

Public Prosecutor v Tay Fook Yuan

[2012] SGDC 269

Case Number : DAC 47169-70/2010
Decision Date : 23 July 2012
Tribunal/Court : District Court
Coram : Janet Wang Lan Jee
Counsel Name(s) : DPP Ramu Miyapan for the prosecution; Dilip Kumar (M/s Gavan Law Practice LLC) for the accused
Parties : Public Prosecutor — Tay Fook Yuan

23 July 2012

District Judge Janet Wang:

Background

Chua Cheng Yam, Charlie ('Chua'), a 59 years old retired police officer, and Lin Chin Ngut ('Lin'), a 54-year old mechanic, were friends. Having had little schooling with difficulty in understanding the English language, Lin sought the assistance of Chua to pay his wife's credit card bill at the AXS machine. It was in the evening of 15 October 2009 when both friends joined the queue at the AXS machine located at Blk 414 Yishun Ring Road. The accused, a 36-year old businessman, was then using the machine. It was an inexorable wait in the queue and patience wore thin as the accused spent a considerable period of time at the machine. A polemical exchange in Hokkien dialect arose between Chua and the accused over the latter's hogging of the machine. Mayhem was the order of the night. A scuffle ensued and all three persons were injured. Chua sustained a fracture of his right eye socket, while Lin had fractures of his nasal bone and left facial bone. The accused had a 3 cm haematoma at the back of his head, a 1cm by 1 mm abrasion over his left scrotum and swollen knuckles.

2 The accused claimed trial to two charges under 325 of the Penal Code (Cap.224) for the offence of voluntarily causing grievous hurt to both Chua and Lin [\[note: 1\]](#). It was the prosecution's case that the accused had voluntarily caused grievous hurt to both victims. It was the defence position that the accused had acted in self-defence when he was attacked by both men. The central issue before me was simply whether the accused had deliberately assaulted both Chua and Lin.

3 At the conclusion of the hearing, I convicted the accused on both charges [\[note: 2\]](#). I sentenced him to an imprisonment term of 18 months' imprisonment on the first charge and 15 months' imprisonment in respect of the second charge [\[note: 3\]](#). Both sentences were ordered to run concurrently, making it an aggregate sentence of 18 months' imprisonment.

4 Against my order of conviction and sentence, the accused had appealed. The prosecution also appealed against my order of sentence. Alongside the salient features of the evidence presented, I now set out my reasons.

The Prosecution's case

Evidence of Chua Cheng Yam, Charlie (PW5)

5 Chua gave evidence that he was standing in the queue to use the AXS machine at the material time. According to Chua, he was helping his friend, Lin (PW6) to pay his credit card bills at the AXS machine [\[note: 4\]](#). Chua testified that they waited while the accused was using the machine. Having waited for some time, both Chua and Lin (PW6) left the queue to search for another machine. They failed to find one and subsequently returned to the same queue and stood behind an Indian man.

6 It was Chua's evidence that as the accused was still at the machine, he said to him in the Hokkien dialect- '*xiao lian, zi dong tan bo*', which meant '*young man, be considerate*'. In response, the accused turned around with clenched fists and told Chua in Hokkien '*lin peh cho liau lu ka chai*', meaning '*let me finish, then you will know what will happen*'. According to Chua, the accused approached him after he completed his transactions at the machine. The accused, with clenched fists and cracking his knuckles, asked him in a very fierce and crude manner '*what do you want*' in the Hokkien dialect ('*lu bay an zua*'). It was Chua's evidence that he told the accused to be considerate in Hokkien. According to him, when the accused was confronting him, Lin (PW6) intervened by coming in between them. Chua testified that Lin (PW6) was punched by the accused somewhere near the face. It was his evidence that the accused next assaulted him by throwing punches at him. Chua added that he managed to dodge some of the punches. However, he was hit in his face, as a result of which he fell to the ground. According to Chua, the accused mounted astride him, pinning him to the ground for about 30-45 seconds and punched him repeatedly on the face, namely on his right eye and mouth region. When cross-examined, Chua maintained his evidence that the accused was fisting him all over his mouth and face such that he was unable to yell for help. Chua also gave evidence that he grabbed the accused trousers in order to pull him away and break free. It was his evidence that he never retaliated during the assault. Chua categorically maintained during cross-examination that he and Lin (PW6) never assaulted the accused. Neither did they initiate the attack on the accused. He further maintained when cross-examined that it was the accused who had deliberately attacked and punched them [\[note: 5\]](#). Chua informed the court that both he and Lin were bleeding profusely after the assault. He added that he had to undergo surgery as he sustained fracture of his eye bone which caused his eyeball to drop and resulted in double vision.

