

Public Prosecutor v Rajagopalan Tamilarasan and Another
[2001] SGHC 296

Case Number : CC 44/2001
Decision Date : 04 October 2001
Tribunal/Court : High Court
Coram : Tay Yong Kwang JC
Counsel Name(s) : Amarjit Singh and Edwin San (Attorney-General's Chambers) for the prosecution; Lawrence Wong (Lawrence Wong & Co) (assigned) and A Jeyapalan (Ganesha & Partners) (assigned) for the first accused; Selva Kumara Naidu (Naidu Mohan & Theseira) (assigned) and Pratap Kishan (Sim Mong Teck & Partners) (assigned) for the second accused
Parties : Public Prosecutor — Rajagopalan Tamilarasan; Panneerselvan S/O Lallayah

Judgment:

FOUNDATIONS OF DECISION

1 The two Accused persons each faced one capital charge under the Misuse of Drugs Act. The First Accused is Rajagopalan s/o Tamilarasan, a 29 year old male Singaporean who was residing at Block 554 Jurong West St 42 #02-351. The Charge against him read:

"That you, **RAJAGOPALAN TAMILARASAN**

1ST CHARGE

on or about the 1st day of March 2001, at about 5.15 p.m., along Jurong West Street 42, Singapore, did traffic in a controlled drug specified in Class 'A' of the First Schedule to the Misuse of Drugs Act, Chapter 185, to wit, by having in your possession for the purpose of trafficking, 2 blocks of vegetable matter containing 1648.8 grams of cannabis, without any authorisation under the said Act or the regulations made thereunder, and you have thereby committed an offence under section 5(1)(a) read with section 5(2) of the Misuse of Drugs Act, Chapter 185 and punishable under section 33 of the aforesaid Act."

2 The Second Accused is Panneerselvan s/o Lallayah, a 39 year old male Singaporean. Also known as Paul, he resided at Block 311 Jurong East St 32 #13-333. He faced a related Charge which read:

"That you, **PANNEERSELVAN S/O LALLAYAH**

2ND CHARGE

on or about the 1st day of March 2001, at about 4.25 p.m., at the hawker centre of Blk 347 #01-180, Jurong East, Singapore, did engage with one Rajagopalan Tamilarasan in a conspiracy to do a certain thing, namely, to traffic in a controlled drug specified in Class 'A' of the First Schedule to the Misuse of Drugs Act, Chapter 185, and in pursuance of the said conspiracy and in order to the doing of that thing, an act took place at the aforesaid place and time, to wit, you gave possession of 2 blocks of vegetable matter containing 1648.8 grams of cannabis to the said Rajagopalan Tamilarasan for the purpose of trafficking, and you have thereby abetted the commission of the offence of trafficking of the said drugs and committed an offence under section 5(1)(a) read with section 5(2) and section 12 of the Misuse of Drugs Act, Chapter 185 and punishable under section 33 of the aforesaid Act."

3 Both Accused persons were convicted after a joint trial and sentenced to suffer death.

THE PROSECUTION'S CASE

4 On Thursday, 1 March 2001, at about 1 pm, Insp Sivaraman Letchumanan instructed SSSGT B. Chandrasegaran to conduct surveillance in the vicinity of Blk 347, Jurong East Ave 1, a food centre in the Jurong East housing estate. He was told to look out for two male Indians, one of whom was known as "Black" (i.e. First Accused). A description of "Black" was given to him. SSSGT Chandrasegaran proceeded to the said Blk 347 in a van.

5 The teams involved in this operation comprised:

- 1) Insp Sivaraman, SSGT Md Azman, SGT S. Rajkumar, SGT Chua Yong Choon – these four officers were together in a car belonging to the Central Narcotics Bureau ("CNB"), with SGT S. Rajkumar as the driver. They left for the carpark at Blk 448 Jurong West St 42 at about 4 pm;
- 2) SGT Affendi Ideris and CPL D. Sivarajaa went to Blk 552 Jurong West St 42 on a motorcycle. They kept a look out from the seventh storey of that block of flats which was located next to the First Accused's block of flats (Blk 554);
- 3) W/Insp Neo Ling Sim, SSSGT Qamarul Zaman and SGT Chong Yit Ming proceeded to the carpark at Blk 447 Jurong West St 42 in another CNB car;
- 4) SGT Gan Kok Wee, SGT Justin Fong, SGT Lim Teong Wah and W/SGT Jasylin Low went to the carpark at Blk 448 Jurong West St 42 in a CNB van;
- 5) SSSGT Hansen Sebastian took a taxi to Jurong West St 42 and walked about the area.

6 At 4.25 pm, SSSGT Chandrasegaran spotted the First Accused on a motorcycle with the registration number FS 5358P. He parked his motorcycle at a motorcycle parking lot about 15 metres from SSSGT Chandrasegaran's stationary van. The First Accused alighted from his motorcycle and waited beside it.

7 The Second Accused was then seen walking towards the First Accused. He was carrying a yellow plastic bag. When he reached the motorcycle, the Second Accused opened the carrier box at the rear of the motorcycle, placed the yellow plastic bag in it and then shut the carrier box. Both Accused persons then had a short conversation for less than one minute.

8 After that, the First Accused got on his motorcycle and left while the Second Accused walked empty-handed back towards the food centre. SSSGT Chandrasegaran followed the motorcycle which turned left into Jurong East Ave 1, continued along Jurong West Ave 1 and then turned right into Jurong West St 42. The junction of Jurong West Ave 1 and Jurong West St 42 was controlled by traffic lights and the CNB officer's van could not make it past the junction before the lights changed against it. SSSGT Chandrasegaran thus lost sight of the First Accused's motorcycle. He reported this to Insp Sivaraman.

9 Insp Sivaraman then instructed SGT Affendi Ideris and CPL Sivarajaa to look out for the First Accused's motorcycle. They went down from the seventh storey of Blk 552 and cruised around the

vicinity on their motorcycle. At about 4.50 pm, they spotted the First Accused's motorcycle parked in a motorcycle lot at the carpark of Blk 554 and reported this to Insp Sivaraman who instructed them to continue their observation. They did not see the First Accused. They returned to their position on the seventh storey of Blk 552 to continue their look out.

10 At about 5.10 pm, the two officers saw the First Accused and a female Indian (his wife) approaching the First Accused's parked motorcycle. They spoke to each other for a while upon reaching the motorcycle. The First Accused then got onto his motorcycle and rode out of the carpark towards Jurong West St 42 while his wife walked back to their flat. They immediately reported the development to Insp Sivaraman.

11 They then descended from their observation point and ran towards Jurong West St 42. From a distance, they saw that the First Accused had stopped his motorcycle by the roadside. A short while later, they saw Insp Sivaraman's vehicle intercept the First Accused.

12 When Insp Sivaraman was informed that the First Accused had returned to Jurong West St 42 on his motorcycle, his team immediately proceeded to the said street in the CNB car. They saw that the First Accused had stopped by the roadside, seated astride his motorcycle and appeared to be waiting for someone. They stopped their car at an angle in front of the First Accused's motorcycle, got out, handcuffed the First Accused and placed him under arrest at about 5.15 pm. The motorcycle's engine was turned off and the keys removed from the ignition. The First Accused was noticed to have urinated in his pants while still seated. He was brought to stand beside the motorcycle's carrier box.

13 Insp Sivaraman then took the keys and, before opening the motorcycle's carrier box, asked the First Accused in Tamil if there was anything in it. The First Accused replied in Tamil that there was "Jamma" inside. "Jamma" meant "things" generally but was also a street name for Cannabis in Tamil.

