IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2024] SGHC 233

Criminal Motion No 41 of 2024

Between

Pritam Singh

… *Applicant*

And

Public Prosecutor

… *Respondent*

JUDGMENT

[Criminal Procedure and Sentencing — Trials — Transfer of cases]

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Pritam Singh
v
Public Prosecutor

[2024] SGHC 233

General Division of the High Court — Criminal Motion No 41 of 2024
Hoo Sheau Peng J
26 August 2024

9 September 2024 Judgment reserved.

Hoo Sheau Peng J:

Introduction

1 Mr Pritam Singh (the "Applicant") faces two charges under the Parliament (Privileges, Immunities and Powers) Act (Cap 217, 2000 Rev Ed) (the "PPIP Act") for wilfully making a false answer to questions material to the subject of inquiry put to him during examination before Parliament's Committee of Privileges ("COP").

2 Relying on s 239(1)(*c*) of the Criminal Procedure Code 2010 (2020 Rev Ed) (the "CPC"), the Applicant applies to transfer his case from the State Courts to the General Division of the High Court (the "High Court") on the ground that a transfer of the case is "expedient for the ends of justice". Objecting to the application, the Prosecution submits that it is without merit.

3 Having considered the parties' written and oral submissions, I dismiss the application. These are my reasons.

Background facts

4 The Applicant has been a Member of Parliament for the Aljunied Group Representation Constituency from 2011, and the Secretary-General of the Workers' Party from 2018. Since 2020, he has been the Leader of the Opposition.[1]

5 On 3 August 2021, Ms Raeesah Begum bte Farid Khan ("Ms Raeesah"), then a Member of Parliament for Sengkang Group Representation Constituency, and a member of the Workers' Party, made a speech during a parliamentary debate. In her speech, Ms Raeesah claimed that she had once accompanied a rape victim to make a police report. The police officer who interviewed the rape victim had allegedly made comments about the victim's dressing, and the fact that she had been drinking alcohol. The victim left crying. On 1 November 2021, Ms Raeesah admitted in Parliament that this anecdote was untrue.[2]

6 Thereafter, the COP was convened to investigate into Ms Raeesah's conduct. On 10, 15 and 20 December 2021, the Applicant gave evidence before the COP on the matter.[3]

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1 Applicant's Written Submissions dated 19 August 2024 ("AWS") at para 5; Applicant's Affidavit dated 22 July 2024 ("Applicant's Affidavit") at para 5.

2 AWS at para 6; Applicant's Affidavit at paras 6 and 11.

3 Respondent's Written Submissions dated 19 August 2024 ("RWS") at para 8; Mr Wong Woon Kwong's Affidavit dated 8 August 2024 ("Respondent's Affidavit") at para 5.

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7 In its report dated 10 February 2022 (the "Report"), the COP was satisfied that based on the evidence, the Applicant had lied on affirmation. Given the seriousness of the matter, the COP recommended for Parliament to refer the Applicant to the Public Prosecutor for further investigations, with a view to considering the institution of criminal proceedings in respect of his conduct before the COP.[4]

8 On 15 February 2022, Parliament referred the matter to the Public Prosecutor.[5] On 19 March 2024, the Applicant was charged in the State Courts with two counts of wilfully giving false answers before the COP. These are offences under s 31(*q*) read with s 36(1)(*b*) of the PPIP Act.[6] For completeness, s 31(*q*) provides:

> **Offences**
>
> **31.** No person shall —
>
> …
>
> (*q*) whether or not he has been sworn or has made an affirmation, wilfully make a false answer to any question material to the subject of inquiry put during examination before Parliament or a committee; …

By s 36(1)(*b*) of the PPIP Act, any contravention of s 31(*q*) is an offence, and the punishment prescribed is a fine not exceeding $7,000 or imprisonment for a term not exceeding three years or both.

9 On 31 May 2024, the case was fixed for trial in the State Courts over 16 days in October and November 2024.[7] Counsel for the Applicant indicated

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4 RWS at para 9; Respondent's Affidavit at para 6 and p 92, para 233.

5 RWS at para 10; Respondent's Affidavit at para 7.

6 AWS at para 6(e); RWS at para 11.

7 RWS at para 13.

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that parties were in discussion over whether the case should be tried in the High Court. The Prosecution indicated its willingness to consider the Applicant's reasons for seeking a transfer, but at that time, the Applicant had not yet furnished any written request to the Prosecution.[8]

10 On 3 June 2024, counsel for the Applicant wrote to the Prosecution, requesting that the Prosecution transfer the case to the High Court. If the Prosecution had agreed, the transfer would have been pursuant to s 240(1) of the CPC, which is the applicable provision for the Public Prosecutor to exercise its discretion to apply for a transfer of a case from the Magistrate's Court to the High Court.[9] On 14 June 2024, the Prosecution responded that it was unable to agree to the Applicant's request.[10] On 23 July 2024, the Applicant filed this application.[11]

The parties' cases

11 Preliminarily, I observe that the Applicant's case has shifted over the course of these proceedings. In the Applicant's affidavit filed in support of the application, he advanced numerous claims. Subsequently, in his written submissions, he narrowed the focus of his case. This was likely in response to the affidavit filed by Mr Wong Woon Kwong SC ("Mr Wong") on behalf of the Public Prosecutor, which refuted various allegations in the Applicant's affidavit. During the hearing on 26 August 2024, the Applicant added to his written submissions, and I take the oral submissions as indicative of the Applicant's final position.

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8 RWS at para 14.

9 RWS at para 15.

10 RWS at para 16.

11 AWS at para 6(f); RWS at para 18.

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The Applicant's case

12 In relation to the interpretation of s 239(1)(*c*) of the CPC, the Applicant suggests that on a plain reading, the provision is "very wide",[12] and a transfer should be ordered so long as "it facilitates justice".[13] There is no need to show that a case is exceptional, for that would be at odds with the language of the statute.[14]

13 The Applicant's overarching position is that there are strong public interest considerations in his case which show "the necessity of a transfer to secure justice".[15] He compares his situation with an ongoing case concerning former Minister for Transport, Mr S Iswaran ("Mr Iswaran"), who is facing charges under, *inter alia*, s 165 of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code"). In that case, the Prosecution applied to transfer the case from the State Courts to the High Court under s 240(2) of the CPC due to strong public interest considerations. The Applicant argues that all the more, strong public interest considerations arise in his case for the following reasons.

