

Public Prosecutor v Loganatha Venkatesan and Others
[2000] SGHC 38

Case Number : CC 59/1999
Decision Date : 14 March 2000
Tribunal/Court : High Court
Coram : Choo Han Teck JC
Counsel Name(s) : Anandan s/o Bala, Christina Koh Sok Kheng and Peter Koy Su Hua [Attorney-General's Chambers] for the prosecution; Luke Lee Yoon Tet [Luke Lee & Co] (assigned) and Nadarajan Kanagavijayan [K Krishan & Partners] (assigned) for the first accused; N K Rajarh [Rajah Velu & Co] (assigned) and Nicholas Cheong Fook Hing [Lim Soo Peng & Co] (assigned) for the second accused; Selva Kumara Naidu [Naidu Mohan & Theseira] (assigned) and Thrumurgan s/o Ramapiram [Palakrishanan & Partners] (assigned) for the third accused
Parties : Public Prosecutor — Loganatha Venkatesan; Chandran S/O Rajagopal; Julaiha Begum

JUDGMENT:

GROUND OF JUDGMENT

Cur Adv Vult

Introduction

1. On 21 April 1999, about 7.00am, T Maniam, a 55 year old retired police inspector from the Criminal Investigation Department ("CID") was set upon and battered to death outside his home at 86 Phoenix Garden. Three persons were charged with his murder. Two of them are Indian nationals, aged 25. The first accused is Loganatha Venkatesan and the second accused is Chandran s/o Rajagopal. The third accused is Maniam's widow, Julaiha Begum, aged 51. She was charged under section 302 read with section 109 of the Penal Code for abetting Venkatesan, Chandran and other unknown persons in the murder.

The Background

2. The domestic history of Maniam and Julaiha is relevant for a clearer understanding of the case of the prosecution as well as the defence. Julaiha's first husband was one Abdul Kareem for whom she bore two sons and two daughters. When they divorced in 1981 Julaiha took custody of the daughters, Sairah and Fairos, as well as the second son. Abdul Kareem took custody of the elder son. At that time Julaiha was living in a flat at Dover Crescent. Maniam came to know Julaiha about this time and subsequently moved in to live with her. Sairah and Fairos were then about five and eleven years old respectively. It can be gleaned from their testimonies that Maniam brought them up very well, and they in turn, became utterly devoted to him. Maniam was himself married at the time he moved into Julaiha's flat. He later divorced his wife and married Julaiha in 1991. In the meantime, Julaiha sold the Dover Crescent flat and moved into a terrace house at Jurong Kechil which Maniam purchased in his sole name. In 1993 Maniam sold that house and bought 86 Phoenix Garden with Julaiha as a joint owner. According to Fairos, the relationship between Maniam and Julaiha began to deteriorate in 1993. The estrangement was slow and gradual, but its nadir (in October 1996 when Julaiha left the matrimonial home) was frenzied and violent. From the accounts of Sairah and Fairos, trouble brewed

when the family took a holiday in India sometime in mid 1995. Maniam and Fairos returned from the holiday as scheduled, but Julaiha and Saira were unable to return until some six months later owing to problems with the Indian authorities, the details of which are not relevant for the purposes of this trial. According to Sairah and Fairos, however, Julaiha unjustifiably blamed Sairah for their detention in India. Sairah was enrolled as a tertiary student in an Australian university at that time, and Maniam had to obtain a deferment of her studies until her return at the end of 1995.

3. It was in those unsettled times in 1996 that Julaiha first came to know Venkatesan. He was then staying with other Indian nationals two houses away from Maniam and Julaiha's home, and about the middle of that year Venkatesan was engaged to fell a mango tree in 86 Phoenix Garden. Fairos recalled an incident when she returned home unexpectedly one afternoon because her classes were cancelled. She saw Julaiha and Venkatesan sitting intimately on the family sofa. She also testified that on another occasion, she had seen Julaiha passing food to Venkatesan over the gate of their house. One evening in October 1996, Maniam and Julaiha's daughters caught her holding hands with Venkatesan at nearby Teck Whye. A scuffle ensued between Maniam and Venkatesan. Venkatesan took out a private summons against Maniam for assault arising from that incident. The trial was held in 1998 in which Maniam, Sairah and Fairos were charged with assaulting Venkatesan. Julaiha testified on behalf of Venkatesan. The two girls were acquitted, but Maniam was convicted and fined \$500. Not fully satisfied, Venkatesan commenced a civil suit against Maniam which was still pending at the time Maniam was killed. Also pending trial was a second private summons taken out by Venkatesan against Maniam arising from a later incident in which Venkatesan alleged that Maniam had sent two men to beat him up. There was to be a court hearing concerning that summons on Saturday 24 April 1999.

4. I revert to the Teck Whye incident. Venkatesan and Julaiha denied that they were holding hands. They said that Julaiha met Venkatesan at a bus-stop at Teck Whye to collect some food which he had brought for her. The assault by Maniam on Venkatesan at Teck Whye took place in the evening. In the wee hours of the following morning, Julaiha went to 86 Phoenix Garden to collect her belongings. She was accompanied by her friend Sellamal, Sellamal's daughter, and son-in-law, Moghan Perisamy. Thereafter, she moved out and lived with Venkatesan, first at Sellamal's flat, then at Jurong, and finally at Tah Ching Road. The occasion when Julaiha returned to collect her belongings was not a peaceful episode. It is not clear where Venkatesan was when Julaiha went back to collect her things. One account had him lurking outside the house, another that he was seen going up the stairs where he had another scuffle with Maniam. What was clear, from the testimony of Moghan Perisamy, was that Maniam refused to let him ("Moghan") enter the house, and a quarrel ensued between these two men. The police arrived and advised Moghan and Sellamal to wait in the car while they escorted Julaiha when she collected her belongings. Evidence was adduced by the prosecution through Sairah and Fairos that as Julaiha was leaving the house, she turned and threatened Maniam that she would "take care" of him, in the ominous sense.

5. I pause at this juncture to consider a point of contention. The prosecution adduced evidence to show that Venkatesan and Julaiha were lovers. Moghan Perisamy himself saw them in a lovers' embrace at the staircase outside Sellamal's flat sometime after October 1996. He questioned Julaiha about her relationship with Venkatesan and she told him that they were lovers. Evidence of intimacy were also adduced through Fairos and Sairah. It was also not disputed that Julaiha and Venkatesan lived together after Julaiha left her husband although it was clear that they rented separate rooms in the same flat at Tah Ching Road from a Malay family (who themselves occupied the master bedroom of the flat). Whether Julaiha and Venkatesan were lovers is not a finding that I need to make. There is, however, sufficient evidence for me to conclude that they were bonded by a close and intimate friendship even if that relationship fell short of an adulterous affair.

6. The period from October 1996 until 21 April 1999, when Maniam was killed, was one in which Julaiha, Venkatesan, and Maniam waged war in the courts. They fought a private summons taken out by Venkatesan against Maniam, Sairah and Fairoos for assault. There was also a pending civil suit over the same matter. Then, there was the protection order which Maniam obtained on 3 April 1997 against Julaiha. There was a dispute in the High Court over the division of 86 Phoenix Garden in which, Judicial Commissioner Tay Yong Kwang made an order in November 1998 that the house be sold by June 1999 with Julaiha being entitled to 20% of the proceeds and Maniam the remaining 80%. There was also the private summons hearing in the subordinate courts scheduled for Saturday 24 April 1999. This concerned Venkatesan's allegation that Maniam had procured two men to assault him at Gul Road, Jurong.

