

Public Prosecutor v Mohamad Norhazri bin Mohd Faudzi
[2008] SGHC 10

Case Number : CC 20/2007

Decision Date : 18 January 2008

Tribunal/Court : High Court

Coram : Woo Bih Li J

Counsel Name(s) : Shahla Iqbal, Shawn Ho and Elizabeth Lee (Deputy Public Prosecutors) for the Prosecution; S K Kumar (S K Kumar & Associates) for the accused

Parties : Public Prosecutor — Mohamad Norhazri bin Mohd Faudzi

Criminal Procedure and Sentencing

18 January 2008

Woo Bih Li J

Background

1 The accused Mohamad Norhazri Bin Mohd Faudzi ("the Accused") faced five charges of various offences involving three victims on three separate occasions. The charges read:

That you, Mohamad Norhazri Bin Faudzi

1st Charge

on or about 1 April 2006, at about 5.00am, at Geylang Drive, Singapore, being jointly concerned with one Muhamad Dhiyauddin Bin Ahmad, one Mohamed Fadzli Bin Abdul Rahim, one Yusry Shah Bin Jamal, and one Khairul Zaman Bin Mamon, did commit gang robbery of the following items:

- a. one blue handbag value unknown;
- b. one K700 Sony Ericsson handphone valued at \$420;
- c. one airline ticket value unknown;
- d. one white gold chain with a diamond pendant valued at \$740;
- e. one white gold earring valued at \$40;
- f. one ring valued at \$280;
- g. one lipstick value unknown;
- h. one comb value unknown;

- i. one lighter value unknown;
- j. cash of about \$360; and
- k. one China passport,

amounting to a total value of about \$1,840 in the possession of [Victim 1], and you have thereby committed an offence punishable under section 395 of the Penal Code, Chapter 224.

2nd Charge

on or about 1 April 2006, at about 5.00am, at Geylang Drive, Singapore, did abet the commission of the offence of rape, by intentionally aiding the said Mohamed Fadzli Bin Abdul Rahim, to rape [Victim 1], which offence was committed in consequence of your abetment, and you have thereby committed an offence punishable under section 376(1) read with section 109 of the Penal Code, Chapter 224.

3rd Charge

on or about 16 April 2006, at about 12.00am, at Jalan Sam Kongsu, Singapore, together with the said Mohamed Fadzli Bin Abdul Rahim and one Muhammad Aishare Bin Abdul Samad, in furtherance of the common intention of you all, did commit robbery of the following items:

- a. one white handbag valued at \$60;
- b. one grey handphone valued at \$400; and
- c. cash of \$60,

amounting to a total value of at least \$520, in the possession of [Victim 3], and you have thereby committed an offence punishable under section 392 read with section 34 of the Penal Code, Chapter 224.

4th Charge

on or about 12 August 2006, sometime between 3.00am and 5.00am, at Jalan Sam Kongsu, Singapore, together with one Mohammad Al-Ansari Bin Basri and the said Mohamed Fadzli Bin Abdul Rahim, did commit robbery of the following items:

- a. one white handbag value unknown;
- b. one China Passport No. G064XXXXX;
- c. one United Airlines air ticket value unknown;
- d. cash of \$600;

- e. one blue comb value unknown;
- f. one silver handphone value unknown;
- g. one China Sim card value unknown;
- h. one lipstick value unknown; and
- i. two phone books value unknown,

amounting to a total value of at least \$600, in the possession of [Victim 2], and in committing the said robbery, at least one of you voluntarily caused hurt to [Victim 2] and you have thereby committed an offence punishable under section 394 of the Penal Code, Chapter 224.

5th Charge

on or about 12 August 2006, sometime between 3.00am and 5.00am, at Jalan Sam Kongs, Singapore, did abet the commission of the offence of rape by intentionally aiding the said Mohamed Fadzli Bin Abdul Rahim to rape [Victim 2], which offence was committed in consequence of your abetment, and you have thereby committed an offence punishable under section 376(1) read with section 109 of the Penal Code, Chapter 224.

2 The prosecution proceeded with the 1st, 3rd and 4th charges relating to robbery. The Accused pleaded guilty to these charges. After considering a statement of facts which the Accused accepted, I convicted him of the offences under the 1st, 3rd and 4th charges. For the purpose of sentencing, the Accused consented to the remaining two charges being taken into consideration.