14 First, the Applicant relies on his status as a politician, although not as a standalone factor. As the Applicant has adopted slightly different positions at different stages of the proceedings, I elaborate further on this below (at [51]–[54]).

15 Second, according to the Applicant, offences under the PPIP Act "necessarily entail a greater degree of public interest as compared to offences

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12 AWS at paras 9 and 23.

13 Notes of Evidence ("NE") dated 26 August 2024 at p 57, lines 1 to 2.

14 NE dated 26 August 2024 at p 8, line 28 to p 9, line 12.

15 AWS at paras 12 and 24; Applicant's Affidavit at paras 19, 23 and 24.

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under the Penal Code", as the PPIP Act safeguards public trust in the legislature.[16]

16 Third, the Applicant argues that his trial would have a wide-reaching impact, as it will call into question the rigour of the COP's inquiry processes, which may also affect how the COP conducts future inquiries.[17] Further, the charges against him involve more than a mere factual inquiry into whether he gave false answers on affirmation. Fourth, and closely related to the third point, he submits that a transfer would afford the dissatisfied party a right of appeal to the Court of Appeal, to provide guidance on s 31(*q*) of the PPIP Act.[18]

17 Fifth, in the Applicant's affidavit, he states that High Court Judges are best placed to try his case "without being swayed by the political atmospherics that surround this matter."[19] The Applicant has confirmed that he is not alleging bias on the part of the State Courts.[20] Nonetheless, I consider it necessary to deal with the ambiguous statements in the Applicant's affidavit, as well as his submissions surrounding judicial independence. I do so at [70]–[75] below.

18 To sum up, the Applicant argues that given the strong public interest considerations in his case, a transfer would be expedient for the ends of justice.

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16 Applicant's Affidavit at paras 25 to 27; AWS at para 17.

17 AWS at paras 18 and 19.

18 AWS at para 20.

19 Applicant's Affidavit at para 32.

20 NE dated 26 August 2024 at p 20, lines 17 to 26.

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The Prosecution's case

19 The Prosecution recognises that on a plain reading of s 239(1)(*c*) of the CPC, a transfer must "ensure or facilitate that justice is done".[21] However, as the purpose of s 239 is to uphold public confidence in the administration of justice, the legal threshold to be met under s 239(1)(*c*) of the CPC is high. A transfer is only "expedient for the ends of justice" in exceptional cases, where the supreme needs of justice warrant a departure from the ordinary course of justice.[22] In addition, the Prosecution's case is that the sole ground for invoking s 239(1)(*c*) is if there is a "reasonable apprehension" that justice will not be done in the State Courts. Any allegations of bias or lack of independence of the judiciary must be "credible and based on facts", as opposed to merely "imaginary" or "rare and remote". The Prosecution derives this position based on local, Indian and Malaysian case law.[23] Applying the principles above, no grounds for transfer arise in this case.

20 First, the Prosecution highlights that the Applicant's reliance on and comparison with Mr Iswaran's case is misconceived. To begin with, the transfer of Mr Iswaran's case as initiated by the Prosecution was made under an entirely different provision, *ie*, s 240(2) of the CPC, where the requirements of s 239(1)(*c*) did not need to be met.[24] That said, even if one were to compare the cases, the two are distinguishable and bear no factual similarity. There is therefore no basis for comparison.[25]

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21 NE dated 26 August 2024 at p 39, lines 11 to 12.

22 RWS at para 82.

23 RWS at paras 41 to 82; NE dated 26 August 2024 at p 38, lines 4 to 17.

24 RWS at paras 19 to 24.

25 NE dated 26 August 2024 at p 53, lines 6 to 16.

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21 While there is strictly no need for the Prosecution to explain the reasons for transferring Mr Iswaran's case to the High Court, the key consideration for that decision was that s 165 of the Penal Code applies to *all* public servants in Singapore. The court's interpretation may impact how public servants ought to conduct their affairs and transact with other persons in ways that do not transgress the criminal law. Given the potentially wide impact of s 165 of the Penal Code, a first instance decision by the High Court would be desirable. A final pronouncement by the Court of Appeal, should there be any appeal, would also be beneficial in setting out the parameters of s 165 of the Penal Code. In contrast, the charges faced by the Applicant under s 31(*q*) of the PPIP Act concern no more than a factual inquiry into whether he had given false answers on affirmation to the COP.[26]

22 Second, the Prosecution argues that the Applicant's mere reference to a transfer of his case involving PPIP Act offences as being in the "public interest" does not suffice. There is public interest involved in practically all criminal offences. This alone does not prove that there is a reasonable apprehension that justice cannot be done in the State Courts.[27]

23 Third, the Applicant's claim that the rigour of the COP's processes will be questioned mischaracterises the case against him. The trial judge will not be conducting a review of the COP's findings and recommendations. He will be hearing the matter afresh, and dealing with a factual inquiry.[28]

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26 Respondent's Affidavit at para 31; RWS at paras 36 and 37.

27 RWS at paras 85 to 90.

28 RWS at paras 37 and 97 to 100.

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24 Fourth, the Prosecution submits that the Applicant is not entitled to an automatic right of appeal to the Court of Appeal. The Applicant does not have the right to elect that any appeal arising from his case should be heard by the Court of Appeal.[29]

25 Finally, as regard the Applicant's argument that this case would "benefit from the stature of a High Court Judge",[30] this assertion is scurrilous and without basis. The Court of Appeal emphasised in *Noor Azlin bte Abdul Rahman and another v Changi General Hospital Pte Ltd* [2021] 2 SLR 440 ("*Noor Azlin*") at [118] that insinuations which cast doubt on the integrity and independence of the judiciary should not be lightly made. The Applicant has provided no factual basis for his allegations. He has not even deposed, in his affidavit, that he personally experiences such a reasonable apprehension of bias. Such baseless allegations should be categorically rejected.[31]

26 For the reasons above, the Applicant has not proven that a transfer is expedient for the ends of justice.

Issue

27 Based on the parties' cases, the sole issue before me is whether, pursuant to s 239(1)(*c*) of the CPC, a transfer of the case to the High Court should be ordered, and particularly, whether such a transfer would be "expedient for the ends of justice". To decide the issue, I first address the law.

