IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2018] SGCA 62

Criminal Appeal No 48 of 2017

Between

ZAINAL BIN HAMAD

… *Appellant*

And

PUBLIC PROSECUTOR

… *Respondent*

Criminal Appeal No 49 of 2017

Between

RAHMAT BIN KARIMON

… *Appellant*

And

PUBLIC PROSECUTOR

… *Respondent*

GROUNDS OF DECISION

[Criminal law] — [Statutory offences] — [Misuse of Drugs Act]

Zainal bin Hamad
v
Public Prosecutor and another appeal

[2018] SGCA 62

Court of Appeal — Criminal Appeals Nos 48 and 49 of 2017
Sundaresh Menon CJ, Tay Yong Kwang JA and Steven Chong JA
11 September 2018

3 October 2018

Sundaresh Menon CJ (delivering the grounds of decision of the court):

Introduction

1 Following a joint trial, Zainal bin Hamad ("Zainal") and Rahmat bin Karimon ("Rahmat") (collectively, "the co-accused") were each convicted in the High Court of one charge of trafficking in not less than 53.64g of diamorphine under s 5(1)(*a*) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("the MDA"), punishable under s 33(1) of the MDA. Given that no certificate of substantive assistance was provided, the High Court judge ("the Judge") imposed the mandatory sentence of death on both Zainal and Rahmat: see *PP v Rahmat bin Karimon and another* [2018] SGHC 1 ("the GD") at [1].

2 In Criminal Appeals Nos 48 and 49 of 2017, Zainal and Rahmat appealed respectively against their convictions. After carefully considering the parties' submissions and hearing their oral arguments, we dismissed the appeals

and gave brief oral grounds. We now expand on those reasons and also take this opportunity to provide some guidance as to how the Prosecution and the Defence should approach cases in which the presumptions in both ss 17 and 18 of the MDA may potentially be applicable, given that it is clear that at least some of these presumptions cannot operate together in the same case.

Background

3 The material facts have been set out by the Judge at [4] to [13] of the GD. Essentially, this case concerns the transportation of a package of drugs, which was found to contain not less than 53.64g of diamorphine. The co-accused were charged with having trafficked in these drugs. Although they were both physically involved in handling the green bag that contained the drugs at various points, and even though in Rahmat's case he accepted that he was in possession of the green bag, they each contended that they were not trafficking. The objective facts and the contentions of each of the co-accused in respect of these facts may be stated as follows.

(a) First, each co-accused claimed that he was dealing with or acting on the instructions of another person. Rahmat referred to the person he was dealing with as "Kanna", while Zainal referred to the person he was dealing with as "Samba".

(b) Second, the person or persons on whose instructions the co-accused were acting, was or were in fact responsible for arranging to transport the package of drugs.

(c) Third, Rahmat claimed that Kanna instructed him to deliver the package, which he ultimately claimed he thought contained medicines, to someone called "Bai", who then directed him to deliver it to Zainal.

Rahmat further claimed that he was to collect a sum of $8,000 which was said to be the repayment due to Kanna arising from an earlier unrelated illegal moneylending transaction, rather than the payment for the medicines. According to Rahmat, his main task was to collect payment of the supposed illegal loan.

(d) Fourth, Zainal, who had been a drug dealer, claimed that he wanted to move from drug dealing to dealing in uncustomed cigarettes. As his first endeavour in this direction, he asked Samba to arrange delivery of 200 cartons of such cigarettes. He was told that 20 cartons would be delivered first and in return he was to pay a sum of $8,000, which was the amount payable for the entire shipment.

(e) Fifth, Rahmat delivered the green bag to Zainal and collected the sum of $8,000. Zainal said he knew at once that the green bag did not contain the cigarettes. But he said he paid the sum of $8,000 as an advance payment for the anticipated future delivery of the cigarettes. He specifically maintained that he did not pay the $8,000 *for* the green bag. In fact, his case was that he never really took delivery of the green bag. The green bag was just incidental to the transaction as a whole and was curiously and for no apparent reason left there by Rahmat. Further, when Zainal later moved the green bag to a location in the warehouse behind some pallets where it could not readily be seen, he said he had done so with a view to retrieving it later and then returning it to Rahmat, whom he had hoped and expected would eventually return with the cigarettes.

(f) Sixth, throughout this transaction, Zainal said he was extremely uncomfortable because he thought they might be under surveillance by law enforcement officers.

The decision below

4 The co-accused were tried together in the court below. In relation to Zainal, the Judge made the following findings.

(a) Zainal had actual possession of the drugs since he was in control of the green bag that contained the drugs. The act of placing the bag behind a stack of pallets did not deprive Zainal of control as he intended to return to the bag at some point. In any event, the presumption of possession under s 18(1) of the MDA applied and was not rebutted for the same reasons (the GD at [78]–[87]).

(b) Since possession was established, the presumption of knowledge under s 18(2) of the MDA applied and was not rebutted. The Judge did not accept Zainal's defence that he was expecting a delivery of 20 cartons of cigarettes because his actions were incongruous with one who expected to receive cigarettes but knew from the moment he met Rahmat that the latter did not appear to have the 20 cartons of cigarettes with him. In any event, these same factors would have led to a finding that Zainal had actual knowledge of the nature of the drugs, including wilful blindness (the GD at [88]–[107]).

(c) Zainal possessed the drugs for the purpose of trafficking, given that the quantity of diamorphine involved was more than triple that of the quantity that attracted the capital punishment and Zainal had not offered any credible explanation for why he had such a quantity. In any event, the presumption of trafficking under s 17 of the MDA would have applied based on the findings of actual knowledge and possession; this presumption had not been rebutted (the GD at [108]–[110]).

5 In relation to Rahmat, physical possession of the drugs was not in issue; Rahmat's primary defence was that he did not know the nature of the drugs. The Judge found that Rahmat had actual knowledge, including wilful blindness, that the green bag contained diamorphine and in any event, the presumption of knowledge under s 18(2) of the MDA applied and was not rebutted (the GD at [39]). In particular, the Judge did not accept Rahmat's claim that he thought the green bag contained medicines. The Judge considered it significant that there was insufficient basis for Rahmat to trust Kanna because of the brevity of their relationship and it was not likely that the delivery of medicines on such a small scale would have enabled Rahmat to obtain such a substantial loan from Kanna (the GD at [45]–[49]). The Judge also noted that Rahmat's statements to the Central Narcotics Bureau ("the CNB") differed significantly from the testimony he gave in court on important aspects such as what he thought the green bag contained and whether he had received payment for the delivery (the GD at [50]–[52]).

