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

[2024] SGHC 250

Criminal Case No 19 of 2023

Between

Public Prosecutor

… *Prosecution*

And

DAN

… *Accused*

GROUNDS OF DECISION

[Criminal Law — Offences — Culpable homicide not amounting to murder — Section 304(*a*) Penal Code (Cap 224, 2008 Rev Ed)]
[Criminal Law — Offences — Statutory offences — Children and Young Persons Act (Cap 38, 2001 Rev Ed)]
[Criminal Law — Offences — Section 201 Penal Code (Cap 224, 2008 Rev Ed)]
[Criminal Procedure and Sentencing — Sentencing]

Version No 1: 01 Oct 2024 (17:34 hrs)

TABLE OF CONTENTS

SUMMARY OF THE STATEMENT OF FACTS.....3

FACTS RELATING TO THE 12TH CHARGE FOR THE PHYSICAL ABUSE OF AYEESHA 7

FACTS PERTAINING TO THE 17TH CHARGE FOR THE PHYSICAL ABUSE OF [R].....8

FACTS RELATING TO THE 19TH AND 20TH CHARGES FOR CONFINEMENT OF THE CHILDREN 8

FACTS RELATING TO THE 1ST CHARGE FOR CULPABLE HOMICIDE 9

FACTS RELATING TO THE 26TH CHARGE FOR DISPOSAL OF EVIDENCE 11

DISCOVERY AND MEDICAL EXAMINATION OF AYEESHA'S BODY 12

THE ACCUSED'S CONCEALMENT OF EVIDENCE 13

THE ACCUSED'S PSYCHIATRIC STATE 14

THE ACCUSED'S ANTECEDENTS 14

THE PROSECUTION'S SUBMISSIONS ON SENTENCE.....15

THE ACCUSED'S MITIGATION PLEA 15

THE DECISION.....18

GENERAL SENTENCING FACTORS.....19

THE 1ST CHARGE: THE CULPABLE HOMICIDE CHARGE.....24

THE 12TH, 17TH, 19TH AND 20TH CHARGES: THE ILL-TREATMENT CHARGES 29

26TH CHARGE: THE DISPOSAL OF EVIDENCE CHARGE.....37

RUNNING OF THE SENTENCES 41

SENTENCE IN LIEU OF CANING 47

Version No 1: 01 Oct 2024 (17:34 hrs)

CONCLUSION.....50

Version No 1: 01 Oct 2024 (17:34 hrs)

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Public Prosecutor
v
DAN

[2024] SGHC 250

General Division of the High Court — Criminal Case No 19 of 2023
Aidan Xu @ Aedit Abdullah J
30 April, 9 July 2024

1 October 2024

Aidan Xu @ Aedit Abdullah J:

1 Ayeesha, a five-year-old girl, was killed by a rain of blows to her face. Her father, the accused, killed her. He had abused her repeatedly before her death. On numerous occasions, he had slapped, punched, caned and kicked Ayeesha on her head and body. For nearly ten months, he had confined Ayeesha to a toilet in the kitchen. She was not the only one in the family to suffer. The accused also abused Ayeesha's brother, his son, assaulting him and confining him too.

2 A gag order is in force to protect the identity of Ayeesha's brother, whom I refer to as [R]. Ayeesha died as a result of the accused's horrific abuse. I therefore allowed the publication of Ayeesha's name. A child's life should be filled with hope, joy and love. Ayeesha's, despite her tender age, was only filled with violence, fear and neglect. Her torment began in 2015, at the age of three. She died just about two years later.

3 The accused pleaded guilty to a total of six charges, with 20 charges to be taken into consideration ("TIC") for the purpose of sentencing. The six proceeded charges are detailed as follows:

(a) One charge of culpable homicide not amounting to murder punishable under s 304(*a*) of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code") by smacking both sides of Ayeesha's face about 15 to 20 times (the "1st Charge").

(b) One charge of ill-treatment of Ayeesha under s 5(1) and punishable under s 5(5)(*b*) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (the "CYPA") by wilfully doing acts that caused her unnecessary physical pain, by repeatedly slapping, punching, caning, kicking her, grabbing her by her hair to stand up, lifting her up against a wall by her neck while punching her body, and pointing a pair of scissors at her to threaten her (the "12th Charge").

(c) One charge of ill-treatment of [R] under s 5(1) and punishable under s 5(5)(*b*) of the CYPA by wilfully doing acts that caused him unnecessary physical pain by repeatedly caning him (the "17th Charge").

(d) One charge of ill-treatment of [R] under s 5(1) and punishable under s 5(5)(*b*) of the CYPA by wilfully doing acts that caused him unnecessary suffering by confining him naked in the toilet for ten months from October 2016 to August 2017 (the "19th Charge").

(e) One charge of ill-treatment of Ayeesha under s 5(1) and punishable under s 5(5)(*b*) of the CYPA by wilfully doing acts that

Version No 1: 01 Oct 2024 (17:34 hrs)

caused her unnecessary suffering by confining her naked in the toilet for ten months from October 2016 to August 2017 (the "20th Charge").

(f) One charge under s 201 of the Penal Code for, knowing that at least an offence of culpable homicide not amounting to murder under s 304(*a*) of the Penal Code had been committed, causing evidence of the offence to disappear, by disposing of a camera, a mobile phone, a pair of scissors, a cane, a rubber hose, bath towels, and a child safety gate, with the intention of screening himself from legal punishment (the "26th Charge").

4 For these deplorable crimes, I sentenced the accused to 34 and a half years' imprisonment and 12 strokes of the cane. The accused was subsequently certified to be permanently unfit for caning, on medical grounds.[1] I therefore imposed an additional six months' imprisonment in lieu of caning, to run consecutively to his previous sentence. The accused now appeals against the sentences imposed.

Summary of the Statement of Facts

5 The accused was 37 years old at the time of his arrest in 2017. When he was younger, he had picked up various martial arts, namely, Silat, Taekwondo and Aikido.[2] The victims, Ayeesha and [R], were the accused's two biological children from his previous marriage with [A] which ended in 2013.[3] After the accused and [A] divorced, Ayeesha and [R] were placed in foster care by the

---

1 Prosecution's submissions on imprisonment term in lieu of caning dated 25 June 2024 ("PS-2") at para 5; Medical Memo dated 13 May 2024.

2 Statement of Facts at para 2.

3 Statement of Facts at para 3.

Version No 1: 01 Oct 2024 (17:34 hrs)

Child Protection Services of the Ministry of Social and Family Development ("MSF").[4]

6 In June 2014, the accused and [W] started living together at [address redacted] (the "Flat").[5] The accused and [W] married in February 2015.[6] [W] had one daughter from her previous marriage, and the accused and [W] had three children of their own together (whose names are redacted as [B], [C] and [D]).[7] Sometime in early 2015, Ayeesha and [R] returned to the care and custody of the accused and lived with the accused and [W].[8] Thye Hua Kwan – Tanjong Pagar Family Service Centre ("Thye Hua Kwan FSC"), working together with MSF, continued monitoring the children's welfare thereafter.[9]

7 The accused had enrolled Ayeesha and [R] in a childcare centre sometime before March 2015, but withdrew them from the centre by May 2015.[10] During a counselling session with a case officer of Thye Hua Kwan FSC on 25 May 2015, the accused stated that Ayeesha and [R] would be living with [W's] mother soon.[11] During another session on 7 September 2015, the accused told the case officer that he had registered both children at another childcare centre and that they were staying with [W's] mother.[12] In truth, Ayeesha and [R] never attended the said childcare centre or any school since

4 Statement of Facts at para 8.

5 Statement of Facts at para 9.

6 Statement of Facts at para 6.

7 Statement of Facts at para 6.

8 Statement of Facts at para 10.

9 Statement of Facts at para 11.

10 Statement of Facts at para 12.

11 Statement of Facts at para 13.

12 Statement of Facts at para 14.

Version No 1: 01 Oct 2024 (17:34 hrs)

May 2015.[13] They mostly lived with the accused and [W] in the Flat, and not with [W's] mother.[14]

8 From October 2015 to September 2016, the case officer was unable to contact the accused; he was unresponsive to any calls, text messages, or emails. When the case officer visited the Flat, no one responded.[15] Between September and October 2016, the accused repeatedly lied to the case officer at Thye Hua Kwan FSC and an officer at Apkim Centre of Social Services ("ACOSS") about Ayeesha and [R's] whereabouts.[16] At one point, the accused requested that the children be placed in foster care as he feared that he might harm them out of frustration. However, he failed to bring the children down to Thye Hua Kwan FSC and ACOSS as instructed. Instead, the accused lied that they were in the care of his mother.[17] The adoption plan never materialised.[18]

9 What had happened behind closed doors, and the accused's abuse of Ayeesha and [R], were only brought to light during the investigations that followed Ayeesha's death. The Statement of Facts detailed the increasing decay of Ayeesha and [R's] lived realities and the accused's pervasive brutality towards them.

10 When the accused started facing financial difficulties sometime in 2015, he and [W] reduced Ayeesha and [R's] meals to only two meals a day.[19] Out of

---

13 Statement of Facts at para 14.

14 Statement of Facts at para 14.

15 Statement of Facts at para 15.

16 Statement of Facts at paras 36–39.

17 Statement of Facts at paras 37–39.

18 Statement of Facts at para 39.

19 Statement of Facts at para 16.

Version No 1: 01 Oct 2024 (17:34 hrs)

hunger, Ayeesha and [R], then three and two years old respectively, began playing with and eating their own faeces.[20]

11 The accused and [W] began hitting Ayeesha and [R] towards the end of 2015.[21] The first known incident of physical abuse happened in December 2015. Upon noticing rice grains, flour, curry powder, utensils and faeces strewn across the kitchen, the accused got angry and repeatedly punched and smacked Ayeesha and [R] on their faces and limbs.[22] This formed the subject of two TIC charges.[23]

12 From then until March 2016, there were at least two other instances of physical abuse. On these occasions, the accused had forcefully slapped Ayeesha and [R] on their faces.[24] These events formed the subject of four other TIC charges.