14 The carrier box was then opened using the keys. Inside the carrier box were a yellow plastic bag with two blocks of vegetable matter containing Cannabis, wrapped with transparent plastic, a black carrier bag with a bottle of spray in it, an empty carrier bag with the name Criss Cross and a blue plastic bag containing 61 S\$1 coins.

15 At about 5.30 pm, with SGT Rajkumar as a witness, Insp Sivaraman asked the First Accused a series of questions in Tamil. He recorded the questions and the answers thereto (given in Tamil) in his field book thus:

"Q: What is your name.

A: Rajagopalan s/o Tamilarasan.

Q: What is inside your bike Carrier.

A: Drugs.

Q: What kind of drugs is this?

A: Ganjah (Cannabis) "Jamma".

Q: Who does this Ganjah belong to?

A: It is mine.

Q: What is this Ganjah for?

A: It is for sale.

Q: When did you take this Ganjah?

A: About 10-20mins Ago.

Q: Who did you take it from?

A: I took it from Paul.

Q: Where did you meet Paul?

A: At the Hawker's Centre.

Q: What block.

A: At the Hawker Centre near Esso Petrol Station.

Q: How did you contact Paul to collect the Ganjah.

A: I called him at handphone no: 96101229."

The officer then read back the questions and answers in both English and Tamil to the First Accused and asked him in Tamil whether he understood the contents, inviting him to make any changes he desired. The First Accused replied in Tamil that he understood the contents and that they were true and correct. He then signed in the field book.

16 The other teams arrived at the scene of arrest. At about 6 pm, Insp Sivaraman instructed SSSGT Chandrasegaran to lead a party of six officers to arrest the Second Accused. W/Insp Neo and the two officers in her team proceeded to the First Accused's flat to search for controlled drugs. Insp Sivaraman, still holding the yellow plastic bag with the two blocks of vegetable matter, then left in the CNB van with two officers and the First Accused to join SSSGT Chandrasegaran's team at Blk 347 Jurong East Ave 1. SSGT Hansen Sebastian was handed the keys to the First Accused's motorcycle and instructed to ride it behind the CNB van.

17 When SSSGT Chandrasegaran's team arrived at the said Blk 347 (the food centre), he saw the Second Accused sitting beside a coffee stall having drinks with another male Indian, Subramaniam s/o Lechumanan Suppiah. Both of them were placed under arrest.

18 On a steel cabinet behind the Second Accused, there were two black bags placed one on top of the other. SSSGT Chandrasegaran asked the Second Accused about the ownership of the two bags. The Second Accused claimed the bag at the top with the letters "SCTS" was his but not the one at the bottom which had the word "Brutini". Nothing incriminating was found in the SCTS bag. The Brutini bag however contained nine bundles of vegetable matter, each wrapped with an aluminium foil, a Nokia handphone battery charger, an aluminium wrapper and ten sachets of vegetable matter. The Second Accused claimed that these things were not his.

19 The Second Accused was searched and a mini-sachet of vegetable matter was found in his left trousers pocket. Upon questioning, the Second Accused admitted that it was Cannabis and he had it for his own consumption. SSGT Azman held on to all the items recovered at the scene.

20 Insp Sivaraman then arrived in the CNB van and was informed of the arrest of the two male persons. Subramaniam was handed over to Insp Sivaraman. SSSGT Chandrasegaran then left the food centre with his team and the Second Accused for the Second Accused's flat at Blk 311 Jurong East St 32 #13-333.

21 Nothing incriminating was found in the said flat. The CNB team then brought the Second Accused to the Clementi Police Division HQ.

22 In his office, at about 6.52 pm, SSSGT Chandrasegaran asked the Second Accused three questions in English. The answers were also given in English. SGT Rajkumar and SSGT Azman, still holding the seized items, were also present. The questions and answers recorded on a piece of paper were as follows:

"Q: Does the 2 black bags which were recovered from the premises of the hawker centre where you were arrested belong to you?

A: Both bags belong to me. One black bag (Singa China Travel Service Logo) and (Berutini) brand belongs to me.

Q: Do you know what is in the black bag (Berutini) which was seized from you.

A: I know that there is Marijuana in the bag but I do not know the exact amount. I only know that is about 350 to 400 grams of Marijuana.

Q: The other black bag (SCTS) logo, did it contain any drugs before we seized it.

A: The bag contained 2 kilogram of Marijuana which I handed to my friend Raja only a few minutes before my arrest."

The questions and answers were then read back to the Second Accused who confirmed that they were true by signing on the piece of paper.

23 At 7.15 pm, SSSGT Chandrasegaran instructed SSGT Azman to hand over the Second Accused together with the seized items to Insp Sivaraman.

24 In the meantime, Insp Sivaraman and his team left the hawker centre together with the First Accused and Subramaniam in the CNB van for the flat of the First Accused at Blk 554 Jurong West St 42. They arrived at 6.35 pm. One officer remained in the van with Subramaniam while Insp Sivaraman and the other officer escorted the First Accused to his flat.

25 There they met W/Insp Neo and the other two officers. A further search was conducted but nothing incriminating was recovered from the flat. They then left at 6.50 pm for Clementi Police Division HQ.

26 At 9.25 pm, Insp Sivaraman left with three officers, the First and the Second Accused and all the exhibits seized for the Major Investigation Branch ("MIB"). SGT Affendi followed them on the First Accused's motorcycle.

27 At the MIB, they met ASP Soh Thiam Loon, the Investigating Officer. The two Accused persons were left in the conference room with two officers standing guard. Insp Sivaraman then briefed ASP

Soh in the latter's office about the events that day and handed over all the seized exhibits.

28 Photographs were taken of the First Accused's motorcycle. The drug exhibits were then photographed and weighed in the conference room in the presence of the First and the Second Accused. The two Accused persons were then escorted to the Alexandra Hospital for their pre-statement medical examination. Insp Sivaraman then handed over the personal properties of the Accused persons to ASP Soh and left the MIB.

29 The two blocks of vegetable matter found in the yellow plastic bag were analysed at the Narcotics Laboratory at the Centre for Forensic Science and were found to contain 824 grams and 824.8 grams respectively of cannabis. Adding up to 1648.8 grams of cannabis, they formed the subject of the two Charges.

30 Subramaniam, who was arrested at the food centre together with the Second Accused, testified that he had gone to the food centre at past 5 pm on 1 March 2001 to buy "private Toto" from a Chinese but did not meet him. He saw the Second Accused sitting alone drinking beer. Upon the Second Accused's invitation, he joined him at the table.

31 When the CNB officers approached them, Subramaniam knew who they were as he was a drug supervisee at the Clementi Police Division HQ. He did not realize there were two bags on the steel cabinet until he was asked. He told the CNB officers that the bags were not his. Subramaniam did not know the First Accused.

32 Shiyamala d/o Kesavan is the First Accused's wife. They were married in 1995 and have a 5 year old son. She worked in the Republic of Singapore Navy at Tuas and supported the family financially as her husband had been unemployed since being involved in a motorcycle accident in 1996. The First Accused did odd jobs now and then.

33 She testified that on 28 February 2001, at about 9.30 pm, she had gone to watch a movie at Westmall in Bukit Batok together with her husband and their son, Raja Mohamed (the First Accused's uncle) and his girlfriend, Selvam (the First Accused's friend) and his wife and their son. After the movie, Raja's girlfriend left the group while the First Accused and Selvam went somewhere to play cards. The rest of the group returned to the First Accused's flat.