3 The prescribed sentences under the different provisions of the Penal Code (Cap 224, 1985 Rev Ed) (including the charges taken into consideration) were:

- | | | | |
|-----|--------------------------------------|---|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) | Under s 395 | - | imprisonment for not less than five years and not more than 20 years with caning of not less than 12 strokes. |
| (b) | Under s 392 | - | imprisonment for not less than three years and not more than 14 years with caning of not less than 12 strokes if the robbery is committed after 7pm and before 7am. |
| (c) | Under s 394 | - | imprisonment for not less than five years and not more than 20 years with caning of not less than 12 strokes. |
| (d) | Under
s 376(1) read
with s 109 | - | imprisonment for a term which may extend to 20 years and liable to fine or to caning. |

4 I sentenced the Accused as follows:

- (a) 1st Charge - Seven years imprisonment and 12 strokes of the cane. The sentence of imprisonment was backdated to 14 February 2007 which was the date of remand.
- (b) 3rd Charge - Four years imprisonment and 12 strokes of the cane. The sentence of imprisonment was to run concurrently with the sentence for the 1st Charge.
- (c) 4th Charge - Seven years imprisonment and 12 strokes of the cane. The sentence of imprisonment was to run consecutively with that for the First Charge.

Therefore, the total sentence of imprisonment was 14 years. The maximum number of strokes of the cane was 24 strokes as provided under s 230 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC").

5 The Accused has filed an appeal against the sentence. Some particulars of the Accused and the circumstances in which the offences were committed were found in the statement of facts.

6 The Accused was born on 2 January 1986. He is a Malaysian whose residence was at No. 221 Jalan Pesona Satu, Taman Pelangi Indah 81100 Johore Bahru, Malaysia. He was the driver of a 2-door white Honda Civic bearing registration number WDU 1181 ('the car').

7 The victims were:

- (a) Victim 1 ("V1"), born in 1980. She is a Chinese national who came to Singapore on a social visit pass.
- (b) Victim 2 ("V2"), born in 1970. She is a Chinese national who came to Singapore on a social visit pass.
- (c) Victim 3 ("V3"), born in 1970. She is a Chinese national who came to Singapore on a social visit pass.

8 The Accused's accomplices were:

- (a) Mohamed Fadzli Bin Abdul Rahim ("B1"), a Singaporean born in 1979. He was working as a flight supervisor at Changi Airport. He is the Accused's cousin.
- (b) Yusry Shah Bin Jamal ("B2"), a Singaporean born in or about 1990.
- (c) Khairul Zaman Bin Mamon ("B3"), a Singaporean born in or about 1990.
- (d) Mohammad AL Ansari Bin Basri ("B4"), a Singaporean born in or about 1989.
- (e) Muhamad Dhiyauddin Bin Ahmad ("B5"), a Malaysian who was at large.

(f) Muhammad Aishare Bin Abdul Samad ("B6"), a Singaporean born in or about 1990.

Facts relating to the 1st Charge

9 On 31 March 2006, at about 8.04pm, the Accused, B2, B3 and B5 entered Singapore via Woodlands checkpoint in the car that was driven by the Accused. They proceeded to Sim Lim Square Shopping Centre but found that the shops were closed. The Accused then drove the car to Tampines to meet B1. After talking to B1, the Accused brought B2, B3 and B5 to his grandfather's house which was located at Bedok Reservoir Road. After having some snacks, the Accused and B5 went down to the car to take their cigarettes. Subsequently, when they returned, the Accused and B5 told B2 and B3 that a group of boys had stared at them and they wanted to confront the boys. However, when the Accused, B2, B3 and B5 went down to the void deck, the boys were no longer there.

10 Thereafter, the Accused, B2, B3 and B5 went out in the car and eventually the Accused drove to Blk 429 Tampines Street 41 to meet B1. B1 got into the car and the Accused drove to Geylang as B1 wanted to show them some night spots. On the way to Geylang, the Accused, B1 and B5 discussed and came up with a plan to rob a prostitute and have sex for free. B2 and B3 agreed to the plan to rob a prostitute. B1 then directed the Accused to Geylang Drive where B2, B3 and B5 alighted as there was no room in the car to pick up a prostitute.