6 Against that backdrop, we considered the case run by each of the co-accused on appeal.

Zainal's appeal

7 Mr Peter Keith Fernando ("Mr Fernando"), counsel for Zainal, ran two arguments. Both these arguments ultimately rested on his factual case that Zainal never took delivery of the green bag in return for which, it was said, he paid the sum of $8,000. The lynchpin of Mr Fernando's argument, as we elaborate below, was that Zainal was not in possession of the drugs; alternatively, he did not know the green bag contained drugs. According to Mr Fernando, as far as Zainal was concerned, he never knew and really did not care what was in the green bag. He paid the money for an anticipated future delivery

of uncustomed cigarettes. On this basis, Mr Fernando contended that first, Zainal never in fact had possession of the drugs; and second, that in the alternative, if Zainal did have possession of the drugs, he has rebutted the presumption under s 18(2) of the MDA that he knew the nature of the drugs.

8 We dismissed Zainal's appeal on both these grounds. In addition, although Zainal did not appeal the Judge's finding that he had the drugs for the purpose of trafficking and no part of Mr Fernando's argument was directed to this, in our judgment, the evidence supported the Judge's finding that Zainal possessed the drugs for the purpose of trafficking even without the presumption of trafficking under s 17 of the MDA. We turn to address each of these points.

Possession

9 In support of his first argument on possession, Mr Fernando relied on the authority of the Court of Appeal in *Sim Teck Ho v PP* [2000] 2 SLR(R) 959 ("*Sim Teck Ho*") for the proposition that to prove the fact of possession, it is necessary to prove not just that there was physical control of the package but also that there was knowledge of the existence of that package. The latter requirement has been described in the case law as only requiring knowledge of "the thing" in question, and not knowledge of its nature or its name.

10 It is helpful to begin by referring to the relevant extract in *Sim Teck Ho* at [12]–[13]. There, the Court of Appeal cited the decision of the House of Lords in *Warner v Metropolitan Police Commissioner* [1969] 2 AC 256 ("*Warner*") as follows:

> 12 Karthigesu JA went on [to] cite a portion of Lord Pearce's judgment in Warner *v Metropolitan Police Commissioner* [1969] 2 AC 256, a decision of the House of Lords which involved the meaning of "possession" for the purpose of s 1 of the Drugs (Prevention of Misuse) Act 1964. Lord Pearce's *dicta* had been

> cited *in extenso* with approval by the Court of Appeal in *Tan Ah Tee v PP* [1979–1980] SLR(R) 311. Wee Chong Jin CJ in delivering the judgment of the court, said that the word "possession" for the purpose of the Act should be construed as Lord Pearce had construed it. His Lordship had said in *Warner*:
>
> > One may, therefore, exclude from the "possession" intended by the Act the physical control of articles which have been "planted" on him without his knowledge. But how much further is one to go? If one goes to the extreme length of requiring the prosecution to prove that "possession" implies a full knowledge of the name and nature of the drug concerned, the efficacy of the Act is seriously impaired, since many drug pedlars may in truth be unaware of this. I think that the term 'possession' is satisfied by a knowledge only of the existence of the thing itself and not its qualities, and that ignorance or mistake as to its qualities is not an excuse.
>
> 13 Therefore, in order to prove possession, the Prosecution must prove that there is first, physical control over the controlled drug, and second, knowledge of the existence of the thing itself, that is the existence of the controlled drug, but not the name nor nature of the drug

11 We note that both *Sim Teck Ho* and *Warner* were concerned with the issue of *proving* possession. In *Sim Teck Ho*, although the presumption of possession under the equivalent of s 18(1) of the MDA was available, the court proceeded on the basis that the Prosecution needed to *prove* possession, possibly because the Prosecution had relied on the presumption of trafficking under s 17(*c*) of the MDA (see *Sim Teck Ho* at [22]). This is an issue we will return to later. But it should be noted that in *Warner*, the House of Lords was concerned with s 1 of the Drugs (Prevention of Misuse) Act 1964 (c 64) (UK) (the "DPMA"), which did not contain presumptions equivalent to those under the MDA, but instead provided only that "it shall not be lawful for a person to have in his possession a [specified] substance". The issue faced by the House of Lords was thus whether the accused had been *proved* to have possession and in that context it also considered whether s 1 of the DPMA created a strict liability offence. Because of these statutory differences, we observed in *Tan Kiam Peng*

v PP [2008] 1 SLR(R) 1 that the only portions of *Warner* that should be relevant to our jurisprudence are those pertaining to the general concept of possession, specifically, in relation to proving the fact of possession (at [51], [86] and [87]).

12 Therefore, in our judgment, on the basis of the *dictum* cited at [10] above, where the Prosecution wishes to *prove* the fact of possession, it must prove not only that the accused was in possession of the package or the container but also that the accused knew that it contained something, which may later be established to be the shipment of controlled drugs. However, in proving possession, it is not incumbent on the Prosecution to prove that the accused specifically knew that he was in possession of drugs, or even of something that turns out to be contraband, as long as it proves that he was in possession of something and that thing turns out to be the drugs in question.

13 To illustrate the point, in *Harven a/l Segar v PP* [2017] 1 SLR 771 ("*Harven*"), the accused was carrying a backpack that contained bundles that were later found to be controlled drugs. The accused knew that there was a package in his backpack which had been handed to him by another person but he contended that he did not know the package contained drugs. He was acquitted. But this was not on the basis of him not being in *possession* of the drugs; rather, it was because the Court of Appeal, by a majority, accepted that he had proved that he did not *know* that the package contained drugs (at [71]). What this illustrates is that the question of whether the accused knows that the package or container contains *drugs* is an inquiry that arises when considering the question of *knowledge* rather than that of *possession*. Sequentially, one must first be shown to be in possession and then one must be shown to know the nature of that which one is in possession of. These are separate inquiries.

14 In proving *possession*, the Court of Appeal in *Sim Teck Ho* spoke of the need to prove knowledge of the existence of the thing in question. If it is not proved that the accused had such knowledge, then he will not be held to be in possession of that thing. But it is important to situate this correctly: the lack of knowledge on the part of the accused that was contemplated in *Sim Teck Ho* and in *Warner* is a lack of knowledge that the package he is given in fact contains the thing in question. The paradigm situation of this is where, as outlined in *Warner*, *something is planted without the knowledge of the accused*.