34 The First Accused and Selvam returned home sometime in the morning. When Shiyamala was leaving for her work at about 7 am, both of them were still awake. She left with Selvam's wife who was going to the market.

35 At about 8.30 am, she called the First Accused who told her he was about to go to sleep. She informed him that she was taking the afternoon off from work and would leave her office at about noon.

36 When she returned home at about 2 pm, the First Accused was sleeping on the sofa. At about 3 pm, she woke him up to eat lunch.

37 While they were eating, Paul (the Second Accused) called. The First Accused then told her he wanted to go and see his friend, Paul, to borrow money from him to buy her a birthday gift. He told her that he had requested the loan from Paul a few days earlier and that Paul had asked him to see him to take the \$100. He said Paul would call him later. She had never seen nor spoken to Paul before.

38 At about 4.30 pm, the First Accused's handphone rang. After answering the call, the First Accused told her that Paul had called to ask him to meet him for the \$100. The First Accused said the meeting place was within Jurong and he would return home within ten minutes. He then left the flat.

39 About ten minutes later, the First Accused telephoned her and asked her to go down from their second storey flat to the ground level.

40 When she met him, he was with his motorcycle in the parking lot between Blks 552 and 554. They sat at the void deck of Blk 552. The First Accused was not carrying anything and he behaved normally. She sat with her back to the carpark, opposite the First Accused. There could have been a pillar blocking the First Accused's view of the carpark.

41 The First Accused told her he wanted to bring her to IMM for shopping. He also said Paul had asked him to deliver a bag to Paul's friend. She asked him why Paul could not do it himself. The First Accused replied that Paul had to go somewhere and therefore asked him to do him that favour. She asked the First Accused what was inside the bag and to whom was it to be delivered. The First Accused said he did not know but was expecting a call from Paul's friend as Paul had given the First Accused's handphone number to that friend. A call then came through and the First Accused said that Paul's friend had called to say that he had arrived. The First Accused told her he would deliver the bag and would be back in about ten minutes. As she was in her houseclothes then, he asked her to go up to the flat to change and he would call her later. He then left on his motorcycle.

42 Back at the flat, Shiyamala waited for her husband to call but he did not. Subsequently, CNB officers went to the flat. That was when she learned of the First Accused's arrest. Asked whether First Accused was someone who would go around leaving his motorcycle unlocked, she replied that the First Accused was a very careful man.

43 Shiyamala was later recalled to the witness stand at the request of the First Accused as there was some dispute as to the time of his arrest. She now testified that she had seen CPL Sivarajaa walking past alone at the void deck of Blk 552 on 1 March 2001 and commented to her husband that he (CPL Sivarajaa) looked as if he was drunk. She could remember him because of his coloured hair, his lips and the way he walked. The First Accused did not respond to her remark. CPL Sivarajaa, in his testimony, denied that he had seen them at the void deck. He stated that he and SGT Affendi Ideris worked as a team and were together.

44 She further added that when she returned to the flat after speaking to the First Accused at the void deck of Blk 552, the CNB officers went to the flat within one to two minutes later, at about 5.10 pm to 5.12 pm. She knew it was about that time because the First Accused's sister and her fianc (Nantha Kumar), who were in the flat, had to go out at 5.15 pm because they had to meet someone by 6 pm. Her sister's friend, Rajan, was also in the flat at that time. At about 5.40 pm, another of the First Accused's friends, Goudham, also went to the flat.

45 She claimed that four CNB officers had gone to the flat – one female Chinese, two male Chinese and one male Malay. The female Chinese made one or two calls on her handphone and also received one or two calls. At about 5.20 pm or 5.25 pm, that female Chinese received a call informing her that the First Accused had been arrested. When she mentioned the word "arrested", Shiyamala asked her about it and she said that her husband was arrested. The officers searched the safe in the flat when the First Accused was brought to the flat as the safe key was with him. The safe contained passports and certificates only.

46 Shiyamala claimed that she had informed the First Accused's former Counsel that there was a man

who was drunk who walked past her and the First Accused at the void deck. She told this to his present Counsel only after a few days into the trial although she was interviewed by him on the first day.

47 W/Insp Neo was not called to testify at the trial as she was attending a course overseas and Counsel for the First Accused had informed the Prosecution earlier that he did not need her evidence. He confirmed in Court that he did not require W/Insp Neo to be called as a witness despite the further evidence of the First Accused's wife.

48 Her two team members testified that the three of them were instructed to raid the First Accused's flat at 5.25 pm on 1 March 2001 after the First Accused had been arrested. They witnessed the arrest from a distance. They arrived at Blk 554 at 5.35 pm and observed the flat. They only raided the flat at about 6 pm when instructions from Insp Sivaraman were received through W/Insp Neo.

49 Raja Mohamed, the First Accused's uncle, confirmed that he was with the First Accused and his family on 28 February 2001 and had stayed the night at the First Accused's flat after the movie. He left for work at about 6 am on 1 March 2001 when the First Accused and Selvam returned home.

50 He added that in December 2000, the First Accused's wife wanted to buy a handphone for the First Accused. As the couple often travelled to Malaysia for shopping while he looked after their son, they wanted a handphone with the autoroam facility. She was not yet 21 years old then and therefore could not be a subscriber. The First Accused did not bring his identity card with him. They asked if they could use his identity card to register for a handphone line with StarHub and he agreed. The bills were sent to the First Accused's address.

51 Rajinthan, the elder brother of the Second Accused, testified that two days before 1 March 2001, the Second Accused asked him to help with painting and rewiring works at their parents' flat (where the Second Accused was also residing), promising him \$50 per day of work. The Second Accused told him that another friend, Segar, would be joining them.

52 On 1 March 2001, at about 1 pm, Rajinthan arrived at the Second Accused's flat. The Second Accused, their mother and Segar were in the flat. The Second Accused was sleeping while Segar was pulling out the cables. Rajinthan woke the Second Accused up and the three of them started working.

53 Sometime past 2 pm, the three men walked over to the food centre at Blk 347 Jurong East. They ordered beer. The Second Accused handed to Rajinthan a 4D ticket and asked him to collect the winnings of \$650 from the turf club's outlet nearby. After doing that, Rajinthan rejoined the other two men. One Mani had also joined them. Rajinthan handed the \$650 to the Second Accused who in turn gave him \$50 and asked him and Segar to purchase materials and tools from a hardware shop. They did so and returned to the food centre.

54 At about 4 pm, Segar and Rajinthan left the Second Accused and Mani and returned to the Second Accused's flat to continue with the works.

55 Sometime past 6 pm, CNB officers went to the flat with the Second Accused. They searched the flat and then left with the Second Accused.

56 The First Accused's motorcycle, a Honda CB 400, was bought on hire-purchase. Its price was \$14,230. The First Accused made a downpayment of \$3,000 in September 2000 and had to pay \$373 per month for three years. Instalments for October to December 2000 and for January 2001 had been

paid. The First Accused had indicated that he was self-employed. The hire-purchase company did not require information as to income.

57 Ms Irene Ong, an executive with StarHub Pte Ltd, testified that the subscriber of handphone number 90014490 was Raja Mohamed (the First Accused's uncle) whose address was in Taman Ho Swee. The billing address was however the First Accused's address in Jurong West. She also furnished the call details of that handphone from 22 February 2001 to 1 March 2001. As StarHub provided free incoming calls, only outgoing calls from the handphone were captured in the system, showing details such as the numbers to which calls had been made. The call details showed that six calls were made from the First Accused's handphone to the Second Accused's handphone number (96101229) on 1 March 2001 between 1.53 pm and 5.20 pm.

