Public Prosecutor v Lee Harith Gary (alias Lee Cheng Thiam)
[2004] SGHC 79

Case Number : CC 6/2004

Decision Date : 22 April 2004

Tribunal/Court : High Court

Coram : Woo Bih Li J

Counsel Name(s) : Jaswant Singh, Terence Tay and Desmond Lee (Deputy Public Prosecutors) for prosecution; David Rasif (David Rasif and Partners) and Goh Teck Wee (Goh Chang JP and Wong) for accused

Parties : Public Prosecutor — Lee Harith Gary (alias Lee Cheng Thiam)

22 April 2004

Woo Bih Li J:

Introduction

1 The accused person Harith Gary Lee, alias Lee Cheng Thiam, ("the Accused") was charged with having committed the offence of murder by causing the death of a woman on 10 March 2003 at about 12.22pm at the tenth floor of Block 202 Choa Chu Kang Avenue 1, Singapore.

2 I will refer to the alleged offence date as "AOD". I shall refer to the deceased as "D".

Background

3 The Accused was born on 15 May 1964. At the time of the alleged offence, he was almost 39 years of age and D was 32 years of age.

4 The Accused was married in 1986 and has a son from this marriage who was 16 years of age (as at 2 April 2003). This marriage ended in a divorce. The Accused married again in 1996 and has a son aged six and a daughter aged four (as at 2 April 2003) from the second marriage. However he was estranged from his second wife.

5 D was the eldest of four children, *ie* three girls and one boy. She was either separated or divorced from her husband. She had one son aged 14 (as at 7 January 2004). She and her son did not stay with her parents after the initial separation from her husband. However, before her death, she and her son were staying with her parents and two sisters at a unit on the tenth floor of Block 202 Choa Chu Kang Avenue 1. I will refer to this flat as "D's flat" and the block as "Block 202". Since 2002, D would also stay over at the flat of her friend Goh Lye Keow Rita ("Rita") in Woodlands, without her son, from time to time.

6 The Accused had come to know D about ten years before the AOD but did not become her boyfriend until around the first quarter of 2002. Thereafter they had an intimate relationship.

Evidence for the Prosecution

7 From the evidence of various witnesses such as family members and friends, D was an outgoing and cheerful person. From about mid-2002, the Accused would stay over in D's flat from time to time. He was perceived by her family members and friends generally as being a quiet man.

Evidence of Annie Lim Shiao Ping

8 One of D's friends, Annie Lim Shiao Ping, also known as Kim, said the Accused would always prevent D from interacting with other male acquaintances in pubs. On one occasion after D had left a karaoke pub in Jurong with a male companion, the Accused, who was drunk then, became aggressive. This was before the Accused left for Malaysia[1] and before D became his girlfriend.

Evidence of Khoo Sok Lin

9 Khoo Sok Lin, also known as Celine, had known D since 1994. The first time she met the Accused was at the end of 2002 when he and D came in his white lorry to fetch her to go to a discotheque known as Beyond 97. Celine said that since the Accused became D's boyfriend, D was unhappy. D had told her that the Accused did not give her enough privacy. He was very protective and would check on her all the time. For example, he would frequently check as to who had called her or sent her short messages on her handphone. D said that the Accused was only interested in spending time with her alone and that the Accused did not like to bring D's son along during the weekends. D felt that the Accused was selfish as he did not like children. She also said that the Accused had financial problems but did not elaborate. Around the Chinese New Year of 2003, D had told her that she wanted to break off her relationship with the Accused. The last time Celine met D was on 6 March 2003 when they went to Beyond 97. They had been going there every Thursday night since late December 2002. D was happy and behaved normally and they enjoyed themselves. In the course of that night, Celine asked D why she had not ended the relationship with the Accused and D said it would take time to do so.

Evidence of Soon Shen Chwee

10 Soon Shen Chwee ("Mr Soon") was the sole-proprietor of a roofing contractor firm. He had known the Accused for about three and a half years. They first met at the Pasir Ris Fishing Park. Since then, they would go fishing together at the same park three or four times a week. Occasionally, they would go fishing on a chartered boat with other friends. Mr Soon had met D only twice.