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29 RWS at paras 102 to 105.

30 Applicant's Affidavit at para 28.

31 RWS at paras 91 to 96 and 101; NE dated 26 August 2024 at p 39, line 31 to p 42, line 26.

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The law

28 Section 239(1) of the CPC states as follows:

> **Power of General Division of High Court to transfer cases**
>
> **239.**—(1) Where in respect of any case it appears to the General Division of the High Court that —
>
> (*a*) a fair and impartial trial cannot be had in any State Court;
>
> (*b*) some question of law of unusual difficulty is likely to arise; or
>
> (*c*) a transfer of the case is *expedient for the ends of justice* or is required by this Code or any other written law,
>
> the General Division of the High Court *may* order —
>
> (*d*) that the case be transferred from a State Court to any other State Court of equal or superior jurisdiction; or
>
> (*e)* that the case be transferred to and tried before the General Division of the High Court.
>
> [emphasis added]

29 As highlighted by the parties, there are earlier versions of s 239 of the CPC, tracing back to s 176 of the Criminal Procedure Code (Cap 132, 1955 Rev Ed) (the "1955 Code"), s 177 of the Criminal Procedure Code (Cap 113, 1970 Rev Ed) (the "1970 Code") and s 185 of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) (the "1985 Code"). Comparing the earlier versions with s 239 of the CPC, I note that the three grounds in s 239(1) of the CPC, from (*a*) to (*c*), have endured over time. Other limbs have not, and it seems to me that the provision has narrowed in ambit. For example, s 185(1)(*d*) of the 1985 Code used to permit transfers based on the "general convenience" of parties or witnesses.

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30 Notwithstanding the longevity of the provision in its various iterations, according to the Prosecution, there have only been ten cases where transfers were sought under the earlier versions of the provision, of which only two were transferred.[32] The Applicant does not dispute this, and no reported case under s 239 of the CPC has been cited to me. For the meaning of "expedient for the ends of justice", I shall therefore examine the cases which dealt with the earlier versions of the provision.

The legal threshold: where the supreme needs of justice require the ordinary course of justice to be altered

31 On a plain reading of the provision, the expression "expedient for the ends of justice" is broad in scope. In *Measor and another v Public Prosecutor* [1971–1973] SLR(R) 316 ("*Measor*"), the court commented that the expression is "very wide", and "may embrace grounds" outside of the specified grounds in the then s 177(1) of the 1970 Code (at [5]), predecessor to s 239(1) of the CPC (see [29] above). As for what expediency entails, an act is "expedient" if it "will facilitate matters": *Syed Abbas bin Mohamed Alsagoff and another v Islamic Religious Council of Singapore (Majlis Ugama Islam Singapura)* [2010] 2 SLR 136 at [44] (albeit in the context of s 42(1) of the Trustees Act (Cap 337, 2005 Rev Ed)). In a similar vein, *Oxford English Dictionary Online* (Oxford University Press, 2024) at para II.2 defines "expedient" to mean "[c]onducive to advantage in general, or to a definite purpose; fit, proper, or suitable to the circumstances of the case".[33] On the face of the provision, a transfer must therefore "facilitate" the ends of justice. The parties are aligned on this.

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32 RWS at para 42.

33 Respondent's Bundle of Authorities at p 363.

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32 Nevertheless, this broad reading of s 239(1)(*c*) of the CPC acts only as a starting point. Reference must be made to the case law to concretise the specific legal test to be satisfied. In *Measor*, the High Court held that a transfer would be "expedient for the ends of justice" if it is necessary "to secure justice and a fair trial" (at [5]). As to what is necessary "to secure justice and a fair trial", the threshold to be met is high. In *Attorney-General v Koh Cho Puan and others* [1965–1967] SLR(R) 334 ("*Koh Cho Puan*"), the Attorney-General applied for a transfer on the basis that the law was complex, the trial was likely to be lengthy, and the documentary exhibits were likely to be voluminous (at [1]). The High Court remarked that the power to order such a transfer "has very rarely been exercised" (at [4]), and declined to order a transfer in that case because it was "the kind of case where *the supreme needs of justice do not require that the ordinary course of justice should be altered*" [emphasis added] (at [3]).

33 In *Measor* (at [6]), the High Court adopted a similar view and espoused that, save "where the supreme needs of justice require it, the ordinary course of justice is best left untouched". The court explained the rationale as follows (at [6]):

> It is the duty of the High Court to create and maintain confidence in the administration of justice. *Special facilities for a trial or trial by a special judge or a special court is apt or at least is capable of being used to destroy that confidence and except where the supreme needs of justice require it, the ordinary course of justice is best left untouched.* On the other hand no person should be allowed to undergo a trial by a district judge or magistrate of whom he has *reasonable apprehension* of being biased but not because the judicial officer is in his opinion incompetent or incapable of properly performing his duty.
>
> [emphasis added]

34 I agree with the propositions at [32]–[33] above and I adopt the approach set out. The expression "expedient for the ends of justice" is broad, and it

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suggests that the requirement is met if there is a necessity to secure justice and a fair trial. However, the power must only be exercised in rare and exceptional circumstances, where the ordinary course of justice is to yield to the supreme needs of justice.

35 To explain, it is the High Court's duty to uphold public trust and confidence in the administration of justice, and this entails guarding against unmeritorious applications for transfers from the State Courts to the High Court. Parliament has entrusted the State Courts with wide criminal jurisdiction, and therefore, the task of hearing a full range of criminal cases which fall within their jurisdiction. In that light, transfers of criminal cases from the State Courts to the High Court depart from the ordinary course of justice. Further, as affirmed by the Court of Criminal Appeal, a quintessential principle of the criminal justice system is that all accused persons, including political personalities, must be treated equally, regardless of their status: *Wong Hong Toy and another v Public Prosecutor* [1985–1986] SLR(R) 656 ("*Wong Hong Toy*") at [14]. Transfers bear the risk of harming public trust and confidence in the fair administration of justice, due to the perception that a "special judge" or "special court" is being accorded to an accused person. If accused persons are too easily granted transfers of their criminal cases to the High Court, they would effectively be bypassing statutory regimes carefully circumscribed by Parliament to grant criminal jurisdiction to the State Courts. This would erode the fundamental precept of equality before the law.