58 The StarHub executive was re-called subsequently to explain a continuous series of ten outgoing calls made from the First Accused's handphone to the number 98501302 between 6.35 pm and 11.03 pm when the First Accused was already in the custody of the CNB officers. She explained that 98501302 was StarHub's Voicemail Depository Number. Whenever calls made to a StarHub subscriber's handphone were not answered, the calls would be diverted to that Voicemail Depository Number and would appear as outgoing calls from the subscriber's handphone. This happened even if the subscriber's handphone was switched off.

59 Seven calls were made from the First Accused's handphone between 5.16 pm to 5.23 pm to various handphone numbers. He denied that those calls were made by him as he was arrested at about 5.15 pm. He claimed that the last call made by him was the one logged at 5.11 pm lasting 43 seconds.

60 The Investigating Officer, ASP Soh Thiam Loon, testified that after the two Accused persons were brought to MIB at 9.45 pm, he was briefed by Insp Sivaraman on the facts of the case. Photographs were taken of the motorcycle and the seized exhibits. The drug exhibits were then weighed in the presence of the two Accused persons. They were then brought to the Alexandra Hospital for their medical examination.

61 When they returned at about 12.05 am on 2 March 2001, ASP Soh had the First Accused brought into his room. He introduced Mr Y Raja Gopal as a Tamil interpreter. The First Accused had no objection to Mr Y Raja Gopal as interpreter. With only the three of them in the room, ASP Soh proceeded to take a statement from the First Accused pursuant to Section 122(6) of the Criminal Procedure Code through the Tamil interpreter. Amendments were made by the First Accused when the recorded statement was read back to him. The First Accused then signed the statement which was in the following terms:

"One person by the name of Paul. Paul told me whether I could help him to bring something. I agreed. Since I am looking after a child, I told him I would be able to help him. At about 4 o'clock in the afternoon, my wife came back. Then I telephoned Paul that I could go and help him to bring whatever thing he gave me. He also said he would pay me S\$100/- if I could bring the item which he give me and hand over to his friend.

Since my wife had already come home, I came out of my house after handing over the child to her. Before which I telephoned Paul where to go and deliver the goods. He asked me where can I go and deliver the goods. I told him near the bus-stop near my house. He told me that I supposed to go and collect the item from him and wait at the bus-stop near my house, and to deliver to a person

who would come to see me at the bus-stop. Then I went to see Paul. Paul came, carrying a plastic bag, yellow colour. I told him I am unemployed and I am taking this S\$100. I told him don't get angry because I know him. I asked for the S\$100 which he promised. He said go and deliver first and he would pay me tonight. He put the plastic bag into a box which was behind my motorcycle. I drove the motorcycle to Blk 554 Jurong West St 42, my house, under my block.

Then I went to speak to my wife. I told her I would come back shortly, as I had to go and deliver some goods near the bus-stop.

I drove my motorcycle to the bus-stop. I was waiting at the bus-stop. Officers moved in and I was arrested. After they took out from the box the plastic bag. Officers showed me the content of the bag was controlled drug.

I told the officer a friend of mine by the name of Paul told me to deliver, without knowing the contents. I am not accustomed to this type of work. I don't involved myself in drugs. That's all. Paul is the one who was arrested and sitting outside now."

62 After the recording of the statement had been completed for the First Accused, he was brought out of the room and the Second Accused was brought into the room. Again, the Investigating Officer introduced the Tamil interpreter and ascertained that the Second Accused had no objection to him acting as such. A statement under Section 122(6) of the Criminal Procedure Code was then recorded from the Second Accused who chose to speak in English. Amendments were made at the request of the Second Accused. He then signed the statement. It read:

"Around 3-something afternoon, I went for a beer with my workers. After that, a guy from Malaysia came down and see me. He came down and he bring two bags. So he put down there, sit down with me for a while, on the beer cabinet. I know Raja two or three months only. He said: Paul, I am going out for a while. I'll come back in half-an-hour time. Before that, he said his friend, Raja, will call me. He said pass this yellow plastic bag to him. I never said what is inside. The other bag was on the same beer cabinet.

After I met Raja, Raja called me first. I went to see him, he came in a motorbike. Then he opened the box at the back of his motorbike. Then I just said your friends asked me to pass to you. He also never checked what is inside.

He took just the yellow plastic bag and left in his motorbike. Then I came back to the same location, the hawker centre. I was drinking again with my worker and brother. They also left already. Suddenly a lot of people came into where I was sitting. They said they are CNB. They said "you just now put the yellow plastic bag inside the box." They asked whose bag was on the beer cabinet? One officer said: don't bullshit, this is yours. Because in the other bag, the black bag, you got this one belong to who? So I said nobody. Then the officer took another bag and asked what is this? So I said this is my friend's bag (the Malaysian friend, same guy).

Then they said they wanted to spot-check the house. So they came to my house. Nothing was down there. So they bring to narcotic that side to investigate. To tell the truth, I am an asthmatic patient. Casually, once in a blue

moon, I would take marijuana for my asthma. I buy rations of \$0.20 for my own consumption. That was in my pocket. But the Malaysian guy never come back. So I told the CNB this is what happened."

63 A second statement was recorded from the Second Accused at about 1.40 am on 2 March 2001 in respect of some other matter. Both Accused persons were then sent to the Alexandra Hospital again for their post-statement medical examination. Later in the day, ASP Soh went to hand over the exhibits to the Health Science Authority for analysis.

64 On 23 March 2001, photos were taken of the scene at Jurong West St 42 and at the food centre in Jurong East. Subsequent analysis of the two transparent wrappers from the two blocks of vegetable matter found in the yellow plastic bag did not produce any fingerprints.

65 On 21 July 2001, photos taken by SSGT Hansen Sebastian on 1 March 2001 at Jurong West St 42 using a disposable camera were sent for developing. A total of \$477.20 was recovered from the First Accused, including 61 S\$1 coins in a blue plastic bag found in the carrier box of the First Accused's motorcycle. \$77.10 was recovered from the person of the Second Accused.

66 In cross-examination, ASP Soh agreed that during his investigations, the First Accused repeatedly told him that the \$100 mentioned in his statement was a loan. The First Accused also claimed that he did not know what was inside the yellow plastic bag that the Second Accused had asked him to deliver. He disagreed however that the First Accused had said that the issue of the loan was not recorded in the statement.

67 The Tamil interpreter testified that he did not keep any notes relating to the taking of the above statements save as to the date and time he was at the MIB. Whatever the First Accused wanted to say was recorded by the Investigating Officer. He agreed that he had used a Tamil word which could also mean "hand over" when he interpreted the words in paragraph 1 of the First Accused's statement, "He also said he would pay me \$100 ...". That was also the Tamil word the First Accused used in relation to the \$100. The same word was used for "... he would pay me tonight". The Tamil interpreter was a police officer before becoming a Senior Interpreter and was fully aware of the procedure for recording a statement.

THE CASE FOR THE FIRST ACCUSED

68 The First Accused was educated up to Primary 2. He could not read or write in English but could speak some English.

69 He got to know the Second Accused about two or three months before 1 March 2001 through a friend whom he had asked for a job and who referred him to the Second Accused. He first met the Second Accused at the food centre in Jurong East. He was told that the Second Accused was an electrician and a plumber and owned a company. He approached the Second Accused but was told that there was no work for him at that time. Both of them exchanged their telephone numbers.