11 Since the beginning of 2003, the Accused and Mr Soon stopped going fishing together and seldom sat down to chat with each other. However, the Accused did inform Mr Soon that he had set up a new business with some partners in January 2003. The Accused would twice a month go to Mr Soon's office at Hythe Road to pick up invoices. On 4 March 2003 at about 5.00pm, the Accused did likewise. However, the Accused appeared exceptionally quiet. Mr Soon asked the Accused if he had any problem. The Accused confided he was having some problems with his eldest son. Mr Soon asked how the Accused's new business was coming along and the Accused replied that business was bad. Mr Soon then asked the Accused about his girlfriend, meaning D. The Accused replied they had broken up for about a week already. Mr Soon then kept quiet and did not dare to probe further. That was the last time he spoke to the Accused. Mr Soon added that in 2001, the Accused had told him that he needed to get a handphone for his wife but he could not subscribe for a line as he was an undischarged bankrupt. As such, the Accused asked Mr Soon to subscribe for a mobile phone line from Starhub for the Accused which Mr Soon did. The line was terminated in 2002 as the Accused did not pay the bills which Mr Soon settled. A few months after that termination, Mr Soon agreed to and did subscribe for a mobile phone line from Mobile One for the Accused. Mr Soon understood that the bills from this service provider were not being settled promptly.

Evidence of Mak Lan Yin

12 Mak Lan Yin is also known as Elis. She knows the Accused as he was formerly the Cleaning

Division Manager of Tractel Singapore Pte Ltd ("Tractel") where she worked. He had joined Tractel in 2001 and in late 2002, he set up his own company Adapt Façade Maintenance Pte Ltd ("Adapt") with her brother-in-law Seow Eng Chuan, who is known as Ronnie. She had met D on a few occasions and observed D to be a very cheerful person. Elis said she knew that Adapt was facing financial problems as it had difficulty paying the salaries of its workers.

Evidence of Rita

13 Rita had known D since 1990 when they were working in the same office then. Since about July 2002, they were again working together in a company this time by the name of T & L Stone Pte Ltd ("T & L") whose office was at 43 Sungei Kadut Street 6, Singapore. As I have mentioned, D had stayed overnight in Rita's flat from time to time since 2002. They were very close friends.

14 In March and April 2002, D told Rita that the Accused was a friend of D's. Rita met the Accused for the first time in April 2002. After D and Rita were working at Sungei Kadut, the Accused would frequently fetch D from work and, occasionally, Rita would get a lift from the Accused.

15 From about September 2002, D would occasionally bring the Accused to Rita's flat and at times the Accused stayed over there too. As it turned out, Rita's husband recognised the Accused as a classmate from secondary school.

16 In October 2002, Rita noticed that D started looking very moody and unhappy. D was usually active and cheerful but appeared to have changed after going out with the Accused. D informed Rita that although she and the Accused had built up a relationship for about three months, D did not feel happy about it. D felt that the Accused did not spend much time with her. While D intended to end the relationship on the one hand, she was prepared to continue with it for a while to "see how it would go". It was in October or November 2002 that D also told Rita that the Accused had resigned from his then employer and set up his own business.

17 Since about October 2002, Rita noticed that D would occasionally refuse to answer the Accused's call. Rita also learnt subsequently that the Accused's wife had contacted D and inquired about their relationship.

18 D and the Accused continued to go to Rita's flat until December 2002. However, when they were at Rita's flat, D spent more time with Rita than with the Accused. D and the Accused did not talk as much as in the past. On one occasion, D informed Rita that she had told the Accused that she was unhappy about their relationship. After that, the Accused did not contact D for about four days.

19 From what D had told Rita, Rita knew that D had wanted to end the relationship. Rita advised the Accused to discuss with D their problems and they did meet and patch up after that. However, D would still occasionally tell Rita that she was unhappy but would hang onto the relationship to see if she could adapt to the Accused's lifestyle. D found the Accused boring as he was not the outgoing type. The Accused was unhappy with D for frequenting discotheques and going window shopping with Rita.

