Public Prosecutor v Vignes s/o Mourthi & Another
[2002] SGHC 240

Case Number : CC No 25 of 2002
Decision Date : 15 October 2002
Tribunal/Court : High Court
Coram : Tay Yong Kwang JC
Counsel Name(s) : —
Parties : —

Judgment

GROUNDS OF DECISION

1 The two accused persons were tried jointly. They were convicted and sentenced to suffer death.

2 Vignes s/o Mourthi ("B1") faced the following charge :

"That you, Vignes s/o Mourthi, on or about the 20th day of September 2001, at about 1.00 pm along No 6 Admiralty Road outside An-Nur Mosque, Singapore, did traffic in a controlled drug specified in Class 'A' of the First Schedule of the Misuse of Drugs Act, Cap 185, to wit, by delivering a packet of drugs containing not less than 27.65 grams of diamorphine for a sum of S$8,000 to Sergeant S Rajkumar, an officer of the Central Narcotics Bureau, without any authorisation under the said Act or the regulations made thereunder and you have thereby committed an offence under Section 5 (1) (a) of the Misuse of Drugs Act, Cap 185, and punishable under Section 33 of the said Act".

3 Moorthy A/L Angappan ("B2")was tried on the following related charge :

"That you, Moorthy A/L Angappan on or about the 20th day of September 2001, in Singapore and elsewhere in West Malaysia, did engage with one Vignes s/o Mourthi, male/21 years, FIN NoF8465925T in a conspiracy to do a certain thing, namely, to traffic in a controlled drug specified in Class 'A' of the First Schedule of the Misuse of Drugs Act, Cap 185, to wit, to deliver a packet of drugs containing not less than 27.65 grams of diamorphine for a sum of S$8,000 to Sergeant S Rajkumar, an officer of the Central Narcotics Bureau, without any authorisation under the said Act or the regulations made thereunder, and in pursuance of the said conspiracy and in order for the doing of that thing, an act took place, namely, you handed the said drugs to the said Vignes s/o Mourthi in order to enable him to deliver the said drugs in Singapore, and you have thereby abetted an offence under section 5 (1) (a) read with section 12 and punishable under section 33 of the Misuse of Drugs Act, Cap 185".

THE PROSECUTION'S CASE

4 About a week before 20 September 2001, SGT S Rajkumar of the Central Narcotics Bureau ("CNB") received information from an informer that there was a Malaysian syndicate looking for heroin buyers in Singapore. The syndicate members were Indians who were very discreet and would not pass on their telephone numbers. SGT Rajkumar asked that a deal be arranged with him posing as a potential buyer of heroin. His mobile telephone number was given to the syndicate for this purpose.

5 At about 11 am on 20 September 2001, the informer contacted SGT Rajkumar and told him that the Malaysian Indian seller was willing to sell one pound of heroin for S$8,000 and that he was to hurry to Marsiling Mass Rapid Transit ("MRT") station to wait for the seller's next telephone call as the seller would not wait long for him. SGT Rajkumar informed his superior, ASP S Krishnan, about this development.

6 ASP Krishnan then called a meeting in his office at about 11.30 am where he briefed eight CNB officers (including SGT Rajkumar) about their deployment for the imminent operation to arrest the heroin seller. He told the officers that SGT Rajkumar, acting as the buyer of heroin, would be travelling in vehicle number SDF 9073B driven by SGT Daniel Gan, the supposed financier. They were to keep observation on SGT Rajkumar when he met the seller later for the transaction. SGT Rajkumar would give a thumb-up signal once the transaction was completed and that would be the signal for the rest of the officers to move in for the arrest. SGT Rajkumar was given a S$50 note with the serial number OBS434917 which he placed over pieces of blank paper. The bundle was then rolled up to appear as if it were a stack of S$50 notes. Two other CNB officers in another vehicle were told to meet the rest at the Marsiling MRT station. At around noon, SGT Rajkumar and SGT Daniel Gan left for the said station in vehicle number SDF 9073B while the rest left in a van.

7 The CNB officers arrived at the Marsiling MRT station at about 12.20 pm. SGT Rajkumar met his informer as the seller of drugs was only willing to call the informer's mobile telephone. About ten minutes later, SGT Rajkumar received a telephone call from someone identifying himself as Vignesh who told him that the place of transaction had been changed to Admiralty Road in front of the An-Nur Mosque (in Woodlands, a short drive away). SGT Rajkumar informed Vignesh that his name was Segar. Vignesh asked SGT Rajkumar what his mode of transport was and the CNB officer informed him that he was in a silver-coloured car with the numbers 9073. SGT Rajkumar then relayed the information on the change of venue to the rest of the CNB team which left immediately for the said mosque to take up their positions.

8 About ten minutes later, SGT Rajkumar left with SGT Daniel Gan. Along the way, SGT Rajkumar was informed by one of the officers that a male Indian wearing a green jacket and carrying a helmet containing a white plastic bag was walking with a limp up and down the area in front of the mosque, between a bus stop and the junction of Admiralty Road and Woodlands Centre Road.

9 At about 12.55 pm, the undercover vehicle pulled up near the mosque. A male Indian (B1) was staring at the vehicle. As he approached the vehicle, SGT Rajkumar got out and walked towards him. The ensuing conversation in Tamil between the two of them was subsequently recorded in English by SGT Rajkumar in the field book at Clementi Police Division. The entries read :

"Raj	-	Hi
Vignesh	-	U Segar right
Raj	-	Yes
Vignesh	-	I'm Vignesh
Raj	-	How
Vignesh	-	Where's the money
Raj	-	With my partner (pointing to SGT Daniel Gan who was in the driver's seat)
Raj	-	Where's the stuff

Vignesh	-	I've put in front, near the mosque. Take the money and follow me.
Raj	-	OK (took the money from SGT Daniel Gan and followed Vignesh)
Vignesh	-	How, can u trust the male Chinese in the car
Raj	-	Don't worry, he's my financer. Without him I can't deal
Vignesh	-	(After stopping in front of the mosque, after the gate of the mosque) The stuff is with me. Take out the money. You know how much is it right
Raj	-	$8000/- right
Vignesh	-	Yes
Raj	-	Where's the stuff
Vignesh	-	(Handed over the white plastic bag from his Maroon helmet) Is the money correct
Raj	-	Yes (Handed over the money to him)
Raj	-	Is the stuff good
Vignesh	-	It's very good. U watch and see. You are sure to come back to deal with me again".