15 The precise ambit of this requirement in the specific context of *something that contains the thing in question* was further spelt out at [19] of the judgment in *Sim Teck Ho*, which was not referred to us in the course of the arguments, and it is as follows:

> 19 The second element of possession is knowledge of the existence of the controlled drug. The appellant's contention in the court below and on appeal was that, while he knew of the existence of the bag, he was totally ignorant of its contents. In *Tan Ah Tee* ([12] *supra*) it was said by the Court of Appeal (at [19]):
>
> > *… Indeed, even if there were no statutory presumptions available to the Prosecution, once the Prosecution had proved the fact of physical control or possession of the plastic bag and the circumstances in which this was acquired by and remained with the second appellant, the trial judges would be justified in finding that she had possession … within the meaning of the Act unless she gave an explanation of the physical fact which the trial judges accepted or which raised a doubt in their minds that she had possession of the contents within the meaning of the Act.*
>
> Further on in the same judgment, the Court of Appeal cited the following *dicta* of Lord Pearce in *Warner v Metropolitan Police Commissioner* ([12] *supra*):
>
> > *… For a man takes over a package or suitcase at risk as to its contents being unlawful if he does not immediately examine it (if he is entitled to do so).* As soon as may be he should examine it and if he finds the contents

> suspicious reject possession by either throwing them away or by taking immediate sensible steps for their disposal.
>
> [emphasis added]

16 From the foregoing passage, it can be seen that where the Prosecution seeks to *prove* the fact of possession, once it proves that the accused had physical control over or possession of the package or container that contains the thing in question, the court is entitled to infer that the accused had knowledge of the existence of that thing. It is then incumbent on the accused to discharge the evidential burden by raising a reasonable doubt that this was not the case. It should be noted that this may not always readily be done given the fact of control or possession, especially where the circumstances would have aroused the suspicions of the accused or where he has had an opportunity to examine the package.

17 In this case, on the question of *proving* possession, Zainal had taken control of the green bag which was not his; and on his own case, it was left with him by someone he had expected would deliver uncustomed cigarettes. By taking the bag without taking any steps to inspect it, he was taken to be in possession not only of the bag but also its contents. It was then incumbent on him to adduce evidence to raise a reasonable doubt and to show that he reasonably ought not to be taken to be in possession of the contents of the bag, even though he had assumed control over the bag, or that the drugs had been planted on him. However, in this case, it was not Zainal's case that the drugs had been planted on him, in the sense that someone had slipped the drugs into the green bag after he had taken possession of it. Rather, his case in essence was a bare denial that he should be taken to be in possession of the contents of the green bag. As we have noted above, he contended that he did not know or even

care what was in the green bag and we did not accept that on the facts this was sufficient to raise even a reasonable doubt.

18 The case, in our judgment, turned on a few pivotal facts which were relevant to both aspects of the case that was run by Mr Fernando, namely, the question of whether Zainal was in fact in possession of the drugs and also, if possession was established, whether he had rebutted the presumption that he knew the nature of the drugs. These key facts were the following:

(a) First, Zainal paid the sum of $8,000 to Rahmat. Zainal said this was an advance payment for the cigarettes. We were satisfied that this explanation was incredible given the rest of Zainal's story. In particular, Zainal said that he was urgently trying to accumulate savings of $12,000 to get married. If this were true, it was inexplicable that he would pay $8,000 to Rahmat for uncustomed cigarettes when Rahmat clearly did not have the cigarettes. This was especially so given that Zainal was supposedly expecting and had been told shortly before Rahmat arrived that Rahmat would have them. Further, when Rahmat left the green bag with Zainal, he did not tell Zainal when or how he would get the cigarettes. This made it even more inexplicable that Zainal would willingly hand over $8,000, which to him would have been a large sum that supposedly had been saved for the purposes of his intended marriage.

(b) Second, Mr Fernando said that Zainal was ultimately unconcerned about the contents of the green bag. But we found this incredible because based on his statements to the police, this was evidently the first thing he had asked Rahmat about. We reproduce

extracts from paras 35, 36, 37 and 41 of Zainal's statement on 2 June 2015:

> 35 … I saw that "Abang" was holding the green bag with one hand. I waved to him and he came towards me carrying the green bag with him. He did not hand over the green bag to me when we met at that alley. I did not ask him for the order of my 20 cartons of cigarettes when we met, I felt that something was not right. I asked then him to follow me to the third floor. He did not ask me why he had to follow me to the third floor. Before we were about to go down the stairs to the third floor, I told "Abang" that I was sensing something unusual. He did not reply or say anything but just kept quiet.
>
> 36 I then asked "Abang" what he had brought inside the green bag. He just kept quiet. I did not ask him why he was quiet. After going down to the third floor, we took the public lift to the second floor. We walked out towards the sheltered car park at the second floor. I walked together with "Abang" and I headed for the entrance to the second floor warehouse. As we walked, I saw four to five adults running down the escalator and then the same four or five persons ran up another escalator. I told "Abang" that something was not right and he also looked at what was happening. …
>
> 37 … My intention of bringing "Abang" to the warehouse was to ask him to give me the 20 cartons of cigarettes. I then led him towards the doors leading to Staircase 11. We exited and stood on the metal staircase. "Abang" was still holding the green bag at that time. I then told "Abang" that I did felt something was not right. He said that it was nothing to worry about. He asked me to pass him the $8000. I took out the $8000 dollars which I had with me and passed it to him. He took the money from me.

It was only after a break until the afternoon of the next day, 3 June 2018, that Zainal revised part of his earlier evidence to mention for the first time that he had asked Rahmat about the cigarettes:

> 41 After "Abang" said that there was nothing wrong, he asked me to pass him the $8000. That was when I asked him for the 20 cartons of cigarettes which I had ordered. But he asked me to pass him the money first. I then passed him the money as he had requested. …

It was evident from this that Zainal's initial focus was on the contents of the green bag. As we observed to Mr Fernando, if Zainal really was disinterested in the green bag and did not care what it contained, and if indeed it was purely incidental to the transaction between him and Rahmat, it was inexplicable why he would have asked about its contents on more than one occasion and why he was seemingly more curious about this than about the missing cigarettes. As noted above, the assertion that he had asked about the cigarettes was only raised after a break and did not even feature in his first detailed account of the events.

