IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2025] SGCA 4

Court of Appeal / Criminal Motion No 2 of 2025

Between

Iskandar bin Rahmat

… *Applicant*

And

Public Prosecutor

… *Respondent*

JUDGMENT

[Criminal Procedure and Sentencing — Review]
[Criminal Procedure and Sentencing — Stay of execution]

TABLE OF CONTENTS

MR ISKANDAR'S CONVICTION AND APPEAL 2

BACKGROUND (POST-APPEAL) APPLICATIONS 3

THE PRESENT APPLICATION 6

MR ISKANDAR'S CASE 6

THE RESPONDENT'S CASE 10

THE DECISION OF THE COURT 13

THE FIRST GROUND 15

THE SECOND GROUND 17

STAY OF EXECUTION 22

CONCLUSION 23

Version No 1: 04 Feb 2025 (19:18 hrs)

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Iskandar bin Rahmat
v
Public Prosecutor

[2025] SGCA 4

Court of Appeal — Criminal Motion No 2 of 2025
See Kee Oon JAD
3 February 2025

4 February 2025

See Kee Oon JAD:

1 This is an application filed on 3 February 2025 by Mr Iskandar bin Rahmat ("Mr Iskandar"), a prisoner awaiting capital punishment ("PACP"). He is seeking permission to make a review application pursuant to s 394H of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC"), and correspondingly a stay of execution until the conclusion of his intended review application. The application is placed before me as a single Judge sitting in the Court of Appeal pursuant to s 394H(6)(*a*) of the CPC.

2 Specifically, Mr Iskandar seeks the following orders in this application, which he filed two days before his scheduled execution on 5 February 2025:

> 1) That this Honourable Court exercises its powers under Section[s] 394(H) and 394(I) of the Criminal Procedure Code

> 2010 to grant the Applicant leave to re-open an appeal against his conviction.
>
> 2) That this Honourable Court exercises its jurisdiction and power to order a stay of the execution of the Applicant until the conclusion of this review application.
>
> 3) Any such further order/relief as this Honourable Court deems fit.

Mr Iskandar's conviction and appeal

3 On 4 December 2015, Mr Iskandar was convicted after trial in HC/CC 50/2015 on two charges under s 300(*a*) punishable under s 302(1) of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code"). Both charges attract the death penalty and he was sentenced accordingly. The grounds of decision of the High Court are set out in *Public Prosecutor v Iskandar bin Rahmat* [2015] SGHC 310.

4 In CCA 39/2015 ("CCA 39"). Mr Iskandar appealed against his conviction and sentence. The Court of Appeal dismissed CCA 39 on 3 February 2017: *Iskandar bin Rahmat v Public Prosecutor* [2017] 1 SLR 505 at [111].

5 Mr Iskandar's first petition for clemency to the President of the Republic of Singapore (the "President") was rejected on 9 July 2019. He submitted his second petition for clemency on 17 November 2024. This was also rejected and by order of the President, Mr Iskandar's execution was scheduled for 5 February 2025.

Version No 1: 04 Feb 2025 (19:18 hrs)

Background (post-appeal) applications

6 Mr Iskandar has made various post-appeal applications since the dismissal of his appeal in CCA 39 on 3 February 2017. I set out a chronology of these applications below.

7 On 7 June 2019, Mr Iskandar applied in HC/OS 716/2019 ("OS 716") for an order to review the decision of the Law Society's Inquiry Committee dated 20 March 2019 dismissing his complaint against his trial lawyers under s 85(1) of the Legal Profession Act (Cap 161, 2009 Rev Ed). The High Court dismissed OS 716: *Iskandar bin Rahmat v Law Society of Singapore* [2020] SGHC 40 at [92]. Mr Iskandar's appeal in CA/CA 9/2020 against the dismissal of OS 716 was dismissed by the Court of Appeal on 5 July 2021: *Iskandar bin Rahmat v Law Society of Singapore* [2022] 1 SLR 590 ("CA 9/2020") at [159].