13 In February 2016, the accused and [W] created a "naughty corner" in their bedroom (the "first corner") to confine Ayeesha and [R]. The space was only 90cm by 90cm large.[25] It was barricaded by a bookshelf and wardrobe to prevent the children from escaping.[26] Initially, the children were only placed in the first corner when they misbehaved. Subsequently, however, the accused and [W] decided to confine the children in the first corner throughout the day, only

---

20 Statement of Facts at para 16.

21 Statement of Facts at para 17.

22 Statement of Facts at para 18.

23 Statement of Facts at para 18.

24 Statement of Facts at paras 21–22.

25 Statement of Facts at para 26.

26 Statement of Facts at para 24.

Version No 1: 01 Oct 2024 (17:34 hrs)

letting them out during feeding and bath times.[27] All in all, Ayeesha and [R] had been barricaded in the first corner for some eight months, from February to October 2016.[28] They were only allowed to wear diapers and were not otherwise clothed.[29] The accused also installed a closed-circuit television ("CCTV") camera above the first corner to monitor the children.[30]

Facts relating to the 12th Charge for the physical abuse of Ayeesha

14 On 27 March 2016, at about 12.07am, the accused saw that Ayeesha had smeared her faeces on the wall of the first corner. The accused became angry and physically assaulted Ayeesha. The assault lasted for about 16 minutes and ended at around 12.23am. The abuse was captured by the CCTV camera above the first corner.[31]

15 The accused repeatedly slapped, punched, caned and kicked Ayeesha on her head and body.[32] He punched Ayeesha's face 12 times in a row, stamped and kicked Ayeesha's body, grabbed Ayeesha by her hair so that she would stand up, lifted her against a wall by her neck while punching her body, and choked Ayeesha's neck whilst pushing her against a corner for about seven seconds.[33] At one point, Ayeesha remained motionless for about a minute and a half, whereupon the accused caned her and then gestured at her with a pair of scissors to stand up. This incident was the subject of the 12th Charge.

---

27 Statement of Facts at para 24.

28 Statement of Facts at para 25.

29 Statement of Facts at para 25.

30 Statement of Facts at para 25.

31 Statement of Facts at para 27 and 28.

32 Statement of Facts at para 27.

33 Statement of Facts at paras 27–28.

Version No 1: 01 Oct 2024 (17:34 hrs)

16 The accused physically abused Ayeesha and [R] on at least two other instances between March and June 2016. On one occasion, the accused punched and kicked the children repeatedly. In the other, the accused forcefully swung his hand across the children's faces, causing them to hit their heads against a drawer.[34] These incidents formed the subject of four TIC charges.

Facts pertaining to the 17th Charge for the physical abuse of [R]

17 On 27 August 2016, at about 1.12am, the accused repeatedly caned Ayeesha and [R] while they were secured in a double-seater pram in the living room.[35] The abuse lasted for about 24 minutes, ending at 1.36am.[36] The ordeal was captured on the CCTV camera footage. The accused was seen caning [R]'s leg and head, pointing the cane at [R]'s eyes while telling him to close his eyes, and threatening to punch [R] if he did not close his eyes. This instance of abuse was the subject of the 17th Charge. The accused was also seen caning Ayeesha's leg, hand and head,[37] which formed the subject of one TIC charge.[38]

Facts relating to the 19th and 20th Charges for confinement of the children

18 Sometime in October 2016, the accused and [W] decided to create a second "naughty corner" in the kitchen toilet (the "second corner").[39] The accused and [W] confined Ayeesha and [R] in the toilet for nearly ten months from October 2016 to 11 August 2017.[40] The children were not clothed; the

---

34 Statement of Facts at paras 30–31.

35 Statement of Facts at para 32.

36 Statement of Facts at para 33.

37 Statement of Facts at para 33.

38 Statement of Facts at para 34.

39 Statement of Facts at para 40.

40 Statement of Facts at para 40.

Version No 1: 01 Oct 2024 (17:34 hrs)

accused and [W] did not even put on diapers for them.[41] The toilet was often stained with their faeces.[42] To monitor the children, the accused also installed a CCTV camera in the kitchen, facing the toilet.[43] This prolonged confinement formed the subject of the 19th and 20th Charges.

Facts relating to the 1st Charge for culpable homicide

19 On 10 August 2017, at around 9.00pm, [W] went to the toilet and found Ayeesha and [R] sleeping on the toilet floor. She told them to stand up and move their legs, but Ayeesha refused.[44] [W] complained to the accused about Ayeesha's refusal to move her legs.[45] The accused went to the toilet, pulled Ayeesha up from the ground by her arm, and smacked her 15 to 20 times on her face.[46] When the accused placed Ayeesha back on the ground, her head was tilted backwards in an awkward position.[47] The accused then left the toilet and went to bed.[48]

20 Later that night, at around 3.00am on 11 August 2017, [W] complained to the accused that the children were sleeping in a weird posture.[49] The accused went to the toilet and punched Ayeesha and [R] on their backs before kicking

41 Statement of Facts at para 41.

42 Statement of Facts at para 41.

43 Statement of Facts at para 42.

44 Statement of Facts at para 50.

45 Statement of Facts at para 51.

46 Statement of Facts at para 51.

47 Statement of Facts at para 51.

48 Statement of Facts at para 51.

49 Statement of Facts at para 52.

Version No 1: 01 Oct 2024 (17:34 hrs)

and stamping on Ayeesha's buttocks and shoulder.[50] The accused then turned Ayeesha around and slapped her face three to four times.[51]

21 On the same day, at around 12.16pm, the accused left the Flat to send two of his other children, [B] and [C], to school.[52] At 12.38pm, the accused returned to the Flat alone and fell asleep.[53] Ayeesha and [R] remained in the toilet until the evening.[54] Sometime around 6.00pm to 7.00pm that day, [W] entered the toilet and saw that [R] was facing the wall whilst Ayeesha was facing up with her eyes closed. [W] asked Ayeesha to turn away so that she could use the toilet bowl, but Ayeesha did not respond. [W] used her right leg to tap Ayeesha, but she was still unresponsive. [W] tapped Ayeesha's arm and sprinkled water on her face. She then touched Ayeesha's left cheek and realised that her body was very cold. [W] immediately shouted for the accused to come over to the toilet.[55]

22 The accused entered the toilet and tapped Ayeesha's cheek. He tried to lift her body and realised that her body was stiff. The accused administered cardiopulmonary resuscitation ("CPR") on Ayeesha but could not resuscitate her. The accused and [W] realised that Ayeesha had died.[56]

---

50 Statement of Facts at para 52.

51 Statement of Facts at para 53.

52 Statement of Facts at para 53.

53 Statement of Facts at para 53.

54 Statement of Facts at para 53.

55 Statement of Facts at para 53.

56 Statement of Facts at para 54.

Version No 1: 01 Oct 2024 (17:34 hrs)

Facts relating to the 26th Charge for disposal of evidence

23 On the same night, after the accused and [W] realised that Ayeesha had died, the accused told [W] that he was going to "clean up the evidence".[57] He told [W] to pretend that Ayeesha and her brother had been with the accused at his mother's place while [W] was at home, and asked [W] to file a police report against him for beating her up and raping her, so that [W] would not be implicated.[58]

24 In the early hours of 12 August 2017 that followed, the accused removed the following items from the Flat: the CCTV camera that was facing the second corner, a mobile phone, a pair of scissors, a cane, a rubber hose, bath towels that were usually in the toilet, and a child safety gate.[59] The police camera ("POLCAM") footage from the lift of his housing block captured him leaving the Flat to dispose of these items.[60] He threw the items away into different rubbish bins at the nearby housing blocks.[61] The items were never retrieved by the Police.[62] These acts formed the subject of the 26th Charge.

25 After disposing of the items, the accused consumed beer before returning to the Flat, where he acted on his plan of forcing [W] to have sex with him and punching her in the face so that she could make a police report.[63]

---

57 Statement of Facts at para 55.

58 Statement of Facts at para 55.

59 Statement of Facts at para 56.

60 Statement of Facts at para 56.

61 Statement of Facts at para 56.

62 Statement of Facts at para 56.

63 Statement of Facts at para 58.

Version No 1: 01 Oct 2024 (17:34 hrs)

Discovery and medical examination of Ayeesha's body

26 After assaulting [W], the accused placed Ayeesha's lifeless body and [R] into a pram and left the Flat at around 7.57am.[64] At about 10.27am, he brought them to the Singapore General Hospital ("SGH").[65] The accused informed the SGH staff that Ayeesha was not breathing and was unresponsive. He lied that she had last been seen well the night before (*ie,* 11 August 2017), and that he had only realised that she was unresponsive at about 9.00am on 12 August 2017.[66]

27 Doctors attending to Ayeesha observed her to be in cardiac arrest, with no spontaneous breathing or pulse.[67] Resuscitation efforts were unsuccessful, and Ayeesha was pronounced dead.[68]

28 An autopsy of Ayeesha was conducted on 13 August 2017 by Dr Lee Chin Thye ("Dr Lee"), a Consultant Forensic Pathologist of the Health Sciences Authority.[69] Dr Lee observed that Ayeesha's height and weight of 99cm and 13.2kg respectively were both below the third percentile on the growth chart for percentiles of weight / height-for-age girls aged 24 to 72 months.[70] She was severely undernourished, with multiple scars, marks and external injuries, including evidence of recent head injury.[71] A total of 16 external injuries were

