

Public Prosecutor v Sim Wei Liang Benjamin
[2015] SGHC 240

Case Number : Criminal Case No 35 of 2015
Decision Date : 14 September 2015
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Zhong Zewei and Sean Lee (Attorney-General's Chambers) for the prosecution;
Edmond Pereira and Vickie Tan (Edmond Pereira Law Corporation) for the
accused.
Parties : Public Prosecutor — Sim Wei Liang Benjamin

Criminal Law – Offences – Rape

14 September 2015

Redacted

Tay Yong Kwang J:

1 The accused, born on 11 August 1984, is now 31 years old. At the time of the offences here, he was 28 years old and was residing in a condominium in Woodleigh Close with his parents and brothers.

2 There were four young female victims named in the charges. I shall refer to them as V1, V2, V3 and V4.

3 V1 and V2 are twins. They were 13 years old at the time of the respective offences. They were both in Secondary One then. V3 was also 13 years old and a Secondary One student at the relevant time. V4 was 11 years old and a Primary Five student at the material time.

4 The accused pleaded guilty to eight charges and consented that 15 other charges be taken into consideration for the purpose of sentence. The eight charges that he pleaded guilty to were as follows:

Charge 1 — statutory rape against V2, with her consent, on 10 Dec 2012 in the accused's home, an offence under Section 375(1)(b) of the Penal Code (Cap 224, 2008 Rev Ed) and punishable under Section 375(2) of the Penal Code.

Charge 2 — statutory rape against V3, with her consent, in Jan 2013 in the accused's home, an offence under Section 375(1)(b) of the Penal Code and punishable under Section 375(2) of the Penal Code.

Charge 3 — procurement of an obscene act by V1 in Nov 2012 by asking her to take naked photographs of herself and to send them to the accused's mobile phone, an offence punishable under s 7 of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) ("CYPA").

Charge 7 — aggravated sexual penetration of V2 between Nov and Dec 2012 in a shopping mall by penetrating her vagina with his finger, with her consent, an offence under s 376A(1)(b) and punishable under s 376A(3) of the Penal Code.

Charge 14 — aggravated sexual penetration of V2 on 10 Dec 2012 in the accused's home by penetrating her mouth with his penis, with her consent, an offence under s 376A(1)(a) and punishable under s 376A(3) of the Penal Code.

Charge 19 — aggravated sexual penetration of V3 in Jan 2013, in a toilet on the ground level of the accused's condominium, by penetrating her mouth with his penis, with her consent, an offence under s 376A(1)(a) and punishable under s 376A(3) of the Penal Code.

Charge 21 — committing an obscene act on V3 in Jan 2013, by using his tongue to lick her vaginal area while they were in a taxi, an offence punishable under s 7 of the CYPA.

Charge 22 — possessing one video file on 4 Dec 2012 containing one film without a valid certificate approving the exhibition of the film, an offence under s 21(1)(a) and punishable under s 21(1)(i) of the Films Act (Cap 107, 1998 Rev Ed). V4 had sent the accused a video film on his mobile phone, showing V4 caressing her breasts.

5 The 15 charges taken into consideration comprised:

- (a) two charges of committing an indecent act with V1, an offence punishable under s 7 of the CYPA;
- (b) one charge of committing an indecent act with V2, an offence punishable under s 7 of the CYPA;
- (c) seven charges of aggravated sexual penetration of V2, an offence punishable under s 376A(3) of the Penal Code;
- (d) one charge of statutory rape against V2, an offence under Section 375(1)(b) of the Penal Code and punishable under Section 375(2) of the Penal Code;
- (e) three charges of aggravated sexual penetration of V3, an offence punishable under s 376A(3) of the Penal Code; and
- (f) one charge of procurement of an obscene act by V4, an offence punishable under s 7 of the CYPA.

The Statement of Facts

6 The accused admitted all the facts set out in the following Statement of Facts (with the first two sections describing the accused and the four victims deleted as the redacted information has been set out at [1] to [3] above):

C. FIRST INFORMATION REPORT

6. On 16 December 2012, at about 1 .26pm, the second victim went to the Nanyang Neighbourhood Police Centre with her mother to lodge a Police report. The second victim stated that she had been raped by her boyfriend, one "Peter Tan" (later established to be the accused), in the female toilet at the second level of the Lot One Shopping Centre, Singapore.

