IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2019] SGHC 225

Originating Summons No 171 of 2019

In the matter of Section 82A of the Legal Profession Act (Cap. 161)

And

In the matter of DAC No. 61441 of 2002 and Others

Salwant Singh s/o Amer Singh

… *Applicant*

GROUNDS OF DECISION

[Legal Profession] — [Disciplinary proceedings]

Re Salwant Singh s/o Amer Singh

[2019] SGHC 225

High Court — Originating Summons No 171 of 2019
Sundaresh Menon CJ
16 July 2019

23 September 2019

Sundaresh Menon CJ:

Introduction

1 In 2003, the applicant pleaded guilty to and was convicted of five charges of cheating under s 420 of the Penal Code (Cap 224, 1985 Rev Ed) ("the five charges"). An additional 760 charges of cheating were taken into consideration for the purposes of sentencing. The District Judge sentenced the applicant to 12 years' preventive detention (see *Public Prosecutor v Salwant Singh s/o Amer Singh and another case* [2003] SGDC 146 ("*Salwant Singh (District Court)*"). Both the Prosecution and the applicant appealed against the sentence imposed by the District Judge. On appeal, the applicant's sentence was enhanced to a term of 20 years' preventive detention (see *Public Prosecutor v Salwant Singh s/o Amer Singh* [2003] 4 SLR(R) 305 ("*Salwant Singh (MA)*").

2 After the appeal was concluded, the applicant filed a number of criminal applications in an attempt to reopen his conviction and sentence. All of these

applications have been dismissed by the courts. The applicant is currently serving his sentence.

3 In the present *ex parte* application, Originating Summons No 171 of 2019 ("OS 171"), the applicant sought leave for an investigation to be commenced into his complaint of misconduct against three Legal Service Officers, pursuant to s 82A(5) of the Legal Profession Act (Cap 161, 2009 Rev Ed) ("LPA"). The Legal Service Officers were, at the relevant time, Deputy Public Prosecutors ("DPPs") involved in prosecuting the applicant. The applicant claimed that the DPPs fabricated certain charges against him which had been taken into consideration by the court for the purposes of sentencing.

4 Having considered the submissions of the applicant and the material before me, I dismissed OS 171 for reasons which I will explain in these grounds.

Facts

Facts relevant to the charges against the applicant

5 The applicant's allegations of misconduct against the three DPPs arose from events that transpired more than 15 years ago. The relevant events pertain to charges of cheating that were brought against the applicant by the Prosecution in 2003. Those charges arose from transactions carried out by the applicant in 1999, while he was a director of a company known as Infoseek Communications (S) Pte Ltd ("Infoseek"). The key facts contained in the Statement of Facts dated 20 May 2003 ("SOF") may be summarised as follows:

(a) The applicant was a director of Infoseek, a company which offered international long distance telephone call services ("IDD call services").[1]

(b) Customers could pay for Infoseek's IDD call services by any of three modes of payment, one of which was post-paid credit card billing. Under this mode of payment, Infoseek would charge the amounts due for services used to the customer's credit card. The applicant would key in the credit card number of the customer into an Electronic Draft Capture ("EDC") terminal provided by the United Overseas Bank ("UOB") Card Centre and the bank would credit the amount into Infoseek's UOB bank account on the next working day.[2]

(c) Between June and July 1999, the applicant generated fictitious credit card transactions using the EDC terminal located at Infoseek's premises. He would either duplicate calls of customers to inflate their total usage, or charge customers twice for the same incurred usage. During this period, the applicant had processed a total of 765 fictitious credit card transactions generating charges in excess of $500,000 using the EDC terminal.[3]

6 It was stated in the SOF that on 6 July 1999, the applicant left Singapore for India. This was a point emphasised by the applicant in the present application as some of the charges which had been taken into consideration for

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1 Statement of Facts dated 20 May 2003 ("SOF") at para 2.

2 SOF at para 4.

3 SOF at paras 12–13.

the purposes of sentencing were in respect of transactions which were reflected in the charge and Schedule of Offences as being dated after 6 July 1999.

7 Extradition proceedings were eventually initiated against the applicant, who was ordered by the Indian courts to be extradited to Singapore to face the charges against him. The applicant returned to Singapore on 24 December 2002.[4]

The applicant's antecedents

8 The applicant had committed several other offences prior to the 1999 cheating offences.[5] His antecedents are summarised in the following table:

S/n	Date of conviction	Charge(s)	Sentence
1	7 November 1983	Convicted of one charge of mischief	Fine of $300
2	29 September 1986	Convicted of two charges: one charge of attempted rape and one charge of kidnapping or abducting with intent secretly and wrongfully to confine a person	Imprisonment term of three years and four strokes of the cane
3	21 April 1987	Convicted of nine charges: Two counts of robbery with hurt, two counts of theft, one count of cheating, inconsiderate driving, failure to attend to a traffic police notice, failure to render assistance in	Imprisonment term of five years and six months, 12 strokes of the cane, and fine of $1,100

4 SOF at para 14.

5 Antecedent report of the applicant dated 24 December 2002.

S/n	Date of conviction	Charge(s)	Sentence
		road accident and failure to report an accident; 64 other charges were taken into consideration for the purposes of sentencing	
4	25 June 1987	Convicted of one charge of using vehicle with forged plates/ marks or documents under the Road Traffic Act	Fine of $500
5	16 March 1989	Convicted of four charges under the Road Traffic Act, Motor Vehicles (Driving Licence) Rules and the Motor Vehicles (Third-Party Risks and Compensation) Act	Fine of $1,250 and driving disqualification
6	2 August 1989	Convicted of four charges: one charge of rash riding, two charges under the Road Traffic Act and one charge under the Motor Vehicles (Third-Party Risks and Compensation) Act	Fine of $3,000 and driving disqualification
7	6 September 1990	Convicted of three charges: cheating, theft of motor vehicles or component parts, and unlawful possession of offensive weapons; Four other charges were taken into consideration for the purposes of sentencing	Five years' corrective training, six strokes of the cane, and driving disqualification

The District Court proceedings

9 The applicant was represented by counsel in the proceedings in the District Court. On 20 May 2003, in the presence of his counsel, the applicant elected to plead guilty to the five charges and consented to have the remaining 760 charges taken into consideration for the purposes of sentencing. He admitted to the SOF without qualification. Sentencing was then adjourned to 22 May 2003 to allow the applicant's counsel to prepare a mitigation plea on his behalf.[6]

10 On 22 May 2003, following the DPP's submission that a sentence of preventive detention was called for, the District Judge adjourned sentencing for a further three weeks to enable a preventive detention suitability report to be prepared and submitted.[7]

11 On 5 June 2003, one week before the scheduled sentencing hearing, the applicant applied to retract his plea. His principal contention then was that the sentencing position which the Prosecution had advanced before the District Judge was contrary to what it had represented to him before he pleaded guilty. He claimed that the Prosecution had agreed not to seek a deterrent or enhanced sentence and had stated during a pre-trial conference that it would leave sentencing to the court.[8] He also alleged that the Investigating Officer ("IO") had pressured him to plead guilty, by amongst others, threatening his wife.[9] On

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6 NEs dated 20 May 2003.

