**IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

**[2019] SGHC 215**

Criminal Case No 7 of 2019

Between

Public Prosecutor

*… Plaintiff*

And

Khoo Kwee Hock Leslie

*… Defendant*

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# GROUNDS OF DECISION

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[Criminal Law] — [Offences] — [Murder]

[Criminal Law] — [Special exceptions] — [Diminished responsibility]

[Criminal Law] — [Special exceptions] — [Provocation]

[Criminal Law] — [Special exceptions] — [Sudden fight]

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# Public Prosecutor
# v
# Khoo Kwee Hock Leslie

## [2019] SGHC 215

High Court — Criminal Case No 7 of 2019
Audrey Lim J
12–15, 19–22, 26–28 March; 9 May; 18 July; 19 August 2019

17 September 2019

**Audrey Lim J:**

## Introduction

1 The accused, Khoo Kwee Hock Leslie ("Leslie") was charged with the murder of Cui Yajie ("the Deceased") under s 300(*b*) of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code") on 12 July 2016 in a car ("the Car"). It is undisputed that he committed the act of strangling the Deceased and disposed of her body by burning it.[1] There were no eyewitnesses to the incident.

2 I found that the Prosecution had proven beyond reasonable doubt the charge against Leslie and that he had been unable, on a balance of probabilities, to prove any of the special exceptions relied on. I therefore convicted him on the charge. I exercised my discretion under s 302(2) of the Penal Code and

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[1] Defence Closing Submissions ("DCS"), paras 3 and 60.

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imposed a sentence of life imprisonment.

**The Prosecution's case**

3 The Prosecution's narrative was summarised in its closing submissions. Leslie and the Deceased were lovers. She believed that he was divorced and the scion of a successful laundry business. He took advantage of her trust by taking $20,000 (about RMB100,000) from her on the pretext of investing it in gold on her behalf. Instead, he used the money for his own purposes. In fact, Leslie was a married, bankrupt ex-convict who was merely an employee in a laundry business. He had cheated on his wife with several women, cheated others of money and cheated his employers.

4 The Deceased was just another person to satisfy Leslie's financial needs and sexual urges. Unfortunately, he grossly underestimated her. She refused to accept his excuses and grew increasingly unhappy with him in the months leading up to her death. She wanted him to spend more time with her and not on his work or with his "ex-wife", and even sent a message to his "ex-wife" telling her to leave him. This was significant as the last time one of Leslie's lovers confronted his wife, his dishonesty and criminal conduct were exposed and he was jailed and bankrupted.[2] The Deceased was also demanding the return of her investment moneys but Leslie only managed to return half the amount to her. A day before the killing, the Deceased had pressed him for the balance.

5 On 12 July 2016, the Deceased informed Leslie that she was going to his workplace to speak to his bosses. Leslie knew that his façade of virtue and

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[2] Prosecution's Closing Submissions ("PCS"), para 53; Trial Bundle (Vol 3), Tab 5, p 53; AB 593 (7th Statement, para 64).



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wealth would be shattered if she did so, and was desperate to stop her at all costs. He called her to dissuade her from going to his workplace, attempted to assuage her concerns by getting his employer to speak to her on the phone, intercepted her at Joo Koon MRT station to try and "talk her down", and when all that failed, strangled her. He then burnt her body, scattered her ashes and disposed of her personal effects. The Deceased was going to unravel the web of lies that Leslie had spun spanning every facet of his life, and he therefore prevented her from exposing his crimes, infidelity and lies by killing her.

## Application for additional witnesses

6 The Prosecution sought to call nine additional witnesses under s 231(1) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"). They were the Deceased's parents, those cheated by Leslie (Yvonne Lim Siew Li ("Yvonne"), Eric Ng ("Eric") and Zhao Cui Lan ("Cui Lan")) and his ex-girlfriends/lovers (Karen Kang ("Karen"), Linda Lim Bee Ling ("Linda"), Zhang Hong and Hu Qin). The Defence did not object to the calling of the Deceased's parents but objected to the rest ("the Disputed Witnesses").

### *Admissibility under sections 8 and 11 of the Evidence Act*

7 The Prosecution submitted that the evidence of the Disputed Witnesses was relevant under ss 8 and 11 of the Evidence Act (Cap 97, 1997 Rev Ed). The evidence would contradict certain facts in issue, such as Leslie's claims of being a *bona fide* investor of the Deceased's moneys and the owner of the laundry business. It would provide the context for and show Leslie's motive to silence the Deceased when she threatened to expose him to his bosses.[3] The probative

[3] 12/3/19 NE 6–7.



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value of the evidence in understanding Leslie's state of mind at the time of the killing far outweighed any prejudicial effect, and the Prosecution was not relying on the evidence as similar fact evidence.

8 The Defence submitted that the Disputed Witnesses' evidence was not relevant to proving the charge and the real purpose was to show that Leslie was a liar and of bad character.[4] Character evidence was inadmissible unless an accused person first adduced evidence of good character. Also, the Prosecution's argument on motive was speculative as there was no evidence to show that the Deceased knew that Leslie was cheating others.

9 The Prosecution argued that the point was not that the Deceased knew about Leslie's cheating but that she would set off a train of inquiry. Her threats were potentially disastrous to his reputation and could expose him to criminal liability. Further, Leslie had made his character an issue as he repeatedly claimed that the Deceased was threatening to tarnish his reputation. The evidence was also relevant because Leslie had made various claims in his statements regarding the source of the moneys and what he did with them.

10 I accepted that the Disputed Witnesses' evidence might be relevant, in particular, to provide context and show whether Leslie had a motive to silence the Deceased, and hence shed light on his intention and *mens rea* at the time of the incident. This is especially when there were no eyewitnesses and the case would largely turn on Leslie's testimony and circumstantial evidence. Even if the Deceased did not know that Leslie was cheating others, the point is that Leslie did, and this could potentially be his undoing should she speak to his

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4 12/3/19 NE 10–14.



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bosses and they put two and two together. The Disputed Witnesses' evidence might be relevant to Leslie's defence of diminished responsibility. He claimed that he suffered from Intermittent Explosive Disorder ("IED"), which manifests with close associates including ex-girlfriends. Hence any behaviour observed by them could shed light on his purported condition. I therefore allowed Karen, Yvonne, Cui Lan, Eric and Linda to be called, but cautioned that I was not determining the weight (if any) to be attached to the evidence just yet.

***Admissibility under s 32(1)(j)(iii) and (iv) of the Evidence Act***

11 As for Hu Qin's and Zhang Hong's evidence, the Prosecution sought to admit their statements under s 259(1)(*c*) of the CPC read with ss 32(1)(*j*)(iii) and (iv) of the Evidence Act, given that they were out of jurisdiction and would not be testifying. Investigation Officer Tan Lian Heng ("IO Tan") testified regarding the steps taken to contact these witnesses.[5] He had recorded Hu Qin's conditioned statement on 13 March 2018, when she was working in Singapore. She left Singapore in June 2018. IO Tan contacted her via WeChat three times in early 2019. Each time, she refused to come to Singapore without giving reasons. As for Zhang Hong, she had left Singapore in June 2016 but IO Tan managed to interview and take a statement from her on 7 October 2016 when she came to Singapore for work. She then left Singapore. IO Tan contacted her via WeChat shortly before the committal hearing in 2018 and again in March 2019, but each time she refused to come to Singapore.

12 The Defence accepted that the requirements of s 32(1)(*j*) of the Evidence Act were satisfied and instead grounded its objection on s 32(3). It argued that the evidence of Hu Qin and Zhang Hong was of limited probative value because

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5 15/3/19 NE 32–35.



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the Prosecution had already lined up several witnesses in that regard. It could not be proved that Leslie would have a stronger motive because there was one more alleged girlfriend or cheating victim. Further, the evidence would be unreliable due to the lack of cross-examination.

13 While noting that parts of Hu Qin's and Zhang Hong's statements might not be relevant to the issues at trial, I was not prepared to rule out their statements entirely. Hu Qin stated that Leslie had met her for a meal, which was just two days after he had strangled the Deceased. Zhang Hong's statement would reveal where the money Leslie used to partially repay the Deceased came from. Their statements might support the Prosecution's case on whether Leslie had a motive to silence the Deceased and how he could disengage himself from the killing. At that stage, Leslie had not yet elected or gone on the stand to testify, and hence the issues in dispute had yet to be completely crystallised. I therefore allowed the statements to be admitted, but again cautioned that I was not determining the weight (if any) to be attached to them yet.

**The Defence's case**

14 The Defence submitted that Leslie was only guilty of culpable homicide punishable under s 304(*b*) of the Penal Code, as the act was probably done with the knowledge that it was likely to cause death, without intention to cause death or such bodily injury as was likely to cause death.[6] However, if he was found to have the *mens rea* under s 300(*b*), the exceptions of diminished responsibility, grave and sudden provocation and sudden fight applied and he would be guilty of culpable homicide punishable under s 304(*a*) of the Penal Code.

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6 DCS, paras 3 and 6.



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15 The Defence's narrative (based on its closing submissions) was as follows. Leslie's relationship with the Deceased was "not always peaceful", and there were instances of her flaring up and then cooling off. The Defence adduced two videos. One showed the Deceased raising her voice at Leslie regarding certain posts she saw on his Facebook page, and another showed her moving her hand towards him and what looked like her knocking his handphone out of his hand when she realised he was filming her.

16 The events of the day leading up to the Deceased's death were entirely unplanned. In the wee hours of 12 July 2016, the Deceased had called Leslie seven times. By the time he returned her calls, she was highly agitated. He could not calm her down despite speaking to her on the phone several times. He then left home and drove to Joo Koon MRT station to pick her up, with the intention of pacifying her. On the way, he set up a conference call with the Deceased and his supervisor, Adeline Toh ("Adeline"), to get Adeline to calm her down. Adeline asked them to meet her at Westin Hotel.

17 When the Deceased boarded the Car, she scolded him and threatened to go to his office to verify if he was really so busy. As Leslie was driving to Westin Hotel, the Deceased changed her mind and refused to go there. He then drove to find a place to stop the Car and talk to her. They ended up near Gardens by the Bay. Leslie believed that he could pacify the Deceased, as was the case in the past. Unfortunately, he could not. She continued scolding him, confronting him about him being busy with work, and insisting on going to his workplace to verify this. Though he apologised, kowtowed to her in the Car and begged her not to blow things up, she was not pacified. He then gave up, told her to do whatever she wanted and unlocked the Car intending to get out.



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18 The Deceased then used her hand to hit Leslie and wanted to continue hitting him but he managed to pin her hands down on her lap, telling her not to resort to physical violence. However, she broke free and intended to hit him again. He pushed her away, but she continued coming at him whilst scolding him. He became agitated, there was a lot of shouting in the Car, and things were happening very quickly. Suddenly the Deceased was not moving and Leslie found, at that point, that his right hand was on her neck. He tried to wake her, to no avail. He checked for her breathing and realised that she had died. He was frightened and drove around aimlessly, not knowing what to do. It was only on the next day that he decided to dispose of the body.

19 Leslie did not intend to strangle the Deceased with the knowledge that such strangulation would likely cause her harm and death. He did not have the time to form that intention given the way things unfolded and escalated.

**Undisputed facts**

20 I first set out the undisputed facts.

21 Leslie, who has been an undischarged bankrupt since July 2010, is married to one Mdm Toh, and they have a son. They were residing at Orchid Park Condominium. He was employed as a Retail Outlet Manager for Dryclyn Express Pte Ltd ("Dryclyn"). He drove the Car, a black BMW, which belonged to Mdm Toh. Leslie and the Deceased became acquainted sometime in 2015.

22 On 7 July 2016, the Deceased sent Mdm Toh a Facebook message:



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> You hv been already divorced, so please leave Leslie far ..... away!!! Don't cheat everybody & show off as a family any longer!!!

***Key events of 12 to 14 July 2016***

23 On 12 July 2016, the Deceased threatened to go to Leslie's workplace to confront his employers and tarnish his reputation. He thus went to Joo Koon MRT station to meet her. The main events on that day were as follows:

(a) In the early morning, the Deceased called Leslie numerous times. He did not pick up her calls. He then called her twice. The Deceased subsequently left the flat she was staying at. Leslie called her again. He then left home in the Car, and made another call to her.

(b) At 6.56am, the Deceased entered the gantry at Holland Village MRT station. Leslie called her. At 7.25am, he called Adeline, and then called the Deceased again. At 7.36am, the Deceased exited the gantry at Joo Koon MRT station. Shortly after, Leslie made a conference call to Adeline and the Deceased. He then called the Deceased. At 7.51am, the Deceased exited Joo Koon MRT station, boarded the Car at 8.00am and sat in the front passenger seat.

(c) Between 8.00am to 9.48am, Leslie stopped the Car along Marina Gardens Drive.

(d) At 9.48am, Leslie drove into the Gardens by the Bay East ("GBTBE") carpark. At 10.10am, he drove out of the GBTBE carpark.[7]

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7 Defence Bundle of Exhibits, pp 16–17; 19/3/19 NE 11–16; 21/3/19 NE 2–4.



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24 At this point I mention a video footage that the Prosecution adduced of the outside of Ikea minimart at Canberra Link. Parties agreed that a black BMW could be seen at 8.05pm on 12 July 2016, with license plate number beginning with "SKU5".[8] It was not disputed that the Car's license plate number is SKU 5556P. I will refer to this video footage again later.

25 On 13 July 2016, Leslie returned to Orchid Park Condominium at about 12.25am and left the Condominium at 5.38am. At about 4.42pm, he purchased around six packets of charcoal from Keng Huat Departmental Store, and kerosene from Jaho Trading Pte Ltd. It should be noted that in one of his statements, Leslie mentioned that he purchased the charcoal and kerosene at about 9.00am.[9]

26 On 14 July 2016, Leslie went to the Deceased's flat. Subsequently, Chong Hwee Nee, who worked with the Deceased at MediaTek, lodged a First Information Report stating that the Deceased had not been reporting to work. At about 9.21pm, Leslie went to Orchid Country Club. He returned to Orchid Park Condominium at around 10.25pm.

27 Sometime between 12 to 14 July 2016, Leslie placed the Deceased under a metal lorry canopy along Lim Chu Kang Lane 8 and burnt her body with charcoal and kerosene. He also moved the body into a nearby drain where it continued to burn. On 19 July 2016, Leslie was interviewed by the police and placed under arrest the next day.

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8 22/3/19 NE 19–20.

9 21/3/19 NE 15–16; AB 573 (6th Statement, para 22).



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***Evidence of Dr Lee Chin Thye***

28 Dr Lee, a pathologist, testified on the three possible mechanisms of death involved in compression of the neck (such as by using a hand).[10] These were:

(a) occlusion of the carotid arteries, which would cut off oxygen supply to the brain if there was a complete bilateral occlusion of the carotid arteries on both sides of the neck, and thus result in immediate unconsciousness;

(b) occlusion of the airway, either by direct compression of the larynx or trachea, which would cut off oxygen supply to the lungs and the rest of the body; and

(c) the carotid sinus reflex – this involved compression of the carotid sinus receptors leading to sending of signals to the heart that could cause cardiac arrhythmia and cardiac arrest.

