IN THE HIGH COURT OF MALAYA AT SHAH ALAM
IN THE STATE OF SELANGOR, MALAYSIA
[CRIMINAL TRIAL NO: 45A-139-12/2014 & 45A-140-12/2014]

BETWEEN

KABUNDA SAKAJI EDDY ... APPELLANT

AND

PENDAKWA RAYA ... RESPONDENT

CRIMINAL LAW: *Dangerous drugs - Trafficking - Methamphetamine weighing 266g and 214.7g - Possession - Capsules containing drugs were excreted from body of accused and found beside accused - Capsules were in similar size, colour and shape - Accused refused to eat whilst he was held at holding cell - Whether accused had mens rea possession of dangerous drugs - Whether accused had knowledge of dangerous drugs - Whether presumption under s. 37(da) of Dangerous Drugs Act 1952 applied*

CRIMINAL PROCEDURE*: Defence - Denial - Wilful blindness - Offence of trafficking dangerous drugs - Capsules containing drugs were excreted from body of accused and found beside accused - Accused denied knowledge of contents of capsules that he swallowed - Accused alleged to have swallowed capsules without inquiring about contents - Whether lack of interest to ascertain contents of capsules by accused demonstrated that he knew it contained drugs - Whether*

accused's denial of knowledge of contents of capsules was credible - Whether accused had rebutted statutory presumption of trafficking under s. 37(da) of Dangerous Drugs Act 1952

[Accused found guilty and sentence to death.]

Case(s) referred to:

Balachandran v. Public Prosecutor [2005] 1 CLJ 85 FC ***(refd)***

Chan Pean Leon v. PP [1956] 1 LNS 17 HC ***(refd)***

Emeka John Paul v. PP [2016] 1 LNS 395 CA ***(refd)***

Munusamy Vengadasalam v. PP [1987] 1CLJ Rep 221 SC ***(refd)***

PP v. Chia Leong Foo [2000] 4 CLJ 649 HC ***(refd)***

Public Prosecutor v. Muhammad Nasir Shaharudin & Anor [1992] 3 CLJ Rep 408 HC ***(refd)***

Legislation referred to:

Criminal Procedure Code, ss. 180, 277

Dangerous Drugs Act 1952, ss. 2, 37 (da), 39B(1)(a), First Schedule

JUDGMENT

[1] The accused, a male Democratic Republic of Congo citizen, was charged with two separate offences of drug trafficking of 266 grammes and 214.7 grammes of methamphetamine, respectively, under section 39B(1)(a) of the Dangerous Drugs Act 1952 ("the Act").

[2] The charges against him read as follows:

First charge

"That you on 18/2/2014 at about 2.15 pm, at the Temporarily detention room of Sepang Immigration Office, in Kuala Lumpur International Airport, in the district of Sepang, in the State of Selangor, have trafficked dangerous to wit 266 gram of Methamphetamine, and thereby committed an offence under section 39B(1) of the Dangerous Drug Act 1952 which is punishable under section 39B(2) of the same act."

Second charge

"That on on 19/2/2014 at about 8.30 am until 3.30 pm, at the Yellow zone, in the emergency department, in Hospital Serdang, in the District of Sepang, in the State of Selangor, have trafficked dangerous drug to wit 214.7 gram of Methamphetamine, and thereby committed an offence under section 39B(1) of the dangerous Drug Act 1952 which is punishable under section 39B(2) of the same act."

Case for the Prosecution

[3] The prosecution called 6 witnesses to prove the charges. The prosecution evidence was largely unchallenged. On the morning of 18 February 2014, the accused arrived at Kuala Lumpur International Airport from China. He was stopped at the Immigration Counter as he did not possess a valid visa to enter Malaysia, and was taken to the Temporary Holding Cell at the airport to be sent back.

[4] At about 2 that afternoon, PW1, a customs officer heard a cry coming from the inside the holding cell. He proceeded there to investigate and saw the accused seated on the floor near the cell door, crying and pointing to a pile of purple objects on the floor. According to PW1, it looked like a pile of grapes.

[5] PW1 promptly informed his supervisor, Puan Hamidah, who happened to be in the vicinity of the holding cell to have a look at the objects. Suspecting that they were drugs, she immediately proceeded to the Narcotics Office at the airport to inform the officer in charge. In the meantime, PW1 left the accused alone for 5 five minutes to hand a file to the Operations Office. When he returned, he noticed that the objects had been moved and placed just outside the cell. The accused was standing at the cell door. The other detainees in the same cell were all some distance away from the accused, who was the only man of African origin in the cell.