D. OFFENCES INVOLVING THE FIRST VICTIM

7. Sometime in November 2012, the first victim became acquainted with the accused through a social networking website, Facebook. The accused used a pseudonym, "Peter Tan", on Facebook. After chatting on Facebook, they exchanged handphone numbers and began communicating through Short Message Service ("**SMS**") text messages. The accused introduced himself as "Peter" and said that he was about 20-plus years old, while the first victim told the accused that she was 13 years old. After chatting for some time, the accused asked the first victim to be his girlfriend, and she agreed.

8. Their relationship lasted for a few weeks, before the first victim suggested that they break up sometime in early December 2012. In total, they met about three or four times during their relationship. On one occasion sometime in November 2012, the accused met up with the first victim at Choa Chu Kang MRT station, and gave her a total of \$70 to pay another person. Sometime later, on 24 November 2012, the accused bought the victim a Samsung handphone costing about \$100. He also bought a pre-paid card for her, and helped her top up the card value on a number of occasions.

Facts Relating to the 3rd Charge (TRC 90019/2014)

9. Sometime in November 2012, during their relationship, the accused asked the first victim to send her pictures of her naked body. The first victim initially refused. However, after the accused asked her again, she agreed. The first victim then stripped herself naked, and took a photograph of her breasts and a photograph of her vagina, before sending the two photographs to the accused *via* handphone. The accused later deleted the photographs after viewing them.
10. The accused thus procured the commission of an obscene act by the first victim, a child, and he thereby committed an offence under s 7(b) of the Children and Young Persons Act, Chapter 38.

E. OFFENCES INVOLVING THE SECOND VICTIM

11. On 15 November 2012, the first victim told the second victim about "Peter Tan". The second victim then added him as her 'friend' on Facebook. The accused began chatting with the second victim on Facebook. He introduced himself as "Peter Tan" and that he was 25 years old, and she informed him that she was 13 years old. The accused then asked her to exchange handphone numbers. The second victim agreed, and they began sending each other SMS text messages on their handphones. On the same day, the accused asked the second victim to be his girlfriend, and she agreed.
12. The accused and the second victim met up several times during their relationship. On 10 December 2012, during their relationship, the accused bought a Samsung Galaxy handphone and gave it to the second victim, who began using it with her own SIM card. On 13 December 2012, they met up again, and the accused bought a SIM card for the second victim.

Facts Relating to the 7th Charge (TRC 900023/2014)

13. Sometime between late November and early December 2012, during the school holidays, the accused and the second victim met at about noontime at Bukit Panjang Plaza ("**the Plaza**") located at 1 Jelebu Road, Singapore. The second victim was wearing a round-neck shirt and shorts. The accused asked the second victim if he could touch and 'finger' her private part,

and she agreed. He then brought her to the staircase landing beside the MI Shop at the Plaza. There, the accused slipped his finger behind the second victim's shorts and panties, inserted it into her vagina, and moved it in and out for a few seconds. He then stopped, and they continued walking around the Plaza.

14. The accused thus sexually penetrated, with his finger, the vagina of the second victim, who was then aged 13, with her consent. He thereby committed an offence under s 376A(1)(b) punishable under s 376A(3) of the Penal Code, Chapter 224.