64 Statement of Facts at para 59.

65 Statement of Facts at para 59.

66 Statement of Facts at para 60.

67 Statement of Facts at para 61.

68 Statement of Facts at para 61.

69 Statement of Facts at para 63.

70 Statement of Facts at para 63(a).

71 Statement of Facts at para 63(b).

Version No 1: 01 Oct 2024 (17:34 hrs)

found on her head,[72] and 29 external injuries to her trunk, upper limbs and lower limbs.[73] An internal examination of her head revealed subarachnoid haemorrhages and focal subdural haemorrhage.[74] The final cause of her death was stated to be "head injury".[75] In a letter dated 11 October 2018 to the police, Dr Lee clarified that the head injury observed during the autopsy would have been sufficient in the ordinary course of nature to cause death, and that the pattern of the head injury sustained was most likely the result of multiple blows causing blunt force trauma to both sides of Ayeesha's head and face.[76]

The accused's concealment of evidence

29 After Ayeesha had been pronounced dead on 12 August 2017, the Police were informed.[77] The accused initially lied to the Police that he had breakfast with Ayeesha and [R] that morning, and that he had brought Ayeesha to SGH after having observed her to be very weak.[78]

30 The accused was arrested that afternoon. In course of the investigations that followed, he gave a total of five false statements to officers from the Criminal Investigation Department's Special Investigation Section ("SIS").[79] The accused claimed that he, Ayeesha and [R] were at the playground on the evening of 11 August 2017. In several of these statements, the accused claimed

---

72 Statement of Facts at para 63(c).

73 Statement of Facts at para 63(d).

74 Statement of Facts at para 63(c).

75 Statement of Facts at para 63(e).

76 Statement of Facts at para 64.

77 Statement of Facts at para 67.

78 Statement of Facts at para 67.

79 Statement of Facts at para 76.

Version No 1: 01 Oct 2024 (17:34 hrs)

that he had punched Ayeesha in anger at the playground after she had pushed [R], causing Ayeesha to hit her head off a slide wall. In another statement, the accused recounted that Ayeesha had been injured when she tumbled down the slide. The accused also gave differing versions of where they had slept – on one account, they had slept at the playground; on another, they had slept at a nearby hut.

31 The accused only admitted that these statements were lies when he was confronted with a screenshot of POLCAM footage showing that he had returned to his Flat alone in the wee hours of 12 August 2017, when he was supposedly sleeping outside his Flat with Ayeesha and [R].

The accused's psychiatric state

32 The psychiatric report from the Institute of Mental Health ("IMH") by Dr Jaydip Sarkar indicated that the accused was not suffering from a recognised mental disorder at the time of the offences, and that he was aware of his actions. While he had a self-reported problem of anger dyscontrol, his actions could not be explained by way of a personality disorder, intermittent explosive disorder, or any other mental or behavioural disorder; he had only expressed this towards Ayeesha, [R] and his ex-wife [A].[80] The accused was not of unsound mind at the material time of the offences and was fit to plead.[81]

The accused's antecedents

33 The accused had no related antecedents.[82]

---

80 Statement of Facts at para 78.

81 Statement of Facts at para 78.

82 CRO (Main) generated on 22 April 2024; CRO (Supplementary) generated on 22 April 2024.

Version No 1: 01 Oct 2024 (17:34 hrs)

The Prosecution's submissions on sentence

34 The Prosecution submitted for an aggregate sentence of around 30 to 34 years' imprisonment and at least 12 strokes of the cane.[83] The Prosecution's submissions on the sentences for each of the proceeded charges, after accounting for the accused's plea of guilt, were as follows:[84]

(a) 12.5 to 14 years' imprisonment and at least 12 strokes of the cane for the charge of culpable homicide not amounting to murder under s 304(*a*) of the Penal Code (*ie,* the 1st Charge).

(b) Three years and seven months to four years' imprisonment for each of the four s 5 CYPA charges (*ie,* the 12th, 17th, 19th and 20th Charges).

(c) Three to four years' imprisonment for the charge of disposing evidence under s 201 of the Penal Code (*ie,* the 26th Charge).

The Prosecution argued for all of the sentences to run consecutively.[85]

The accused's mitigation plea

35 The Defence initially submitted for an aggregate sentence of between 13 to 15 years' imprisonment and not more than ten strokes of the cane.[86] In the course of oral submissions, however, the Defence revised its position on certain individual sentences and submitted for a recalibrated aggregate sentence of 18

---

83 Prosecution's sentencing submissions dated 24 April 2024 ("PS-1") at para 6.

84 PS-1 at para 7.

85 PS-1 at para 7.

86 Accused's mitigation plea and sentencing submissions dated 24 April 2024 ("DS-1") at para 4.

Version No 1: 01 Oct 2024 (17:34 hrs)

to 20 years' imprisonment and not more than ten strokes of the cane.[87] The breakdown of the sentences sought by the Defence were as follows:[88]

(a) No more than 12 years' imprisonment and not more than ten strokes of the cane for the charge of culpable homicide not amounting to murder under s 304(*a*) of the Penal Code (*ie,* the 1st Charge).[89]

(b) Six to nine months' imprisonment for the 12th Charge of physical abuse of Ayeesha under s 5 of the CYPA, to which the Defence took an amended position of 18 months' imprisonment during oral submissions.[90]

(c) No more than six months' imprisonment for the 17th Charge of physical abuse of [R] under s 5 of the CYPA, to which the Defence took an amended position of 12 months' imprisonment during oral submissions.[91]

(d) Not more than 12 months' imprisonment for the 19th and 20th Charges for the confinement of Ayeesha and [R] under s 5 of the CYPA, to which the Defence took an amended position of 24 months' imprisonment for each charge during oral submissions.[92]

---

87 Notes of Evidence dated 30 April 2024 ("NE") at page 61 lines 10 to 13.

88 DS-1 at paras 14, 15, 17 and 24.

89 NE at page 53 lines 17 to 18.

90 NE at page 53 lines 20 to 21.

91 NE at page 53 lines 22 to 23.

92 NE at page 53 lines 25 to 28.

Version No 1: 01 Oct 2024 (17:34 hrs)

(e) Not more than two years' imprisonment for the charge of disposal of evidence under s 201 of the Penal Code (*ie,* the 26th Charge).[93]

36 The Defence argued that the one-transaction rule should apply as between the 1st and 26th Charges, as well as between the 19th and 20th Charges, on account of the proximity between the offences.[94] Thus, the sentences for the 20th and 26th Charges should run concurrently, with the other sentences running consecutively.[95]

37 In mitigation, the primary factor raised was the accused's plea of guilt and remorse.[96] The Defence contended that although the accused had entered his plea of guilt late in the process, this was because his earlier charges attracted capital punishment. The accused had pleaded guilty mid-trial, when the initial charge of murder under s 300(*c*) of the Penal Code was amended to a charge of culpable homicide not amounting to murder. It was said that as a result of his overwhelming guilt, he suffered from insomnia, for which he had been receiving medication.[97] Further, the accused's alleged remorse could be reconciled with his disposal of evidence on the basis that his efforts to get rid of the evidence was motivated more strongly by a desire to shield [W].[98]

38 The Defence sought to draw my attention to the accused's attempts to change, evidenced by his voluntary participation in reformation programmes in

---

93 NE at page 53 lines 29 to 30.

94 DS-1 at para 44.

95 DS-1 at para 4.

96 DS-1 at para 7.

97 DS-1 at para 7.

98 DS-1 at para 15.

Version No 1: 01 Oct 2024 (17:34 hrs)

prison which related to the healthy regulation of emotions and conflict management,[99] as well as his participation in a course to reflect on his paternal responsibilities.[100] The accused's appointment as a barber whilst in remand was put forth as evidence of his ability to be trusted with sharp haircutting tools, and keeping his temperament in check.[101] Defence counsel also pointed to the accused's lack of antecedents, and the presence of familial support for the accused who could support his rehabilitation.[102]

The Decision

39 The acts committed by the accused were cruel and atrocious. They called for sentences that reflected the abhorrence and disgust of society. The primary consideration was retribution – it was punishment to reflect the State's censure of such loathsome and sickening acts. In addition, other persons must be strongly deterred from committing any abuse of this kind.

40 I imposed 15 years' imprisonment and 12 strokes of the cane for the charge of culpable homicide not amounting to murder under s 304(*b*) of the Penal Code. For each of the four charges under the CYPA relating to the physical abuse and confinement of Ayeesha and [R], the degree of physical ill-treatment was indeed horrendous. I found these to be amongst the worst that would have merited the imposition of the whole of the permitted sentencing range at the time of the offences, and imposed the maximum sentence under the applicable law at the time (*ie,* four years' imprisonment) for each of these charges. As for the charge under s 201 of the Penal Code for the destruction of

---

99 DS-1 at paras 9 and 10.

100 DS-1 at para 11.

101 DS-1 at para 13.

102 DS-1 at para 14.

Version No 1: 01 Oct 2024 (17:34 hrs)

evidence, the accused chose to lie and prevaricate, and disposed various items, in order to throw off the investigations. I was satisfied that three and a half years' imprisonment was warranted. I held that all the sentences were to run consecutively, leading to an aggregate sentence of 34 and a half years' imprisonment and 12 strokes of the cane.

General sentencing factors

41 The main sentencing considerations were retribution and general deterrence. The essence of the retributive principle is that the offender must pay for what he has done (*Public Prosecutor v Tan Fook Sum* [1990] 1 SLR(R) 1022 ("*Tan Fook Sum*") at [16]). The punishment is meted out in order to restore the just order of society which has been disrupted by the accused's crime and represent the public censure of such crimes. The punishment must therefore reflect the seriousness of the crime committed (*Tan Fook Sum* at [16]; *Public Prosecutor v Loqmanul Hakim bin Buang* [2007] 4 SLR(R) 753 at [46]). Here, in the face of the accused's horrific and sustained abuse of his own biological children, retribution must be predominant to reflect the absolute rejection and disapprobation of the accused's acts.