8 On 1 October 2020, Mr Iskandar filed HC/OS 975/2020 ("OS 975") together with 10 other prison inmates seeking pre-action discovery and pre-action interrogatories against the Attorney-General and the Superintendent of Changi Prison (Institution A1). OS 975 was dismissed by the High Court on 16 March 2021: *Syed Suhail bin Syed Zin and others v Attorney-General and another* [2021] 4 SLR 698 at [60]. There was no appeal against the decision in OS 975.

9 On 11 June 2021, Mr Iskandar filed an application in CA/CM 21/2021 ("CM 21") to be allowed to intervene in a separate matter CA/CCA 36/2020 (*Teo Ghim Heng v Public Prosecutor*) on the grounds that s 300(*a*) of the Penal Code was in violation of Arts 12(1) and 93 of the Constitution of the Republic

Version No 1: 04 Feb 2025 (19:18 hrs)

of Singapore (2020 Rev Ed) ("Constitution"). The Court of Appeal dismissed CM 21 on 16 August 2021: *Iskandar bin Rahmat v Public Prosecutor* [2021] 2 SLR 1151 at [52].

10 On 2 July 2021, a group of 13 inmates, including Mr Iskandar, filed HC/OS 664/2021 ("OS 664"), an application under O 53 r 1 of the Rules of Court (2014 Rev Ed). The applicants sought a declaration that the Attorney-General had acted unlawfully in requesting their personal correspondence from the Singapore Prison Services (the "SPS") without obtaining their consent. Leave was granted for OS 664 to be withdrawn on 28 October 2021: *Syed Suhail bin Syed Zin and others v Attorney-General* [2022] 5 SLR 93 at [5].

11 On 25 February 2022, Mr Iskandar and 12 other PACPs filed HC/OS 188/2022 ("OS 188"). OS 188 was an application seeking orders against the Attorney-General for the alleged improper handling of the PACPs' personal correspondence. On 1 July 2022, OS 188 was dismissed, save for nominal damages which were awarded to three of the plaintiffs, including Mr Iskandar.

12 In CA/CA 30/2022 ("CA 30"), the applicants in OS 188 appealed against the entirety of the Judge's decision. On 11 October 2024, in allowing the appeal partially in CA 30, the Court of Appeal granted the declarations that the Attorney-General's Chambers (the "AGC") and the SPS had acted unlawfully by requesting and by disclosing the appellants' correspondence. This court also found that the AGC and SPS had acted in breach of confidence by the disclosure and retention of the appellants' correspondence. However, the award of nominal damages was affirmed: *Syed Suhail bin Syed Zin and others v Attorney-General* [2024] 2 SLR 588 at [100].

Version No 1: 04 Feb 2025 (19:18 hrs)

13 In HC/OC 166/2022 ("OC 166"), 24 PACPs (including Mr Iskandar) applied to challenge the constitutionality of a court's power to order costs in criminal proceedings. OC 166 was struck out on 3 August 2022. An appeal against this decision was dismissed by the Court of Appeal on 4 August 2022 in CA/CA 31/2022: *Iskandar bin Rahmat and others v Attorney-General and another* [2022] 2 SLR 1018 at [52].

14 On 26 September 2023, Mr Iskandar, together with 35 other inmates, filed HC/OA 987/2023 ("OA 987"), seeking declarations that two provisions that were to be introduced by s 2(*b*) of the Post-appeal Applications in Capital Cases Act 2022 (No. 41 of 2022) in the Supreme Court of Judicature Act 1969 (2020 Rev Ed) ("SCJA") – s 60G(7)(*d*) and s 60G(8) – were void for being inconsistent with Arts 9 and 12 of the Constitution. OA 987 was struck out on 5 December 2023: *Masoud Rahimi bin Mehrzad and others v Attorney-General* [2024] 4 SLR 331 at [65]. The appeal against this decision in CA/CA 1/2024 was dismissed on 27 March 2024: *Masoud Rahimi bin Mehrzad and others v Attorney-General* [2024] 1 SLR 414 at [9] ("*Masoud*").