29 The former two mechanisms would result in death within minutes, while the carotid sinus reflex could cause death instantaneously or within seconds. It was possible to achieve the occlusion of the carotid arteries or airway using one hand to compress a person's neck. As all three structures (*viz*, the carotid arteries, the airway and the carotid sinus receptors) may be compressed during compression of the neck, it is often not possible to identify the mechanism at play in individual cases. A struggle would not predispose any one of the three mechanisms to be more likely than the others.

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10 AB 154–156; 13/3/19 NE 6–17.



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***Leslie's statements***

30 The Prosecution tendered ten statements by Leslie, which admissibility were not challenged, as follows:

(a) two handwritten statements recorded at about 6.15am ("1st Statement") and 9.20am ("2nd Statement"), and a long statement recorded at about 9.30pm ("3rd Statement") on 20 July 2016;[11]

(b) a cautioned statement recorded on 21 July 2016 ("4th Statement");[12]

(c) a long statement recorded on 22 July 2016 ("5th Statement);[13]

(d) four long statements recorded by IO Tan on 30 July 2016 ("6th Statement"), 31 July 2016 ("7th Statement"), 1 August 2016 ("8th Statement") and 2 August 2016 ("9th Statement")[14]; and

(e) a long statement recorded by IO Tan on 3 August 2016 ("10th Statement")[15], upon Leslie indicating that he wished to see IO Tan.

**Disputed issues**

31 There was substantial dispute over the nature of the relationship between Leslie and the Deceased, the events leading up to the killing, what happened when Leslie killed the Deceased, what he did thereafter and when he formulated

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11 AB 561–562; AB 563–565; AB 498–504.

12 AB 508–512.

13 AB 480–491.

14 AB 566–583; AB 584–601; AB 602–613; AB 614–619.

15 AB 621–628.



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the plan to dispose of the Deceased's body. In addition to these, I will consider other material issues below.

***Leslie and the Deceased's relationship***

32 Leslie claimed that the Deceased was a casual friend to the point that he did not know her real name, he did not have sexual relations with her, and he had never given her the impression that he liked her.[16] In his statements and interviews with Dr Koh (who examined him when he was remanded) and Dr Ung (whom the Defence called to opine on whether Leslie had IED), he claimed that the Deceased had a sexual disease and that the relationship was "one way" (*ie*, she initiated all contact).[17] I found that the Deceased treated Leslie as her boyfriend, they were in a relationship, and he had encouraged and given her that impression, even if he claimed (after her demise) that he had no feelings for her.

33 Leslie's claim was contradicted by his own statements and conduct, and the contemporaneous evidence. He had taken the Deceased for an overnight fishing trip, met her for lunch and movies, and bought her flowers, a cake and a gold chain for her birthday. His explanation that he had done all these because she had requested him to do so[18] was unbelievable. He had also asked the Deceased whether she wanted to marry him, but claimed it was to "test" her to find out "[w]hy would she tell [him] strange things every time" and "what was her intention" when she asked him to buy things for her or consulted him on her

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16 19/3/19 NE 59–60 and 74; AB 498 (3rd Statement, para 5); AB 592 (7th Statement, para 59).

17 AB 266; AB 498 (3rd Statement, para 5); AB 570 (6th Statement, para 11); Trial Bundle (Vol 1), Tab 1, p 10; 19/3/19 NE 67.

18 19/3/19 NE 68–69.



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problems.[19] He denied that proposing marriage would give her the impression that he liked her, but this was contrary to common sense. Then, when the Deceased told him she wanted to get pregnant, he said he was old, had no time for her and "cannot *carry on* this kind of relationship with her" [emphasis added].[20] His explanation in court that he had laughed at her in relation to this matter[21] was, in my view, an attempt to downplay their relationship and bolster his claim that they were merely friends. He had also sent text messages to her on 11 June 2016 stating "Should spend more time with u previously", "Any last chance", "We can try again", "Every week spend one day", "See more often". He explained, unconvincingly, that he was trying to help the Deceased "regulate her mood"![22] Finally, it was undisputed that his DNA was found on a toothbrush (which also contained the Deceased's DNA) in her flat. Whilst he claimed that he had never used "other people's" things, he admitted to having gone to her room at the flat.[23]

34 Next, Leslie's account of his relationship with the Deceased was at odds with those who had seen them together. At a movie on 30 June 2016, Chong Hwee Nee, the Deceased's colleague, saw them linking arms, and another colleague, Wu Wenjuan, saw them behaving like a couple and Leslie carrying the Deceased's handbag.[24] Leslie admitted that the Deceased had placed her hand on his arm on that occasion.[25]

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19 AB 499 (3rd Statement, para 11); 19/3/19 NE 114–115.

20 AB 592 (7th Statement, para 58).

21 19/3/19 NE 116.

22 Extracts from TCFB Report ("TCFB Report"), pp 54–55; 19/3/19 NE 100–101.

23 AB 175 and 188; 19/3/19 NE 95–96.

24 Trial Bundle (Vol 1), Tab 5 (para 5); 12/3/19 NE 36, 41, 43, 49.

25 19/3/19 NE 86, 106.



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35 Various persons also related what the Deceased had informed them regarding Leslie. The Deceased had told her parents that she was in a relationship with a Singaporean man who worked in his family's laundry business, she had informed Wu Wenjuan that she and Leslie were in a sexual relationship and she was trying to bear his child, and she had informed Wang Linying, another colleague, that Leslie was her boyfriend.[26] The testimonies of these witnesses, pertaining to what they were told, were not challenged. I disbelieved Leslie's assertion that he was fine with the Deceased referring to him as her boyfriend only to "show off".[27]

36 Accordingly, I found that Leslie and the Deceased were in a relationship and that he had given her the impression that they were a couple. It was unbelievable that Leslie would oblige the Deceased and, despite claiming she was a "greedy" person, would listen to her ranting and "blasting" at him and her constant complaints that he was not spending enough time with her, if he merely treated her as a casual friend. I disbelieved that he was nice to her and tolerated her behaviour only because she had handed him $20,000 sometime in 2016.[28] Indeed, Leslie admitted that whilst he knew the Deceased, he had more than one girlfriend at the same time, and that this was his "bad habit".[29] Hence, Leslie's portrayal of the Deceased as a "very unreasonable and unstable person" who was always screaming at him, and a jealous and greedy woman, whilst portraying himself as a good person merely trying to help her and repay her kindness, and nothing more, was unbelievable.

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26 Trial Bundle (Vol 2), Tab 4 (para 5); 12/3/19 NE 47–48; AB 419.

27 19/3/19 NE 84, 92–93.

28 19/3/19 NE 62, 64, 69, 75–78.

29 19/3/19 NE 91.



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***Leslie's other dealings***

37 I set out the evidence below, to set context to and shed light on Leslie's action and state of mind when he strangled the Deceased. I was mindful that Leslie was not on trial for cheating, and I was not relying on the evidence as similar fact evidence or character evidence in itself.

38 Leslie admitted that he had lied to the Deceased that the laundry business was his family business and claimed that he told everyone this (including Karen, Linda, Zhang Hong and Cui Lan) because he wanted to give the impression that he was a wealthy and successful businessman.[30] The Defence did not dispute that Leslie took money from various persons such as Karen, Eric and Yvonne. However, Leslie did not believe that he was cheating anyone and he was actually effecting a genuine investment scheme.[31] The evidence showed otherwise.

39 Karen was romantically involved with Leslie from 2014 to his arrest. He had lied to her that he was single and about the laundry business.[32] In early 2015, he took $30,000 from her by giving her the impression that he was experienced in investments, and not revealing that he was bankrupt. He then told her he had invested the money in her hair salon, but in court stated that he had used it for a laundry business. This money was not returned to Karen, and when she asked for it, he became angry with her.[33]

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30 19/3/19 NE 108.

31 DCS, paras 21–29.

32 Trial Bundle (Vol 1), Tab 7 (paras 2, 16); 19/3/19 NE 109, 123–125.

33 19/3/19 NE 131.



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40 Leslie stated that Karen's money was used for a franchise of Dryclyn, of which Eric and Yvonne were the franchisees ("the Katong franchise"). Karen did not agree to this. Leslie then claimed that Karen was actually a "broker" which she was not even aware of![34] Eric and Yvonne thought they were entering into a franchise with Dryclyn – they believed Leslie had paid the franchise fee of $15,000 on their behalf, which they would repay at a later date.[35] Leslie stated that he obtained $15,000 from Tan Puay See who had handed him the money for investment and he used it to pay Drycyln for the Katong franchise.[36] Leslie's evidence morphed along the way – he claimed that Eric had to repay *Dryclyn* the franchise fee (although he claimed he used Tan Puay See's money to do so), then claimed that Eric made part payment *to Dryclyn,* but then stated that Eric paid cash to *him* (which he did not pay to Dryclyn).[37] Leslie also had an arrangement with Eric to obtain a 20% commission from sales. Despite working for Dryclyn, he was doing a side business to earn money, using Dryclyn's name to give others a franchise.[38]

41 However, no franchise agreement was signed and Leslie did not tell his employers about these circumstances.[39] Adeline stated that before entering into a franchise agreement, approval had to be obtained from and a written agreement executed with Dryclyn. She was unaware that Leslie had entered into a franchise or banked a $15,000 cheque into Dryclyn's account. Dryclyn only

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34 19/3/19 NE 126–129, 154.

35 14/3/19 NE 34–35.

36 20/3/19 NE 4; 21/3/19 NE 79–81.

37 21/3/19 NE 76–79.

38 19/3/19 NE 129, 147.

39 19/3/19 NE 129, 144, 147–148.



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discovered this after Leslie's arrest, and returned the money to the cheque owner.[40]

42 Leslie had a sexual relationship with Zhang Hong[41] He obtained $10,000 from her and, on his instructions, she remitted the money to the Deceased's father's account,[42] all the while believing that this was to invest in Leslie's family's laundry shop (Leslie, however, stated that he had merely asked her for a loan).[43] Leslie also informed Cui Lan that the laundry business was his family business and asked her to invest in it whereupon she handed him $10,000 for that purpose.[44] However when she asked for her money back in early 2016, Leslie assured her that her money was safe. Thereafter he stopped contacting her. Cui Lan's account in this regard was not challenged.

43 The above showed that whilst Leslie had informed various persons he was investing or using their money for stated purposes, it turned out to be otherwise. He persuaded Karen to part with her money and informed her that he would return her capital within six months,[45] but she did not receive her money back despite demanding for it. Yvonne and Eric were led to believe they had a genuine franchise from Dryclyn, which turned out to be otherwise.[46] Their evidence provides context for whether Leslie had a motive to silence the

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40 14/3/19 NE 6, 12.

41 19/3/19 NE 109, 134.

42 19/3/19 NE 135–136; 22/3/19 NE 27; AB 130–140; AB 625 (10th Statement, para 131).

43 Trial Bundle (Vol 1), Tab 11 (Zhang Hong's statement, paras 11–13); 19/3/19 NE 135-136.

44 12/3/19 NE 67–68; 19/3/19 NE 108.

45 Trial Bundle (Vol 1), Tab 7 (Karen Kang's statement, paras 6–8).

46 Trial Bundle (Vol 1), Tab 8 (Yvonne Lim's statement, paras 7–9)



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Deceased, given the potential consequences to him (such as the coming to light of the misrepresentations he made to various persons regarding the money he obtained from them) should the Deceased probe into his dealings.

44 As it turned out, after his arrest, Adeline stated that the company received queries from various persons concerning the franchises which Leslie had entered into without Dryclyn's knowledge. On checking Dryclyn's accounts, she found some $30,000 unaccounted for by Leslie. Leslie did not deny that he had collected sale proceeds on Dryclyn's behalf without handing them to Dryclyn but he claimed that this was only "a few hundred dollars".[47] He also stated that where a home delivery service fee was charged, the franchisee and Dryclyn would keep this fee in equal proportions. Yet despite collecting this fee meant for Dryclyn, he had not handed it to Dryclyn.[48]

***Events leading up to 12 July 2016 and the $20,000 which the Deceased handed to Leslie***

45 I found that Leslie had taken $20,000 from the Deceased, and had given her the impression that it would be used for one purpose but he then used it for something else.

46 The $20,000 was never mentioned in the 1st to 8th Statements. In the 9th Statement, Leslie was asked whether the Deceased had passed him money for investment. He stated that she had never handed him any money, and that it was *the Deceased* who had requested, sometime in June/July 2016, for $10,000 which he then remitted to a bank account in China on her request.[49] In court,

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47 14/3/19 NE 11–14; 19/3/19 NE 142.

48 20/3/19 NE 7.

49 AB 617 (9th Statement, paras 107–108).



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Leslie disagreed that he had lied.[50] But this contradicted what he had earlier stated in court, that the Deceased had handed him $20,000 and that was the reason why he continued to oblige her and do her bidding.[51]

47 In the 10th Statement, Leslie then stated that the Deceased had given him $20,000 in early 2016 to invest in "black market gold investment" but he used it for other purposes. In court, he did an about-turn, and claimed that he had invested all her money in gold. When confronted with his inconsistencies, he explained that what he had said in the 10th Statement was "correct, but it is not like that" and then admitted that he had "diverted" the Deceased's money for other purposes.[52] Leslie's own evidence showed up the lack of his veracity and the unreliability of his accounts.

48 Next, I found that in the days leading up to 12 July 2016, the Deceased was pressing Leslie for repayment of the $20,000 and that he scrambled, but was ultimately unable, to obtain enough money to meet her demand. It was not disputed that the Deceased had asked Leslie for the return of her money.[53] I disbelieved Leslie's claim that it was he who wanted to return the money to her and "stop having any dealings with her" as she started to "give [him] trouble" by complaining that he did not have time to spend with her.[54] I found that he did not have sufficient funds to repay her completely, but only repaid her $10,000, and that she had continued to query him about the remaining $10,000.

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50 20/3/19 NE 11.

51 19/3/19 NE 75.

52 20/3/19 NE 17, 21–22.

53 AB 623 (10th Statement, para 123); 20/3/19 NE 24–26.

54 AB 623–624.



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49 On 8 July 2016, the Deceased told her parents that RMB100,000 (about $20,000) would be remitted to her father (Cui Jin), and asked them to check the status of this over the next two days. Around the same time, Leslie asked Zhang Hong for money, which she remitted to Cui Jin's account (see [42] above). On 10 July 2016, Cui Jin informed the Deceased that he had only received RMB50,000. Her parents then repeatedly asked her about the remaining RMB50,000, and she informed them that she would "go and ask".[55]

50 Leslie admitted that after approximately $10,000 was remitted to Cui Jin's account, the Deceased informed him that the amount was incorrect.[56] He claimed that he had planned to get the rest of the money from Eric (who owed him $10,000), that one Alex Yeo owed him $5,000 that he could obtain repayment of "easily", and that he could easily obtain a loan from Adeline or Harry Toh (Dryclyn's boss). He also claimed that the Deceased "never talked about money to [him] on [12 July 2016]" and:[57]

> … If the argument with her was about money, it will be very easy to settle. I can just call Adeline to loan the money immediately. SGD$10,000 is a small sum. I will get it fast and return her all the money and get rid of her.