42 General deterrence, the notion that there is a need to deter like-minded individuals from mimicking similar criminal behaviour through the imposition of severe sanctions (*Tan Fook Sum* at [60]), was also engaged. There was a pressing need to strongly discourage those tempted to emulate or follow in the behaviour of the accused.

43 A number of aggravating factors applied to most, if not all, of the offences here. These were the accused's abuse of trust and authority within the familial context, the vulnerability of the victims, the length of time over which the offences had been committed, and the sheer number of charges to be taken

Version No 1: 01 Oct 2024 (17:34 hrs)

into consideration. All of these warranted a substantial uplift in the sentences to be imposed.

44 The relationship between parent and child has been described as the "ultimate relationship of trust and authority" (see *Public Prosecutor v UI* [2008] 3 SLR(R) 500 ("*UI*") at [33]). Parents have a moral obligation to look after and care for their children. The accused was the victims' father. He had custody of them and was entrusted with their care and control. As their father, he was to nurture, guide and, where necessary, discipline them in a manner conducive to their growth and development. The accused did none of that. Instead, he inflicted needless and callous suffering, under the guise of discipline and instruction. "Naughty corners", sometimes used by parents to discipline their children by limiting their children to a corner for a short and defined period of time for them to reflect on their behaviour, were turned into instruments of torture by the accused. The children had been confined in unsanitary and unliveable conditions for some 18 months, which only ended upon Ayeesha's death. The accused's acts of slapping, punching, kicking and caning Ayeesha and [R] not only on their limbs, but also their faces and heads went far beyond the realm of acceptable corporal punishment by well-meaning parents into the brutalisation of helpless children. The accused treated Ayeesha and [R] as nothing more than his punching bags.

45 The fact that such violence had been committed in contravention of the bonds of trust and interdependency between family members itself warrants a finding that such acts were particularly heinous (*Public Prosecutor v Luan Yuanxin* [2002] 1 SLR(R) 613 at [17]). Where a child is abused by a person who has been entrusted with the care of that child, that will be a further aggravating factor (*Public Prosecutor v BDB* [2018] 1 SLR 127 ("*BDB*") at [37], citing *Public Prosecutor v Firdaus bin Abdullah* [2010] 3 SLR 225 at [19]). This

Version No 1: 01 Oct 2024 (17:34 hrs)

ultimate relationship of trust and dependence requires that such offenders receive sentences at the highest end of the scale to reflect the severe condemnation of the law (*BDB* at [11]; *Public Prosecutor v AFR* [2011] 3 SLR 833 ("*AFR*") at [12]; *Public Prosecutor v Azlin bte Arujanah and other appeals* [2022] 2 SLR 825 ("*Azlin*") at [213]).

46 Abuse within the confines of the familial home brings with it added difficulties of detection and the corresponding likelihood of sustained and escalating abuse (*Azlin* at [213]). The accused's odious crimes escaped detection as they had been committed within the four walls of the Flat. A child's home should be a place of comfort and safety. The accused, however, turned it into a place of torment for the two children. They were unable to escape their abuser and were constantly subject to his violence.

47 The especial vulnerability of Ayeesha and [R] was another aggravating factor. This warranted a higher sentence which reflected the accused's enhanced culpability (*BDB* at [34]). There is an uncompromising stance taken against offenders who abuse vulnerable victims (see *BDB* at [36]). Although child abuse provisions specifically recognise and punish acts against children, Ayeesha and [R's] circumstances were such as to have rendered them even more vulnerable to the accused's abuse and ill-treatment. Both children were very young, very small and very weak:

(a) Ayeesha was severely undernourished. At the time of her death, Ayeesha was only 99cm tall. She only weighed 13.2kg.[103] Her measurements were below the third percentile of girls aged 24 to 72

---

103 Statement of Facts at para 63(a).

Version No 1: 01 Oct 2024 (17:34 hrs)

months.[104] This meant that more than 97% of the rest of the population of girls in her age group were bigger and heavier than her. Her body contained multiple scars, marks and external injuries. The autopsy revealed a total of 45 external injuries to her body, of which 16 were injuries to her head.[105] The photographs adduced showed her bruised and bloodied, with abrasions, cuts and the peeling of skin.[106] They were horrific beyond measure.

(b) [R], Ayeesha's brother, was similarly weak. His height and weight measurements were also below the third percentile of children his age and gender.[107] He was diagnosed with severe malnutrition and was underweight and dehydrated.[108] Despite being almost four years old, he was unable to stand independently and suffered from global developmental delay.[109]

48 The physical disparity between the accused and his children was stark. There was simply no prospect of Ayeesha and [R], young as they were, defending themselves against the accused, who was much bigger, stronger, and trained in martial arts. The children also had no means of seeking external help or alerting anyone else to their plight.

49 The abuse inflicted by the accused on Ayeesha and [R] was over the course of two years. This was a prolonged period. The incident that led to

---

104 Statement of Facts at para 63(a).

105 Statement of Facts at para 63.

106 Statement of Facts at para 62; Statement of Facts at Annex M.

107 Statement of Facts at para 81(b).

108 Statement of Facts at para 81(a).

109 Statement of Facts at para 81(b).

Version No 1: 01 Oct 2024 (17:34 hrs)

Ayeesha's death, and the conduct which formed the subject of the CYPA charges, were neither isolated nor intermittent episodes of abuse.

50 Finally, the accused admitted and consented to 20 other charges being taken into consideration for the purposes of sentencing. This was not a negligible number. Most of these were for serious offences – 13 of these charges covered similar ill-treatment offences under s 5(1) of the CYPA for violent acts of punching, slapping or kicking either Ayeesha or [R], and two were for the ill-treatment of Ayeesha and [R] by confining them in the first corner for eight months. The five remaining charges were for giving false statements to investigation officers punishable under s 182 of the Penal Code.

51 I found that the matters raised by the accused in mitigation did not substantially attenuate the need for a heavy and punitive response. In *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*") (at [71]), the Court of Appeal held that in determining the proper mitigatory weight to be given to a plea of guilt, the sentencing court ought to have regard to the three reasons set out in *R v Millberry* [2003] 1 WLR 546, and consider the accused's plea of guilt in tandem with all the other offender-specific factors in calibrating the appropriate sentence. In explaining this, the court accepted that in especially grave and heinous cases, the sentencing considerations of retribution, general deterrence and the protection of the public were unlikely to be significantly displaced merely because of the accused's plea of guilt (*Terence Ng* at [66] and [71]):

> … In *Millberry* ([1] *supra*) at [27] and [28], the English Court of Appeal identified three reasons why a court might reduce a sentence on account of a plea of guilt: (a) the plea of guilt can be a subjective expression of genuine remorse and contrition, which can be taken into account as a personal mitigating factor; (b) it spares the victim the ordeal of having to testify, thereby saving the victim the horror of having to re-live the incident;

Version No 1: 01 Oct 2024 (17:34 hrs)

> and (c) it saves the resources of the State which would otherwise have been expended if there were a trial …
>
> In assessing the proper mitigatory weight to be given to a plea of guilt, the sentencing court should have regard to the three *Millberry* ([1] *supra*) justifications set out at [66] above and consider the matter together with *all* the other offender-specific factors in calibrating the sentence to fit the facts of the case. … We expressly observed that whether, and if so, what discount should be accorded to an accused person who pleaded guilty was a fact-sensitive matter that depended on multiple factors (see also *Fu Foo Tong* at [12]–[13]). *Moreover, in cases that were especially grave and heinous, the sentencing considerations of retribution, general deterrence and the protection of the public would inevitably assume great importance, and these cannot be significantly displaced merely because the accused had decided to plead guilty.* …
>
> [emphasis added]

52 Here, not only were the sentencing considerations of retribution and general deterrence paramount due to the heinous nature of the accused's acts, but Ayeesha's life had been lost as a result of the accused's cruelty, rendering his remorse of little effect. The accused's plea of guilt would not have spared Ayeesha from any ordeal in testifying. Moreover, given the available evidence, it was unlikely that the Prosecution would have faced any significant difficulty in proving the charges against the accused (see, for example, *Wong Kai Chuen Philip v Public Prosecutor* [1990] 2 SLR(R) 361 at [13]). There was therefore unlikely to be much saving of the State's resources by way of his plea of guilt.

The 1st Charge: the culpable homicide charge

53 For the culpable homicide charge, the Prosecution submitted for a sentence of 12.5 to 14 years' imprisonment. The Prosecution argued that parents who abused and caused the death of their children must be severely punished (see *BDB* at [60]; *AFR* at [12]; *Azlin* at [213]).[110] In the context of offences under

---

110 PS-1 at paras 12–15.

Version No 1: 01 Oct 2024 (17:34 hrs)

s 304(*b*) of the Penal Code, which requires a *mens rea* of knowledge that the act is likely to cause death, the courts have held that a parent harming their child would generally receive sentences at the furthest end (*BDB* at [60]). This was to deter others, punish proportionately and signa public outrage at the severity of the crime (*BDB* at [36]).[111] Further, a parent who has harmed his child would have betrayed a critical relationship of trust and dependence.[112] In *AFR* (at [21]), the Court of Appeal set out that the appropriate starting point, before considering mitigating and aggravating factors, was eight to ten years' imprisonment and not less than six strokes of the cane.