36 The proposition that the threshold under s 239(1)(*c*) should be set high is further supported by the reference to the cases where applicants rely on the other two grounds within s 239(1) of the CPC, *ie*, grounds (*a*) and (*b*), which likewise impose high bars to be met by the applicants.

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37 Given the high threshold to be met, it is not surprising that, to date, only two cases have been successfully transferred under s 176 of the 1955 Code (*ie*, a predecessor to s 239 of the CPC). In both cases, the Prosecution did not object to the transfers, and there was little discussion of the merits of the applications (see *T T Rajah v Regina* [1963] 1 MLJ 281 and *Fung Yin Ching & Ors v Public Prosecutor* [1965] 1 MLJ 49). In any event, as highlighted by the Prosecution, these cases involved charges of treasonous offences that posed serious threats to state power and government. The cases also took place before Singapore's independence.[34] The facts and circumstances were unique, and do not assist the Applicant.

38 To emphasise the high threshold to be met to invoke s 239(1) of the CPC, I illustrate with reference to some of the reasons which have been held *not* to constitute sufficient basis for the court to exercise its power to transfer:

(a) First, the mere fact that an applicant is a political personality does not warrant a transfer, as there is no justification for treating politicians differently from other accused persons: *Wong Hong Toy* at [14]; *Seow Francis v Comptroller of Income Tax* [1990] 1 SLR(R) 580 ("*Seow Francis*") at [5].

(b) Second, the novelty of a point of law, and of a statutory provision, does not suffice to show that it should not be handled in the State Courts. As provided within s 239(1)(*b*) of the CPC, an applicant must show that the question of law "is of unusual difficulty". In *Lin Tah Hwa v Public Prosecutor* [1985–1986] SLR(R) 969 ("*Lin Tah Hwa*") at [10], the High Court remarked that novelty in a point of law by itself does not make the point "a question of law of unusual difficulty". When

[34] RWS at paras 42 to 48.

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the earliest predecessor to the CPC was first enacted, many judicial officers were persons without legal qualifications (*Measor* at [1]). However, decades have since passed. Given the qualifications and experience of judicial officers in the then Subordinate Courts, the court observed that "for all practical purposes and intent", the predecessor provision to s 239(1)(*b*) of the CPC in the 1970 Code had, by that point, already "fallen into desuetude and obsolescence" (*Lin Tah Hwa* at [29]; see also *Wong Hong Toy* at [12], where the Court of Criminal Appeal made a similar observation). It would only be successfully invoked in an "extraordinarily rare" case (*Lin Tah Hwa* at [29]).

(c) Third, an applicant cannot earn an automatic right of appeal to the Court of Appeal through a transfer of his case to the High Court (*Ang Cheng Hai & Ors v Public Prosecutor* [1995] SGHC 97 at [15]; *Wong Hong Toy* at [13]; *Seow Francis* at [6]). For context, the ordinary course of justice following a trial in the State Courts would be an appeal to the High Court pursuant to ss 374 and 375 of the CPC, and then for any question of law of public interest to be referred to the Court of Appeal pursuant to s 397 of the CPC. A single tier of appeal from the State Courts to the High Court is provided for.

39 Conversely, I accept that s 239(1) of the CPC would be engaged where there is a reasonable apprehension that a fair trial would not be possible because of the bias or prejudice of judicial officers. This applies even where there is no true conflict of interests in which a trial judge has a personal stake in the outcome of the case, although the fear cannot be based on a rare and remote possibility that justice will not be done: *Goh Kah Heng (alias Shi Ming Yi) v Public Prosecutor and another criminal motion* [2009] 3 SLR(R) 409 ("*Goh Kah Heng*") at [5].

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40 In *Goh Kah Heng*, the then Senior District Judge had been the head of the Commercial Affairs Department (the "CAD") at the time when the applicants were charged by the CAD for the offences. The applicants asserted that judicial officers would not dare to disagree with the Senior District Judge due to the power of the Senior District Judge to assess their performance, and that this resulted in a fear that the trial judge would not be impartial. The High Court had no hesitation in rejecting this argument. As observed by the court, such a fear would go beyond the case at hand, even to cases not involving the CAD. The court emphasised that the test is that of a "reasonable apprehension of the fear envisaged". The ideal of judicial independence would be undermined if such a fear based only on the possibility of a rare and remote case were to be accepted as a basis for a transfer to be granted (at [5]–[6]).

41 Although strictly speaking, in *Goh Kah Heng*, the High Court applied the reasonable apprehension of bias test in relation to an application under the predecessor provision to s 239(1)(*a*) of the CPC in the 1985 Code (at [1]), I agree with the Prosecution that this would also be a reason for invoking s 239(1)(*c*) of the CPC, and that, if so, the same stringent test should apply. (For the avoidance of doubt, the interpretation of s 239(1)(*a*) is not an issue before me.) Indeed, in *Measor*, in the context of the reliance on the ground of a transfer being "expedient for the ends of justice", the High Court remarked that "no person should be allowed to undergo a trial by a district judge or magistrate of whom he has *reasonable apprehension* of being biased but not because the judicial officer is in his opinion incompetent or incapable of properly performing his duty" [emphasis added] (at [6]). In other words, a reasonable apprehension of bias on the part of a judicial officer is required.

42 Similar positions have been endorsed in both Malaysia and India. In Malaysia, when dealing with, *inter alia*, s 417(1)(*e*) of the Malaysian Criminal

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Procedure Code, on whether a transfer would be "expedient for the ends of justice", the High Court of Malaya in Kuala Lumpur held that the general rule is that "criminal cases must commence where they are registered under the law in adherence to the remit of the criminal jurisdiction of the Sessions Court", and that a transfer from the Sessions Court to the High Court should be the exception to be invoked "only in truly deserving cases": *Riza Shahriz bin Abdul Aziz & Anor v Pendakwa Raya* [2019] MLJU 1824 ("*Riza Shahriz*") at [54]. Likewise, the Indian Supreme Court emphasised that the power to order a transfer should be "exercised cautiously and in exceptional situations", and not merely because of "some apprehension about proper conduct of the trial". Mere allegations of an apprehension that justice will not be done does not suffice unless the apprehension is an objectively reasonable one: *Usmangani Adambhai Vahora v State of Gujarat and Another* [2016] 1 MLJ (CRL) 379 at [7] and [11].