7 NEs dated 22 May 2003.

8 Applicant's application to retract plea in DAC No 61441 of 2002 and others dated 5 June 2003 ("Application to retract plea dated 5 June 2003") at paras 4–5.

9 Application to retract plea dated 5 June 2003 at paras 2–3.

11 June 2003, the day of the sentencing hearing, the applicant filed a second application to retract his plea, alleging that the prospect of preventive detention was contrary to the terms on which his extradition had been ordered.[10]

12 The District Judge refused the applicant's applications to retract his plea which he found were unmeritorious and premised on baseless allegations. The District Judge found that the applicant had not offered any valid or sufficient grounds to justify the retraction of his plea, which had been voluntarily and unequivocally entered (see *Salwant Singh (District Court)* at [10]).

13 The District Judge sentenced the applicant to 12 years' preventive detention having taken into account, mainly, the applicant's antecedents, the offences with which he had been charged, as well as his lack of remorse (*Salwant Singh (District Court)* at [19]–[29]).

The Magistrate's Appeal

14 Dissatisfied with the sentence imposed by the District Judge, the Prosecution filed Magistrate's Appeal No 115 of 2003 ("MA 115") on the basis that the sentence was manifestly inadequate. The applicant cross-appealed, claiming that the sentence was excessive. The applicant was unrepresented in MA 115.

15 In his petition of appeal and written submissions for MA 115, the applicant advanced three main submissions, which were similar to those raised before the District Judge, in his continuing effort to retract his plea:

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[10] Applicant's supplementary application to retract plea in DAC No 61441 of 2002 and others dated 11 June 2003 ("Supplementary application to retract plea dated 11 June 2003").

(a) that the Prosecution had reneged on its promise not to seek a deterrent or enhanced sentence should the applicant plead guilty;[11]

(b) that the IO had pressured the applicant to plead guilty by, amongst other things, threatening his wife;[12] and

(c) that seeking preventive detention constituted a breach of the undertakings provided by the Singapore Government to the Government of India in its extradition request.[13]

16 MA 115 was heard by Yong Pung How CJ on 14 August 2003. At the hearing, the applicant also claimed for the first time that he had an alibi for all 765 charges and sought an order setting aside his conviction and setting the matter down for trial. Yong CJ rejected the applicant's prayers on the basis that (a) the appeal was not the proper forum for such a request, the correct procedure being an application for revision rather than an appeal against sentence; and (b) a review of the evidence did not reveal any error so fundamental that it justified the exercise of the court's revisionary powers on its own motion under ss 266 and 268 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC 1985") (see *Salwant Singh (MA)* at [14]). He further found that the District Judge had not erred in rejecting the applications to retract the plea, and concluded that the applicant's request in MA 115 for a new trial was just another last-ditch attempt to escape a sentence of preventive detention (*Salwant Singh (MA)* at [15]).

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11 Applicant's Petition of Appeal dated 9 July 2003 at paras 2, 4(a), 4(b)(ii); Applicant's written submissions for MA 115 dated 11 August 2003 at para 8(b).

12 Applicant's Petition of Appeal dated 9 July 2003 at para 4(b); Applicant's written submissions for MA 115 dated 11 August 2003 at para 8(d).

13 Applicant's written submissions for MA 115 dated 11 August 2003 at paras 8(f), 10.

17 In respect of the sentence imposed by the District Judge, Yong CJ found that the sentence was manifestly inadequate to reflect the length and gravity of the applicant's criminal record and the need for him to be incarcerated for a substantial duration for the protection of society (*Salwant Singh (MA)* at [21]). In the circumstances, the Prosecution's appeal was allowed and the applicant's sentence was enhanced from 12 years' to 20 years' preventive detention.

Subsequent applications filed by the applicant

18 Since the conclusion of MA 115 in 2003, the applicant has filed more than ten criminal applications. I do not propose to elaborate on each of these applications in these grounds save to highlight two of the applications which were of some relevance to the present matter. These are Criminal Motion No 20 of 2004 ("CM 20") and Criminal Motion No 17 of 2008 ("CM 17").

19 In CM 20, the applicant sought to obtain the notes recorded at pre-trial conferences ("PTCs") which occurred between the time he had been formally charged and the day he pleaded guilty to the charges. The applicant's object in retrieving the notes was to substantiate his earlier claims that the Prosecution had agreed not to seek a deterrent or enhanced sentence before his conviction and thus that the Prosecution had reneged on the premise on which he had in fact pleaded guilty when it subsequently sought a sentence of preventive detention. CM 20 was dismissed at first instance by the High Court. On appeal, the Court of Appeal affirmed the decision of the High Court. It held that there was no basis on which the court could properly order the release of the PTC notes to the applicant because what had taken place at the PTCs did not form part of the criminal proceedings in which the applicant had been convicted and sentenced (see *Salwant Singh s/o Amer Singh v Public Prosecutor* [2005] 1 SLR (R) 632 ("*Salwant Singh (PTC Notes)*") at [10]). Nonetheless, the Court of

Appeal investigated the substance of the applicant's allegations and found, based on the contemporaneous exchange of letters between the Prosecution and the applicant, that the Prosecution had not agreed that it would not press for a deterrent sentence (*Salwant Singh (PTC Notes)* at [13]–[15]). The court also noted that on the day the Prosecution sought an order of preventive detention before the District Judge, there was no protest or any allegation of a breach of understanding by either the applicant or his counsel. Instead, all that was submitted at that juncture was that the imposition of preventive detention would be too harsh (*Salwant Singh (PTC Notes)* at [15]).