[6] Shortly after, Hamidah brought PW2 and other Police Personnel to the holding cell. PW2 saw the two piles of objects outside the cell door and the accused holding the cell door. PW2 examined the objects and found in each pile, a total of 17 and 19 capsules, respectively. PW2 seized and placed the capsules into two bags [exhibits P22(A) and P22(C)]. PW2 further seized a black bag containing the accused's personal belongings and a laptop. The accused's passport was handed to PW2 by Hamidah.

[7] PW2 took all the items seized and the accused to his office where he prepared a search list and served a copy of it to the accused. He then lodged a police report [exhibit P1]. PW2 weighed the capsules and the gross weight was 500 grams. He then marked all the capsules in exhibits P22(A) and P22(C) by recording the date and placing his signature on them.

[8] The same day, the accused and the exhibits seized were handed by PW2 to the Investigating Officer, Inspector Amrin Bin Mohamad (PW6), who kept the exhibits in his locker, to which no one had access. The Investigating Officer further instructed that the accused to be taken to the Serdang Hospital for an X-ray examination of his abdomen. The accused was detained at a ward inside the emergency

zone and X-ray examination showed the presence of foreign objects in his intestine. He was guarded by police personnel, PW3 and PW4 who were instructed to wait and watch over him till he excreted the objects.

[9] On 19 February 2014 at 8.40 in the morning, the accused excreted 27 capsules in the presence of PW3 and PW4. At 3.45 pm the accused excreted another 2 capsules. All the capsules were marked and photographed by PW3 and PW4. PW4 handed these capsules to the Investigating Officer the same day. The Investigating Officer made his own markings on all the capsules handed to him by PW2 and PW4 and sent them to the Chemistry Department for analysis. The government Chemist, Norhaya binti Jaffar (PW5) confirmed that the substance inside the capsules recovered from both the holding cell and Hospital Serdang was methamphetamine. The methamphetamine found in the capsules recovered from the holding cell and Hospital Serdang were the subject of the two charges in the instant case.

[10] The accused gave a cautioned statement to the police 5 days after his arrest, and this was admitted into evidence. In his statement, he put forth a detailed defence. Essentially, he said that he did not know that the capsules he had swallowed contained drugs.

[11] So much was the evidence from the principal witnesses for the prosecution. The other witnesses produced by the prosecution gave general evidence in support of the prosecution.

Burden on prosecution

[12] The burden on the prosecution at the close of the prosecution case to make out a *prima facie* case is encapsulated in s. 180 of the Criminal Procedure Code. The nature of the burden on the prosecution under section 180 was discussed and elucidated by the

Court of Appeal in *Balachandran v. Public Prosecutor* [2005] 1 CLJ 85; [2005] 2 MLJ 301 as follows:

> Section 180(1) makes it clear that the standard of proof on the prosecution at the close of its case is to make out a *prima facie* case while s. 182A(1) enunciates that at the conclusion of the trial the court shall consider all the evidence adduced and decide whether the prosecution has proved its case beyond reasonable doubt. The standard of proof on the prosecution at the end of its case and at the end of the whole case has thus been statutorily spelt out in clear terms. The submission made must therefore be ratiocinated against the background of the meaning of the phrase '*prima facie* case' in s. 180.Section 180(2) provides that the court shall record an order of acquittal if a *prima facie* case has not been made out while s. 180(3) provides that if a *prima facie* case has been made out the accused shall be called upon to enter his defence. A *prima facie* case is therefore one that is sufficient for the accused to be called upon to answer. This in turn means that the evidence adduced must be such that it can be overthrown only by evidence in rebuttal. The phrase '*prima facie* case' is defined in similar terms in *Mozley and Whiteley's Law Dictionary*, (11th Ed) as:
>
> > A litigating party is said to have a *prima facie* case when the evidence in his favour is sufficiently strong for his opponent to be called on to answer it. A *prima facie* case, then, is one which is established by sufficient evidence, and can be overthrown only by rebutting evidence adduced by other side.

