay brooding for some time – around an hour and perhaps more – after which he went to the kitchen, grabbed a knife ("the serrated knife") and walked back to Bedroom 1. The Judge found that upon entering Bedroom 1 the Accused closed the door without turning on the lights. He went over to where Zhang was sleeping and stabbed her in her abdomen causing her to scream. The Accused continued to stab Zhang repeatedly with the serrated knife until she became motionless. The autopsy report prepared by the Forensic Pathologist, Dr Wee Keng Poh ("Dr Wee") identified 48 knife wounds to Zhang's head, neck, chest, abdomen and limbs. Dr Wee stated that Zhang died as a result of these wounds, six of which were fatal.

16 While the Accused was stabbing Zhang, the door to Bedroom 1 opened and a person stood at the doorway. The Accused recalled seeing a person at the doorway of Bedroom 1 but stated that he did not immediately identify the person as Feng. He recalled the person saying something, but could not make out the words. The Accused proceeded to attack the person at the doorway and stab her repeatedly in the abdomen until she too collapsed beside her mother in Bedroom 1. Dr Wee found 45 knife wounds on Feng, 12 of which were fatal. Feng died as a result of these injuries.

17 It was clear that the Accused had committed the *actus reus* of murder in respect of Zhang and Feng; the Defence did not dispute the Prosecution's case that all the wounds found on them were inflicted by the Accused in Bedroom 1. The above account of the events is also consistent with the Accused's Long Statement recorded on 29 September 2008 where he narrated his attacks on Zhang and Feng with vivid detail:

53. I returned to my bedroom and Zhang Meng was sleeping on the mattress lay on the floor. She rested her head on the usual flowery pillow, lying on the mattress and her face facing the ceiling. The room was in darkness as I did not switch on the light. I closed the bedroom door and went up to Zhang Meng. I could see her figure on the mattress although the light was not switched on. In a half squatting position, with my left knee on the mattress, *I grasped the knife with my right hand and thrust it 45 degree downwards at Zhang Meng's abdomen region. At that moment, she screamed and struggled a little as if she wanted to sit up.* I think it was her instant reaction, a normal human reaction. She did not manage to sit up. I thrust her many times with the knife continuously and I could not remember the exact number of times. *When I gave her the first stab, she screamed once followed by few screams. I remember she screamed "ar ... ..".* I kept on stabbing her abdomen region. It happened very fast and vaguely *I remember she continued to struggle and moved her body. I thrust her abdomen region with the knife until she became motionless.* My knife went in and out of her body.

54. *When I was thrusting Zhang Meng's abdomen region with the knife, suddenly the bedroom door opened.* I did not lock the bedroom door. Actually during my stay there I have never locked the bedroom door. Zhang Meng was the only one who entered my bedroom. *I saw a person standing at the bedroom doorway and uttered something which I did not hear clearly.* The whole house was in darkness and the only source of lighting came from outside the flat, giving faint lighting to the surrounding around me. I was near to the doorway and I stepped forward towards that person at the doorway. *I lost my mind and I could not control my emotion. I picked up from the squatting position and went forward to stab that person's abdomen region. In a horizontal direction, I thrust the knife into that person's abdomen region.* That person bent forward slightly in a standing position. I gave that person a few thrusts at the abdomen region

with the same knife. It all happened within ten of seconds. That person did not struggle. She staggered forward when I gave her the subsequent stabs. She collapsed on the same mattress, beside Zhang Meng.

18 The *actus reus* having been established, the Judge held that the *mens rea* for murder under s 300(a) of the Penal Code had also been established beyond reasonable doubt with respect to the killing of Zhang and Feng, ie, that the Accused had intended to kill them. He found that although the Accused stated in his Long Statement recorded on 29 September 2008 that he had lost his mind and could not control his emotions when he was stabbing Zhang and Feng, he was able to remember many details extremely vividly (see [17] of the Judgment). The Judge found that the vivid details the Accused narrated in his Long Statement were products of conscious recollection and not "reconstruction" as the Accused later claimed in cross-examination. For this reason the Judge accepted the Prosecution's submission that the Accused did not "lose his mind". He went on to say at [18] of the Judgment:

The degree of recollection, albeit imperfect at times, suggests that [the Accused] was sufficiently conscious to react to external stimuli and could even feel emotions while committing the acts of stabbing. The acts of stabbing were clearly intentional in nature and [the Accused] had intended to kill both Zhang and Feng at the time when he stabbed them multiple times with the serrated knife.

19 The Judge further noted that in relation to the defence of diminished responsibility, the Accused's acts of stabbing both Zhang and Feng, constituted a single transaction because the two incidents followed each other so closely in time that it was "extremely unlikely" that his state of mind and degree of self-control would have changed significantly in the interval of time between stabbing Zhang and soon thereafter stabbing Feng (at [19] of the Judgment).

### **The attack on Yang and Li**

20 While the Accused did not deny that he had stabbed Zhang and Feng, he maintained that he had nothing to do with the death of Yang, even as he acknowledged that he had also stabbed Li. Unlike his attacks on Zhang and Feng, which were not witnessed by anyone, Li was able to give evidence in court as to how the Accused came into Bedroom 2 and attacked her and Yang. Her account is largely consistent with what the Accused told the police in his statements, with a few significant exceptions.

### ***The Accused's version***

21 The Accused's version of events as recounted in his Long Statement of 29 September 2008 was this. Having stabbed Feng, he noticed the door to Bedroom 2 was "suddenly" opened and he saw two persons standing at the doorway. Still holding a knife he rushed into Bedroom 2. Although the room was dark such that he was unable to see the faces of these two persons he knew they were Yang and Li. They retreated into the room away from the door but he followed and stabbed one of them. He said that he had lost his mind and could not control his emotions. While he was stabbing that person the other ran out of Bedroom 2. He did not give chase but continued to stab the first person. Only when the person he was stabbing had collapsed onto the bed and was motionless did he leave Bedroom 2 to search for the person who had earlier run out of Bedroom 2.

22 He searched the whole flat – first Bedroom 3, then the kitchen, then the toilet in the kitchen and finally Bedroom 1; he noted also that the sliding glass door leading to the balcony was closed and thought that the person who had fled from Bedroom 2 could not have left the Flat. In his words he

became “panicky” when he could not locate her. He then returned to Bedroom 2 and was “shocked” to find that the person he had left motionless on the bed was no longer there. He went out of the bedroom to look for her. He saw that the door to the kitchen toilet was closed and kicked it open, and found her in there. He began stabbing at her with the same knife. In the midst of the struggle she managed to take away his knife, which made him “frighten” [*sic*]; thereupon he proceeded to take another knife from the cutlery shelf and renewed his attack on her. At some point he dropped the second knife and grabbed a third knife from the cutlery shelf and continued stabbing her. He ceased when he saw her lying on the floor motionless.

23 According to him, he then emerged from the toilet. He observed that the flats in the opposite block had their lights switched on and the residents of those flats were looking in the direction of the ground. He followed their gaze and saw a body on the ground. He deduced that this must be the person who had run out from Bedroom 2 and whom he was not able to locate despite searching the entire flat. There was no dispute that the person whose body was lying on the ground was Yang and that the other person whom he had stabbed in Bedroom 2 as well as in the toilet was Li although the Accused in his Long Statement did not identify them by name.

### ***Li’s testimony and the Prosecution’s case***

24 The Prosecution disputed the assertion in the Accused’s Long Statement that as he was stabbing Feng, the door of Bedroom 2 opened “suddenly” with Yang and Li appearing at the doorway, which led him to rush spontaneously and immediately towards Bedroom 2 to attack Yang and Li with the same serrated knife that he had used to stab Zhang and Feng earlier. The Prosecution’s case theory was that after stabbing Feng, the Accused entered the kitchen to search for another weapon. There, the Accused picked up a metal spatula, but subsequently, upon realising that the spatula was not a sufficiently sharp object to kill a person with, deposited it into the washing machine. The Accused then picked up a chopper from the kitchen and entered Bedroom 2 to attack Yang and Li.

25 The Prosecution relied on Li’s evidence as well as expert evidence to formulate the above case theory. Li testified that both she and her mother Yang were sleeping in Bedroom 2 when she was awakened by the sound of heavy breathing outside. Then, the door to her bedroom swung open and the Accused rushed in to attack her, slashing her multiple times. The Accused was then completely naked. Thereafter, the Accused left Bedroom 2. Li was not aware at the time that her mother, Yang, had already run out of Bedroom 2 and that the Accused left in order to pursue her. When the Accused was leaving the bedroom, Li heard him telling her in Mandarin, “You do not move, you do not move.”