20 In CM 17, the applicant sought an order for the review of his detention under ss 327(*b*) and 327(*c*) of the CPC 1985 and art 9(2) of the Constitution of the Republic of Singapore (1985 Rev Ed, 1999 Reprint). In this application, the applicant contended that his conviction was wrongful because a number of the charges brought against him were for acts which he could not have committed since they were said to have occurred on a date when the applicant was not in Singapore. That the applicant was not in Singapore on those dates was, according to him, evident from date stamps in his passport as well as the fact that the SOF stated that he had left for India on 6 July 1999.[14] I should mention at this juncture that this is the same submission which formed the basis of the applicant's claims against the DPPs in the present application, and will be explained in greater detail in the following section of these grounds. CM 17 was heard and dismissed by Tay Yong Kwang J (as he then was). Tay J found that there was no basis for the applicant to invoke s 327 of the CPC 1985 as his conviction and sentence were ordered by a court of competent jurisdiction and the appeal therefrom was heard and disposed of by the appellate court specified

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[14] Applicant's Notice of Motion in CM 17 dated 31 May 2008 at pp 133–140, para 13.

by law. The enhanced sentence was therefore not unlawful in any way (see *Salwant Singh s/o Amer Singh v Public Prosecutor* [2008] SGHC 164 ("*Salwant Singh (Review)*" at [13]).

The applicant's case

21 Following the dismissal of his criminal applications, the applicant filed the present application under the LPA in February 2019. The applicant claims that the DPPs carried out "premediated and malicious prosecution" by bringing charges against him for offences which they knew he had not committed.[15]

The dates of some of the TIC charges

22 The applicant relied firstly, on an alleged inconsistency between the SOF and a number of charges taken into consideration for the purposes of sentencing ("TIC charges"). The applicant raised the following:[16]

(a) The charges brought against the applicant were premised on him having keyed in the particulars of each call transaction into the EDC terminal provided by UOB located within Infoseek's premises.

(b) The SOF stated that the applicant left for India on 6 July 1999.

(c) Yet, some of the TIC charges concerned transactions which allegedly took place on 6 July 1999 (the day he left for India), and 7 and 8 July 1999 (after he left for India). This discrepancy in the dates did not, however, affect any of the five charges proceeded against the

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15 Affidavit of Salwant Singh s/o Amer Singh for OS 171 dated 15 March 2019 ("Affidavit of Salwant Singh s/o Amer Singh") at para 5.

16 Affidavit of Salwant Singh s/o Amer Singh at paras 5–7.

applicant. This must have been by reason of a deliberate decision on the part of the DPPs to select the offences in such a way that it would prevent the court from discovering the inconsistency in the dates.

23 In his affidavit in support of the application, the applicant also adduced a document which he claimed was a scanned copy of his passport.[17] The document contained five date stamps. According to him, these stamps reflected the dates (specifically, 15 June 1999, 23 June 1999, 30 June 1999, 4 July 1999 and 6 July 1999) on which he *arrived* in India.[18] He claimed that these showed that he was in fact away from Singapore for an even longer period, and therefore that more of the charges were affected. Some of the dates on the stamps were not entirely clear. It was also not clear just what these stamps were meant to signify. In particular, there were differences in the shapes of the stamps. Some were circular while others were oval and it was not clear if these reflected entry and exit stamps for instance. To try to resolve this, prior to the hearing for this application, I directed that the applicant arrange for the passport itself to be made available at the hearing. When he appeared before me, the applicant informed me that his family members had not been able to locate the passport. Thus, the passport was not eventually produced for my inspection. In respect of the present application, however, I proceeded on the basis that the scanned document produced by the applicant was a true copy of the relevant page in his passport.

24 At the hearing before me, the applicant reiterated that all five date stamps reflected the dates on which he had arrived in India. Despite my

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17 Affidavit of Salwant Singh s/o Amer Singh, Tab B.

18 Affidavit of Salwant Singh s/o Amer Singh at para 8.

misgivings, especially having regard to the different shapes of the stamps, I assumed, in the applicant's favour, that he was correct. As for the dates on which he had returned to Singapore during this period, the applicant informed me that:

(a) He could not recall the dates on which he arrived back in Singapore for the 15 June 1999 and 23 June 1999 trips to India.

(b) As for the 30 June 1999 trip, as far as he could remember, he returned to Singapore on either 2 July 1999 or 3 July 1999.

(c) In respect of the 4 July 1999 trip, he recalled that he returned to Singapore on 5 July 1999.

25 At no time did the applicant suggest there were any other travels he undertook during this period. Before me therefore, he contended that the dates of his exit and re-entry into Singapore were as follows:

Date of arrival in India	**Date of return to Singapore**
15 June 1999	Unclear as applicant could not recall
23 June 1999	Unclear as applicant could not recall
30 June 1999	Either 2 July 1999 or 3 July 1999
4 July 1999	5 July 1999
6 July 1999	24 December 2002 (extradited back)

26 Giving the applicant the benefit of all my doubts for the purposes of this application, I proceeded on the basis that the date stamps showed that he was not in Singapore on the following dates:

(a) 15 June 1999;

(b) 23 June 1999;

(c) 30 June 1999 – 2 or 3 July 1999;

(d) 4 July 1999 – 5 July 1999; and

(e) 6 July 1999 – 24 December 2002.

27 On this basis, 188 of the TIC charges as listed in the following table ("the affected charges") involved transactions which occurred on dates when the applicant was supposedly not in Singapore. None of the five charges proceeded against the applicant were affected as reflected in this table:[19]

Date	**Charge(s)**	**Affected / Unaffected**
3 June 1999	1 TIC charge	Unaffected
4 June 1999	5 TIC charges	Unaffected
5 June 1999	1 TIC charge	Unaffected
7 June 1999	46 TIC charges	Unaffected
9 June 1999	4 TIC charges	Unaffected
10 June 1999	2 proceeded charges; 10 TIC charges	Unaffected
11 June 1999	4 TIC charges	Unaffected
12 June 1999	7 TIC charges	Unaffected
13 June 1999	33 TIC charges	Unaffected

[19] Schedule of Offences.