(c) Third, Zainal waited for more than 45 minutes before he collected the green bag. As we put it to Mr Fernando in the course of his arguments, this was inconsistent with the assertion that Zainal did not know or care what the green bag contained and thought it was something innocuous – in fact, he mentioned that he thought it was Rahmat's personal belongings – but, on the other hand, it was entirely consistent with his concern that it did contain something suspicious, given his evidence that he was anxious he may have been under surveillance.

(d) Fourth, it was clear that irrespective of whether Kanna and Samba were the same person or two different persons:

(i) Zainal knew that he was to pay $8,000 to Rahmat and he did so;

(ii) Rahmat knew he was to collect $8,000 from Zainal and he did so;

(iii) Rahmat in fact delivered the green bag to Zainal that contained drugs. His evidence was that this was what he was supposed to do; and

(iv) Zainal took control of the green bag after having parted with $8,000.

It followed from this that this simply could not have been a case of mistaken identity, which in any case was not a suggestion raised by Zainal. But what did arise from this was the irresistible inference that the person or persons who arranged the delivery of the drugs and the payment of $8,000 had intended this outcome. As far as Rahmat was concerned, he had completed his assignment when he delivered the green bag to Zainal and collected $8,000. If Zainal had thought he was in a transaction to pick up uncustomed cigarettes for which he was to pay $8,000, it was inexplicable why he would have been delivered a valuable cargo of drugs instead. The short point is that there was simply no chance that the drugs were delivered by mistake.

19 Taking the evidence in the round, there was no reasonable doubt as to whether Zainal took possession of the drugs. Such possession, in our judgment, was amply proved. Zainal's bare denial that he never knew or cared what was in the green bag did not stand up to scrutiny.

20 This does not mean, as Mr Fernando suggested at one point in his arguments, that the effect of approaching proof of possession in this way is that the Defence would always necessarily fail once the drugs are found to be in the physical control or custody of an accused; nor does it mean that this is a case of strict liability. It remains open for the accused to raise a reasonable doubt as to whether he was in possession (assuming that the case is being run on the basis of proving possession rather than on the presumption of possession, which we turn to shortly); or to show that he did not *know* what he was in possession of, when it comes to dealing with the question of knowledge. We therefore did not

accept Mr Fernando's argument in relation to possession. We were satisfied that this had been proved on the evidence.

21 Before we turn to the question of knowledge, we make a passing observation. It is open to the Prosecution in the appropriate case to also rely on s 18(1) of the MDA, which provides that:

> **Presumption of possession and knowledge of controlled drugs**
>
> **18.**—(1) Any person who is proved to have had in his possession or custody or under his control —
>
> (*a*) anything containing a controlled drug;
>
> …
>
> shall, until the contrary is proved, be presumed to have had that drug in his possession.

22 Here, it was accepted that Zainal had physical control of the green bag. By virtue of s 18(1)(*a*) of the MDA, he would be *presumed* to have had the drug in his possession. However, in this case it was not necessary to rely on this, because as we found, possession had been *proved* on the facts before us.

Knowledge

23 We turn briefly to the second argument that Mr Fernando raised, namely, that on the facts Zainal had rebutted the presumption under s 18(2) of the MDA that he knew the nature of the drugs. The proper analytical approach to be adopted when considering this was laid down by us in *Obeng Comfort v PP* [2017] 1 SLR 633 at [39]–[40] as supplemented by our observations in *Harven* at [2] and can be summarised as follows:

(a) The presumption of knowledge under s 18(2) of the MDA applies where the accused is "proved or presumed to have had a

controlled drug in his possession", that is to say, by *proving* the fact of possession or by relying on the *presumption* of possession under s 18(1) of the MDA, assuming this has not been rebutted. Where the presumption of knowledge applies, the accused is presumed to know the nature of the drug.

(b) The accused bears the burden of rebutting the presumption of knowledge on a balance of probabilities. As a matter of common sense and practical application, he should be able to say what he thought or believed he was carrying, and a claim that he simply did not know what he was carrying would not usually suffice.

(c) Once the accused has stated what he thought he was carrying, the court would then assess the veracity of the accused's assertion against the objective facts to determine whether the accused's account should be believed.

(d) However, because of the inherent difficulties of proving a negative, the burden on the accused should not be made so onerous that it becomes virtually impossible to discharge.

Mr Fernando did not dispute that this was the correct analytical framework.

24 It follows from this that it was incumbent on Zainal to prove that he thought he was in possession of something else. It should be noted that Zainal was clear that he did not think the green bag contained the uncustomed cigarettes which was what he claimed to have paid $8,000 for. Instead, his story was that he did not know what was in the green bag and really did not care. As we have observed, as far as Zainal's case was concerned, the green bag was entirely incidental and just happened to be there for no evident reason. In short,

his case rested on breaking the link between Rahmat's delivery of the green bag which he received and took control of, on the one hand, and the payment of $8,000, on the other.

25 As Mr Fernando ultimately rested both limbs of his case on a single factual premise, the assessment of this factual premise also ran into the same difficulties that we have referred to at [18] above. For those reasons, we were satisfied that Zainal had not displaced the presumption that he knew the nature of the drugs, which we found he was in possession of.

26 Indeed, on the facts before us, we were satisfied that Zainal would have been *proved* to have had knowledge of the nature of the drugs even if the presumption under s 18(2) did not apply. Again, on the evidence, we had rejected Zainal's account that he had paid the sum of $8,000 as an advance payment for the cigarettes and that the presence of the green bag was merely a coincidence. On this basis, it then made no sense at all for him to have parted with the sum of $8,000 for anything other than the drugs, especially since the sum of $8,000 would have been a large sum for someone in his position. This, coupled with the additional fact that Zainal had admitted in his statements to the CNB that he had been dealing in drugs before this, led to the finding that Zainal had actual knowledge of the drugs within the green bag.

Possession for the purpose of trafficking

27 Finally, we turn to the question of trafficking. As we earlier observed, no arguments were raised on appeal with respect to the question of trafficking. Furthermore, given our findings that Zainal was *proved* to be in possession of the drugs and had knowledge of the nature of the drugs, then pursuant to s 17(*c*)

of the MDA, he was presumed to have possessed the drugs for the purpose of trafficking, and nothing was advanced to rebut this.

28 In any event, we were satisfied that a finding of possession for the purpose of trafficking would have been made out even without resort to the presumption under s 17(*c*) of the MDA. The crucial facts in this regard are the following:

(a) First, Zainal was in possession of 53.64g of diamorphine, which is more than 26 times the quantity which triggers the presumption of trafficking under s 17(*c*) of the MDA. This is an extremely substantial quantity that goes well beyond anything that Zainal would have possessed purely for consumption, and no evidence was led to suggest that he had either the means or the need to consume diamorphine in such a large quantity.