43 In so far as the Prosecution suggests that a reasonable apprehension of bias is the *only* way to prove that a transfer is expedient for the ends of justice under s 239(1)(*c*) of the CPC (see [19] above),[35] this does not square with the plain wording of the provision. As highlighted by the High Court in *Measor* (at [5]), the provision is "very wide". Given the broad wording of s 239(1)(*c*), which both parties do not dispute, I have reservations about confining the scope of the provision to apply only to situations of a reasonable apprehension of bias. Moreover, if the sole purpose of s 239(1)(*c*) is to tackle situations concerning a reasonable apprehension of bias on the part of the judiciary, I do not think that Parliament would have chosen the relatively all-encompassing phrase of "expedient for the ends of justice". Consequently, I proceed on the basis that s 239(1)(*c*) of the CPC goes beyond instances where a reasonable apprehension of bias is alleged and shown.

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[35] NE dated 26 August 2024 at p 38, lines 4 to 17.

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44 Drawing the threads together, in my view, for an application to transfer a criminal case from the State Courts to the High Court on the ground that it is "expedient for the ends of justice" to succeed, it must be shown to be necessary to secure justice and a fair trial. This is only justified in rare and exceptional situations, where, after weighing the "supreme needs of justice", the "ordinary course of justice" is to yield. This is because any departure from the usual criminal process carries the risk of undermining public trust and confidence in the administration of justice (see [34]–[35] above). One clear situation where the supreme needs of justice call for a transfer is where there is a reasonable apprehension of judicial bias or lack of judicial independence, although that may not be the only situation in which a transfer may be ordered (see [39] and [43] above). With these legal principles in mind, I return to the present case.

Application to the present case

45 As I set out above, the Applicant's position is that the strong public interests considerations in his case indicate the necessity of a transfer to secure justice, and that his case falls within the very wide interpretation of the expression of "expedient for the ends of justice" under s 239(1)(*c*) of the CPC.[36] Before turning to the specific points raised in relation to strong public interest considerations, I discuss the Applicant's reliance on Mr Iswaran's case.

Mr Iswaran's case is of no assistance

46 Relying heavily on a comparison with Mr Iswaran's case, the Applicant claims that the strong public interest considerations in that case "apply with even greater force" to him to warrant a transfer to the High Court.[37]

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36 AWS at paras 9 and 12.

37 AWS at para 16.

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47 In response, the Prosecution emphasises that Mr Iswaran's case is irrelevant as the transfer in that case engaged a different provision of the CPC, *ie* s 240(2), where the requirements in s 239(1)(*c*) of the CPC did not have to be satisfied. As the Prosecution further explains, s 240(2) can only be invoked by the District Court, on its own motion, or upon the Prosecution's application. Should the Prosecution apply for a transfer under this provision, the District Court *must* stay the proceedings, and forward the case to the Public Prosecutor for a fiat to be issued to designate the High Court to try the offence.[38] In relation to the Applicant's case, which is a matter in the Magistrate's Court, the equivalent provision would have been s 240(1) of the CPC (see [10] above). If the Applicant's true grievance is that the Prosecution has not exercised its power under s 240(1) of the CPC to transfer his case from the Magistrate's Court to the High Court, the proper avenue for redress is by way of judicial review. An application under s 239(1) of the CPC is an indirect attempt to judicially review the Prosecution's decision.[39] In any case, comparing the Applicant's case with Mr Iswaran's, the two are factually distinguishable. Mr Iswaran's case is therefore of no assistance to the Applicant.[40]

48 On a broad level, while I find that Mr Iswaran's case is not completely irrelevant, it certainly does not assist the Applicant in the manner which he suggests. Although the Prosecution's exercise of discretion under s 240(1) of the CPC is not under review, just as how I have discussed the facts and circumstances in the various cases above (see [37]–[40] above), a general consideration of the facts and circumstances in Mr Iswaran's case is not entirely misplaced.

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38 RWS at paras 19 to 24.

39 RWS at para 25.

40 NE dated 26 August 2024 at p 53, lines 6 to 16.

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49 However, I am mindful that the transfer in Mr Iswaran's case was based on an entirely different statutory provision, and the stringent requirements in s 239(1) of the CPC did not need to be met in that case. Even if the requirements in s 239(1) of the CPC would have been met in Mr Iswaran's case, this does not automatically mean that, by comparison, the requirements are met in the Applicant's case. There are no grounds for such a leap in logic. More importantly, there are differences between their situations, the key of which is dealt with at [63]–[65] below. At the end of the day, the Applicant must still show that the supreme needs of justice require the ordinary course of justice to be altered (see [44] above), such that a transfer of his case is warranted. This brings me to the crux of this application.

No strong public interest considerations

50 Based on various reasons, the Applicant claims that strong public interest considerations arise in his case. However, even if I accept that strong public interest considerations fall within the ambit of s 239(1)(*c*) of the CPC, the Applicant has failed to show strong public interest considerations in his case which justify the ordinary course of justice yielding to the supreme needs of justice. I address the Applicant's arguments in turn.

Status as a politician

51 At the hearing, the Applicant stated that he does not rely on his status as a politician as a standalone ground to show the strong public interest in his case. Instead, he suggested that it operates as a relevant contextual consideration.[41] As I alluded to at [14] above, in relation to this factor, some elaboration of the

[41] NE dated 26 August 2024 at p 19, lines 4 to 10.

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Applicant's shifting positions in his affidavit, written and oral submissions is called for.

52 In the Applicant's affidavit, he speculates that the public interest considerations in Mr Iswaran's case arises from two factors, the first of which is that Mr Iswaran is a former Member of Parliament and Cabinet Minister. The Applicant argues that, save for these two factors, "there is nothing so unique about [Mr] Iswaran's case" to prompt the Prosecution to transfer the case. The public interest considerations apply "with even greater force" to his case, which bears "striking similarities" to Mr Iswaran's case. In particular, he highlights that, unlike Mr Iswaran who has resigned from political office, the Applicant remains a key political figure.[42] In his affidavit, this was a key plank of the Applicant's case. (For completeness, the Applicant asserts that the second factor is that s 165 of the Penal Code, under which Mr Iswaran is charged, has never been tried before in the Singapore courts. The Prosecution has since clarified that this is factually untrue.[43])

53 In Mr Wong's affidavit, Mr Wong points out that the Prosecution applied for a transfer of Mr Iswaran's case for reasons entirely different from those speculatively alleged by the Applicant. In particular, Mr Iswaran's status as a former politician did not feature. The Prosecution treats political office holders (and former political office holders) in the same manner as it treats all other accused persons. They are not entitled to any special treatment, or to any deviation from the normal criminal process so as to be tried in a different court by virtue of their office.[44]

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42 Applicant's Affidavit at paras 23, 24 and 36.