7. About 7 o'clock on the Wednesday morning of 21 April 1999 Maniam left his house. He was walking to his car parked a short distance diagonally across the front gate of his house. He was there set upon by two men and assaulted with blunt instruments. The attack was swift and brutal. It might have been carried out in cold blood or with unfettered rage, but that is one facet of this case that is neither easy nor necessary to determine. When the assault ended, however, Maniam lay dying on the pavement outside his neighbour's house. The ambulance attendant Sim Lai Kiow from the Bukit Timah Fire Station pronounced him dead at 7.25 am. Dr Teo Eng Swee, a pathologist with the Department of Scientific Services, testified that Maniam died from severe injuries to his head. In his opinion, there were at least four blows to the left side of the head, one to the right side, and one to the neck. He found that the base of the skull was cracked from ear to ear. Part of Maniam's right middle finger was amputated by a blow during the assault. This injury was described by Dr Teo as one of the various defensive injuries found on Maniam's hands and arms. No similar wounds were inflicted elsewhere on his body. From this evidence, it appears to me that the assailants were aiming only at his head with the intention of causing maximum damage.

The Prosecution's Case: The Conspiracy

8. The prosecution's case is that Venkatesan and Chandran attacked Maniam and dealt him the mortal blows while another accomplice sat in their get-away truck. It is their case that the murder was commissioned by Julaiha who abetted the crime by conspiracy. The evidence of the conspiracy was produced chiefly by the testimony of Govindasamy Ravichandran. Ravichandran was a 28 year old fisherman from the village of Pudukuppam in Tamil Nadu, India. He had come to work in Singapore once before. His second stint here began on 27 August 1997. He had known Venkatesan and Chandran from his childhood days in Pudukuppam.

9. On the evening of 14 April 1999, which was the Tamil New Year, Venkatesan and Chandran looked for Ravichandran in a make-shift cinema where a group of Indian nationals were watching a film. After they had found him, they took him to a quiet spot at a block of flats in Geylang Avenue East. There, Venkatesan told Ravichandran that he had a court case with Maniam which he (Venkatesan) was not likely to win, and so they have to "finish off that man (Maniam)". Chandran added some details as well as an account of a previous attempt to finish Maniam. He told Ravichandran that in that instance, Julaiha paid some men \$15,000 but they did not do the job. The two male accused then took Ravichandran by taxi to meet Julaiha at the void deck of her rented flat. After they were introduced, Julaiha said to him, "First [Venkatesan] came and then Chandran came. I feel a little better. Now that you have come I am fully content. [Venkatesan] came to help me and got into this problem [so] finish that man". Ravichandran testified that he expressed some fear because he was married with a daughter, but Julaiha assured him thus: "Don't worry about that. Don't worry. I will pay you however much you want. If you finish that man I will get the house. I will sell the

house and we can go to India. You can trust me. I won't cheat you." According to Ravichandran, Julaiha then gesticulated with her hands and added, "Try to finish that man, Ravi". His evidence was that her words "finish that man" meant and was understood by him to mean "murder". Chandran and Ravichandran left Venkatesan and Julaiha at 2.30am (15 April) and went to a coffeeshop at Geylang.

10. Ravichandran testified that Chandran assured him that Julaiha "was a good woman and would pay" once the deed was done. Ravichandran remained uncomfortable with the idea of getting involved in murder. Nonetheless, he was brought along to Phoenix Garden several times. The first was merely a reconnaissance exercise to survey where Maniam lived and where he parked his car. This was on the Thursday night 15 April itself. Venkatesan, Chandran and another man referred to by Venkatesan as the driver (later identified as "Mani"), met Ravichandran about 10pm. At 11pm, after some drinks, Venkatesan suggested that they go to see where Maniam parked his car. The foursome went to Phoenix Garden by taxi. There they saw a car which Venkatesan identified as Maniam's car. He told them that Maniam works at Orchard Road and would leave his house at 6.30am and that he would be carrying a bag. He instructed them to park their vehicle under a nearby tree. He told them that Maniam might even die of a heart attack if they surprise him when he opens the boot of his car. They were told that if he does not die from shock, "beat him and finish him off". After the reconnaissance the gang went to watch a film called "*Padaaiappa*" at Sultan Plaza.

11. After the show, they went to the vicinity of the Sivan Temple at Geylang East. Venkatesan entered a nearby field and returned with a broad bladed knife known in the Tamil language as an "*aruval*". Ravichandran testified that he subsequently saw the *aruval* in the back of the pick-up truck. Venkatesan told the rest of the gang that they will go to Maniam's house in the morning. That would be Friday, 16 April. He instructed Ravichandran to bring his work clothes so that he could change into them and go to work after "finishing off that man". After collecting his clothes Ravichandran met the rest of the gang at Chandran's room. He saw another person sleeping in the room at that time. He identified that person as Tamilvanan. The gang had some beer in the room. At 4am of 16 April Venkatesan said that he would go with Mani to collect the pick-up truck while Ravichandran and Chandran wait at a nearby bus-stop. The four of them drove to Maniam's house in the pick-up truck. They stopped a short distance from the house, near a telephone booth. Venkatesan told them "Try to finish him off by today"; to which Chandran replied, "Yes, we will finish him by today". Venkatesan then left in a taxi while the other three drove on in their truck to see if Maniam's car was still there. Having done that, they returned to the original spot and waited. A short while later, they moved the truck nearer to Maniam's house. Chandran told Ravichandran that he was getting out to wait for Maniam and when he sees him he would signal to Ravichandran. On that signal Ravichandran was to bring an iron pipe, hitherto hidden under the seat in the truck, to Chandran. However, when Chandran eventually signaled him, Ravichandran became too frightened to carry out the task as instructed. Instead, he took the iron pipe and walked away from Maniam. Consequently, that morning's mission was aborted.

12. The party drove to a nearby park where Chandran hid the "*aruval*". He then telephoned Venkatesan to tell him that the plan to finish Maniam had failed. He paid the driver \$100, and the same amount to Ravichandran later on. Ravichandran went to the doctor's and did not report for work that day (Friday 16 April). He watched a matinee before returning to his room and slept through to 17 April when he went to work. It was this day that Ravichandran pondered over his participation in the conspiracy. He reminded himself that he was married and was soon to be a father. He could not go through with his part in the plan. He decided that if he was called upon again he would cheat Venkatesan and Chandran of their money and abscond to India.

13. On the following day, 18 April (Sunday), Ravichandran met Venkatesan and Chandran on his way to his friend VJ Velu's home. Venkatesan invited him to meet Julaiha at her flat. Rajesh, the

younger brother of Ravichandran was also invited. So, at 3pm the four of them went to Julaiha's flat (at Tah Ching Road). They watched television and enjoyed snacks cooked by Julaiha. Venkatesan proudly displayed his paintings to Rajesh. These paintings were kept in Venkatesan's room. The evidence of this was clearly and amply supplied by Rajesh. The party ended about 7pm. The landlady Juliyah Bte Ramlee, told the court that about 7am that day, she went with her husband and son to the Waterfront City at Batam Island, and they were unaware that Julaiha had received visitors in their absence. Juliyah and her family returned to the flat the next day about 6pm. Meanwhile, still in the evening of Sunday 18 April, Ravichandran had returned to his room to rest when Venkatesan and Chandran visited him at 11pm. Ravichandran was told to follow them to Chandran's room. He testified that on this occasion Venkatesan told him that he had to "finish him [Maniam] off". He also testified that Venkatesan told him that he was getting some number plates for the van, and Ravichandran was to run Maniam down and kill him with the van, adding "If he still could not be finished off, we should get off the van and assault him. He would surely die". These instructions were repeated to Mani. Mani had since absconded and is still at large. Ravichandran heard Venkatesan tell Mani that he had to be strong. Mani was also instructed to change the number plates and run Maniam down with the van. Venkatesan then left with Mani to get the number plates while Chandran and Ravichandran went to Chandran's room. At that time, Chandran's room-mate Tamilvanan was also in the room. When Venkatesan returned he brought the gang to Maniam's house in a taxi just to check if Maniam was home. They saw Maniam's car and concluded that he must be home. It was now about 12.30am, Monday 19 April. Venkatesan then said that they should finish him off "today". The gang of four returned to Chandran's room to rest. They were awakened by Venkatesan at 4 am to make preparations for the planned assault on Maniam. On Venkatesan's instructions Chandran handed three \$1,000 notes to Ravichandran. He told Ravichandran that he had only \$3,000 with him, but after Maniam was finished off he would get some more money from Julaiha. No mention was made as to how much more he would be paid, but Chandran assured Ravichandran that he would get more from Julaiha. Although Ravichandran referred to a "van", it was clear that the vehicle actually used was a blue pick-up truck (henceforth referred to as "the truck").