54 The Prosecution argued that the reasoning in the cases of *BDB, AFR* and *Azlin* should apply with even greater force to s 304(*a*) offences, which requires a higher *mens rea* of intention and thus greater culpability on the offender's part.[113] It was suggested that the accused would have received the maximum ten year sentence had he been prosecuted on a lesser offence of culpable homicide under s 304(*b*) or voluntarily causing grievous hurt under s 325 of the Penal Code.[114] As an offence under s 304(*a*) of the Penal Code was more severe, this warranted a considerably higher sentence than would have been imposed for those lesser offences.[115]

55 As for the cases concerning s 304(*a*) Penal Code charges, raised by the Defence, of *Public Prosecutor v Yap Jung Houn Xavier* [2023] SGHC 224 ("*Xavier Yap*") and *Public Prosecutor v CAD* [2019] SGHC 262 ("*CAD*"), the

111 PS-1 at para 15.

112 PS-1 at para 18.

113 PS-1 at para 13.

114 PS-1 at paras 22–23.

115 PS-1 at para 24.

Version No 1: 01 Oct 2024 (17:34 hrs)

Prosecution emphasised that the offenders in those cases had suffered from mental disorders. In the present case, the accused did not suffer from any mental disorder. Thus, the sentences of seven years' imprisonment handed down in *Xavier Yap* and *CAD* were of no guidance here.

56 The Prosecution gave some mitigatory weight to the accused's plea of guilt mid-trial[116] and was prepared to accept a maximum reduction of 30% as provided for in the Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas (the "PG Guidelines").[117]

57 In addition to imprisonment, the Prosecution submitted that at least 12 strokes of the cane should be imposed. This was justified by way of the observation in *BDB* (at [76]) that where death was caused under the less serious s 325 Penal Code offence of voluntarily causing grievous hurt, at least 12 strokes of the cane may be warranted.[118] This was also supported by the imposition of 12 strokes of the cane for the s 304(*b*) offence in *Public Prosecutor v DAM* [2023] SGHC 265 ("*DAM*").[119]

58 The Defence argued for not more than 12 years' imprisonment and ten strokes of the cane, referring to the cases of *Xavier Yap, CAD* and *Public Prosecutor v Mohamad Fazli bin Selamat* HC/CC 11/2023 (15 February 2024) ("*Mohamad Fazli*"):

(a) In *Xavier Yap*, the offender caused the death of his two sons by placing force on their necks and submerging their faces underwater to

---

116 PS-1 at para 21.

117 PS-1 at para 21.

118 PS-1 at para 25(a).

119 PS-1 at para 25(b).

Version No 1: 01 Oct 2024 (17:34 hrs)

ensure that they were dead, under the misguided belief that he would thereby alleviate their pain and suffering and his wife's burdens. The offender suffered from Major Depressive Disorder ("MDD") and was sentenced to seven years' imprisonment for each of the two s 304(*a*) charges.

(b) In *CAD*, the offender was similarly found to be suffering from MDD when she caused the death of a young child. She was also sentenced to seven years' imprisonment for one charge under s 304(*a*) of the Penal Code.

(c) In *Mohamad Fazli*, the offender caused the death of his 11-year-old stepdaughter by hitting her head at least twice with an exercise bar. He was sentenced to 14 years' imprisonment and 12 strokes of the cane for an offence under s 304(*a*) of the Penal Code.

59 The Defence accepted that an uplift of about two years' imprisonment was warranted from the sentences of seven years' imprisonment in *Xavier Yap* and *CAD*, to account for the accused's lack of mental disorder at the time of the offence.[120] However, the sentence should be lower than the 14 years' imprisonment imposed in *Mohamad Fazli* as, in that case, the offender had used a weapon whereas none had been used by the accused.[121]

60 I imposed a sentence of 15 years' imprisonment and 12 strokes of the cane for the 1st Charge. In killing Ayeesha, the accused had hit her not just once or twice, but 15 to 20 times on her face. The attack was vicious and severe. This was not just a single swing of the arm, or even of a few swings. This was a

120 DS-1 at para 21.

121 DS-1 at para 22.

Version No 1: 01 Oct 2024 (17:34 hrs)

relentless, unabating and cruel series of multiple forceful blows to her face. The level and severity of the accused's physical attack on a small, underweight and underfed girl of five years was unbelievable.

61 The other aggravating features were, as noted above (at [44]–[47]), the accused's abuse of position and the vulnerability of the victim.

62 The Defence's reliance on the cases of *Xaiver Yap* and *CAD* did not, to my mind, assist greatly. As pointed out by the Prosecution and acknowledged by the Defence, these were cases where the offenders suffered from mental illnesses. The accused did not. As for *Mohamad Fazli*, the court's reasoning in that case was not before me. I noted that Ayeesha was only five years old at the time of the offence and was extremely vulnerable due to her small size. It might be thought that the offender in *Mohamad Fazli* was more culpable in using a weapon, when the accused here did not. I was not convinced that this difference alone should warrant a finding that the accused was less culpable than the offender in *Mohamad Fazli*, bearing in mind the sheer number and force of the accused's hits, the fact that the accused was much bigger and trained in several martial arts, and the persistent nature of his attack which occurred twice within the same day.

63 The only mitigating factor was the accused's plea of guilt. The PG Guidelines provide for a possible reduction of up to 30%. If the accused had been convicted after trial, a sentence close to the maximum of 20 years applicable under the law would have been warranted. As it were, he had indeed pleaded guilty and saved the State some time and resources in trying him on the culpable homicide charge, and so some reduction was justified. Nonetheless, the severity of the attack, and the various aggravating factors, meant that a sentence of 12 years' imprisonment as submitted for by Defence counsel was

Version No 1: 01 Oct 2024 (17:34 hrs)

far too low. Even the 14 years' imprisonment put forward by the Prosecution failed to adequately reflect the need to punish for such a horrific attack.

64 Taking into account the severity of the accused's conduct, as well as the general factors noted above (at [61]), a sentence of 16 and a half years' imprisonment would be the appropriate starting point. As noted above (at [51]–[52]), the effect of the accused's plea of guilt was also much reduced. I considered his guilty plea to merit around a 10% reduction. I thus imposed 15 years' imprisonment.

65 I also considered it appropriate to impose 12 strokes of the cane in respect of the 1st Charge, as urged for by the Prosecution. This was a commensurate response to the accused's culpability (as disclosed by the severity of the attack, the abuse of his position as the victim's father, Ayeesha's vulnerability, and the absence of any operative mitigating factors).

The 12th, 17th, 19th and 20th Charges: the ill-treatment charges

66 In relation to the four ill-treatment charges under s 5 of the CYPA, as there was no sentencing framework for s 5 CYPA offences, the Prosecution took reference from the observations in *BDB* and the reported precedents.[122] The Prosecution submitted that the deeply abhorrent nature of the accused's offending and the sheer number of TIC charges (which were for similar ill-treatment offences under s 5 of the CYPA) warranted a far higher sentence in the present case as compared to that of *Azlin*.[123]

---

122 PS-1 at para 29.

123 PS-1 at para 35.

Version No 1: 01 Oct 2024 (17:34 hrs)

67 For the 12th and 17th Charges (collectively, the "physical abuse charges"), the Prosecution raised various offence-specific factors, namely: the accused's prolonged abuse of the children over nearly two years; the vulnerability of the children in light of their young age (between two to three years old for [R] and three to five years old for Ayeesha); the severe physical and psychological harm caused to the children; and the accused's neglect of the children.[124] Prior to factoring the accused's plea of guilt, the Prosecution submitted for the maximum sentence provided for under s 5(5)(*b*) of the CYPA, *ie*, four years' imprisonment .[125]

68 For the 19th and 20th Charges (collectively, the "confinement charges"), the Prosecution emphasised the small space in which the children had been confined, as well as the unsanitary and inhumane nature of the barricaded space.[126] These were evidenced by the children's wounds and infections. Wounds and abrasions were seen all over Ayeesha's body, including patchy red and wet scald-like marks between and around her toes.[127] [R] suffered from skin infections on his body.[128] As the accused's treatment of the two children deserved the most severe condemnation of the law, the maximum sentence of four years' imprisonment was similarly warranted for the confinement charges,[129] prior to factoring the accused's plea of guilt.

69 According to the Prosecution, the accused's plea of guilt should attract no more than a 10% reduction in sentence given that the accused had only

---

124 PS-1 at para 36.

125 PS-1 at para 37.

126 PS-1 at para 38.

127 PS-1 at para 39.

128 PS-1 at para 39.

129 PS-1 at para 38.

Version No 1: 01 Oct 2024 (17:34 hrs)

pleaded guilty at stage three of the proceedings, as defined in PG Guidelines.[130] The appropriate sentence for each of the CYPA charges was therefore in the range of three years and seven months to four years' imprisonment.[131]

70 The Defence argued for lower sentences of 18 months' imprisonment for the 12th Charge, 12 months' imprisonment for the 17th Charge, and 24 months' imprisonment for each of the confinement charges. These were their revised sentencing positions at the oral hearing.