7 Chua further testified that he picked up the wallet of the accused and followed the latter when he walked away from the scene. Chua then called the police and continued to follow the accused as he did not want him to escape. According to Chua, he wanted to hand the wallet over to the police for the purpose of identifying the assailant.

8 It was also Chua's evidence that both he and Lin (PW6) were not drunk at the material time. Similarly, he disagreed with the defence that the accused had acted in self-defence [\[note: 6\]](#).

Evidence of Lin Chin Ngut (PW6)

9 Lin testified that he had requested the assistance of Chua (PW5) to make payment towards a credit card bill. He gave evidence that they waited in the queue to the AXS machine. At the material time, the accused was using the machine. As they waited for some time, Lin said they proceeded to look for another machine [\[note: 7\]](#). According to Lin, they returned to the same queue and after a long wait, Chua (PW5) politely requested the accused to allow him to pay one bill [\[note: 8\]](#). It was Lin's evidence that the accused uttered the Hokkien words '*lu ber an zua kuan*', which meant 'you will know later' in response to Chua's request, which account he categorically maintained during cross-examination. According to Lin, he understood Hokkien and confirmed that an argument ensued between the accused and Chua (PW5).

10 Lin further testified that he tried to stop the argument, but was punched in his left eye by the accused before he could do anything. It was his evidence that the impact was so great that he bled continuously, felt giddy and hit his shoulder against the wall as he was unsteady. Lin told the court that he sustained a fractured nose and left cheek bone. It was also his evidence that he fled the scene as he was frightened when the accused tried to chase him. He then went to the toilet to stop his bleeding. According to him, when he came out of the toilet, he saw the accused pressing down on Chua (PW5) and hitting him. Lin added that Chua (PW5) asked the accused to let go of him and was struggling to stave off the latter's blows. As he was bleeding continuously and felt dizzy, Lin testified that he was unable to save Chua (PW5) as the accused sat on and punched him.

11 It was Lin's evidence that the accused only stopped hitting Chua (PW5) after he shouted to the latter to call for the police [\[note: 9\]](#). Lin categorically maintained when cross-examined that he and Chua (PW5) did not attack the accused. It was also his emphatic evidence that their injuries did not result from the accused acting in self-defence [\[note: 10\]](#). During cross-examination, Lin further maintained that he was not involved in the argument with the accused, who simply came over and threw him a punch [\[note: 11\]](#).

Evidence of Sgt Akbar Khan (PW3)

12 It was the evidence of Sgt Akbar Khan that he was called to the scene with his colleague, SC Gary Chng. According to Sgt Akbar Khan, both Chua (PW5) and Lin (PW6) approached him and the accused was behind them. It was the observations of Sgt Akbar Khan that both the victims were bleeding, namely, Chua (PW5) was bleeding from the eyes, nose and mouth, while Lin (PW6) was bleeding from the nose and mouth. It was his evidence that the accused was not bleeding anywhere, had a swollen fist and the pair of Bermudas he wore was torn at the groin area [\[note: 12\]](#). Sgt Akbar Khan testified that the accused complained of being kicked and experiencing pain in the groin area. According to Sgt Akbar Khan, the accused informed him that he was provoked by both Chua (PW5) and Lin (PW6) at the AXS machine and a dispute subsequently ensued during which they fell to the ground fighting and he was kicked by them. Sgt Akbar Khan further gave evidence that the accused told him that he acted in self-defence. It was also his evidence that the accused complained of headache and giddiness and was sitting on the floor.