15 On 28 March 2024, a group of 36 inmates (including Mr Iskandar) filed HC/OA 306/2024 ("OA 306"). This was an application for a declaration that the policy of the Legal Assistance Scheme for Capital Offences ("LASCO") Assignment Panel not to assign counsel for any post-appeal application was inconsistent with Art 9 of the Constitution and for an order for damages. OA 306 was struck out on 20 May 2024: *Iskandar bin Rahmat and others v Attorney-General* [2024] 5 SLR 1290 at [43]. Mr Iskandar's appeal against this decision (in CA/CA 38/2024) was dismissed on 9 September 2024.

Version No 1: 04 Feb 2025 (19:18 hrs)

16 On 19 September 2024, 31 PACPs (including Mr Iskandar) filed HC/OA 972/2024 ("OA 972") for a declaration that various provisions introduced by the Post-appeal Applications in Capital Cases Act 2022 (No. 41 of 2022) are void for being inconsistent with Arts 9 and 12 of the Constitution. The proceedings for OA 972 are ongoing, pending a decision by the High Court after hearing HC/SUM 2898/2024 on 20 January 2025, in which the Attorney-General applied to strike out OA 972.

The present application

17 On 22 January 2025, the President issued an order for Mr Iskandar to be executed on 5 February 2025 pursuant to s 313(1)(*f*) of the CPC. After being informed of the date of execution, Mr Iskandar filed the present application with his accompanying affidavit in support dated 3 February 2025 and two sets of detailed written submissions.

18 As directed by the Court, the respondent's written submissions in reply were filed today. The respondent did not file any affidavit in reply.

19 I turn now to consider Mr Iskandar's application with his accompanying affidavit and written submissions and the respondent's submissions.

Mr Iskandar's case

20 In this application, Mr Iskandar seeks permission to review the Court of Appeal's earlier decision in CCA 39. He relies on three "bases" for his application which he says are non-exhaustive:[1]

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[1] Affidavit of Iskandar bin Rahmat dated 3 February 2025 ("AIR") at para 6.

Version No 1: 04 Feb 2025 (19:18 hrs)

(a) First, "[s]ufficient material exists by way of evidences and legal arguments to conclude that there has been a miscarriage of justice because the earlier decision is demonstrably wrong".

(b) Second, "[s]ufficient material exists by way of evidences and legal arguments to conclude that there has been a miscarriage of justice because of a breach of the rules of natural justice, such that the integrity of the judicial process is compromised"; and

(c) Third, "[t]he court otherwise exercising its inherent jurisdiction to review the earlier decision of the appellate court".

21 Mr Iskandar submits that there was a miscarriage of justice and a "demonstrably wrong" outcome in the earlier decision at trial and when his appeal was eventually dismissed by the Court of Appeal.[2] His arguments may be broadly summarised as follows:[3]

(a) His trial lawyers failed to provide adequate assistance in representing him. Their conduct fell below the objective standard required of reasonable counsel, leading to the real possibility of a miscarriage of justice. He cites the following 10 "Failures" on the part of his trial lawyers (the "10 Failures") which allegedly led to him being "misrepresented" at his trial:

(i) Their failure to disclose all of the scene photographs to him.

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2 Applicant's Written Submissions dated 3 February 2025 ("AWS") at paras 290–297; AIR at paras 6–8.

3 See also AIR at para 11.

Version No 1: 04 Feb 2025 (19:18 hrs)

(ii) Their failure to conscientiously study the scene photographs.

(iii) Their failure to carry out his instructions stated on his Notes on the PI Bundle.

(iv) Their failure to amend the Defence's Opening Address.

(v) Their failure to raise the issue of the baton that had been found in the first victim's car.

(vi) Their failure to discuss and seek his approval in dispensation of witnesses.

(vii) Their failure to appoint a defence psychiatrist for trial to contest the prosecution psychiatrist's evidence.

(viii) Their failure to appoint a defence pathologist and scene reconstruction expert.

(ix) Their failure to follow the agreed plan as to the Case for the Defence.