26 The Judge found that Li’s evidence was supported by the evidence of the Prosecution’s forensic expert, Ms Lim Chin Chin, who prepared a crime scene reconstruction report (“the Reconstruction Report”) based on 13 expert reports (see the Judgment at [33]). Blood smudges containing a mixture of the DNA profiles of the Accused, Zhang and Feng were found on the exterior door knob of Bedroom 2, making it very likely that it was the Accused who had opened the door to Bedroom 2 to attack Yang and Li. Moreover, it was clear that the serrated knife used to kill Zhang and Feng was not the weapon used to attack Yang and Li. This was because Li’s DNA was not found on the serrated knife – whereas the DNA of Zhang, Feng and the Accused were found on it – and also since the serrated knife was eventually recovered by the police from a location under the bed spreads on the floor in Bedroom 1.

27 Based on the expert evidence, the Judge found that after attacking Zhang and Feng, the Accused hid the serrated knife underneath the bedding on the floor in Bedroom 1 where it was recovered by the police (see the Judgment at [34]). The Accused then went to obtain another



weapon before setting out to attack the tenants in Bedroom 2. The Judge also accepted the findings in the Reconstruction Report which stated that before going to Bedroom 2 the Accused had also gone to Bedroom 3, switched on the light and opened the wardrobe there for some unknown reason. The Accused had also gone into the kitchen, made contact with the metal turner in the red basket beside the kitchen sink and placed the spatula in the washing machine. Accordingly, the Judge opined that a considerable interval of time had elapsed between the Accused's attacks on Zhang and Feng and his subsequent attacks on Yang and Li, who were keeping to themselves inside Bedroom 2 with the door closed. The Judge opined (at [37] of the Judgment) that "there was a distinct and marked temporal break" between the attacks on Zhang and Feng and the attacks on Yang and Li and that "whatever defence that applies to the first two murders does not necessarily apply to the murder of Yang as well".

### ***The death of Yang***

28 In contrast with the level of detail with which he described his attack of the other three victims, the Accused consistently denied any knowledge as to how Yang fell to her death. The Prosecution's case was that as the Accused was attacking Li in Bedroom 2 with the chopper, Yang ran out of the bedroom into the kitchen. Yang then climbed out of the kitchen window to stand on the narrow concrete overhang, holding on to the laundry pole holders below the window sill. In the meantime, the Accused, who was then attacking Li, and presumably being concerned that Yang could run out of the Flat to raise an alarm, changed tack and came out of Bedroom 2 to pursue Yang. Upon finding Yang on the overhang, the Accused used the chopper to cut Yang's fingers, causing Yang to lose her grip on the laundry pole holders and fall from a height of six storeys to her death.

29 The Judge agreed with the Prosecution and held that the Accused had caused Yang's death. While there was no direct witness evidence, the Judge, in coming to this finding, relied on a number of pieces of objective evidence as well as the Reconstruction Report. To begin with, there was Dr Wee's opinion that the wounds on Yang's fingers were not caused by the fall or by the metallic window frame ledge. Dr Wee testified that the incised wounds on the anterior aspect of Yang's right hand fingers appeared to be defensive injuries, which could have been inflicted when Yang gripped a sharp instrument with her hand while it was being removed by her assailant. Dr Wee concluded, after having regard to the Reconstruction Report, that the assailant had cut the back of Yang's fingers on her left hand while Yang was holding on to the two bamboo pole holders outside the Flat (at [41] of the Judgment).

30 The Judge also accepted the postulations suggested in the Reconstruction Report that there was no evidence to indicate that Yang's fingers were cut while she was in the Flat. He noted that if her fingers had been cut while she was still inside the Flat, one would have expected to find some of her DNA in the large number of blood swabs taken from within the Flat. In particular, one would have expected her DNA to have been found on the inner kitchen wall, the kitchen window frame, the kitchen window sill area and/or the kitchen sink area, because in the process of climbing out of the kitchen window, her bloodied fingers would have made contact with some of these areas. She could not have climbed out of the kitchen windows without her hands being in contact with some of those areas and thereby leaving some traces of blood and DNA (see the Judgment at [42]–[43]).

31 Yet the blood swabs taken at the interior surface of the window and sink areas in the kitchen contained a mixture of the Accused's, Feng's and Li's DNA profiles *but not Yang's*, which was consistent with the Prosecution's case that the Accused was at the kitchen window slashing Yang's fingers while Yang was standing on the overhang and holding on to the pole holders for dear life. Equally pertinent was the fact that Yang's DNA profile was found in contact bloodstains and spatter stains on the two pole holders and the *exterior* wall surface of the kitchen. The Judge therefore found

that the Accused had slashed at the fingers of Yang while she was holding on to the pole holders, causing her to fall to her death (see the Judgment at [45]).

### ***The further attack on Li***

32 It was not disputed that there were two separate attacks on Li. The first occurred immediately after the Accused entered Bedroom 2, and the second took place after the Accused re-entered Bedroom 2 following his having caused Yang to fall to her death from the concrete overhang outside the kitchen window. Li's evidence was that after the first attack, and after the Accused had left Bedroom 2 in search of Yang, she walked towards the door of Bedroom 2 and closed it. As she did so, the Accused returned to Bedroom 2 with a knife in his hand and pushed her to the lower deck of the double-decker bed. The Accused instructed her in Mandarin to "close [her] eyes and not to scream" and promised that he would not kill her. Li agreed but did not close her eyes fully as she did not trust the Accused. She managed to see the Accused thrust the knife towards her whereupon she screamed and kicked him. He fell; and, taking the opportunity (while bleeding profusely), she then ran out of Bedroom 2 and across the living room into the kitchen toilet, where she locked herself in by securing the foldable door.

33 The Accused pursued her and succeeded in pulling the foldable door apart. He used a knife to slash Li repeatedly at her face and neck. She screamed until she was no longer able to and lay still on the floor of the toilet. At that point she heard the Accused say, in Mandarin, words to the effect of "I do not chop you anymore" and walked out of the toilet. Li understood this to mean that the Accused thought that she was as good as dead. At that moment, she said to herself, in Mandarin, "God, let me go". The Accused might have heard her; he returned to the toilet and stabbed Li several more times with the aim of finishing her off (see the Judgment at [48]). The Judge found that the Accused's intention that night was to silence everyone present in the Flat including Yang and Li because they had recognised him.

### **The immediate aftermath of the attacks**

34 After the Accused had stabbed Li in the kitchen toilet, he went to the attached bathroom in Bedroom 3 where he placed the knife and the chopper used in the attack on Li – and probably in the attack on Yang – on the bathroom floor and proceeded to take a shower. Thereafter, he put on his clothes, put plasters on his injured finger, packed his bag with clothes, money and travel documents – including his passport and Chinese identity card – and put on his socks and shoes. The Accused denied that he was trying to escape from the scene. He said that he had felt "lost" and was confused as to how the packed bags ended up in the living room, where they were eventually found. Nevertheless, the Judge found (at [52] of the Judgment) that the Accused had had the presence of mind to make preparations to leave the Flat and flee the country. However, before he could escape, the police arrived.

35 The Accused did not resist arrest. He informed a police officer that he had killed three of the occupants in the Flat – the fourth having jumped out of the window after he had injured her in the kitchen with a knife – and that he had attacked the women because they had all verbally and physically abused him. The following extract is from a statement given by Senior Investigating Officer, Desmond Tan Hsien Yang ("SIO Desmond Tan"), who interviewed the Accused at the scene:

He informed me that the other occupants in the house/unit had physically abused him and verbally abused him. As such, he could not withstand the abuses, snapped, and embarked on a killing spree. I then proceeded to ask him how many occupants were within the unit. He informed me that there were 3 other occupants in the unit and another one had jumped downed [sic]. I

re-affirmed with him that there were a total of 5 persons, including himself, living in the unit. He acknowledged. I then asked him on the whereabouts of the other 3 occupants. He told me that two of them were in the room and one of them is in the toilet in the kitchen. I further enquired with him on the statuses of the 3 occupants. He informed me that they might not have any signs of life. I then probed further why is that so and he replied that it was because he had stabbed them. He also told me that he had stabbed them because of the abuses that he received from them and snapped when he could not take it anymore. ... All this while, the male subject was calm and not violent. He was able to answer rationally and calmly to all the questions that I had earlier posted to him. However, he brought my attention to his finger that was injured during the scuffle and he would require immediate medical attention as he is in pain. ...

...

Again I went back to the male subject to enquire on the sequence of events that led to the occurrence of the incident. The male subject has claimed to be the boyfriend of one of the female occupants. When probed further, the male subject claimed that he was sleeping in his room (the middle one), when a female subject entered the room and began to verbally abuse him. The room lights were off. The abuse carried on for about 2½ hrs. The male subject then could take (sic) the abuse anymore and then went to the kitchen to get the (a) knife, went back to the room and then began stabbing her. While he was stabbing her, another female subject came in and he also stabbed her as well. The male subject told that he had stabbed them for an unknown number of times and at unknown parts of the body. At this point, I asked the male subject why he stabbed the second female subject when it was the 1<sup>st</sup> female subject who had abuses (sic) him. He infd (sic) that all the female occupants of the unit had a part in verbally abusing him. They have constantly done this for since the duration of his stay. Hence when the 2<sup>nd</sup> female subject came in, he also stabbed her. The male subject then claimed that he went to the kitchen to get another knife and wanted to kill the 3<sup>rd</sup> female subject and the 4<sup>th</sup> female subject. On his way back to the room in the kitchen, he met the 3<sup>rd</sup> female subject and began to stabbed her (sic) While he was stabbing the 3<sup>rd</sup> female subject, the 4<sup>th</sup> female subject tried to flee and ran towards the kitchen window. The male subject then chased after her. In the kitchen, the male subject then grabbed another knife from the counter top, and injured the 4<sup>th</sup> female subject. The male subject claimed that the 4<sup>th</sup> female subject leapt out of the kitchen window, he did not push her.