Medical evidence

Evidence of Dr Ang Hou (PW4)

13 Dr Ang testified that he examined Chua (PW5) and was informed by latter that he was punched over the right eye and the right side of the head during an assault [\[note: 13\]](#). It was Dr Ang's evidence that he observed bleeding from around Chua's right eye. Upon examination, Chua (PW5) was also found to have a right periorbital haematoma with subconjunctival haemorrhage and complained of blurred vision in his right eye. A CT scan diagnosed this to be a right orbital fracture. Dr Ang told the court that Chua (PW5) was admitted and given hospitalization medical leave from 16 October 2009 to 22 October 2009. He was also referred to an ophthalmology specialist for follow-up treatment.

14 It was the evidence of Dr Ang that he examined Lin (PW6) and found him to have sustained a nasal bone fracture and fracture of the left zygomatic arch or a bone in the left cheek [\[note: 14\]](#). According to Dr Ang, Lin (PW6) gave an account of being punched over his face and right shoulder, and complained of nose bleed and nose swelling. It was Dr Ang's evidence that Lin's injuries were consistent with his account [\[note: 15\]](#).

15 Dr Ang further gave evidence that the accused was examined by his colleague, Dr Lum Wei Ming Vincent at the Emergency Department of TTSH and found to be conscious and alert. According to Dr Ang, the accused was observed to have a 3- cm haematoma over his left occiput with abrasion, and a 1-cm by 1-mm abrasion over his left scrotum [\[note: 16\]](#). The right index finger joint was found to be swollen with tenderness. Dr Ang testified that the accused gave a history of being assaulted and having his scrotum squeezed for a few minutes during the assault. He also complained of pain over his right thumb and index finger, as well as a head injury.

Evidence of Dr Llewellyn Lee Kuan Ming (PW7)

16 Dr Lee, a consultant ophthalmologist with Tan Tock Seng, informed the court that he examined Chua (PW5) on 21 October 2009, about 2 weeks after the assault. According to him, Chua (PW5) sustained a right eye fracture and the surrounding eye tissues were herniated. It was also his evidence that Chua (PW4) first complained of diplopia and experienced limited right eye movement in up and down gaze [\[note: 17\]](#). Dr Lee testified that he repaired the right orbital inferior wall fracture with an orbital implant [\[note: 18\]](#). Dr Lee further gave evidence that Chua(PW4) also sustained lacerations on his lower eye lid, which was sutured in the emergency department. According to Dr Lee, Chua (PW4) first complained of diplopia, also known as double vision, and experienced limited right eye movement in up and down gaze. Dr Lee added that up to 70% of eye fractures, particularly in an urban or city population, was generally caused by blunt trauma, such as a fist or baseball bat. In the case of Chua (PW5), Dr Lee took the view that his injuries were consistent with the history of the assault he had given. Dr Lee also informed the court that Chua's condition of double vision improved after surgery and it would generally require a period of 6 to 12 months for complete resolution. Dr Lee stated that there was no severe impairment of his eye and Chua (PW4) did not suffer a loss of eyesight.

Evidence of Dr Siti Radhziah Bte Sueirman (PW8)

17 Dr Siti Radhziah, specialising in ENT at Khoo Teck Phuat Hospital, testified that Lin (PW6) was seen for management of his facial fracture, as a result of being punched in the face during the assault and suffered nasal and left cheek pain [\[note: 19\]](#). She confirmed that Lin (PW6) sustained a fracture of the left zygoma and nasal bone [\[note: 20\]](#). She added that Lin (PW6) was scheduled for a further evaluation of the facial fracture, but the latter did not return for the subsequent review.

The Defence

Evidence of accused (DW1)

18 It was the evidence of the accused that he had acted in self-defence as his life was in danger, when he was confronted by both Chua (PW5) and Lin (PW6). He testified that they were speaking in loud tones and became very angry when he was taking a long time with the machine. The accused gave evidence that both men were scolding [\[note: 21\]](#). According to the accused, after he had completed his payment at the AXS machine, both men were behind him and he was left without a way out. The accused testified that after he told them that the computer hang, Lin (PW6) punched him in the face. This was the first attack. It was also his evidence that both men were very angry and clearly targeting him from behind after he made his payment.