43 Respondent's Affidavit at para 27; RWS at para 32.

44 Respondent's Affidavit at paras 26 and 27; RWS at paras 19 to 35.

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54 In response to Mr Wong's affidavit, the Applicant clarifies in his written submissions that he accepts that all accused persons are to be treated the same regardless of their status. He unequivocally states that his application is "not based on the fact that [he] is a politician".[45] However, at the hearing, counsel for the Applicant appeared to have somewhat reverted to the initial position, as he submitted that he *is* relying on the Applicant's status as a politician, but only as *a* consideration highlighting the strong public interest in his case.[46] Counsel for the Applicant relied on *Riza Shahriz* at [44] to argue that, despite the holdings in *Wong Hong Toy* at [14] and *Seow Francis* at [5], the possibility remains that "depending on the individual, it [*ie*, an accused person's status as a politician] may be a consideration in relation to expediency that a matter be tried in the High Court".[47]

55 It bears reiterating that the fundamental rule is that all accused persons, regardless of their status, are to be treated equally (see [38(a)] above). The Applicant has rightly accepted this in his written submissions, by confirming that he is not relying on his status as a politician as a standalone factor to justify a transfer to the High Court. As for the Applicant's revised position that a politician's standing may remain *a* relevant consideration, presumably to be weighed with other factors, so as to demonstrate strong public interest, I do not find this persuasive. Such an approach undermines the fundamental rule, which must be safeguarded. In any event, in so far as the Applicant argues that his political status advances his case of strong public interest considerations for a transfer, having considered the other reasons relied on by the Applicant, I am

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45 AWS at para 13.

46 NE dated 26 August 2024 at p 19, lines 4 to 10.

47 NE dated 26 August 2024 at p 22, lines 12 to 32.

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unable to agree. From my discussion of the Applicant's other arguments which follow, it shall become clear that this factor does not matter.

Public interest in parliamentary proceedings

56 As set out at [15] above, the Applicant argues that offences under the PPIP Act "necessarily entail a greater degree of public interest as compared to offences under the Penal Code", as the PPIP Act safeguards public trust in the legislature.[48] Public interest considerations arise as s 31(*q*) of the PPIP Act applies to all Members of Parliament, as well as other persons, in connection with parliamentary proceedings. The conduct of persons in parliamentary proceedings will impact all Singaporeans, and the public perception of such proceedings.[49] In his affidavit, the Applicant also adds that there is "huge public interest" in his case, as evidenced by the high viewership of the COP proceedings on media and social media channels.[50]

57 In response, the Prosecution highlights that Parliament has provided for offences under the PPIP Act to be heard in the State Courts, and would have been "well aware of the nature of [PPIP Act] offences" when it did so.[51] In contrast, and purely by way of illustration, offences such as rape and gang robbery punishable under ss 375(2) and 395 of the Penal Code have been specifically stipulated to be heard in the High Court (see First Schedule of the CPC, seventh column). There is public interest (including media interest) in practically all criminal offences, and the State Courts often hear criminal cases involving high profile accused persons which attract media attention. However,

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48 Applicant's Affidavit at paras 25 to 27; AWS at para 17.

49 Applicant's Affidavit at paras 25 to 27; AWS at para 17.

50 Applicant's Affidavit at para 26.

51 RWS at para 88.

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this does not translate into public interest to invoke s 239(1)(*c*) of the CPC in all such cases.[52]

58 I accept that there would be public interest (including media interest) in the Applicant's case, given that it relates to parliamentary proceedings. However, this does not carry the Applicant's case very far. As pointed out by the Prosecution, there is public interest (including media interest) in many criminal offences heard in the State Courts, especially if high profile accused persons are involved. Nonetheless, these proceedings remain in the State Courts. It is noteworthy that the State Courts have been conferred jurisdiction to try all offences under the PPIP Act, whereas certain serious offences under the Penal Code fall outside their purview. As such, the Applicant's rather sweeping statement that all offences under the PPIP Act "necessarily entail a greater degree of public interest as compared to offences under the Penal Code" is without merit. It is also unhelpful as it does not explain why, in the Applicant's case, there is a great degree of public interest such that the ordinary course of justice should be departed from, to warrant a transfer of his trial for PPIP Act offences to be dealt with in the High Court.

59 At the hearing, the Applicant further added that the proceedings against him go toward "safeguarding the essence of democracy", quoting the remarks in Parliament of Ms Indranee Rajah, the Leader of the House, on the import of his case.[53] I do not disagree that the charges against the Applicant arise from proceedings in a key institution within our democratic system, *ie*, Parliament. However, there is nothing concrete to suggest that the State Courts are not equipped to deal with such matters, and to fulfil their role in "safeguarding the

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52 RWS at paras 85 to 90.

53 NE dated 26 August 2024 at p 16, lines 1 to 27; Respondent's Affidavit at p 335.

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essence of democracy", so as to justify a departure from the ordinary course of justice in his case.