71 In arriving at their proposed sentences, the Defence referred me to *Azlin*, where the mother had been convicted on three charges under the CYPA for hitting the victim with a broom, pushing the victim, and pushing and punching the victim's face; imprisonment terms of six months to a year were imposed for each charge.[132] The co-accused in *Azlin* faced four charges under the CYPA involving physical violence. He received: (a) six months' imprisonment for each of the two charges of pinching the victim with pliers; (b) nine months' imprisonment for one charge of flicking ashes and hitting the victim with a hanger; and (c) one year imprisonment for one charge of pushing and punching the victim's face. The co-accused was also convicted of one charge under the CYPA for confining the victim in a cat cage on two occasions and sentenced to one year imprisonment. While the Defence acknowledged that the treatment by the accused and [W] would have caused physical discomfort to the two children, and that the duration of confinement was longer than the victim's situation in *Azlin*, the Defence sought to emphasise that the area of confinement was not as

130 PS-1 at para 41.

131 PS-1 at para 42.

132 DS-1 at para 26.

Version No 1: 01 Oct 2024 (17:34 hrs)

small as a cat cage and was not as precarious with exposed wiring that may cause lacerations.[133]

72 The Defence, referring to the approach in *Gan Chai Bee Anne v Public Prosecutor* [2019] 4 SLR 838 ("*Anne Gan*"), emphasised that the composite effects of the prolonged abuse should only be considered at the second step of determining the overall sentence, bearing in mind the totality principle and one-transaction rule.[134] Instead, in calibrating the individual sentences for each CYPA charge at the first stage, the court should focus on the circumstances surrounding the particular offence and the harm flowing therefrom.[135]

73 As regards the physical abuse charges, the Defence also referred to the UK Sentencing Council's guidelines on child cruelty offences,[136] the argument being that the physical abuse charges in this case did not represent "the worst type of cases". [137] It was said that, based on the examples mentioned in those guidelines, one could conceive of "more egregious conduct such as sadistic behaviour or the commission of the offence under the influence of alcohol and drugs".[138] The Defence further submitted that the harm caused to the children could not be attributed solely to the accused; [W] also had some part to play.[139]

---

133 DS-1 at paras 31–32.

134 NE at page 54 line 11 to page 55 line 28; NE at page 57 lines 23 to 27.

135 NE at para 55 lines 11 to 28.

136 Defence's supplemental bundle of authorities dated 29 April 2024 ("DSBOD") at pages 37 to 43.

137 NE at page 57 lines 4 to 11.

138 NE at page 57 lines 15 to 21.

139 NE at page 56 line 21 to page 57 line 2.

Version No 1: 01 Oct 2024 (17:34 hrs)

74 As for the confinement charges, the Defence submitted that there was nothing in the Statement of Facts from which one could draw the inference that the suffering caused was "extreme". Additionally, data from the State Courts' Sentencing Information & Research Repository showed that a sentence of more than 36 months' imprisonment for a charge under s 5 of the CYPA was unprecedented.[140]

75 I imposed four years' imprisonment for each of the four charges under s 5(1) of the CYPA. Under the applicable law at the time of the offence, the maximum sentence was four years' imprisonment pursuant to s 5(5)(*b*) of the CYPA. This was amended by way of the Criminal Law Reform Act 2019 (No 15 of 2019) (the "Criminal Law Reform Act 2019"), which came into force on 1 January 2020. Under current legislation, the maximum sentence is eight years' imprisonment (see s 6(6)(*b*) of the Children and Young Persons Act 1993 (2020 Rev Ed), which was the equivalent provision to s 5(5)(*b*) of the CYPA). This change was introduced in a bid to enhance protection for minors and vulnerable victims and to "provide stronger protection for those who cannot protect themselves" (*Singapore Parliamentary Debates, Official Report* (6 May 2019), vol 94 (K Shanmugam, Minister for Home Affairs)). Part of the amendments introduced by the Criminal Law Reform Act 2019 included the addition of a new offence in the Penal Code for causing the death of a child below 14 years of age by sustained abuse (see s 83 of the Criminal Law Reform Act 2019), as well as an enhancement of up to twice the maximum penalties prescribed for all offences in the Penal Code committed against vulnerable victims (see s 18 of the Criminal Law Reform Act 2019). There was clear societal disapprobation for horrific acts of abuse against vulnerable victims. Nevertheless, the operative version of the CYPA at the time of the accused's

---

140 NE at page 58 lines 14 to 20; DSBOD at pages 34 to 35.

Version No 1: 01 Oct 2024 (17:34 hrs)

offences only provides for a maximum sentence of four years' imprisonment. What the appropriate punishment should be in factual situations like the present, I left for another occasion.

76 For the physical abuse charges, the video evidence showed the atrocious ill-treatment meted out to the children. Ayeesha suffered at least 83 forceful hits over a span of 16 minutes. The accused continued punching her even after Ayeesha remained motionless for about a minute and a half. He slapped, punched and kicked her face and head. On one instance, he lifted her against a wall by her neck before punching her body and dropping her to the floor. He repeatedly kicked and stamped on her body and threatened her with scissors. Screenshots of the accused's abuse, from the video evidence, are included below. Although there is a prohibition on the publication of pictures of children or young persons who are the subject of legal proceedings under s 112(1)(*b*) of the Children and Young Persons Act 1993 (2020 Rev Ed), I dispose with this restriction, pursuant to s 112(2), for the limited purpose of publicising these images within this judgment.



Image 1: Accused kicking Ayeesha (Ayeesha and [R]'s faces redacted).[141]

141 Statement of Facts, Annex B at 00:19:24.

Version No 1: 01 Oct 2024 (17:34 hrs)



Image 2: Accused punching Ayeesha ([R]'s face redacted).[142]

Against Ayeesha's brother, the accused's repeated caning of him was in a manner that was sadistic and cruel. [R] was caned multiple times over 24 minutes, including on his head.

77 There were seven other TIC charges for the physical abuse of Ayeesha, and six other TIC charges for the physical abuse of [R]. These comprised similar types of abuse, including but not limited to, the accused punching, smacking and kicking the children on their face and limbs. As a result of these offences, the children sustained bruises, cuts and/or abrasions. TIC charges would generally result in an enhanced sentence where the TIC offences and the offences proceeded with were similar in nature (see *UI* at [38]).

78 For the confinement charges, the state of confinement was horrific. Toilets are not places for children to be kept in, even if clean and dry. Toilets are not nurturing places, where children can play, rest and just be. Toilets are generally confined, small, spaces, often with little by way of either ventilation or views of the outside world. The particular toilet used to confine the children

142 Statement of Facts, Annex B at 00:18:38.

Version No 1: 01 Oct 2024 (17:34 hrs)

was not clean. It was small, cramped and stuffy. The following photograph of the second corner was included in the Statement of Facts:



Image 3: Toilet where the children were confined.[143]

79 The children were not even given diapers to wear. The second corner was often stained with their faeces. The children were only let out during "feeding time" or when the accused or [W] wanted to use the toilet. Their confinement in these conditions lasted for a total of ten months and only ceased upon Ayeesha's death. Although the toilet may not be as tight a space as the cat cage in *Azlin*, there were two children confined, over a period of about ten months, in an extremely unsanitary space. There was clear physical and psychological harm resulting from this – [R] suffered skin infections on his body (scabies infection and lower limb cellulitis) and global developmental delay arising from social deprivation.[144] Ayeesha had died from the culpable

143 Statement of Facts at para 43.

144 Statement of Facts at para 81.

Version No 1: 01 Oct 2024 (17:34 hrs)

homicide charge, and so there could be no evidence of the psychological harm she suffered.

80 There were two other TIC charges for ill-treatment by confining the children in the first corner. That space was a corner of the accused's bedroom. It was not large, measuring only 90cm by 90cm. The children were mostly only allowed out during "feeding and bath time". They were only allowed to wear diapers and were not otherwise clothed.[145]

81 I found that the offences giving rise to the physical abuse and confinement charges were amongst the worst and called for the imposition of the harshest sentence permitted by law (*ie,* four years' imprisonment). I failed to see how a one-year imprisonment term (as imposed in *Azlin*) could adequately reflect the criminality of the accused's actions. His conduct clearly lay close to, if not at, the worst end of the spectrum of behaviour targeted by s 5 of the CYPA, given the deplorable conditions, length of time, degree of harm caused, and degree of abuse inflicted. I also bore in mind the general aggravating factors set out above (at [41]–[47]) of the abuse of power and the vulnerability of the victims. Any plea of guilt could not attract any material reduction. There were also parallel TIC charges for similar instances of physical abuse and confinement. I thus imposed the maximum sentence permitted under the applicable law at the time of the offences of four years' imprisonment for each of the physical abuse and confinement charges.

26th Charge: the disposal of evidence charge

82 With respect to the charge for the disposal of evidence, the Prosecution pressed for a sentence of three to four years' imprisonment, after factoring a

145 Statement of Facts at para 25.

Version No 1: 01 Oct 2024 (17:34 hrs)

reduction of no more than 10% for the accused's plea of guilt.[146] After realising that Ayeesha had died, the accused did not immediately call for medical assistance or send her to the hospital. Instead, his immediate reaction was to attempt to shield himself and [W] from criminal liability.[147] He removed the CCTV camera facing the second corner, which would have captured evidence of the assault that led to Ayeesha's death (as well as prior instances of his abuse of her).[148] He then took pains to discard the said CCTV camera, a mobile phone, a pair of scissors, a cane, a rubber hose, bath towels in the toilet and a child safety gate at different locations, in a bid to circumvent criminal liability.

83 The Prosecution argued by analogy to the offence of perverting the course of justice under s 204A of the Penal Code, referring to the factors set out in *Parthiban a/l Kanapathy v Public Prosecutor* [2021] 2 SLR 847 ("*Parthiban*") to calibrate the appropriate sentence. These factors were: the nature of the predicate charge which the offender sought to evade, the effect of the offender's attempt at thwarting the course of justice, whether the offender sought to protect their own perceived interests in doing so, and the degree of persistence, premeditation and sophistication in the commission of the s 204A offence(s) (*Parthiban* at [27(c)]).[149]

84 Here, the evidence had been disposed of with a view to covering up the serious predicate offence of culpable homicide not amounting to murder.[150] The effect of the accused's attempt at concealing his crimes was serious. Had the

146 PS-1 at para 43.

147 PS-1 at para 44.

148 PS-1 at para 44(b).

149 PS-1 at paras 46–47.

150 PS-1 at para 48(a).

Version No 1: 01 Oct 2024 (17:34 hrs)

evidence (and the CCTV camera in particular) not been disposed of, there would have been actual footage of the events that led up to Ayeesha's death, and the investigation officers would not have needed to take unnecessary steps in investigations such as visiting the playground in the Flat's vicinity.[151] The accused was motivated by self-interest in protecting himself and [W],[152] and the accused's concealment was premeditated and persistent in that his plan not only included the disposal of evidence, but also lying to SGH staff and police officers, which persisted over the course of five days until he was confronted with contrary evidence.[153]

85 The Defence submitted that a sentence of not more than two years' imprisonment should be imposed. Reliance was placed on the case of *Public Prosecutor v McCrea Michael* [2006] 3 SLR(R) 677 ("*McCrea*") and a news article on the unreported decision of *Public Prosecutor v Prema d/o S Naraynasamy* (2023) ("*Prema*").[154] The Defence alleged that when the accused had been confronted with the POLCAM screenshot, he had promptly volunteered to provide a statement and furnish information to the investigation officer about the items he had disposed.[155] The accused neither disposed of Ayeesha's body nor attempted to abscond from Singapore.[156] This was unlike *McCrea*, where the offender had absconded to Australia for a few months before being arrested and extradited to Singapore – a sentence of four years' imprisonment for the s 201 charge was therefore justified in those

---

151 PS-1 at para 48(d).

152 PS-1 at para 48(b).

153 PS-1 at para 48(c).

154 DS-1 at paras 34–36.

155 DS-1 at para 37.

156 DS-1 at para 38.

Version No 1: 01 Oct 2024 (17:34 hrs)

circumstances.[157] As regards *Prema*, it was said that the accused in that case was sentenced to three years' imprisonment on a s 201 charge when "[b]ased on publicly available information, it did not appear that the accused volunteered any information [on the evidence he had sought to conceal]".[158] The accused's offending therefore warranted a lower sentence than in *McCrea* and *Prema*.