19 The accused also gave evidence that he was attacked three times by both men [\[note: 22\]](#). According to him, he defended himself and both men attacked him. The accused further testified that the second attack took place about 5 metres away from the AXS machine, where Chua (PW5) had a hold on him, from which he could not break free and Lin (PW6) attacked him in the face, head and groin area. The third attack happened when both he and Chua (PW5) fell onto the ground and both men attacked his groin area and hit his head [\[note: 23\]](#). He denied there was any contact or exchange in Hokkien between him and Chua (PW5) [\[note: 24\]](#).

20 The accused categorically maintained that he was defending himself at all material times against the attack of both men. It was also his evidence that everything happened very fast and he could only remember that both men used their hands to attack him at the groin area. He added that in the process, his right hand might have accidentally retaliated and hit them. The accused further gave evidence that he received more than 20 punches on his whole head during the 3 attacks. When cross-examined as to the absence of facial injuries in his medical report, the accused stated that his face was not badly injured as he used his hand, body and upper part of his head to shield the punches.

21 The accused was cross-examined on why he had used the words 'punch' and 'punches' in his statement to the police, P15, namely: '*I think I blocked it and also returned a punch to him to defend him myself*' and '*I just know that the 2 of them kept on punching at me and I also returned punches*' [\[note: 25\]](#). It was his evidence that it was the recorder, SSgt Yu Wei Xi (PW9), who had suggested the use of the words to him. He maintained that he had no intention to cause hurt. It was his evidence that he did not aim at any part of their bodies as he was using his hands to block off their attack.

Rebuttal Evidence

22 In addressing the issue on the manner of recording of the accused statement, P15, the prosecution recalled then SSgt Yu Wei Xi (PW9).

Evidence of Yu Wei Xi (PW9)

23 Yu Wei Xi ('Yu'), a regulatory inspector with Health Sciences Authority, testified that he recorded the statement, P15, in his capacity as a staff sergeant. According to Yu, the accused chose to speak in Mandarin during the recording of his statement. It was his evidence that the recording was conducted in a question and answer mode alongside some clarifications he made with the accused. Yu gave

evidence that he recorded what the accused had told him, namely, that he punched the victim. It was Yu's evidence that the accused used the word 'punch' and 'punches' in the sentences - '*I think I blocked it and also returned a punch to him to defend him myself*' and '*I just know that the 2 of them kept on punching at me and I also returned punches*'. [\[note: 26\]](#). Yu categorically maintained in cross-examination that he never suggested the use of the word 'punch' in place of 'defend myself' to the accused [\[note: 27\]](#).

Assessment of Evidence

24 I found that the accused had deliberately caused grievous hurt to both Chua (PW5) and Lin (PW6). In arriving at my finding, I took account of the undisputed fact that the accused had taken a considerable amount of time to complete his transactions at the AXS machine, which the accused conceded. It was not in dispute that both victims had left and re-joined the queue to the machine when they were unable to find an alternative after having waited some time for their turn. It was also undisputed that an argument between the accused and Chua (PW5) ensued and resulted in a scuffle involving these three persons.

25 I found both victims to be truthful witnesses. Notably, they did not dispute that they had imbibed some beer prior to the incident. Chua (PW5) did not deny that he had asked the accused to be considerate and allow them to use the AXS machine. The *ex post facto* conduct of Chua (PW5) buttressed my view that the accused was the aggressor and assailant from the outset. Chua (PW5) had kept the wallet of the accused and trailed him after the assault with the purpose of identifying him as the assailant to the police. This in turn dovetailed with the accused person's return to the scene to retrieve his wallet. His actions of beating a hasty retreat from the scene of the assault and subsequent return to retrieve his wallet, only served to reinforce the inference that he wanted to avoid detection. And if the accused were the victim as he so purported, it would stand to reason that he would be the first to call the police for assistance and remain at the scene. One would have expected Chua (PW5) and Lin (PW6) to beat a hasty retreat before the police arrived. I also found corroborative the first information report, P2, in which Chua (PW5) stated that someone had beaten him and requested for the police and ambulance. In it, Chua (PW5) further indicated that he was following the assailant so that the latter would not run away. Notably, this was in tandem with his evidence that he kept the accused person's wallet in order to prevent him from running away before the police arrived. In his evidence, Lin (PW6) also corroborated Chua's account. Lin (PW6) testified that Chua (PW5) had gone after the accused for a distance when the latter left the scene of the assault.