The male subject infd (sic) that he then went to throw one of the knife into the washing machine and brought the other 2 knives into the toilet of the master bedroom, where he had a bath, he also infd (sic) that he was previously wearing a white-coloured top, and had changed into a fresh set of clothes after the bath.

### **The Judge's decision below**

36 As we have mentioned above, the Judge held that in relation to Yang's death the Accused had committed the *actus reus* of murder. He also held that the Accused had possessed the requisite *mens rea* for murder under s 300(a) of the Penal Code, ie, the intention to kill Yang. In considering the Accused's state of mind when he slashed Yang's fingers as she was holding on to the pole holders, the Judge noted that the behaviour and actions of an accused person before, during and immediately after the criminal acts are highly probative (at [46] of the Judgment). Upon evaluation of the evidence, the Judge found that the Prosecution had proven beyond a reasonable doubt that the Accused was fully aware of and understood what he was doing when he slashed Yang's fingers and

that he had concealed this knowledge in his statements to the police and in his oral evidence of how he had deliberately caused Yang to fall to her death in order to silence her (at [53] of the Judgment).

37 The Judge therefore found (at [54] of the Judgment) that the Prosecution had proven beyond a reasonable doubt the elements of the offence under s 300(a) of the Penal Code for all three of the murder charges. He then went on to consider the defence of diminished responsibility raised in relation to each of the murder charges and held that the defence succeeded in two out of the three murder charges.

38 In relation to the 1<sup>st</sup> Charge, *ie*, Zhang's murder, the Judge agreed with the expert psychiatrist for the Defence that the Accused was in a state of frenzy when he attacked Zhang. As such he held that the Accused had succeeded in proving that the defence of diminished responsibility applied to the killing of Zhang (see the Judgment at [81]). In relation to the 2<sup>nd</sup> Charge, *ie*, Feng's murder, the Judge found that Feng had entered Bedroom 1 while the Accused was still stabbing Zhang in a frenzied state. In that state the Accused was unable to recognise Feng but wanted to kill "the person standing at the doorway" as well. In the light of his earlier finding that the stabbings of Zhang and Feng should be viewed as a single transaction, the Judge found that the Accused had succeeded in proving that the defence of diminished responsibility applied to his killing of Feng as well (see the Judgment at [82]–[83]).

39 However, in relation to the 4<sup>th</sup> Charge, *ie*, Yang's killing, the Judge found (at [84] of the Judgment) that there had been a sufficient interval of time between the attacks on Zhang and Feng, and the attacks on Yang and Li, for the Accused to have substantially recovered his mental faculties and self-control. The Judge accorded much weight to the evidence of Li because she was the sole survivor and thus the only one who gave direct evidence. He accepted Li's evidence that the Accused was able to issue coherent instructions for her "not [to] move" and to "close her eyes and not to scream"; and to lie to her by promising that he would not kill her to induce her not to struggle. In his view, the Accused's actions after his attacks on Zhang and Feng were deliberate, directed and methodical. The Judge did not consider that, at the time the Accused slashed Yang's fingers with the intention of causing her to fall to her death, his mental responsibility for his actions was substantially impaired. He therefore found that the Accused had not succeeded in proving that the defence of diminished responsibility applied to his killing of Yang (see the Judgment at [85]–[90]).

### **The parties' contentions on appeal**

40 In CCA 12/2012, the Prosecution appealed against the acquittals of the Accused of the charges of murder in relation to Zhang and Feng, which it submits are against the weight of the evidence for the following reasons:

(a) The Judge erred in finding that the Accused had proven on a balance of probabilities that his mental responsibility had been substantially impaired as a result of his adjustment disorder notwithstanding, *inter alia*:

(i) The fact that the Accused was able to provide a coherent and detailed account of the circumstances and events leading to and during his attacks on Zhang and Feng; and

(ii) The evidence that the Accused had been thinking coherently throughout the course of the attacks on both Zhang and Feng as well as the evidence as to his ability to experience emotions that were in line with the unfolding events.

(b) The Judge further erred:

- (i) By erroneously concluding that the Accused was in “a frenzy which was beyond his control” when he attacked Zhang and had continued to be in a “frenzied state” when he subsequently attacked Feng;
- (ii) By erroneously concluding on the basis of the number of stab wounds on Zhang and Feng that the Accused could avail himself of the diminished responsibility partial defence;
- (iii) By failing to give sufficient weight to the psychiatric evidence suggesting that any violence linked to an adjustment disorder would be “mild”, “reactive” and “impulsive” in nature, and would be an almost immediate response to the incident or stressor;
- (iv) By erroneously finding that the defence of diminished responsibility applied in relation to the Accused’s attack on Feng when adjustment disorder manifests itself as a response against the stressor only and not against third parties;
- (v) By failing to give sufficient weight to the evidence that a substantial period of time of about an hour had elapsed between the Accused’s initial argument with Zhang and his subsequent attack on her; and
- (vi) By placing undue weight on the Accused’s claim that he was “brooding” and “seeing red” before his attack on Zhang.

(c) The Judge further erred by preferring the psychiatric evidence of the Defence expert to that of the Prosecution’s expert notwithstanding, *inter alia*:

- (i) The belated psychiatric assessment by the Defence expert which took place nearly two years after the killings;
- (ii) The Defence expert’s refusal to take into account other sources of evidence in making his assessment of the Accused’s mental state, including:
  - (A) His refusal to obtain any of the Accused’s detailed police statements which were admitted without challenge; and
  - (B) His refusal to consider Li’s account of events in her statements to the police.
- (iii) The lack of explanation by the Defence expert as to how the Accused would have lost his self-control as a result of the adjustment disorder;
- (iv) The failure of the Defence expert to consider accounts that were at odds with those he had recorded from the Accused;
- (v) The integrity and comprehensiveness of the Prosecution’s expert evidence which involved an assessment of the Accused which was close in time to the incident and which was made only after the expert had spoken to a variety of individuals who knew the Accused and would be able to provide insights into the Accused’s behaviour; and
- (vi) The consonance of the Prosecution’s expert’s conclusions with the objective evidence.

(d) The Judge further erred by failing to give weight to the Accused's continued vacillation, evasiveness and lack of candour in the course of his testimony.

41 In CCA 4/2013, the Accused appealed against the conviction and sentence on the charge of murder in relation to Yang on grounds that:

(a) The Judge wrongly concluded that the Accused had caused Yang's death, having erred in relying on the Reconstruction Report in finding that the Accused had cut the fingers of Yang whilst she was holding onto the bamboo pole holders and standing on the concrete overhang outside the kitchen window of the Flat – it would be unsafe to rely solely on the Reconstruction Report to support a conviction for murder in the absence of corroborative evidence;

(b) The Judge erred in finding that there was a sufficient time interval for the Accused to substantially recover his self-control from the time he stopped stabbing Zhang and Feng to the time he commenced his attack on Yang in that:

(i) The sequence of events could have taken place in a mere matter of minutes and in a continuous manner;

(ii) The said sequence of events were mechanical and instinctive rather than reflective of the fact that the Accused had regained control of himself;

(c) The Judge failed to consider that the Accused's adjustment disorder was the result of a prolonged depressive mood coupled with feelings of helplessness caused by multiple stressors and was a continuing mental illness incapable of "switching on and off", and failed to consider that it was not possible to have the said illness compartmentalised as to the extent of severity in the short period of at most a few minutes;

(d) The Judge erred in concluding that the physical exertion of stabbing Zhang and Feng in total ninety-odd times would have had a cathartic effect on the Accused, and thereby failed adequately to consider that the Accused's psychiatric illness was the result of prolonged multiple stressors since 2007 and that his actions that night were an expression of his illness being triggered and not simply an emotional release of the frustration and pent-up anger in him alone;

(e) The Judge erred in finding that the subsequent attacks on Yang and Li by the Accused were done in cold blood in order to silence them and not in the heat of a frenzied attack, and that his acts were clearly deliberate, purposeful, directed and methodical. In particular, the Judge erred in failing to appreciate that the attack on Yang was part of a single continuous transaction starting from the attacks on Zhang and Feng, and the Judge having found that the attacks on Zhang and Feng were due to the Accused's inability to assert control in his frenzied state, should also have found that the attack on Yang was caused by a similar inability to control himself.