(b) Second, Zainal had previously been in the business of selling diamorphine. He had admitted in his statements to the CNB that even before delivering diamorphine for Samba, he had bought 58 or 60 packets of diamorphine from another supplier in early 2015 to be resold for profit. Subsequently, when he needed to replenish his stock of diamorphine, Zainal approached Samba and in early May 2015, received a stock of diamorphine from Samba through Rahmat. It would have been incredible, given Zainal's past dealings, to suggest that the diamorphine that he received from Samba this time around was for any other purpose. Against this, the only explanation that Zainal advanced as to why he possessed the green bag containing the drugs was that he wanted to return the green bag to Rahmat. But as we found at [18] above, this was not a credible explanation. Since we did not accept this explanation, and

given the quantity of drugs and Zainal's previous dealings, the only possible inference was that the drugs were in Zainal's possession for the purpose of trafficking.

(c) Third, we found incredible Zainal's claim that he had called Samba on 27 May 2015 and had informed Samba that he wanted to stop selling diamorphine and start selling uncustomed cigarettes instead. On Zainal's own evidence in his statements to the CNB, on the very same day, after he had supposedly made the call to Samba, Zainal had in fact arranged to sell diamorphine to one "Ali Mawas" and one "Taha". Zainal's conduct, in this respect, severely undermined his assertion that he had given up his trade in diamorphine.

29 Thus, regardless of whether the presumption under s 17(*c*) of the MDA was engaged (a point which we address subsequently), in our judgment, the evidence showed that Zainal had possessed the drugs for the purpose of trafficking. Taking these matters in the round, we dismissed Zainal's appeal.

Rahmat's appeal

30 We turn to Rahmat's appeal. Mr Jason Chan ("Mr Chan"), counsel for Rahmat, accepted that Rahmat was in possession of the green bag and of the drugs; his defence was solely to attempt to rebut the presumption of knowledge under s 18(2) of the MDA. We refer in this connection to what we have said at [23] above on the appropriate analytical framework to be adopted in such circumstances.

31 The objective facts are that Rahmat delivered the green bag to Zainal and, in exchange, collected $8,000 from Zainal. Rahmat needed to address both these facts in order for his appeal to succeed.

32 Mr Chan advanced two arguments. First, like Mr Fernando albeit for different reasons, he submitted that there was no real connection between the payment of $8,000 and the delivery of the green bag; and secondly, that Rahmat thought he was carrying medicines. We take each in turn. But as a preliminary point, we observed, and Mr Chan candidly accepted, that Rahmat's evidence was afflicted with many inconsistencies. This was something that the Judge too noted (see the GD at [50]–[58]). There were several notable differences between what he said in his statements to the investigators and what he later said in court, and he was not able to account for these discrepancies other than generally to say that his earlier statements were untrue. This was material when it came to questions of credibility.

33 On the first argument, Rahmat's case was that he had been a runner for Kanna's illegal moneylending business which appeared to have been conducted in Malaysia and had known and associated with Kanna for about two months. He subsequently decided that he wanted to go into a legitimate business, specifically to become a goat rearer. He asked Kanna for a loan of RM30,000 in order to enable him to start his business. Kanna, evidently grateful for Rahmat's good work as a runner for his money-lending business over the course of two months, agreed and told him that he could have such a loan interest-free, repayable over five years and also that he could leave Kanna's syndicate. All he had to do was to bring some medicine to someone in Singapore called Bai and then collect $8,000 from Zainal.

34 We found this incredible. As we put it to Mr Chan, it was incredible that a syndicate operator like Kanna, who was thought to be in the business of illegal moneylending, would give Rahmat a substantial interest-free loan in order to help Rahmat start a legitimate business and leave his illegal business, when he did not really have a deep history of close friendship with Rahmat. On the

contrary, if it were true that Rahmat needed a substantial amount of money, he would have been a prime candidate either to continue to work for Kanna till he had earned enough to pursue his other plans or to be one of Kanna's clients and obtain an illegal loan from him at the sort of interest rates Kanna charged others. The idea that Kanna would have been prepared to grant Rahmat an interest-free loan, seemingly with no strings attached, is simply too far-fetched to be true. We accordingly rejected Rahmat's first argument as inherently incredible.

35 Turning to the second argument, Rahmat said he thought he was carrying medicines but this too was incredible given four facts in particular:

(a) First, there was the shifting nature of Rahmat's account of what it was that he thought he was carrying and of what he did with it. As we observed during Mr Chan's arguments, Rahmat first said that he thought he was carrying crackers and that he never looked in the green bag. He later changed his evidence on both these points.

(b) Second, if all that was involved was the delivery of some medicines, it was incredible that Rahmat would have had to embark on such an intricate set of arrangements: he first had to find Bai, who would then pass him the package (as he first maintained), or if he brought the package with him, he would have to find Bai to get instructions as to what he should do with it and presumably as to where he should collect the money (as he later insisted).

(c) Third, this story was incredible because if the sum of $8,000 that he collected from Zainal was repayment of a loan extended by Kanna to Zainal and in turn was a fresh interest-free loan to him from Kanna, there was no reason for Rahmat to then pass this it to his wife to hide in her underclothes, as he did. Yet he had said in his statements to the police

that he had done this because he was afraid there might be a police operation going on and if he was apprehended, he would not be able to account for the money. It was not clear why he ever imagined he would be apprehended by the authorities if he was in Singapore to obtain a lorry license from Bai at Kanna's direction, as he initially claimed to be, or to deliver medicines on Kanna's behalf, as he later insisted.

(d) Finally, it was incredible because nobody would pay $8,000 for the delivery of medicines, and under cross-examination Rahmat twice accepted that the money had in fact been paid to him *in exchange for his making the delivery*.

36 For all these reasons, we were satisfied that Rahmat too had failed to rebut the presumption of knowledge under s 18(2) of the MDA. Since he delivered the drugs to Zainal, there was no doubt that he was trafficking. We therefore dismissed Rahmat's appeal also.