Facts Relating to the 14th and 1st Charges (TRC 900030/2014 and TRC 900006/2014)

15. On 10 December 2012, at about 2.30pm, the second victim met the accused at Choa Chu Kang MRT station after her school co-curricular activity ("CCA"). They then took a taxi to his home at ... 25 Woodleigh Close #04-08, Singapore. No one else was home. The accused brought the second victim into his bedroom, and closed and locked the door. There, he kissed and hugged the second victim, and asked her to have sex with him. The second victim agreed.
16. Both of them went to the accused's bed. The accused then undressed the second victim before undressing himself. When they were both naked, the accused then asked the second victim to perform fellatio on him by sucking his erect penis. She did so for a while.
17. Thereafter, the accused asked the second victim to stop. He then put a condom on his erect penis, and then inserted it into the second victim's vagina. The second victim told the accused that it was painful, but she agreed to carry on. The accused continued to move his penis in and out of the second victim's vagina. After about two or three minutes, he ejaculated into the condom inside the second victim's vagina. After the sexual intercourse, he hugged and kissed the second victim.
18. The accused penetrated, with his penis, the mouth of the second victim, who was then aged 13, with her consent, and thereby committed an offence under s376A(1)(a) punishable under s 376A(3) of the Penal Code, Chapter 224. Further, the accused penetrated the second victim's vagina with his penis, with her consent, and thereby committed an offence under s 375(1)(b) punishable under s 375(2) of the Penal Code, Chapter 224.

F. OFFENCES INVOLVING THE THIRD VICTIM

19. Sometime in late 2012, the accused came across the third victim's profile page on Facebook, and sent a 'friend request' to her. She accepted the request, and they began chatting. The accused introduced himself as "Peter" and said that he was 27 years old, while the third victim told him that she was 13 years old. On the accused's request, they exchanged handphone numbers and began chatting through SMS text messages. During these chats, the accused asked the third victim about her height, weight, waistline, and breast size, whether she was still a virgin, and whether she wanted to have sex. At the time, the accused and the third victim were not in a relationship.

Facts Relating to the 19th Charge (TRC 900035/2014)

20. Sometime in January 2013, after school, the accused picked up the third victim outside her school in a taxi. They then proceeded to his condominium, Euro-Asia Park located at 25 Woodleigh Close, Singapore. The accused paid the taxi fare. He then brought the third victim

to the ground-floor toilet of the condominium. He had the third victim remove her panties while he removed his bermudas and underwear. He then asked the third victim to suck his penis, and she agreed. On the accused's instructions, the third victim sat on the toilet bowl seat, while the accused was standing. He then inserted his erect penis into the third victim's mouth for about ten seconds. Thereafter, they stopped and dressed. The third victim then went home.

21. The accused penetrated, with his penis, the mouth of the third victim, who was then aged 13, with her consent, and thereby committed an offence under s376A(l)(a) punishable under s 376A(3) of the Penal Code, Chapter 224.

Facts Relating to the 21st Charge (TRC 900037/2014)

22. On another occasion sometime in January 2013, after the third victim's CCA session, the accused picked up the third victim outside her school in a taxi. They then proceeded to his condominium, Euro-Asia Park located at 25 Woodleigh Close, Singapore. Both of them sat in the rear passenger seat, with the accused directly behind the taxi driver. On the way, they switched seats on the accused's request, so that the third victim was seated behind the taxi driver. The accused then leaned over, lifted the third victim's skirt and pulled her panties to one side, and then used his tongue to lick her vaginal area.
23. The accused thus committed an obscene act with the third victim, a child, and thereby committed an offence under s 7(a) of the Children and Young Persons Act, Chapter 38.

Facts Relating to the 2nd Charge (TRC 900007/2014)

24. On a subsequent occasion sometime in January 2013, the accused and the third victim met up and walked to his home at 25 Woodleigh Close #04-08, Singapore. No one else was home. The accused brought the third victim into his bedroom, and closed and locked the door. He asked if the third victim was wanted to have sex, and she agreed. On his instructions, the third victim removed her clothes such that she was naked from the waist down, and he followed suit. The accused then put on a condom.
25. After the third victim lay on the bed, the accused inserted his penis into her vagina. They had sexual intercourse for about half a minute. This was the first time the third victim engaged in sexual intercourse. The accused did not ejaculate on this occasion. Thereafter, they dressed. The accused then gave the third victim \$20 to take a taxi home.
26. The accused penetrated the third victim's vagina with his penis, with her consent, and thereby committed an offence under s 375(l)(b) punishable under s 375(2) of the Penal Code, Chapter 224.