20 In February 2003, D told Rita that she could not hold onto the relationship any more. Rita advised her to inform the Accused about this and D said she would try and find a solution. During this time, the Accused seldom came to Rita's flat although D continued to do so frequently. D also told Rita that she and the Accused frequently went to Gateway Hotel in Joo Chiat during the weekends as the Accused liked to spend time alone with her. D said she was tired of going to Gateway Hotel.

21 On Friday 7 March 2003, D and Rita went to Rita's flat after work. At about 7.30pm, both of them and Rita's husband went to Rita's mother's flat, which was also at Woodlands, to have dinner. While there, Rita noticed that the Accused had contacted D on her handphone. Rita heard D telling the Accused she would go to Rita's flat after dinner. After the conversation, D told Rita that the Accused had wanted her to go to Gateway Hotel with him but she had turned him down as she was tired of going there. A while later, the Accused contacted D again. D told Rita that she would be meeting the Accused outside Rita's mother's flat as he had bought some fruits for D. Accordingly, after 8.00pm, D left and, shortly after, returned to the flat with some fruits. At about 10.00pm, D, Rita and Rita's husband returned to Rita's flat where D stayed for the night.

22 On Saturday 8 March 2003, D went to her office as she had some work to complete. At about 3.00pm, D sent a short message to Rita's handphone to say she would be going to her (D's) flat. At about 3.35pm, the Accused called Rita and was looking for D. When Rita told the Accused that D was at the office, the Accused said he had called there but no one responded. Rita then told him that D had probably gone home.

23 On Sunday 9 March 2003, D sent a message to Rita at between 12.00 noon to 1.00pm to inform Rita that she had just woken up. Later, at about 8.00pm, the Accused called Rita asking whether D was with her. His speech was slurred as though he was drunk. He said he was waiting for D. Rita asked him what had happened and where he was supposed to meet D. The Accused said that the day before, *ie* Saturday, D had mentioned something to the effect that she wanted to end their relationship. Rita asked the Accused where he was and he said in Mandarin words meaning, "never mind, you just take it that you have lost a good friend". The Accused then hung up. Rita got worried and sent a message to D asking whether she was supposed to meet the Accused. D replied in the negative. Rita informed D that she had spoken with the Accused who sounded drunk. D replied that she had learnt about this from her son and asked Rita not to worry saying she would find a better solution.

24 Subsequently, D arranged to and did go over to Rita's flat. She arrived at around midnight. D told Rita that on Saturday afternoon *ie* the day before, she had told the Accused that she wanted to end the relationship. The Accused asked for the reason as he had not done anything wrong and D replied that it was not the kind of life she wanted. D also informed Rita that the Accused was sleeping at the void deck of Block 202.

25 Subsequently, the Accused called Rita and asked whether D was with her. Rita lied that D was not with her as D had said that she would not be able to talk to the Accused as he was drunk. After that, D's handphone kept on ringing. The number of the caller was the same as that which was used to call Rita earlier. The Accused had informed Rita in their last conversation that he was using another handphone as he had found his handphone missing after waking up. Rita suggested that D speak to the Accused and D answered one of the calls. D was using a ear-piece for her handphone and Rita was listening on one side of the ear-piece. They spoke in Mandarin.

26 D asked the Accused what he wanted. She had already told him that she was not happy. The Accused replied that he had not done anything wrong. D said that the problem was that the Accused, as a boyfriend, did not know how to take care of his girlfriend. She asked him whether he was happy and he said, "no". She went on to say that since neither of them was happy, they should "forget about it and not walk together" which Rita understood to mean that they should break off their relationship. At this point, a banging sound was heard over the phone in the background. The Accused asked D whether she could hear it and D became very angry and asked him if he had done the thing (which resulted in the banging sound) on purpose. The Accused challenged D to call the police and she replied "you wait" and terminated the call. D told Rita that the Accused was banging

on the front gate (of D's flat).

27 Some time later, D's son called D and told her that the Accused had kicked the front metal gate of D's flat and the gate had collapsed.