Coda: guidance for the Prosecution and the Defence in cases where the presumptions under ss 17 and 18 of the MDA may potentially be applicable

37 It is evident from the manner in which we have set out the analysis that there is an important distinction to be made between *proving* and *presuming* the three elements of an offence of trafficking, namely, (a) the *possession* of the drugs, (b) the *knowledge* of the nature of the drugs and (c) the possession of the drugs for the *purpose of trafficking*. This is because, as we alluded to earlier, not all the presumptions under ss 17 and 18 of the MDA can operate together in the same case. The relevant portions of ss 17 and 18 provide as follows.

Presumption concerning trafficking

17. Any person who is *proved to have had in his possession* more than —

> …
>
> (*c*) 2 grammes of diamorphine;
>
> …
>
> whether or not contained in any substance, extract, preparation or mixture, *shall be presumed to have had that drug in possession for the purpose of trafficking* unless it is proved that his possession of that drug was not for that purpose.
>
> [emphasis added]
>
> **Presumption of possession and knowledge of controlled drugs**
>
> **18.**—(1) Any person who is *proved to have had in his possession or custody or under his control —*
>
> (*a*) anything containing a controlled drug;
>
> …
>
> *shall, until the contrary is proved, be presumed to have had that drug in his possession.*
>
> (2) *Any person who is proved or presumed to have* had a controlled drug *in his possession* shall, until the contrary is proved, be *presumed to have known the nature of that drug.*
>
> [emphasis added]

38 It is plain that the presumptions under ss 17 (of trafficking) and 18(1) (of possession) cannot run together because the former only applies where possession is *proved* whereas if the latter provision is invoked, its effect is to give rise to a *presumption* (and not *proof*) of the fact of possession. This proposition is well established (see for instance, our decisions in *Lim Lye Huat Benny v PP* [1995] 3 SLR(R) 689 ("*Benny Lim*") at [17] and *Ali bin Mohamad Bahashwan v PP and other appeals* [2018] 1 SLR 610 at [91]) and rests not only on the plain language of s 17, but also on the fact that Parliament had deliberately narrowed the language of s 17, which originally applied where possession was "proved or presumed" but was later restricted to situations where possession is "proved". Thus, Parliament must be taken to have intended that the presumption under s 17 would only apply where an accused is proved,

and not merely presumed, to be in possession of a controlled drug (*Low Kok Wai v PP* [1994] 1 SLR(R) 64 ("*Low Kok Wai*") at [37]).

39 However, what is less clear is whether the presumptions under ss 17 (of trafficking) and 18(2) (of knowledge) can operate in the same case. Both these presumptions are triggered upon the *fact* of possession, although s 17 operates only where possession (in the requisite minimum quantity) is proved, while s 18(2) may operate where possession is either proved or presumed. Thus, the argument may be made that in a case where possession is *proved* without resort to the presumption under s 18(1), then both the presumptions under ss 17 and 18(2) may apply, with the result that the accused may then be presumed to have knowledge of the nature of the drug and to be in possession of that drug for the purpose of trafficking unless otherwise proven.

40 Indeed, this seems to have been the interpretation taken by the Court of Appeal in *Aziz bin Abdul Kadir v PP* [1999] 2 SLR(R) 314 ("*Aziz*"). There, the appellant and one Raseed were jointly charged for two offences of trafficking in cannabis and cannabis mixture respectively pursuant to a common intention to traffic. The appellant had placed a blue bag, which contained the cannabis, into the boot of a taxi and was later arrested. By the time the issue reached the Court of Appeal, the only point that was argued on the appellant's behalf was whether the presumption of trafficking had been rebutted: *Aziz* at [41]. The trial judge had found as a fact that the appellant knew that the matter in question was cannabis. The appellant had said as much in his further statement to the police, when he explained he was able to identify the drugs by its pungent smell and had even kept some for his own consumption: *Aziz* at [22], [24] and [38]. The trial judge further held that the presumption of trafficking under s 17 applied and was not rebutted on a balance of probabilities.

41 On appeal, the Court of Appeal considered and approved *Low Kok Wai* for the proposition that since the Prosecution had relied on the presumption under s 17 of the MDA, it could not also rely on any other presumptions pertaining to possession (such as ss 18(1) and 21) and thus had to prove the fact of possession beyond reasonable doubt (at [42]–[44]). In dismissing the appellant's contentions pertaining to possession, the Court of Appeal noted that the appellant knew what it was that he was dealing with, observing at [44] that "… by his own admission and defence, [the appellant] knew that the blue bag contained cannabis". In these circumstances, there was no need to invoke the presumption under s18(2) and it has to be said that the judgment does not in fact suggest that it was based on the presumption under s 18(2) being invoked. However, the Court of Appeal then remarked, almost in passing, that "[p]ossession having been proved against [the appellant], the presumptions under ss 17 and 18(2) then operate" and thus, "subject to [the appellant's] successful rebuttal of these presumptions, the Prosecution [would have] established all the elements of the offence in question" (at [45]). It appears from this that the Court of Appeal took the view – although, it seems, without specifically considering the point – that once possession is proved, *both* the presumptions under ss 17 and 18(2) can be invoked to take effect concurrently. We reiterate, however, that reliance on s 18(2) was not part of the basis of the decision of the Court of Appeal and so whatever we say here about the correctness or otherwise of this part of the judgment has no bearing at all on the result in that case.

42 The opposite conclusion was reached in *Mohd Halmi bin Hamid and another v PP* [2006] 1 SLR(R) 548 ("*Mohd Halmi*"). In that case, the trial judge, based on the plain wording of ss 17 and 18, had concluded that although ss 17 and 18(1) could not apply together, ss 17 and 18(2) could. On appeal, the Court

of Appeal disagreed with the trial judge and explicitly stated that ss 17 and 18(2) could not apply together. It is helpful to set out the reasoning of the court at some length:

> 7 … The presumption under s 17, as the Act itself provides in the heading to that section, is a presumption in respect of trafficking; whereas, the presumptions under s 18, as the Act provides in the heading to s 18, are presumptions in respect of possession. We agree with the observation of Lord Reid in *Director of Public Prosecutions v Schildkamp* (1969) 3 All ER 1640 at 1641 that "it would be more realistic to accept the Act as printed as being the product of the whole legislative process, and to give due weight to everything found in the printed Act". This view has since been expressed in s 9A(3) of our Interpretation Act (Cap 1, 2002 Rev Ed). …
>
> 8 The presumption in s 17 applies only in situations where a person is, in the words of this court in *Lim Lye Huat Benny v PP* [1995] 3 SLR(R) 689, "proved" to be in possession of controlled drugs, but apart from mere possession, had not done any of the acts constituting trafficking as set out in s 2. *It is contrary to the principles of statutory interpretation, and even more so, the interpretation of a criminal statute, especially one in which the death penalty is involved, to combine presumptions from two sections in an Act each serving a different function – in this case, shifting the burden of proof in one with regard to possession and the other, in regard to trafficking.* Possession and trafficking are distinct offences under the Act, although possession may lead to the more serious charge of trafficking, while, trafficking itself might conceivably be committed without actual possession. The danger of mixing the s 17 and s 18 presumptions was anticipated by this court in some of its previous decisions which were not brought to the attention of the trial judge below because this was not an issue before him. The decision of this court in *Lim Lye Huat Benny v PP* expressed the view that for the s 17 presumption to apply, it must first be proved that the accused knew that he was in possession of the drugs. …
>
> 9 This court also referred to the application of s 17 in *Low Kok Wai v PP* [1994] 1 SLR(R) 64, but was there considering the effect of the amendment to s 17 whereby the words "or presumed" were deleted after the February 1990 statutory amendment.
>
> …
>
> [F]or reasons set out above, *we now extend and hold that it could not have been the Legislature's intention to have a crossover*

> *application of the presumptions under ss 17 and 18(2). Section 18(2) was a logical and direct complement to s 18(1); it is not an auxiliary provision to s 17.* The phrase "proved or presumed to have had a controlled drug in his possession" in s 18(2) has a perfectly logical sense in the structure of the Act and in its proper place within s 18. That section provides the statutory presumptions of possession and knowledge of the nature of the controlled drugs found in any container where the drugs were not obvious to view. It clearly needed to apply to situations where the drugs were found in the possession of a person and were not obvious to view, in which event, it would be open to the trial judge to find as a fact that those drugs have been proven to be in the physical possession of that person. Hence, the phrase "proved or presumed to have had a controlled drug in his possession" in s 18(2) shifts the burden of proof to that person to show that he did not know the nature of the drugs and it may, therefore, not be sufficient for him to say merely, that he did not know that the drugs found in his room were in fact drugs. He will have to persuade the judge that he truly did not know. If he fails to rebut the s 18 presumptions he would be liable to a conviction for possession, unless an act of trafficking, as defined in s 2, is proved against him, in which event, he would be liable to a conviction for trafficking. If, a person is proved to know (as opposed to presumed to know) the nature of the drugs in his possession, then the presumption under s 17 applies and he would be liable to a conviction for trafficking even though he did not commit any act constituting the act of trafficking defined in s 2.
>
> 10 *The statutory presumption under s 17 being a presumption in respect of trafficking with the possibility that the death penalty might be imposed, must be read strictly. It is a provision to facilitate the application of s 5(2), whereas s 18 concerned presumptions in respect of the possession of controlled drugs, which (possession) is another principal (though not capital) offence under the Act. The Legislature would have made it clear had it wanted s 5(2) to be further reinforced by means of s 18(2).* In the absence of such an express intention, we think it best to keep the presumptions under s 18 separate from that in s 17, as has always been the case. …
>
> [emphasis added]

43 From the foregoing passage, it can be seen that the Court of Appeal in *Mohd Halmi* considered the statutory scheme of the MDA, and having regard in particular to the fact that ss 17 and 18 each served a different function, concluded that they had to be construed as provisions that applied to address

specific and distinct evidentiary issues and could not be combined in the absence of specific provision that permitted this. Thus, in a case where the presumption of knowledge under s 18(2) was invoked, the presumption that the possession was for the purpose of trafficking under s 17 could not also be invoked, and *vice versa*. It should be noted that the Court of Appeal evidently thought that this was a novel case, since it cited cases such as *Benny Lim* and *Low Kok Wai*, both of which concerned the interaction between ss 17 and 18(1), and then sought to "extend" the principle to the relationship between ss 17 and 18(2). However, it appears that *Aziz* was not considered by either the trial judge or the Court of Appeal in *Mohd Halmi*.

44 *Mohd Halmi* has since been cited and applied by both the Court of Appeal (see *Tang Hai Liang v PP* [2011] SGCA 38 at [18]–[19]) and the High Court (see *PP v Lim Boon Hiong and another* [2010] 4 SLR 696 at [58]; *PP v Tan Lye Heng* [2017] 5 SLR 564 at [71]; *PP v Mohd Aziz bin Hussain* [2018] SGHC 19 at [66]–[67]). As with *Mohd Halmi*, none of these subsequent cases appear to have considered *Aziz*.

45 In our judgment, the approach taken in *Mohd Halmi* should be preferred over that taken in *Aziz*. We endorse the reasoning of the Court of Appeal in *Mohd Halmi* (see [42] above), and further, we note that unlike the position in *Mohd Halmi*, the Court of Appeal in *Aziz* did not analyse the relationship between ss 17 and 18(2) by reference to their text and the statutory scheme of the MDA, probably because the central question in that appeal was whether the presumption under s 17 had been rebutted on the facts. Indeed, as we have also noted above, it seems to us that the observations in *Aziz* on s18(2) appear to have been made in passing.

46 We emphasise, in particular, the fact that the statutory scheme of the MDA makes clear that s 18(2) is to operate as an ancillary provision to s 18(1), in the sense that where an accused is in physical control of an object, the Prosecution may rely on s 18 as a whole to invoke a presumption of possession and also of knowledge of what it is that the accused is in possession of. Further, s 18, as a whole, stands apart from s 17 in the sense that it is an entirely separate section and deals with the distinct issue of *knowing possession*. We add that Parliament has framed s 18(2) in terms that it may be invoked whether the fact of possession is proved or presumed.

47 Section 17 on the other hand is a distinct provision that is concerned with the question of the *purpose* for which the accused has possession of the item in question. In this context, it seems to us plain given Parliament's explicit intention that the presumption in s 17 may only be invoked where the fact of possession is proved (see [38] above), that this should also be the position in relation to the fact of *knowledge* of the nature of the item that is in the possession of the accused. It is helpful here to return to the language to s 17, the relevant part of which we reproduce here, once again, for convenience:

> **Presumption concerning trafficking**
>
> **17.** Any person who is *proved to have had in his possession* more than —
>
> …
>
> (*c*) 2 grammes of diamorphine;
>
> …
>
> whether or not contained in any substance, extract, preparation or mixture, *shall be presumed to have had that drug in possession for the purpose of trafficking* unless it is proved that his possession of that drug was not for that purpose.
>
> [emphasis added]

48 This contemplates that if it is *proved* that a person had in his possession more than 2g of diamorphine, then:

(a) that person will be presumed to have that drug in his possession *for the purpose of trafficking*,

(b) unless it is proved that such possession was not for the purpose of trafficking.