10 Following that, SGT Rajkumar gave the thumb-up pre-arranged signal and B1 was placed under arrest by some of the CNB officers in the team. The S$50 note was recovered from B1's right hand. SGT Rajkumar showed ASP Krishnan the

white plastic bag handed over to him by B1. There was a red plastic bag inside with a packet of yellowish granular substance.

11 B1 was then made to sit in the back seat of a CNB staff car flanked by a CNB officer on each side. SGT Rajkumar identified himself as a CNB officer and questioned B1 who told him that his "annai" or elder brother had given the packet to him and that the brother was somewhere in the vicinity waiting to collect the money from him. As B1 would like to contact his brother, one of the CNB officers' mobile telephone was used for that purpose. After B1 had spoken to his brother over the mobile telephone, he informed the CNB officers that his brother was in the vicinity of the fruit shop along Woodlands Centre Road and that he was on a motorcycle. The CNB staff car was then driven towards the junction for B1 to point out his brother. B1 identified a man in a grey shirt standing next to the Woodlands Post Office Savings Bank branch as the brother.

12 ASP Krishnan and another CNB officer, who had walked towards the fruit shop , were contacted and they moved in to arrest that man (B2). ASP Krishnan identified himself and asked B2 what he was doing there. B2 replied that he was waiting for his friend. When the CNB officer asked for the name of the friend, B2 did not mention any name. B2 asked the CNB officer, 'What happened, what happened?' several times and also asked why he was being arrested. B2 was searched and a set of keys was found on him. He then led the CNB officers to his motorcycle JFY 8591 parked nearby. Nothing incriminating was found on the motorcycle.

13 The team of officers then left Woodlands together with B1 and B2, who were in separate vehicles, for Clementi Police Division.

14 In his office, at about 2 pm that day, ASP Krishnan questioned B1 in the presence of SGT Rajkumar. The questions and answers recorded in the field book were as follows :

"Q1 Pointing to a red plastic bag containing the drug exhibit, I asked the 1st accused in Tamil, What is this ?

A1 Kallu (stone in Tamil)

Q2 Who gave it to you?

A2 He, Moorthy gave it to me

Q3 What did he ask you to do with it (exhibit)

A3 Moorthy asked me to hand it over to Thayiru. He also asked me to collect $8,000 from Thayiru.

Q4 Showing the accused a passport with photograph, I asked him, Is this Moorthy? Passport no. H581957 of Moorthy A/L Angappan was shown to the accused.

A4 Yes, this is Moorthy".

The questions and answers were then read back to B1 in Tamil. He declined to make any corrections. He then signed in the field book.

15 ASP Krishnan, an officer with 25 years of experience, and SGT Rajkumar testified that 'kallu' or stone in Tamil was street jargon for a pound of heroin in granular form. Both CNB officers disagreed that B1 had in fact mentioned "sambrani kallu", said to be a yellowish, strong-smelling substance used as incense for religious purposes, a packet of which would cost only a few dollars and which was easily available. ASP Krishnan stated that he would have recorded accordingly if those words had been mentioned by B1.

16 At about 2.20 pm, ASP Krishnan weighed the drug exhibit in the presence of both B1 and B2. B2 denied that he was the one who had handed the plastic bag to B1. He explained that he entered Singapore to give B1 a lift back to Johor Baru at B1's request as he had injured himself in an accident a few days ago and his motorcycle had broken down that day. The two accused persons were then sent for urine tests to be conducted. Subsequent analysis by the Health Sciences Authority showed that morphine was not detected in the urine samples of both accused persons.

17 At around 4.05 pm, three CNB officers escorted B1 to his place of work in Exel Singapore Pte Ltd at Changi South Street 2 to conduct a search of his locker. Nothing incriminating was found there. In the meantime, ASP Krishnan and two other officers left with B2 for the Police Cantonment Complex where he handed over custody of B2, the drug exhibit and the belongings of both B1 and B2 to ASP Toh Soon Teck, the investigating officer. At about 5.20 pm, the team escorting B1 arrived and handed over custody of B1 to the investigating officer.

18 At about 5.30 pm, the investigating officer weighed the seized drug exhibit in front of B1 and B2. It weighed about 443.78 grams. This was subsequently handed over to the Centre for Forensic Science, Health Sciences Authority for analysis and was found to contain not less than 27.65 grams of diamorphine, the amount stated in the charges. Subsequent fingerprint examination by the Scene of Crime Unit of the white and the red plastic bags handed over by B1 to SGT Rajkumar showed negative results.

19 After both accused persons had undergone their medical examination, the investigating officer began recording a statement from B1 under section 122 (6) Criminal Procedure Code. This was done from about 8 pm with the assistance of a certified Tamil interpreter, Raja Gopal. In that statement, B1, who spoke in Tamil, said:

"The stuff do not belong to me. It belonged to the male Indian outside this office. His name is Moorthy. He was arrested after my arrest. Moorthy passed the stuff to me at my house in Johor Bahru, Malaysia. After he passed the stuff to me, he asked me to hand it over to Tahir and also gave me a phone number to call Tahir. I rang up Tahir and I asked him to wait for me in front of the mosque in Woodlands. Moorthy also asked me to collect S$8,000 from Tahir after passing the stuff to Tahir. I went to the mosque and handed the stuff to Tahir. Tahir handed the money to me and I was arrested by the same person whom I believed to be Tahir. I do not know that the stuff was heroin. Moorthy told me the stuff were stones. I have not seen heroin before. When I was arrested, then only I knew it was some sort of drug".

The statement was then read back and interpreted to B1 who signed it without addition or alteration.

20 On 24 September 2001, a long statement was recorded by the investigating officer from B1 with the assistance of the same Tamil interpreter. In that statement, B1 recounted that he had an accident while riding his motorcycle on 15 September 2001 and had to travel from his home in Skudai, Johor Baru to work in Singapore on 20 September 2001 as a pillion rider on one Silan's (Jayacelan) motorcycle, arriving here at about 6.45 am. Silan, also a Malaysian Indian residing in Johor Baru, was his colleague and friend. B1 said he carried with him a plastic bag containing food and another plastic bag containing what he thought were stones. The second plastic bag was handed over to him by B2 at about 2 am on 20 September 2001 at B1's home. B2 told him to bring it to Singapore and hand it over to B2's friend, Tahir. B2 gave him a telephone number at which to contact Tahir. B2 also said that Tahir would hand to B1 S$8,000, which B1 was to take and bring back to B2. If B1 could not contact Tahir by 12 noon that day, he should telephone B2 at a given number. B2 told him he would go and collect the S$8,000 from B1 in Singapore. B2 did not explain what was inside the plastic bag or why B1 was to collect so much money for the "stones".