51 However, the evidence showed that Leslie could not raise the remaining $10,000 and had lied about the ease with which he could have obtained funds.

(a) I found that the Deceased was pressuring Leslie, even on 11 July 2016, about the balance $10,000. Wu Wenjuan (her colleague) testified that on 11 July 2016 at around 3pm, she heard the Deceased quarrelling

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55 AB 135, 137–139.

56 AB 624 (10th Statement, paras 127–128); 20/3/19 NE 37.

57 AB 628 (10th Statement, para 141).



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with someone on the office phone. The Deceased uttered the words "money", "my mother said", and "remit".[58] The phone records showed a call lasting almost 25 minutes made from MediaTek's office to Leslie's handphone on that date at about 3.30pm.[59] Whilst Leslie claimed he could not recall the contents of this call,[60] I was satisfied that the evidence established that the Deceased was pressing him for money.

(b) Eric stated that when Leslie suddenly called him on 11 July 2016, he told Leslie he was unable to hand over $10,000 at such short notice. Leslie admitted that when he asked Eric for $10,000, Eric said he had no money.[61] There would have been no need to call Eric on that day for money if the Deceased had not been pressuring Leslie at the same time for the balance of her money.

(c) Leslie's claim to be able to obtain repayment of a loan from Alex or funds from Adeline was not borne out by the evidence. He did not ask Alex for money. On the contrary, Alex testified that the money Leslie handed to him was a deposit for a boat which Leslie intended to buy and if Leslie did not pay the full sum for the boat, the deposit would have been forfeited. Alex also did not owe Leslie money.[62] Adeline stated that it was company policy not to give personal loans to employees and Leslie agreed that she had not lent him money before.[63]

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58 12/3/19 NE 51.

59 AB 378.

60 20/3/19 NE 39; 21/3/19 NE 88.

61 Trial Bundle (Vol 2), Tab 13 (Eric's statement, para 7); 21/3/19 NE 82–83.

62 20/3/19 NE 30; 28/3/19 NE 4–7.

63 14/3/19 NE 8; 20/3/19 NE 29.



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(d) When Dr Ung interviewed Leslie in 2018 and asked him whether the Deceased had handed him $20,000 and whether she had pressured him to return it, Leslie stated that he had repaid her partly and informed Dr Ung that *he was facing financial difficulties at that time* as he had to make payments relating to his bankruptcy.[64]

52 Hence, Leslie's attempt to portray that the Deceased had not pressed him for her money and that there was no urgency in the matter was contradicted by his own conduct. Clearly, he was attempting to obtain funds, even asking Zhang Hong (who was in *China*) to remit money for him because, tellingly, she was "*the fastest*". When Zhang Hong could only remit $10,000, he approached Eric for another $10,000. In court, Leslie admitted that he needed the money to pay the Deceased.[65] He lied in the 10th Statement that he did not need money from anyone and had not asked Eric for his money back,[66] to give the impression that the Deceased was not at that time pressing him for her money. He even categorically denied that he owed the Deceased *any* money, avoiding the issue, but ultimately conceding that he had to repay her.[67]

***12 July 2016 – calls among Leslie, the Deceased and Adeline***

53 I have already referred to the flurry of phone calls made between the Deceased and Leslie (at [23] above). While the *fact* that these calls were made was not disputed, their content was.

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64 26/3/19 NE 24; Trial Bundle (Vol 1), Tab 1, p 10 (Dr Ung's report, para 21).

65 21/3/19 NE 86.

66 AB 624 (10th Statement, para 129).

67 22/3/19 NE 28.



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54 Regarding the phone calls made by the Deceased to Leslie, I found insufficient evidence to establish, contrary to the Prosecution's submission, that the Deceased was calling Leslie to demand an account of the remaining moneys.[68] As for Leslie's calls to the Deceased, he claimed that these were to allow her to shout and "let her sing the whole song", that he "called her to cool her down again" after she put down the phone, and that he was trying to dissuade her from going to his workplace. He agreed that the numerous calls were made *to persuade the Deceased, who no longer believed him, not to go to his workplace*.[69]

55 As for the three-way conference call among Leslie, the Deceased and Adeline (see [23(b)] above), it was disputed as to whose idea it was to meet Adeline at Westin Hotel. In the 6th Statement, Leslie claimed that the *Deceased* wanted to go to Westin Hotel to look for Adeline. In court, he said that *Adeline* told them that if they wanted to meet her, they had to go Westin Hotel, whereupon the Deceased agreed.[70] Adeline's testimony essentially,[71] was that Leslie had said he would bring the Deceased to meet Adeline at Westin Hotel. The Prosecution argued that Leslie had lied to make it seem as if the plan all along was for the Deceased to go to Westin Hotel but that she had changed her mind *en route*, and that Adeline and the Deceased never agreed to meet at Westin Hotel.[72] I placed no weight on this inconsistency. Even based on Adeline's evidence, she had agreed to meet Leslie and the Deceased at Westin Hotel, regardless of whose suggestion it was.

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68 PCS, para 54.

69 AB 605–608 (8th Statement, paras 76–86); 20/3/19 NE 52; 21/3/19 NE 89.

70 19/3/19 NE 41.

71 14/3/19 NE 10–11.

72 PCS, para 61.



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***12 July 2016 – when the Deceased was in the Car and during strangulation***

56 Leslie gave varied accounts of what happened after the Deceased boarded the Car, how he came to stop at Marina Gardens Drive and how the strangulation occurred. I set out some of the more material portions here for ease of reference.

*Leslie's statements*

57 In the 1st Statement, Leslie stated that after the Deceased boarded the Car, she changed her mind about meeting Adeline because she believed Adeline would side with him. She then started scolding him and *demanded to be let out of the Car*, *he complied and stopped the Car "and let her be before anything happened on the road*".

58 In the 2nd Statement, he stated that after the Deceased boarded the Car, she started scolding him and then decided she did not want to meet Adeline. He then decided to go to the GBTBE carpark to "talk her down". At the carpark, the Deceased was very mad at him and kept telling him about how he had cheated on her and about not spending enough time together. *She then spat on him* and shouted loudly. He got angry and "*pushed her down from behind*". *After pushing her down, he went back to the car and wanted to leave her there. He then drove away and did not check on what happened to her thereafter.*

59 In the 3rd Statement, Leslie claimed that the Deceased boarded the Car and pestered him to bring her to his workplace. He then decided to go to the GBTBE carpark to calm her down. While inside the Car, they *talked about their friendship*. He asked her why she was with him even though her friends did not like him and "*this issue led to a very big argument*". *Suddenly* the Deceased



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attacked him and he retaliated. Matters then escalated and he only realised that his hand was on her neck *after* she had become motionless.

> 11. … We both talked about our friendship. … I asked [the Deceased], why is she still together with me even though her friends do not like me … This issue led to a very big argument inside the car.
>
> 12. Suddenly, [the Deceased] used both of her hands to grab on my right wrist. She went crazy and I also went crazy and lost control of my emotions. I struggled with her. During the struggle, I pushed her but [she] continued to attack me. Then, I got extremely frustrated and gripped her tightly. I do not remember where I had exactly gripped her. I also do not remember if I had used one hand or both hands.
>
> 13. Suddenly, I felt that there was no movement from [the Deceased]. At that point in time, I realized that I was gripping onto [her] neck area using my right hand and there was no response from her. I immediately released my grip on her and tried to wake her up by shaking her and tapping on her shoulder area. Even with that, [she] did not wake up. I then panicked.
>
> 14. At that point in time, I did not know how to react or what to do. Next, I reclined [the Deceased's] back rest and lay her down. Then, I started my car and drove out of the area. I just kept on driving for many hours… I was thinking of how to dispose the body.
>
> 15. When I stopped, I was at Lim Chu Kang area. …

60 In the 6th Statement, Leslie stated that the Deceased started scolding him while he was driving to Westin Hotel, and then decided she did not want to meet Adeline. *Instead, she wanted him to send her to the factory in Gul so she could see his other bosses*. *He decided against allowing her to do so* and drove to a secluded road to calm her down. But she continued shouting, and he gave up and *asked her to get out of the Car*. *The Deceased then changed her mind and threatened to post on Facebook to tarnish his reputation*. *He begged her not to and kowtowed to her but she started to hit him. He later grabbed her hands; he also grabbed her neck with his right hand, grinded his teeth and pressed her neck very hard*. *After a while he realised she had become motionless*:



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6. After she got in to my car, she started to scold me. She scolded me non-stop and said I'm a liar …

7. I just remained quiet and let her rant on. I was driving on the Ayer Rajah expressway towards the direction to Westin… However while driving she told me that she checked on facebook and noticed Adeline was always with my wife, and seem to be on the same side and having good relationship. She had decided not to see her but insist I send her to the factory in Gul to talk to other bosses so that she can let them spread the word and destroy my reputation.

8. Having heard what she said, I felt that I cannot let her go there to destroy all these efforts. I have worked so hard, be a good employee, good husband, good father, I won't rest in peace even when I die if she goes to the company and achieve what she want to do and I believe she will really do that…

9. Immediately after exiting to Marina, instead of going anywhere near Westin or to Gul as she demanded, I turn right into a secluded road. Right at the end of the road, there is a roundabout. I drove around it and stop along the road side. …

10. After stopping the car there, I intend to talk to her and cool her down. [The Deceased] continued to rant at me. After her continuous shouting and scolding at me, I gave up. I told her that if she insist, she can go by herself to look for the company and asked her to get out of the car. But she changed her mind and told me she will instead post on to all my friends' and wife's facebook to tarnish my reputation. She want to post that I have been lying to her about busy work schedule and she will divulge that the laundry is my family business. This will affect my work as my bosses will not be trusting me anymore. … While in the car, I kneel on my seat and beg her, I also kowtow to her many times to beg her to let me off but she refused.

11. She started to hit me with something on my right forearm. I kept begging her and kowtow to her, I have let go of all my ego but she still talk about posting in the facebook, I really kept thinking about my job. … I also cannot afford her to tell my wife as I was forgiven by my wife twice before for committing adultery… Why should I let her destroy everything when I did not commit adultery. That's why I'm willing to let go of my ego to kneel down and beg her. When she started to hit me, I cannot take it anymore.

12. I told her to let me have a lifeline and don't destroy all these I have built up, but she continue to say "我就是要看你死". I started to grab her hands and she also struggle with me. *I then*



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> *stretched out my right arm out and grabbed onto her neck*. I was very agitated and lost control of myself; I then *grind my teeth so hard and pressed on her neck very hard with my right hand*. I don't know how long I pressed and I was not looking at her. After a while, I realised she was not grabbing onto my hand anymore and she was not moving. I looked at her and she was lying backward. I let go of my hand and was very frightened. I started to use my hand to hit on her chest to wake her up, but she did not response.
>
> [emphasis added]

61 Regarding the 6th Statement, Leslie stated in court that he did not inform IO Tan, and that it was not true, that he had stretched out his right arm and grabbed the Deceased's neck or that he had ground his teeth so hard and "pressed on her neck very hard with [his] right hand". I disbelieved that he did not inform IO Tan as such and rejected his claim that it was IO Tan who had asked him if he had ground his teeth. Leslie's attention was drawn specifically to these sentences in the Statement, as seen from the handwritten cancellations and additions that he had initialled against.[73] IO Tan also explained that these details were based on Leslie's account.[74] I thus found that the Statement was recorded based on what Leslie had informed IO Tan.

62 When cross-examined on the 6th Statement, Leslie added several details:

(a) He was kneeling on his seat facing the passenger seat, with his left leg hanging over his seat and his left foot on the floor of the Car. His right leg from the knee downwards was on the seat. He had turned his body 45 degrees to face the Deceased and he was leaning forward.[75]

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73 20/3/19 NE 100–104; 114–115.

74 27/3/19 NE 35–36.

75 20/3/19 NE 88.



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(b) He could have stepped out of the Car when the Deceased started hitting him but did not do so because when he turned to unlock the door, she grabbed his left chest and pulled him back before he could open the Car door. He did not try to open the door to leave again. This sequence of events did not appear in any of his statements.[76]

(c) Specifically in relation to paragraph 12 of the 6th Statement, he "started to grab her hands" after the Deceased came after him with two hands (trying to hit him) and he pushed her hands away with his hands several times. He then restrained her hands. There was again some dispute whether the Deceased broke free:[77]

> Q: … Once you had restrained her hands on the lap, she could not be hitting you anymore. Agree or disagree?
>
> A: You are wrong.
>
> Q: … Once you restrained her hands, your---her hands on her lap, are you saying that she broke free?
>
> A: No, she didn't break free.
>
> Q: Right.
>
> A: I didn't say that.
>
> Q: So if she didn't break free and you were still restraining her, you---she could not have been hitting you.
>
> A: No, that's not the case.
>
> Q: How was she hitting you?
>
> A: She was struggling and we were pushing each other. It was a big force.

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76 20/3/19 NE 93–94.

77 20/3/19 NE 105–109.



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> Q: Mr Khoo, you are bigger and stronger than her. You have restrained her hands on her lap. How was she still hitting you?
>
> A: She went berserk.
>
> Q: How was she hitting you?
>
> Court: Okay, so how was the deceased still able to hit you with her two hands which you had restrained on her lap with your two hands?
>
> Interpreter: A demonstration again, Your Honour.
>
> …
>
> Court: Okay, so I record it as, after you restrained her two hands, she broke free, okay? Or rather, "her hands broke free from mine". …

63 In the 8th Statement, Leslie stated that when the Deceased was in the Car, "She hit me suddenly on my right forearm. I did not noticed [sic] what she used to hit me as it happened so fast. I felt pain in my hand…".

64 In the 9th Statement, Leslie stated as follows:

> Question 44: Why did you drive her to that secluded road after you decided not to drive her to Westin on 12 July?
>
> Answer:
>
> 105. That was a natural route to proceed to as it was on the way to westin. I had also planned when I was there to chase her out of the car and let her walk on her own so I have sufficient time to rush to my company to talk to my bosses and prepare to resign.

*Leslie's account to IO Tan*

65 IO Tan produced his field book entries, recorded contemporaneously when Leslie brought him to the scene on 25 July 2016 ("the Field Trip"), though



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the entries were not read back to Leslie after his narration.[78] Leslie narrated that on 12 July 2016, he stopped the Car at Marina Gardens Drive:[79]

> *[Leslie] told [IO Tan] that [the Deceased] said she will go to Westin and create a scene and make everyone know that how bad a man he was to ruin his reputation. She kept shouting at him and he get very agitated and shout at her why she had not said enough. Then he said while they are still inside the car, the quarrel continued … [the Deceased] started to use something to hit him but he does not know what it is and he does not feel the pain. He was so agitated and angry that he bite his teeth, used one hand to strangle [the Deceased] and subsequently use 2 hands to strangled her neck until she's motionless.* He was frightened and tried to shake her up. But she did not respond. She also did not wake up. He then tried pumping her heart area but she also did not wake up. He was scared and he waited in the car for quite some time thinking how to settle his problem.
>
> [emphasis added]

Leslie then informed IO Tan that he then drove to the GBTBE carpark and stayed there for a while "thinking what to do".