28 At about 2.00am, D received a message on her handphone from the Accused stating, "I am coming down, you call police". D wanted to leave Rita's flat by the staircase but when they looked down from a window, they saw the Accused's white lorry parked below. They then asked Rita's husband Wee Kim Huat to lie to the Accused that D was sleeping. Shortly thereafter, the doorbell rang and Kim Huat went to answer it. Rita could hear the Accused asking for D's whereabouts and Kim Huat replying that she was not there and advising the Accused to go home as he was drunk. Kim Huat added that the Accused could talk to D the next day (presumably meaning later in the day as it was around 2.00am already). Thereafter Kim Huat closed the door and told Rita that the Accused smelt of alcohol.

29 Shortly thereafter, the doorbell rang again. From her bedroom, Rita could hear the Accused asking Kim Huat for permission to enter the flat. Kim Huat refused the request and closed the door. After a while, they heard the metal gate of the flat being shaken violently. Kim Huat looked through a peephole of the wooden door and said he could see that a padlock had been placed on their metal gate. Kim Huat opened the door and Rita heard a banging sound twice. Kim Huat asked the Accused why he had locked their front gate. The Accused challenged Kim Huat to call the police which Kim Huat did in front of the Accused. After a while, the Accused walked away. About ten minutes later, the Accused returned to Rita's flat. He unlocked the padlock, apologised profusely and walked away with the padlock. From her window, Rita saw the Accused's lorry being driven away. The police arrived thereafter and advised Rita and her husband to call the police again if the Accused returned to cause trouble.

30 Later, between 2.00am and 3.00am, D sent a short message to the Accused saying they would settle their problem after work later that day. At about 4.00am, the Accused called Rita to look for D. He said that he was desperate and had no choice. She tried to console him but he ended the conversation. D and Rita went to bed only at about 5.00am.

31 At about 9.30am (of 10 March 2003 *ie* the AOD), Rita and D woke up late for work. Although Kim Huat tried to dissuade D from going to work as the Accused would look for her there, she said she had to complete some urgent work.

32 When Rita and D reached the office, D asked a colleague Lay Teen to say that she was not in the office if anyone was to call. Subsequently, Lay Teen answered a call from the Accused and she told him that D was not in. A short while later, the Accused called again and Lay Teen repeated what she had said. However this time the Accused asked to speak to Rita. Rita then lied to the Accused that D had sent her a message saying that D was not coming to work. Rita also denied that D was at her flat the night before.

33 Later, between 11.00am and 12.00pm, the Accused suddenly appeared at D's office. He proceeded straight to the inner part of the office where D's seat was. D was standing and he went up to her and grabbed her by her hair. He dragged her by her hair away from her desk and towards the exit of the office. A colleague Daniel tried to stop the Accused by grabbing him but the Accused did not release his grip on D's hair. D shouted at the Accused to release her and said she would follow him. However, the Accused continued to pull D by her hair. He dragged her to the staircase and Rita followed behind. The Accused smelt of alcohol. At the staircase landing, Rita grabbed hold of the Accused and shouted at him to release D. The Accused swung his hand and hit Rita's nose. Rita felt

pain and released her grip on his hand. She suffered a bruise on her nose. D's office was on the second floor. When the Accused reached the ground floor, he shouted at D to stand up. He was still dragging her by her hair. Rita then saw the Accused punch D in her face although D's back was facing Rita. Rita heard D groan and exclaim "Ouch". The Accused continued to drag D out of the office building. Rita then ran upstairs to the office and asked Daniel to call the police.

34 Rita's evidence was also that she knew that D had credit card debts as high as $10,000 which increased to $15,000[2] but D was not bothered about them.[3] Besides D's job at T & L, D was also a part-time karaoke jockey and had been one for some time. Rita had also learnt that D's flat was actually owned by her parents or one of them previously and it was transferred to D prior to her death *ie* 6 March 2003.[4] The transfer was by way of a sale to D and D used both her funds in the Central Provident Fund ("CPF") and a loan to pay for it. This was to raise funds to help D's brother who was in some financial difficulty and required $100,000.[5] Rita knew that D had purchased some insurance a few years ago but did not know the sum assured.