G. OFFENCES INVOLVING THE FOURTH VICTIM

27. Sometime in late 2012, the accused came across the fourth victim's profile page on Facebook, and sent a 'friend request' to her. She accepted the request, and they began chatting. The accused introduced himself as "Peter", and the fourth victim told him that she was 11 years old. On the accused's request, they exchanged handphone numbers and began chatting through SMS text messages. A few weeks later, the accused sent an SMS text message to the fourth victim, asking if she was willing to show him pictures of her breasts. She agreed, and sent two photographs, one of her and one of her female cousin, showing

their breasts.

Facts Relating to the 22nd Charge (TRC 900038/2014)

28. On 4 December 2012, the fourth victim sent the accused a video film on his handphone, showing the fourth victim caressing her breasts. The accused viewed the said film, and left it on his handphone.
29. Following the accused's arrest, his handphone was seized by the Police (*vide* Report No. J/20121216/2038), and sent to the Technology Crime Forensic Branch for examination. The said film was found on the accused's handphone, and was extracted onto a CD-ROM marked as TCFB/EP/0249/2013. The said CD-ROM was sent to the Board of Film Censors, Media Development Authority, for examination. On 6 November 2013, Ahmad Kejoo, Deputy Censor, Board of Film Censors, issued a report stating that the said film was without a valid certificate. **[TAB A]**
30. The accused was thus in possession of a film without a valid certificate, approving the exhibition of the film, and he thereby committed an offence under s 21(1)(a) and punishable under s 21(1)(i) of the Films Act, Chapter 107.

H. THE ACCUSED'S ARREST

31. On 15 December 2012, the mother of the first and second victims discovered the handphone which the accused had given the second victim. Their mother confronted the second victim, and the matter came to light. The next day, their mother brought the second victim to Nanyang Neighbourhood Police Centre to lodge a Police report. As the second victim was embarrassed to reveal the truth in front of her mother, she told the Police that she had been raped by "Peter Tan" at Lot One Shopping Centre. On 17 December 2012, when the Police interviewed the second victim alone at Police Cantonment Complex, she then told the truth about her relationship with "Peter Tan".
32. The accused's identity was later established through Police investigations. At the completion of these investigations, he was arrested on 19 February 2014, and charged in court on 20 February 2014.

I. MEDICAL REPORTS

33. The second victim was seen at KK Women's and Children's Hospital ("KKH") on 18 December 2012. Dr Anju Bhatia, Staff Registrar, Department of Obstetrics & Gynaecology, later issued a medical report, stating that the second victim was found to have old hymenal tears. **[TAB B]**
34. The third victim was seen at KKH on 13 November 2013. Dr Alice Kurien, Staff Registrar, Department of Obstetrics & Gynaecology, later issued a medical report, stating that the third victim was found to have old hymenal tears. **[TAB C]**

J. CONCLUSION

35. The accused admits to having committed the above offences.

(The documents referred to as Tabs A, B and C are not reproduced here.)

The prosecution's submissions on sentence

THE PROSECUTION'S SUBMISSIONS ON SENTENCE

7 The prosecution said the accused was a sex predator who targeted young girls and urged the court to sentence him to an aggregate sentence of between 20 and 22 years' imprisonment and the maximum of 24 strokes of the cane. The prosecution submitted that the principles of deterrence, retribution and prevention of crime applied in this case.

8 The prosecution submitted that the statutory rape offences here involving different young girls bore the hallmarks of category 2 and category 3 rapes within the meaning of the classifications given in *Public Prosecutor v NF* [2006] 4 SLR(R) 849 ("*PP v NF*"). The appropriate sentence for each of the statutory rapes should therefore be in the region of 13 years' imprisonment and 12 strokes of the cane.