14. The four of them then traveled to Phoenix Garden in the truck, arriving between 5.50am and 6am. When they were near Maniam's house Venkatesan got off and left the scene in a taxi. Ravichandran then decided to delay the act by asking Chandran to get beer from a coffeeshop nearby. They went and had some beer, and returned only to find that Maniam's car was gone. They contacted Venkatesan by telephone to tell him that the attempt failed. Excerpts from the conversation were provided by Ravichandran and they indicated that both Venkatesan and Ravichandran were agitated, but for obviously different reasons. Ravichandran returned to his room (at Geylang Lorong 25) and began to make plans to get back to India. He notified his employer by telephone. He also sought assistance from the Ministry of Manpower for an expedited payment of his wages from the employer.

15. Ravichandran then met his friends Shanmugam and VJ Velu over drinks at a coffeeshop. He confided in them that Venkatesan and Chandran wanted him to kill someone. He said that Shanmugam advised him not to get involved in that scheme. Through the rest of the day Ravichandran continued his preparations to leave the country. At 12.30am (now Tuesday 20 April) Mani came looking for Ravichandran to tell him that Venkatesan and Chandran were waiting for him at Chandran's room (at 38D Changi Road). They proceeded there. Tamilvanan, Chandran's room-mate was asleep in the room. It is not the prosecution's case that Tamilvanan was a participant in the conspiracy. The gang of plotters slept until 4am when they were awakened by Venkatesan. About this time, Ravichandran chanced upon Chandran's wallet underneath his mattress when the latter had gone to the toilet. He found \$3,000 in it and promptly stole the money. Venkatesan, Chandran and Ravichandran then took a taxi to Geylang Lorong 13. Venkatesan told them that he would fetch Mani while Ravichandran gets a change of clothes. Ravichandran pretended to walk back to his room, but soon turned around and

proceeded to "Tekka" where he took a meal. After that he was on his way to Lorong 30 where the transport from his employer would normally pick up the workers, but he spotted Chandran so he went to the Mass Rapid Transport ("MRT") station instead. He took an MRT train to his workplace at Tuas to bid farewell to his Japanese supervisor. He was given \$150 and a watch as farewell gifts by the Japanese man. Thereafter, Ravichandran went to Shenton Way and bought a Singapore Airlines ticket for a flight back to Madras that same day. The ticket was duly proved in court and the evidence of Ravichandran's flight back to India was not challenged. The post-script to this episode was that Chandran's mother began proceedings in the village to reclaim the \$6,000 that he had taken from Chandran. Ravichandran testified that he was subsequently questioned by the Singapore CID police officers in India and decided to testify in Singapore because he wanted to tell the truth to dispel his fellow villagers' belief that he had killed Maniam and run off with the money.

Peer Mohamed And John Tan Tai Poh

16. Peer Mohamed s/o Mohamad Hassan is a supervisor at a transport company. He was introduced by his relative to Venkatesan sometime in February 1998. From time to time, whenever he needed to find work, Venkatesan would call upon Peer Mohamed. Peer Mohamed first met Julaiha in July 1998 when she borrowed \$2,500 from him. Sometime in March 1999 Julaiha asked him for a loan of \$8,000 to \$9,000. At first he said that he had no money. He relented after she cried over the telephone and told him that she needed the money to pay her lawyers. He then told her to give him a few days to raise the money. In the meantime, he asked his friend John Tan Tai Poh, a property agent, to lend Julaiha \$7,500. John Tan said that he did not know her, but he would be prepared to lend the money if Peer Mohamed accepts the loan as being made to him. Peer agreed and arranged for John Tan to meet Julaiha on 7 April 1999. John Tan handed two cash cheques, one for \$5,000 and the other for \$2,500 to Julaiha. Evidence was adduced from the banks that the cheques were encashed. It was not disputed by the defence that Julaiha encashed the two cheques and gave the total sum of \$7,500 to Venkatesan. It was also not disputed that Venkatesan handed \$6,000 out of this sum to Chandran.

Wednesday 21 April 1999 - The Day of Death

17. With Ravichandran gone, the plot had to be revised. Venkatesan became directly involved in the actual assault. Evidence of the attack was adduced through the eye-witness accounts of three persons namely, Fairos; Aurea David, a maid; and Geraldine Tan Poh Choo, Aurea David's employer. These witnesses saw the same event from different vantage points. Fairos testified that about 7am on the morning of 21 April 1999 she heard some noises outside her bedroom window (Geraldine Tan's house was across the road). She looked out and saw two male Indians struggling with another man. That man was wearing a long sleeved shirt whom she subsequently identified as Maniam, and whom she referred to throughout her evidence as her father. One of the two assailants was taller than the other by about a head. Both of them were wearing T-shirts and Bermuda shorts. It then occurred to her that the man in the long-sleeved shirt might be her father. She ran to her sister's room where she could see where Maniam parked his car. She thought that if the car was not there the person could not have been her father. However, she saw that her father's car was still there, so she ran back to her room. By this time, she saw that her father was already on the ground and the assailants were "kicking and stamping him".

18. On 12 May 1999 Fairos was brought to a police identification parade in which she identified Venkatesan as the taller attacker and Chandran as the shorter one. She admitted that she did not

have a clear look at their faces on the day of the attack, but she was able to identify Venkatesan from the shape and built of the attacker. She informed the police when they began their investigations that one of the assailants was her mother's boyfriend. She noted, however, that the man she saw was thinner than the Venkatesan she last saw in 1998 in court during one of the legal disputes involving Maniam, Julaiha and Venkatesan. She testified that she was able to identify what she regarded as a distinct slouch belonging to Venkatesan. In the same parade, she identified Chandran by asking that he turn his back to her. She then identified him by his distinct hair-cut (which she described to be "like a mushroom").

19. Aurea David, the maid at 73 Phoenix Garden testified that she noticed a blue truck parked outside her employer's home about 5.40am on 21 April 1999 when she started her day's chores. She noticed that it was still there at 6.15am and 6.55am. She said that she noticed two men in the truck. At 7am she heard a commotion outside the house. She looked out of a bedroom window and saw a male Indian swinging a long pole at the head of another male Indian, whose "head was covered with blood". She was stunned by what she saw and sat on the bed silently in shock.

20. Geraldine Tan Poh Choo, alerted by her maid Aurea David that there was a fight outside their home, looked out of her window and saw two male Indians running away from their front gate towards a blue pick-up truck. One was a head taller than the other. Both were carrying an object in their hands. Geraldine Tan said that one of the objects looked like an axe, and the other a pole. She maintained this evidence against a strong cross-examination.