(x) Their failure to record attendance notes and further possible withholding of attendance notes.

(b) He asserts that the trial judge's "flagrantly wrong" conduct and excessive interference at trial had caused "actual prejudice" to him, and thus was a "great miscarriage of justice".[4] He cites the following seven instances which allegedly show excessive judicial interference:

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4 AWS at para 123.

Version No 1: 04 Feb 2025 (19:18 hrs)

(i) The trial judge ordered unrealistic deadlines to produce a defence psychiatrist, thereby preventing the defence from presenting its case. The trial judge was also seemingly unprepared for the conduct of the trial.

(ii) The trial judge purportedly interfered with witness testimony and threatened defence counsel. The trial judge also allegedly cherry-picked evidence to support his decision.

(iii) The trial judge failed to follow the agreed timelines for the trial, leading to defence counsel being unable to properly present their case on Mr Iskandar's behalf. The defence was only given one month to prepare its case; Mr Iskandar had believed that he would be given more time.

(iv) The trial judge was involved in the dispensation of 85 prosecution witnesses and dictated the presentation of witnesses. Moreover, the trial judge was assisting the prosecution in their calling of witnesses.

(v) The trial judge moved the trial along too quickly, causing the prosecution and defence discomfort.

(vi) The trial judge asked for the defence's case during the prosecution's case, when he should not have done so. He also wrongly found Mr Iskandar to be guilty of modifying evidence.

(vii) The trial judge unlawfully relied on an untendered expert report (from Dr Henry Lee) in forming an opinion, and thereby aided the prosecution to fill in the gaps in their case. On a broader level, the trial judge had pre-judged Mr Iskandar's case.

Version No 1: 04 Feb 2025 (19:18 hrs)

(c) The trial judge and the Court of Appeal allegedly made numerous legal and factual errors. Moreover, the prosecution was guilty of impropriety and of breaching its obligations under *Muhammad Nabill bin Mohd Fuad v Public Prosecutor* [2020] 1 SLR 984 ("*Nabill*") and *Mohammad bin Kadar and another v Public Prosecutor and another matter* [2011] 3 SLR 1205. Mr Iskandar also asserts that there has been an infringement of his rights under Art 12(1) of the Constitution. These errors and violations resulted in a miscarriage of justice.

(d) Finally, Mr Iskandar claims that he did not raise all the above points in court during his trial and on appeal because, amongst other reasons, he had relied on his lawyers' advice and did not have the courage at the time to address a packed courtroom on his own. Moreover, he claims that his difficulty in subsequently finding a lawyer to represent him was a "stumbling block", to explain why he could not file the present application earlier.

22 In gist, Mr Iskandar relies primarily on two main grounds for his review application: (a) that he was inadequately represented by counsel at trial (the "First Ground"); and (b) that the trial judge had interfered excessively in the trial proceedings (the "Second Ground").

The respondent's case

23 The respondent submits that Mr Iskandar's application is devoid of merit and an abuse of process, aimed primarily at obstructing the lawful execution of

Version No 1: 04 Feb 2025 (19:18 hrs)

the death sentence.[5] Essentially, the respondent puts forward the following arguments:

(a) On Mr Iskandar's allegations on inadequate legal assistance:

(i) As Mr Iskandar's "10 Failures" were already ventilated and dealt with by the Court of Appeal in CA 9/2020, he was barred from raising this issue again in this application under s 394K(2)(*b*) of the CPC. His attempt to relitigate the issues in CA 9/2020 should not be countenanced.

(ii) Mr Iskandar could (and should) have raised these allegations as a ground for appeal earlier. Moreover, contrary to the requirement in s 394J(4) of the CPC, the argument of inadequate legal assistance was not based on a change in the law arising from any decision made after the Court of Appeal dismissed Mr Iskandar's appeal in CCA 39.

(iii) Mr Iskandar's claims of inadequate legal assistance were nowhere near capable of showing almost conclusively that there was a miscarriage of justice. Mr Iskandar's rights under Art 12(1) of the Constitution were also not infringed when the Court of Appeal rejected his psychiatrist's expert opinion, without remitting the matter to the trial judge for the expert to give additional evidence.