66 Leslie claimed during cross-examination that that he had not said the words reproduced in italics at [65] above to IO Tan.[80] I disbelieved Leslie and found that he was trying to distance himself from this account. There was no reason for IO Tan to have recorded such a detailed account, if Leslie had not told him this. Whether his account to IO Tan and his other accounts were true in totality is another matter which I will return to.

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78 27/3/19 NE 37; Trial Bundle (Vol 4), Tab 5, pp 9–10.

79 Trial Bundle (Vol 4), Tab 5, pp 11–12.

80 20/3/19 NE 122–123.



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*Leslie's accounts to Dr Koh and Dr Ung*

67 Dr Koh issued two reports dated 23 August 2016 ("Dr Koh's 1st Report") and 22 February 2019 ("Dr Koh's 2nd Report"). Dr Koh's 1st Report was issued as part of a routine psychiatric assessment of accused persons charged with murder. In producing this report, Dr Koh interviewed Leslie on 8, 11 and 15 August 2016 and Mdm Toh once. Dr Koh's 2nd Report contained his opinion on whether Leslie was suffering from IED and I will refer to it later.

68 According to Dr Koh's 1st Report, after the Deceased boarded the Car:[81]

> [Leslie] said that *he then drove to Gardens by the Bay and stopped the car by the roadside, trying to "talk her down because she was very agitated". He said that she had been cursing him vehemently during the car ride. During their argument, she hit him and at that point, [Leslie] said that he "cannot control" and he grabbed her neck and pushed her away from him. He did so until she stopped moving.* He said that he did try to thump on her chest to try to revive her, but she did not.
>
> [emphasis added]

At trial, Leslie claimed that he told Dr Koh only "when she was not moving, [that he] realised [his] hand was on her neck".[82]

69 In Dr Koh's interview notes with Leslie, he stated as follows[83]:

> (a) Leslie indicated he was hit by the Deceased over his right forearm and that there was no bruise by the time he was examined by Dr Koh because about four weeks had passed since then.

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81 AB 267.

82 20/3/19 NE 123.

83 Trial Bundle (Vol 3), Tab 1, p 16.



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(b) Leslie had "grabbed [the Deceased's] neck and pushed her away from him", and "held on to her neck for some time with only one hand, not two hands".

70 Dr Ung issued a report ("Dr Ung's Report") primarily to opine on whether Leslie was suffering from a psychiatric disorder at the time of the offence. Pertaining to the events on 12 July 2016, the report stated thus:[84]

> 20. [Leslie] drove to meet [the Deceased] and later drove to a quiet area. He said that he pleaded with her not to go to his workplace and even 'kow tow' to beg her not to do it. In the car, she continued to scream and berate him and he recalls being hit (his words to me were "something hit me … she scream … scream … scream" and "Her hand came towards me … I saw something come and hit my chest"). His recollection thereafter is hazy *and recalls grabbing her by the neck and pressing*, and *either thinking or shouting out "why don't you stop the nonsense … I cannot take it*". He *then recalls noticing that she was still* (his words to me were "I only remember … she tone down … she is not moving … not talking … that was when I cool down then I was very scared").
>
> [emphasis in original omitted; emphasis added]

*Leslie's testimony at trial*

71 In examination-in-chief, Leslie claimed that the Deceased had started to "nag and scold" him upon getting into the Car.[85] He kept quiet. He intended to go to Westin Hotel and was driving along the expressway. The Deceased then told him she did not want to meet Adeline because Facebook photos showed that Adeline and he were always together. As such, he exited the expressway to Gardens by the Bay. He then parked the Car to "see how [he was] going to cool

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84 Trial Bundle (Vol 1), Tab 1, p 10.

85 19/3/19 NE 42–44.



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her down". The Deceased continued to scold and curse at him, asking him to "go and die" at several points.

72 Thereafter, the Deceased hit him, although he was unclear where exactly and with what he was hit:[86]

| | |
|---|---|
| Q: | And what happened after that? |
| A: | Then I don't know, use something to hit me. |
| Q: | And where did she hit you? |
| A: | Something got hit my part over here. Something just hit me, I can't remember… Something got hit me. |
| … | |
| Court: | Sorry, hit you on your chest? |
| Witness: | Something … Your Honour, I --- it's something else poke in front of me. Just hit. |
| Court: | … where did she hit you? |
| Witness: | I can't recall, Your Honour. Something was hit me. |
| Court: | Where did she hit you? |
| Witness: | Something like my hand over here. |
| Court: | So she hit you on your right hand? … |
| Witness: | I can't remember right or left and I serious, I don't know. |
| Court: | But on your hand? |
| … | |
| Witness: | Yah. |
| … | |
| Witness: | Some --- somewhere around here. |
| Court: | Somewhere on your arm? |

86 19/3/19 NE 44–46.



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| | |
|---|---|
| Witness: | Somewhere, something hit me. I can't recall … I really can't recall. |
| … | |
| Court: | She took something and hit you? |
| Witness: | She took something and hit me, that why I --- I got shocked that day. |
| Court: | … it hit your --- |
| Witness: | Somewhere here. Something just flow up and the thing just "*pak*". |
| … | |
| Cheong: | Your Honour, according to Mr Khoo's hand gestures, he seems to be point --- showing an area that's on the forearm closer to the elbow. |
| Court: | Yes, alright. But he says he cannot remember which hand … |
| Witness: | Cannot --- which --- which hand, I don't remember. |

73 Leslie then told the Deceased in Mandarin that "educated people [do] not resort to physical violence" but she cursed him to die again, and "[her] hand came again". He pushed her away, then, in his own words: "She shout, I shout. We struggle … then after that a while … she don't move already". After she stopped moving, he realised his hand was on her neck.[87]

*Parties' positions on what occurred before and during strangulation*

74 The Prosecution and Defence disagreed over what happened shortly before and during the strangulation. The Defence contended that Leslie drove to Marina Gardens Drive after the Deceased told him she no longer wanted to meet Adeline. The Prosecution submitted that Leslie never intended to allow the Deceased to meet Adeline, and intended *all along* to divert her somewhere

87 19/3/19 NE 46–48.



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else where he could persuade her to accept his word. As to what happened immediately before Leslie strangled the Deceased, the Defence contended that Leslie wanted to get out of the Car but the Deceased had grabbed his chest and pulled him back. She then tried to hit him but he pushed her away and pinned her hands onto her lap. She broke free, they shouted at each other and he was not looking at her. The next thing he realised, she had stopped moving and his hand was around her neck.[88]

75 The Prosecution submitted that there were numerous inconsistencies in Leslie's testimony, including whether he used one hand or two to strangle the Deceased, how hard he pressed on her neck, whether he was looking at her as he strangled her, and when he realised that his hand(s) were on her neck. The Prosecution submitted[89] that the Deceased did not hit Leslie and that Leslie had not tried to leave the Car. It also submitted that Leslie had used one hand, then two, to strangle the Deceased with great force, and that he knew that he had grabbed her neck *before* he realised that she had stopped moving.

*How Leslie and the Deceased ended up at Marina Gardens Drive*

76 I found that Leslie stopped the Car at Marina Gardens Drive because *he* had decided *by that time* that it was no longer advantageous for the Deceased to meet Adeline, and decided to "talk her down" (*ie*, calm her down so she would not complain to his bosses), as he admitted.[90] I disagreed with the Prosecution that Leslie never intended the Deceased to meet Adeline *from the outset*. There was a three-way conference call where Adeline had agreed to meet Leslie and

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88 DCS, paras 43–44.

89 PCS, paras 81, 83, 90, 93 and 94.

90 20/3/19 NE 79–80.



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the Deceased at Westin Hotel as Leslie had approached Adeline for help. Although taking the Deceased to meet Adeline was Leslie's original plan, he changed his mind along the way. However, contrary to the Defence's case that *the Deceased's* change of mind was the decisive factor, Leslie was in control of the Car and was not prevented from going to Westin Hotel just because she had changed her mind.

*Place where strangulation occurred*

77 The strangulation happened at Marina Gardens Drive. This was both parties' positions and consistent with Leslie's account to IO Tan at the Field Trip and his account that he only drove to the GBTBE carpark after he had strangled the Deceased. The exact venue is immaterial. It was not disputed that Leslie had strangled the Deceased in the Car.

*Whether Leslie attempted to leave the Car*

78 I disbelieved Leslie's assertion that he tried to open the Car door and leave after the Deceased purportedly started hitting him, but she pulled him back. This assertion was made for the first time in cross-examination, and it was inconceivable that the Deceased could have successfully restrained him by grabbing or pulling at his chest given the disparity in their size. He was about 1.79m tall and over 80kg then, while she was about 1.58m tall and about 54kg. Leslie admitted that he would have been able to leave the Car if he wanted to, as he was stronger and bigger than the Deceased.[91]

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91 20/3/19 NE 90–91; 98.



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*Whether the Deceased hit Leslie*

79 Whilst I accepted that the Deceased was angry with Leslie and had scolded him, I disbelieved Leslie that she had hit him and in the manner as he claimed, or that they had a physical altercation or "struggle". His account was internally inconsistent in material aspects and unsupported by any external evidence. His account as to what transpired in the Car was also unreliable and inconsistent and his testimony morphed along the way. I highlight a few examples.

80 First, Leslie's reason for detouring to Marina Gardens Drive was inherently contradictory. In court, he denied driving to a secluded road to calm the Deceased down and persuade her not to expose him. But he stated in the 3rd and 6th Statements that he wanted to "calm her down by talking to her at a quiet place" and to "cool her down" and, in cross-examination, that he wanted to stop somewhere to calm the Deceased down so that she would not complain about him to his bosses.[92]

81 Second, Leslie gave diametrically different accounts of whether there was a physical altercation or struggle. He stated in the 1st Statement that he allowed the Deceased to alight from the Car. He stated in the 2nd Statement that at the GBTBE carpark, the Deceased started to shout at him and he became angry and pushed her down; thereafter he went back to the Car and drove off leaving her behind. In the 3rd Statement he claimed that, in the Car, they first had a conversation about their friendship, before arguing and struggling which led to her death. In the 6th Statement he further claimed that he "gave up" and told her that she could go by herself to the company, but that she changed her

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92 20/3/19 NE 70, 79–81.



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mind and told him she would tarnish his reputation on Facebook. I was cognisant that Leslie might have given a completely different account at the beginning of investigations to disassociate himself completely from the Deceased's death. Nevertheless, the inconsistent accounts underscored the unreliability of his evidence. In any case, I disbelieved that he had actually given the Deceased an opportunity to leave the Car and go by herself to his company and that she chose not to. It was unbelievable that despite her threats to go and confront his bosses, and despite him not wanting her to destroy his work and reputation,[93] he would allow her to leave the Car and give her the opportunity to expose him.

82 Third, there were substantial variations regarding what exactly the Deceased did to Leslie and of the purported physical altercation.

(a) In the 2nd Statement, he stated that she started to shout at him and "spilt" (or spit) at him, but in court he *denied* that she had spit and that he had merely written those words at that time "haphazardly".[94]

(b) In court, he *denied* that he had informed IO Tan (during the Field Trip) that the Deceased had told him that she would go to Westin Hotel and create a scene, that she kept shouting at him and he became very agitated and shouted at her, that there was a quarrel and that she started to use something to hit him but he did not know what it was[95] – this seemed to go against the crux of his defence.

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93 AB 568–569 (6th Statement, paras 7–8, 10); 20/3/19 NE 73–76.

94 20/3/19 NE 120–121.

95 20/3/19 NE 123.



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(c) He told Dr Koh (on 8 August 2016) that he and the Deceased had a struggle and he grabbed her neck and pushed her away from him – but in court he *denied* that he had grabbed her neck and pushed her away even though he claimed that he would have told Dr Koh the truth.[96]

(d) Leslie was also unclear in his account of where and with what he was hit. In the 8th Statement, he claimed the Deceased hit him on his "*right forearm*" and he "*did not notice*" *with what he was hit* because it "happened so fast".[97] He told Dr Ung that "[h]er hand came towards [him]" and "[he] *saw* something come and hit [his] *chest*".[98] He gave three different accounts to Dr Koh. On 8 August 2016, he said the Deceased hit his right forearm; on 15 August 2016, he said that she hit him and continued "whacking here and there" at him after he told her to stop hitting him; on 1 February 2019, he said the Deceased "used thing, handphone or what" to "hit [him], scratch [him]", with Dr Koh also recording that Leslie then pointed to his *left chest*.[99] His account at trial (see [72] above) was likewise unclear.

83 Leslie's account of events was contrived, and I could not but conclude that he had fabricated a story in court about how the Deceased had managed to break free (after he claimed he restrained her hands) and continued to hit him. In the 6th Statement, he stated that after the Deceased started to hit him, he "grab[bed] her hands and she also struggle[d] with [him]", and he then stretched out his right arm and grabbed her neck. In court, he explained that what he meant

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96 20/3/19 NE 123–124.

97 AB 603 (8th Statement, para 67).

98 Trial Bundle (Vol 1) Tab 1, p 10.

99 Trial Bundle (Vol 3) Tab 1 at p 16, Tab 3 at p 40, Tab 4 at p 46.



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by the 6th Statement was that the Deceased used her hands to try to grab him and then he used his hands to push her hands away, and this was repeated.[100] He then restrained her hands on her lap and *she did not break free*. When asked repeatedly how the Deceased could continue hitting him if she could not break free, he was evasive. He initially said, "She was struggling and we were pushing each other. It was a big force." He then said "she went berserk" and finally changed his story and demonstrated to the court that the Deceased's hands managed to break free but then said that he "cannot describe" what occurred because it was "too fast and too quick" and "it's something, the struggling part".[101] Clearly Leslie was making up a narrative as he went along, and changed his story about attempting to restrain the Deceased's hands and whether she broke free – a change no doubt prompted by his realisation that otherwise his story would not make sense. I thus inferred that there was no such "struggle" as Leslie described or that the Deceased had managed to get the better of him to the point that he strangled her without knowing it.

84 Leslie's account was also unsupported by the external evidence. The Defence's reliance on the superficial scratches noted on Leslie's chest when he was examined after his arrest did not assist its case. Dr Larry Kang noted that "[s]uperficial scratches were noted over [Leslie's] right chest wall, likely to be due to blows from a sharp object" when Leslie was examined in the morning of 21 July 2016.[102] Leslie had not claimed that any sharp object hit him; and when he was examined in the afternoon of the same day, Dr Yak Si Mian recorded

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100 20/3/19 NE 104–105.