The result is that the force of the evidence adduced must be such that, if unrebutted, it is sufficient to induce the court to

believe in the existence of the facts stated in the charge or to consider its existence so probable that a prudent man ought to act upon the supposition that those facts exist or did happen. On the other hand if a *prima facie* case has not been made out it means that there is no material evidence which can be believed in the sense as described earlier. In order to make a finding either way the court must, at the close of the case for the prosecution, undertake a positive evaluation of the credibility and reliability of all the evidence adduced so as to determine whether the elements of the offence have been established. As the trial is without a jury it is only with such a positive evaluation can the court make a determination for the purpose of s. 180(2) and (3). Of course in a jury trial where the evaluation is hypothetical the question to be asked would be whether on the evidence as it stands the accused could (and not must) lawfully be convicted. That is so because a determination on facts is a matter for ultimate decision by the jury at the end of the trial. Since the court, in ruling that a *prima facie* case has been made out, must be satisfied that the evidence adduced can be overthrown only by evidence in rebuttal it follows that if it is not rebutted it must prevail. Thus if the accused elects to remain silent he must be convicted. The test at the close of the case for the prosecution would therefore be: Is the evidence sufficient to convict the accused if he elects to remain silent? If the answer is in the affirmative then a *prima facie* case has been made out. This must, as of necessity, require a consideration of the existence of any reasonable doubt in the case for the prosecution. If there is any such doubt there can be no *prima facie* case.

The statutory provisions and case law

[13] For convenience, I will set out the material sections of the Act on which the prosecution relied on to prove the charges, or which are otherwise material to this case

[14] The charges against the accused were framed under section 39B(1)(a) of the Act which provides:

> (1) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Malaysia-
>
> (a) traffic in a dangerous drug;
>
> (b) ...
>
> (c) ...

[15] Section 2 of the Act defines trafficking as follows:-

> In this Act, unless the context otherwise requires - trafficking includes the doing any of the following acts, that is to say, manufacturing, importing, exporting, keeping, concealing, buying, selling, giving, receiving, storing, administering, transporting, carrying, sending, delivering, procuring, supplying or distributing any dangerous drug otherwise than under the authority of this Act or the regulations made under the Act.

[16] In *Public Prosecutor v. Chia Leong Foo* [2000] 6 MLJ 705, the Court held that before the acts mentioned in the definition of trafficking under section 2 of the Act can be invoked by the prosecution, it must first prove the accused had possession of the drugs. It is easy to discern the rationale for this requirement. An accused would not be in a position to traffic in drugs unless he was

in possession or in custody or control of the same. In this regard, Augustine Paul J explained:

> It must be observed that most of the acts that constitute trafficking as defined in section 2 of the Act like, for example, keeping, concealing, storing, transporting, and carrying dangerous drugs involve the prerequisite element of possession ... It follows that a person cannot keep, conceal, store, transport, or carry dangerous drugs within the meaning of trafficking in the Act without being in the possession of them.

[17] The meaning of possession for the purposes of the Act has been considered in numerous cases. It has been held that there are two elements to possession. There is the physical element, and the mental element. The physical element involves proof that the thing was in the custody of the accused or subject to his control. The mental element involves proof that the accused had knowledge that he was in possession of drugs. See *Chan Pean Leon v. Public Prosecutor* [1956] 1 MLJ 237 and *PP v. Muhammad Nasir b Shaharudin* [1994] 2 MLJ 576. In the latter case, the court explained:

> Possession is not defined in the DDA. However, it is now firmly established that to constitute possession, it is necessary to establish that: (a) the person had knowledge of the drugs; and (b) that the person had some form of control or custody of the drugs. To prove either of these two requirements, the prosecution may either adduce direct evidence or it may rely on the relevant presumptions under s. 37 of the DDA.

Ingredients of the offence

[18] It is clear from the foregoing that to prove the charges against the accused, it was incumbent on the prosecution to prove:

i. that the substance found in the capsules was dangerous drugs within the definition of section 2 of the Act: and

ii. that the accused person had *mens rea* possession of the drugs ie, he had custody and control of the drugs and knowledge that it was dangerous drugs; and

iii. that the drugs were in the possession of the accused for the purpose of trafficking

[19] I turn now to examine the evidence led by the prosecution to prove the ingredients of the offence.

Whether the substance was dangerous drugs within the definition of section 2 of the Act?

[20] The prosecution relied on the evidence of the government Chemist to prove the identity and weight of the drugs found in the capsules. The unchallenged evidence of the government Chemist in this case established that the substance in the capsules recovered from the holding room contained 266 grams of methamphetamine and the substance in the capsules recovered from Serdang Hospital contained 214.7 grams of methamphetamine, a dangerous drug listed in the First Schedule of the Act.