(b) On Mr Iskandar's allegations of excessive judicial interference:

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[5] Respondent's Written Submissions dated 4 February 2025 ("RWS") at paras 1, 2 and 25.

Version No 1: 04 Feb 2025 (19:18 hrs)

(i) Mr Iskandar should have raised these allegations on appeal, but had failed to do so.

(ii) The argument of excessive judicial interference was not based on any change in the law, and Mr Iskandar's allegations fell afoul of the requirement in s 394J(4) of the CPC. The principles relating to excessive judicial interference have long existed in local case law.

(iii) Mr Iskandar has misrepresented or misconstrued the trial judge's words and directions and taken them out of context. His unsubstantiated allegations do not constitute sufficient material to suggest that there has been a miscarriage of justice. His allegations constitute an abuse of process. The trial judge demonstrated proper case management in adopting reasonable efforts to confine the scope of the proceedings within appropriate limits, without wasting time.

(c) On Mr Iskandar's allegations of numerous errors in the judgments of the trial judge and the Court of Appeal, these allegations merely reflect his disagreements with the findings of the court. They do not disclose new material to persuade the court that there was a miscarriage of justice. In addition, Mr Iskandar's argument that his prosecution for murder under s 300(*a*) of the Penal Code was a breach of Art 12(1) of the Constitution is misconceived.

24 The respondent further submits that Mr Iskandar deliberately held back the filing of the present application under s 394H of the CPC to create an

Version No 1: 04 Feb 2025 (19:18 hrs)

artificial crisis of time.[6] There is no basis for the exercise of the appellate court's power of review, as the grounds he relies upon do not disclose any material which would be sufficient to meet the requirements set out in ss 394J(3)(*a*) to 394J(3)(*c*) of the CPC. As none of Mr Iskandar's grounds for this application can withstand scrutiny, the respondent submits that this application should be summarily dismissed.

The decision of the court

25 As stipulated under s 394H(6A) of the CPC, the court must consider the following matters in deciding whether to grant an application for permission to make a review application:

(a) whether the conditions or requirements in ss 394G ("Conditions for making review application"), 394J ("Requirements for the exercise of the court's power of review") and 394K ("Other matters concerning review applications and applications for permission") are satisfied;

(b) whether there was any delay in filing the application for permission after the applicant or counsel for the applicant had obtained the material mentioned in s 394J(2) and the reasons for the delay;

(c) whether s 394H(3) is complied with;

(d) whether the review application to be made has a reasonable prospect of success.

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6 RWS at para 1.

Version No 1: 04 Feb 2025 (19:18 hrs)

26 Section 394H(6A)(*b*) of the CPC requires the court to consider whether, after the applicant or counsel for the applicant obtained sufficient material (whether being evidence or legal arguments) on which the appellate court could conclude that there was a miscarriage of justice, there was delay in filing the application for permission to review. Section 394H(6A)(*c*) refers to whether the applicant in the permission for application has complied with the requirement in s 394H(3) that he or she must file written submissions in support of the application and such other documents as prescribed in the Criminal Procedure Rules 2018, within the prescribed periods. The considerations in s 60G(7) of the SCJA mirror the considerations that the appellate court must consider under s 394H(6A) of the CPC in deciding whether to grant an application for permission to make a review application: *Mohammad Azwan bin Bohari v Public Prosecutor* [2024] 1 SLR 1271 ("*Azwan*").

27 Where s 394H of the CPC is concerned, the Court of Appeal emphasised in *Pausi bin Jefridin v Public Prosecutor and other matters* [2024] 1 SLR 1127 (at [57]) that the applicant must demonstrate that the material he intends to rely on is almost certain to satisfy the requirements in s 394J of the CPC. The appellate court must be satisfied that there is sufficient material (being evidence or legal arguments) to conclude that there has been a miscarriage of justice in the criminal matter in respect of which the earlier decision was made, as required under s 394J(2) of the CPC.