21. The prosecution adduced forensic evidence matching the blue paint found on the rear bumper of Maniam's car to that of the pick-up truck GJ 1993 S used by Mani, Venkatesan and Chandran in the attack. The broken plastic pieces found on the ground near Maniam's car also physically matched the broken plastic cover of the front right signal light of the truck. Sarveshvaran Ratnasamy the owner of the truck testified that he had loaned the truck to Chandran and Mani at the material time.

Chandran's *Voir Dire*

22. The prosecution sought to admit four statements made by Chandran on 28 April 1999; one on 30 April 1999, one on 13 May 1999; and one on 21 May 1999. The first of the four 28 April statements was recorded by S/Sgt Guruthevan at 6.40 am and completed at 7.20 am at room #03-11, Criminal Investigation Department ("CID"). The second was the cautioned statement recorded under s 122(6) of the Criminal Procedure Code ("CPC"). The last two were recorded at the scene of the crime. These statements were challenged by Chandran on the ground that they were not voluntary statements. The basis for his challenge is as follows.

23. Chandran and his room-mate, Tamilvanan, were asleep in their rented room at Changi Road when they were awakened in the early hours of the morning on 28 April 1999. The police evidence that the raid was conducted about 5.30 am is not disputed. The two men were handcuffed and led down the stairs and put in separate police vans in which they were driven to the CID. Chandran was the lone captive in his van. Four other persons, including Tamilvanan, were taken in another van. None of the others were charged with Maniam's murder. Chandran testified that when he was escorted down the stairs of his rented room by S/Sgt Guruthevan, Tamilvanan was similarly escorted by other officers just behind him. The other three arrested persons were still upstairs in another room. He was placed in a police van with S/Sgt Guruthevan and Sgt Suresh Muthusamy. SI Zainal Abidin was seated in the front passenger seat and S/Sgt Low Meng Tee was driving the van. Chandran was questioned by S/Sgt Guruthevan in the van and was there abused with vulgarities and kicked in the

groin by S/Sgt Guruthevan. Shortly after, he heard S/Sgt Guruthevan instructing S/Sgt Low to go to the Kallang Stadium. He was then taken to a place which he neither knew nor recognize except to say that it looked like a park. There he was asked to alight and told to run by S/Sgt Guruthevan. He did not. He was then kicked in the back, and had his face pressed downwards while S/Sgt Suresh kneed him in the abdomen. They stopped a few moments later when SI Zainal Abidin told them, "Let's go office" (sic). In the van S/Sgt Guruthevan continued abusing Chandran with vulgarities.

24. Chandran further testified that at a corridor on the third floor of the CID building he was surrounded by three Chinese officers, two of whom he identified as Insp Lim Song Chai and S/Sgt Saw Chong Teck. These officers kicked him. S/Sgt Guruthevan then asked him whether he wants to talk. At this point SI Zainal Abidin took out a photograph from the wallet seized from Chandran by S/Sgt Guruthevan. One of the Chinese officers exclaimed, "That's Maniam's photo!" Then he was again assaulted by the officers so badly that he could not stand. He was once again pressed down and kicked. His will thus broken, he agreed to talk. A statement was recorded from him by S/Sgt Guruthevan with no one else present. After recording the statement, S/Sgt Guruthevan then warned Chandran not to change the statement, telling him, "You know what will happen if you change the statement".

25. The above account was repudiated by the police officers. This is their version. They raided 38-D Changi Road based on information that one of the accomplices in Maniam's murder named Chandran can be found there. Chandran was arrested in his room with Tamilvanan. When they realised that they had caught their man (Chandran), they brought Tamilvanan down to the van while S/Sgt Guruthevan and SI Zainal Abidin searched the room. They recovered Chandran's wallet under a mattress. The wallet was handed to Chandran. After that he was handcuffed and escorted downstairs. However, as they approached the stairs Chandran shrugged his shoulders, a move interpreted by S/Sgt Guruthevan as an escape attempt. He was physically subdued by S/Sgt Guruthevan and SI Zainal Abidin. This escape attempt was described by SI Zainal Abidin's arrest report as a "violent resistance" to arrest, although from the oral evidence of the officers it appears that there was hardly any violence. The officers say that the van carrying Chandran was the first to leave Changi Road and the first to return to the CID. They denied stopping *en route*. The journey to CID was quiet and uneventful.

26. The incontrovertible evidence was that although Chandran told Dr Ng Wai Chong that he was assaulted on his chest, abdomen, and back, no visible marks or signs of assault were found on examination. Dr Ng reported, however, that there was tenderness at the upper left chest and right loin (back) region. I think that it is fair to say that an absence of signs of physical injury does not necessarily mean that no assault had taken place. The burden of proof is not on the accused. It is on the prosecution to prove beyond reasonable doubt that the statement were given without threat, inducement, or promise.

27. The other main issue concerned the extra five kilometres travelled by the van that took Chandran to the CID. The point was whether this arose from the detour to "Kallang Stadium" or the park as Chandran described, or as the result of the longer route taken by S/Sgt Low Meng Tee who drove the van. This point was clarified to some extent subsequently when the police adduced evidence of a test drive replicating the route taken by S/Sgt Low and the result shows an extra five kilometres. However, a short detour from Changi to Kallang Stadium may be less than one kilometre, and that may not be obvious from the subsequent exercise of tracing the route. Thus in assessing the evidence, this has to be borne in mind.

28. I think that Chandran was probably not assaulted by the officers, but as I have said, that is not the test. On the evidence, I would give him the benefit of the doubt. However, taking the nature and

circumstances of the alleged assault as well as the physical make-up and character of Chandran into consideration, I was of the view that even if he was so assaulted, the episode should have no further impact on his body, mind and will beyond 30 April 1999. I therefore admitted those statements he made to the police after that date. The statements made on 28 and 30 April 1999 were accordingly rejected. The following statements were admitted and marked as follows: P162 (a s121 CPC statement made on 13 May 1999); P163; P165; P165A; P165B; and P165C (statements made at various places). I shall revert to the contents of these statements shortly.

Events After 21 April 1999

29. Tamilvanan (Chandran's room-mate at 38 D Changi Road) testified that in the evening of 21 April Venkatesan came looking for Chandran who said to him, "Well, the problem was over". He also heard Chandran asking Venkatesan for money, but Venkatesan said that Julaiha would give them the money in two days' time. Tamilvanan also testified that Venkatesan went to his room again the next day. Chandran again asked for money and this time Venkatesan said that it would take another four or five days to get it. During these two days Chandran continued sleeping in the same room. He also told Tamilvanan that he intended to go back to India as soon as possible and was looking for money from friends for that purpose. Venkatesan and Julaiha were arrested on 24 April 1999 and subsequently, on 28 April 1999, Chandran was arrested together with Tamilvanan in their rented room. The latter was subsequently released.

30. Juliyah Bte Ramlee, Venkatesan and Julaiha's landlady testified that about noon on 22 April 1999 Julaiha was talking to someone over the telephone. She subsequently told Juliyah that she was talking to her lawyer. When she came out of her room she told Juliyah that the CID may be looking for her (Julaiha), and also for Juliyah as she was the landlady. She told Juliyah that if she was asked, she should tell the CID that Venkatesan and herself (Julaiha) were having breakfast together on the morning of 21 April 1999. Juliyah told her that if they did not do anything there was no need to lie. However, Julaiha said that Venkatesan was a good person and that if they helped him, one day he might help them in return. She then followed Juliyah around the flat pleading with her to lie to the CID. Juliyah finally agreed, and Julaiha thanked her "many many times" and told her that she was going to see her lawyer. She told Juliyah that since her husband was dead she wanted to ask her lawyer whether she would be getting the house.