86 To these points, the Prosecution argued that *McCrea* was decided under an older version of s 201, which provided for a maximum sentence of seven years' imprisonment. The version of s 201 which was applicable in this case provided for a higher maximum sentence of ten years' imprisonment.[159] Further, the sentence in *McCrea* had been calibrated downwards on account of the totality principle (*McCrea* at [17]).[160] For these reasons, the outcome in *McCrea* had to be approached with some caution. So far as *Prema* was concerned, neither the reasons for that decision nor the details of the offence were adduced.[161] The outcome in *Prema* could not, therefore, be substantially relied on.

87 For the disposal of evidence, I imposed a sentence of three and a half years' imprisonment. I found that the accused chose to lie and prevaricate in order to throw off the investigations and escape personal criminal liability. The accused's disposal of the CCTV left much of what had happened to Ayeesha and [R] in the toilet uncertain. He had gone to some lengths in attempting to ensure that the disposed of evidence was not found by disposing them at

---

157 DS-1 at para 36.

158 DS-1 at para 35.

159 NE at page 49 lines 7 to 15.

160 NE at page 49 lines 4 to 7.

161 NE at page 49 lines 18 to 24.

Version No 1: 01 Oct 2024 (17:34 hrs)

different rubbish bins. The evidence was never recovered. All of this had to be situated alongside the accused's other acts of subterfuge. He had concealed his disposal of the evidence from the police over five days of investigations and only revealed the truth when confronted with incontrovertible evidence of his lies (this gave rise to five other TIC charges). He had also encouraged [W] to make a false police report and punched her to lend credence to his lies. Given the circumstances, I did not think that much credit could be given for his eventual admissions.

Running of the sentences

88 The Prosecution submitted that all six sentences should run consecutively, giving an aggregate sentence of 30 to 34 years' imprisonment. This was because they involved distinct offences,[162] and the factors set out in *ADF v Public Prosecutor and another appeal* [2010] 1 SLR 874 ("*ADF*") were present – namely, the presence of a persistent or habitual offender, a pressing public interest concern in discouraging the type of criminal conduct being punished, the existence of multiple victims, and other peculiar cumulative aggravating factors (*ADF* at [146]).[163] The totality principle ought not to be applied blindly (*Public Prosecutor v CCG* [2021] SGHC 207 ("*CCG*") at [36]; *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 ("*Law Aik Meng*") at [58]).[164] The guidance that the proposed total sentence should generally not be above the normal level of the most serious individual offence (*ie,* the culpable homicide charge) did not justify a lower sentence. This was because of the accused's persistent offending and the fact that the normal or maximum

162 PS-1 at para 50.

163 PS-1 at para 52.

164 PS-1 at para 57.

Version No 1: 01 Oct 2024 (17:34 hrs)

sentence for the most serious individual offence was too short to reflect the gravity of his conduct.[165] The total sentence was also not crushing.[166]

89 The Defence argued for a total sentence of 18 to 20 years' imprisonment and not more than 10 strokes of the cane.[167] In their written submissions, the Defence relied on the one-transaction rule to argue that the 1st and 26th Charges, as well as the 19th and 20th Charges, should run concurrently on account of the proximity between the offences.[168] Nonetheless, the Defence acknowledged that there was some persuasive force in the Prosecution's argument that the six proceeded charges were distinct offences.[169] In considering the totality principle, the Defence urged me to consider the total sentences imposed in previous cases of *Mohamad Fazli*, *DAM* and *BDB*.[170] The Defence submitted that the aggregate sentence sought for by the Prosecution was unprecedented.[171]

90 I ordered for the sentences to run consecutively, giving an aggregate sentence of 34 and a half years' imprisonment and 12 strokes of the cane.

91 The one-transaction rule provides that where two or more offences are committed in the course of a single transaction, or a single episode of criminality, all sentences in respect of those offences should run concurrently rather than consecutively (*ADF* at [143] and [146]; *Law Aik Meng* at [52]). This is justified on the basis that consecutive sentences are inappropriate where the

---

165 PS-1 at para 57.

166 PS-1 at para 57.

167 NE at page 61 lines 10 to 13.

168 DS-1 at para 44.

169 NE at page 59 lines 4 to 9.

170 NE at page 60 line 14 to page 61 line 13.

171 NE at page 60 lines 19 to 21.

Version No 1: 01 Oct 2024 (17:34 hrs)

various offences involve a "single invasion of the same legally protected interest" (*Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Mohamed Shouffee*") at [30]–[31]). Orders for imprisonment terms to run concurrently are made with a view to ensuring proportionality and fairness; criminal acts may overlap or be part of an overall series of similar acts, causing the same broad category of harm. It may be overly harsh in many contexts to segment the acts and punish each cumulatively, leading to a very long or heavy sentence.

92 On the other hand, the one-transaction rule does not apply where the offences in question are "factually and conceptually" distinct, even if they were committed within a short span of time (*Public Prosecutor v Lee Cheow Loong Charles* [2008] 4 SLR(R) 961 at [24]). In a similar vein, the Court of Appeal noted in *Mohamed Shouffee* (at [31]) that "[w]here multiple offences are found to be proximate as a matter of fact but violate different legally protected interests, then they would not, at least as a general rule, be regarded as forming a single transaction" warranting an order that the sentences run concurrently.

93 The court has previously observed that touchstones such as the proximity of time, proximity of place and continuity of purpose or design (see for *eg*, *Law Aik Meng* at [52]), though helpful, should not be mechanically applied and cannot be determinative of whether the offences should be regarded by law as forming a single transaction (*Mohamed Shouffee* at [32]–[35]).

94 As with many other principles of sentencing, the one-transaction rule is not an inviolable mathematical axiom. It can, and must, give way where its strict application would hinder a response that meaningfully reflects the State's abhorrence of the offending behaviour or otherwise frustrate its punishment and repudiation. In *Mohamed Shouffee* (at [45]), it was pithily said that the court

Version No 1: 01 Oct 2024 (17:34 hrs)

may justifiably deviate from the one-transaction rule where "it is necessary to do so in order to give sufficient weight to the interest of deterrence" or "the imposition of consecutive sentences would be in keeping with the gravity of the offences" (see also, *Kanagasuntharam v Public Prosecutor* [1991] 2 SLR(R) 874 at [6]; *ADF* at [143] and [146]).

95 There is also no absolute rule precluding the court from ordering more than two sentences to run consecutively (*Maideen Pillai v Public Prosecutor* [1995] 3 SLR(R) 706 at [6]). Nonetheless, serious consideration ought to be had when deciding to do so. In so considering, the Court of Appeal in *ADF* (at [146]) set out a non-exhaustive list of relevant factors (as listed above at [88]). Ultimately, the court stated that "where the overall criminality of the offender's conduct cannot be encompassed in two consecutive sentences, further consecutive sentences ought to be considered" (*ADF* at [146]).

96 The totality principle is a consideration that is applied at the end of the sentencing process (*Mohamed Shouffee* at [58]). The totality principle has two recognised limbs (*ADF* at [144], citing Dr D A Thomas, *Principles of Sentencing* (Heinemann, 2nd Ed, 1979) at p 57):

> [T]he principle has two limbs. A cumulative sentence may offend the totality principle if the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences involved, or if its effect is to impose on the offender 'a crushing sentence' not in keeping with his records and prospects.

97 Similarly, the totality principle is not inflexible and should not unduly straitjacket the courts (*ADF* at [144]; *Mohamed Shouffee* at [58] and [60]). The key consideration is that the total sentence be proportionate to the offences (*Mohamed Shouffee* at [47]). Where the aggregate sentence appears out of proportion to the nature of offending, the court may reduce the aggregate

Version No 1: 01 Oct 2024 (17:34 hrs)

sentence by re-assessing which of the sentences may be ordered to run consecutively or re-calibrating the individual sentences themselves (*Mohamed Shouffee* at [59]).

98 I found that the accused's various offences were distinct. They occurred on separate occasions, or in respect of different victims. To recapitulate, the accused's various offences were: (a) the killing or culpable homicide of Ayeesha; (b) the physical abuse of Ayeesha; (c) the physical abuse of [R]; (d) the confinement of Ayeesha; (e) the confinement of [R]; and (f) the concealment or destruction of evidence.

99 Firstly, the incidents forming the subject of the culpable homicide charge and the charge for physical abuse of Ayeesha had occurred on separate occasions. There could be no doubt that they were to run consecutively to each other.