9 For the offences of penis-mouth penetration, the prosecution relied on *Public Prosecutor v Yap Weng Wah* [2015] 3 SLR 297 ("*PP v Yap Weng Wah*") to suggest a sentence of 7 years' imprisonment and 3 strokes of the cane for each charge. For the offence of finger-vagina penetration, the prosecution submitted that a sentence of between 1 and 2 years' imprisonment and 2 strokes of the cane would be appropriate. For the offence involving the licking of the vagina, the prosecution suggested a sentence of between 12 and 15 months' imprisonment. For the offence involving the sending of the naked photographs, the prosecution submitted that the appropriate sentence would be 6 months' imprisonment. For the offence under the Films Act, it was suggested that a fine between \$100 and \$200 would suffice.

10 Although the accused was not diagnosed to be a paedophile, he had committed multiple offences against young girls. There was no coercion by him but the young girls were vulnerable victims who must be protected by the law. The accused had used the Internet with the clear intention of ensnaring his victims and luring them to engage in sexual activities with him. The prosecution highlighted that many of the offences occurred in public places. This showed that the accused had no self-control and no regard for the norms of decency of a civilised society. His conduct could also have adversely affected the young girls' still developing attitudes by encouraging them to believe that sexual activity in public places is socially acceptable.

11 The prosecution also pointed out that the accused had given the victims money and mobile phones. V1 and V2 already owned mobile phones and his obvious purpose was to chat with the victims in secret without their parents finding out about him.

12 V1 and V2 gave victim impact statements about the adverse consequences of the accused's criminal acts. V1 felt dirty and troubled and blamed herself for introducing her twin sister to the accused. V2 had nightmares about the accused threatening her not to report the matter to the police.

13 The accused is a danger to society as shown by the multiple offences against the young victims. Further, his psychiatric report showed that he lacked self-control and insight into what he had done. He told the psychiatrist from the Institute of Mental Health ("IMH") that he had told the victims to keep his relationship with them a secret from their parents. The age gap between him and the victims was not an issue to him starting a sexual relationship with them. He also said he was not wrong in having sex with the young girls as he had asked for their consent before doing so. He was not aware that what he was doing was against the law and therefore felt it was unjust to charge him. The same psychiatric report also noted that when the accused was eight years old, his parents brought him to the Child Guidance Clinic of IMH because of concerns over his delayed developmental milestones. However, the accused was not found to be suffering from any mental disorder. He has a borderline to low average level of intellectual functioning but does not suffer from intellectual

disability.

14 The accused was not entitled to be treated as a first offender despite the absence of a criminal record. This was because he has admitted to a total of 23 offences, including those taken into consideration.

15 The prosecution submitted that at least three imprisonment terms should run consecutively to arrive at the suggested aggregate sentence of between 20 and 22 years' imprisonment and the maximum of 24 strokes of the cane. They should include one for statutory rape, one for penis-mouth penetration and one for the licking of the victim's vagina. This would accord with the principles set out in *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Shouffee*"). Charge 1 and charge 14 (see [4] above) concerned a single incident at the accused's home on 10 Dec 2012 but the other six charges each related to a distinct incident. Moreover, all eight charges involved either a different victim or a different form of sexual violation.

The mitigation plea

16 The accused was working as a security officer. He has remained in remand since the date of his arrest. He has pleaded guilty, was remorseful and had cooperated fully with the police during investigations.

17 He started talking only when he was 3 years old. When he was a child, his parents were warned by a psychiatrist not to expect much from him. He behaved childishly even in adolescence and would interact with only younger children during family gatherings. He performed poorly academically. He completed GCE "N" level and then went on to the Institute of Technical Education but decided to drop out as he had difficulties following the lessons.

18 He was a loner who suffered from low esteem as his two brothers have done well academically. Because of this, he took on a different identity on the Internet so that he could imagine himself as a confident and wealthy man.

19 The accused felt that V1, V2 and V3 behaved in a way beyond their age and appeared more well-developed and mature than their age. He would buy them gifts and meals only when they asked him to or when they liked a particular item. He thought it normal to do so in a relationship. He bought mobile phones for V1 and V2 when they asked him to do so because they told him that their mother would check their existing mobile phones.

20 He respected the victims and would seek their consent before engaging in any sexual activity with them. He never used any force or coercion. He also put on a condom whenever he had sexual intercourse with them.