31. On 23 April 1999 Muhamad Rafi and one Loganathan Pavadaisamy visited Venkatesan and Julaiha at the flat. Juliyah testified that she let in Muhamad Rafi, but she does not know if anyone else was in the flat that day. Pavadaisamy is a cousin of Venkatesan. Venkatesan called him on 22 April to say that he was returning to India and wanted Pavadaisamy to be his attorney under a power of attorney to take care of his affairs here when he is back in India. Pavadaisamy accompanied Venkatesan to his lawyer's office in the morning of 23 April where a power of attorney was executed by Venkatesan. Muhamad Rafi joined them at Julaiha's flat subsequently. Julaiha told Pavadaisamy that she intended to send Venkatesan to India and asked him to help by contributing \$2,000. Pavadaisamy said that he did not have the money. Muhamad Rafi then said to him "If you have the money, help. Give the money." Muhamad Rafi also told him that if he (Pavadaisamy) lent the money, he (Muhamad Rafi) would repay him. Muhamad Rafi corroborated this evidence. He works as an office attendant at Price Waterhouse Coopers, earning \$1,000 a month. He was a self-confessed rejected suitor of Julaiha, but was obviously still fond of her. He stopped courting her after Maniam started seeing her. However, in September 1998 he met her by chance and she told him her long and woeful tale about Maniam and her daughters. He thus took pity on her and gave her provisions and small sums of money from time to time. In February 1999 Julaiha asked him for a loan of \$5,000. He did not

have the money. Nonetheless, he took a loan of \$3,000 from his insurers and added \$1,000 of his savings to lend her \$4,000. On 22 April 1999 Julaiha called him and asked that he meet her at her lawyer's office at Maxwell Road. He met her at 6.30pm after his work. There he gave her \$100 as she had no money.

32. Mohamad Rafi left Julaiha's flat together with Pavadaisamy at 10.30pm on 23 April. Pavadaisamy also testified that when they were at the flat Venkatesan read the report of Maniam's murder from the Tamil newspapers. Julaiha took the papers from Venkatesan and after reading them, commented that her daughters had given the wrong story to the press and she would give them her version the next day. Pavadaisamy then asked her whether she was sad. She told him that she was not, and on the contrary, she was happy. Pavadaisamy quoted Julaiha's words, "After this there will be no problem. The house will come to me". Julaiha's version of her reply in this conversation was, "Do you think I'm happy?" I shall set out my findings shortly, but I should say at this point that I find Pavadaisamy's evidence to be more truthful.

33. On 24 April Muhamad Rafi called at Venkatesan's lawyer's office because Venkatesan wanted to give a power of attorney to him. Venkatesan and Muhamad Rafi were arrested at the lawyer's office, and subsequently, Muhamad Rafi led the police to Juliyah's flat where Julaiha was arrested.

The Question Of Motive

34. There is no requirement that the prosecution must establish a motive in order to succeed in proving murder because the law recognizes the difficulty of extracting that which lay in the deepest and most inaccessible recesses of the human mind. But, motives and intention can sometimes be inferred from words and conduct. The presence of a motive strengthens the overall case of the prosecution, and by the same token, an absence of motive serves as a warning to approach the evidence with added caution. Thus, motive is not relevant to the charge, but is relevant to the case.

35. In this instance, the prosecution adduced evidence that Julaiha was deeply concerned of being deprived of her house. The seed of her insecurity germinated from the time the Jalan Jurong Kechil was purchased. It grew although 86 Phoenix Garden was purchased with her as a joint owner. The evidence shows that Julaiha believed herself to be entitled to at least a half share of the house, but when she commenced civil proceedings in the High Court (OS 5199 of 1997, later re-titled OS 627 of 1998) she stated a claim for 80%. However, the court order made in November 1998 gave her only 20% of it. The prosecution also called a lawyer, John Abraham, to testify that as far back as March 1996 Julaiha was already fighting with Maniam for at least a half share in the house. She then rejected Maniam's offer to give her a 40% share of the house. In the course of his evidence, he recounted that just before Julaiha stormed out of his office she said to him in the Malay language, the words, "I will wait till he dies. When he dies, I will get all". Julaiha's desire for a large share of the house is also evident from the testimonies of Fairos and Sairah in which they described Julaiha's unhappiness over the purchase of their previous house at Jalan Jurong Kechil in Maniam's sole name. Juliyah, Julaiha's landlady, also testified that Julaiha told her that 86 Phoenix Garden was her house and that she wanted to get it back. She told Juliyah that when she does she would sell it and return to India. All this evidence, together with the evidence that Julaiha was getting increasingly impecunious after she left Maniam, and had to borrow money from time to time, inspired the learned Deputy Public Prosecutor, Mr Anandan, to submit that Julaiha had a strong motive in seeing to it that Maniam dies because it was her belief that when he does 86 Phoenix Garden will rightfully revert to her.

36. At the close of the prosecution case counsel for all three accused declined to make any submission. I called upon their defence as I was satisfied that a *prima facie* case has been made out. All three elected to give evidence.

The Defence Of Venkatesan And Chandran

37. Venkatesan and Chandran put up a common defence. The first part of their defence denies any conspiracy with Julaiha to murder Maniam. The second part of their defence accepts that they were present at the time Maniam was killed, but it was Mani, the missing third man, who killed Maniam. Their defence was that neither of them intended to assault Maniam and did not inflict any blow on him. Their defence was simply that Mani acted on his own.

38. The reason why they went to seek Maniam on 21 April 1999 was narrated as follows. Venkatesan's father was ill in India, and he (Venkatesan) was in need of money because his family was heavily in debt. Consequent upon Maniam's conviction on a charge of assault, Venkatesan instituted civil proceedings claiming damages against him. Venkatesan was anxious to recover payment and therefore enlisted the aid of his friend Chandran. Chandran introduced someone he knew who might act as a mediator to negotiate a settlement for Maniam. This person was a man called Selvam. He was an Indian national who worked as an assistant to Chandran when he was working as a pipe fitter. Selvam introduced them to a person known only by the nickname of Meesai. Meesai wanted to be paid \$10,000 to do the job and so Venkatesan lost interest in using him. A person by the name of Mani overheard their conversation and he offered to help. He brought them to meet someone else, but that person wanted to be paid half of whatever sum Maniam were to pay Venkatesan.

39. Finally, they enlisted Ravichandran who was prepared to help. Mani, it appears, lingered on to assist by being the driver for them. Ravichandran was to talk to Maniam and ask for payment, but instead, according to Venkatesan and Chandran, he (Ravichandran) stole \$6,000 from Chandran and fled the country. Venkatesan, Chandran, and Mani decided that they could not rely on others and would do the job themselves. The original plan, according to Venkatesan, was to have Ravichandran speak to Maniam while Chandran added support by saying a few good words on Venkatesan's behalf. In the absence of Ravichandran, Chandran was designated the main negotiator and Mani the driver became the supporting spokesman.