101 20/3/19 NE 108–109.

102 AB 270.



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that Leslie had "refused to answer how he sustained" the superficial scratches.[103] It had also not been established that the scratches were sustained on the day of the killing, considering the lapse of time between 12 and 21 July 2016.

85 The Defence also sought to rely on two videos (see [15] above) which showed the Deceased had a temper and displayed aggression. I placed little weight on them in determining whether the Deceased had physically assaulted Leslie in the Car, as the videos must be viewed in context. Regarding the first video, Leslie agreed that the Deceased was understandably upset as she did not understand why he continued to posts photographs of the person he claimed to be his "ex-wife" on his Facebook page. As for the second video, what looked like the Deceased hitting Leslie[104] was in the context of him surreptitiously filming her. It was understandable that she would react angrily; the context was different from him alleging that she initiated the escalation to physical blows.

86 Hence, I disbelieved Leslie's account that the Deceased had hit him in the Car. He was making things up about her character to support his assertion that she was the unstable and unreasonable party who had initiated a physical assault on him, and that he was provoked which led to him strangling her. Leslie's account kept morphing. He also conveniently claimed in court that he could not recall saying certain things in his statements.[105] In the round, I found Leslie to be a dishonest and unreliable witness whose account of what occurred could not be believed.

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103 AB 273.

104 19/3/19 NE 30, 110; 21/3/19 NE 48.

105 20/3/19 NE 60–69.



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*Manner in which Leslie compressed the Deceased's neck*

87 Based on Leslie's account (in the 3rd and 6th Statements and repeated during his demonstration in court[106]) he had at the very least compressed the Deceased's neck with his right hand. Although he informed IO Tan at the Field Trip that he used one and then two hands to strangle the Deceased, it was immaterial how many hands he used. He accepted that he committed the act of strangulation and had caused her death even just by using one hand.

88 I also found that Leslie had compressed the Deceased's neck with great force. He stated in the 3rd Statement that he gripped the Deceased "tightly" although he claimed he could not recall where – but then went on to say that he used one or both hands and then there was no movement from the Deceased and he realised his right hand was on her neck. In the 6th Statement, he stated that he "pressed on her neck very hard". He pressed so hard that he could recall (in that 6th Statement and his account to IO Tan) that he bit and ground his teeth.

*Whether Leslie knew he grabbed the Deceased's neck before she stopped moving*

89 Finally, I found that Leslie knew that he had grabbed the Deceased's neck before she stopped moving, that he had consciously compressed her neck before she had (as he observed) become motionless, and that he knew he had done so with great force. Leslie's accounts in the 6th Statement and to IO Tan, Dr Ung and Dr Koh showed that he recalled having grabbed her neck and pressing *before* she turned motionless.

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106 27/3/19 NE 19.



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(a) Leslie told Dr Koh that when the Deceased hit him, he could not control himself and *grabbed her neck* and pushed her away from him; and that *he did so until she stopped moving*.[107] Dr Koh's case notes recorded that Leslie held on to the Deceased's neck "for some time" with one hand.[108]

(b) Dr Ung recorded that Leslie "recalls grabbing [the Deceased] by her neck and pressing, and either thinking or shouting out '*why don't you stop the nonsense … I cannot take it*'".[109] Dr Ung confirmed that the italicised words were Leslie's words. Although Dr Ung recorded that Leslie's recollection was "hazy", he later confirmed that Leslie had informed him that he was angry and his hand went towards the Deceased's neck, that Leslie could give a clear account of the act of strangling and pressing her neck, and that Leslie's recollection of the act of strangling was *not* hazy because he was able to tell Dr Ung what he had done.[110] Hence, Leslie knew what he was doing at the material time as he could even remember what he was thinking or saying then.

(c) In the 6th Statement, Leslie stated that he was very agitated and lost control of himself, he then started to grind his teeth and "pressed on her neck very hard" with his right hand, and after a while, he realised that she was not moving. Leslie thus knew what he was doing at the material time.

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107 AB 267; 20/3/19 NE 123–124.

108 Trial Bundle (Vol 3), Tab 1, p 16.

109 Trial Bundle (Vol 1), Tab 1, p 10 (Dr Ung's report, para 20).

110 26/3/19 NE 17–18, 21–22.



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(d) IO Tan's field book entry of 25 July 2016 recorded that Leslie had told him that he was so agitated and angry that he "bite his teeth, used one hand… and subsequently used 2 hands" to strangle the Deceased's neck until she was motionless.[111]

90 I rejected Leslie's assertion (made in the 3rd Statement and repeated at trial) that he only realised that his hand was on the Deceased's neck after he observed that she became motionless.[112] Apart from the 3rd Statement, all his other accounts (see [89] above), both contemporaneous and those made as late as May and August 2018 to Dr Ung, showed that he knew what he was doing before he observed the Deceased become motionless. He even amended the paragraph in the 6th Statement to include the words "with my right hand" in relation to pressing the Deceased's neck which, according to IO Tan (and which I accepted), was an amendment at Leslie's suggestion.[113]

91 It is also significant how Leslie was, by his own account, *facing* the Deceased throughout the altercation (and even after he realised his hand was on her neck).[114] He would have realised what he was doing.

92 Hence, I disbelieved that Leslie realised that his right hand was on the Deceased's neck only after he observed that she had stopped moving. It is significant that he could not recall that he had placed his hand(s) on her neck before she became motionless. I found his inability to recall such a crucial detail to be an attempt to exonerate himself and a case of selective amnesia. He could

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111 Trial Bundle (Vol 4), Tab 5, p 12; AB 531–533; 15/3/19 NE 11–12.

112 19/3/19 NE 48; 20/3/19 NE 111.

113 AB 570 (6th Statement, para 12); 15/3 NE 67–68.

114 27/3/19 NE 22, 23, 27–28.



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recall in detail what happened from the early morning of 12 July 2016 after the Deceased had called him numerous times, to the conversation with Adeline asking for her help, to the conversation on the three-way conference call, to what purportedly occurred after he stopped the Car at Marina Gardens Drive. He recalled in detail what he did after the strangulation, how he placed the Deceased's body in the Car, how he drove around Singapore, and how he thought of disposing her body. He could even recall details of his altercations and behavioural issues, dating back to 2002 (some 17 years ago), such as throwing a bottle of Cordon Bleu at Mdm Toh, some bottles of wines and chairs.

*Duration of strangulation*

93 The Prosecution claimed that it was disingenuous for the Defence to assert that the Deceased died within a matter of seconds. The Prosecution referred to the 6th Statement where Leslie stated that the Deceased stopped moving "[a]fter a while" after he grabbed her neck, and to his account to Dr Koh that he had held onto her neck "for some time".[115] I was unable to conclude for how long Leslie had pressed on the Deceased's neck, given the time associated with each of the three potential mechanisms of death outlined above.

***Events after the strangulation***

94 Leslie claimed that he thumped the Deceased on her chest after he strangled her. When there was no response, he reclined the front passenger seat and placed laundry bags over her body. He then drove to the GBTBE carpark and remained there for about 20 minutes before driving out (see [23(d)] above).

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115 Prosecution Closing Reply Submissions ("PCRS"), para 16.



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At about 10.20am, he spoke to Adeline on the phone and "gave her an excuse" to explain why the Deceased and he were no longer going to meet her.[116]

95 I found that Leslie formulated his plan to dispose of the body on 12 July 2016 itself. I disbelieved his account at trial that he could not recall when he came up with the plan to dispose of the body (which he later claimed was 13 July) and his account in the 6th Statement that he did so only on 13 July 2016.[117] His version was contradicted by his own evidence in court, his earlier statements and a video footage.

(a) In the 3rd Statement, he stated that after strangling the Deceased, he drove around and *was thinking of how to dispose of the body*. He then reached the Lim Chu Kang area and thought of burning the body. He went to buy charcoal, brought the Deceased's body to Lim Chu Kang [Lane] 8 and burnt it with the charcoal. In court, Leslie prevaricated about whether he had informed the recording officer that he thought of disposing the Deceased's body on 12 July itself, but conceded that he had, whilst driving around on 12 July 2016, thought about burning the body and went to buy charcoal.[118]

(b) In the 5th Statement, Leslie narrated the events of 12, 13 and 14 July 2016 in that order. He mentioned buying charcoal and kerosene; then the "next day" he went to buy more charcoal; and the following day (which was 14 July) he went to buy charcoal again. On this narration, he would have thought of burning the Deceased's body on 12 July 2016.

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116 21/3/19 NE 5–6; AB 380.

117 21/3/19 NE 7; 22/3/19 NE 2 and 12; AB572–573,

118 21/3/19 NE 8–12.



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(c) The sequence of events narrated to IO Tan during the Field Trip showed that Leslie had already decided, on the same day the Deceased died, to "cremate" her; and that he reached Lim Chu Kang Lane 8, saw a metal shed and, after seeing that location, went to buy charcoal.[119] IO Tan's field book recorded Leslie stating that after visiting Lim Chu Kang Lane 8, he decided to cremate the Deceased and then went to buy charcoal, and Leslie then brought IO Tan to Ikea minimart to show IO Tan where he had purchased the charcoal.

(d) Pertinently, the video footage outside Ikea minimart showed a black BMW at night on 12 July 2016, which parties agreed had a licence plate beginning with "SKU5" visible (see [24] above). The Prosecution subsequently tendered photographs from the video footage of the Car, and I observed from the photographs the licence plate to be SKU555-P. Defence Counsel Mr Cheong observed from the photographs that the licence plate was either SKU--56P or SKU--55P.[120] Given both counsels' and my observations, and that there was agreement that "SKU5-56P" or "SKU5-55P" could be seen, I accepted that the video footage showed the Car on the night of 12 July 2016 at Ikea minimart. This was also consistent with Leslie's account that he had bought charcoal from there,[121] and his other contemporaneous accounts (see sub-paragraphs (a) to (c) above).

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119 Trial Bundle (Vol 4) Tab 5, p 13.

120 27/3/19 NE 2; P604.

121 21/3/19 NE 12–14.



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96 Leslie then drove around Singapore before returning home to Orchid Park Condominium at 12.25am on 13 July 2016 and parked the Car in a different carpark from the one he normally parked at.[122]

97 On 13 July 2016, Leslie left Orchid Park Condominium at 5.38am. He bought charcoal and kerosene from Keng Huat Departmental Store and Jaho Trading Pte Ltd. He also drove to Lim Chu Kang Lane 8 and burnt the Deceased's body at a metal shelter. He returned subsequently to check on the progress of the burning body. He waited till nightfall, when he "decided to pull the body into the drain to let it continue to burn *so no one will discover it*".[123] I rejected Leslie's explanation that he wanted to make sure that the body burned completely so that he could send the Deceased off and she would rest in peace. He contradicted himself later in court when he said that he did not know why he had moved the body into the drain.[124] It was clear that he wanted to ensure that no one would discover the body. Hence he had purchased the burning materials and used them on her body more than once, and dragged the body to the drain at night to let it continue to burn (whilst he poured more kerosene on it) so that "no one will discover it". Leslie then disposed of the empty charcoal packages and kerosene tins at a large dustbin near Lim Chu Kang Lane 8.[125]

98 On 14 July 2016, Leslie went to check the state of the Deceased's body. He poured more charcoal to stoke the flames. Subsequently, he went to the Deceased's flat after receiving a phone call from her colleague asking for her address. He returned to Lim Chu Kang Lane 8 to collect some of the Deceased's

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122 19/3/19 NE 52.

123 AB 575 (6th Statement, para 30); 21/3/19 NE 21–22.

124 21/3/19 NE 21–22; 22/3/19 NE 17.

125 21/3/19 NE 22–23.



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ashes and disposed of them at the beach. He also disposed of her belongings at a dustbin at Orchid Country Club and his own belongings separately.[126]

## Liability for murder under s 300(*b*) of the Penal Code

### *The law on section 300(b) of the Penal Code*

99 Section 300(*b*) of the Penal Code provides that:

> Except in the cases hereinafter excepted culpable homicide is murder —
>
> …
>
> (*b*) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; …

100 The *actus reus* for s 300(*b*) is whether the accused had performed an act that caused the deceased's death. It is not disputed that Leslie did so. The inquiry into the *mens rea* for s 300(*b*) is subjective – there must be an intention to cause a bodily injury to the victim, and knowledge that this bodily injury is likely to cause the death of that victim. In *State of Andhra Pradesh v Rayavarapu Punnayya* [1977] AIR 45, the Indian Supreme Court explained thus:

> … The distinguishing feature of the mens rea requisite under [s 300(*b*)] is the knowledge possessed by the offender regarding the particular victim being in such a peculiar condition or state of health that the intentional harm caused to him is likely to be fatal, notwithstanding the fact that such harm would not in the ordinary way of nature be sufficient to cause death of a person in normal health or condition. It is noteworthy that the 'intention to cause death' is not an essential requirement … Only the intention of causing the bodily injury coupled with the offender's knowledge of the likelihood of such injury causing the death of the particular victim, is sufficient to bring the killing within the ambit of this clause…

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126 AB 588–589.



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101 In *Karu Marik v State of Bihar* [2001] AIR 2266 (SC), the accused had inflicted several injuries onto the victim's abdomen with a weapon, which resulted in her death subsequently. The accused was convicted under s 300(*b*). On appeal, he contended that he neither intended to cause the victim's death nor such bodily injury which he knew was likely to cause death. The Indian Supreme Court dismissed the appeal, and held as follows:

> Many a times, *the nature of the injury inflicted* itself presents a most valuable evidence of what the intention was but that is not the only way of gauging intention. Each case must be examined on its merits. … As far as [s 300(*b*)] is concerned, it is enough if the accused had the intention of causing such bodily injury as he knew to be likely to cause the death of the person to whom the harm is caused…
>
> In the case on hand, *having regard to the nature of wounds inflicted, it must be deemed that his intention was at least to cause such bodily injury as was likely to cause death* … the appellant gave a blow with chhura on the chest of the deceased. When she tried to run away, he caught hold of her hair, threw her on the ground and again assaulted with the chhura on the abdomen and the back of the deceased … The injuries inflicted were grievous in nature and dangerous to life which resulted in causing death of the deceased … The injuries were inflicted by the chhura, a sharp cutting weapon; *even an illiterate and ignorant can be presumed to know that an intense assault with such weapon on vital parts of the body would cause death.*
>
> [emphasis added]

***Leslie's mens rea***

102 I found that Leslie had the necessary *mens rea* for murder under s 300(*b*) and that the offence had been proved beyond a reasonable doubt.

103 I found that Leslie knew that compression of the neck was likely to cause the Deceased's death. He accepted during cross examination that "[e]veryone knows" that a person's neck is a vulnerable part of the body; that if he squeezed someone's neck hard, that could cause the person to die; that it was "very likely"



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that grabbing someone's neck and pressing would cause that person to die and that it was a very dangerous thing to do.[127]

104 Although the Defence submitted that it was never put to Leslie that at the time of the incident he specifically knew that grabbing the Deceased's neck was likely to cause her death,[128] this was inaccurate. The Prosecution had put it to him that "[he] knew that by strangling her so hard at the neck, [he] would kill her".[129] His response was "I don't know. I didn't know. I didn't think of this", which was inconsistent with what he later stated (at [103] above). This was a case in which the dangers of Leslie's act of grabbing the Deceased's neck with force would have been so self-evident that he would know that this would likely cause her death. In any event, Leslie himself knew such an act to the Deceased was very dangerous and likely to cause her death.