[21] In *Munusamy v. PP* [1987] 1 MLJ 492, the Supreme Court made this observation about the nature of evidence given by a chemist in drug cases:

> As a rule, a chemist in drug cases does not give any opinion as to ownership, control or possession of the substance sent for analysis, but he merely reports the result of the chemical

examination of the substance. The only reason for sending the exhibits to the chemist is to determine their identity and to confirm what other witnesses have suspected. This type of opinion must in our view be distinguished from opinions which are of very technical or complicated nature, such as those given by handwriting, trade mark, copy right or ballistic experts. Without being derogatory it is common knowledge that even animals, such as snuff dogs when sufficiently trained, are able to detect certain dangerous drugs. We are therefore of the view, that is this type of cases where the opinion of the chemist is confined only to the elementary nature and identity of substance, the court is entitled to accept the opinion of the expert on its face value, unless it is inherently incredible or the defence calls evidence in rebuttal by another expert to contradict the opinion.

Whether the accused had possession of the dangerous drugs?

[22] To prove that the accused had *mens rea* possession of the drugs, the prosecution relied on the evidence of PW1, PW2, PW3 and PW4 that the capsules were excreted by the accused. It was true that PW1 did not see the accused excrete the capsules recovered from the holding cell, but the fact that the capsules were found beside accused soon after he was heard screaming in pain, indicated that he must have excreted them. Next, and crucially the capsules were similar in size, colour and shape as the ones he excreted at Hospital Serdang. It cannot be gainsaid that the capsules were in his stomach as he had swallowed them. It was unlikely the accused would have swallowed the capsules without knowing its contents. Additional evidence that showed the accused had knowledge that the capsules contained drugs was borne out by the fact there was unchallenged evidence that the accused had refused to eat whilst he was held at

the holding cell. His refusal indicated that he must have known that if he consumed any food it would affect his bowel movement.

[23] On the evidence I was satisfied the accused had *mens rea* possession of the drugs.

Issue of trafficking

[24] The quantity of drugs found in the possession of the accused was well above the 50 grammes threshold that attracted the trafficking presumption under section 37(da) of the Act which was in these terms:

> In all proceedings under this Act or any regulation made there under:
>
> (da) any person who is found in his possession of:
>
> (iiia) total of 15 grammes or more in weight of heroin, morphine and monoacetylmorphines or a total of 15 grammers or more in weight of any two of the said dangerous drugs;
>
> (xvi) 50 grammes or more in weight of Methamphetamine;
>
> otherwise than in accordance with the authority of this Act or any other written law, shall be presumed, until the contrary is proved, to be trafficking in the said drug;

[25] The accused was thus presumed to have these drugs in his possession for the purposes of trafficking.

Finding at end of Prosecution Case

[26] Thus, at the close of the prosecution's case, I was satisfied, upon a maximum evaluation of the evidence adduced by the prosecution's witnesses that the prosecution had made out a *prima facie* case against the accused in respect of the charges which, if unrebutted, would warrant his conviction. As such, the accused was called upon to enter his defence.

Case for Defence

[27] The accused elected to give evidence on oath. He denied the prosecution's version of the facts. In particular, he denied that he knew that the substance in the capsules was methamphetamine or that he had swallowed it to conceal the drugs to avoid detection by the authorities.

[28] I shall now refer to his evidence in detail. He said he was from the Republic of Congo and travelled to Tanzania to look for work because of financial problems. There, he stayed with a family friend called Alain who introduced him to a lady called Shakira who offered to give him a job, and told him he could earn US 5000 dollars. She told him he would be sent to Shenzen, China to meet someone known as Boss, who had an assignment for him to travel to Indonesia. Shakira arranged for his passport, visas and flight ticket to travel to Shenzen.

[29] According to the accused, when he arrived in Shenzen, he met Boss and was asked to stay in Shenzen for a few days. Boss told him that he was to travel to Malaysia instead of Indonesia and assured him that no visa was required for him to enter Malaysia as he was from Congo. He was taken to meet Boss one day before his flight to Malaysia, and the latter informed him that he was to bring something into Malaysia. Boss showed him a bag that contained capsules and asked him to swallow the capsules. He did not inquire what was in the capsules. The accused said he consented and

swallowed the capsules because his family in Congo needed the monies. He was unsure how many capsules he had swallowed.