21 When they arrived at their place of work, B1 placed both his plastic bag of food and the plastic bag containing "stones" on a table and then started working. During the course of work, his injured leg hurt badly and he informed his supervisor who permitted him to go home.

22 At about 11.15 am, B1 left his place of work riding a colleague's (Vijayapuri) motorcycle. Unfortunately, the motorcycle suffered punctures in its tyres along the way to the Woodlands Checkpoint and B1 had to hitch a ride to Woodlands from a Chinese man. B1's intention was to go to Woodlands Centre and then telephone B2 to pick him up for

home as B1's Malaysian registered mobile telephone could not be used here.

23 On 26 September 2001, a further statement was recorded from B1 with the assistance of the same Tamil interpreter after the statement made on 24 September 2001 had been read to B1. In this later statement, B1 explained that B2 had gone to his home in Johor Baru twice before their arrest – the first being approximately 8.30 pm on 19 September 2001 and the next being 2 am on 20 September 2001. It was on the 2 am visit that B2 handed him the plastic bag of "stones". On the earlier visit, B2 was seen by B1's wife, his sister and his uncle. B1 was not home then. He had gone to a temple. He walked home at about 9 pm and found B2 waiting for him.

24 B2 told him that he wanted to hand B1 something to carry to Singapore for his friend. When B1 asked him whether he was going to Singapore, B2 said there was no need for him to as B1 travelled there to work everyday and could help deliver the "thing" to his friend, Tahir, in Yishun. B1 told B2 he did not know how to go to Yishun. B2 then told him to telephone Tahir to go to Woodlands. He also asked B1 to collect S$8,000 from Tahir. B1 agreed to make the delivery for him and asked B2 to bring the thing to him.

25 At around 2 am on 20 September 2001, B2 returned to B1's home. B1's wife saw B2 but did not talk to him. In the hall of the house, B2 handed him a white plastic bag with a red plastic bag inside and a piece of paper with Tahir's mobile telephone number in Singapore written thereon. That piece of paper was discarded by B1 after he had made the call to Tahir later that day. When B1 asked B2 what was in the plastic bags, he replied, "stones". B1 agreed to do the delivery for B2 who then left. B1 left the plastic bags in the hall and returned to sleep.

26 He woke up at about 4.30 am and was picked up by Silan at about 5.15 am. He had made prior arrangements with Silan on 19 September 2001. They then left for Singapore.

27 B1 went on to say in his statement that B2, his wife and their two children visited him at his home on 15 September 2001 after learning about his accident earlier that day. He had known B2 for seven to eight years as B2 had once rented a room in B1's family home in Perak for some three months. B2 was the friend of B1's father.

28 In 1999, B1 went to Johor Baru to look for a job. The following year, he met B2 there and they became close friends. He had seen B2 driving a lorry before but did not otherwise know how B2 made his living. B2 had told him that he transported goods and supplied workers.

29 B1 then elaborated on the events in Woodlands on 20 September 2001. After he arrived there at about 12.20 pm, he called Tahir by using a public telephone. Tahir said he would go to Woodlands and would be wearing a white jacket. He also mentioned his vehicle's number. They arranged to meet near the mosque in 10 to 15 minutes.

30 After that, B1 called B2 to inform him that his leg hurt badly and asked B2 to take back his plastic bag of "stones". He told B2 about the arrangements made with Tahir and asked B2 to hand the plastic bag to Tahir himself. B2 said he would go to Woodlands immediately. B1 then bought himself a drink and waited for B2.

31 After waiting for some 15 minutes, B1 decided to go and meet Tahir himself as the arranged meeting time had passed. He put the plastic bag in his helmet and went to the entrance of the mosque. Failing to see anyone fitting Tahir's description there, he was about to cross the road to go to the fruit shop when a car stopped nearby and an Indian man with long hair (SGT Rajkumar) alighted. B1 walked towards him. That man asked B1 whether he was Vignes and whether he was the one who called him. B1 replied affirmatively. That man then asked him, "where is it?" to which he replied that it was in his helmet. That man then asked, "where is your friend?". B1 told him he was on his way. He then took the plastic bag from the helmet and passed it to that man who handed him a rolled up stack of notes.

32 Someone then caught hold of B1 from behind. B1 asked SGT Rajkumar "why he was catching me, for what". He was told he was being arrested by CNB officers. After he was made to sit inside a car, he again asked why he was being arrested and was asked whether he knew what was inside the plastic bag. He replied that he did not know. When the

officer told him it was a controlled drug, B1 told him it did not belong to him but to his "annai" who would be arriving soon.

33 B1 was then asked to make a call to B2. He told B2 to meet him at a fruit stall at Woodlands Centre. A few minutes later, B2 arrived and B1 pointed him out to the CNB officers.

34 The Tamil interpreter disagreed that B1 had mentioned "sambrani kallu" instead of "kallu" in his statements. He did not think that these two Tamil words would be used together in any case – one would refer to "sambrani" as simply "sambrani".

35 Statements were also taken from B2 but they were not adduced in evidence in the Prosecution's case. Among the items found on B2 at the time of arrest was a cash cheque post-dated to 2 October 2001 for the amount of RM1,000 issued by Hi-Tech Transport Agency.

THE CASE FOR B1

36 B1, who was married in April 2001, came to Singapore with B2 twice. Both occasions were in 2001. B2's uncle, who lived in the Yishun housing estate, was not well. B2 wanted to visit him and to collect a letter addressed to B2 but he did not have a motorcycle. He therefore asked B1 to give him a lift, showing B1 the way to Yishun. The second occasion also involved a visit to B2's uncle. After the visit, B2 proceeded to his previous place of work in Singapore to meet his friends.

37 On 15 September 2001, a Saturday, B1 had an accident in Singapore while riding his motorcycle back to Johor Baru and injured his left leg seriously. He was about 1 km away from the Woodlands Checkpoint then. Someone gave him a lift home. His motorcycle was left by the roadside. He went to receive outpatient treatment at a hospital.

38 B1 informed B2 about the accident. B2 told him he was on his way to attend a family birthday function and would go and visit him later. B2 went to his house at around 7 or 8 pm that evening with his wife and their two children and stayed until about 10.30 pm.

39 On Sunday, 16 September 2001, B1's father and B2 paid a visit to B1. B1's father asked B2 and B1's uncle to go to the place of the accident and see if the motorcycle was still there and if so, whether it could still run. They did so and managed to find the motorcycle and ride it back to Johor Baru.