105 Next, I found that Leslie intended to grab and compress the Deceased's neck, and disbelieved his claim that the killing was an accident and that he had no intention to strangle the Deceased. I reiterate my findings at [89]–[92]. His accounts in the 6th Statement and to IO Tan, Dr Ung and Dr Koh showed that he could recall grabbing the Deceased's neck and pressing for some time before she turned motionless, he was cognisant of what he was doing (as recorded in IO Tan's field book, Leslie had strangled the Deceased's neck until she was motionless), and he knew the force he applied (*ie*, he ground his teeth and pressed on her neck very hard).

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127 20/3/19 NE 113; 21/3/19 NE 102–103.

128 DCS at para 111–112.

129 21/3/19 NE 92.



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106 Additionally, I found that Leslie had a motive for killing the Deceased, to rid himself of the financial pressure and threat of exposure and ruin to him that she posed. While motive is not the same as intention, the presence of motive may bolster the inference of intention to commit the offence. In *Mohammed Ali bin Johari v PP* [2008] 4 SLR(R) 1058 at [58], the court stated that motive "is helpful in appropriate circumstances by casting valuable (and even significant) light on the *intention* of an accused", and where there were no independent eyewitnesses, ascertaining whether an accused had a motive in the killing in order to silence the deceased would be an important issue.

107 Leslie was under financial pressure as the Deceased was pressing him for repayment of the $20,000, and he did not have the funds and was scrambling to find the money. He sought Zhang Hong's help to pay $10,000 and unsuccessfully asked Eric for another $10,000 just a day before he strangled the Deceased. Around that time, Mdm Toh was also pressing Leslie for money to pay the family expenses, as seen from her text messages between June to July 2016.[130] The Defence submitted that if Leslie had wanted to kill the Deceased because of money, he would not have taken steps to return any money to her.[131] However, this was not posed to Leslie in court for his explanation, and it could equally be said that he had returned some money to the Deceased in the hope of placating her or to buy time. Pertinently, he never mentioned to the investigating authorities that the Deceased had handed him *any* money, even categorically denying this when asked in the 9th Statement. He only decided to "tell … the truth" in the 10th Statement, and even then, sought to portray that he had, by returning her $10,000, discharged his obligation on the $20,000 completely as

130 TCFB Report, pp 19–39.

131 DCS, para 106.



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he claimed to have repaid her some money on previous occasions. Clearly, Leslie attempted to downplay that he was under financial pressure, so that it would not raise any suspicions of a motive to silence the Deceased. When he voluntarily made the 10th Statement, he stated:

> … I should tell you the truth. I was worried to tell you yesterday due to my bad records previously on breach of trust offences. *I was worried that the police may get the wrong idea that the dispute I had with Meow was about the money.*
>
> [emphasis added]

108 Leslie was also under threat of exposure by the Deceased to his family and employers (as well as others), which could jeopardise his marriage, job and even personal liberty as he might return to jail if his "investment" schemes and siphoning of company funds came to light.

109 Regarding his marriage and reputation, the Deceased had sent a message on 7 July 2016 to Mdm Toh (at [22] above). Mdm Toh then sent Leslie a message, one day before he killed the Deceased, asking who Cui Yajie was and whether he was cheating on her again. Leslie became very worried when Mdm Toh showed him the Deceased's message.[132] Leslie was also worried that the Deceased would keep harassing Mdm Toh, although he claimed (and which I disbelieved) that it was "not that serious".[133] The Deceased had also previously informed Leslie in mid-June 2016 that she would let everyone know of his "divorce".[134] At the material time, Leslie was involved in multiple relationships with other women, and I inferred that he would have been worried that these

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132 TCFB Report, p 46; 20/3/19 NE 40; AB 593 (7th Statement, para 64).

133 20/3/19 NE 42; AB 615 (9th Statement, para 102).

134 Defence Bundle of Exhibits, p 8; 19/3/19 NE 31–32.



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liaisons might be discovered if the Deceased were to confront Mdm Toh and Mdm Toh investigated further.

110 Regarding his job, Leslie had lied to the Deceased that the laundry business was his family business and that he was very busy at work. On 12 July 2016, the Deceased was serious about confronting his bosses to verify his claims. Clearly, Leslie was concerned she would question his bosses about him being the owner or scion of the laundry business. This revelation of his lie could catalyse an inquiry against him and lead to the unravelling of his other lies (such as his dealings with money belonging to Dryclyn and the various "investment" schemes – see [39]–[44] above). Even if the Deceased was unaware that Leslie was cheating others or on her, Leslie knew what he had done and where this could potentially lead to if she were to confront his bosses or Mdm Toh.

111 As Leslie himself stated, he had begged the Deceased not to complain to his bosses *because he did not want her to destroy the reputation* he had built up, and that if the Deceased complained to his wife, *his whole life, his job and his family would be over/destroyed*.[135] All these made clear what was on his mind – when the Deceased was determined to find out the truth and he could not persuade her otherwise, he silenced her.

112 Next, Leslie's conduct after the strangling was revealing. If the compression of the neck was an accident, he would be more worried when he found her motionless – as he himself stated, he did not want her to die.[136] Yet he never called for help but just waited around for a "very long" time to see if the Deceased would move. His explanation that he intended to send her to the

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135 20/3/19 NE 81, 84; AB 569–570 (6th Statement, paras 8, 10 and 11).

136 20/3/19 NE 130.



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hospital *only if she started moving* was bizarre and inexplicable.[137] By the time the Deceased was motionless, Leslie knew that he had caused a serious injury by pressing her neck very hard. He even claimed to have thumped her chest but she did not wake up, and yet he did not seek help.[138]

113 I disbelieved Leslie that he did not seek help because he was "lost", his mind was "blank", he was "shocked" and "confused" and he did not know what to do, and that he was confused, shocked and in a daze *for a few days*.[139] The evidence showed that he was not confused; he was able to think clearly, methodically and in a composed manner, he attempted to cover his tracks, and he even lied to various persons so as not to arouse suspicions.

(a) He claimed that he "tried all means to revive" the Deceased "by hitting her chest to perform CPR" to see if she was alive.[140] He then lowered the front passenger seat (where the Deceased sat) until it was flat and placed laundry bags over the body so that it could not be seen as the laundry bags were "very wide" – this was even before he drove off from Marina Gardens Drive.[141] His claim that he had lowered the seat to allow the Deceased to "rest in peace" was unbelievable, in light of his later answer in court that that was not the reason, that he was afraid and that he "naturally put the seat into a flat position" and used the laundry bags to cover her body so that her face could not be seen.[142] This was an

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137 AB 617 (9th Statement, para 106); 20/3/19 NE 129–130; 21/3/19 NE 109–110.

138 20/3/19 NE 132–133; 21/3/19 NE 110.

139 21/3/19 NE 96.

140 AB 617 (9th Statement, para 106); 20/3/19 NE 129, 133.

141 19/3/19 NE 51–52; 21/3/19 NE 100; AB 571 (6th Statement, para 15); 21/3/19 NE 3, 100.

142 AB 571 (6th Statement, para 15); 20/3/19 NE 135–136.



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attempt to cover up what he had done, and he clearly figured out a course of action for dealing with a dead person in the Car, although he claimed otherwise.

(b) Not long after the strangling, Adeline and Leslie had a phone conversation at around 10.20 am. She wanted to find out why he had not showed up at Westin Hotel, and he told her that he did not manage to meet the Deceased and to forget about it. I disbelieved Leslie that he gave this explanation because he was confused.[143] To the contrary, he had the presence of mind to lie and cover his tracks.

(c) I had also found that Leslie had planned to dispose of the body on 12 July itself. He had chosen "the most secluded place" to burn the Deceased's body, namely a dead end road at Lim Chu Kang Lane 8 with a metal shed.[144]

(d) He had the presence of mind to lie to Mdm Toh.[145] At about 3.06pm on 12 July itself, he informed her that he was busy and could not fetch her from work. That night, he sent her two messages on the phone, showing pictures of washing machines to give her the impression that he was busy at work (when he was actually not working) so that she would not disturb him.

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143 AB 380; AB 437 (Adeline Toh's statement, para 9); 14/3/19 NE 11; 21/3/19 NE 4–5.

144 AB 499 (5th Statement, para 15).

145 21/3/19 NE 31–32; 22/3/19 NE 30–31; TCFB Report, p 48.



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(e) When he returned to Orchid Park Condominium the same night, he had the presence of mind to park the Car at a carpark which was different from the one he normally parked in.[146]

(f) When Leslie burned the Deceased's body, he made sure that it would be completely disposed of, as he returned periodically to top up charcoal and kerosene and *even dragged the body into a nearby drain to let it continue burning "so no one will discover it"*.[147] Leslie admitted that when the body was burning, he stood nearby to see if anyone would pass by because he was afraid.[148] This exposed his nonsensical claim that he wanted to give the Deceased a respectful burial. His actions clearly showed he was in possession and control of his mental faculties and actions at the material time.

(g) He was careful to dispose of the artefacts of burning, the Deceased's personal belongings and his own belongings separately.[149] He disposed the empty charcoal packages and tins of kerosene at a dustbin at Lim Chu Kang. He drove to Orchid Country Club and threw the Deceased's belongings into a huge blue bin, even separating the items from the Deceased's handbag to discard and cutting up her credit cards. He then proceeded to another smaller bin, *also at Orchid Country Club*, to dispose of his own documents. Leslie's explanation for using two different bins to separately dispose of his and the Deceased's items was unbelievable and bizarre. He claimed that the huge blue bin was

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146 19/3/19 NE 51–52.

147 AB 575 (6th Statement, paras 30–31).

148 21/3/19 NE 94; AB 481 (5th Statement).

149 AB 584–586 (7th Statement, paras 35–36); 21/3/19 NE 23–29; Photos 284 and 291.



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"not big enough" to dispose of his documents (even though it could contain furniture) and then claimed that it was "too big" to dispose of his documents. He then claimed that he could not stop at the huge blue bin for too long which was why he proceeded to another bin to discard his own things. Leslie tellingly revealed that there "would have been CCTV" cameras around.

(h) He even thought of buying vinegar on 15 July 2016 to wash his clothes to get rid of the burning smell (from burning the Deceased's body).[150]

114 Accordingly, I was satisfied that Leslie had the *mens rea* to satisfy s 300(*b*) of the Penal Code. It did not assist him that he claimed that if he had the intention to kill the Deceased he would have had a better plan.[151] The existence of premeditation or planning can support a finding of intention; however the lack of it does not negate intention as intention can be formed on the spur of the moment.

***Leslie's lies as corroboration***

115 The Prosecution also submitted that Leslie's lies (such as what occurred between him and the Deceased on 12 July 2016 and the nature of his relationship with her) were corroborative of his guilt.[152] An accused's lies can amount to corroboration of evidence of guilt if the conditions in *R v Lucas (Ruth)* [1981] 1 QB 720 ("the *Lucas* test") are met: (a) the lie told out of court is deliberate;

150 AB 480 (5th Statement).

151 AB 511 (4th Statement).

152 PCS, paras 14–18.



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(b) it relates to a material issue; (c) the motive for the lie is a realisation of guilt and a fear of the truth; and (d) the statement must clearly be shown to be a lie by independent evidence (*PP v Ilechukwu Uchechukwu Chukwudi* [2015] SGCA 33 at [60]). The *Lucas* test applies equally in the context of murder (*Kamrul Hasan Abdul Quddus v PP* [2011] SGCA 52 at [18]–[19]).

116 I had earlier found that Leslie had lied about many things, such as the nature of his relationship with the Deceased, and the events leading up to 12 July 2016 including whether he took $20,000 from the Deceased and his ability to repay her. For instance, he lied (in the 9th Statement) that the Deceased never gave him any money and it was her who had asked him for money. He lied (in the 10th Statement) that when the Deceased asked him for the further $10,000, he was able to easily repay her, that at that time he had not approached Eric for money, and that Alex owed him money. All these proved to be untrue from Adeline's, Eric's and Alex's testimonies. These were deliberate lies crafted over time and related to material issues. I found they were motivated by Leslie's realisation of guilt. He lied about his relationship with the Deceased and about taking her money to distance himself from her and run her down, and to conceal his motive for silencing her.

117 I thus accepted the Prosecution's submission that Leslie's lies corroborated his guilt. However, even without relying on the lies as corroboration, I was satisfied that the charge had been proved. I now turn to Leslie's defences of provocation, sudden fight and diminished responsibility.

**Defence of grave and sudden provocation**

118 Exception 1 to s 300 of the Penal Code provides that:

> Culpable homicide is not murder if the offender whilst deprived of the power of self-control by grave and sudden provocation,



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> causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

119 To succeed, the accused must prove that he was in fact deprived of self-control by the provocation ("the subjective test"); and the provocation was grave and sudden, from the perspective of whether an ordinary person of the same sex and age as the accused, sharing his characteristics as would affect the gravity of the provocation, would have been so provoked as to lose self-control ("the objective test") (see *Pathip Selvan s/o Sugumaran v PP* [2012] 4 SLR 453 ("*Pathip*") at [34]). I found that Leslie failed to prove this defence on a balance of probabilities.

***Whether provocation was "grave or sudden"***

120 I was not satisfied that there was a grave or sudden provocation.

121 The Defence's case was premised on the Deceased's *verbal* provocation (where she allegedly told him she wanted to watch Leslie die and to tarnish his reputation) and her *physical* abuse.[153] I had found that the Deceased did not physically abuse Leslie or that there was a struggle as he described.

122 As for the verbal provocation, I agreed with the Prosecution that it was not sudden because, by Leslie's own account, the Deceased had been "singing" at him since around 5.38am that morning and he routinely let her "sing the whole song".[154] The verbal provocation was also not grave. I rejected the Defence's submission that the relevant perspective to be considered was that of

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153 DCS, para 114.

154 PCS, para 158.



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a reformed ex-convict.[155] Leslie was patently *not* reformed as seen from how he continued to lie to the Deceased, including informing her that her $20,000 was for investment in gold, how he misrepresented to various persons that he was the owner of a laundry business, how he did not inform his employers of the Katong franchise, and how he had admitted to collecting money for Dryclyn but did not hand the money over to it. He was also driving the Car without a license,[156] demonstrating his disregard for the law. If, by the Defence's submissions, the Deceased was threatening to spread *falsehoods* about Leslie and unfairly tarnish his *good* reputation, then I was not convinced that this was the case, based on Leslie's character and conduct during the material time.