### **The issues on appeal**

42 Thus the issues which arise for our determination in the present appeals are:

(a) Whether the elements for murder under s 300(a) of the Penal Code have been proven beyond a reasonable doubt with respect to the 4<sup>th</sup> Charge (*ie*, Yang's murder); and

(b) Whether the defence of diminished responsibility was successfully raised in relation to the 1<sup>st</sup>, 2<sup>nd</sup> and/or the 4<sup>th</sup> Charge(s).

## **Issue 1: Whether the 4<sup>th</sup> Charge was proved beyond reasonable doubt**

43 The Defence contended that the Judge erred in relying on the Reconstruction Report in finding (at [45] of the Judgment) that "it was none other than [the Accused] who had cut the fingers of Yang whilst she was holding onto the bamboo pole holders and standing on the concrete overhang outside the kitchen window of the Flat". In particular, the Defence contended that it would be "unsafe to rely solely on the [Reconstruction Report] to support a conviction for murder in the absence of any other corroborative evidence". This contention is clearly flawed. This is certainly not a case of a conviction based on a single witness's uncorroborated evidence. The Accused was found guilty on the basis of a mound of circumstantial evidence, which the Reconstruction Report merely amalgamated: it was based on the information and findings from 13 different expert reports on the objective physical evidence found at the scene.

44 In our judgment, the Judge was correct in accepting the finding in the Reconstruction Report that there was no evidence to suggest that Yang's fingers were slashed while she was in the Flat. Our reasons are in essence the same as those of the Judge's at [41]–[45] of the Judgment, which reasons we summarised at [29]–[31] earlier. We might add that the absence of Yang's DNA inside the kitchen at or near the window is striking because, having seen the photographs of the kitchen, we do not think it possible that Yang could have vaulted out of the window without the aid of her hands. Indeed, it is only natural for anyone climbing out of such a window to hold on to things or objects around it.

45 It follows that Yang's fingers must have been slashed by the Accused as she stood on the concrete overhang outside the kitchen window desperately holding on to the pole holders. There is simply no other plausible explanation for how she came to sustain the injuries on her hands. The Defence sought to make something of the fact that Yang's blood was not found on the chopper, which the Prosecution alleged was the weapon used to cut Yang's hands, but we do not think that this point can take the Defence very far. In the first place, we accept that, as the Prosecution's forensic expert Ms Lim Chin Chin explained, Yang's blood was likely to have been washed from the chopper by Li's blood when the Accused subsequently renewed his attack on Li, at least to the extent that it was no longer detectable in forensic tests. In any event, we think it immaterial whether it was the chopper or another knife which was used to slash Yang's hands – what cannot be disputed is that her hands were slashed by someone and that this was done with a knife. In the circumstances there can be no reasonable doubt that that someone was the Accused, and it does not matter which particular weapon he used.

46 Next, in order for the 4<sup>th</sup> Charge to be made out, it must be shown that the Accused caused Yang's death. We recognise that there is no direct evidence as to the point in time at which Yang fell to her death from the concrete overhang outside the kitchen. What was clear was that after the Accused stopped attacking Li at Bedroom 2, he went in search of Yang who had earlier run out of the bedroom. Bearing in mind what he did later to Li (as described in [32]–[33] above), there can be no doubt that he intended to ensure that there would be no witness as to what happened that night at the Flat. We agree with the Judge that his intention was to finish off Yang when he found her standing on the overhang holding onto the pole holders. The inference is irresistible that when the Accused slashed Yang's fingers with which she was holding onto the pole holders, he intended to cause Yang to fall six floors to her death. There can be no other sensible way of looking at the scenario. We thus have no doubt that it was the Accused's attack that caused Yang to lose her grip and footing and fall to her death. We are satisfied beyond a reasonable doubt that the Accused caused Yang's death and so committed the *actus reus* of murder as alleged in the 4<sup>th</sup> Charge.

47 As to the *mens rea*, this was not a point on which the Defence had advanced much argument since their case was that the Accused had not even caused Yang's death. But given our finding that the Accused did in fact slash Yang's fingers as she stood precariously outside the kitchen window, the inexorable inference is that he did so intending that she should release her grip on the pole holders and fall to the ground below. In our opinion this is clearly indicative of an intention to kill. They were six storeys up; it is impossible to believe that the Accused intended no more than, say, to injure her. For this reason we find that the Accused possessed the *mens rea* for murder under s 300(a) of the Penal Code.

48 We would add that, in our view, the Accused's consistent denial of involvement in Yang's death represents a self-serving attempt to reduce his culpability. It is notable that in the very first statement given by the Accused, an oral statement made at the scene at about 1.20am on 19 September 2008 to SIO Desmond Tan (which was subsequently reduced to a report in the latter's field diary), the Accused stated that *all* the female inhabitants in the Flat had abused him both physically and verbally (see above at [35]), even though this was, on his later testimony, not the case at all. This was presumably before he knew that Li had survived the attack and might be able to contradict his testimony. The Accused obviously had no compunctions about lying to save himself by presenting himself as having been abused by all the inhabitants of the flat; this demonstrated a strong instinct for self-preservation even so soon after the material events. He was observed by the police officers to appear calm and he answered their questions coherently. He had showered and then prepared himself, before the police arrived, to flee the scene fully dressed with bags packed with money and travel documents. In this lucid state of mind, it is clear to us – as it was to the Judge – that the Accused was entirely capable of concealing his part in Yang's death by claiming that she had leapt out of the kitchen window.

49 We therefore find that the Prosecution has proven beyond a reasonable doubt the elements for murder under s 300(a) of the Penal Code in respect of Yang's death. The remaining question is whether the Accused can avail himself of the partial defence of diminished responsibility for this as well as the other two murder charges and it is to this issue that we now turn.

## **Issue 2: Whether the Accused may rely on the partial defence of diminished responsibility**

50 As we have noted, the Accused has relied, in respect of all three murder charges, on the partial defence of diminished responsibility as set out in Exception 7 to s 300 of the Penal Code (even though his primary position in relation to the death of Yang was that she, on her own, had jumped out of the window). The provision reads:

Culpable homicide is not murder if the offender was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in causing the death or being a party to causing the death.

It will be seen that there are three elements to the defence, *viz*, (a) an abnormality of mind (b) arising from one of the prescribed causes – mental impairment or any inherent causes or induced by disease or injury – and (c) which has substantially impaired the offender's mental responsibility.

51 The defence of diminished responsibility is excusatory as opposed to justificatory in nature. In other words, the law regards the offender's killing as wrongful but is prepared to exercise compassion because the offender was suffering from a mental abnormality at the time which substantially, albeit not fully, impaired his moral responsibility for the wrongful acts. As stated by Stanley Yeo, Neil Morgan and Chan Wing Cheong, the authors of *Criminal Law in Malaysia and Singapore* (LexisNexis, 2nd ed,



2012) at para 27.6, “because the offender is found to be ‘half mad and half bad’, the law appropriately reduces the offence from murder to culpable homicide not amounting to murder”.

### ***The psychiatric evidence***

52 We begin the consideration of the partial defence by examining the psychiatric evidence that was adduced at the trial below. The Defence and the Prosecution each called a medical expert: Dr Tommy Tan Kay Seng (“Dr Tan”) testified for the Defence while Dr Kenneth Gerard Koh Wun Wu (“Dr Koh”) testified for the Prosecution. The experts agreed that the Accused was then suffering from a type of adjustment disorder. There are several types or subtypes of adjustment disorder but they are classified under a single umbrella term because of what they have in common.

53 As explained in the fourth edition of the American Psychiatric Association’s Diagnostic and Statistical Manual of Mental Disorders (“DSM-IV”), the “essential feature” of adjustment disorders is “a psychological response to an identifiable stressor or stressors that results in the development of clinically significant emotional or behavioural symptoms”. These symptoms are to be considered “clinically significant” if they are in excess of the reaction that would ordinarily be expected given the nature of the stressor or if they cause significant impairment in social or occupational functioning. Or, as it is put in the World Health Organisation’s ICD-10 Classification of Mental and Behavioural Disorders: Clinical descriptions and diagnostic guidelines (“ICD-10”), adjustment disorders refer to states of “subjective distress and emotional disturbance” arising in the period of “adaptation to a significant life change or to the consequences of a stressful life event”. These are the canonical definitions, but in layman’s terms, if we might venture to use our own words, the gist of adjustment disorder is a state of psychological disturbance in response to a source of stress.

54 The experts also agreed that the source of stress giving rise to the Accused’s adjustment disorder was his relationship with Zhang. Dr Tan pointed in particular to the following aspects of that relationship which would have given rise to stress on the Accused’s part: (i) harassment of the Accused by Zhang’s family, including death threats; (ii) the Accused’s loss of his job; (iii) the loss of his retirement fund; and (iv) the humiliating and degrading conditions in which Zhang made him live when he was in Singapore.