40. The common evidence of Venkatesan and Chandran was that on 21 April 1999 the trio arrived at Phoenix Garden shortly after 5.30am in the truck GJ 1993 S driven by Mani. They parked near a tree and Venkatesan took over the driver's seat. They spotted Maniam leaving his house about 7am whereupon Venkatesan told the other two that he will drive closer to Maniam. He stopped just behind Maniam's parked car and Chandran got out, followed by Mani. Chandran testified that when he approached Maniam he said to him, "Sir, are you Maniam?"; to which he received the curt and rude reply, "Yes, so what?". Apparently unruffled, Chandran proceeded to say his piece, "Venkatesan's father is sick in India and he would like to go to India to see him. Give him some money which he claimed from you and send him off." Maniam's response was to abuse Chandran with vulgarities. Chandran alleged that Maniam said, "You *pundeh* from India. What do you think you are? I will pay you if you will get your mother and his mother to sleep with me!" He then threw a bunch of keys and some newspapers at Chandran, saying at the same time, "See what I am going to do to you." Maniam then turned and ran. Chandran claimed that he did not know why Maniam ran, but as soon as he saw Maniam running he "walked quickly" behind him while Mani came from the opposite direction and pushed Maniam to the ground. Mani then hit Maniam two or three times with something that looked

like a piece of wood. All this while, Chandran was exhorting Mani to stop beating Maniam. Then, in fright, he ran back to the front passenger seat of the truck, calling out to Mani, "Get on to the vehicle!" Venkatesan started the vehicle and Mani got on the back of the truck as the vehicle was moving off. Venkatesan stopped the truck just a short distance away, at a bend of the road, and asked Mani to take over the driver's wheel. Venkatesan finally got off at Choa Chu Kang Road and told the other two to go off by themselves. This was the two male accused persons' short and simple account of what happened at Phoenix Garden on the morning of 21 April.

41. In response to the evidence of the \$6,000 from Julaiha which Venkatesan took and handed to Chandran, Venkatesan said that he gave the money to Chandran for safekeeping as it was his intention to send the money to his family in India. Although Chandran testified that he had given \$3,000 of that sum to Ravichandran, Venkatesan was not perturbed because as far as he was concerned, Chandran was answerable for the full amount to him. I find Venkatesan's evidence on this point to be utterly unconvincing.

42. Venkatesan steadfastly denied any amorous relationship between Julaiha and himself. He denied that Ravichandran and Rajesh had met Julaiha, a stand supported by Julaiha and Chandran in their own testimonies. Both men also disputed Ravichandran's evidence that they made a trip to Phoenix Garden on 16 April with the view of killing Maniam that day. Ravichandran's evidence was that he deliberately walked away with the iron pipe instead of handing it to Chandran. The two male accused do not challenge Ravichandran's evidence that they went to Maniam's house late in the evening of 15 April, but they disputed Ravichandran's stated reason for being there. Chandran said that it was Ravichandran who was anxious to go and talk to Maniam and suggested that they do it that night. Venkatesan was against the idea because it was late and Maniam might accuse them of trying to rob him. Instead, he said he would bring them there to see the place; so they went in a taxi for that purpose. Venkatesan pointed out Maniam's house and the spot where he normally parked his car.

43. Chandran said that the next time Venkatesan and he met Ravichandran was Sunday, 18 April. Ravichandran's brother Rajesh joined them, and they spent the afternoon at the Little India Arcade having drinks and enjoying themselves. They disputed Ravichandran and Rajesh's evidence that they spent the afternoon at Julaiha's flat.

Defence of Julaiha

44. Julaiha's defence is an outright denial. She denies that she had any motive to kill Maniam. She denies that she met Ravichandran or his brother Rajesh; she denies any adulterous relationship with Venkatesan; She denies that she had conspired with anyone to kill Maniam; she denies that she had raised money to pay Ravichandran, Chandran, and Mani; she denies that she tried to set up an alibi defence for Venkatesan; and she denies that she sought to find financial assistance to enable Venkatesan to flee the country after the killing. Mr Selva Naidu, counsel for Julaiha, focused the thrust of his defence on her behalf by attacking the credibility of Ravichandran as a witness. The barrage began with a reminder that Ravichandran was a thief and a cheat; he stole \$3,000 from Chandran, and fled with another \$3,000 given to him in the belief that he would, in consideration, negotiate with Maniam for the payment of compensation to Venkatesan. There is no basis, however, to conclude that a thief and a cheat cannot provide reliable and truthful evidence. Mr Selva, further, submitted that Ravichandran's evidence is suspect because he was an accomplice. More importantly, he submitted that Ravichandran's evidence is unreliable because he lied on several occasions. Counsel suggested that Ravichandran was not honest in his explanation as to why he had used a different name – Govin Ravi (a shortened version of Govindasamy Ravichandran) – in his previous passport. Mr

Selva also pointed out that Ravichandran admitted in the witness box that he had lied to the tribunal in India that he took \$3,000 from Chandran when, in fact, he took \$6,000. Counsel stressed that Ravichandran testified that when he was taken to Julaiha's flat at Tah Ching Road he passed by a block numbered 320, but in fact, no such block existed. Julaiha's flat was in block 325. The other blocks in the vicinity were numbered 321 to 330. Mr Selva also referred to Ravichandran's detailed account of what happened at Phoenix Garden on the morning of 16 April 1999. In his statement during the Preliminary Inquiry, Ravichandran said that the attack was aborted after Chandran told the waiting gang that Maniam's car had just driven by. In court, Ravichandran added that after that remark they drove the truck nearer to Maniam's house to check and found that his car was still there. Chandran then got out of the truck and instructed Ravichandran to take a metal rod underneath the passenger seat as soon as he (Chandran) gave the signal. However, when Chandran eventually gave the signal Ravichandran lost confidence and walked away from Chandran. Mr Selva counted this additional evidence as an embellishment and a lie.

My Findings And Judgment

45. It is the high aim of a trial judge to seek the truth; but it is his duty to find the facts. That is why a trial is conducted under a large canopy of rules regulating evidence and procedure; to protect the court from evidence of dubious persuasion. Thus hearsay evidence is inadmissible, not because the truth cannot be found in it, but because such evidence is generally unreliable and unsafe, and therefore, irrelevant. The trial judge's duty is to consider only that which is relevant, and then attaching the appropriate weight to it. After which he must decide, whether on the whole, the prosecution has proved its case beyond reasonable doubt that each accused person is guilty of the offence with which he or she is tried. The evidence in this trial was comprehensively adduced through sixty-nine witnesses for the prosecution and three for the defence. The events covered a period from 1989 to May 1999. A large portion of the evidence relates to the domestic history of Maniam and Julaiha. There is also a large portion that covered the conspiracy and the events that happened in the fortnight leading to the murder. Finally, there is a substantial portion that covers the murder and its aftermath. I shall deal first with the case against Venkatesan and Chandran. The evidence against them comes mainly from Fairos, Geraldine Tan Poh Choo, and Aurea David. These three witnessed an assault by two Indian men on a third. The two assailants were armed with instruments resembling a pole and an axe respectively. One of the assailant was about a head taller than the other; a fitting comparison of Venkatesan and the shorter Chandran. The evidence of these three witnesses were challenged by Mr Lee and Mr Rajarh, counsel for Venkatesan and Chandran respectively. They argued that the evidence of these witnesses were not identical and pointed out, for instance, that Aurea David saw only one male person assaulting Maniam whereas Geraldine Tan saw two persons running away.

46. In my judgment, I do not think that these discrepancies affect the prosecution's case. The witnesses were watching what was to them a horrible scene, viewed from different angles, each recalling different aspects of a quick and traumatic event. Fairos's identification of Venkatesan and Chandran at the police identification parade was attacked by counsel as being unreliable. The incontrovertible facts are that Fairos gave Venkatesan's identity to the police even before he was arrested, and both men accept that they were present at Phoenix Park at the material time. It is to their story as to why they were there that I now turn.

47. Venkatesan and Chandran say that they went to Phoenix Garden in the early morning of 21 April 1999 only with the view of talking to Maniam and persuading him to pay compensation to Venkatesan. They had originally engaged Ravichandran to be the chief negotiator, backed by Chandran and Mani.