100 Secondly, the separate instances of physical abuse and confinement were inflicted upon different victims. This merited separate sentencing that should take effect in the overall running of the sentences. The harm caused to each victim was distinct. The adverse impact on each of the victims had not only to be assessed separately, but also punished and visited on the accused separately. Thus, the 19th and 20th Charges had to run consecutively with each other.

101 Thirdly, the legal interests were sufficiently distinct. Causing Ayesha's death, causing physical abuse, abuse by confinement and destroying or concealing evidence, all involved different areas which needed to be protected or vindicated separately. The killing and the physical abuse inflicted on Ayesha went to different areas of protected interests. The former was about protection

Version No 1: 01 Oct 2024 (17:34 hrs)

from death, while the latter, enacted as part of the CYPA, sought specifically to protect the infliction of harm to children and young persons. Physical harm and harm through confinement were also distinct; the latter affected the protected interest of being free from an abnormal restriction of movement which impeded normal human flourishing, or from being restricted in a deprived environment. The charge for the disposal of evidence touched on a clearly different interest, namely, the State's interest in the unhampered conduct of investigative processes and the administration of justice. I could not see any compelling reason for the interests to be taken as so overlapping that the sentences should run concurrently to any degree.

102 With all these different interests to be vindicated in the six proceeded charges, I therefore ordered all the sentences to run consecutively. The total aggregate sentence of 34 and a half years' imprisonment and 12 strokes of the cane reflected a proportionate response to the harm caused by the accused and the criminal behaviour displayed in his actions. The accused's offending was persistent, there was a strong need for deterrence, there was the existence of multiple victims, and the sheer gravity of the offences reinforced the need for consecutive sentences. The sentence was perhaps unprecedented, but the accused's acts were unprecedented and, hopefully, would remain unsurpassed in cruelty.

103 The aggregate sentence imposed also cohered with the totality principle. It may have been the case that the aggregate sentence was substantially above the normal level of sentences for the most serious of the individual offences committed (*ie*, culpable homicide not amounting to murder), but as articulated above, the totality principle is not an inflexible rule. It is instead a means of ensuring the proportionality of the overall sentence to the gravity of the offending. The accused's offences were grave, horrific and unprecedented in

Version No 1: 01 Oct 2024 (17:34 hrs)

nature. I found that the aggregate sentence was not disproportionate; it was necessarily high to reflect the gravity of the offences here. The cases raised by the Defence, of *DAM* and *BDB*, pertained to different individual offences. Neither concerned a charge for culpable homicide under s 304(*a*) of the Penal Code. In both of these cases (as well as *Mohamed Fazli*), the composition of the proceeded charges was also different. There could be no one-to-one comparison of the aggregate sentence in these cases to the present case. Notwithstanding, in *BDB*, the court took pains to make a clarion call for the enhancement of the permitted punishment for offences against vulnerable victims, stating categorically that if there was a provision affording the court the discretion to enhance the permitted punishment to one and a half times the prescribed maximum penalty for such offences, the court would have not hesitated to enhance the offender's sentence for the first charge of voluntarily causing grievous hurt under s 325 of the Penal Code (*BDB* at [139]–[143]). The sentence was also not crushing in the circumstances.

104 As noted above, my preference is to consider the effect of the TIC charges in calibrating the sentences for the individual proceeded charges. This ensures that only the relevant TIC charges are considered (see *Muhammad Sutarno bin Nasir v Public Prosecutor* [2018] 2 SLR 647 at [17]). I did not consider the effect of the TIC charges again at the global stage, to avoid double counting.

Sentence in lieu of caning

105 Under s 332 of the Criminal Procedure Code 2010 (2020 Rev Ed) (the "CPC"), where the offender is unfit for caning, the court may sentence the offender to imprisonment of not more than 12 months, in lieu of caning, which may be in addition to any other punishment to which the offender has been

Version No 1: 01 Oct 2024 (17:34 hrs)

sentenced for the offence or offences in respect of which the court has imposed caning.

106 The principles in relation to an enhancement of sentence in lieu of caning were clarified in *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 ("*Amin*"). The starting point is that an offender's term of imprisonment should not be enhanced, unless there are grounds to justify doing so (*Amin* at [53]). In determining the existence of such grounds, the relevant factors are (*Amin* at [59]–[60]):

> We considered that the following factors may warrant an enhancement of the sentence of an exempted offender:
>
> > (a) The need to compensate for the deterrent effect of caning that is lost by reason of the exemption. We note in passing that this was the principal consideration that underlay the reasoning of the court in *Kisshahllini* ([23] *supra*) and in *Nguyen* ([23] *supra*) (see [23] and [24] above).
> >
> > (b) The need to compensate for the retributive effect of caning that is lost by reason of the exemption.
> >
> > (c) The need to maintain parity among co-offenders.
>
> However, even if these factors are present, as they often will be, that does not necessarily mean that enhancement of the exempted offender's sentence will be warranted. The court should instead consider the matter holistically and assess whether there are any factors which could militate against the imposition of an additional term of imprisonment. A non-exhaustive list of such factors would include:
>
> > (a) medical grounds;
> >
> > (b) old age;
> >
> > (c) compassionate grounds;
> >
> > (d) the need for proportionality; and
> >
> > (e) parliamentary intention in enacting a sentencing regime for a given offence.

Version No 1: 01 Oct 2024 (17:34 hrs)

107 The Prosecution submitted for an additional imprisonment term of six months in lieu of the 12 strokes of the cane to compensate for the deterrent and retributive effect lost by reason of the exemption.[172] There were no factors which militated against the imposition of an additional term of imprisonment.[173]

108 On the other hand, the Defence argued that there was no need to enhance the accused's imprisonment sentence in lieu of caning and that the sentence of caning should be remitted.[174] The Defence raised the fact the unexpected nature of the exemption,[175] and the fact that any deterrent or retributive value of an additional imprisonment term would be marginal in light of the accused's already long aggregate sentence.[176]

109 I was satisfied that the sentence should be enhanced. The circumstances surrounding the commission of the offences and their egregiousness indicated a clear demand for retribution – not just as punishment for the accused's wrong, but also as a sign from society and the State that such acts would not be tolerated. There was also a strong need for deterrence and a disapprobation for the cruel acts of the accused. As stated in *Amin*, the need to compensate for the loss of both the retributive and deterrent effect were factors which may warrant the enhancement of imprisonment in lieu of caning.

110 The fact that the accused would not have known of the unavailability of caning in his case did not assist him. Although it may not be necessary to

---

172 PS-2 at para 13.

173 PS-2 at para 26.

174 Defence's submissions on imprisonment in lieu of caning dated 25 June 2024 ("DS-2") at para 11.

175 DS-2 at paras 12 and 16.

176 DS-2 at para 13.

Version No 1: 01 Oct 2024 (17:34 hrs)

enhance the sentence of an offender who was exempted from caning on medical grounds as he was less likely to have known he would not be caned, this was a "mere guideline" (*Amin* at [67]). Each case must be decided on its own facts. The already lengthy sentence imposed also did not obviate the need for condemnation and disapprobation. Regard must be had to the mammoth need for retribution and deterrence.

111 There were also no other factors militating against the need for enhancement. The accused's medical condition did not weigh against imposing an enhanced sentence. Ill-health is relevant to determining whether a sentence should be enhanced in lieu of caning where: (a) it is a basis for the exercise of judicial mercy in truly exceptional cases; or (b) where an imprisonment term would have a markedly disproportionate impact on the offender (*Amin* at [77]). Neither were present in this case. There was no indication of a truly exceptional case of ill-health warranting the exercise of judicial mercy, or that the accused's ill-health would lead to a disproportionate effect of his imprisonment term.

112 It would not be right for the court to refrain from imposing an enhanced imprisonment term pursuant to s 322(2)(*b*) of the CPC. Bearing in mind the indicative guidelines set out in *Amin* (at [90]), the number of strokes of caning to be substituted and the overall length of time to be served, I considered it appropriate to impose a sentence of six months' imprisonment in lieu of caning. This was to run consecutively to the previous sentences imposed.

Conclusion

113 To summarise, I sentenced the accused to 34 and a half years' imprisonment, and a further six months' imprisonment in lieu of 12 strokes of the cane. I backdated the accused's sentence to the date of first remand, on 12 August 2017.

Version No 1: 01 Oct 2024 (17:34 hrs)

114 The heavy sentence handed down was appropriate to my mind given the heinous manner in which the offences were committed. Ayeesha and [R] were abused cruelly throughout their young lives. Children are to be cherished and nurtured. Parents are entrusted by society with a duty to care for them and protect them during their tender ages. In many ways, parents are a source of safety for their children, shielding their children from life's vicissitudes, until they are of sufficient age and maturity to weather them on their own. When parents instead abuse their children, brutalising them and subjecting them to vile acts of torture, the punishment imposed by the State must strongly reflect an abhorrence of such behaviour. The law must protect these children by sufficiently punishing and deterring such odious acts of abuse. The video evidence depicting the accused's assault of Ayeesha, the photographs of the children's living conditions and the descriptions of the injuries they suffered were harrowing. They were but a small glimpse into the lived terror that the children endured. We have lost Ayeesha. I can only hope that her brother recovers and grows up well. Those who have caused their suffering must undoubtedly be held accountable for their grievous actions.

Aidan Xu
Judge of the High Court

Han Ming Kuang, Norine Tan, Derek Ee and Maximilian Chew (Attorney-General's Chambers) for the Prosecution;
Cheong Jun Ming Mervyn, Lim Yi Zheng (Advocatus Law LLP), Krishna Ramakrishna Sharma (Fleet Street Law LLC) and Loh Guo Wei Melvin (Peter Low Chambers LLC) for the accused.

Version No 1: 01 Oct 2024 (17:34 hrs)