55 As we have mentioned, there are several subtypes of adjustment disorders, each of which manifests its own predominant symptoms. That is to say, which subtype a patient is considered to be suffering from depends on the nature of the symptoms observed in that patient. The DSM-IV names six different subtypes; by way of example we shall describe three of them:

- (a) With depressed mood: this subtype is used when the predominant manifestations are symptoms such as depressed mood, tearfulness and feelings of hopelessness.
- (b) With anxiety: this subtype is used when the predominant manifestations are symptoms such as nervousness, worry or jitteriness.
- (c) With disturbance of conduct: this subtype is used when the predominant manifestation is a disturbance in conduct in which there is a violation of the rights of others or of societal norms and rules, *eg*, vandalism, reckless driving or fighting.

56 As for the ICD-10, it names seven subtypes, or more precisely, it demarcates seven different clinical forms that adjustment disorder can take. This is not very much different from the six subtypes envisaged in the DSM-IV even though the terminology may differ. For instance, one of the clinical forms described in the ICD-10 is “prolonged depressive reaction” which refers to a “mild depressive

state occurring in response to a prolonged exposure to a stressful situation but of duration not exceeding 2 years"; this is similar to the "with depressed mood" subtype in the DSM-IV. To take another example, the ICD-10 describes a clinical form of adjustment disorder that is "with predominant disturbance of conduct" in that the patient manifests a disturbance involving conduct, eg, "an adolescent grief reaction resulting in aggressive or dissocial behaviour"; this is similar to the "with disturbance of conduct" subtype in the DSM-IV.

57 Of significance to this case is that the ICD-10 has this to say of adjustment disorder in general – that is, not in relation to any particular clinical form or subtype that the disorder can take – "The individual may feel liable to dramatic behaviour or outbursts of violence, but these rarely occur". Indeed, it would appear from both the DSM-IV and the ICD-10 that for certain clinical forms or subtypes of adjustment disorder, violence is not a predominant symptom. Instead, the predominant symptoms in those subtypes include such things as feelings of depression or nervousness.

58 Both experts were in agreement as to the specific clinical form or subtype of adjustment disorder that the Accused was labouring under. In the language of the ICD-10, which Dr Tan used, it is called "prolonged depressive order" and it has been described above as a "mild depressive state occurring in response to a prolonged exposure to a stressful situation but of duration not exceeding 2 years". In the language of the DSM-IV, which Dr Koh referred to, it is called "adjustment disorder with depressed mood" and, as has also been described above, this is when the "predominant manifestations are symptoms such as depressed mood, tearfulness, or feelings of hopelessness". Thus the central characteristic of the specific type or subtype of adjustment disorder which the Accused had is that it manifests in feelings of depression.

59 Thus Dr Koh, testifying for the Prosecution, was ready to concede that the Accused suffered from a recognised psychiatric condition. He emphasised, however, that the symptoms of depressed mood described by the Accused "did not appear to approach the severity of a major depressive episode". Dr Tan, for the Defence, explained that the difference between the Accused's adjustment disorder and major depressive disorder is that the former manifests fewer symptoms than the latter. He was also quick to emphasise that the use of the word "mild" should not mislead one into thinking that the Accused's adjustment disorder was not serious – it was, and all the more because it had been going on for years. This was what Dr Tan said:

Q: Yes. So, you know, Doctor, "mild" in relation to what? "Mild depressive state" as---you know, when you say you have "mild" then somewhere lurking there must be "serious", "severe", "moderate", so what is it juxtapose with this term "mild depressive state"?

A: Your Honour, I think it---I think the authors of the---the classification would mean, okay, as compared to the cla—diagnosis of say major depressive disorder, the symptoms are lesser. You may not have the symptoms of lost appetite or loss of weight, for example, or anhedonia, however you can still be very depressed in mood. "Mild" to me meant that way. It does not---"mild" meant that the—the mood is very mild; it does not mean that. I suffer from mild depressive mood every now and then, we all do, given the correct (indistinct) sense but this is a prolonged state. It has been going on for 2 years. You don't take that as severe? I think that's fairly severe; for 2 years, it's very prolonged.

Q: Yes, Doctor, can I get back to my questioning?

A: And---yes.

Q: Yes, thank you. So, by definition, it is a mild depressive state?

A: As compared to---as compared to major depression, yes.

60 More importantly, Dr Tan said that patients with adjustment disorders “are more liable to outbursts of violence”, notwithstanding the suggestion in the ICD-10 that violence rarely occurs in patients with these disorders. He based this opinion on a study of the statistical relationship between certain personal attributes and the risk of violence known as the MacArthur Violence Risk Assessment Study (“the MacArthur Study”). In this project, researchers studied a sample group of 1,136 individuals and statistically identified factors that were related to increases in the risk of violence. What is material for the purposes of this case is that the MacArthur Study concluded that “a diagnosis of a major mental disorder—especially a diagnosis of schizophrenia—was associated with a *lower* rate of violence than a diagnosis of a personality or adjustment disorder. A co-occurring diagnosis of substance abuse was strongly predictive of violence” [emphasis in original].

61 Relying on a subsequent work that summarised and integrated the principal findings of the MacArthur Study, John Monahan *et al*, *Rethinking Risk Assessment: The MacArthur Study of Mental Disorder and Violence* (Oxford University Press, 2001), Dr Tan explained that the MacArthur Study separated participants suffering from “major” mental disorders from those suffering from “other” mental disorders. Participants suffering from adjustment disorder fell within the latter group of “other” mental disorders. The results of the MacArthur Study suggested that the violence rate for participants diagnosed with “other” mental disorders was higher than those diagnosed with “major” mental disorders. According to Dr Tan, it followed that patients with adjustment disorder were more prone to violence.

62 Against this, Dr Koh— although accepting that adjustment disorder had some association with violence – testified that such violence was generally of a “mild”, “reactive” and “impulsive” nature. It tended to take place in a “short burst”. The paradigmatic example given by Dr Koh was that of a national serviceman undergoing basic military training who reacts to a sergeant shouting in his ear by either shouting back or pushing the sergeant. It would be rare, said Dr Koh, for adjustment disorder to result in violence committed against others as opposed to violence inflicted on oneself, and “rarer still” for that violence against others to be protracted and severe.

63 This, in essence, is the psychiatric evidence upon which we have to determine whether, on the facts of this case, the partial defence of diminished responsibility has been established. We now turn to examine the three critical elements of the defence: (a) an abnormality of mind (b) arising from one of the prescribed causes and (c) which substantially impaired the offender’s mental responsibility.

### ***Abnormality of mind arising from one of the prescribed causes***

64 The meaning of the term “abnormality of mind”, which was borrowed directly from the English formulation of the defence, was elaborated on by Lord Parker CJ in the English Court of Appeal in *R v Byrne* [1960] 2 QB 396 (at 403) in the following manner:

‘Abnormality of mind’, which is to be contrasted with the time-honoured expression in the M’Naghten Rules ‘defect of reason’, means *a state of mind so different from that of ordinary human beings that the reasonable man would term it abnormal*. It appears to us to be wide enough to cover the mind’s activities in all its aspects, not only the *perception of physical acts and matters*, and the *ability to form a rational judgment as to whether an act is right or wrong*, but also the *ability to exercise will power to control physical acts in accordance with that rational judgment*. The expression ‘mental responsibility for his acts’ points to a consideration of the extent to which the accused’s mind is answerable for his physical acts which must include a consideration of the extent of his ability to exercise will power to control his physical acts.

[emphasis added]

This judicial definition of “abnormality of mind” has been adopted locally on multiple occasions: see for instance the Court of Appeal decisions of *Chua Hwa Soon Jimmy v Public Prosecutor* [1998] 1 SLR(R) 601 at [21]–[22] and *Ong Pang Siew v Public Prosecutor* [2011] 1 SLR 606 at [61].

65 The first sentence of the definition as quoted above suggests that “abnormality of mind” is a wide concept, encompassing any state of mind so different from that of ordinary human beings that a reasonable man would call it abnormal. In this case the Prosecution aligned itself with the Defence’s position that the Accused had fulfilled elements (a) and (b), *viz*, an abnormality of mind arising from one of the prescribed causes. The Defence expert Dr Tan opined in his psychiatric report and oral testimony that the Accused was “depressed in mood” and had an “overwhelming sense of helplessness”. Presumably the Prosecution agrees that this depression and sense of helplessness constituted the “state of mind so different from that of ordinary human beings that the reasonable man would term it abnormal” which was considered in *R v Byrne* to be definitive of the concept of “abnormality of mind”, and that this abnormality of mind arose from an inherent cause in that it was caused by the Accused’s adjustment disorder.

66 We see no reason to question the Prosecution’s agreement with the Defence on this point. Accordingly the question that remains is whether element (c) is also met, *ie*, whether the Accused’s abnormality of mind substantially impaired his mental responsibility for his actions.