11 Subsequently, when they arrived at the cul-de-sac of Geylang Drive, B2, B3 and B5 alighted. The Accused and B1 drove around the vicinity of Geylang and, about 10 minutes later, they spotted V1 near Lorong 26 Geylang. B1 negotiated with V1 and she agreed to provide sexual services to him for a sum of \$80. B1, who was sitting at the front passenger seat of the car, got out of the car and pushed the seat forward for V1 to get in. V1 pointed the Accused to a nearby hotel and then got into the car. Shortly afterwards, they arrived at Geylang Drive where B2, B3 and B5 were waiting. The Accused flashed the headlights of his car, which was a pre-arranged signal to indicate to B2, B3 and B5 that they had arrived with a prostitute. After stopping the car, the Accused and B1 alighted from the car. Either the Accused or B1 then uttered the following words "what now" in Malay which was a signal to B2, B3 and B5 to execute their plan.

12 When V1 stepped out of the car, she was repeatedly punched on her face and head. Her handbag was forcibly pulled away from her by the Accused. Her jewellery was also snatched from her body. She was punched and kicked by the Accused, B1 and B5. B2 and B3 stood near the victim. During the assault, V1's blouse and bra were ripped off. She was dragged to the perimeter fencing of the People's Association building, where her jeans and panties were forcibly taken off. B1 and B5 both sexually assaulted V1 at the same time. B1 forced V1 to perform fellatio on him and then proceeded to rape her. The Accused was present at the time of the sexual assault on V1 by B1 and B5.

13 Afterwards, the Accused and his accomplices fled in the car with V1's handbag. V1 then ran naked all the way to Nicoll Highway and hid behind some railings at a bus-stop. She managed to flag a passing taxi and was brought to her apartment. On the same day (by then, it was 1 April 2006), V1 informed her landlord that she had been robbed and raped and the landlord then brought V1 to lodge a police report on the same day.

14 V1's jewellery and her handbag (value unknown) containing various items were not recovered.

15 When they drove off from the scene, the Accused and his accomplices divided amongst themselves the items taken from V1. B2 and B3 were given \$60 to share between the two of them. The remainder of the stolen money, ie, \$300 was shared between the Accused, B1 and B5.

16 V1 was referred to KK Women's and Children's Hospital for a medical examination. She was examined by Dr Law Wei Seng on 1 April 2006. In the course of his examination, Dr Law found an old hymenal tear in V1's vagina. V1 was also found to have multiple bruises on her head, upper and lower limbs, and on her trunk.

17 Dr Law found bruises on the left side of her forehead, right cheek and above her upper lip on the left side. There were also bruises noted on the outer aspect of her right leg below the knee and outer aspect of the right foot. Dr Law noted scratch marks on her right shoulder, the back of her right hand above the elbow, the front of her left hand above and below the left elbow, on her back below her right shoulder blade and on the abdomen around the right iliac fossa.

Facts relating to the 3rd charge

18 On 15 April 2006, in the late evening, B1 arranged to meet B6. Sometime later, B1 arrived in the car driven by the Accused. B1 introduced B6 to the Accused. All of them went for supper and then drove to a discotheque called "The Tunnel" in the East Coast. Once they reached there, they realised that B6 could not enter the discotheque as he was underaged. The Accused, B1, and B6 then discussed what to do next. The Accused and B1 then asked B6 if he wanted to make some money from a prostitute. B6 agreed to the plan. They drove around Geylang for a while looking for a prostitute.

19 On 16 April 2006 at around 12 midnight, V3 was walking along Lorong 34 Geylang near to the building 'Central Meadows'. B1 negotiated with V3 and she agreed to enter the car. The Accused and his accomplices then drove V3 to Jalan Sam Kongs, Singapore. Upon their arrival at an isolated place at Jalan Sam Kongs, V3 was hit on her head and body and her handbag was taken forcibly away from her.

20 B1 and B6 engaged in sexual intercourse with V3 at the vicinity of Jalan Sam Kongs Singapore, near the car. V3's white handbag valued at \$60, containing her grey handphone valued at \$400 and her cash of \$60 was in the car.