[30] On 16 January 2014, he departed from Shenzen and arrived in Malaysia the next day. He was, however, denied entry into Malaysia at the Immigration check point as he did not have a visa, and was taken to the Immigration Holding Cell. He admitted that he had excreted the capsules in the instant case but maintained he had no knowledge that the capsules he had swallowed contained dangerous drugs.

Burden on the Defence

[31] The burden on the accused was to rebut the statutory presumption under section 37(d)(a) of the Act that he had the drugs in his possession for the purpose of trafficking on a balance of probabilities.

[32] An accused person in possession of a dangerous drug shall beacquitted if he proves that he neither believed nor suspected nor had reason to suspect that the substance in question was a dangerous drug. He does not have to know the type of drug but he must prove that he neither believed nor suspected nor had reason to suspect that the substance was a dangerous drug.

Analysis of Defence evidence

[33] In my judgment, the defence of the accused was in all respects, unmeritorious. I disbelieved his evidence that he did know what was in the capsules when he swallowed the same. This was a common defence relied on by drug couriers and pose real difficulties for the police and prosecuting authorities.

[34] Equally, I disbelieved his evidence that he swallowed the capsules without asking Boss what was in the capsules. His story was simply

incredible. Boss was someone he had just met and had no reason to blindly trust him to the extent he was willing to swallow capsules without even knowing what was in the capsules.

[35] It was telling that the accused made no mention in his evidence as to what he thought was in the capsules and why he did not ask Boss about the contents, and the need to swallow them. His lack of interest and compulsion to ascertain the contents of the capsules demonstrated that he knew it contained drugs and accepted the assignment fully aware of the consequences if he was apprehended. I found his story that he did not know there were drugs in the capsules implausible and a complete fabrication.

[36] In any event, the accused must have suspected that something was amiss when Boss told him to swallow the capsules. It must have surely crossed his mind that there could be drugs in the capsules and that he was being asked to be a drug courier. He chose, however, not to inquire about the contents though he was not threatened or coerced by Boss to swallow the capsules. He wilfully shut his eyes and made no inquiries, though he had opportunity to do so, as to what was in the capsules and why Boss wanted him to swallow the same. It is trite that there is a principle of law that when a man deliberately shuts his eyes to the obvious, because he does not want to know, he is taken to know.

[37] This is illustrated by the judgment of the Court of Appeal in *Emeka John Paul v. Public Prosecutor* [2016] 3 MLJ 757. There, dangerous drugs were recovered, as in the instant case, from the stomach of the appellant. The appellant claimed that he had no knowledge of the drugs in the capsules discharged from his stomach and he had swallowed the capsules as instructed by one Oneka thinking they contained ‘silver. In dismissing his appeal

against his conviction and sentence, Prasad Abraham JCA explained:

> [20] In this regard, we refer to the decision of this court and to the judgment of His Lordship Zamani A Rahim J in the case of *Abuchi Johnson v. Public Prosecutor* [2015] 1 LNS 1225 and we quote:
>
> The Appeal
>
> > [14] The sole issue advanced by the appellant was that he had no knowledge of the drugs in the capsules discharged from his abdomen. He was forced by Obi to 'eat' (swallow) the capsules before he boarded the flight at Lagos airport. He was told by Obi that the capsules which resembled the African food was necessary for him to 'eat' (swallow) to overcome the problems of cold weather and long distance travelling.
> >
> > [15] Learned counsel contended that the appellant's cooperative conduct at the time of his arrest the KLIA showed that he did not know he had swallowed the capsules containing the drugs.
> >
> > [16] The appellant's defence of no knowledge of the drugs was supported by his cautioned statement, D28 which the defence claim to have been given at the earliest reasonable opportunity.
> >
> > *Our Decision*
> >
> > [17] Having heard the appeal, we found no merit on the ground raised by the appellant. We therefore unanimously dismissed the appeal and confirmed the

conviction and the death sentence imposed by the High Court. We now give our reasons.

[18] Learned counsel argued that it was not disputed that the appellant had sixty six (66) capsules in his abdomen. However the defence submitted that the appellant did not know he had swallowed the drugs in the capsules. Had he knew the capsules contained the drugs; he would not have swallowed them.