70 He met the Second Accused by chance at the same food centre another two or three times before 1 March 2001. They also spoke to each other casually over the telephone. On 28 February 2001, the day before their arrest, the First Accused called the Second Accused to ask for a loan of \$100. The Second Accused told him he did not have the money then but would call him when he had it. The reason for the loan was that the First Accused's wife's birthday was on 4 March and he wanted to get her a gift. He intended to repay the loan on 10 March 2001 when his wife would receive her

salary.

71 Besides his wife's salary, they had other income in the form of rental. One of the bedrooms was rented to two tenants who each paid them \$300 per month. Another bedroom was rented out to his sister who would pay between \$200 to \$500 per month to them. All the rentals were payable within the first three days of each month.

72 On the morning of 28 February 2001, when he asked the Second Accused for the loan of \$100, he had not collected the rentals yet. He collected \$600 from the two tenants in the evening of that day. He spent some on 28 February 2001 when he went for the film show and shopping. He also made some money in his card games. That was why when he was arrested, he had more than \$400 with him.

73 On 1 March 2001, when he was lying in bed, the Second Accused called him on his handphone (90014490) and asked whether he was free. He told the Second Accused that he would call him back shortly.

74 Two or three minutes later, he made the call logged in the StarHub call details at 1.53 pm to the Second Accused's handphone (at 96101229). The Second Accused told him he was renovating his mother's flat in Jurong East and asked him whether he could deliver some things to the Second Accused's friend. The First Accused said he was not free then but could do it in the evening after his wife had returned from work. The Second Accused agreed with that arrangement. The Second Accused also said that he would let him have the \$100 loan which he had requested the previous day.

75 The First Accused's wife then called him to say that she would be returning home by 2 or 3 pm that day.

76 At 1.57 pm, the First Accused telephoned the Second Accused to inform him of his wife's early return from work and that he would be able to delivery the things as requested by the Second Accused earlier. He told the Second Accused that he would call him once his wife returned home.

77 The First Accused's wife returned home sometime past 3 pm on 1 March 2001. At 3.44 pm, the First Accused called the Second Accused as promised and asked him where he should go to deliver the things. The Second Accused said the location was near the First Accused's home and told the First Accused he would call him again two or three minutes later. He also asked where it would be convenient for him to deliver the things. The First Accused informed the Second Accused to tell his friend to go to the bus stop near Blk 554, Jurong West St 42. The First Accused also said that he would call the Second Accused when he was leaving his flat.

78 At 4.26 pm, the First Accused called the Second Accused. The Second Accused told him to meet at the food centre in Jurong East. The First Accused went to the ground level with his wife and, after opening their letter box, the First Accused turned on the motorcycle's engine, spoke to his wife for a while and then left alone. He was wearing a safety helmet which he had taken from the carrier box of the motorcycle. The carrier box was shut but could be opened without using a key.

79 When he arrived at the food centre in Jurong East, he parked his motorcycle, rear in, at the motorcycle lots and sat there waiting with the engine still running. As the Second Accused was nowhere to be seen, he telephoned him. That, as seen in the StarHub call details records, was the call made at 4.58 pm. The Second Accused told him to go to the back of the food centre but the First Accused told him to meet him at the front.

80 At 4.59 pm, the First Accused made a call to a Chinese man known to him as See Vatt. As he was still speaking on the handphone, the Second Accused and another Indian man approached. The other man stopped a short distance away while the Second Accused, holding a yellow plastic bag in one of his hands, went up to the motorcycle. The First Accused told the Second Accused to place the yellow plastic bag in the carrier box at the rear of the motorcycle. The Second Accused opened the carrier box and then closed it while the First Accused concluded the call on his handphone. The First Accused did not see what was inside the yellow plastic bag. It did not occur to him to look inside as his thoughts were focused on bringing his wife shopping.

81 When the Second Accused walked to the front of the motorcycle, the First Accused asked him for the \$100 requested by him the day before, imploring him at the same time not to be angry that he was asking for the money. This was because he was not employed. The Second Accused told him he would give him the \$100 loan that night and asked the First Accused to telephone him later.

82 He then told the First Accused "to go fast" as the two persons would be waiting at the aforesaid bus stop. When the First Accused asked how he was going to identify the two persons, the Second Accused said they had been told what the First Accused looked like and would approach him.

83 The First Accused then travelled on his motorcycle back to Jurong West St 42. On arriving at the said bus stop, he saw no one. He then decided to go into the carpark next to the block he lived in. He stopped at the motorcycle lots but left the engine running. He removed his safety helmet and then telephoned his wife who was in their flat, telling her to meet him at the ground level. When she went down, he saw that she had changed from working clothes to a house dress. He told her he was taking her shopping. He switched off the engine and got down from his motorcycle. He did not lock the carrier box. They then walked to the next block (Blk 552) and sat on some stools.

84 His wife asked him whether the Second Accused had given him the loan and the First Accused told her that he would be getting it that night. He also told her that the Second Accused had handed him some things to be delivered and she asked him, "What things?". He told her he did not know what they were. She asked him why the Second Accused could not do the delivery himself and the First Accused replied that the Second Accused had asked for a favour. He also told her that the things had not been delivered yet and when the intended recipients arrived at the bus stop, they or the Second Accused would telephone him. He then told her to go back up to their flat and get changed so they could go shopping.

85 His wife mentioned that there was a man walking as though he was drunk but he did not see that man as he received a couple of nuisance calls then. He called the telephone number of the nuisance caller (90035157) but there was silence at the other end.

86 After that, as his wife went home to change, the First Accused rode his motorcycle back to the bus stop. There was still no one around. He moved a distance ahead, stopped and looked around. He was about to move off to return the things to the Second Accused when the CNB car intercepted him by stopping in front of his motorcycle. He could have escaped on his motorcycle if he wanted to but there was no reason why he should do that.

87 Three or four men came out of that car and someone said they were from CNB. His left hand was handcuffed. An officer then turned off the ignition and removed the key. Insp Sivaraman asked him whether there was anything inside the carrier box and he replied, "There is thing" in Tamil. Someone proceeded to open the carrier box and he then heard "Confirmed, Ganja" and "Cannabis". Insp Sivaraman walked to the rear of the motorcycle to look and then said, "Go and arrest Paul".

88 The First Accused was still seated on the motorcycle. He was shocked at hearing the words "Confirmed, Ganja" and "Cannabis" and urinated in his pants. Feeling giddy, he alighted from the motorcycle. An officer commented that the First Accused had urinated. He was then handcuffed on both hands.

89 Insp Sivaraman seized his handphone and his wallet. The First Accused was then told to sit on the kerb. Insp Sivaraman asked him whether the things in the yellow plastic bag were his, while writing in a notebook. As the First Accused could not see what he was pointing at, he was told to stand up. It was then that he noticed the contents. He denied having answered "drugs" or "Ganja". Insp Sivaraman did not even ask the third, fourth and fifth questions recorded by him. For the sixth question, the question was "When did you take the yellow bag?" and not "When did you take this Ganja?". Again, in respect of the tenth question, "Ganja" should read "bag". Insp Sivaraman also asked, "Do these things belong to you?" and the First Accused pointed and answered that the bag and the spray in the box were his but the yellow plastic bag was handed over by the Second Accused.

90 The questions in the notebook were not read back to the First Accused. He signed when told to do so, not knowing what he was signing. The word "Ganja" was never used by Insp Sivaraman.

91 Where his statement under Section 122 (6) of the Criminal Procedure Code was concerned, he had said to ASP Soh that the Second Accused would give him the loan of \$100 he had asked for and not that he would give him \$100. When he informed the Tamil interpreter about this, he was told that statement was a rough one and he should just confine his statement to what had happened on 1 March 2001 and that, in that context, his words meant that the Second Accused would be giving him the loan he had asked for earlier.