When Ravichandran absconded with their money Chandran took over his place, supported only by Mani. Chandran barely managed to introduce himself when Maniam began to abuse him, and without warning or reason, Mani, the hitherto bit-part player, began to assume a role of vast significance. He attacked Maniam with a weapon which Chandran did not know he had carried, nor where it was taken from. Chandran pleaded in vain with Mani to stop the assault.

48. This account fails to persuade me that it could possibly be true. I do not believe that Mani, a stranger just two weeks previously, went berserk and attacked Maniam on his own accord. I am inclined to the view that the circumstances at the time were such that the prevailing mood was hardly conducive to any amicable settlement, and certainly not one that was to be carried according to Venkatesan's terms. Further, on his own evidence (supported by Chandran and Ravichandran) he was afraid that the very sight of him might invoke a hostile reaction by Maniam. That was why he did not present himself in the early attempts to catch Maniam. He became directly involved, in my view, by necessity when his main hired killer backed out. It is an obvious paradox that Venkatesan who was afraid to show his face to Maniam then became (on his own evidence) the driver of the truck who daringly drove right up to Maniam. It is also convenient at this point to consider the forensic evidence that the broken plastic found at the scene indicated that the truck hit Maniam's car in a front-to-rear collision. I find that this is consistent with Mr Anandan's submission that Maniam dashed his truck against Maniam's car to prevent the latter from escaping. Venkatesan gave no explanation of this account during his evidence-in-chief, nor was he able to give a clear account under cross-examination.

49. I accept that all the persons who featured in Venkatesan's plan were men with low education, especially the two male accused, but from the way they gave their evidence, I do not think that they were men of low intelligence. I do not believe that they had made a far more elaborate plan identifying Maniam and making sure that they catch him before he gets to work, than they did in planning the substance of the negotiation. Indeed, their evidence disclosed no plan whatsoever in this regard Chandran testified that all he would say to Maniam was that "Venkatesan's father is ill in India, please pay him some money and send him on his way". There was no discussion as to how much compensation they should ask for, or what should be a minimum acceptable sum. I am of the view that their story was a convenient lie to conceal the real purpose, which was to ambush Maniam and kill him. The intention to kill is manifested in the brutality of the assault itself and also by the evidence of Ravichandran. It is inevitable that Ravichandran's evidence and his veracity must be compared with that of the accused persons. I now come to this aspect.

50. Reason and logic are by no means a complete and accurate device for assessing the veracity of a witness or the truthfulness of his story. In evaluating this element of the evidence, a judge should pay attention to the way the witness gave his evidence, and while taking that into account, not allow himself to be misled by any innocuous quirk or mannerism of the witness. In this case, I find that Ravichandran spoke with the assuredness that comes only from a person who has been where he said he has been, and done what he said he has done. His tale was detailed and complete. Wherever corroboration was possible evidence was called. Thus, when he said that after the first aborted attempt he visited a doctor at Boon Lay but was not given a medical certificate, evidence was adduced from the doctor and his clinic staff to verify that part of his evidence. Even the manager of the cinema at Sultan Plaza testified that during the material time in mid-April 1999 his cinema was indeed screening the film, *Padaaiappa*. When he referred to things said in the presence of Chandran's room-mate Tamilvanan, Tamilvanan corroborated that evidence. His evidence of the visit to Julaiha's rented abode on Sunday, 18 April, was supported by Rajesh. I have no difficulty finding Tamilvanan, notwithstanding his mild speech defect, and Rajesh, to be forthright and truthful witnesses.

51. This is a convenient juncture for me to say that I find that all the independent prosecution

witnesses, varied as they are in their background and roles, to be forthright, accurate, and truthful. I hold this regard for Fairos and Sairah as well, even though counsel for the defence criticized their evidence at length. Minor inconsistencies in recollection are unavoidable by dint of the fallibility of the human mind. Inconsistencies become significant only when they are sufficient to affect a finding of fact by the court. These two witnesses (Sairah and Fairos) gave their evidence very much like Ravichandran. They were firm; they were clear; and they were courageous. They do not have the fondness, attachment or loyalty that one may fairly expect daughters to have for their mother, but I believe that they were honest in their evidence. The substance of their evidence is not pleasant so far as they relate to Julaiha and Venkatesan, but I do not detect any trace of vengeance or ill-will in their testimonies. It is also important to keep in mind that the most damning part of Fairos's evidence was against Venkatesan and Chandran. The damning evidence against Julaiha came from Ravichandran. The evidence of Fairos and Sairah relating to Julaiha and Venkatesan were relevant only in their confirmation of the bitterness and hatred that Julaiha and Venkatesan had for Maniam, but that was plain to see (even without Fairos's and Sairah's testimonies) from the documented evidence of all the court proceedings that they fought, and were still fighting up to the day Maniam was killed. So far as Venkatesan and Chandran were concerned, Fairos had a good view of them participating in the assault.

52. There are two other matters I had to consider in respect of the defence of Venkatesan and Chandran. The first concerns the undisputed evidence that a cut-out photograph of Maniam was found in Chandran's wallet when he was arrested. Found together with that photograph was a piece of paper with the registration numbers of Maniam's cars and motor-cycle. Chandran explained that the photograph was shown to Meesai, and subsequently handed to Chandran for safekeeping. No plausible explanation was given to account for the paper with Maniam's car and motor-cycle numbers. Chandran only said that he found it in his wallet but did not know how it got there. Venkatesan said that he recorded the vehicle numbers some time ago when he thought that Maniam was stalking him after a court hearing; but this does not explain why he should give that paper to Chandran. I do not accept the accounts of the two male accused concerning the photograph and the vehicle numbers. Neither do I accept Julaiha's supporting evidence that when Venkatesan asked her for a photograph of Maniam she pointed to her drawer and asked him to help himself, and to replace the photograph in her drawer after he was done with it. She claimed that she did not know whether he had put the photograph back. In my view, the photograph and vehicle numbers were given to Chandran for the purpose of identifying Maniam for the kill.

53. The second matter relates to Chandran's statements to the police that had been admitted after the *voir dire*. The main statement (P162) is a continuation of a statement recorded on an earlier date. A court that is asked to consider part of a statement without the benefit of what has been said previously must do so with extreme caution. In this case, I do not have the benefit of the statements recorded earlier to which references have been made in this statement. Furthermore, some of the incriminating parts of this statement are inconsistent with the evidence of the eye-witnesses. They are also inconsistent with his evidence in court. The other statements were short statements concerning the places where the alleged murder weapons were taken and subsequently discarded. No weapon was found and produced in court. Although I had admitted these statements, in the course of considering the evidence, I am left with some doubt as to the reliability of the said statements. I am, therefore, of the view that the statements should not be given any weight.

54. On the totality of the evidence, I am satisfied that the prosecution has proved its case beyond reasonable doubt that Venkatesan and Chandran had gone to Phoenix Garden on 21 April 1999 with the common intention of killing Maniam. I find that both accused inflicted injuries on Maniam, but it is not necessary, under the law of common intention, for me to ascribe the fatal blow or blows to either of them. Indeed, under the law, so long as they shared the common intention to kill, they would be

guilty of murder. I do not accept the evidence that it was Mani alone who attacked Maniam. I also find that the blows that landed on Maniam were delivered with the intention of causing death. For completeness, I should record my finding that it is clear from the evidence of the pathologist, whose evidence I accept, that the wounds inflicted on Maniam would in the ordinary course of nature result in death. Each of these three grounds in itself would be sufficient to return a verdict of murder. Thus, Venkatesan and Chandran have committed the murder of Maniam three times over. Nothing that they have said in their defence had raised any reasonable doubt in my mind in respect of the prosecution's case. Even the accused persons' description of the events on the morning of 21 April vividly fits the picture of an ambush. I do not believe that the procedure they had adopted was for the purpose of carrying on a negotiation with Maniam.