### ***Substantial impairment of mental responsibility***

67 As the passage from *R v Byrne* that we have quoted above suggests, there are three usual ways in which a psychiatric condition might substantially impair a person’s mental responsibility. The first is that it affects the person’s “perception of physical acts and matters”. The second is that it hinders the person’s “ability to form a rational judgment as to whether an act is right or wrong”. The third is that it undermines the person’s “ability to exercise will power to control physical acts in accordance with that rational judgment”. In the present case, only the last of these was seriously urged by the Defence. We make no comment on whether there could be other ways in which a psychiatric condition might substantially impair a person’s mental responsibility since none was suggested by the Defence. The Defence case was and is that the Accused’s adjustment disorder impaired his ability to *control* his acts and emotions, as opposed to his ability to *comprehend* his actions.

68 Having said that, we note that the Accused in his evidence did suggest that his mind was in such a state that he did not know or appreciate what he was doing. He said in cross-examination that his mind had gone “blank” from the time he picked up the serrated knife to attack Zhang until the time he took a shower after the stabbings, and that it was only then or soon after that he realised what he had done:

Q: So how did you find out that people were dead when you were bathing?

A: I didn’t know when I was showering. It was after I stepped out from the shower, there was pain on my finger and blood was gushing out. I wanted to find something to bandage up the wound so I walked about in the rooms and I saw two people lying on the floor. [\[note: 1\]](#)

Q: So that was the first time you realised that there were persons who were dead in the—in the house?

A: I was not clearly aware that the persons were dead. It (?) felt as though something had happened to these people and they could be dead because they were lying motionless on the floor.

69 However, the Judge did not accept the Accused's assertion that his mind had indeed gone "blank". He found, instead, that all the vivid details narrated by the Accused in his Long Statements were a product of conscious recollection and not "reconstruction" as alleged by the Accused, who claimed at trial that he could not recall the material events. We see no reason to disagree with this finding. The Accused's ability to recollect the events – at least when he was giving his various statements, if not during the trial – indicates to us that he was sufficiently possessed of his faculties to know what he was doing throughout his attacks on Zhang, Feng and Li. Hence we do not think that the Accused's ability to comprehend the nature or effect of his actions was impaired in any way. The sole point for determination is whether the Accused's adjustment disorder had at the time impaired his ability to control his actions. In relation to Yang, the Accused did not say anything as to how Yang fell to her death. He only stated that he realised Yang had fallen from the Flat onto the ground after he noticed that occupants of the flats in the opposite block were looking down in the direction of the ground and he followed suit. We will return to this in a moment.

### ***Distinction between the killings of Zhang and Feng and the killing of Yang***

70 At this juncture it bears highlighting that the Judge drew a distinction between the Accused's attacks on Zhang and Feng on one hand and his attacks on Yang and Li on the other. He held that the Accused's mental responsibility had been substantially impaired in relation to the former but not the latter. He reasoned that this was possible because, between his attacks on Zhang and Feng and his attacks on Yang and Li, the Accused had time to perform a "long series of acts" and this would have given him "an opportunity to cool down". In other words there was "time enough for reason to resume its seat" and for the Accused once again to be the "master of his own mind" and thus "mentally responsible for his actions" (at [87]–[88] of the Judgment).

71 Interestingly, though not unexpectedly, both the Prosecution and the Defence have challenged this part of the Judge's reasoning. Both sides argued, in effect, that there had not been time enough for the Accused to switch from one state of mind to another; either his mental responsibility had been substantially impaired throughout the killings or it had not been so impaired at all. Thus each side started from a different premise. The Prosecution says that the Judge was correct to have found that the Accused's mental responsibility had not been substantially impaired when attacking Yang and that in truth there was likewise no such impairment of his mental faculties when he attacked Zhang and Feng. In contrast, the Defence submits that the Judge was right to have found that the Accused's mental faculties were substantially impaired during his attacks on Zhang and Feng and that it followed that the Judge should also have found substantial mental impairment during the attack on Yang.

72 Having considered the totality of the circumstances, we are of the view that the better starting point to consider the events of that fateful night is the Accused's attack on Yang – or to be more precise, his attack on Li and then Yang which was in turn followed by a renewed attack on Li. The reason we begin here is that we have the benefit of eyewitness evidence from Li as to the Accused's acts which could shed light on his state of mind when he caused Yang's death, whereas there is no similar evidence in relation to his attacks on Zhang and Feng.

### ***The death of Yang***

73 Indeed, Li's evidence was the main reason why the Judge found that the Accused's ability to control himself had not been impaired when he caused Yang's death. The Judge thought it was

significant that he was able to issue coherent instructions to Li “not [to] move” and to “close her eyes and not to scream”, and to lie to her by promising that he would not kill her to induce her not to struggle. The Judge opined that the Accused’s expenditure of considerable physical energy in inflicting over 90 knife wounds on Zhang and Feng would have been cathartic such that he would have recovered his self-control. Moreover, based on the evidence of the forensic expert Ms Lim Chin Chin, the Judge found that the Accused had done the following between his killing Zhang and Feng and his killing Yang:

- (a) Walked into Bedroom 3, switched on the light and opened the wardrobe possibly looking for something in there;
- (b) Walked to the kitchen, made contact with the metal turner in the red basket beside the kitchen sink and picked up the spatula when it was still dark in the kitchen;
- (c) Placed the spatula in the washing machine (possibly after realising that the spatula was not a good weapon);
- (d) Looked for another weapon in the kitchen, and this time picked up a chopper before entering Bedroom 2;
- (e) Attacked Li at the location towards the rear wall area of Bedroom 2 whereupon Yang seized the opportunity to rush out of the room and into the kitchen;
- (f) Left Bedroom 2 to look for Yang and warned Li not to move upon realising that Yang had escaped from the room;
- (g) Spent time looking for Yang whom he eventually found hiding and standing on the concrete overhang outside the kitchen window of the Flat; and
- (h) Slashed Yang’s fingers with a knife, causing Yang to lose her grip and plunge six storeys to her death.

74 According to the Judge, the above enumerated acts would cumulatively have allowed the Accused a sufficient opportunity to cool down, that is, if he had not already regained some measure of self-control: these actions of the Accused, after the attacks on Zhang and Feng, did not appear to be the actions of a man still in frenzy and not in control of himself. On the contrary, the Judge considered that his acts were deliberate, directed and methodical. As such, the Judge held that when the Accused slashed Yang’s fingers with the intention of causing her to fall to her death his mental responsibility for his actions was not substantially impaired. The Judge therefore found that the Accused had not succeeded in proving that the partial defence of diminished responsibility applied to his murder of Yang.

75 In our view, the Judge’s finding that the Accused’s ability to control his actions had not been impaired when he cut Yang’s fingers is not against the weight of the evidence. Admittedly, there are parts of the Judge’s reasoning that may be open to question, such as his opinion that the stabbing of Zhang and Feng must have had a cathartic effect on the Accused. But his central finding as to the Accused’s state of mind when he caused Yang to fall from the concrete overhang outside the kitchen window of the Flat is unassailable. Like the Judge, we also think that the critical evidence was that of the sole survivor of the attacks, Li. We see no basis for interfering with the Judge’s acceptance of her evidence as true.

76 In assessing the Accused's mental state it is of particular significance to note that he issued Li with deliberate and clear instructions not to move and even attempted to practice trickery on her by inducing her to close her eyes. What do these acts of the Accused signify? Li's evidence was drawn to the attention of the Defence expert Dr Tan, and he was asked whether her account of the events made it less likely that the Accused was not in control when he attacked Li. His answers are telling. His initial testimony was that such calculated behaviour on the Accused's part was nonetheless consistent with loss of self-control, but he subsequently conceded that it was more consistent with the Accused possessing self-control. We place some importance on Dr Tan's concession and accordingly we reproduce here a lengthy extract of his testimony under cross-examination by the Deputy Public Prosecutor: [\[note: 2\]](#)

Q: Yes. And from [Li's] statement, you could see that the accused, Mr Wang, was giving instructions to Li Meilin at several points of time in the event---

A: Yes.

Q: ---during the course of the event. And he was able to give rather coherent instructions to Li Meilin.

A: Yes.

Q: Would this be consistent with a man who has lost control of himself?

A: Yes.

Q: I mean, how would that be?

A: Lost control of his actions, his thought, his emotions. He just lost control.

Q: I see.

A: He just lost control. He starts lose his control. His actions lost control. Speech is part of action.

Q: So he lost control over what he wanted to tell the woman, the---the---the girls.

Court: Tell her not to move---

[DPP Hay Hung Yes.  
Chun]:

Court: ---tell her to close her eyes---

Q: So he lost control over that?

Court: ---and not to scream---

Witness: He just---

Court: ---this is a loss of control?

Witness: ---he's just lost control of himself---his total self. His intention then maybe to kill her, I don't know. Eventually lost in---control of his own intention.