92 The calls shown in the StarHub record to have been made after 5.11 pm were not made by the First Accused as he was already under arrest by then. However, the numbers called were those of his friends and the Second Accused. One of the numbers called after 5.11 pm was in fact the nuisance caller's. Although Insp Sivaraman had allowed him to make a telephone call at his request, he was in fact not given the opportunity to do so.

93 Counsel for the Second Accused put it to the First Accused that the Second Accused had asked him whether he could deliver something for a friend. The First Accused said he was asked whether he could deliver to a friend. The Second Accused did not tell him that the Malaysian was not familiar with the area nor that he was willing to give \$100. He did not know whether that Malaysian was known as Ravi although he had seen him with the Second Accused once.

94 The First Accused denied that the contents of the yellow plastic bag were altered between about 4.32 pm (the time SSSGT Chandrasegaran lost sight of his motorcycle when it turned into Jurong West St 42) and about 4.50 pm (when it was spotted again, parked between Blks 552 and 554). He had no reason to guard the carrier box but there was money inside. He then agreed it was possible that the contents of the carrier box had been tampered with without him noticing. He did not know whether the handle slots of the yellow plastic bag were knotted together. He also did not know whether the Second Accused was aware of the contents of the yellow plastic bag.

95 Asked by the Prosecution why he had been making various calls to 90035157 (the number which he claimed belonged to a nuisance caller) that day, the First Accused said that nuisance caller had been disturbing him on his handphone and so he called back to annoy the nuisance caller by remaining silent. He denied that he knew the subscriber of that number or that he was supposed to hand over the yellow plastic bag to that person.

96 The First Accused was then referred by the Prosecution to a statement recorded on 3 March 2001 by ASP Soh with the same Tamil interpreter in attendance. Asked where he had made reference to a loan in that statement, he maintained that he had said from the very beginning that he had asked the Second Accused for a loan. He denied the suggestion that the \$100 promised to him was payment for his services in delivering the drugs. He was not suspicious about the delivery because the \$100 was meant to be given as a loan and not as payment. He did not ask the Second Accused what the "thing" was because he considered the Second Accused as his boss and did not know that he would deal in drugs. This was the first time he had done such a delivery for the Second Accused. He would have helped the Second Accused even if he had not offered the loan on 1 March 2001.

97 When talking to his wife at the void deck of Blk 552, he sat facing the motorcycle lots but a wall impeded his view of his motorcycle parked there. He did not lock the carrier box as it would look as if it was locked when closed.

98 Nantha Kumar, the First Accused's sister's fianc, a Malaysian technician working here, testified that he was in the First Accused's flat in Blk 554 on 1 March 2001 since the morning. Four CNB officers went to the flat at about 5.10 pm as he and his fianc were preparing to leave the flat. They had intended to go out at 5.15 pm. He was arrested by the CNB officers.

99 He could remember the time because he was supposed to meet his friend at 5.30 pm at the BP petrol station along Jurong West Ave 1, a short distance away from the First Accused's flat. They were planning to go shopping along Serangoon Road. He had also looked at the wall clock in the flat when he was arrested. When he was brought downstairs to the CNB van, he saw the First Accused beside it.

100 Nantha Kumar maintained his evidence although shown the Arrest Report by one of the CNB officers which indicated that the raid at the First Accused's flat was at 6.05 pm and that he was arrested then.

THE CASE FOR THE SECOND ACCUSED

101 The Second Accused was working as an electrical and plumbing contractor before his arrest on 1 March 2001. He is not married and lived with his parents and his younger brother's family in the Jurong East flat.

102 On 28 February 2001, the occupants moved out temporarily to the Second Accused sister's flat as he intended to do some rewiring works in the Jurong East flat on 1 March 2001 with the assistance of his elder brother, Rajinthan, Subramaniam and Segar. Subramaniam could not make it as his leg was hurting. The Second Accused told him to buy some food and meet them later.

103 They worked in the flat from about 10.30 am to 12.30 pm and then proceeded to the food centre at Blk 347 for lunch. Subramaniam brought food and met them at the food centre. They ate and drank beer together there. The Second Accused was in a mess because of the morning's work.

104 The Second Accused then told Rajinthan and Segar to buy cement, wire and paint from a shop nearby. He also asked Rajinthan to collect his winnings in the 4D lottery for him.

105 While alone with Subramaniam, the Second Accused received a call from Malaysia. It was from a friend called Ravi. Ravi wanted something to be sent to Jurong for him and was willing to pay \$100 for that to be done. He said he would meet the Second Accused at about 4 pm.

106 The Second Accused then called the First Accused and asked him whether he was free to run the errand. The First Accused said he would call the Second Accused when his wife returned from work. He called the First Accused because he had asked for a loan of \$100 the day before and the Second Accused thought he could get the \$100 from Ravi and give it to the First Accused as a loan. The First Accused called later and said he would be available after 3 pm.

107 In the meantime, Rajinthran and Segar returned after buying the goods and collecting the lottery winnings. The winnings were handed to the Second Accused who told the two of them to return to the flat to continue with the work. The Second Accused remained at the food centre, drinking with Subramaniam. Subramaniam also won in the 4D lottery and went to collect his winnings, returning to the table at about 5 pm.

108 At about 4 pm, Ravi arrived at the food centre, bringing two bags with him. After placing the two bags on the cabinet, Ravi joined the Second Accused for a drink. While seated at the table, Ravi pointed to the bags and said there was something inside and that was the thing to be delivered. Ravi said he could not deliver it himself as he was busy and was not familiar with the Jurong area. His two friends (the intended recipients) were also busy.

109 The First Accused then called to say that he had arrived at the parking lots for motorcycles at Blk 347. The Second Accused told Ravi he could not run that errand as he was in a mess but had asked a friend to do it and that friend was waiting at the motorcycle parking lots. Ravi opened one of the bags, took out a yellow plastic bag and passed it to the Second Accused. The contents felt like a hard box but the Second Accused could not look inside the yellow plastic bag as it was knotted at the top.

110 The Second Accused took the yellow plastic bag and walked to meet the First Accused, with Ravi following him. Ravi stopped halfway. The Second Accused told him to go sit down at their table as there was beer there.

111 When the Second Accused reached the First Accused's motorcycle, the latter had already lifted up the cover of the carrier box. He was seated on the motorcycle. The Second Accused placed the yellow plastic bag in the carrier box and closed it. He told the First Accused that the thing was to be delivered to Jurong West as indicated by Ravi. The First Accused suggested a bus stop along Jurong West St 42 as that was near his flat and was convenient for him. Ravi would call his friends to meet the First Accused at the designated bus stop to collect the yellow plastic bag.

112 The First Accused asked the Second Accused whether he could have the \$100 which he had asked for as a loan and was told to meet the Second Accused in the evening to collect the money. The Second Accused told the First Accused to go off fast. He then returned to the table where Ravi was.

113 At the table, the Second Accused asked Ravi about the \$100 promised by him. Ravi then said he would go get the money. He left the two bags at the food centre, saying he would return within half an hour.

114 Turning to his Section 122 (6) of the Criminal Procedure Code statement recorded on 2 March 2001, the Second Accused said that the words he had uttered to the First Accused – "Then I just said your friends asked me to pass to you" – should read as "my friends".

115 At about 5 pm, Subramaniam returned to the table at the food centre and sat down to have drinks with the Second Accused. A short while later, the CNB officers arrived.