Date	Charge(s)	Affected / Unaffected
14 June 1999	35 TIC charges	Unaffected
15 June 1999	**23 TIC charges**	**Affected**
16 June 1999	37 TIC charges	Unaffected
18 June 1999	30 TIC charges	Unaffected
19 June 1999	1 proceeded charge; 24 TIC charges	Unaffected
20 June 1999	1 proceeded charge; 37 TIC charges	Unaffected
21 June 1999	34 TIC charges	Unaffected
22 June 1999	64 TIC charges	Unaffected
24 June 1999	46 TIC charges	Unaffected
25 June 1999	41 TIC charges	Unaffected
27 June 1999	29 TIC charges	Unaffected
28 June 1999	1 proceeded charge; 53 TIC charges	Unaffected
29 June 1999	31 TIC charges	Unaffected
6 July 1999	**4 TIC charges**	**Affected**
7 July 1999	**84 TIC charges**	**Affected**
8 July 1999	**77 TIC charges**	**Affected**
Total	5 proceeded charges 760 TIC charges	Affected: 188 TIC charges

Date	Charge(s)	Affected / Unaffected
		Unaffected: 5 proceeded charges and 572 TIC charges

The DPPs' awareness of discrepancy in dates

28 The applicant also contended in his affidavit in support of the application and before me that the DPPs were aware of his absence from Singapore on the material dates but yet chose to bring the affected charges against him. This was, according to him, evident from the fact that they had chosen to proceed on five charges which were not committed either on any of the specific dates stamped in his passport, or dates after 6 July 1999 (that being the date of his exit from Singapore as stated in the SOF). The applicant claimed that this was no coincidence and showed that the DPPs had intended to conceal from the courts the fact that he was not in Singapore on the dates of the transactions that were the subject of the affected charges.[20]

Legal principles

29 In cases involving complaints of misconduct on the part of Legal Service Officers, leave must be granted by the Chief Justice before an investigation into the complaint may be commenced. If a *prima facie* case for an investigation is made out, the Chief Justice may appoint a Disciplinary Tribunal which will hear and investigate the complaint, and report its findings of fact and law to the Chief Justice. Section 82A of the LPA states as follows:

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[20] Affidavit of Salwant Singh s/o Amer Singh at paras 7–9.

> …
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> (2) All Legal Service Officers and non-practising solicitors shall be subject to the control of the Supreme Court and shall be liable on due cause shown to be punished in accordance with this section.
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> …
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> (4) No application for a Legal Service Officer or non-practising solicitor to be punished under this section shall be made unless leave has been granted by the Chief Justice for an investigation to be made into the complaint of misconduct against the Legal Service Officer or non-practising solicitor concerned.
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> (5) An application for such leave shall be made by ex parte originating summons and shall be accompanied by an affidavit setting out the allegations of misconduct against the Legal Service Officer or non-practising solicitor.
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> (6) Where the Chief Justice is of the opinion that the applicant has made out a prima facie case for an investigation into his complaint, the Chief Justice may grant such leave and appoint a Disciplinary Tribunal under section 90.
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> (6A) Notwithstanding subsection (6), the Chief Justice may refuse to grant leave for an investigation to be made into a complaint of misconduct against a Legal Service Officer or non-practising solicitor if the application for such leave is made after the expiration of the period of —
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> > (*a*) 6 years from the date of the alleged misconduct; or
> >
> > (*b*) where the complaint relates to any fraud alleged to have been committed by the Legal Service Officer or non-practising solicitor, 6 years from the earliest date on which the applicant discovered the fraud or could with reasonable diligence have discovered it, if that period expires later than the period referred to in paragraph (*a*).
>
> (7) The Disciplinary Tribunal shall hear and investigate into the complaint and submit its findings of fact and law in the form of a report to the Chief Justice.
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> …

30 In *Law Society of Singapore v Ravi s/o Madasamy* [2015] 3 SLR 1187, I explained that the inquiry under s 82A(6) involves a two-stage process. At the first stage of the inquiry, the Chief Justice must be satisfied that there is a *prima*

facie case for an investigation into the complaint (meaning that the evidence, if accepted, would suffice to prove the elements of the alleged misconduct in question). If a *prima facie* case is found, then consideration is given at the second stage of the inquiry to whether there are any relevant factors in favour of, as well as militating against, an investigation into the alleged misconduct (at [21]–[22]).

31 One of the factors that may be relevant at the second stage of the inquiry is whether there has been any delay in the bringing of the complaint. On this note, where the s 82A(5) application is made more than six years from the date of the alleged misconduct or, in cases involving allegations of fraud, more than six years from the date of the applicant's discovery of the fraud, s 82A(6A) expressly affords the Chief Justice the discretion to refuse leave notwithstanding that a *prima facie* case for an investigation has been made out.

32 Thus, on the facts of the present case, in order to exercise my discretion to convene a disciplinary tribunal to investigate the complaint against the DPPs concerned, I had to be satisfied that:

> (a) there was a *prima facie* case for an investigation into the applicant's complaint; and
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> (b) taking into account all relevant factors, an investigation should be commenced notwithstanding that the alleged misconduct pertained to events which transpired more than 15 years ago.

Analysis

Issue 1: Whether a prime facie case had been established

33 Having considered the applicant's submissions, I found that a *prima facie* case for an investigation had not been established for three principal reasons.

Delay in raising inconsistency in dates

34 First, the applicant raised the issue with respect to the dates of the charges late in the day and this delay called into question the veracity of his allegation that he had not committed the acts in question under the affected charges. It was also relevant that the grounds on which the applicant sought to challenge the propriety of his conviction and sentence had evolved over time.

35 In his first application to retract his plea filed on 5 June 2003, the basis for the retraction that was advanced by the applicant was ***not*** that he could not have committed some of the offences because he was not in Singapore at the time. Instead, his principal complaint was that the DPPs had, in seeking a sentence of preventive detention before the District Judge, resiled from an earlier representation that they would not seek a deterrent or enhanced sentence and would leave sentencing to the court (see [11] above). He also alleged that the IO had threatened his wife.[21] These allegations were refuted strongly by the Prosecution. In his written response tendered at the hearing before the District Judge on 11 June 2003, the DPP stated as follows:[22]

> …

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21 Application to retract plea dated 5 June 2003 at para 3.

22 Prosecution's reply to application to retract plea dated 11 June 2003 at paras 3–4.

> 3. In his application, [the applicant] made various allegations against the IO and the DPP. The prosecution denies these scandalous and baseless allegations flatly and wishes to put on record its utmost indignation.
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> 4. No IO and DPP have [*sic*] ever held out the promise that the prosecution will not submit on sentence. In fact, during the plea bargaining process on 20 May 2003 where the accused requested that the prosecution not to [*sic*] submit on sentence, I informed the accused and his counsel, in the presence of the IO, that the prosecution **WILL** submit on sentence. The accused understood the prosecution's position and signed on the cancellation of his request of not submitting on sentence on his written representations to acknowledge it.
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> …
>
> [emphasis in original]

36 Upon receipt of this response from the Prosecution, neither the applicant nor his counsel challenged the assertion that the applicant had been told by the DPP that he would be making submissions on sentence at the hearing on 11 June 2003.[23] The allegation that the Prosecution had reneged from its promise during the plea bargaining process was expressly rejected by the District Judge (see [12] above), by Yong CJ in MA 115 (see [16] above) and by the Court of Appeal in the appeal arising from CM 20 (see [19] above).