28 Bearing the above legal principles in mind, this is undoubtedly a scenario where the arguments Mr Iskandar now seeks to raise for his intended review application were either already raised before or could have been raised earlier. Indeed, a close review of Mr Iskandar's lengthy (handwritten) written

Version No 1: 04 Feb 2025 (19:18 hrs)

submissions and (typewritten) further written submissions reveals clearly their complete lack of merit.

The First Ground

29 In respect of the First Ground where Mr Iskandar raises the alleged 10 Failures, the bulk of these allegations were already previously surfaced to the Court of Appeal in CA 9/2020 when he had complained to the Law Society about his trial lawyers' alleged misconduct. Nine out of the 10 Failures were canvassed then and were fully considered and roundly rejected by the Court of Appeal (CA 9/2020 at [72]). They are as follows:

(a) first, failing to provide the photographs of the scene;

(b) second, failing to conscientiously study the photographs of the scene;

(c) third, failing to carry out his instructions as stated in his Notes on the PI Bundle;

(d) fourth, failing to amend the Defence's Opening Address;

(e) fifth, failing to raise the issue of the baton which was found in the first victim's car;

(f) sixth, failing to follow the agreed plan in the Case for the Defence, especially in not calling his family members as defence witnesses;

(g) seventh, failing to discuss and seek his approval on the dispensation of witnesses;

Version No 1: 04 Feb 2025 (19:18 hrs)

(h) eighth, failing to appoint a defence psychiatrist; and

(i) ninth, failing to appoint a defence pathologist.

30 The Court of Appeal concluded that none of these allegations showed any misconduct on the part of Mr Iskandar's trial lawyers. Mr Iskandar now repeats the same nine allegations. He reframes them as alleged "Failures" by his trial lawyers amounting to "inadequate assistance" so as to support his intended review application. But in substance, they are the very same complaints about his trial lawyers' alleged misconduct. There is no good reason to reopen the findings by the Court of Appeal on the above nine allegations in CA 9/2020. In my view, Mr Iskandar's attempt to do so in this application simply seeks to relitigate these issues. This is plainly an abuse of process. As the respondent rightly points out, Mr Iskandar is barred by s 394K(2)(*b*) of the CPC from relying on the ground of inadequate legal assistance since the Court of Appeal had already heard and determined a related civil application which he had made.

31 The last alleged "Failure" raised by Mr Iskandar pertains to the failure to record attendance notes. I do not see how this demonstrates any lack of competence, let alone any professional misconduct on the part of his trial lawyers. Taking his case at its highest, even assuming that there was such a "Failure", I do not see how this had caused Mr Iskandar any material prejudice. The defence at trial would not conceivably have been run any differently. As per his instructions to his trial lawyers, and as he maintains even now, the cornerstone of his defence was that he had exercised his right of private defence in the course of a sudden fight, after allegedly being attacked with a knife by the first victim. His defence was duly placed before the trial judge and rejected.

Version No 1: 04 Feb 2025 (19:18 hrs)

The Court of Appeal affirmed the trial judge's finding that Mr Iskandar had intended to cause the death of both victims.

32 The Court of Appeal went further in CCA 39 to examine Mr Iskandar's partial defence of diminished responsibility, after allowing him to adduce fresh evidence in the form of a psychiatric report prepared by Dr John Bosco Lee ("Dr Lee"). This defence was not relied upon at his trial. Nevertheless, it was fully evaluated by the Court of Appeal. The Court went on to conclude that Mr Iskandar was not suffering from any mental illness at the time of the offences. Contrary to Mr Iskandar's arguments, the Court of Appeal did not err in rejecting Dr Lee's opinion nor was it bound to remit the case for the trial judge to take additional evidence. There is no basis for Mr Iskandar's claims of having suffered unequal treatment in breach of Art 12(1) of the Constitution. In this regard, his reliance on *Roszaidi bin Osman v Public Prosecutor* [2023] 1 SLR 222 is misplaced as this case does not support his contentions.