40 B1 was given medical leave. On 19 September 2001, he telephoned his supervisor at his place of work to inform him that he would be reporting for duty the next day.

41 Sometime past 8 pm that evening, B1 and his wife went to a nearby temple. While they were there, B2 called his mobile telephone, saying he was at B1's home and asking him to return home as he needed to talk to him. B1 told him he would return home in about 10 minutes.

42 About 20 minutes later, B1 and his wife were still at the temple. B2 called again. B1 then told him he was on his way home. He reached his home just before 9 pm. His uncle and his sister were there with B2.

43 In the hall, B2 asked B1 to help him deliver something to his friend in Singapore. B1 replied that he had to work the next day and had no time to do the favour requested. B2 said it was to pass "sambrani kallu" to his friend in Yishun. When B1 said he did not know how to go to Yishun, B2 told him there was no need to as he only needed to call a certain number which he would give him. B1 asked B2 where the thing to be delivered was and B2 told him he had gone to his house to ask him first and would return with it within one hour.

44 When B2 was in Perak, he was in the "sambrani" business. He told B1 he was going to do that business again. He also said he had asked for money from that friend in Singapore to do something and told B1 to pass the thing to him and to

get the money from him. When B1 asked him how much the amount was, B2 said it was S$8,000.

45 As B2 was well-dressed that day, B1 asked him where he had been. He replied that he and his brother-in-law had gone to apply for a licence to do a chicken and duck business. This was in addition to the "sambrani" business that he was going to resume.

46 B2 then left. When he had not returned close to midnight, B1 and his family went to bed.

47 At 2 am on 20 September 2001, B1's wife roused him from his sleep as there was knocking at the main door. B1 opened the door for B2 and asked him why he had returned only at that hour. B2 said he was caught in the rain. He then passed the thing to him in a red plastic bag which was tied at the top. He also handed B1 a piece of paper with a telephone number on it. B1 placed the plastic bag and the piece of paper on a table, told B2 he would deliver the thing and they parted. He did not open the plastic bag to look at its contents. When B1's wife asked him later why B2 had gone to their house, B1 reminded her that B2 had said earlier he would be returning with "sambrani kallu". They then returned to bed.

48 B1 woke up at about 4.30 am and left home at 5.15 am, holding in his hand the plastic bag and the piece of paper from B2 together with a packet of food prepared for him by his wife. He had arranged with a friend and colleague, Jayacelan, to pick him up and travel together to work in Singapore on Jayacelan's motorcycle. Along the way to the Johor Checkpoint, he bought a loaf of bread.

49 They passed the checkpoints on both sides of the Causeway without any difficulty and arrived at their place of work at about 6.30 am. There, B1 placed all the things he was holding on a table and started to clear the cargo that had to be shipped out.

50 At 7 am, he called B2 as the telephone number written on the piece of paper was not legible. After getting the number from B2, he continued with his work until about 8.30 am when he called B2's friend, Tahir, from a telephone in the office. He had not met Tahir before.

51 B1 introduced himself to Tahir, told him that B2 had left "sambrani kallu" with him and asked Tahir to go to his place of work to collect it. Tahir told him to go to Yishun instead. B1 replied that he did not know the way there and that he had a recent accident and was working at that time in any case. He told Tahir to meet him at his place of work at 1 pm, his lunchtime. Tahir agreed to do so if he could get a car.

52 B1 then continued working. Between 9 and 10 am, he called B2 again to confirm that he had managed to contact Tahir and to make the arrangement for him to take the "sambrani kallu". B2 reminded him about the money he was to collect.

53 B1 resumed his work after that but found that his injured leg was hurting him badly. He had consumed all his entitlement of medical leave. His supervisor advised him to take half a day of leave and to go home. He took the advice and at about 10.30 am, he borrowed the motorcycle of his relative and colleague, Vijayapuri. He then telephoned Tahir and told him he was returning home and asked him to meet him at the fruit shop in Woodlands. As Tahir did not know the location of the fruit shop, B1 asked him to be at the mosque there in about 30 to 45 minutes' time. He then left his place of work at about 11 am with the plastic bag from B2.

54 B1 rode Vijayapuri's motorcycle along the Seletar Expressway but near Yio Chu Kang, it suffered a tyre puncture. He waited by the roadside for 15 or 20 minutes before he managed to hitch a ride from someone going to Woodlands. He arrived at the mosque around noon but could not see any male Tamil. B2 had told him Tahir was a Tamil and he had also spoken to Tahir in Tamil over the telephone.

55 B1 then called Tahir using a public telephone. Tahir said he was on his way and would be there in 10 to 15 minutes. He said he would be in a silver-coloured car and told B1 the vehicle's number, which B1 had since forgotten. He also said

he was sporting long hair. B1 told him to be there quickly. He then called B2 and told him about the puncture, that he was on half a day's leave, that Tahir was on his way and that his injured leg was aching. He asked B2 to go to Woodlands quickly and pass the thing to Tahir himself. B2 told him to stay put as he would travel to Singapore, pass the thing to Tahir and then give him a ride home.

56 After that, B1 called Vijayapuri to inform him about the location of his abandoned motorcycle. Vijayapuri told him that his locker key was with the motorcycle's ignition key and that his passport was in the locker at their place of work. He asked B1 to wait for him at Woodlands Centre.

57 B1 then walked to the fruit shop to buy a drink. He waited for Tahir as he should be there before B2 who would take about half an hour to travel from across the causeway. After waiting for 15 minutes, B1 telephoned Tahir again, expressing his annoyance at Tahir's lateness. Tahir said he would be there shortly. B1 walked to the bus stop near the mosque to sit down. After another 10 to 15 minutes, he got up and started walking back towards the fruit shop. He decided to go home. While waiting for the lights to change in order to cross the road, he kept turning back in the direction of the mosque. It was then that a silver-coloured car pulled up and a long-haired Tamil man in a white jacket alighted.

58 Thinking that man could be Tahir, he walked back towards the mosque. That man asked whether he was Vignes. He said he was and asked him whether he was Tahir. That man then started walking back towards the car and B1 followed. He explained that he was caught in a traffic jam. He pointed to the Chinese driver in the car and said he arrived with him. B1 asked if that was his friend and Tahir confirmed it. B1 then told him that B2 was on his way. Tahir asked him where the thing from B2 was and he took the red plastic bag from his helmet and passed it to him. When B1 asked Tahir about the money that B2 had asked from him, Tahir took out some money from his jacket and placed it in B1's hands.