Q: So meaning to say that when he told her, "You don't move and I won't kill you", that is involuntary? It just came out from him because he lost control?

A: I'm really speculating, Your Honour, seriously.

Q: No, Doctor, we don't need you to speculate. If you can't answer---

A: Yes. I can't answer.

Q: ---then just say you can't answer.

A: If I answer, I'll be speculating so I can't answer.

Q: Yes. Then, say that you're not in the position to answer the question.

A: Yes, I'm not---I---I can't answer.

Q: Thank you, Doctor.

A: Okay.

Q: So for the record, if a person were to say that he---if---if there's evidence to show a person giving coherent instructions every step of the attack, would it be consistent with the person who has lost control of himself? Are you able to answer this in the first place?

A: Er, I---I lost track of your question. It's a bit too long. Can you just---

Court: No, the question is---

A: ---break it down for me?

Court: ---the question's like this: You---this accused---

Witness: Yes.

Court: ---tells the---the girl, "Close your eyes, don't scream", but then---then after that he stabs.

Witness: Yes.

Court: That mean bluffing her, you know, tell her to close her eyes, not to scream and then he stabs. Would this person who knows how to bluff and then knowing that he's bluffing and then he intends to stab, would have been a person who is not in control of himself?

Witness: *He appears not to be---he appears to be in control of himself but---*

Court: He appears to be in control of himself?

Witness: Yah, but it's still consistent for a person---likewise, it's not consistent for a person who lost control. It can---it seems con---

Court: You mean it can be consistent with both?

Witness: It can be consistent with both. That's what I'm trying to say.

Q: So---so which was it that you said you were not able to comment on?

A: Because if I said "Yes", it's not right; by saying "No", it's not right. So that's why I can't---I can't answer the question, your Honour.

Q: Well, I---I---I mean, thank you, Doctor. If you can't answer then you probably should say that you can't answer.



A: Yes, because if I say the answer is "Yes", I'm in---being incorrect; if I say "No", I'm being incorrect. So---

Court: So it---

A: ---I have this problem.

Court: So this---this behaviour, is it more consistent then with the---with the person who is---who has already regained control or somebody who's still in the midst of having no control, in a sense of having lost his control and the---and the loss is continuing?

Witness: *Your Honour, logically, I would say that this (indistinct) is being controlled, logically.*

Court: Seems to be in control logically?

Witness: *Logically, lah. I will admit to that.*

Court: Yes, okay.

Witness: But you say that he's definitely in control given all the things that happened in the---in that few hours and even the few minutes where he committed the offence, I cannot give the same definite answer that he's lo---it---he was in control because it's---you must take in totality everything, you see.

Court: Yes.

Witness: That's why I cannot answer "Yes" or "No" either way.

Court: All right, fine. Then, we go on.

[emphasis added]

77 In re-examination, Dr Tan did not retract the concession that the Accused's acts were more consistent with no loss of self-control than with loss of self-control, as this next lengthy extract shows: [\[note: 3\]](#)

Q: I think the learned deputy asked you about a---if a person---if a person has lost self-control---

A: Yes.

Q: ---and while losing self-control, he can still be---he can still be qui---coherent and giving instructions in the process of attacking?

A: Yes.

Q: Does that square with your---your person that has lost self-control---coherent---yes, talking about coherent in giving coherent instruction to the victim?

A: *Doesn't---doesn't seem consistent honestly.*

Court: So it's not consistent---

Witness: Yah.

Court: ---with loss of self-control---

Witness: *Er, honestly not, not consistent.*

Court: ---I mean, whilst in the process of losing self-control.

Q: Why is that so? Why is that so?

A: Because we'll---norm---normally we think it'll be more random but the whole---the---the---but then you look back, the whole thing was very random, whole episode seems to be very, very---

Q: Random?

A: Yah.

Q: Yes.

A: He moved from place, room to room and, you know, the words, er, you are taking---

Court: No, wait, wait. Why do you say it's random? I mean he was looking, one to other, look; you mean that's "random"?

Witness: Er---

Lim: Random attack and---

Court: Right now, I would, say---

Lim: --- the stabbing itself.

Court: ---imagine him running around the house---

Witness: You see, that's what I'm saying---

Court: ---not knowing what to do, you know.

Witness: The---he---

Court: You say "random". Ple---I don't understand.

Witness: I don't know. Your Honour, maybe I should take my words back.

A: *Is that consistent? Of course, not consistent that he is---he is able to give coherent---coherent instructions.*

Q: You mean so if you have lost con---

Court: To the girl, that is.

Witness: To the girl lah.

Court: "Close your eyes".

Witness: Yah.

Q: Yes, "close your eyes and don't move---

Court: Don't be afraid. Basically don't scream.

Q: ---I won't kill anymore", something like that.

A: Yah.

Court: Then he stabs.

Lim: Yes.

A: Yah, that's why I---

Q: Okay, now, Doctor, I just want to clear my doubts.

A: Yes.

Q: I know I'm no expert, coming---coming from a layman's point of view. You mean if he have really lost self-control or even temporary lost control, you mean you are---you---you are incapable of even giving any simple instruction?

A: You can give simple instructions. I don't see why---

Q: Yes but the simple instruction "Don't move".

A: Yah.

Q: Then you say it's inconsistent and say in---

A: That's why---yah, that's why the---that's why I told your Honour that---no, I can't say yes, I can't say no. You understand what I'm trying---

Q: So---

Court: The "don't move" part---"don't move" part is a simple instruction but this part is slightly more complex, you know, "close your eyes, don't scream".

Lim: Yah.

Court: It---it sounds like, you know, you---

Lim: A thought process.

Witness: Yes.

Court: The thought process is being devious, you know, this is---

Witness: Yes, I agree.

Court: Then you don't do what you really want to do. You know what I mean, it's a---

Witness: Yah.

Court: ---it's a form of sophisticated---

Witness: Yes, I know.

Court: ---thinking.

Witness: *So log---logically, I would say yes, it doesn't, it's not consistent but then---*

Court: Not---not consistent with the loss of self-control being still there.

Witness: Yah.

Court: Okay. Then we---that's much you are clear.

Witness: Yah.

Court: All right, fine.

Witness: But again I cannot say completely---I---I cannot say completely no either because everything happen so ra---rapidly, you see.

Q: So there is no straight answer?

A: Yes (indistinct) there is no---

Q: (indistinct) can be consistent as well in---but you have to look at the total circumstances.

A: Yes, that's what I'm trying to say.

[emphasis added]

78 It will be noted from these passages that Dr Tan thought that the Accused's conduct was more consistent with *no* loss of self-control because of his instruction to Li to close her eyes. That, as the Judge pointed out, was an attempt by the Accused to trick Li, which suggested some measure of sophistication in the Accused's thought process. We agree with the Judge that this shows that there was no loss of self-control on the Accused's part at this time. But we note that this attempt to trick Li, instructing Li to close her eyes, only occurred *after* his attack of Yang. Does it necessarily follow that the Accused's mind was clear and that he was in control of himself when, he, moments earlier, attacked Yang? While we recognise that theoretically there could be such a possibility, *ie*, that he was out of control when he attacked Yang but regained control before returning to Bedroom 2 to continue his attack on Li, it is in our view such a highly improbable event as to be beyond reasonable doubt.

79 In assessing the Accused's mental state one should not lose sight of the sequence of events that night: after killing Zhang and Feng, the Accused rushed out of Bedroom 1 into Bedroom 2 where Yang and Li were and attacked Li; Yang took the opportunity to run out. After the Accused inflicted a number of wounds on Li, he told her not to move and then left the room in search of Yang. After finding Yang standing on the concrete overhang outside the kitchen window he attacked Yang, causing the latter to fall to her death (see [28]–[29] above). While we are prepared to accept that the Accused's telling Li not to move, unlike his telling her to close her eyes, did not necessarily lead to an irresistible inference that he had not lost his self-control at the time, we think that his conduct, viewed as a whole, does lead to such an inference. He had the presence of mind to cease attacking Li, ask her not to move and then deal with the potential escape of Yang. Such a course of action indicates rationality, a thinking mind and not someone who has lost his self-control. He was clearly concerned in case Yang should run out of the Flat and raise an alarm. Having found Yang outside the kitchen window, he knew how to deal with her. Accordingly, we do not entertain any doubt that when the Accused cut Yang's fingers causing her to fall to her death he was very much in control of himself.

80 At this juncture we wish to say something about the Judge's finding at [84] of the Judgment that there had been "a substantial interval of time" between the killings of Zhang and Feng and the killing of Yang such that the Accused would have had time to regain control of himself. From the available evidence we could not ascertain with any precision what the length of that interval of time would have been. We cannot say that it was about 30 seconds, or two minutes, or five, or ten. We can only say that after attacking Zhang and Feng the Accused went into the kitchen (for how long is

not clear) before barging into Bedroom 2 to attack Yang and Li. In any case, whatever could be the time lapse, as far as the killing of Yang was concerned, the court has the unequivocal evidence of Li to show the state of mind of the Accused.