33 I see no merit whatsoever in Mr Iskandar's First Ground for this application. There is no material before me to suggest that the trial judge's findings of fact were so "demonstrably wrong" as to warrant reconsideration or that the Court of Appeal's decision should be revisited.

The Second Ground

34 I turn next to Mr Iskandar's Second Ground whereby he claims that the trial judge had interfered excessively during the trial and had breached natural justice in failing to afford him a fair hearing. He alleges that the trial judge had "descended into the arena" and was "cherry picking" evidence that the prosecution could present at trial. He claims that the trial judge was "dictating"

Version No 1: 04 Feb 2025 (19:18 hrs)

his trial and "assisting the prosecution by making things difficult for the defence".

35 Mr Iskandar claims that he was "wrongly advised" by his former lawyers who acted for him on appeal that he could not raise such allegations and grievances about the trial judge's conduct of the trial. These are indeed grave and serious allegations which should not be made lightly. Yet it is clear that these arguments pertaining to the Second Ground could have been raised much earlier if he had genuinely believed that they were true or valid.

36 In Mr Iskandar's affidavit, he suggests that he only came to know about the possibility of challenging a trial judge's decision for alleged excessive interference after he was informed sometime in 2020 by a fellow inmate about the Court of Appeal decision in *Nabill*.[7] If he had indeed felt so strongly about the points he now seeks to raise in the Second Ground, he could (and should) have sought to obtain permission for a review application from the point when he came to know about the decision in *Nabill*. Nothing of that sort was done in the past four years or so.

37 Delay is one of the relevant factors that the appellate court must consider pursuant to s 394H(6A)(*b*) of the CPC. Mr Iskandar pins the blame for his inaction and delay on one of his former counsel (Mr M Ravi) for advising him to take things in stages.[8] He now claims that both the First and the Second Ground would amount to new material which he had not previously canvassed

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7 AIR at para 17.

8 AIR at para 18.

Version No 1: 04 Feb 2025 (19:18 hrs)

and could not have been adduced in court earlier.[9] I am not persuaded that this is credible.

38 In respect of the matters raised in relation to the First Ground, I have explained above that they had already substantially been canvassed before in CA 9/2020. Mr Iskandar is in fact precluded by s 394K(2)(*b*) of the CPC from resurfacing them. As for the matters raised in relation to the Second Ground, he took no action in this connection for well over four years (after purportedly becoming aware of *Nabill* in 2020) until 3 February 2025. This lack of urgency on his part strongly suggests that the allegations of excessive judicial interference are little more than an afterthought, even taking into account the fact that he had chosen to get himself involved in various other post-appeal applications as enumerated above.

39 Alternatively, and perhaps more likely, this was but a calculated attempt on Mr Iskandar's part to delay making such an application and forestall the execution of his sentence. After all, the present application with its accompanying affidavit and lengthy submissions were filed by Mr Iskandar within a fairly short span of time after being informed of his scheduled execution. This indicates that he must have been preparing his papers in readiness for filing all along. Mr Iskandar in fact confirms this as he claims to have begun preparations for the present application as far back as in April 2023.[10] If he had acted with reasonable diligence, there is no reason why he could not have surfaced the matters in the Second Ground earlier. One way or

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9 AIR at para 25.

10 AIR at para 21.

Version No 1: 04 Feb 2025 (19:18 hrs)

another, the plain inference is that there was intentional delay in filing the present application.

40 Turning to address the merits of the Second Ground, it is evident that the seven instances of alleged excessive judicial interference Mr Iskandar has particularised are far from what he has sought to make them out to be. They essentially relate to matters such as the trial judge setting deadlines or timelines, or giving directions for the conduct of the hearing, including certain indications as to which witnesses are material or necessary. The short point is simply that all these are matters of case management, both pre-trial and in the course of the trial proceedings. They are entirely within the trial judge's remit. There is no reasonable basis for Mr Iskandar's spurious and wholly self-serving allegations of excessive judicial interference.