59 It was then that a man touched B1's back and said, 'CNB'. B1 asked him what was 'CNB' but received no explanation. Instead, he was handcuffed. He was stunned. He felt giddy and did not know what was happening. He asked Tahir (SGT Rajkumar) what was happening. When the officer asked him what was in the plastic bag, he told him it was "sambrani kallu" and that B2, Tahir's friend, had asked him to give it to him. When told it was an illegal substance, he became frightened and started trembling. He was close to tears. He told the officer about B2 and was asked to make a call to him. The officer dialled the number he provided and instructed him to say nothing beyond asking him to go to the meeting place at the fruit shop. B2 said he had just passed the Singapore Customs and was told by B1 to "come quickly". A few minutes later, B1 saw B2 standing near some parked motorcycles and identified him to the CNB officers

60 At the Clementi Police Division, ASP Krishnan spoke to B1 in Tamil and asked SGT Rajkumar to record the taking of the statement but the SGT told the ASP to record it himself. When the statement was taken by the ASP, SGT Rajkumar was not present. He returned after the statement had been recorded and read it. B1 said "sambrani kallu" and not "kallu" to ASP Krishnan who paused and then asked him to repeat what he had said. When the ASP read the statement back to B1 and said "kallu", B1 corrected him and said, "sambrani kallu, annai". However, the ASP did not make any correction or offer him an opportunity to do so.

61 When the CNB officers were taking him to his place of work to search his locker, B1 cried and asked them why they were embarrassing him at his place of work for something he had not done. His locker had no lock and was opened by his supervisor without the need to use any key. Vijayapuri's locker was also searched as B1 had told them about the motorcycle he borrowed. Nothing was found in both lockers.

62 At the Police Cantonment Complex, B1 was told by an officer not to speak to B2. However, B2 told B1 not to implicate him and to say that B2 did not know about the thing and did not pass it to B1. B1 informed the Tamil interpreter about this but he did not do anything about it. He also informed ASP Krishnan and SGT Rajkumar about what B2 had told him.

63 During the recording of the statements by the investigating officer, the Tamil interpreter had difficulty understanding B1, often asking him to repeat what he had said. The interpreter even told B1 to speak properly as he was

being scolded by the investigating officer. The investigating officer also scolded B1 using Chinese vulgarities and raised his fist at him. However, B1 maintained his statements were voluntary and he was well treated by the investigating officer. He disputed the accuracy of paragraph 4 of the statement which stated "he also did not explain to me why I collect so much money ($8,000) for the 'stones' ". B1 testified that he did not ask $8,000 for the "sambrani kallu". He also asked rhetorically why he would bring stones to hand over in Singapore, reiterating his point that what he said was "sambrani kallu", not "kallu". He also alleged that what he had told the investigating officer in paragraph 12 of the statement was that he was carrying a red plastic bag with a white one inside and not that he was carrying a white plastic bag with a red one therein. He saw the white plastic bag inside only at the Clementi Police Division when the red plastic bag was no longer tied at the top. He also explained that when one spoke of requesting money in Tamil, that meant that one was asking for a loan. The loan was for B2's proposed new business ventures.

64 B1 called his wife and his sister as witnesses to corroborate his testimony about B2's presence at his home in the evening of 19 September 2001 and in the early hours of 20 September 2001. However, his sister stated that their uncle had not returned home yet when B1 and his wife walked home from the temple. She also said that although she and another of B1's sisters slept in the hall, they did not hear B2's knocking as they were both deep sleepers. Initially, his wife testified that their uncle was home when they returned and then changed her evidence to say that he was not home. Jayacelan also testified for B1. He confirmed that B1 rode pillion on his motorcycle into Singapore in the early morning of 20 September 2001. He noted that B1 was carrying only one red plastic bag and that it probably contained food.

65 Vijayapuri, a 24-year-old Malaysian residing in Johor Baru, was B1's colleague in Exel Singapore on 20 September 2001. His services were terminated in January 2002 after he made unauthorized telephone calls home from his place of work. He testified that he did lend his motorcycle to B1 on 20 September 2001 for him to return home. Later, B1 called him from a saree shop in Woodlands to inform him that his motorcycle's tyre had a puncture. B1 asked him to go to Woodlands to get the ignition key from him. Vijayapuri then told his supervisor and left for Woodlands at lunchtime, which was 12.30 pm to 1 pm. His supervisor gave him an extra half hour to go to Woodlands and then return to the place of work. He did not have a spare ignition key with him. Further, his locker key was with the ignition key and his passport was in the locker. He needed his passport to return home that day.

66 When he arrived in Woodlands, he could not locate B1 at the saree shop. He walked about looking for B1. While standing near the parked motorcycles outside the Post Office Savings Bank branch, he saw B2 running from the traffic lights near the mosque towards the fruit shop. Two men were running after him. They caught up with B2 and one of the men caught hold of B2's shirt collar. The other man slapped B2 on the back of his neck. B2 was then handcuffed.

67 Vijayapuri was a distant relative of B1. They grew up together in Perak and got along well. It was B1 who got him a job in Singapore and told him to go to Johor Baru three years ago. He stayed in B1's house in Johor Baru until B1 married in Apr 2001. He travelled with B1 on B1's motorcycle to work in Singapore until he bought his own motorcycle.

68 Vijayapuri had met B2 before. He said he was closer to B1 than B2 was.

69 On 20 September 2001, he and B1 were in the morning shift. He met B1 at around 7 am. B1 was not carrying anything in his hands but was limping. Each of them had a locker. Vijayapuri kept his locked while B1's locker had no key. B1 asked to borrow his motorcycle sometime past 10 am that morning, telling him that his leg was hurting and that he was going home after collecting some medicine. He then passed a bunch of two keys to B1 – his motorcycle ignition key and his locker key. It was not Vijayapuri's practice to carry the key to his house with him. He would return home later that day by taking a lift from one of his colleagues. He travelled to Woodlands at lunchtime using a friend's motorcycle.

70 If he could not get his locker key back from B1, Vijayapuri would have to ask for a spare locker key from his supervisor and risk receiving a warning letter. He was also concerned about his motorcycle which was abandoned along the expressway. He added that he did not tell B1 that his passport was in his locker.

71 He did not see B1 at Woodlands that day. After witnessing the arrest of B2, he rode the motorcycle back to his

place of work. He could not wait for B1 any longer as he had to return by 1.30 pm. He managed to get his passport as his superior had a locker key with him.

72 When the CNB officers went to search the lockers, he was not there. He went with some friends to retrieve his motorcycle that night. He denied the suggestion that he sent B1 to Woodlands on his motorcycle that day or that the 'brother' B1 was referring to when questioned by the CNB officers was in fact him. He could not confirm whether the bunch of four keys found on B1 when he was arrested belonged to him.