123 Further, it was not even clear from Leslie's own account what exactly that provocation was, that precipitated the loss of his self-control. In the 1st Statement he claimed the Deceased wanted to go to the factory to check whether he was really so busy. In the 2nd Statement, he claimed she berated him about cheating on her and shouted and spat at him. In the 3rd Statement he claimed she wanted to find out from his boss whether he was really busy and to tell his colleagues that he had cheated and to damage his reputation. He told IO Tan that the Deceased had "threatened to go disturb his wife and even send message[s] to her Facebook".[157] He told Dr Koh that the Deceased wanted to broadcast that they were having an affair but then recanted and decided to say "nonsense things" instead.[158] Then, in the 6th Statement he stated the Deceased accused him of lying to her, scolded him for not spending time with her,

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155 DCS, para 121.

156 19/3/19 NE 111.

157 Trial Bundle (Vol 4) Tab 5, p 9.

158 Trial Bundle (Vol 3) Tab 4, p 46.



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threatened to go to his company to tarnish his reputation, and wanted to "talk to other bosses so that she can let *them* spread the word and destroy [his] reputation". Leslie's ever-morphing account belied his credibility and showed that he was exaggerating the gravity of the alleged provocations to buttress his defence. I was not satisfied that the objective test of provocation was met.

***Whether there was deprivation of self-control***

124 Even if the verbal provocation occurred as Leslie described, Leslie's own accounts of what he did in response to the provocative acts showed that he had not lost his self-control at the material time (*ie*, when strangling the Deceased) *to the extent that he was no longer in control of his mind* (*Pathip* at [40]). I found Leslie's conduct before and shortly after the killing to be significant in illuminating his state of mind throughout.

125 First, Leslie was in control of the situation pre-strangling. In the 3rd Statement, he stated that he had not only called Adeline (to talk to the Deceased) but he also chose to drive to Gardens by the Bay because he "decided to calm her down by talking to her at a quiet place". In the 6th Statement, he stated that when she first scolded him, he kept quiet and let her rant, and likewise made the decision to stop at a "secluded road" to try to "talk to her and cool her down". Even after she purportedly continued to shout at and scold him, he did not retaliate but instead begged with her. From his own account, despite the Deceased's ranting and scolding, he could think clearly throughout, arranging for a conference call with Adeline to seek her help and deciding to stop at a secluded place to pacify the Deceased.

126 Second, Leslie did not lose self-control during the strangulation. I disbelieved that Leslie was not conscious that he had used his hand to strangle the Deceased's neck and only realised this after she became motionless (see [89]



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to [92]). Whilst there was no need for an accused's mind to be completely blank or for there to be automatism to establish the defence of provocation (*Pathip* at [39]), I had found that Leslie was aware of what he was doing throughout.

127 Whilst I did not rely on what happened after the Deceased had been strangled as determinative, I found Leslie's conduct post-strangling (see [113] above) showed that he was in control of his actions.

**Defence of sudden fight**

128 Exception 4 to s 300 of the Penal Code provides that:

> Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner.

129 To succeed, Leslie must show that he caused the Deceased's death: (a) in a sudden fight in the heat of passion upon a sudden quarrel; (b) without premeditation; and (c) without having taken undue advantage or acted in a cruel or unusual manner (*Iskandar bin Rahmat v PP* [2017] 1 SLR 505 ("*Iskandar*") at [57]).

130 Whilst I found insufficient evidence to establish that the strangling was premeditated, I found that Leslie failed to establish the defence of sudden fight. I had disbelieved his story that the Deceased had physically assaulted him, as being devoid of credibility, and thus there was no fight. A "fight" is more than just a mere quarrel and involves mutual provocation and blows on each side (*Tan Chee Wee v PP* [2004] 1 SLR(R) 479 ("*Tan Chee Wee*") at [60]). Here, it was Leslie who had attacked the Deceased, going for her neck and compressing it with great force.



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131 Further, I found that Leslie's defence of sudden fight failed on the third element, which takes into account factors such as the parties' physique, age, ability and aggression: *Tan Chee Wee* at [70]. As explained in Stanley Yeo, Neil Morgan & Chan Wing Cheong, *Criminal Law in Malaysia and Singapore* (LexisNexis, 3rd Ed, 2018) at para 30.31, this requirement translates into viewing the combatants on a more or less equal footing. I found that Leslie had an undue advantage and had acted in a cruel and unusual manner. He was much taller (about a head) and heavier than the Deceased[159] and would have been able to overpower her even if she had attacked him. During the strangling, Leslie stated that he was seated with his right leg folded on the driver's seat and his left leg hanging over the seat, his whole upper body was bent towards the Deceased, and he was leaning forward. I agreed with the Prosecution that this would have given him the ability to bring his weight to bear upon her.

**Defence of diminished responsibility**

132 Exception 7 to s 300 of the Penal Code provides that:

> Culpable homicide is not murder if the offender was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in causing the death or being a party to causing the death.

133 The principles applicable to this defence are well-established (see *Iskandar* at [79]–[82] and [89] and *Ong Pang Siew v PP* [2011] 1 SLR 606 at [58]–[60] and [64]) and I state them briefly:

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159 21/3/19 NE 98.



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(a) The accused must establish on a balance of probabilities that he was suffering from an abnormality of mind ("the first limb"), the cause of the abnormality was one of the prescribed causes ("the second limb"); and the abnormality substantially impaired his mental responsibility for his acts and omissions in causing the death ("the third limb").

(b) While the second limb is a matter largely within the purview of expert evidence, the first and third limbs are matters for the court as the finder of fact. In doing so, the judge may take into account all other relevant facts and circumstances, including the accused's conduct before, during and after the offence.

(c) Regarding the first limb, the court must determine whether the evidence shows an abnormally reduced mental capacity to understand events, judge the rightness or wrongness of one's actions, or exercise self-control. The court must be satisfied not only that the accused was suffering from a condition that a reasonable man would consider abnormal, but that the abnormality was of such a degree as to impair his cognitive functions or self-control.

(d) Regarding the second limb, the onus is on the accused to identify which prescribed cause gave rise to his abnormality of mind.

(e) Regarding the third limb, substantial impairment does not require total impairment; neither is it trivial nor minimal.

134 Leslie claimed he was suffering from IED at the material time. Both parties relied on the same criteria in diagnosing whether Leslie suffered from IED (I will refer to the individual criterion as Criterion A, B, C, D, E or F):



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> A. Recurrent behavioral outbursts representing a failure to control aggressive impulses as manifested by either of the following:
>
> 1. Verbal aggression … or physical aggression toward property, animals, or other individuals, occurring twice weekly, on average, for a period of 3 months. The physical aggression does not result in damage or destruction of property and does not result in physical injury to animals or other individuals.
>
> 2. Three behavioural outbursts involving damage or destruction of property and/or physical assault involving physical injury against animals or other individuals occurring within a 12-month period.
>
> B. The magnitude of aggressiveness expressed during the recurrent outbursts is grossly out of proportion to the provocation or to any precipitating psychosocial stressors.
>
> C. The recurrent aggressive outbursts are not premeditated (i.e., they are impulsive and/or anger-based) and are not committed to achieve some tangible objective (e.g., money, power, intimidation).
>
> D. The recurrent aggressive outbursts cause either marked distress in the individual or impairment in occupational or interpersonal functioning, or are associated with financial or legal consequences.
>
> E. Chronological age is at least 6 years …
>
> F. The recurrent aggressive outbursts are not better explained by another mental disorder … and are not attributable to another medical condition … or to the physiological effects of a substance …

135 Criteria E and F were not live issues and irrelevant for current purposes, and all the criteria had to be satisfied for a diagnosis of IED, except for Criterion A where either Criterion A1 or A2 would suffice. It was undisputed that even if Leslie had a lifetime diagnosis of IED, it did not therefore mean that he manifested IED at the time of the offence.[160]

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160 13/3/19 NE 42–44 and 67–68; 26/3/19 NE 38–40, 92, 94.



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136 As a preliminary issue, there was some disagreement whether the "three behavioural outbursts" under Criterion A2 could include the index event (*ie*, Leslie's strangling of the Deceased). Dr Ung claimed that it could and I gave him the benefit of the doubt. Dr Koh accepted that there was no literature supporting his view that the index event could not count, and that once all the diagnostic criteria are fulfilled, it was possible for a person to have been suffering from IED from the first outburst.[161]

137 The key points of contention were:

(a) whether Leslie had a lifetime diagnosis of IED ("lifetime IED") at some point in time;

(b) if he had lifetime IED, whether the IED manifested at the time of the commission of the offence; and

(c) even if he had lifetime IED and it manifested at the time of the commission of the offence, whether it substantially impaired his mental responsibility for his act in relation to the offence.

***The expert witnesses***

138 For the purposes of Dr Koh's 2nd Report, Dr Koh interviewed Leslie and Mdm Toh (on 1 and 15 February 2019 respectively). Mdm Toh then sent an unsolicited email to Dr Koh on 18 February 2019 with further information stating that she hoped Dr Koh's report "will favour Leslie".[162] Dr Koh also interviewed Adeline and the prison officers in charge of Leslie. In the Report,

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161 13/3/19 NE 68, 92–94.

162 Trial Bundle (Vol 3), Tab 7, pp 63–64.



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he opined that Leslie did not have IED at the time of the offence, but in court opine that it was more likely that Leslie had IED in 2002 and but not in 2016.[163]

139 Dr Ung interviewed Leslie on 17 May and 2 August 2018. He did not meet Mdm Toh in person but obtained information from her via a phone call on 29 June 2018 and through her responses (to his follow-up questionnaire) on 3 September 2018. She also sent Dr Ung a follow-up email on 4 September 2018. In the 3 September 2018 email, Mdm Toh stated "Hope you would help Leslie for this case. Your report would favour Leslie." In Dr Ung's Report, he opined that Leslie had lifetime IED and that he was suffering from IED at the time of the offence. Dr Ung premised his opinion essentially on two sets of incidents:[164]

(a) Mdm Toh's account corroborated Leslie' account of frequent anger outbursts occurring a few times a week, which in court Dr Ung clarified would have been narrowed down to the period of around 2002.[165]

(b) Additionally, for the year leading up to Leslie's arrest, Leslie had reported at least three other outbursts involving damage or destruction to property (*ie*, kicking a coil of rope causing a hole in a wall and throwing and breaking his pen in a fit of anger), as well as the episode of taking the Deceased's life.

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163 13/3/19 NE 105.

164 Trial Bundle (Vol 1), Tab 1 (Dr Ung's Report, para 41).

165 26/3/19 NE 46–48.



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***Lifetime diagnosis of IED in around 2002***

140 I first considered whether Leslie had lifetime IED, particularly by around 2002. Dr Koh and Dr Ung agreed that a lifetime diagnosis of IED meant that a person had, at one point in his or her life, been diagnosed with IED. The significance of a lifetime diagnosis is that Criterion A, being historical in nature, need not be fulfilled before a future outburst can be attributed to an individual's IED. However, attribution of that future outburst to IED would still depend on whether Criteria B to D were fulfilled.[166]

141 Dr Ung's Report stated that Criterion A1 was met based on Mdm Toh's account of "frequent anger outbursts, both verbal and physical (less often), occurring a few times a week in the past".[167] In cross-examination, he initially pinpointed the time period as "prior to 2012, 2013", then narrowed it to "2010, 2011" before settling on the view that Leslie would have been diagnosed with IED "anytime … from 2000 to 2002".[168] Pertinently, Dr Ung stated that his opinion was predicated on the truthfulness of Leslie's and Mdm Toh's accounts.

142 Dr Koh's opinion was premised partly on his interviews with Mdm Toh. In his interview of August 2016 (for the purposes of preparing his first report), Mdm Toh stated that Leslie had a past history of overturning tables and chairs when he was angry, although he had not done so in the "recent few months". In his interview of February 2019 (for the purposes of preparing his second report), Mdm Toh stated that in 2002, Leslie had wrecked chairs, smashed a Cordon

166 13/3/19 NE 67–68; 26/3/19 NE 4, 39, 64.

167 Trial Bundle (Vol 1), Tab 1 (Dr Ung's Report, para 41).

168 26/3/19 NE 45, 48–50.



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Bleu bottle and thrown a Bible.[169] Similar occurrences of violence were also mentioned by Mdm Toh to Dr Ung in 2018.[170] Dr Koh accepted that if Leslie's frequent outbursts (both verbal and physical) occurred a few times a week, this would fulfil Criterion A1, but assuming that the frequency of his outbursts dropped to one to two times a month then it would not.[171] He highlighted that inconsistencies were present in Mdm Toh's accounts; she initially claimed that Leslie had toned down but later said that he had been frequently violent.

143 I deal first with the admissibility and reliability of the evidence of Mdm Toh, who was not called as a witness. I did not accept the Prosecution's submission that Mdm Toh's account to Dr Ung of Leslie's behaviour was hearsay and inadmissible.[172] Any finding (that Leslie had developed lifetime IED around 2002) would be premised on Dr Ung's and Dr Koh's evidence and opinion (albeit they partially relied on what Mdm Toh informed them) and not Mdm Toh's. Dr Ung explained that, having made a judgment call, he accepted Mdm Toh's account as there would have been less reason for her (compared to Leslie) to lie.[173] In any case, it did not lie with the Prosecution to allege that Mdm Toh's accounts to Dr Ung were inadmissible, when Dr Koh (testifying for the Prosecution) had also relied on his interviews with Mdm Toh and even Leslie's prison officers, whom the Prosecution did not call, to form his opinion.

144 As for the reliability of Mdm Toh's account to Dr Koh and Dr Ung, I was cognisant that the burden was on the Defence to show that Leslie had IED.

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169 Trial Bundle (Vol 3), Tab 5, p 54; Trial Bundle (Vol 3), Tab 6, pp 59 and 61.

170 Trial Bundle (Vol 1), Tab 1, pp 28–31.

171 13/3/19 NE 67.

172 PCS, para 129.

173 26/3/19 NE 29; 83.



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Mdm Toh had also informed Dr Koh and Dr Ung that she hoped their reports would be favourable to Leslie. That said, when Dr Koh first interviewed Mdm Toh in 2016 to prepare his first report (where she gave an account of Leslie's past behaviour), there was no evidence that she was cognisant of the defence of IED. Likewise, when Dr Koh interviewed her in February 2019 (to prepare his second report), there was no evidence that she had seen the DSM-5 criteria. Her unsolicited email to Dr Koh on 18 February 2019 came only after he had shown her the DSM-5 criteria. Dr Ung also stated that he had not shown Mdm Toh the DSM-5 criteria.[174] In any case, if the Prosecution had wanted to raise the underlying unreliability of Mdm Toh's evidence, it could also have called her.

145 Having considered the experts' opinions, I was satisfied that the Defence had proven, on balance, that Leslie had developed lifetime IED around 2002. Dr Koh opined that, based on the information before him and Mdm Toh's account assuming it was accurate (at least in relation to matters which occurred around 2002), Leslie was likely to have had lifetime IED in 2002. Leslie's outbursts occurred a few times a week, they were "rather excessive [violent] episodes" and Mdm Toh obtained a personal protection order ("PPO") against Leslie.[175] Dr Ung also opined that Leslie would have been diagnosed with IED "anytime from … 2000 to 2002".