116 SSSGT Chandrasegaran asked the Second Accused whether he had placed anything in the motorcycle and the Second Accused replied, "Yes, is there any problem?". The CNB officer then asked, "Do you know there are two kilos of ganja inside?" to which the Second Accused replied, "I don't know". The officers then searched the surrounding area and the Second Accused's body. A small amount of cannabis was found in the Second Accused's pocket.

117 The officers took the black bag and asked whom it belonged to. The Second Accused said he did not know. Beneath that bag was another one. When opened, there was a lot of cannabis inside. The Second Accused was asked about this. SGT Raj Kumar insisted he must have known about the bags and that they belonged to the Second Accused. The Second Accused denied it.

118 At the scene, he told SSSGT Chandrasegaran that the SCTS bag at the top belonged to him but not the Brutini Bag at the bottom because the CNB officer had said that both bags belonged to him and he was frightened. He had not seen the cannabis before that and he became unsteady then. He did not know whether there was anything else left in the SCTS bag after Ravi removed the yellow plastic bag. The handphone charger found in the Brutini Bag probably belonged to Ravi. His own charger was in the Jurong East flat and he had no reason to bring it to the food centre.

119 He did not learn anything about the First Accused nor remember any discussion about drug seizure after his arrest.

120 At the Clementi Police Division HQ, the Second Accused said, in answer to SSSGT Chandrasegaran's question, that both the bags belonged to him because SGT Raj Kumar had said earlier that they must belong to him. He also admitted that there were about 350 to 400 grammes of marijuana in the Brutini bag because the officers had shown the contents to him and estimated that amount. Similarly, he replied that the SCTS bag had 2 kilogrammes of marijuana because SSSGT Chandrasegaran had mentioned at the scene of arrest at the food centre that it could contain 2 kilogrammes. When he placed the yellow plastic bag into the motorcycle's carrier box, he had no idea then that it contained drugs.

121 Some hours later, at about 1.54 am on 2 March 2001, when he was charged by ASP Soh for trafficking in the drugs in the Brutini bag, he made a statement under Section 122 (6) of the Criminal Procedure Code denying ownership of the Brutini bag and its contents. He admitted that the small amount of drugs found in his pocket was for his own consumption.

122 Upon cross-examination by Counsel for the First Accused, the Second Accused confirmed that the First Accused did not look inside the yellow plastic bag and neither did the Second Accused tell him what the contents were as the Second Accused did not know himself.

123 In cross-examination by the Prosecution, the Second Accused said he got to know Ravi, a Malaysian, through another friend (Govind) about two years ago. He had met Ravi four or five times. The Second Accused and Govind consumed cannabis and Ravi would frequently be with Govind. Govind supplied the drugs. Ravi would give small amounts of cannabis to Govind who would share the drugs with the Second Accused. After Govind migrated to Australia, Ravi used to call the Second Accused and asked whether he wanted cannabis. The Second Accused would tell him to bring small amounts if he had any and Ravi would do so.

124 Ravi used to bring a lot of food whenever he went to see the Second Accused. The Second Accused also borrowed money from Ravi. Therefore, on 1 March 2001, when he asked for a favour in delivering the yellow plastic bag, the Second Accused agreed to help him without thinking about or asking what the contents were. Anyway, Ravi was a rich man who could afford to pay the \$100 and

the Second Accused was having financial problems.

125 The Second Accused got to know the First Accused sometime in December 2000. That same day, the First Accused was introduced to Ravi as Ravi happened to be at the food centre in Jurong East as well, together with the Second Accused's friends. The First Accused only said "Hi" to Ravi and then left.

126 On 1 March 2001, the Second Accused had told Ravi that he could ask his friend to go to the food centre in Jurong East to collect the thing instead of having it delivered to the Jurong West area but Ravi said his friend was busy and it would be convenient to deliver it in the Jurong West area. Ravi's friend would call to inform him of the exact delivery point and Ravi would then tell the Second Accused. The Second Accused told Ravi that the person doing the delivery would be a fat person on a motorcycle and the delivery point would be the bus stop along Jurong West St 42. He also told the First Accused that two persons would be waiting at the said bus stop for him. After the First Accused left the carpark at Blk 347, he did not call the Second Accused again. The Second Accused also did not call him to ask whether he had made the delivery because the First Accused was supposed to see the Second Accused again at about 6.30 pm (to collect the money).

127 The Second Accused added that Ravi was not working in Singapore. He worked in a travel bus agency possibly as a tour guide and travelled in and out of Singapore. He lived in Johor. He would come to Singapore two or three times a month and each time would meet the Second Accused at the food centre in Jurong East. He would call the Second Accused before he arrived. Ravi drove a Malaysia registered Proton Saga.

128 Elan Jelian, the younger brother of the Second Accused, testified that the Second Accused's handphone was a Nokia model. He had retrieved the charger for that handphone from the Jurong East flat and had brought it to Court. The Second Accused's contractor business was registered in Elan's name but he worked in a shipping company.

THE DECISION OF THE COURT

129 The Prosecution has to prove against the First Accused that:

- (1) he was in possession of the yellow plastic bag and its contents;
- (2) the contents were 1648.8 grammes of cannabis;
- (3) he knew that the contents were cannabis; and
- (4) he had the cannabis in his possession for the purpose of trafficking.

130 In respect of the Second Accused, the Prosecution must prove that:

- (1) he abetted the First Accused by engaging with him in a conspiracy to traffic the contents of the yellow plastic bag;
- (2) the contents were 1648.8 grammes of cannabis;
- (3) he knew that the contents were cannabis; and
- (4) pursuant to the conspiracy, he gave possession of the cannabis to the First

Accused for the purpose of trafficking.

131 The nature and quantity of the drugs and the fact of physical control over the yellow plastic bag and its contents were not in issue. The entire case hinged on the knowledge of both Accused persons as to the contents of the yellow plastic bag. The Prosecution must of course prove that the yellow plastic bag and its contents found in the carrier box of the First Accused's motorcycle were the same bag and contents handed over by the Second Accused to the First Accused at Blk 347 Jurong East.

132 I accepted the evidence of Insp Sivaraman on what transpired at the scene of the arrest of the First Accused along Jurong West St 42 despite the apparent error in the time of the arrest, which was no more than ten minutes in any event. In a fast moving scene, with 14 officers located at various places reporting to him at various times and having to give instructions to match the events as they unfolded, minor divergences in the timing of the events could be expected. I accepted that the First Accused was intercepted and arrested at about 5.25 pm and that all the calls shown to have been made from his handphone between 5.11 pm and 5.23 pm had been made by him. After all, all the calls between 5.11 pm and 5.23 pm were to telephone numbers that he had called earlier. His handphone had been seized by the CNB officers upon his arrest and if any of them had made those calls, surely that would have been part of the investigations and there was absolutely no need to deny it.

133 I accepted that the questioning of the First Accused took place after the carrier box of his motorcycle was opened. I also accepted that the First Accused answered the questions posed to him by Insp Sivaraman in the presence of SGT Raj Kumar and that all the questions and the answers had been dutifully recorded. His voluntary answers were clearly damning to his assertion that he knew not what he was delivering. Insofar as all the other details at the scene of the arrest along Jurong West St 42 were concerned, for instance, who removed the keys from the ignition, whether he was handcuffed to the front or at his back, when he urinated in his pants, when he got off the motorcycle, whether he was walking about or sitting down on the kerb, I considered them quite immaterial to the issues at hand. I would only observe that it would be quite strange for the CNB officers to have placed the handcuffs on only one of his hands and not both. I certainly drew no adverse inference against the First Accused for urinating in his pants as even a less timorous innocent man could experience such an untimely discharge when pounced upon by several men suddenly.