THE CASE FOR B2

73 B2, a self-employed man engaged in the transport business with a monthly income of about RM2,000 , testified that he was informed by B1 over a telephone call that he had met with an accident on 15 September 2001. That evening, he went with his family to visit B1 at his home. B1 requested his assistance in retrieving his motorcycle which was left behind in Singapore. B2 agreed and went with B1's uncle the next day to bring the motorcycle back to Johor Baru. B2 visited B1 before returning home.

74 On 18 and 19 September 2001, B1 called B2 as he wanted to borrow B2's motorcycle. B2 told him that he had not paid road tax on his motorcycle and it could not therefore be ridden past the checkpoint at the Causeway. He told B1 he would try to borrow a motorcycle from one of his friends. However, B2 did not succeed in borrowing one for B1.

75 In the morning of 19 September 2001, B2's sister, Arasakumari, and his brother-in-law, Ragu, went over to his house. B2 then went out with his brother, Ponnusamy, and Ragu to some government agencies to make enquiries about quail farming and the duck egg business that he and Ragu had planned some months earlier to engage in. They returned to B2's house at around 2 to 3 pm. Ragu and his family then left.

76 At about 6 pm that day, B2, his wife and their two children went to his sister Puspah's house with the intention of giving a belated birthday gift to his seven year old nephew, Ganesan, whose birthday fell on 2 September. B2 and his family attended the birthday celebrations on 2 September 2001 but did not bring a gift then as he was short of money. He decided to make it up to Ganesan on 19 September 2001 by bringing him the belated birthday gift. Puspah's house was in Dedap Taman Johor Jaya outside Johor Baru and, according to B2, the travelling time between Puspah's house and B1's house in Johor Baru was about one hour.

77 When they arrived at Puspah's house, only the four children of her family were at home. After B2 had handed Ganesan the gift, the boy asked him for a treat. B2 agreed but felt it would be a more joyous occasion if he could get more members of the family to assemble there. He therefore called Ragu and told him to bring his family to Puspah's house for a treat. He also told Ragu to inform another of his sisters, Jayanti, to join them with her family.

78 When Puspah's husband returned home later and found out about the treat, he asked B2 to buy some liquor. B2 then left alone to buy food and drinks. While he was doing so, B1 called to ask about the motorcycle that B2 had said he would try to borrow for him. He told B1 he had still not managed to get one but would call him again later.

79 When B2 had bought noodles and returned to Puspah's house at about 7.30 pm, the rest of the family invited by him had arrived. Ragu had bought some chicken from Kentucky Fried Chicken. They began eating. At about 9.30 pm, the four men at the gathering played cards while the ladies talked and watched television. At 11 pm or so, they cleaned up and then left.

80 B2 and his family left for home. He did not go to B1's house at all that night. Back home, B2 watched television for a while and then went to sleep until the next morning.

81 The next morning, 20 September 2001, he received a telephone call from B1 sometime between 9 and 10 am. B1 said he had been given medical leave that day and asked B2 to do him a favour by travelling to Singapore to pick him up and

then return to Johor Baru together. B2 told B1 that he (B2) might have to do a delivery at around noon and asked B1 to contact him again after noon.

82 B2 then waited for his customer, one Ravi Menon, to call to confirm whether a delivery had to be made at noon. The call did not come.

83 At about 12.30 pm, B1 called B2 to say that his leg was aching badly and asked B2 to pick him up at the fruit shop in Woodlands Centre. B1 also mentioned a tyre puncture. B2 told B1 he would go and borrow a motorcycle from a friend and travel to Woodlands to meet him. B2 then rode his own motorcycle (for which he had not paid road tax) to his friend's house, borrowed his friend's motorcycle and started on his way to Singapore.

84 When he was at the Singapore Checkpoint, he received a call from B1 who asked him why he was not at Woodlands yet. B2 informed him that he would be there in about five minutes.

85 B2 arrived at the fruit shop but could not see B1. He then parked his motorcycle and was checking his mobile telephone to see if there was any signal so that he could call B1 when two CNB officers apprehended him. They asked him what he was doing there and he told them he was waiting for a friend. He kept asking the officers the reason for arresting him. He was subsequently brought to the Clementi Police Division.

86 In his statement pursuant to section 122 (6) Criminal Procedure Code made on 20 September 2001, B2 said he had nothing to do with the drugs in question and that B1 was injured and had asked him to fetch him back to Johor Baru. When B2 was questioned by the investigating officer on 27 September 2001 about his whereabouts on 19 September 2001, he told him through the Tamil interpreter that he was at Puspah's house "helping in preparation of her son's birthday dinner. It was his 7 years old birthday".

87 B2 sold one of his lorries to Ravi Menon, the customer mentioned earlier, for RM25,000 about two months before 20 September 2001 to raise funds for his proposed new ventures in quail farming and duck eggs. He was paid RM8,000 in cash but RM5000 went to the finance company and RM2,000 to 3,000 were expended for the inspection of the lorry. A postdated cheque for RM17,000 was also given to him and that could only be cashed at the end of September 2001.

88 B2's wife, B2's sister and her husband (Ragu) were called to testify in B2's defence. Their accounts about the events of the morning and the evening of 19 September 2001 were by and large consistent with that of B2. B2's wife said that as far as she knew, B2 did not leave their home after returning from the gathering at Puspah's house.

89 B2 explained that he was willing to do B1 the favour of fetching him from Singapore on 20 September 2001 as B1's family had been very kind towards his family. He recalled an incident in 1998 when his then pregnant wife, his mother and his brother met with an accident near Seremban while they were travelling from Perak to Johor and were hospitalized. When B1's father heard about the mishap, he and his family drove from Perak to Seremban to visit B2's family and to offer help. This event was not disputed by B1 in evidence. Further, B1's father had asked B2 to take care of his son in Johor as the rest of the family was in Perak.

90 B2 surmised that B1 had pointed the finger at him in desperation despite their closeness because he had been caught with the drugs and wanted B2 to take the rap on his behalf.

91 Two of the supervisors of B1 and of Vijayapuri at their place of employment were called by B2 to testify. They were in B1's list of witnesses but B1 decided not to call them eventually. Their evidence was that they were not requested by Vijayapuri to open his locker with a spare key on 20 September 2001. Indeed, when the CNB officers arrived that afternoon to search the lockers, his locker was not locked. They also said that there would have been no problem if Vijayapuri were to ask for a spare key to open his locker. One of the supervisors testified that Vijayapuri was dismissed after he was found absent from work and not because of any misuse of the office telephone as alleged by him.