Wide-reaching impact of the trial

60 The Applicant argues that the impact of the interpretation of s 31(*q*) of the PPIP Act may potentially extend beyond how Members of Parliament are to conduct themselves in Parliament. Also, the proceedings against him may call into question the rigour of the COP's inquiry, as well as the soundness of their findings, given that the findings form a significant part of the case against him. His case would also have potential implications for ordinary members of the public who are summoned before the COP.[54]

61 In this connection, I agree with the Prosecution (see [23] above) that the Applicant has mischaracterised his case. The COP's inquiry, as well as its findings, will not take centre stage in the court proceedings. In the Report at para 233(2), the COP recommended for the matter to be referred to the Public Prosecutor, such that, in the event of a prosecution, the court would be able to "look at the matter afresh", as follows:[55]

> 233. Nevertheless, we suggest that Parliament consider referring Mr Singh to the Public Prosecutor, in this matter. We do so for the following reasons: -
>
> …
>
> (2) However, given the seriousness of the matter, it appears to us best, in this case, that it be dealt with through a trial process, rather than by Parliament alone. In that way:
>
> (a) the Public Prosecutor will have the opportunity to consider all the evidence afresh, and also consider any evidence that this Committee may not have considered, (for

54 AWS at paras 18 and 19.

55 Respondent's Affidavit at p 92, para 233(2).

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> example, if such evidence has not been presented to this Committee, but emerges subsequently) before deciding whether criminal charges should be brought against Mr Singh;
>
> (b) Mr Singh will have the opportunity to defend and vindicate himself, with legal counsel, if criminal charges are brought; and
>
> (c) *a court can look at the matter afresh, and consider any further evidence that may emerge, and decide whether any charge(s) have been proven, or not proven, beyond reasonable doubt.*
>
> [emphasis added]

62 In my view, the COP's inquiry process, its recommendations and its findings, are not the subject matter of the trial, and its observations and findings are not binding on the court. Further, despite asserting that the court's interpretation of s 31(*q*) of the PPIP Act would be impactful, the Applicant has not identified any specific difficulty in relation to its interpretation. At the end of the day, it seems to me that the key elements of the offence are clearly set out in s 31(*q*) of the PPIP Act, and I agree with the Prosecution that the issue for determination by the court appears to be a straightforward factual one of whether the Applicant wilfully gave false answers before the COP.

63 Returning to Mr Iswaran's case, I should reiterate that, according to the Prosecution, one key consideration for effecting the transfer of that case was because s 165 of the Penal Code impacts the conduct of all public servants, and may affect how public servants ought to conduct their affairs and transact with other persons so as not to infringe the criminal law (see [21] above).

64 I accept that this factor, *viz*, the wide-reaching impact of the subject matter of Mr Iswaran's trial, sets it apart from the Applicant's. As the Prosecution highlights, Mr Iswaran's case will involve the interpretation of s 165 of the Penal Code, and the parameters set by the court may provide guidance to all public servants on how they ought to conduct their affairs, so as

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not to transgress the criminal law. Indeed, in relative terms, this provision appears more complex than s 31(*q*) of the PPIP Act, and for comparison, I reproduce it in its entirety here:

> **Public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant**
>
> **165.** Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration, or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceedings or business transacted, or about to be transacted, by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with both.

65 I recognise that as pointed out by the Applicant, the determination of whether Mr Iswaran infringed s 165 of the Penal Code is likely to also involve a fact-sensitive inquiry of the evidence and all the circumstances.[56] Nonetheless, the factual findings and observations in that case may still provide meaningful guidance to all public servants. In contrast, the charges against the Applicant turn on whether he had wilfully given false answers before the COP in certain specific circumstances. In my view, any findings and observations arising from his case are hardly likely to provide general guidance. Thus, as I concluded at [48]–[49] above, Mr Iswaran's case is of no assistance to the Applicant. The Applicant's case would not result in wide-reaching consequences which justify deviating from the ordinary course of justice.

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[56] NE dated 26 August 2024 at p 13, lines 1 to 14.

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Right of appeal to the Court of Appeal

66 Related to the above, the Applicant asserts that a transfer to the High Court would allow a dissatisfied party to appeal directly to the Court of Appeal, which would "allow the most senior judges in the land to review the evidence and give finality to the serious allegations made in the criminal proceedings against [him]". Proceeding in the High Court would be more expedient as there would be a single tier of appeal to the Court of Appeal.[57] This is especially since the charges against him do not raise a "mere factual inquiry", and guidance from the Court of Appeal would be beneficial.[58]

67 I have no hesitation in rejecting this argument, which was criticised in *Wong Hong Toy* at [13] as "a departure from what has been the general practice in the administration of criminal justice in Singapore since the war". An applicant cannot earn an automatic right of appeal to the Court of Appeal through a transfer of his case to the High Court. Proceeding in the High Court (with a single tier of appeal to the Court of Appeal) is not more expedient than proceeding in the State Courts. Parliament has similarly provided for a single tier of appeal from State Courts trials, albeit from the State Courts to the High Court (see [38(c)] above).

68 Further, as I discussed above, the charges against the Applicant raise primarily factual issues, and the Applicant has not specified any legal inquiry which requires guidance from the Court of Appeal (see [62] above). Even if a novel issue of law were to arise, pursuant to the language of s 239(1)(*b*) of the CPC, it needs to be of "unusual difficulty". The Applicant has not identified any

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57 Applicant's Affidavit at para 33.

58 AWS at para 20.

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novel issue of law, and indeed, he has confirmed that he is not contending that there are difficult issues of law in his case.[59]

69 In his affidavit, the Applicant also alleges that both Mr Iswaran's and his case concern offences which have not been tested in the courts before, and that this is a further reason justifying a transfer (see [52] above).[60] This is not raised in his written submissions. As pointed out by the Prosecution, it is untrue that s 165 of the Penal Code has never been tried in the courts.[61] Further, the fact that the Applicant's case may be the first of its kind dealing with s 31(*q*) of the PPIP Act is plainly insufficient to justify a transfer under s 239(1)(*c*) of the CPC. Parliament has entrusted the State Courts to deal with such offences, and the State Courts routinely adjudicate on cases concerning new provisions of law being litigated for the first time.

Judicial independence

70 Finally, I address the arguments on judicial independence. At the hearing, through counsel for the Applicant, the Applicant confirmed that he is not making any allegation of judicial bias on the part of the State Courts.[62] He takes the position that allegations against the fairness and impartiality of the State Courts fall under s 239(1)(*a*) of the CPC, which he is not relying on for the application.[63]

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59 NE dated 26 August 2024 at p 19, line 30 to p 20, line 20.