21 B1 engaged in sexual intercourse with V3 first. After B1 had had sexual intercourse with V3, B6 then proceeded to have sexual intercourse with V3. After B6 had had sexual intercourse with V3, he pushed V3 and she fell into some bushes. B6 then ran to the car. Once B6 had entered the car, the Accused and his accomplices then quickly fled from the scene with V3's handbag and its contents. The Accused and his accomplices knew that V3's handbag was still in the car prior to fleeing the scene in the Accused's car.

22 V3 was left clad in only her panties at the isolated place in Jalan Sam Kongs. She could not find the rest of her clothes at the scene. She ran away and managed to flag a passing vehicle and the driver then called the police.

23 V3's handbag, containing the following items stated below, were not recovered:-

- (a) one grey handphone valued at \$400; and
- (b) cash of \$60.

24 When the criminals reached Tampines Street 41, B1 picked up the handbag and removed the contents of the handbag. Inside the wallet, there were cash notes amounting to \$60. The Accused and the accomplices split the \$60 into three equal shares and each of them took \$20. V3's handphone

was sold for \$40. The proceeds of sale were shared among the Accused and his accomplices and B6 kept the handbag which was later recovered by the police in B6's residence.

25 V3 was attended to by Dr Ian Jay Basiao Tan, a medical officer with the Department of Emergency Medicine, Alexandra Hospital, on 16 April 2006. In his medical report dated 15 June 2006, it was stated that V3 suffered the following injuries:-

- (a) a 1.5cm abrasion on the right lower abdomen;
- (b) a 3cm abrasion on the right shin;
- (c) a 1.5cm abrasion on the left upper neck;
- (d) multiple small linear abrasion on the left upper anterior thigh;
- (e) a 3.5cm abrasion on the right posterior shoulder;
- (f) a 1.5cm mass on the right scapular area; and
- (g) 5cm abrasion below the right scapula.

26 V3 was also examined by Dr Shephali Tagore, Registrar of the Obstetrics and Gynaecology Division of the KK Women's and Children's Hospital, on 16 April 2006. His medical report stated that scratches were noted on the left and right thigh and left middle finger of V3.

Facts relating to the 4th charge

27 On 11 August 2006 at about 6.15pm, B1 and B4 were playing sepak takraw at the court near Block 419 Tampines Street 41. After the game, B1 told B4 that he would be going for joy-ride with his cousin, the Accused. B4 told B1 that he would like to follow them. On 12 August 2006, after midnight, the Accused and B1 fetched B4 in the car. Thereafter, they went to Tampines Street 21 and had supper at a coffeeshop there. During supper, B1 informed the Accused and B4 that he wanted to have sex with a prostitute for free. The Accused, B1 and B4 then drove in the car to Geylang.

28 When they arrived at Geylang, they circled the vicinity for a while. They did not manage to convince any of the prostitutes to enter their car. Next, the Accused and B1 dropped B4 off at a place near Geylang as they felt that the prostitutes were not willing to enter the car with three men in the car. The Accused and B1 then again circled Geylang in the car to look for a prostitute but were unable to persuade a prostitute to join them in the car. Following that, B1 and the Accused drove back to the spot where they had dropped off B4, to pick B4 up again. At around 3.00am, they spotted V2, who was walking along Lorong 34 Geylang near Geylang Road.

29 They drove up to V2 and stopped the car beside her. The Accused then asked V2 whether she was interested to provide sexual services and indicated to her that B1 was interested to engage her services. V2 agreed and told them that she would charge a sum of \$80. Following that, V2 got into the car and sat at the rear passenger seat beside B4.

30 A few minutes later, the Accused stopped the car at an unknown road to fill up water at the engine compartment as the car was overheating. V2 tried to leave the car but she was prevented from doing so. While the Accused and B4 were topping up the water, B1 moved to the rear passenger seat and sat beside V2. After filling up the water, the trio set off with V2. Along the way, B1 started groping the breasts of V2. She struggled but B1 managed to overpower her and remove her bra,

blouse and pants, leaving her with only her panties on her. V2 managed to hold on to her panties and prevent B1 from removing them. During the struggle with B1, B1 took away V2's handbag from her. Shortly thereafter, they reached Jalan Sam Kongsu.