THE DECISION OF THE COURT

92 At the close of the Prosecution's case, it was clear that B1 had to be called upon to enter on his defence in the light of the evidence that he was in possession of the drugs in question and had handed them to SGT Rajkumar and by virtue of the presumptions in sections 17 (c) and 18 (2) Misuse of Drugs Act. However, B2's counsel put up spirited arguments on why B2 should not be called upon to enter on his defence. He submitted that a statement of an accused person could be used as evidence against his co-accused under section 30 Evidence Act only if it amounted to a confession against the maker. The case against B2 rested solely on the statements of B1. The presumptions in the Misuse of Drugs Act did not apply to B2. The offence of drug trafficking required both *actus re*us and *mens rea* and it was clear that B1 had admitted only the *actus reus* of passing the packet to SGT Rajkumar (whom he thought was Tahir) while denying the *mens rea* of knowledge of its true contents. It was said that B1's statements could not be considered confessions in that they entirely exculpated himself and incriminated only B2 and that, as a matter of public policy, no man should be required to defend himself solely upon the unsubstantiated allegations of a drug trafficker who was caught red-handed.

93 The Prosecution argued that B1's statements amounted to confessions under section 17 (2) Evidence Act. All that was required was that the statements asserted or suggested the inference that the accused committed the offence (*Chai Chien Wei Kelvin v PP* [1999] 1 SLR 25). The statements did not need to be of a plenary or unqualified nature. It was sufficient that they connected the accused in some way with the offence (*Abdul Rashid v PP* [1994] 1 SLR 119; *Tong Chee Kong v PP* [1998] 2 SLR 843). Section 30 Evidence Act applied to joint trials for the same offence, abetment of that offence and attempts to commit that offence (*Goh Joon Tong and Anor v PP* [1995] 3 SLR 305).

94 Bearing in mind that only a minimum evaluation of the evidence was required at the close of the Prosecution's case (*Ng Theng Shuang v PP* [1995] 2 SLR 36), I was of the view that B2's defence should be called upon. B1's statements amounted to confessions. They revealed an agreement that B1 would deliver a packet to one Tahir, collect S$8,000 from him and hand the money over to B2. The essence of a conspiracy is agreement. They also showed that B2 did hand over the packet to B1 who subsequently travelled to Singapore, delivered it to SGT Rajkumar and collected what he thought was a bundle of dollar notes amounting to S$8,000. They also showed that B2 then travelled to Singapore to meet B1 and to receive the money from him.

95 B2's counsel expressed his concern that a man accused of molesting a woman could be held to have confessed to the offence simply because he said he did come into contact with the woman but claimed that it was accidental. However, offences falling under the Misuse of Drugs Act are different from other offences in that there are presumptions in the Act which assert a certain state of facts or of knowledge until it is proved to the contrary by the defence. Therefore, since B1 had admitted he was in possession of the plastic bag containing the drugs, he was presumed to be in possession of the drugs and to have known the nature of the drugs despite his protestations to the contrary in the same statements.

96 On the totality of the evidence adduced, it was impossible to accept that B1 thought he had been given a packet of "sambrani kallu" by B2. It was something that could be easily purchased with a small amount of money. It was extremely odd that B2 should ask him to pass something of no great value or apparent consequence to someone B1 had not even met before on his first day back at work after the accident, especially when B1 did not have his own means of transport. Further, why could not B2 have brought the small packet along with him when he went to B1's house in the evening of 19 September 2001? Why was there a need for him to return a few hours later in the early hours of 20 September 2001 just to pass such a packet to him? What was the urgency that caused B2 to wait for the rain to stop and to travel to his house in the middle of the night? The evidence showed clearly that something surreptitious was happening and if B1 appeared so uninquisitive, it could only mean that he was aware of what was in the packet that he was to bring into Singapore.

97 It was no coincidence that the CNB undercover officer was first told that the place of the transaction was the Marsiling MRT station, then outside the mosque at Woodlands and the fact that B1 was at that location at the meeting time, waiting for a car with the same number plate, to deliver the goods and to receive precisely the same amount agreed upon by the drugs supplier and the CNB undercover officer through his agent. Clearly, B1 was in Woodlands to deliver drugs and to receive the agreed payment of S$8,000.

98 I believed the Prosecution's witnesses who said that B1 had used a word which was also street jargon for heroin in granular form in his statements. It could not be that ASP Krishnan, SGT Rajkumar, the investigating officer and the Tamil interpreter all misunderstood him throughout or simply refused to qualify "kallu" with "sambrani". In any event, the Tamil interpreter stated that these two words were not used together in the Tamil language. I had no doubt that all the statements taken from B1 had been recorded accurately.

99 It was apparent that B1 realized that the so-called packet of "sambrani kallu" could not have cost anything close to S$8,000 that he was trying so desperately to explain that the money had no relationship whatsoever with the "sambrani kallu" and that it was actually a loan from Tahir for B2's business ventures. In his statements, it was clear that he meant the money was to be taken in exchange for the packet. If it was a loan, why would B2 be asking him to take a relatively large amount of money from a total stranger in a foreign country? After all, B2 was no stranger to Singapore, having worked and travelled here before.

100 B1's testimony on the colour of the plastic bag sought to inject doubt on whether the plastic bag which was found to contain drugs was the one he had received from B2 and handed to SGT Rajkumar. His testimony was contradicted by the CNB officers. More fundamentally, it was contradicted by his own statement which, as indicated earlier, I accepted as having been recorded accurately.

101 B1's evidence about his injured leg causing him a lot of pain flew in the face of his own words about him walking up and down the road outside the mosque even after making the telephone call to B2 to deliver the packet to Tahir himself. Even if he had been given medical leave for that day, it was obvious that he was quite capable of moving about without difficulty. He could certainly ride a motorcycle. If he was in any pain, it was clear that his quest to deliver the packet that afternoon overshadowed any pain or discomfort, despite his testimony about his frustration at the delay. Again, this could only mean that he knew exactly what was in the packet and hence the importance of handing it over to the intended recipient.

102 In the light of his evidence about his own mobility, it was incredible that he could not even take public transport across the Causeway that day. This could only point to the fact that it had been pre-arranged that B2 would meet up with B1 after the transaction and take the money from him.