60 Applicant's Affidavit at paras 23 and 24.

61 Respondent's Affidavit at para 27; RWS at para 32.

62 NE dated 26 August 2024 at p 20, lines 17 to 26.

63 AWS at para 26.

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71 Nonetheless, in light of the contents of the Applicant's affidavit, which I have expressed concern over at the hearing,[64] it is important to address this point. In his affidavit, the Applicant claims that because the trial judge would need to grapple with issues concerning "very senior members of government", his case would "benefit from the stature of a High Court Judge", who would not be "swayed by the political atmospherics that surround this matter".[65] He points out that Judges of the High Court are "constitutionally appointed, enjoy security of tenure, and are best placed to try and judge" his case.[66] Moreover, he avers that a Judge of the High Court would have "the same stature as that of the members of the COP", which is said to consist of "very senior government ministers".[67] At the hearing, counsel for the Applicant clarified that by these statements, the Applicant is not casting aspersions on the State Courts, but simply observing that the High Court is better placed to hear the matter.[68]

72 In response, as set out at [25] above, the Prosecution contends that the Applicant has made the above allegations without factual basis, and that such allegations should be categorically rejected. In particular, the Prosecution submits that, by his affidavit, the Applicant is implicitly alleging that State Courts judicial officers cannot deal with a case where the government is involved, as they cannot be independent or decide such a case fairly. This is an allegation that disrespects and insults the judiciary, especially the State Courts judicial officers.[69]

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64 NE dated 26 August 2024 at p 20, line 27 to p 21, line 8.

65 Applicant's Affidavit at paras 28 and 32.

66 Applicant's Affidavit at para 32; AWS at paras 28 and 32.

67 Applicant's Affidavit at paras 28 and 32.

68 NE dated 26 August 2024 at p 16, line 28 to p 17, line 15.

69 RWS at paras 94 to 96.

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73 In *Noor Azlin*, counsel for the appellant alleged that it would be inappropriate for the Appellate Division of the High Court ("Appellate Division") to hear the matter, because the trial judge was subsequently appointed as the President of the Appellate Division. Counsel for the appellant argued that "the Appellate Division will feel constrained" as "the Appellate Division is hearing an appeal against its very own decision" (at [114]). The Court of Appeal emphasised the "deeply troubling" nature of such allegations, especially "when no basis – whether reasoned or otherwise – has been provided for them" (at [115]). It added that such "spurious and unwarranted" allegations are irresponsible and intemperate, and are at odds with an advocate and solicitor's overarching duty as an officer of the court. They have the potential to undermine public confidence in the administration of justice, and are not to be taken lightly (at [117]–[118]).

74 I emphasise that a high degree of caution must be exercised by any party before the court when making statements of this nature. While proving a reasonable apprehension of bias is one situation where a transfer would be justified under s 239(1)(*c*) of the CPC, such allegations are not to be made lightly, let alone without basis. Unsubstantiated allegations have the potential to undermine public confidence in the administration of justice, and are not to be condoned.

75 Given the Applicant's explanation that by the statements in the affidavit, he is *not* alleging any reasonable apprehension of bias on the part of the State Courts,[70] I will say no more on this issue. On a slightly separate point, the Applicant has gone into quite some detail in his written submissions on the importance of public discussion on judicial independence, claiming that the

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[70] NE dated 26 August 2024 at p 20, lines 9 to 26.

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maintenance of public confidence in judicial independence is an "integral part of our legal framework".[71] While such discussions may be fruitful in providing a healthy dose of societal debate, it brings the Applicant nowhere in advancing his legal claim that his matter should be transferred to the High Court. His point appears to be that discussions on judicial independence are "potentially beneficial",[72] but I fail to see how this provides any basis to warrant a transfer of his case to the High Court.

Conclusion

76 By all of the above, I find that the Applicant has failed to establish that a transfer of his case is "expedient for the ends of justice" under s 239(1)(*c*) of the CPC.

77 This is not a rare and exceptional situation, where, after weighing the "supreme needs of justice", the "ordinary course of justice" is to yield. Any departure from the usual criminal process carries the risk of undermining public trust and confidence in the administration of justice, as it breeds the perception that special treatment is being accorded to an accused person. All accused persons (including political office holders and former political office holders) are to be treated equally. In this case, there is no reason to depart from the ordinary course of justice, which is for the trial to be heard in the State Courts.

78 I emphasise that the Applicant's case is different from that of Mr Iswaran's, and any comparison with Mr Iswaran's case does not assist the Applicant. The transfer in that case engaged a different provision of the CPC, where the high threshold in s 239(1)(*c*) of the CPC did not have to be met.

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71 AWS at paras 25 to 35.

72 AWS at para 35.

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Further, Mr Iswaran's case concerns s 165 of the Penal Code, which applies to *all* public servants in Singapore. The court's determination of the parameters of s 165 of the Penal Code may impact how *all* public servants ought to conduct their affairs, so as to not transgress the criminal law. In contrast, the charges against the Applicant merely raise factual issues (*ie*, whether the Applicant wilfully gave false answers before the COP). There are no issues of law of unusual difficulty, no wider implications for the public generally, and no strong public interest considerations that warrant a transfer.

79 Contrary to what the Applicant claims, there is no expediency in having the matter heard in the High Court with a single tier of appeal to the Court of Appeal, as the ordinary course of justice for PPIP Act offences is also for there to be a single tier of appeal from the State Courts (albeit to the High Court). In this connection, an accused person cannot earn an automatic right of appeal to the Court of Appeal through a transfer of his case to the High Court.

80 Finally, I acknowledge that notwithstanding certain ambiguous statements in his affidavit, the Applicant has confirmed that he is not making any allegation of bias against the State Courts. Nonetheless, it bears reminding that any allegation of bias should not be made lightly, let alone without basis. To reiterate the words of the Court of Appeal in *Noor Azlin*, "spurious and unwarranted" allegations are irresponsible and intemperate, and bear the risk of undermining public confidence in the administration of justice (see [73] above). Accordingly, any unsubstantiated suggestion that the State Courts would not be fair and impartial in dealing with a matter must be roundly rejected.

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81 Accordingly, I dismiss the application and decline to transfer the matter from the State Courts to the High Court.

Hoo Sheau Peng
Judge of the High Court

Andre Darius Jumabhoy and Eng Zheng Yang Aristotle Emmanuel (Andre Jumabhoy LLC) for the applicant;
Deputy Attorney-General Ang Cheng Hock SC, Norine Tan, Tan Ben Mathias and Lu Huiyi (Attorney-General's Chambers) for the respondent.

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