26 I was equally mindful of the fact that the victims had informed Dr Ang (PW4) of being assaulted by the accused [\[note: 28\]](#). To my mind, such contemporaneous account furnished by the victims to the examining doctor immediately after the incident was highly corroborative of their testimonies. It is noteworthy that the victims' accounts were borne out by the independent medical evidence [\[note: 29\]](#). The medical evidence of Dr Ang, Dr Lee and Dr Siti also corroborated the accounts given by the victims, as well as the nature of their injuries.

27 I now turn to the nature and extent of the injuries sustained by both the victims and the accused. The injuries found on the victims were grave. On the other hand, the injuries suffered by the accused were less severe. The independent observation of Sgt Akbar Khan, namely, that both the victims were bleeding, while the accused only spotted a swollen fist and torn Bermudas [\[note: 30\]](#), lent credence to the severity of the victims' injuries. In this premise, I was unable to accept the defence contention that the accused was the victim in the whole fracas. The independent medical evidence blunted the self-defence claim of the accused and fortified my view that he was the aggressor of the trio.

28 The defence argued that the accused had acted to save his life, when he was outnumbered by two aggressive and drunk men [\[note: 31\]](#). However, I noted that there was no supporting medical evidence and the defence had not provided the slenderest of evidence to substantiate their claim that both victims were drunk at the material time. In my view, these were bare assertions. It was further submitted that by acting in self-defence, the accused had acted reasonably and managed to fend off both Chua (PW5) and Lin (PW6) [\[note: 32\]](#). I found little merit in the defence argument that both Chua (PW5) and Lin (PW6) had simply attacked the accused for causing them to wait inexorably for the use of AXS machine. While both Chua (PW5) and Lin (PW6) were forthcoming about having to wait for a long time while the accused was at the machine, they were pro-active in searching for an alternative machine to ameliorate the waiting. There was hardly any exchange between the accused and them when Chua (PW5) and Lin (PW6) were in the first queue. They only returned to the queue after they failed to find another machine. To my mind, it was untenable for both Chua (PW5) and Lin (PW6) to have attacked the accused over the use of the machine. There was no reasonable apprehension of danger to speak of that justified the accused person's right of private defence under section 102 of the Penal Code (Cap.224). I was in agreement with the prosecution that the right of private defence did not apply to the accused [\[note: 33\]](#): *PP v Soosay* [1991] 2 SLR(R) 670.

29 On the issue of credibility, I found the accused to be long on embellishment and short on the truth. In examination in chief, the accused gave evidence that he had acted in self-defence when both men attacked him. He testified that he only used his right hand to defend himself, in the process of which he might have accidentally hit both of them.

30 It bears mention that it was never the defence case that the accused was provoked by both victims. He had emphatically stated that he was neither in a state of anger or frustration before the incident. He added that he was shocked during the attack and had no time to be angry as he was trying to defend for his life. By his own assertion, the accused grew impatient after having waited about 1-2 hours in the queue for his turn to the AXS machine [\[note: 34\]](#). The accused also claimed that he fainted for about 10 to 15 minutes when he saw the police. However, this was at variance with the independent accounts given by Sgt Akbar Khan (PW3) [\[note: 35\]](#) and SC Gary Chng (DW4) [\[note: 36\]](#), as well as SSI Sudarmo Bin Mohtar (DW3) [\[note: 37\]](#), that they saw the accused seated on the floor.

31 I agreed with the prosecution that the accused was untruthful [\[note: 38\]](#). The accused categorically maintained that he did not punch

Chua (PW5) and Lin (PW6). He added that he could have accidentally retaliated and hit them in the process of defending for his life. The accused stated that there was bound to be some form of physical exchange when there's physical contact. However, in his statement to the police, P15, the accused categorically stated that he returned the punches at both men. When cross-examined, the accused claimed that it was the recorder, SSgt Yu (PW9) who suggested the use of the words 'punch' and 'punches' in P15. SSgt Yu (PW9) had emphatically denied the allegation [\[note: 39\]](#). Given the marked polarity in the accounts given by the accused in his testimony and statement, I found his credit to be impeached: *Loganatha Venkatesan & Ors v PP* [2000] 2 SLR(R) 904.