37 In his second application to retract his plea that was filed on the day of the sentencing hearing before the District Judge on 11 June 2003, the applicant again did ***not*** contend that he could not have committed some of the offences he was accused of on the ground that he was not in Singapore at the time of those offences. Instead his allegation was that the prospect of preventive detention was contrary to the terms on which the extradition had been granted

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23 NEs dated 11 June 2003.

by the Indian Government (see [11] above).[24] This contention too was rejected by the District Judge (see *Salwant Singh (District Court)* at [33]–[37]).

38 Further, in the course of his plea of mitigation, none of the charges brought against the applicant were challenged by his counsel. The number of transactions was in fact admitted, as evident in, among others, the following paragraph in the written mitigation filed by defence counsel:[25]

> 765 charges may seem astounding. However, these are separate customers out of over 6,000 customers in the callback system. The Accused therefore appears to have created so many entries separately but in reality it was the system of programming that generated such volume. The offences were also committed within a short span of about 2 months.

39 Thus at no point in the proceedings before the District Judge did the applicant or his counsel assert that he did not commit the acts complained of in some of the charges on any basis; not to mention on the basis that he had not been in Singapore at the material time.

40 Similarly, in his petition of appeal and written submissions filed for MA 115, no submission was made to this effect. Instead, the applicant repeated the allegations he had made before the District Judge. In his petition of appeal, the applicant also (a) clarified some of the facts pertaining to his antecedents; and (b) raised various factual matters relating to the offences, which, he said, had not been presented to the court.[26] In relation to the latter, none of these pertained to the date of the charges. And in his written submissions for MA 115, the applicant again did not contest the accuracy of the number of charges

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24 Supplementary application to retract plea dated 11 June 2003.

25 Applicant's mitigation plea dated 22 May 2003 at para 24(b).

26 Applicant's Petition of Appeal dated 9 July 2003 at paras 5, 10.

brought against him. In fact, he recounted the point made in mitigation by his counsel before the District Judge that, although 765 charges was an astounding number, this arose from the voluminous billing operation (see [38] above).[27]

41 The precise date on which the applicant *first* relied on the date stamps in his passport and the date of his exit from Singapore as stated in the SOF, which he referred to as constituting "evidence-in-support of an alibi",[28] is not clear from the records. However, at the hearing before me, the applicant accepted that he had not raised the matter before the District Judge or in his petition of appeal or written submissions for MA 115. He explained that he had only discovered the inconsistency in the dates after his petition of appeal and written submissions for MA 115 had already been filed, and that the first time he raised the matter was during the oral hearing of MA 115. In this regard, I note that Yong CJ had in his grounds of decision for MA 115 referred to the fact that the applicant had before him "for the first time in these proceedings, glibly claimed to have an alibi for every one of the 765 charges against him" (see *Salwant Singh (MA)* at [13]). I assume, in favour of the applicant, that this was a reference to the submission concerning the dates of the affected charges even though, as can be seen from the position the applicant took before me, (see [25]–[27] above), this could not possibly have affected every one of the 765 charges.[29]

42 In any case, what is evident is that the applicant failed to mention that he did not commit some of the offences at a time when he was already challenging his conviction, namely, in his applications before the District Judge

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27 Applicant's written submissions for MA 115 dated 11 August 2003 at para 3(n).

28 Applicant's Notice of Motion filed for CM 17 dated 31 May 2008 at p 133, para 13.1.

29 See also, applicant's Notice of Motion filed for CM 17 dated 31 May 2008 at p 133, para 13.1.

to retract his plea and in his written submissions and petition of appeal for MA 115. The fact that his attempts to retract his plea at these times were premised not on the allegation that he could not have committed some of the offences but rather on alleged promises made by the Prosecution on sentencing, suggested that his submission in respect of the former was an afterthought, raised only after his primary argument on the promises made by the Prosecution had been rejected. This undermined the credibility of the applicant's subsequent claims that he did not carry out some or all of the transactions that were the subject of the affected charges. As to the applicant's claim that he was not aware of the grounds supporting his "evidence-in-support of an alibi" until shortly prior to the hearing for MA 115, both the applicant and his counsel had access to all 765 of the charges as well as the SOF from the time the matter arose for determination in the District Court. If the applicant truly had not committed some of the offences, I would have expected that the issue with the dates of the affected charges would have been discovered and raised earlier by him and/or his counsel.

43 In addition, even if I accepted that the applicant was not in Singapore for the periods referred to above at [26], this did not lead to the conclusion that the applicant had not carried out the transactions stated in the affected charges. It was perfectly plausible that the dates of those charges were off by a day or two and did not reflect the actual date on which the applicant keyed in the credit card details of his customers into the EDC terminal. Indeed, the SOF stated that "[t]he accused would key in the credit numbers of the customers who had used Infoseek's IDD services into the EDC and UOB Card Centre would credit the amount due into Infoseek's UOB bank account on *the next working day*"

[emphasis added].[30] Thus it was plausible that the dates referred to in the TIC charges were the dates on which UOB credited the relevant amounts into Infoseek's account, rather than the dates on which the applicant keyed in the particulars into the EDC terminal.

44 To be clear, I do not know whether this is or is not the case. But if this issue had been raised by the applicant timeously, there is every reason to believe that the point could and would have been resolved quickly with recourse to the records. By reason of the effect this has on the veracity of the material allegation, it could not safely be assumed even on a *prima facie* basis, more than 15 years later, that the affected charges had been fabricated by the DPPs and knowingly brought by them without basis, just on the basis of a seeming discrepancy.

The basis of the applicant's conviction and sentence remained unaffected

45 Further, even if I accepted the applicant's case that he did not commit the offences in question under the affected charges, there remained ample basis for the applicant's conviction and sentence. The applicant's submission concerned 188 *TIC charges*. None of the five charges proceeded against the applicant seem to have been affected (see above at [27]). Thus, the applicant's conviction was not affected in any way. The applicant's case, at its highest, only reduced the number of charges that should have been taken into consideration for the purposes of sentencing, from 760 to 572.