146 I emphasise that in arriving at this finding, Mdm Toh's evidence was not the *only* evidence taken into account. It was undisputed that Mdm Toh obtained a PPO against Leslie in 2002, which Dr Koh referred to in opining that Leslie was likely to have lifetime IED in 2002. Her account to the experts of some

174 26/3/19 NE 33.

175 13/3/19 NE 83–84; 103–105.



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instances of Leslie's behaviour in 2002 such as wrecking chairs, smashing a Cordon Bleu bottle and throwing a Bible was attested to by Leslie himself.[176]

147 I rejected the Prosecution's submission that the court should draw an adverse inference against the Defence under s 116(*g*) of the Evidence Act for failing to call Mdm Toh to confirm her account of Leslie's behaviour as narrated to Dr Ung. Whether an adverse inference should be drawn is in the court's discretion, and I did not find it appropriate to do so in this case. The Defence was not called upon to offer (though they did not volunteer) any explanation for why it did not call Mdm Toh. In any event, my findings were premised on the consideration of both experts' opinions and other evidence.

148 Hence, I found that Leslie had lifetime IED as he had IED around 2002.

***Lifetime IED shortly prior to or at time of offence***

149 I also considered whether Leslie would have met the criteria to qualify for lifetime IED after the 2002 period (if Leslie had not had IED around 2002). Dr Ung's Report stated that for the year leading up to Leslie's arrest, Leslie reported at least three outbursts that involved damage or destruction to property, which would satisfy Criterion A2:[177]

> (a) an incident where Leslie shouted and kicked a coil of rope which hit the partition wall of a laundry shop causing a dent in the wall ("Partition Wall Incident");

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176 Trial Bundle (Vol 3), Tab 4, p 50 (Dr Koh's interview with Leslie on 1/2/19); 21/3/19 NE 35.

177 Trial Bundle (Vol 1), Tab 1 (Dr Ung's Report, paras 24 and 42); 26/3/19 NE 30–31.



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(b) two or three incidents where Leslie threw his pen against a wall, in a fit of anger while he was talking on the phone, and the pen broke ("Pen Incidents");[178] and

(c) Leslie's killing of the Deceased on 12 July 2016.

150 I accepted that Criterion A2 was met as the Partition Wall and Pen Incidents would have likely occurred within 12 months prior to the killing of the Deceased. Dr Ung explained that with regard to these incidents, he had given Leslie a time reference period, and the Prosecution accepted that the Partition Wall incident occurred sometime after May 2015.[179]

151 However, I was not satisfied that Criterion B was met as there was insufficient context for the precipitating event for the Partition Wall and Pen Incidents. Dr Ung agreed that it was important to consider the precipitating event or provocation against the outburst in order to assess whether the latter would have been "grossly" disproportionate to the former.[180]

(a) Regarding the Partition Wall Incident, Dr Ung was not sure what Leslie was upset about. Karen testified she suspected she "said something wrong that made him [feel] very uncomfortable",[181] leading to Leslie kicking the coil of rope – this was unhelpful to the analysis.

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178 Trial Bundle (Vol 1), Tab 1 (Dr Ung's Report, para 24); 26/3/19 NE 30–31.

179 26/3/19 NE 30–31; PCRS, para 50(c)(i).

180 26/3/19 NE 50–53.

181 12/3/19 NE 94, 96.



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(b) Regarding the Pen Incidents, the precipitating events were similarly unclear, and not reflected in Dr Ung's report.[182] While Dr Ung contended that the precipitating events were phone calls from Leslie's worker(s), he accepted that the content of the calls was unknown and an assessment of proportionality would depend on the content of the calls and the context which resulted in the outburst/reaction. Dr Ung referred to Mdm Toh's responses to his questionnaire in an attempt to establish some context, but there was no time reference to any of these incidents, which could have occurred as long ago as 2013 and hence would not have satisfied the time reference of Criterion A2.[183] In court, Dr Ung was also unable to satisfactorily explain how Criteria B could have been fulfilled, as he did not know the context of Leslie's outbursts during the Pen Incidents.[184]

152 I was also not satisfied that Criterion D was met. Dr Ung's Report did not explain how Criterion D had been satisfied, and in court Dr Ung could not satisfactorily explain where in his report he had mentioned Criterion D being fulfilled (and how it was fulfilled) for the purposes of diagnosing Leslie with lifetime IED.[185] It was also unclear how the Partition Wall and Pen Incidents caused a marked distress in Leslie, or an impairment in his occupational functioning or interpersonal functioning, or were associated with financial or legal consequences. Dr Ung agreed that the Incidents did not cause any occupational impairment, consistent with Dr Koh's opinion.[186] Leslie himself

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182 26/3/19 NE 51–52.

183 26/3/19 NE 54–58, 60.

184 26/3/19 NE 85.

185 26/3/19 NE 89–90.

186 26/3/19 NE 90–91; 13/3/19 NE 28.



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claimed that he was "good in his work" and had "done so well" that his company recognised his work.[187] Adeline also described Leslie as overall a good worker and manager who took care of the staff – Dr Ung agreed with the assessment as Leslie had informed him that he was an "exemplary worker".[188] Dr Ung's Report also did not explain how the Incidents had caused any distress or impairment or were associated with financial or legal consequences.

153 In closing submissions, the Defence relied on several other incidents to show that Leslie had lifetime IED around 2015, as follows:[189]

(a) Adeline stated that sometime in 2015, Leslie was driving to an event and was running late as there was a traffic jam. Adeline and Mdm Toh were in the Car. Leslie scolded and screamed at Mdm Toh and blamed her for the delay ("Car Incident"). Adeline thought that Leslie's reaction was out of proportion.[190]

(b) Leslie had thrown his handphone and cracked its screen, which he stated happened around end-2015 or beginning of 2016 ("Handphone Incident").[191]

(c) Dr Koh's interview notes with Mdm Toh (on 11 August 2016) where she stated that "for a few months" Leslie had been rather irritable; and Dr Koh's interview notes with Mdm Toh (on 15 February 2019)

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187 AB 511 (4th Statement); AB 570 (6th Statement, para 11).

188 Trial Bundle (Vol 3), Tab 8 (Dr Koh's interview with Adeline on 11/2/19, p 66); 26/3/19 NE 90.

189 DCS, paras 14(2)–(5).

190 19/3/19 NE 26; 14/3/19 NE 26.

191 19/3/19 NE 27.



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where she stated that she had arguments with Leslie "once a week or maybe less frequently" in 2016 ("Arguments Incidents").

154 I gave little weight to the above incidents and they did not change my final analysis. Dr Ung's attention was not drawn to these incidents, even in court, and his report did not mention them or that they occurred in 2015–2016 in coming to his conclusion that Leslie had lifetime IED. In any event, even when Dr Koh was cross-examined about the Handphone Incident, he opined that Leslie had some control over his violent outbursts given that he had decided to throw something (the handphone) to prevent himself from hitting his wife. Dr Koh also opined that Criterion B was not satisfied as Leslie's act did not seem to be excessive or out of proportion, and Criterion C was not met as Leslie's outburst was goal-directed.[192] Indeed, Dr Ung stated that Leslie did not mention to him the throwing of a handphone during this period (of one year before the offence) and it was not reflected in his report.[193] There was also no context to the Handphone Incident. As for the Car Incident, Dr Koh's attention was not drawn to this. In relation to the Arguments Incidents, the Defence did not show how Criterion A would have been satisfied, and on the face of the interview notes, Mdm Toh's account would not have satisfied that criterion.

155 Having found that Leslie had not satisfied all the relevant DSM-5 criteria at the material time, I was thus not satisfied that the incidents that occurred around the 12 months prior to the strangling of the Deceased would have qualified Leslie for a lifetime diagnosis of IED.

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192 13/3/19 NE 31–32; 41.

193 26/3/19 NE 31.



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***Whether IED manifested at the time of commission of offence***

156 The Defence also had to prove that the IED manifested at the time of the offence (*ie*, that IED caused Leslie to behave in the way he did). Dr Koh explained that a person with IED can control his actions and know what he is doing and can intend to inflict injury knowing that it may result in certain consequences; and "not all the behaviour of a person with IED is due to IED".[194] Dr Ung stated that a person with lifetime IED may still cause aggression without actually manifesting IED when doing so, and not every act of aggression was due to IED as that act might be deliberate.[195] Pertinently, for IED to have manifested at the time of the offence, Criteria B, C and D had to be present.

157 I found that Leslie did not manifest IED during the commission of the offence and that the strangling of the Deceased was not attributable to IED. Criterion C was not met, as I had earlier found that Leslie had a motive to strangle the Deceased to rid himself of the financial pressure and threat of exposure and ruin to him that she posed. Leslie had committed the act of strangulation to achieve some tangible objective. Dr Ung accepted that if the offender was acting aggressively to stop the victim from attempting to extract money from him or to prevent the victim from spilling the beans and ruining the offender's reputation, business or personal life, the act would be committed to achieve a tangible objective. Dr Ung also accepted that if a person acts with a motive, as a means to an end, then the act would not be reactive.[196]

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194 13/3/19 NE 80–81, 97, 102.

195 26/3/19 NE 39, 63–66, 73–74, 93–94.

196 26/3/19 NE 88, 101, 110.



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158 For completeness, I deal with two other points raised by Dr Ung which did not change my conclusion. Dr Ung opined that Leslie was a vulnerable individual as he was suffering from IED (the point being that he was prone to reacting more severely to day-to-day stresses as he had an impulse control disorder). However, Dr Ung conceded that even if Leslie had lifetime IED, that did not mean that every act of aggression was caused by IED because the act could nevertheless be deliberate.

159 Dr Ung also relied on the concept of "narcissistic rage" (which was not a mental disorder) but conceded that this "would have contributed" to Leslie's anger and violence. If so, this would have undermined Dr Ung's opinion that the killing was caused by the manifestation of IED:[197]

> Q: And you're saying that … what the deceased said to him in the moments leading up to the killing … was essentially inflicting narcissistic injury on the accused?
>
> A: Yes.
>
> Q: Right. And this then led to a blow-up of reactive violence.
>
> A: *This would have contributed, yes, to his anger and violence.*
>
> …
>
> Q: *… So it's possible for the accused having suffered narcissistic injury to act up in violence quite apart from IED?*
>
> A: *That's correct.*
>
> …
>
> Q; So in your opinion, *was the accused's actions borne out of narcissistic rage*?

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197 26/3/19 NE 97–98; Trial Bundle (Vol 1) Tab 1, p 22 (Dr Ung's Report, paras 51.5 and 51.6).



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A: *I think there was an element of that, yes. I think, you know, he, you know, had a---a blow to his ego which then contributed to his rage.*

Q: Right. *And again, this can exist independently on IED?*

A: *Of course, yes, it can.*

[emphasis added]

***Whether there was substantial impairment***

160 Even if Leslie had manifested IED when he committed the offence, I did not find that it substantially impaired his mental responsibility for his acts. I had found that Leslie knew what he was doing at the material time and there was no loss of self-control on his part. He was lucid during the killing, as demonstrated by his ability to recollect numerous details regarding what he did, including pressing on the Deceased's neck so hard he ground his teeth and thinking to himself why she did not "stop the nonsense". In the immediate aftermath, Leslie could think clearly and even attempted to cover his tracks.

161 In the round, although Leslie has lifetime IED dating back to 2002, I found that the IED did not manifest when he committed the offence. In any event, Leslie had failed to show that any abnormality of mind had substantially impaired his mental responsibility for the act. Accordingly, the defence of diminished responsibility was not made out.

**Sentence**

162 Having found that the Prosecution had proved its case beyond a reasonable doubt, and the Defence had failed to show on a balance of probabilities the defence of provocation, sudden fight or diminished responsibility, I convicted Leslie of the charge. Section 302(2) of the Penal Code confers a discretion on the court to sentence an accused person convicted under s 300(*b*) to either life imprisonment and caning, or death.



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163 The death penalty is warranted where the actions of the offender outrage the feelings of the community, and this would be the case where these actions exhibit viciousness or a blatant disregard for human life. The manner at which the offender acted takes centre stage, and relevant considerations include the number of stabs or blows inflicted, the area of injury, the duration of the attack, the force used, the mental state of the offender, and the offender's actual role or participation in the attack: see *Chan Lie Sian v PP* [2019] SGCA 44 ("*Chan Lie Sian*") at [84]–[85]. In *PP v Chia Kee Chen* [2018] 2 SLR 249 ("*Chia Kee Chen"*) at [139], the court also considered whether the accused demonstrated a high degree of planning and premeditation.

164 No doubt, I found that Leslie had a motive to silence the Deceased, to rid himself of the financial pressure and threat of exposure that she posed. Nevertheless, I did not consider that what he had done warranted the imposition of the death penalty. The evidence did not suggest that Leslie had planned to kill the Deceased when he first met up with her on 12 July 2016. As the Prosecution submitted, and which I agreed, Leslie was likely caught unaware that the Deceased had seriously intended to confront his bosses on that day. Indeed, Leslie's plan all along was to attempt to dissuade her from so doing – he set up a three-way conference call with Adeline to enlist her help, intercepted the Deceased at Joo Koon MRT station, and when the Deceased did not want to meet Adeline, he decided to bring her to a secluded place to calm or talk her down. In my view, all these showed that Leslie did not regard attacking, much less killing, the Deceased as his first or main solution.

165 There was also no evidence to show that Leslie's act was brutal or vicious such as to warrant the death penalty. Whilst I found that Leslie had compressed the Deceased's neck with great force, I was unable to conclude for how long he had strangled her. The act of killing here involved a single act of



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grabbing the Deceased's neck. There was no evidence that this was a sustained onslaught.

166 Finally, even if Leslie had not called for help after he saw the Deceased become motionless, and had gone to great lengths to dispose of her body, these were not relevant sentencing considerations. An examination of the accused's regard for human life must necessarily be informed by his knowledge and state of mind at the relevant time (*Chan Lie Sian* at [88]).

167 The Court of Appeal in *Chia Kee Chen* stated (at [142]), that the death sentence is the final and terminal sentence which a convicted person can suffer, and where it is at the discretion of the court, it should only be imposed after the most anxious consideration. Having regard to the facts and circumstances, I was not satisfied that this was a case which warranted the imposition of the death penalty. The Prosecution had also stated that it was not seeking the death penalty. Accordingly, I sentenced Leslie to life imprisonment. As Leslie is above 50 years old, he cannot be caned.

168 Pursuant to s 318(1) of the CPC, I exercised my discretion to backdate the sentence to the date of Leslie's remand, as requested by the Defence and to which the Prosecution did not object.

Audrey Lim
Judge

Hri Kumar Nair SC, Tan Wen Hsien, Sarah Shi, Stephanie Koh and Jocelyn Teo (Attorney-General's Chambers) for the Public



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Prosecutor;
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