32 In the same vein, I found the accused to be an unreliable witness, whose testimony was fraught with deception and manipulation. This is borne out by the internal inconsistencies in his evidence regarding how he was injured at the groin area: *Farida Begum d/o Mohd Artham v PP* [2001] 3 SLR(R) 592. There were at least 4 instances where the versions rendered by the accused on the key issue of how he sustained the abrasions on his scrotum directly contradicted each other. At the scene, the accused told Sgt Akbar Khan that he was kicked in the groin area by the victims till his pants tore [\[note: 40\]](#). During his medical examination, the accused informed the examining doctor, Dr Lum, that his scrotum was squeezed for a few minutes [\[note: 41\]](#). When cross-examined, the accused told the court that he did not know whether he was kicked or punched at the groin. He claimed that he could only remember they used their hands to attack him at the groin area, by squeeze or pull [\[note: 42\]](#). In the last instance, the accused maintained during cross-examination that '4 hands and 4 legs' were against him when he was being attacked by both men [\[note: 43\]](#). By this statement, it was plain the accused meant that the men had kicked him.

33 The accretion of the evidence presented substantially dented the defence of the accused. Accordingly, I convicted him on both charges.

The sentence

34 The prescribed punishment for an offence of voluntarily causing grievous hurt under section 325 of the Penal Code (Cap.224) is a maximum imprisonment term of 10 years. In addition, a fine or caning may be imposed.

35 The prosecution sought a deterrent sentence of at least 15 months' imprisonment on each charge and caning, where appropriate [\[note: 44\]](#). The prosecution further submitted on a consecutive sentence to be imposed on both charges. In support of its submissions, the prosecution cited the case of *Ho Soo Kok v PP* [2002] SGDC 134, in which the accused was sentenced to 2 years' imprisonment and ordered to be caned 6 strokes, whose vicious attack on the victim's face resulted in fractures of his nose and eye [\[note: 45\]](#). The prosecution also cited a table of sentencing precedents involving similar offences under section 325 of the Penal Code (Cap.224) where sentences ranging from 8 to 24 months' imprisonment were imposed. These cases involved a plea of guilt and victims who sustained head and facial fractures.

36 I was equally mindful of Dr Lee's opinion that there was no severe impairment of Chua's right eye. It was fortuitous that Chua (PW5) did not suffer loss of eyesight. I further noted that Chua (PW5) took a considerable period of at least 6 months to a year to recover completely and regain proper vision.

37 I further took account of the nature and severity of the injuries inflicted on the victims by the accused. The measure of pain and trauma suffered by the victims was singularly palpable. They were bleeding profusely. On the other hand, the accused emerged with far less serious injuries from the mayhem.

38 Age did not necessarily make sages of men. Chua (PW5), a retired police officer, ought to have known better to keep his self-righteous pontificating to himself. However, even if the victims were themselves far from haloed, being given to cantankerous remarks, the virulent attack perpetrated by the accused against them was at once disproportionate and unwarranted. The belligerence displayed in the manner in which the accused had beaten up two unarmed older men was decidedly deplorable. There was no letting up by the accused as he rained blows on Chua (PW5). He only relented after the victim, Lin (PW6), wanted to call for the police. Simply put, his descent into this horrific violence was deliberate. The court was alive to the ordeal that was brought to bear on the victims.

39 In mitigation, much emphasis was placed on the fact the accused had a clean record including a good record from the Navy, his former employer, prior to the present transgression. In seeking a minimum sentence, counsel informed the court that the accused had plans to settle down this year. According to counsel, the accused is running a successful cosmetic business which required his constant attention and time. It was further submitted that the accused was a filial son who took care and oversaw the medical expenditure of his elderly parents. While the court took cognisance of these circumstances, it is the established legal position that there is little or no mitigating value to be attached to such personal and familial hardship: *Lai Oei Mui Jenny v PP* [1993] 2 SLR(R) 406 and *Leaw Siat Chong v PP* [2001] 3 SLR(R) 646. The accused ought to have known better the dire consequences of breaking the law. Any attendant hardship on his personal and work life, as well as his family, is inevitable. The fact that he had claimed trial to the charge is also a relevant sentencing consideration in so far as the mitigating effect of a guilty plea would not be afforded him. I further noted that the accused had neither demonstrated a modicum of genuine remorse nor rendered an apology to the victims. It was not a situation of a Hobson's choice. The accused could simply have chosen to ignore the remarks of Chua (PW5) and walked away. His overarching hubris undid him.