[19] Having scrutinised the appellant's story, the trial judge found there were many gaps and questions which remained unanswered. The trial judge found the appellant's story was fraught with unreasonableness and illogicality, namely:

(1) Why would Obi who paid the accused to have his laptop repaired by the Accused was so 'indebted' to the accused that he was willing to pay for the air ticket, gave USD 3,000 for expenses and obtained visa for the accused to come to Malaysia;

(2) The accused said that his life and security were not threatened as Obi only held his jaw to open his mouth for him to swallow the capsules. So the accused had all the opportunity to escape or run away but he did not do so; and

(3) The accused said he did not know what he swallowed. Yes this defence is not an afterthought as it was mentioned in his statement to police (D28), but he had all the opportunity to find out as he was not threatened. If he did not do so, its 'wilful blindness' on his part and he himself to blame. In the Singapore Court

of Appeal case of *Ubaka v. Public Prosecutor* [1995] 1 SLR 267 at p 273, Kartigesu JA said:

In the light of these findings, the learned judge had to decide whether the appellant had successfully rebutted the presumptions of knowledge of the presence of the drugs and their nature. He applied the principles laid down in *Warner v. Metropolitan Police Commissioner* as modified by *Tan Ah Tee & Anor v. Public Prosecutor* and which were reiterated in the recent decision of this court in the case of *Lim Swee Thong v. Public Prosecutor*. The learned judge concluded that:

Ignorance is a defence when there is no reason for suspicion and no right opportunity of examination, and ignorance simpliciter is not enough. Even if I had accepted what the accused said (which I did not), he was no an innocent custodian. He should have been wary about Mike Udo by the time he was asked to carry the bags and he should check (sic) the bags before taking them with him.

The learned judge accordingly found the appellant had not rebutted the statutory presumption on a balance of probabilities, and convicted him.

On appeal, the same arguments that were canvassed before the learned judge were canvassed before us. Just as the learned judge found no merit in them, we too did not find any merit in the appellant's contentions and accordingly we dismissed the appeal and confirmed the sentence of death passed by the learned trial judge on the appellant.

On examining the evidence of the accused, it is not denied or disputed that he had the drugs in his abdomen and discharged them in Malaysia. With many questions/gaps unanswered, the story of the accused is surely 'highly improbable' (*Public Prosecutor v. Abdul Rahman Aktif* [2007]). Therefore, it cannot rebut the presumption of knowledge and cast a reasonable doubt in the prosecution case.

Further on the defence of wilful blindness, the accused had all the opportunity to refuse as his life or security was not threatened and he had only himself to blame. He 'should have been wary' when asked to swallow the capsule which he said resembled some African food. This too cannot rebut the presumption of knowledge on the balance of probabilities.

[20] With several questions and gaps remained unexplained, the appellant's version of the story had failed to cast any reasonable doubt on the prosecution's case. In *Public Prosecutor v. Abdul Rahman bin Akif* [2007] 4 CLJ 337; [2007] 5 MLJ 1, Arifin Zakaria FCJ (as he then was) said at p 353:

[27] It is trite law that the court need not be convinced of the defence story to entitle the accused to an acquittal. The burden of proof on the accused is indeed a light one which is merely to cast a reasonable doubt on the prosecution's case.

[21] His Lordship at p 354 of the judgment said that the accused story was highly improbable and affirmed the conviction imposed by the High Court.

> [21] The version of the appellant in that he did not appreciate what he was swallowing were **drugs** makes it now difficult one for us to 'swallow'. Would a person swallow these pills and take a long journey to Malaysia? Even so, what was more bewildering, what was the need for him to swallow 'silver'? Indeed, the intention to conceal was present. The act and now the consequence in which the appellant has found himself is certainly was a bitter pill to swallow on hindsight.

[38] For these reasons I found the accused had failed to rebut on a balance of probabilities the statutory presumption of trafficking under section 37(da) of the Act. I also found that the accused had not raised any reasonable doubt in my mind as to his guilt. I was satisfied that the prosecution had proved beyond reasonable doubt the case of trafficking against the accused as charged.

Conclusion

[39] For the foregoing reasons, the accused was found guilty and convicted of the charge against him. He was accordingly, sentenced to death in accordance with section 277 of the Criminal Procedure Code.

Dated: 27 JULY 2017

(SM KOMATHY SUPPIAH)
Judicial Commissioner
High Court of Malaya
Shah Alam

Date of Decision: 11 JULY 2017

Counsel:

For the appellant - CW Chan; M/s CW Chan & Co

For the respondent - Farah Wahida Md Noor, Deputy Public Prosecutor