103 The conversation B1 had with SGT Rajkumar outside the mosque during the transaction showed that B1 was exercising caution before telling the CNB undercover officer that the drugs were with him. It also proved that B1 knew that he was not handing over some sort of incense, the quality of which he knew nothing about and which he did not say B2 mentioned anyway. How else could he have replied to the officer that the stuff was very good and that he was 'sure to come back and deal with me again'?

104 I therefore had no doubt that B1 knew that he was delivering a packet of drugs on 20 September 2001 and that he was to take in consideration thereof the amount of S$8,000, even without the benefit of the presumptions in the Misuse of Drugs Act which B1 had failed to rebut in any event. B1 is therefore guilty of the offence of trafficking as charged.

105 Where B2 was concerned, it was remarkable that the first person B1 chose to place the blame for the drugs on was someone close to him and his family. This was despite B2 having helped B1 only a few days earlier to retrieve his damaged motorcycle from Singapore and the fact that he had agreed to travel to Singapore on 20 September 2001 at short notice on a borrowed vehicle just to fetch B1 across the Causeway. The reaction on the part of B1 did not appear to be contrived at all. Of course he had to deny any knowledge of the drugs in order to exonerate himself from the capital offence.

106 When B2 was approached by ASP Krishnan who asked him for the name of the friend he said he was waiting for, he was noticeably silent. This could only be due to the fact that he was not aware then of the arrest of B1 or that his 'little brother' had led the CNB officers to him. He obviously did not want to implicate B1 at that stage but could not mention any other name in case the CNB officers decided to wait with him for that friend. This showed that his frame of mind was not that of an innocent, benevolent 'elder brother' waiting to fetch his injured younger sibling home. Instead it was

consistent with B1's allegation that B2 was the one who had handed the packet to him and was waiting to get the money from B1. I need only add here that I rejected the evidence of Vijayapuri that B2 was being chased by two men as his evidence contradicted even that of the arresting officers. Vijayapuri's evidence about travelling to Woodlands to meet B1 during his working hours without having agreed on a meeting point was ridiculous. Similarly, his evidence about his locker and the reason for his dismissal was refuted by two impartial witnesses from Exel Singapore. Vijayapuri's evidence was therefore totally unreliable.

107 In B2's statement recorded on 27 September 2001, tendered by the Prosecution in cross-examination, B2 said that he was at his eldest sister's house on 19 September 2001 and 'was helping in preparation of her son's birthday dinner' and that he was at her house from 6 pm until 11 pm during which period he did not go anywhere else. His testimony in court contradicted this. He testified that he left Pushpa's house for some 30 to 45 minutes to buy food for the treat. Further, what was said in the statement clearly meant that birthday celebrations were held on 19 September 2001 as opposed to a mere impromptu treat held after earlier celebrations. His later statement made on 7 March 2002 that his sister's son's birthday 'was a few days prior to 19 September 2001' did not detract from this. The inconsistencies showed that it was highly unlikely that there were celebrations of any sort on 19 September 2001. Further, it was a weekday and it was equally unlikely that a few families would be mustered at such short notice at the mere request of a seven year old boy for a treat from his uncle, especially when he already had his birthday celebrations so recently.

108 The evidence of B1 and his family members that B2 had been to their house on 19 September 2001 and in the early hours of 20 September 2001 was thus much more credible than the evidence of B2 and his family members to the contrary. I am aware that all the respective family members would have the incentive to lie for B1 or for B2 in the hope of exonerating one of them. Equally, accepting B1's version of events on this issue did not mean that I had to accept his denial of knowledge of the contents of the packet passed to him by B2. Indeed, as I have stated earlier, I rejected his denial and found that he was fully aware that he was dealing in drugs. There is no rule of law that the testimony of a witness must either be believed in its entirety or not at all (*Abdul Rashid & Anor v PP* [1994] 1 SLR 119). Illustration (b) to section 116 Evidence Act provides that the court may presume that an accomplice is unworthy of credit and that his evidence should be treated with caution. In the circumstances of this case, I believed B1 only to the extent stated.

109 I found that B2 passed the packet containing the drugs in question to B1 in the early hours of 20 September 2001 with instructions to deliver it to a person who turned out to be SGT Rajkumar for the price of S$8,000 which B1 was to collect and hand over to B2 in Woodlands. It is axiomatic that conspiracy in most cases can only be proved by inference from the conduct of the parties involved. It was argued that no agreement to supply drugs could have been reached between B1 and B2 on 19 September 2001 as SGT Rajkumar had stated that the deal was made only on 20 September 2001. However, this submission overlooked the fact that the CNB officer was dealing through an agent who had been told by him to arrange the deal. The amount of drugs and the price must have been agreed earlier but it was only in the morning of 20 September 2001 that the supplier called to dictate the venue for the transaction. It can be seen how these events fit the evidence of B1 about him calling "Tahir" in the morning and then discarding the piece of paper containing the telephone number. Since B1 used the office telephone to call "Tahir", one wonders how he could remember the number when he decided to call "Tahir" again in Woodlands some time later. B2's involvement in the conspiracy set out in the charge has been proved beyond reasonable doubt and he is guilty of the offence as charged.

110 I should add that Counsel for B1 in his closing submissions urged me not to proceed further with the trial but to direct an investigation into two matters which came to his attention in the course of preparing his submissions.

111 The first related to SGT Rajkumar's handwritten Arrest Report made on 20 September 2001 (exhibit P24) and his record of the conversation he had with B1 during the undercover drug transaction (exhibit P40) (see paragraph 9 of this judgment). It was submitted that a comparison of the handwriting in these two documents raised doubts as to whether exhibit P40 was really written by the CNB officer.

112 The second matter concerned exhibit P40 and the statement of B1 recorded by the investigating officer pursuant to section 122 (6) Criminal Procedure Code (exhibit P25). Again it was said that a comparison of the handwriting in these

two documents showed a high probability that exhibit P40 may have been in the handwriting of the investigating officer and that it could have been cooked up by the SGT and the investigating officer as it was put in evidence only when the SGT went into the witness stand at the trial. Further, exhibit P40 did not bear a 'Certified True Copy' stamp but was certified by the investigating officer in his handwriting only.

113 I did not accede to the startling request of B1's Counsel. Even a cursory perusal of the handwriting in the said documents did not bear out what he had submitted. I had no doubt that the documents, in particular exhibit P40, which incidentally was most damaging to B1, were genuine documents prepared by the officers in the way they had described in evidence.

114 In the result, I found both B1 and B2 guilty as charged and convicted them on their respective charges. As the charges carried the mandatory death penalty, I passed the death sentence on both of them.

Sgd:

Tay Yong Kwang

Judicial Commissioner

Copyright © Government of Singapore.