41 In any case, it appears that Mr Iskandar has only raised the allegations in the Second Ground purely as a last-ditch effort to support the present application. As his allegations are speculative and unsubstantiated, they have no probative force. They fall far short of showing "almost conclusively", as required under s 394J(3)(*c*) of the CPC, that there was any breach of natural justice or miscarriage of justice arising from the trial judge's conduct of the trial.

42 I should add that Mr Iskandar alludes at various points in his affidavit and written submissions to how he is at a severe disadvantage as he is not legally represented. He describes having to represent himself as a "major stumbling block".[11] It is difficult however to see how he is so seriously disadvantaged as he claims. He has already had the benefit of representation from various

[11] AIR at para 23.

Version No 1: 04 Feb 2025 (19:18 hrs)

experienced lawyers at different times over the years. He now vilifies the lawyers who have assisted him. As the background I have set out above shows, he was fully capable of filing various post-appeal applications and marshalling submissions on his own behalf, and even doing so on behalf of other inmates over the years after his appeal in CCA 39 was dismissed by the Court of Appeal. As his lengthy and detailed written submissions in the present case show, he is not incapable of putting forth his own case and had obtained some assistance in doing so.

43 For completeness, I note that Mr Iskandar's submissions also purport to identify numerous errors in the fact-finding process as well as legal errors, both at trial and on appeal. It suffices for me to state that I agree with the respondent's submission – the purported "errors" merely reflect his own dissatisfaction and disagreement with the findings of the trial judge and the Court of Appeal. These findings were obviously adverse to him and not his desired outcome but I do not see any manifest errors which might impugn the earlier decisions. I also do not see how there was any infringement of his rights under Art 12(1) of the Constitution. He was afforded a fair trial and had put forward his case fully on appeal.

44 To sum up, Mr Iskandar has not demonstrated any credible grounds to challenge the trial judge's findings or the dismissal of his appeal against conviction and sentence. His intended review application has no reasonable prospect of success. He has failed to satisfy the requirements laid down in s 394H(6A) of the CPC to obtain permission for a review application to be made. Having regard to s 394J of the CPC, there is no reason for the appellate court to exercise its power of review, as he has not shown sufficient material

Version No 1: 04 Feb 2025 (19:18 hrs)

whether in the form of evidence or legal arguments to allow the court to conclude that there has been a miscarriage of justice.

Stay of execution

45 Under the CPC review regime, the court only grants a stay of an execution where there are good grounds to do so. This is clear from ss 394H(10) and 394I(13) of the CPC, which give the appellate court the power to order a stay of execution of the sentence "as the court considers necessary", in the process of determining an application for permission to make a review application or a review application.

46 I am conscious that Mr Iskandar is among the applicants in OA 972 which remains pending at the present time. Mr Iskandar has not sought to rely on his involvement in OA 972 in the present application. Nonetheless, I note that in *Azwan* and in *Sulaiman bin Jumari v Public Prosecutor* [2024] SGCA 40 ("*Sulaiman*"), the court held that OA 972 had no bearing on the respective applicants' conviction and sentence: see *Azwan* at [18]–[22] and *Sulaiman* at [28]–[31]. This reasoning applies equally here. The challenge in OA 972 is a constitutional challenge in respect of specific provisions in the SCJA and the CPC. Those provisions only came into force long after Mr Iskandar's appeal was dismissed in 2017. They cannot impact his case adversely and would not afford a basis for a stay of execution to be ordered.

47 As such, there is no reason to order a stay of Mr Iskandar's scheduled execution given that his application for permission to make a review application is dismissed.

Version No 1: 04 Feb 2025 (19:18 hrs)

Conclusion

48 There is clearly no basis to grant Mr Iskandar's present application under s 394H of the CPC or to order a stay of execution. I therefore dismiss this application summarily without the need for an oral hearing pursuant to s 394H(7) of the CPC.

See Kee Oon
Judge of the Appellate Division

The applicant in person;
Wong Woon Kwong SC and Ng Jun Chong
(Attorney-General's Chambers) for the respondent.

Version No 1: 04 Feb 2025 (19:18 hrs)