134 Similarly, I accepted the evidence of the Prosecution regarding the time of the raid led by W/Insp Neo on the First Accused's flat. The Prosecution's timing would accord with the time of the arrest of the First Accused and it would certainly be more logical to raid the flat only after ascertaining that the First Accused had drugs on his motorcycle. No useful purpose would be served in any event by falsifying the time of the raid, which was corroborated by the raiding party's testimony and the Arrest Report.

135 I would say the same regarding the contradictory testimony of the First Accused's wife and CPL Sivarajaa concerning the events at the void deck of Blk 552. Although the wife was a Prosecution witness, in the circumstances of this case, one should not be too surprised if she were to try to tailor her evidence to match her husband's, which she would have an inkling of. Her testimony regarding CPL Sivarajaa was nevertheless unreliable. She made no mention of him when she first gave evidence before the Court. It was also unlikely that she could have remembered his face so well after 1 March 2001. If indeed she had seen someone stumbling along, it was not CPL Sivarajaa. Again, there was no reason for CPL Sivarajaa to falsify this part of his evidence. He and SGT Affendi were on the lookout for the First Accused and there was no reason to mask the fact, if fact it be, that CPL Sivarajaa had indeed spotted the First Accused and his wife at the void deck.

136 I accepted the First Accused's evidence that the carrier box of his motorcycle was shut but not

locked even after the yellow plastic bag was placed in it by the Second Accused. It was evident that a third person would not know it was not locked unless he tried to open the cover of the carrier box. The First Accused rode his motorcycle from Blk 347 back to Jurong West St 42. The CNB officers lost sight of him and his motorcycle for only about 18 minutes between 4.32 pm to 4.50 pm. The First Accused did not say that anyone had gone near his motorcycle. When the motorcycle was parked at the motorcycle lots between Blks 552 and 554, it was obvious that a careful man like the First Accused would have made sure that he could still keep an eye on his motorcycle. After all, even if he knew nothing about the contents of the yellow plastic bag (which was clearly not the case), he had money kept in the carrier box and \$61 could not be a small amount for someone who had to importune the Second Accused for a \$100 loan. I had no doubt that the yellow plastic bag and its contents found by Insp Sivaraman at the point of arrest were the same ones placed by the Second Accused at Blk 347.

137 Where the Second Accused was concerned, I accepted the evidence of SSSGT Chandrasegaran relating to the arrest at Blk 347 and the events thereafter. If the Second Accused was so intimidated by SGT Raj Kumar's assertions that the two bags must be his, how did he have the gumption to acknowledge only the SCTS bag at the top and to deny ownership of the Brutini bag at the bottom? Clearly, it was because he knew that the SCTS bag had been emptied of its contents earlier and the contents were with the First Accused and that the Brutini bag contained incriminating evidence. There was no allegation in any event that SGT Raj Kumar or any other officer had threatened him in any way.

138 The recording of the questions and answers at Clementi Police Division HQ by SSSGT Chandrasegaran was witnessed by SGT Raj Kumar and SSGT Azman. Again, no inducement, threat or promise was alleged by the Second Accused in Court. He said he could not remember whether the CNB officers had discussed the arrest of the First Accused and the seizure of the drugs in the yellow plastic bag. It could not be that he would answer that the SCTS bag contained 2 kilogrammes of marijuana simply because SSSGT Chandrasegaran had said it could have or that he would regurgitate what he had heard about the Brutini bag as if it was his personal knowledge. Like the First Accused's oral statement to Insp Sivaraman, the Second Accused's answers to SSSGT Chandrasegaran's questions were damning and totally demolished his defence of lack of knowledge. It made no difference even if the Nokia battery charger found in the Brutini bag was not for his handphone. Only the Second Accused knew why it was inside the bag together with the drugs.

139 Both Accused persons insisted that they did not ask nor look into the yellow plastic bag and knew nothing about its contents. I found their evidence incredible. How could they not have at least asked what the size of the thing to be delivered was? What if it turned out to be a table? Further, they would surely want to know whether the thing was fragile or perishable. After all, the box-like thing could well hold a precious vase which could be easily broken or even be ice-cream which would have melted in the carrier box!

140 Ravi, the Malaysian friend, was in the travel business and had driven to Singapore from Johor on many occasions, in particular to the food centre at Jurong East. It was impossible that Ravi would be so familiar with Jurong East but was so unsure about the area around Jurong West, not more than five minutes away by car, that he had to bring the things to Blk 347 so that they could be delivered to Jurong West St 42. Alternatively, if the intended recipients could make their way to the bus stop along Jurong West St 42, they could just as well have been informed to meet Ravi at Blk 347 Jurong East. As a further alternative, the Second Accused could have gone in Ravi's car and shown him the way to Jurong West St 42. If his "messy" state had not stopped him from spending a few hours at a public place, I saw no reason why he should fight shy of going with Ravi for a ten-minute round trip. Ravi also did not appear to have been in a terrible hurry to go elsewhere.

141 Ignorance is a defence only when there is no reason for suspicion and no right and opportunity of examination and ignorance *simpliciter* is not enough (*Yeo Choon Huat v PP* [1998] 1 SLR 217). Ravi was known to the Second Accused to have access to drugs. Taking all the facts into consideration, it was patently clear that both the Accused persons did not need to ask or to look into the yellow plastic bag because they knew what was inside.

142 On the issue of whether the \$100 promised to the First Accused was intended to be a loan or a payment, I would say the various statements seemed to indicate it was a payment for the delivery service rather than a loan, although a loan had originally been requested. Even if it was a loan, with the rentals already collected, it was strange that the First Accused still required a \$100 loan on 1 March 2001. Further, when the money was not to be handed over until the evening of 1 March 2001, it was again strange that the First Accused, who had intended to use the money or part thereof for a gift for his wife, would immediately ask his wife to join him to go shopping. In any event, it made no material difference to the Charges whether it was a loan or a payment as either would be some form of consideration for delivering the drugs and consideration need not even be proved here. I emphasize at this juncture that I am not in anyway implying that the Tamil interpreter was less than diligent or competent in his duties. On the contrary, I felt he had interpreted faithfully during the recording of the various statements.

143 The Prosecution was entitled to invoke the presumption concerning trafficking in Section 17 (d) of the Misuse of Drugs Act against the First Accused. However, in the light of what I have set out above, it was clear that the First Accused had the drugs for the purpose of trafficking and there was no need to rely on the presumption. The Charge against the First Accused alleged trafficking "at about 5.15 pm". In my view, that approximate time was sufficient for the facts here even though I have said the arrest of the First Accused took place at about 5.25 pm. The occasion specified in the Charge was manifestly clear to the First Accused.

144 Direct evidence of a conspiracy between two or more persons would rarely be available. "A frequent method of proving a conspiracy is to show that the words and actions of the parties indicate their concert in the pursuit of a common object or design, giving rise to the inference that their actions must have been co-ordinated by arrangement beforehand" (*Lai Kam Loy & Ors v PP* [1994] 1 SLR 787 at page 795). In my opinion, the Prosecution has proved the conspiracy alleged. Both the Accused persons were aware that they were handling drugs. They were in constant communication with each other and were obviously playing their respective roles in moving the drugs in question from one place to another.

145 Both Charges having been proved beyond reasonable doubt, I convicted both the Accused persons and passed the mandatory death sentence on them.

Sgd:

TAY YONG KWANG
JUDICIAL COMMISSIONER