21 The accused's offences of statutory rape were akin to a category 1 rape in *PP v NF*. There was no deception or coercion involved and there were no aggravating factors. The starting point for the appropriate sentence for each charge would therefore be 10 years' imprisonment and six strokes of the cane.

22 For the CYPA charges, relying on *AQW v Public Prosecutor* [2015] SGHC 134 ("*AQW*") and several other cases, it was submitted that a sentence of about ten months' imprisonment for each offence would be fair.

23 For the finger-vagina and penis-mouth penetration offences, the accused relied on *AQW, Public*

Prosecutor v Qiu Shuihua [2015] 3 SLR 949 and *Public Prosecutor v Ng Kean Meng Terence* [2015] SGHC 164 in submitting that the appropriate sentence in each case should be 12 months' imprisonment and two strokes of the cane. The accused argued that the benchmark in *PP v Yap Weng Wah* was out of line with these cases and ought to be reviewed.

24 In respect of the Films Act charge, it was argued that "a low fine" would suffice.

25 In the light of the accused's clean criminal record, his personal circumstances and the low likelihood of re-offending, it was submitted that there is no need for specific deterrence in this case. The accused relied on the psychiatric report on the accused by IMH tendered by the prosecution as well as a psychiatric report dated 30 Oct 2014 on the accused prepared by Dr Lim Yun Chin of the Raffles Hospital. It was reported in the latter report that the accused was an introvert who had difficulty relating to people of his age because of his low self-worth and awkward social skills. The accused was not able to relate to females of his age as he believed that they would view him with disdain due to his lack of achievement and perceived unattractive looks. Dr Lim also opined that the accused's culpability appeared to be less than that of a person of normal intelligence.

26 Despite the accused's poor academic record, he had many years of experience in security firms and was recommended to attend a supervisor's course. As a result, he was promoted to a supervisory position. He had also done voluntary work for his former school and for the church which he attended. He has strong family support. His parents and his aunt have written letters to the court seeking leniency for the accused. The accused could therefore be rehabilitated upon his release from prison.

27 Citing *AQW* again, the accused submitted that the use of the Internet was not an aggravating factor in itself and the use of a false moniker was aggravating only in so far as it suggested an intent or attempt to conceal identity and avoid detection. In this case, the accused committed some offences in his home or in the common areas of the condominium in which he lived. There was no attempt to conceal his identity.

28 The accused submitted that this case clearly did not call for the imposition of more than two consecutive imprisonment terms to reflect the overall criminality of his conduct. It would accord with the totality principle.

The decision of the court

29 The offences under the Penal Code are punishable with imprisonment of up to 20 years. In addition, the offender shall be liable to fine or to caning. The punishments provided under s 7 of the CYP A are a fine not exceeding \$10,000 or imprisonment not exceeding five years or both for a first conviction. The punishment under s 21 of the Films Act is a fine of not less than \$100 for each film that the offender has in his possession subject to a maximum aggregate of \$20,000.

30 It was clear from the facts that the accused was a prowler on the Internet looking out for young girls whom he could first befriend and then lure into sexual activities. The offences that he committed, particularly the Penal Code offences, did not require the element of coercion or violence or the lack of consent. They were enacted to protect young victims who are deemed not to be ready for such sexual activities. If coercion or violence was used, it would certainly be treated as an aggravating factor. Similarly, the obtaining of consent merely removed an aggravating factor from the equation.

31 The accused's acts within a period of about three months have affected the lives of four young girls and their families. There is also the possibility of some residual adverse effect on the girls in the

future.

32 The view that *PP v Yap Weng Wah* is not consonant with the other recent cases cited by the accused, in particular *AQW*, is not correct. The suggested benchmark of six to seven years' imprisonment in *PP v Yap Weng Wah* (at [64]) was for an aggravated offence of penis-mouth penetration under s 376A(3) of the Penal Code as the victim was below the age of 14 at the material time. The higher maximum sentence of 20 years' imprisonment provided for this offence reflected Parliament's view that sexual abuse against victims below the age of 14 should be viewed more seriously than those where the victims were 14 and above (as in *AQW*). Penis-mouth penetration is also a graver offence than finger-vagina penetration. Further, it carries the added danger of transmission of disease to the victim.