31 B4 alighted from the car and B1 tried to force V2 out of the car by pushing her out. V2 struggled with B1. B1 and the Accused then punched V2 repeatedly. Eventually, B1 managed to push V2 out of the car with the assistance of the Accused and B4. Before she was pushed out of the car, V2 managed to grab her blouse and one shoe. After forcing V2 out of the car, B1 pulled her to the rear of a parked lorry and raped her.

32 The Accused saw B1 having sexual intercourse with V2. Thereafter, B1 rushed back to the car on hearing the cranking noise of the car. The Accused then instructed B4 to throw one of V2's shoes out of the car. B4 then passed V2's handbag, which was in the car, to the Accused and threw out one of V2's shoes as instructed.

33 The Accused, B1 and B4 then fled the scene with V2's handbag. V2 ran towards Tampines Road. She was subsequently picked up by a taxi driver who was with a passenger. V2 was crying and also bleeding on her face. V2 was brought to Tampines Neighbourhood Police Centre. Subsequently, V2 led police to the scene where her clothes and one shoe were recovered.

34 The contents of V2's handbag were divided between the Accused and B1. They included cash of \$600 and a silver handphone.

35 V2 was brought to Changi General Hospital on 12 August 2006 for a medical examination by Dr Ng Wei Fern. Dr Ng found the following injuries on V2 during the examination:-

- (a) 3cm laceration on her forehead;
- (b) superficial laceration below the left eye;
- (c) tenderness over the nasal bridge;
- (d) tender over lateral lower jaw;
- (e) bruise beneath the left eye;
- (f) superficial abrasions over both knees;
- (g) bruise and abrasions on her left upper limb.

36 V2 was referred to KK Women's and Children's Hospital for a medical examination by Dr Law Wei Seng. In the course of the examination, Dr Law found multiple bruises and scratch marks on her head, upper and lower limbs and on her trunk. He found the following injuries on V2's body:-

- (a) bruise over the left cheek associated with swollen left eye. The shape of the bruise was almost rounded, but no measurements were made;
- (b) stitched wound at the centre of her forehead measuring 2-3cm. It was linear and vertical;
- (c) scratch marks on the left side chest, back of left arm (one above and one below the left elbow) the anterior aspect of her lower limb (one above the right knee and one around the right

knee) and the anterior aspect of her left leg (below the left knee); and

(d) bruise on the back of her right thigh on the lateral aspect above the right knee.

Sentences for B1

37 B1 had pleaded guilty to various charges and was convicted and sentenced as follows:

(a) one charge of gang robbery under s 395 – sentenced to seven years imprisonment and 12 strokes of the cane;

(b) one charge of aggravated rape under s 376 (2) (a) – sentenced to 11 years imprisonment and 14 strokes of the cane;

(c) one charge of aggravated rape under s 376 (2) (a) – sentenced to 11 years imprisonment and 14 strokes of the cane.

38 The sentences for aggravated rape were ordered to run consecutively. The total sentence was 22 years and 24 strokes of the cane (since 24 strokes was the maximum). B1 has appealed against his sentence and his appeal was pending at the time of the Accused's conviction.

Sentences for some accomplices

39 The other accomplices B2, B3, B4 and B6 were dealt with in the Subordinate Courts. They were 16 or 17 years of age. The prosecution proceeded with a charge of robbery with common intention under s 392 read with s 34 for the accomplices and for B2, the prosecution proceeded also with an additional charge of theft in dwelling under s 380. All these accomplices were convicted. B6 was sentenced to reformatory training. B2 to B4 were initially sentenced to probation by the District Court. On appeal by the prosecution, the High Court sentenced B2 and B4 to reformatory training. The appeal by the prosecution in respect of B3 was heard by a different High Court judge and that appeal was not successful.

Reasons for the Accused's sentences

40 As mentioned, the Accused was born on 2 January 1986. He was convicted on 29 November 2007. He was more than 21 years of age at the time of conviction and thus not eligible for probation or reformatory training. The three offences on which he was convicted were committed on 1 April 2006, 16 April 2006 and 12 August 2006. As for the other two charges which were taken into consideration, the second charge related to the incident on 1 April 2006 and the fifth charge related to the incident on 12 August 2006. At the time of the commission of the offences, he was between 20 and 21 years of age.