46 In relation to sentencing, the applicant argued that the sentence imposed should have been appreciably more lenient since, on his case, he had shown that

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30 SOF at para 4.

a lower number of charges should have been brought against him by the Prosecution than had in fact been the case. In this regard, the applicant was operating under a misimpression that he had been sentenced to 20 years' preventive detention on the basis that he had been *convicted* of 765 charges. This stemmed from a misunderstanding on the nature and effect of TIC charges.

47 It is useful at this juncture to reiterate the relevant legal principles concerning TIC charges which are well established but which, when I explained these to him at the hearing, seemed to take the applicant by surprise. The starting point is s 148 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed), which states:

> **Outstanding offences**
>
> **148.**—(1) If the accused is found guilty of an offence in any criminal proceedings begun by or on behalf of the Public Prosecutor, the court in determining and passing sentence may, with the consent of the prosecution and the accused, take into consideration any other outstanding offences that the accused admits to have committed.
>
> …
>
> (3) The High Court may, under subsection (1), take into consideration any outstanding offences an accused admits to have committed when passing sentence, notwithstanding that no transmission proceedings under Division 5 of Part X have been held in respect of those outstanding offences.
>
> …
>
> (5) After being sentenced, the accused may not, unless his conviction for the original offence under subsection (1) is set aside, be charged or tried for any such offence that the court had taken into consideration under this section.

48 Section 148 makes it clear that where a defendant has been found guilty of the charges proceeded against him by the Prosecution, the court *may* take into consideration any outstanding offences which the defendant admits to having committed in determining the appropriate sentence to impose. It bears emphasis

that where a court takes into consideration outstanding offences in the course of sentencing, the court does not *convict* the defendant of these outstanding offences, but merely relies on the defendant's *admission* to these offences as *a relevant factor* in determining the appropriate length of sentence. The effect of taking into consideration outstanding offences is generally to enhance the sentence that would otherwise be meted out to the defendant (*Public Prosecutor v Mok Ping Wuen Maurice* [1998] 3 SLR(R) 439 at [19]). That said, a separate sentence is not imposed for each of the TIC offences and the defendant avoids a potentially longer global sentence had he instead been *convicted* of each of the outstanding offences, with the sentences for each ordered to run consecutively.

49 In *Public Prosecutor v UI* [2008] 4 SLR(R) 500 ("*UI*"), Chan Sek Keong CJ provided a useful explanation of the rationale for and the effect of charges taken into consideration for the purposes of sentencing as follows (at [36]–[38]):

> 36 … It saves the Prosecution from the necessity of proving what can be a significant number of similar offences committed by the offender. The offender, conversely, is able to protect himself from being charged on a later occasion with the TIC offences. ***He can also be fairly sure that, despite the TIC offences being considered by the sentencing court, the increase in the severity of his sentence for the offences proceeded with will be less draconian than the sentence which he would have received had the Prosecution proceeded with the TIC offences as well.***
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> 37 More often than not, when TIC offences feature in a case, the sentence for the offences proceeded with will have to be increased. As Andrew Ashworth observed in his book, *Sentencing and Criminal Justice* (Cambridge University Press, 4th Ed, 2005) ("*Ashworth*"), ***'[t]he offences … taken into consideration do not rank as convictions, but the court is likely to increase the sentence [for the offences proceeded with] in order to take account of them' (at pp 241–242). The TIC offences may, however, also have little or no impact on the sentence ultimately imposed for the offences proceeded with.*** As Sir Igor Judge P stated in the English Court of Appeal case of *R v Gary Dean Miles* [2006] EWCA Crim 256 at [11]:

> [T]he way in which the court deals with offences to be taken into consideration depends on context. In some cases the offences taken into consideration will end up by adding nothing or nothing very much to the sentence which the court would otherwise impose. On the other hand, offences taken into consideration may aggravate the sentence and lead to a substantial increase in it. For example, the offences may show a pattern of criminal activity which suggests careful planning or deliberate rather than casual involvement in a crime. They may show an offence or offences committed on bail, after an earlier arrest. They may show a return to crime immediately after the offender has been before the court and given a chance that, by committing the crime, he has immediately rejected. There are many situations where similar issues may arise.
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> 38 Section 178(1) of the [CPC 1985] does not mandate that, where TIC offences are present, the court must increase the sentence which would normally have been imposed for the offences proceeded with in the absence of TIC offences. But, if there are TIC offences to be taken into account, the effect, in general, would be that the sentence which the court would otherwise have imposed for the offences proceeded with would be increased … This is commonsensical as the offender, by agreeing to have the TIC offences in question taken into consideration for sentencing purposes, has in substance admitted that he committed those offences. This would *a fortiori* be the case where the TIC offences and the offences proceeded with are similar in nature …
>
> That is *not* to say, however, that the court *must* increase the sentence imposed for the offences proceeded with where TIC offences are present. As stated by Yong CJ in *PP v Mok Ping Wuen Maurice* [1998] 3 SLR(R) 439 at [19]: 'Ultimately, it is the court's discretion whether to consider the [TIC] offence or not.' However, if the sentencing court decides not to consider the TIC offences as aggravating the offences proceeded with where it is clear that the former offences should be so considered and does not justify its decision in this regard, the only conclusion which can be reached by an appellate court is that the sentencing court erred in its treatment of the TIC offences.
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> [emphasis in original in italics; emphasis added in bold italics]

50 Having regard to the above principles, it is clear in the present case that even leaving aside the affected charges, which were all TIC charges, there was ample basis for the High Court to impose the sentence it did. First, leaving aside the affected charges from the equation, there remained a very significant

number of TIC charges (specifically, 572) which the applicant had admitted to and which he seemed to have no basis to challenge. As was explained in the relevant paragraphs of *UI* that I have cited above, TIC charges tend generally to increase the sentence imposed on the defendant because the admission by the defendant that he had committed other offences besides those of which he had been convicted is generally seen as an aggravating factor. In this case, the significant number of unaffected TIC charges, which the applicant admitted to and has not challenged before me, was more than sufficient to justify any increase in the sentence imposed.