55. The case against Julaiha is different. She was not a direct participant at the scene of death. The prosecution's case is that she was an abettor. It's case against her is founded principally on the testimony of Ravichandran. I need not repeat his evidence save to say that he had unequivocally said that Julaiha told him in the presence of Venkatesan and Chandran on 15 April 1999 to "finish off that man (Maniam)". Ravichandran was asked by the learned DPP what he understood by the words "finish him off" and he answered firmly, twice, that he understood the words to mean "murder him". In a subsequent part of his testimony, he also said that when Venkatesan spoke to him earlier at an open ground near the Sivan Temple, he too used the words "finish off that man". Similarly, Ravichandran had no difficulty in understanding the words to mean 'murder'. This part of his evidence was not discredited in any way during his cross-examination.

56. I accept Ravichandran's evidence and am satisfied that he had not misheard Julaiha, nor was there any miscommunication as to Julaiha's intention. I cannot come to any other conclusion than that the words conveyed the meaning as understood by Ravichandran. Some other aspects of the conversation with Julaiha that day are also important in understanding the text and context of her instructions. According to Ravichandran, Julaiha sought to allay his misgivings about the proposed deed by telling him not to worry and that she would pay him however much he wanted, adding further that if he finishes off Maniam "I would get the house. I will sell the house and we can all go to India".

57. It is not the law that no one may be condemned to death solely on the testimony of a lone witness, but the inherent danger of such reliance is obvious. Capital punishment is the supreme penalty; it is not amenable to abrogation or compensation once the condemned is executed. In such cases, therefore, the court ought to remind itself that it must be fully satisfied with that evidence. In this instant, for the reasons that I have cited above, I am satisfied that Ravichandran spoke the truth. Julaiha denied that she had conspired with anyone to kill Maniam. In order to emphasize her point, she said that even up to the day Maniam died she still harboured the hope of a reconciliation with him. However, I find that the evidence was overwhelmingly stacked against her having such thought. It was necessary and crucial from her position, to deny meeting Ravichandran on the two occasions that he said he met her. The denial of the Sunday meeting at her rented flat must be examined more closely. Implicit in the denial that this visit had taken place is an allegation that Ravichandran lied. Julaiha rented a room from Juliyah bte Ramlee and her husband. This couple stayed in the master bedroom of the same flat (and there is evidence that they preferred Julaiha not to bring guests into the flat). Ravichandran had no means of knowing that on Sunday 18 April 1999 Juliyah and her husband would be going to Indonesia. He would have taken an unnecessary risk of having such a disingenuous lie being unraveled by Juliyah. Even if Ravichandran did not know that Julaiha rented a room in a shared flat, he would have no idea whatsoever as to who else might be in the flat who might contradict his story. Ravichandran and Rajesh had no difficulty identifying the rooms in the flat from the photographs. Furthermore, this visit is of no significance to the charges against the accused since nothing sinister occurred there that day and I can see no reason why Ravichandran would conjure it to embellish his evidence, or Rajesh to corroborate it. Rajesh's corroboration is significant.

He said that he watched SUN TV when he was in Julaiha's flat. The owner, Mohamad Tumpang (Juliyah's husband) testified that this was a cable channel which he had subscribed to. I do not believe that Rajesh would recklessly assume that the flat had a television set, let alone a subscription to SUN TV.

58. The charge against Julaiha is that of the abetment of murder by conspiracy. By this charge it is not envisaged that she should have been present at the scene of the murder and participated in the slaughter of Maniam. If conspiracy is proved it would be as if her hand was there, adding weight to the force of every blow that fell him. The evidence that I have reviewed draws me to conclude that sometime in April 1999 Julaiha participated in a conspiracy with Venkatesan and Chandran to kill Maniam. The evidence suggests that there must have been other discussions each amounting to a criminal conspiracy sufficient to meet the charge, but the prosecution has sufficiently proved the conspiracy that took place at the void deck of Juliyah's flat in the early hours of 15 April 1999 when Ravichandran was brought by Venkatesan and Chandran to meet Julaiha and receive her exhortation to finish Maniam.

59. In coming to the findings as I do, I have taken into account the lengthy and varied evidence of the history relating to the strain and break-up of the relationship between Maniam and Julaiha. I weighed this aspect of the evidence against the testimony of Julaiha and her account of the disputes as well as her desire to reconcile with Maniam. I place no great weight to all the instances of threats by Julaiha against Maniam that are too remote in time such as that made in the office of the lawyer John Abraham or when she went to collect her belongings from 86 Phoenix Garden in October 1996. A wish list in 1996 should not be construed as a purchase order in 1999. However, more recent utterances cannot be ignored. I, therefore, think that Julaiha's declaration to Juliyah (that 86 Phoenix Garden was hers and that she wanted to get it back, sell it, and return to India) to be significant. First, this was said to Juliyah after the middle of March 1999, and reasonably close to the day of Maniam's murder. Secondly, it corroborates the point made by Ravichandran that she had said the same thing to him. Thirdly, it forms part of the big picture showing her obsession with getting the house. It adds to the evidence of her attempt to get the house through the courts, and her statement to Juliyah the day after Maniam died, that she was going to see her lawyer in the afternoon to see if she could get the house now that Maniam was dead.

60. Finally, Mr Anandan submitted that Julaiha's evidence in court ought to be impeached by her prior inconsistent statements made to the police. Under cross-examination by the learned DPP Julaiha said that on 21 April 1999 she did not enter Venkatesan's room and did not know if he was there during the time when Maniam was killed. She asserted her position more deeply by saying that she never enters his room when he is sleeping. However, in her statements to the police which she accepts as voluntary statements, she said: "On 21 April 1999 (Wednesday) at about 5.30 am, I woke up. I went to pray again in the room. At about 6.00 am, I finished my prayer and went to sweep the floor. I swept Venkatesan's room. I opened the door of his room. I woke him up to do his painting. I do not know whether he woke up or not." In court, she first said that she held onto the handle of the door without opening it. Upon further cross-examination, she said that she said that she swept just a small portion of Venkatesan's room by opening the door slightly. Furthermore, contrary to her evidence in court that she never enters Venkatesan's room when he is asleep, her statement to the police stated that on 20 April 1999 (the day before the murder) she was sweeping the floor of the entire house including Venkatesan's room when he was then asleep.

61. There is another inconsistency. She was referred by Mr Anandan, during her cross-examination, to a promissory note of \$50,000 she made in favour of Venkatesan. This promissory note was made on 29 May 1998, and payable on 29 May 1999. She said that this note was meant to deceive Venkatesan's creditors in India into believing that he had money coming to him. It was not really

meant to be paid. However, in her police statement she said that "since I promised Venkatesan that I would give him \$50,000, I might sell away my India property to pay him". I found that there were discrepancies between her statements to the police and her evidence in court, and permitted Mr. Anandan to cross-examine her on them. I have taken these into account, as part of the evidence overall, when deciding whether or not her evidence has raised a reasonable doubt in my mind.

Conclusion

62. On the findings that I have made and the reasons set out above, I am satisfied that the prosecution has proved its case against all three accused persons beyond reasonable doubt. Accordingly, I find all three accused guilty as charged, and sentence them to suffer death.

Choo Han Teck

Judicial Commissioner

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