41 The defence submitted that the Accused had lost his mother at the young age of 14 when she passed away in 2000. Although his father became closer to him and his elder sister, his father remarried eventually. His step-mother did not spend time with him and his father's attention was focussed on his new wife. The Accused grew closer to his cousin, B1. It was said that he was not enlisted for National Service in Singapore as he settled down in Malaysia. B1's confidence impressed the Accused who aped B1's lifestyle of frequent outings and clubbing. The Accused's trips to Singapore became more frequent.

42 The defence stressed the Accused's young age and submitted that if he had pleaded guilty and

been convicted earlier, he could have been sentenced to reformatory training for a maximum of three years without caning. As it was, he would receive 24 strokes of the cane and a minimum of eight years' imprisonment if only two of the sentences were to run consecutively (under s 18 of the CPC where a person is convicted and sentenced to imprisonment for at least three distinct offences, the sentences for at least two of the offences shall run consecutively). On the other hand, I noted that, conversely, if B2, B4 and B6 had been older by a few years, they would not have been eligible for reformatory training.

43 Aside from his young age, the defence submitted that it was never the Accused's intention to commit any sexual offence and he did not do so himself. In the robberies, no weapons were used. Though the victims were women, they were not young girls. The Accused's conduct was not as reprehensible as B1's. Also, the Accused had pleaded guilty and there was no antecedent.

44 The prosecution submitted that there were many aggravating factors. The offences were pre-meditated and had been planned cunningly and carefully. Although the Accused did not rape any of the victims, he was aware that his accomplices planned to rape. He was also present. The victims were brutally attacked and suffered multiple injuries. He had taken an active role in the planning and execution and was the second oldest of the perpetrators. He had embarked on a crime spree.

45 The prosecution also submitted that I should not regard the Accused as a first time offender. In *Chen Weixiong Jerriek v PP* [2003] 2 SLR 334 ("*Jerrick*"), Chief Justice Yong Pung How ("Chief Justice Yong") said at [17]:

... I am of the view that it is the prerogative of this court to refuse to consider as a first time offender anyone who has been charged with multiple offences, even if he has no prior convictions.

46 As for the Accused's plea of guilty, the prosecution pointed out that at the initial joint trial of the Accused and B1 on 20 August 2007, the Accused had informed his counsel that he wished to plead guilty but changed his mind and his counsel discharged himself. Fresh trial dates were set for the period from 19 November to 30 November 2007. It was only on 21 November 2007 that the Accused agreed to plead guilty to a certain set of charges and was convicted on those charges. Sentencing was postponed but on 27 November 2007, the Accused again changed his mind. Fortunately for him, the prosecution did not object and he was allowed to retract his plea of guilt. His conviction was set aside. He then pleaded guilty to a different combination of charges which were the 1st, 3rd and 4th charges mentioned above and in which he was convicted and eventually sentenced as I have mentioned. The prosecution also submitted that the Accused was fully aware of the fact that five of his accomplices had already pleaded guilty. Accordingly, the prosecution submitted that his plea of guilt should be given negligible weight. In *Jerrick*, Chief Justice Yong said at [19]:

19 While the voluntary surrender by an offender and a plea of guilt by him in court are factors that can be taken into account in mitigation as evidence of remorse, their relevance and the weight to be placed on them must depend on the circumstances of the case: *Wong Kai Chuen Philip v PP* [1990] SLR 1011. I see very little mitigating value in a robber pleading guilty after he has been turned over to the police; in this case, the game was up for the appellant as his father had handed him over to the police.

47 The prosecution also submitted that in view of many aggravating factors, the court should impose a very high deterrent sentence and order the sentences for the three charges, and not only two as stipulated under s 18 CPC, to run consecutively.

48 In *P Shanmugam v PP* [2000] 2 SLR 673, Chief Justice Yong referred to s 18 CPC and said at [6]:

... In such a case, the sentencing court is invested with the direction [*sic*] as to which and how many of the sentences ought to run consecutively, and there is no absolute rule precluding the court from making more than two sentences consecutive: *Maideen Pillai v PP* [1996] 1 SLR 161 at 165...

49 However, I note that in *Maideen Pillai v PP* [1996] 1 SLR 161, Chief Justice Yong also added at 165 that:

Of course, a decision to go beyond the stated minimum of two consecutive sentences should be taken only in exceptional cases, after careful consideration of the facts of the case as well as the relevant guiding principles. As also pointed out in *Kanagasuntharam v PP*, the sentencing court, in exercising its discretion to impose consecutive sentences, has regard to certain common law principles, namely, the one transaction rule and the totality principle.