51 Second, and in any event, the reasons given by Yong CJ for imposing a sentence of 20 years' preventive detention were not premised on the number of TIC charges which the applicant had admitted to. Instead, in imposing a sentence of 20 years' preventive detention, Yong CJ took into account the following factors:

(a) The applicant's antecedents which revealed a criminal propensity: The applicant had appeared in court on seven previous occasions, during which time he had been convicted of or admitted to a total of 92 offences ranging from violent offences such as attempted rape and kidnapping to property offences including theft and robbery with hurt (*Salwant Singh (MA)* at [18]; see also [8] above).

(b) The fact that previous sentences had evidently had little deterrent effect: This included sentences of imprisonment and corrective training (*Salwant Singh (MA)* at [23]; see also [8] above).

(c) The applicant's lack of remorse: This was evidenced from the fact that the applicant had to be extradited back to Singapore, and from the prison psychologist's preventive detention suitability report, which

stated that the applicant displayed a tendency to intellectualise his offending and to downplay his personal responsibility for his crimes (*Salwant Singh (MA)* at [22]).

52 It is appropriate here, to reiterate the sentencing considerations applicable to preventive detention. It is well established that the foundation of the sentence of preventive detention is the need to protect the public. This is clear from the wording of s 304(2) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) itself (and what was, at the time the applicant was sentenced, s 12(2) of the CPC 1985) which states that the court shall sentence the accused to preventive detention if the court is satisfied that "it is expedient for the protection of the public". That the principal consideration in preventive detention is the protection of the public was reiterated by the Court of Appeal in *Public Prosecutor v Rosli bin Yassin* [2013] 2 SLR 831, at [11]:

> The overarching principle is the need *to protect the public* (indeed, this principle is to be found in the express language of s 12(2) of the CPC itself … This does not mean that the situation of the individual offender is irrelevant. However, the applicable principles in this particular regard are formulated with the *public* interest as the central point of reference constantly in view. Put simply, if the individual offender is such a habitual offender whose situation does not admit of the possibility of his or her reform, thus constituting a menace to the public (and this would include, but is not limited to, offences involving violence), a sentence of preventive detention would be imposed on him or her for a substantial period of time in order to protect the public. As Yong Pung How CJ put it in the Singapore High Court decision of *PP v Wong Wing Hung* [1999] 3 SLR(R) 304 … at [10], the 'sentence [of preventive detention] is meant essentially for *habitual* offenders, who must be over the age of 30 years, whom the court considers to be *beyond redemption and too recalcitrant for reformation*' [emphasis added]. The court will look at the *totality* of the offender's previous convictions …
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> [emphasis in original]

53 In a similar vein, in *Public Prosecutor v Raffi bin Jelan and Another* [2004] SGHC 120, the High Court observed (at [24]):

> It is clear from the statutory scheme in the Criminal Procedure Code (Cap 68, 1985 Rev Ed) … that a sentence of preventive detention is an extreme measure that is prescribed for certain classes of habitual offenders and/or potential recidivists who are viewed as being beyond the reach of conventional sentencing and its underlying *raison d'etre.* Preventive detention has a wholly different penological objective. The rationale for preventive sentencing is preventive control that extends beyond the parameters of conventional sentencing which requires the sentence to fit the crime. The overwhelming consideration is whether the court is satisfied in the circumstances that it is 'expedient for the protection of the public' that an offender be incarcerated for a protracted period. If the court forms the view that such a repeat offender by virtue of his propensity to offend may yet again do so if unchecked, there would be a compelling case for the imposition of a sentence of preventive detention. Such an offender by reason of his past conduct and anticipated future conduct will be viewed as having forfeited his right to be accorded the considerations and attributes peculiar to conventional sentencing.

54 It has also been reiterated in our case law that since a sentence of preventive detention is underpinned by the need to protect the public, it differs from a sentence of imprisonment and different considerations may apply in determining the appropriate duration and implementation of the sentence. In *Public Prosecutor v Perumal s/o Suppiah* [2000] 2 SLR(R) 145, Yong CJ stated (at [38]):

> In this regard, I must reiterate my earlier exhortation in *PP v Wong Wing Hung* … at [10] not to confuse the concept of preventive detention and imprisonment, which are distinct sentences and are underpinned by different objectives and rationales. The former is essentially aimed at the protection of the public while the latter reflects the traditional policies of prevention, deterrence, rehabilitation and retribution. They are different in duration, character and implementation. As such, it would be a mistake to view them as fungible sentences.

55 In the present case, it is apparent from the factors taken into account by Yong CJ in MA 115 (see [51] above) that, consistent with the sentencing objective of preventive detention, the learned Chief Justice had sentenced the applicant to 20 years' preventive detention because he was of the view that it was necessary for the applicant to be incarcerated for a substantial period of time *for the protection of the public*, in the light of the applicant's criminal propensity (see *Salwant Singh (MA)* at [21]). In this regard, the sentence of 20 years' preventive detention was *not* imposed because the precise number of TIC charges which the applicant admitted to was an aggravating factor justifying an enhancement in sentence.

56 Thus, even if I were to accept all of the applicant's submissions concerning the affected charges, they did not in any material way affect the foundation of his conviction and sentence. This in turn undermined the applicant's suggestion that the DPPs had *deliberately* fabricated these charges against him in order to secure his conviction and/or a harsher sentence, and that he had been prejudiced from the alleged misconduct. This is because the applicant's suggestion was that the DPPs were *knowingly* seeking to secure a punishment against the applicant that he did not deserve.

No evidence that DPPs were aware of inconsistency in dates

57 Finally, while the applicant alleged that the DPPs knowingly and deliberately brought charges against him for acts which they knew he could not have committed as he was not in Singapore at the material time, there was no evidence at all to sustain his allegation. The applicant claimed that the DPPs had "cherry-picked" the five charges proceeded against him, by intentionally choosing to proceed on charges that had not been committed either on any of the specific dates stamped in his passport, or dates after 6 July 1999 (that being

the date of his exit from Singapore as stated in the SOF). This was allegedly to suppress the error in the affected charges from the court.[31]

58 The applicant's allegation was, however, entirely speculative and there was no evidence to sustain it, beyond his subjective speculation.