81 Accordingly, the partial defence of diminished responsibility must fail in relation to Yang's death. The Defence has not shown, on a balance of probabilities, that the Accused's adjustment disorder had substantially impaired his mental responsibility in that it had hampered his ability to control his actions.

### ***The deaths of Zhang and Feng***

82 We now turn to the Prosecution's appeal which relates to the deaths of Zhang and Feng. The Judge was of the view that because the deaths of these two women had "followed each other so closely in time", it was "extremely unlikely" that the Accused's state of mind "changed significantly" from one to the other. We see no reason to fault this view of the two killings. On the evidence, the Accused's attack on Feng followed immediately from his attack on Zhang and we think it correct for the Judge to regard this sequence of events as a single transaction where a single state of mind prevailed in the Accused.

83 The single factor which seemed to be pivotal to the Judge's determination that the partial defence of diminished responsibility was applicable to the killing of Zhang was the number of injuries which he had inflicted on Zhang and which the Judge described as having been carried out in a frenzy (at [81] of the Judgment):

81 ... Taking into consideration Wang's account of his history with Zhang, Zhang's berating on the evening of 18 September 2008, Wang's subsequent brooding and his description of "seeing red", I find that these facts were consistent with the description of a person who had anger building up within him. I find that, coupled with his adjustment disorder, which might have reduced his capacity to control himself and which developed as a result of the multiple stressors, some of which were bizarre, Wang became so angry with Zhang on that evening that he went into a frenzy which was beyond his control and he wanted to kill Zhang. The frenzy manifested and culminated in Wang stabbing her more than 40 times and during this time, his mental responsibility had been substantially impaired by his adjustment disorder. ...

84 A careful scrutiny of the grounds of the Prosecution's appeal suggests that they can be reduced to two main points: first, that the Judge erred in concluding that the Accused had lost control of himself; and second, that he erred in finding or assuming that any loss of control on the Accused's part was linked to his adjustment disorder as a matter of causation. We shall examine each of these grounds in turn.

85 As to the question of whether the Accused had lost control, it appears to us that the Judge was heavily influenced by the sheer number of stab wounds that the Accused had inflicted on Zhang and Feng. He also accorded weight to the fact of the Accused's troubled and peculiar relationship with Zhang. However, we doubt that these two considerations advance the Defence case greatly. Concerning the number of stab wounds, as the Prosecution very pertinently pointed out, a very large number of stab wounds had also been inflicted on Li. Yet, as we have found, the Accused possessed self-control in the attack on Li. What this means is that in the present case we cannot accept that large number of stab wounds *per se* as indicative of loss of self-control. In principle, it must remain a possibility that an offender, perhaps if pushed to an extreme of fury or for some other reason, would intentionally and with complete self-control stab his victim very many times. For instance, if his intention was to kill the person, either because the person was the source of his stresses or in order

to eliminate the person as a witness to his killing, then the greater number of wounds caused would be consistent with achieving that objective. Thus the number of wounds inflicted is but one of the many factors that may or may not, depending on the totality of the factual circumstances, point towards loss of self-control, and cannot be determinative in and of itself.

86 As regards the nature of the Accused's relationship with Zhang, while it might provide a plausible trigger for a loss of self-control, in the criminal law there is a world of difference between loss of self-control due to some underlying psychiatric condition, and loss of self-control due to an excess of anger. That is why Exception 7 to s 300 of the Penal Code is triggered only when the abnormality of mind arises from one of the prescribed causes: when it arises from a condition of arrested or retarded development of mind or any inherent causes or is induced by disease or injury. We think that the Judge did not draw that distinction with enough precision and thus did not have sufficient regard to the normal disabilities or traits of a person suffering from adjustment disorder. In the first place, on the Judge's own reasoning any loss of self-control would seem to have been largely if not exclusively the result of anger. The Accused described "brooding" and "seeing red" and the Judge found this consistent with the description of a person "who had anger building up within him". With respect, that seems to us to acknowledge the normality of the Accused's reaction – or perhaps we should say that it suggests an absence of abnormality in his reaction. One could well say that the Accused was reacting as an ordinary person might have in response to repeated and prolonged insult and humiliation.

87 The causal connection which the Judge found between the Accused's circumstances and Exception 7 was that the Accused's adjustment disorder "might have reduced his capacity to control himself" and led to great anger, which in turn caused him to attack Zhang. With respect, we find that the Judge had probably not given sufficient regard to the nature of adjustment disorder suffered by the Accused as described in the medical literature and by the Prosecution and Defence experts. From the material available to us we find that the essential characteristic of the Accused's specific type of adjustment disorder is a state of depression and helplessness. That does not seem to fit with the Judge's reasoning that the Accused's disorder contributed to the rising anger within him.

88 Moreover there was the evidence of the Prosecution expert Dr Koh that if adjustment disorder led to violence such violence would generally be "mild" and "reactive" or "impulsive". These are not the adjectives that could be applied to the Accused's acts; that they were not "mild" is obvious, and they were not "reactive" or "impulsive" because there was a period of brooding of about an hour separating Zhang's verbal abuse and the Accused's attack on her.

89 As against this relatively benign view of adjustment disorder there is the MacArthur Study, which is the key plank on which the Defence expert rested his opinion that persons with such disorder had a propensity towards serious violence. To recapitulate, the MacArthur Study separated participants suffering from "major" mental disorders such as schizophrenia or depression from those suffering from "other" mental disorders including adjustment disorders as well as personality disorders and "suicidality". As Dr Tan explained, the results of the MacArthur study suggested that the violence rate for participants diagnosed with "other" mental disorders was higher than those diagnosed with "major" mental disorders.

90 We do not think, however, that the MacArthur Study provides much support for Dr Tan's view that sufferers from adjustment disorder have a propensity for violence. To begin with, the category of "other" mental disorders in that study did not comprise adjustment disorder exclusively but included other personality disorders and conditions. It cannot be said that a higher violence rate among those who suffer from "other" mental disorders means a higher violence rate among those with adjustment disorder. More fundamentally, as the Prosecution points out, the MacArthur Study was based on

patients admitted to *acute civil inpatient facilities*. It is a plausible hypothesis that such patients find themselves in facilities of that sort because their behaviour is particularly out of the ordinary; it may well be that there is a host of individuals suffering from adjustment disorder who did not come under the scrutiny of the MacArthur Study because their behaviour was not extraordinary enough to provide any impetus for their admission into acute civil inpatient facilities. Hence it could be that a very high percentage of all adjustment disorder sufferers are not in the slightest bit susceptible to violent behaviour, and that the MacArthur Study was therefore, in this regard, unreliable due to selection bias. What is clear is that the MacArthur Study is not appropriate, and cannot be relied upon, to establish the characteristics of an adjustment disorder sufferer in relation to his propensity to violence.

91 For these reasons we find that Dr Tan's opinion was too widely stated. The MacArthur Study hardly furnishes any basis for an assertion that individuals suffering from adjustment disorder have, as a class, a propensity for violence. It is after all a rather heterogeneous class. Hence Dr Tan's views do not seem to us to have been built on a solid foundation. In contrast Dr Koh's evidence was not undermined to any substantial extent and so we prefer his view that adjustment disorder does not generally result in violence as severe as that which transpired in this case.

92 Therefore, even accepting that the Accused lost his self-control in attacking Zhang and Feng with such violence and viciousness, we are not satisfied that this was due to his adjustment disorder. We think it is more likely that it was nothing more than the culmination of a long period of long-repressed but non-abnormal anger. Thus we hold that it has not been shown, on a balance of probabilities, that the Accused's mental responsibility was substantially impaired by an abnormality of mind in relation to the killings of Zhang. It was anger *simpliciter* and of an extreme nature as well, but not such as to fall within Exception 7. He wanted to finish her off so that she would never feature in his life again. As for Feng, the Accused's intention then was to eliminate a person who was a witness to his crime. The same applies to Yang and Li, except that in the case of the latter, she was extremely fortunate to have survived the numerous injuries inflicted by the Accused on her. Accordingly, we hold that the Accused is not protected by the partial defence of diminished responsibility.

## Conclusion

93 For the above reasons we allow the Prosecution's appeal in CCA12/2012 and dismiss the Accused's appeal in CCA4/2013. In the result, we find the Accused guilty of the 1<sup>st</sup> and 2<sup>nd</sup> charges as set out in [2] above and accordingly convict him of murder under s 300(a) of the Penal Code in relation to the deaths of Zhang and Feng; and we also affirm his murder conviction – also under s 300(a) – in relation to Yang's death. For each of these three convictions for murder, the Accused shall suffer the punishment of death and we so order.

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[\[note: 1\]](#) NE, Day 6 p 36

[\[note: 2\]](#) NE Day 10 p 114

[\[note: 3\]](#) NE Day 10 p 141