33 I accepted that the accused was remorseful by pleading guilty. His string of offences against four victims within a period of a few months disentitled him to be considered as a true first-time offender despite the absence of a criminal record. At the age of 28 at the material time, he should be mature and knowledgeable enough to take responsibility for all his actions.

34 I did not accept the prosecution's arguments concerning the fact that many of the offences occurred in public places (see [10] above). Although the offences took place in a shopping mall and in a toilet on the grounds of the condominium, the accused kept the acts away from the public eye. He did not do them openly. For instance, he led the victim to a staircase landing in the shopping mall before committing the offence. Similarly, there was no indication that the incident in the toilet was done brazenly. Although nothing was said about this, in all likelihood, the accused would have closed the door leading to the toilet or at least the cubicle's door. Even in the taxi incident, he made the victim switch her seat so that she was hidden from the taxi driver's view during the sexual act.

35 The statutory rapes here could be considered to be somewhere between category 1 and category 2 rapes according to the classifications in *PP v NF*. The benchmarks in *PP v NF* have been approved by the Court of Appeal in *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 and in *Public Prosecutor v UI* [2008] 4 SLR(R) 500. Bearing in mind that there was another statutory rape offence against V2 taken into consideration, I think that 10 years' imprisonment and 10 strokes of the cane would be reasonable on the facts of this case.

36 As for the sexual penetration offences, the victims are within the age group designated by Parliament for special protection by the provision of a higher maximum imprisonment term and even caning. Although the same maximum sentence has been provided as for rape, the cases have consistently regarded rape as being much more serious an intrusion than other forms of penetration. On the facts of this case and in line with recent decisions, I am of the view that a sentence of 12 months' imprisonment and two strokes of the cane is reasonable for the offence involving finger-vagina penetration and in respect of the offences involving penis-mouth penetration, a sentence of 5 years' imprisonment and two strokes of the cane would be appropriate.

37 For the CYPA offences, I think 6 months' imprisonment for the naked photographs incident in charge 3 and 12 months' imprisonment for the licking of the vagina incident in charge 21 would be appropriate. For the offence under the Films Act, a fine of \$200, in default 1 day's imprisonment, should suffice.

38 The sentences imposed were therefore as follows:

Charge No (see [4] above)	Sentence

Charge 1	10 years' imprisonment and 10 strokes of the cane
Charge 2	10 years' imprisonment and 10 strokes of the cane
Charge 3	6 months' imprisonment
Charge 7	12 months' imprisonment and two strokes of the cane
Charge 14	5 years' imprisonment and 2 strokes of the cane
Charge 19	5 years' imprisonment and 2 strokes of the cane
Charge 21	12 months' imprisonment
Charge 22	\$200 fine, in default, one day's imprisonment

39 The final point to consider is how many and which of the above imprisonment terms ought to run consecutively. The accused argued that there should be no more than two consecutive imprisonment terms while the prosecution argued that at least three imprisonment terms should run consecutively to arrive at the suggested aggregate sentence of between 20 and 22 years' imprisonment and the maximum of 24 strokes of the cane. It was suggested that the three consecutive sentences should include one for statutory rape, one for penis-mouth penetration and one for the licking of the victim's vagina. The prosecution's approach therefore looks at the type of offence or at the legally protected interest that was invaded (as explained in *Shouffee*).

40 On the facts here, I think it would be appropriate to have an aggregate sentence that reflects the overall criminality of the accused's acts as well as the harm caused to each of the four victims. For this purpose, I ordered that the imprisonment terms for charges 1, 2 and 3 to run consecutively with effect from the date of arrest (19 February 2014). These would cover offences against V1, V2 and V3 and add up to an aggregate imprisonment term of 20 years and six months. The accused would be subject to a maximum of 24 strokes of the cane as provided in the Criminal Procedure Code (Cap 68, 2012 Rev Ed). The fine imposed would cover the offence against V4.

41 The accused has filed a notice of appeal to the Court of Appeal against the sentences imposed.

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