59 It will be evident from what has been set out above at [34]–[44] that the earliest occasion the point was taken in any form was at the hearing of MA 115. This was some months ***after*** the charges had been filed. There is no evidence at all to suggest that at the time the DPPs in question filed the charges, prepared the SOF and decided which charges to proceed with and which to take into consideration for sentencing, they had any awareness or consciousness of the various dates on which the applicant alleges he was away from Singapore (see [23]–[25]). By the applicant's own account, the earliest he attempted to adduce this evidence was at the hearing of MA 115, long after the charges were filed and the plea of guilt had been taken. Hence, one of the key allegations he makes in support of his complaint against the DPPs, which is that they deliberately selected the proceeded charges knowing the dates he was allegedly away is wholly without basis and must be rejected. The only remaining evidence is the apparent inconsistency between the assertion in the SOF that the applicant left Singapore on 6 July 1999 and the seeming assertion that some of the offences that were taken into consideration for purposes of sentencing were committed on or after that date (see [6] and [22] above). Leaving aside all of the foregoing points, this seems to me to be a hopeless point because on the face of the SOF and the relevant charges, this fact was equally evident to the applicant and his counsel at the material time and was never taken up by them. This is consistent

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[31] Affidavit of Salwant Singh s/o Amer Singh at paras 7–8.

either with the point having no substance at all; or having been overlooked by the applicant and his counsel. Even if it were the latter, there is no reason at all for not taking the same view in respect of the DPPs at the time.

60 The simple fact of the matter is that there were other reasons that could explain the Prosecution's decision to proceed on the five charges in question. In addition, there was no reason at all for the DPPs to have brought charges against the applicant for transactions which they knew the applicant did not commit. No motive has ever been suggested for such an extraordinary course. Moreover, leaving the affected charges to one side, there were many other transactions on dates the applicant was in Singapore (and which the applicant admitted to) which could sustain the conviction and sentence imposed on the applicant.

61 For all of these reasons, I was satisfied that the applicant had failed in establishing a *prima facie* case for an investigation to be made into the alleged misconduct of the DPPs.

Issue 2: The implications of the applicant's delay in bringing the complaint

62 Given my finding that the applicant had failed to establish a *prime facie* case, there was no need for me to proceed to the second stage of the inquiry under s 82A(6) of the LPA. Nevertheless, I was satisfied that the applicant's case would have also failed at the second stage of the inquiry given the inordinate delay in his bringing the complaint.

63 The issue of delay in the bringing of a complaint was considered by the Court of Three Judges in *Law Society of Singapore v Chan Chun Hwee Allan* [2018] 4 SLR 859 ("*Allan Chan*"). The analysis in that case was made in the context of the relevant LPA provisions applicable to advocates and solicitors (namely, ss 85(4A) and 85(4C)), pursuant to which leave must be obtained from

the court before a complaint may be referred to the chairman of the Inquiry Panel where the complaint is brought more than six years from the alleged misconduct). The court observed that the relevant factors to be considered in determining whether leave should be granted under s 85(4C) include "the length of, and reasons for, the delay in prosecuting the matter" (at [29]). The court also explained that, in determining whether leave should be retrospectively granted where the charges against the respondent-solicitor were procedurally defective due to the failure to obtain prior leave under s 85(4C), relevant factors include "whether the further passage of time has meant that the respondent-solicitor has lost the ability to defend himself effectively and the reasons why either the leave application or the complaint itself was not brought earlier" (at [31]).

64 In my judgment, the factors outlined by the Court of Three Judges in *Allan Chan*, namely, the length of the delay, reasons for the delay, and prejudice to the potential respondents arising from the delay, are equally applicable in my consideration of whether I should exercise my discretion to refuse leave under s 82A(6A), in respect of complaints against Legal Service Officers. In approaching this issue, in my judgment, a countervailing factor which should also be considered is the strength of the complaint and whether further investigation is warranted notwithstanding any delay, in order to address any potential prejudice suffered by the complainant from the misconduct and also to safeguard the integrity of the public service. It bears repeating that the LPA confers disciplinary control and jurisdiction over advocates and solicitors as well as Legal Service Officers and non-practising lawyers in order to uphold discipline to facilitate and maintain proper administration of justice (*Allan Chan* at [31]). Thus, in certain cases, the need to uphold the proper administration of justice, and the integrity of the public service (in cases of alleged misconduct on the part of Legal Service Officers) may well outweigh any potential prejudice

caused to the individual respondent arising from the delay. Ultimately, as was noted in *Allan Chan* (at [31]), the court's determination of whether it should grant leave notwithstanding the delay involves an exercise of discretion that is fact-sensitive and attuned to the circumstances before the court.

65 On the facts of the present case, all of the relevant factors militated against the granting of leave. Firstly, the length of the delay in the present case was significant. The events which were the subject of the alleged misconduct occurred more than 15 years ago in 2003, when the applicant was charged, convicted and sentenced for the offences. The present application was filed by the applicant only in 2019, after he had failed on several occasions in his efforts to persuade various courts to set aside his conviction and sentence on the basis of (amongst others) similar allegations to those that he has made in the present application (see *Salwant Singh (MA)*; *Salwant Singh (Review)*; *Salwant Singh v Public Prosecutor* [2005] 1 SLR(R) 36; *Salwant Singh (PTC Notes)*; *Salwant Singh s/o Amer Singh v Public Prosecutor* [2018] SGCA 34).

66 The applicant explained that he had not been aware of the possibility of raising a complaint under s 82A of the LPA until sometime in 2012. In addition, when he learnt of the complaints mechanism under s 82A, he had attempted to but was unsuccessful in filing the papers for the application. I was prepared to accept this explanation. However, as the length of the delay in the present case was significant, I found that substantial prejudice would be occasioned to the DPPs since the delay would likely affect their recollection of the case and access to relevant records on the matter. This was a factor that pointed towards a refusal of leave.

67 In addition, the strength of the complaint was weak for the reasons explained above. In particular, there was a complete lack of evidence to

substantiate the applicant's case that the DPPs *knowingly and deliberately* fabricated the affected charges against him. There was no reason at all for the DPPs to have done so and even less given the strength of the Prosecution's case on the charges proceeded with which the applicant did not take issue with (see above at [57]–[61]). Given the inherent weakness of the complaint, there was no overriding interest in directing a further investigation. In short, there did not appear any real basis for suggesting that the integrity of the public service had been compromised. There was also no prejudice suffered by the applicant given that, even if his allegations were accepted, they did not in any way affect either the foundation of his conviction or the sentence (see above at [45], [50]–[56]).

Conclusion

68 For the foregoing reasons, I found that a *prima facie* case for an investigation had not been established by the applicant and that, in any case, the severe delay in the bringing of the application militated against the granting of leave to commence an investigation. I therefore dismissed the application.

Sundaresh Menon
Chief Justice

The applicant in person.