40 To his credit, I noted that the accused was a first offender. He also volunteered partial compensation towards the medical bills of both victims, namely, 40% of the total expenses incurred [\[note: 46\]](#). In light of the more severe injuries sustained by Chua (PW5), I imposed an imprisonment term of 18 months on the charge involving him. I ordered 15 months' imprisonment in respect of the charge involving Lin (PW6). In ordering both sentences to run concurrently, I was of the view that the effect of the aggregate sentence ought not to be crushing, in light of the totality principle: *Kanagasuntharam v PP* [1991] 2 SLR(R) 44. I did not think that caning was appropriate in the present case. According to the prosecution, in cases where offenders had previous convictions or deaths of victims resulted, a longer

custodial period and caning were ordered. It was clearly not the case here.

41 Given the confluence of these factors, the sentence imposed is far from crushing.

[\[note: 1\]](#) See Exhibits C1A & C2A

[\[note: 2\]](#) Notes of Evidence ('NE') at p 228

[\[note: 3\]](#) NE at p 237

[\[note: 4\]](#) NE at pp 48-49

[\[note: 5\]](#) NE at p 67

[\[note: 6\]](#) NE at p 91

[\[note: 7\]](#) NE at pp 106-107

[\[note: 8\]](#) NE at pp 103 & 117

[\[note: 9\]](#) NE at p 129

[\[note: 10\]](#) NE at p 132

[\[note: 11\]](#) *Ibid*

[\[note: 12\]](#) NE at pp 25-26

[\[note: 13\]](#) See medical report – Exhibit P9

[\[note: 14\]](#) See medical report - Exhibit P10; see also NE at p 37

[\[note: 15\]](#) NE at p 38

[\[note: 16\]](#) See medical report – Exhibit P11

[\[note: 17\]](#) NE at pp 142-143

[\[note: 18\]](#) Medical report- Exhibit P13

[\[note: 19\]](#) See medical report – Exhibit P14

[\[note: 20\]](#) NE at p 147

[\[note: 21\]](#) NE at p 154

[\[note: 22\]](#) NE at pp 155 & 157

[\[note: 23\]](#) NE at p 179

[\[note: 24\]](#) NE at pp 165-167

[\[note: 25\]](#) NE at pp 194-202 ;See Exhibit P15 at [1]

[\[note: 26\]](#) See Exhibit P15 at [1]; see also NE at pp 223-224

[\[note: 27\]](#) NE at p 225

[\[note: 28\]](#) See medical reports - Exhibit P9 & P10; see also NE at pp 35-38

[\[note: 29\]](#) See medical reports, Exhibits P9, P10, P13 & P14

[\[note: 30\]](#) NE at pp 25-26

[\[note: 31\]](#) See Defence closing submissions at [7]-[8]

[\[note: 32\]](#) See Defence closing submissions at [37]-[39]

[\[note: 33\]](#) See Prosecution's closing submissions at pp 33 -36

[\[note: 34\]](#) NE at p 160

[\[note: 35\]](#) NE at p 24

[\[note: 36\]](#) NE at p 218

[\[note: 37\]](#) NE at p 212

[\[note: 38\]](#) See Prosecution's closing submissions at p 44

[\[note: 39\]](#) NE at pp 223-225

[\[note: 40\]](#) NE at pp 25-26

[\[note: 41\]](#) See medical report – Exhibit P11

[\[note: 42\]](#) NE at pp 183-185

[\[note: 43\]](#) NE at p 171

[\[note: 44\]](#) Prosecution's submissions on sentence at pp 13-14

[\[note: 45\]](#) *Supra* at pp 9-10

[\[note: 46\]](#) See medical bills – Exhibits P16 & P17; see also NE at p 235