50 In *Jerrick*, the accused who was 17 years of age had pleaded guilty to seven charges, three of which were under s 394. Over a period of two months, the accused and his accomplices had approached their victims aged between 12 and 16 years and forced the victims to go to quiet places where they were robbed. Victims who resisted were beaten and the beatings consisted of punches, kicks and slaps with one victim having his head slammed against a wall. In respect of a charge of voluntarily causing hurt by means of a dangerous weapon, under s 324, committed while the accused was out on bail, the accused had perceived a 22-year old as staring at him, then confronted him and smashed an empty beer bottle on the victim's head. The accused had no antecedents. His sentence for two of the charges under s 394 was increased to seven years imprisonment and 12 strokes of the cane for each of these two charges. The High Court had taken into account the accused's violent disposition. He was also sentenced to seven years and 12 strokes for a charge of robbery under s 392 read with s 34. The sentence for that charge and one under s 394 were ordered to run consecutively. As a result, his total sentence was 14 years imprisonment. Taking into account other sentences, the total number of strokes of the cane was 24.

51 For an offence of gang robbery under s 395, B1 was sentenced to seven years' imprisonment and 12 strokes of the cane.

52 In *Robert Anak Imbak v PP* [2002] SGDC 326, the accused was 18 years of age. He pleaded guilty to a charge of gang robbery under s 395 with another charge of gang robbery being taken into consideration. On the day of the incident, the accused and his accomplices were having drinks at a park when they spotted two men walking towards them. One of the accomplices suggested robbing them. The others agreed and they surrounded and attacked the victims and relieved them of their wallets and handphones. The accused had no antecedents. The District Court did not find the accused's age to be of substantial mitigating value in itself and sentenced him to seven years' imprisonment and 12 strokes of the cane.

53 In *Ramachandran s/o Arulmani v PP* (MA 247/2000/01), the accused pleaded guilty to a charge of robbery with common intention under s 392 read with s 34. The victim's head was covered with a jacket and she was assaulted. She was robbed of cash and valuables amounting to \$3,658. The accused there had various antecedents for theft, theft of motor vehicles, desertion, traffic offences and affray. He also pleaded guilty to a charge of corruption which was committed when he offered an accomplice a bribe to refrain from implicating him in the robbery. He said he had been inebriated and was not the initiator of the robbery. He was sentenced to five years' imprisonment and 12 strokes for

the robbery.

54 Coming back to the case at hand, I did give some weight to the absence of antecedents even though the Accused had pleaded guilty to various offences committed at different times.

55 As for the Accused's change of mind on 20 August 2007 and on 27 November 2007, I was of the view that this should not be taken into account against him. Although such conduct might be annoying to the prosecution, he was facing serious charges. Furthermore, although the Accused must have known that the game was up, I still gave some weight to his plea of guilt.

56 As for the Accused's young age, I was of the view that this was the strongest mitigating factor. However, that had to be weighed against the aggravating factors. The offences were very serious ones. They were pre-meditated and involved accomplices. They were committed in the early hours of the morning to avoid detection on defenceless and vulnerable victims. The Accused and his accomplices took advantage of the fact that prostitutes were more likely to get into a car with a stranger or strangers. Violence was committed. Although no weapon was used, this was because it was unnecessary to use weapons.

57 Also, while the Accused did not intend to rob nor did he commit any sexual offence himself, it was significant that for the first and third incidents, the Accused knew that B1 would rape the victims and yet he went along with the plan of robbery and rape. This led to the two charges of abetment of rape under s 376(1) read with s 109 which I took into consideration.

58 True, B1 was more culpable than the Accused but it seemed to me that the Accused was more culpable than the others. He was older than them. The Accused had participated in the planning and execution and he and B1 were the common offenders on all three occasions.

59 There was no sign of regret after the first occasion. About two weeks after the first occasion, the Accused was back at it again. But for some mitigating factors, I would have imposed longer terms of imprisonment than the ones stated in [4].

60 As regards whether the three sentences should have been ordered to run consecutively, I was of the view that although the offences were very serious, the circumstances were not so exceptional as to justify three consecutive sentences for the three offences.

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