49 In our judgment, it is relevant in this context to examine just what is contemplated by the premise upon which the presumption under s 17 may be invoked, namely, if **possession** is proved. Does that mean proof of the fact of physical possession in the sense that we have described at [11]–[12] above and which could otherwise be established by recourse to the presumption in s 18(1)? Or does the reference in s 17 to possession that is proved go further and entail proof of both the fact of physical possession and of the fact of knowledge of what was possessed, being what we have described above at [46] as *knowing* possession, which could otherwise be established by recourse to the presumptions provided in ss 18(1) and 18(2)? In our judgment, it cannot as a matter of statutory interpretation be the former and must be the latter. We say this because the presumption under s 17 is self-standing in the sense that once the premise is proved, the presumption may be invoked. That premise is stated simply in terms that the person "is *proved to have had in his possession*" the requisite quantity of diamorphine. Once this is proved, the presumption may apply and that presumption is that the person in question had such possession for the purpose of trafficking. But it is clear that one cannot be found to be trafficking without knowledge of the nature of the drugs in question. And s 17 does not contemplate proof of other elements before the presumption may be invoked. It would follow from this that the premise in s 17 should extend to both

the fact of physical possession and the element of knowledge, or collectively, what we have referred to as knowing possession. Hence, when this premise is proved, then the purpose of trafficking may be presumed.

50 This conclusion also comports with the approach to the purposive interpretation of statutes mandated by s 9A of the Interpretation Act (Cap 1, 2002 Rev Ed), in particular the need to have regard not only to the text of the provision but also the context of that provision within the written law as a whole (see *Tan Cheng Bock v AG* [2017] 2 SLR 850 at [37(a)] ("*Tan Cheng Bock*") and *AG v Ting Choon Meng and another appeal* [2017] 1 SLR 373 at [59(a)]).

51 Before we leave this point, we should make it clear that the foregoing analysis and interpretation is confined in its operation to the use of the word "possession" in s 17 of the MDA. The same word is used elsewhere in the Act, but because the word is used to mean different things in different contexts, there is no room for invoking the rule of construction that the same word used variously within the same instrument should be taken to bear the same meaning throughout: see *Tan Cheng Bock* at [58(c)(i)], citing *Madras Electric Supply Corp Ltd v Boarland (Inspector of Taxes)* [1955] 1 AC 667 at 685.

52 It will be evident from the foregoing discussion that in cases such as this, it is important for the Prosecution to identify clearly whether it intends to rely on the presumption of trafficking under s 17 of the MDA, in which case it must prove the facts of both possession and knowledge; or conversely whether the Prosecution intends to rely on either or both of the presumptions under s 18 of the MDA, in which case it must prove the fact of trafficking.

53 In the present case, we did not receive such assistance from the Prosecution. In our judgment, it is incumbent on the Prosecution to make clear

which presumption(s) it relies on when advancing its case in the trial court and on appeal, because this would assist the trial and appeal courts in assessing whether the Prosecution's case is made out, and, more fundamentally, it would give the accused a fair chance of knowing the case that is advanced against him and what evidence he has to adduce (and to what standard of proof) in order to meet that case. It would not be sufficient for the Prosecution to simply state, for instance, that the elements of possession of the drugs, knowledge of the nature of the drugs and possession for the purpose of trafficking have *either* been proved or presumed without making clear the precise nature of the primary case that is being put against the accused.

54 To illustrate the potential significance of this point, we refer to the case that was advanced by the Prosecution in this case in relation to Zainal. In the court below, the Prosecution's primary case, as can be gleaned from its written closing submissions for the trial, was that the *presumptions* of possession and knowledge under ss 18(1) and 18(2) respectively applied (and were not rebutted) and that the *fact* of trafficking was proved. It was also on this primary basis that the Judge analysed the facts (see the GD at [15]), although the Judge ultimately found that all three elements of the offence were both proved and presumed. On appeal, however, the Prosecution's primary case appeared to have changed; it was now the Prosecution's primary case that the *presumption* of trafficking under s 17 applied (and was not rebutted) and the *facts* of possession of the drugs and knowledge of their nature were proved. As stated in the Prosecution's submissions:

> 62 The Prosecution respectfully submits that the Judge correctly found that:
>
> (a) Zainal had actual possession of the Drugs, and actual knowledge of the nature of the Drugs. He failed to rebut the presumption of trafficking under section 17 of the MDA.

> (b) In the alternative, Zainal had not rebutted the applicable presumptions of possession and knowledge of the Drugs under section 18 of the MDA. He possessed the Drugs intending to traffic in them.

55 The primary cases run by the Prosecution in the court below and in the appeal are evidently different, which could, potentially, be prejudicial to an accused given a different set of facts. Ultimately, it made no difference to the outcome in this case; we agreed with the Judge that all three elements of the offence in relation to Zainal were proved on the evidence before us and that the presumptions under ss 17 and 18 could also apply on either basis of running the case, namely, by proving the facts of knowledge and possession and invoking the presumption of trafficking, or by invoking the presumption of possession and/or knowledge and proving that such possession was for the purpose of trafficking; and, having analysed each of the scenarios in which the relevant presumptions were properly invoked, we were satisfied they were not rebutted. Hence we were satisfied there was no question at all of prejudice in this case. However, for the reasons we have set out above, it would, in our judgment, be important in future cases for the Prosecution to state clearly which presumption(s) it relies on as its primary case where the presumptions in both ss 17 and 18 could potentially apply.

Conclusion

56 For these reasons, we dismissed both appeals.

Sundaresh Menon Chief Justice	Tay Yong Kwang Judge of Appeal	Steven Chong Judge of Appeal

Peter Keith Fernando (Leo Fernando), Loo Khee Sheng (K S Loo & Co) and Khoo Shuzhen Jolyn (Kelvin Chia Partnership) for the appellant in Criminal Appeal No 48 of 2017;
Chan Tai-Hui, Jason, Leong Yi-Ming (Allen & Gledhill LLP), Daniel Chia Hsiung Wen and Eugene Lee (Morgan Lewis Stamford LLC) for the appellant in Criminal Appeal No 49 of 2017;
Muhamad Imaduddien, Chin Jincheng and Shenna Tjoa (Attorney-General's Chambers) for the respondent in both appeals.