Evidence of Tan Lay Teen

35 Tan Lay Teen was a colleague of D working at T & L. She also saw the Accused grabbing D by her hair and dragging her out. Another colleague, Daniel, was trying to separate them. Lay Teen ran downstairs to the ground floor to seek assistance. She saw two male Chinese having their lunch but they declined to help. She ran to the rear of the building and approached a group of male Chinese resting nearby. One of them followed her to the front of the building. At that time, she saw that D was already seated in the front passenger seat of the Accused's lorry while the Accused was walking over to the driver's side. The Accused got into the lorry and drove off. The male Chinese who had followed Lay Teen left while Lay Teen returned to the office.

Evidence of Lim Kok Seng

36 Lim Kok Seng was working in T & L. He is also known as Daniel. He also corroborated Rita's evidence as to the Accused dragging D out of the office by her hair. He also saw the Accused punching D on her face. He called the police.

37 Daniel said that in July or August 2002, D had told him that the Accused was helping her out financially. She also told him that she was upset when one of her close friends had committed suicide. However, D did not appear particularly sad during the conversation as they were just talking to each other as colleagues.[6]

38 Daniel also said that in November 2002, D had told him that she had bought her father's flat (which had not yet been transferred to her). She had also said that she had run up bills on several credit cards and was financially tight. She had been making minimum payments to credit card companies.

Evidence of Tan Choon Heong

39 The Managing Director of T & L was Tan Choon Heong, also known as Benedict. His evidence was that D's salary was $2,100 per month and her take-home pay was $1,680 per month.

Evidence of one of D's sisters

40 J was one of D's sisters. She said D had various credit cards and would draw cash from one to settle the bill of another. D was owing the credit card companies close to $20,000 at the time of

her death.

Evidence of another of D's sisters

41 The youngest of the three female siblings in D's family was K. She was 23 as at the AOD. As I have mentioned, she was also staying at D's flat.

42 She gave evidence that at about 2.00am of 10 March 2003, she was awakened by a loud banging noise. She went out of her bedroom and was shocked to see that a piece of the metal gate of the flat had collapsed and the main wooden door was open. The Accused was squatting outside the flat and seemed to be using his handphone. He smelt of alcohol but K did not think he was drunk. He was not slurring in speech and sounded firm and serious when he spoke to her.[7] K was angry with him and asked him what he wanted and how he could do such a thing to the flat. The Accused replied that he did not know what he had done wrong and that he had sacrificed a lot for D. He said he had just started a new company and was busy with four projects. Despite being busy, he still fetched D to and from work and he had dropped the four projects. He also mentioned that D had misunderstood him and that he could not bear to leave his children. He had no money but if his company succeeded, D would be able to have a good time with him. He did not know why their relationship had turned out this way and D was not willing to take care of his young children. After a while, he said in Mandarin words meaning "I can hold on to [D] and jump down, I have no regrets in this world". He repeated this a few times and K started to feel uneasy. She repeatedly told the Accused not to say such things but he insisted on getting an answer from D. As they were talking about D's whereabouts, K felt giddy and almost fainted. When she regained her senses, D's son, who had been present, was supporting her. The Accused looked surprised and asked what had happened. K said she was too tired. The Accused then told D's son to help K back to her room and the Accused walked off, apologising at the same time.

43 D's son then called D (who was at Rita's flat) to inform her of what had happened. K also sent D a short message to let her know that the Accused kept on calling. When D replied that the Accused had locked Rita's gate, K asked her to be careful.

44 The Accused also called D's flat to demand that D's son tell D to answer his calls. The Accused called D's flat a few more times after that. In one of the calls, K spoke to the Accused and said that D would not be willing to talk to him if he was so drunk. However, the Accused insisted that he was sober. He kept repeating that he would jump down with D. K told him not to say such a thing and that even if he wanted to die, D might not want to die. Eventually the Accused insisted on having an answer from D before hanging up. K immediately contacted D to alert her about what the Accused had said about jumping down with her. D said she could not possibly discuss things with him if he was so drunk and saying such things. D was calm but angry.

45 Later in the day, K was informed that D had been taken away from her office by the Accused and that the Accused had thrown D down Block 202.

Evidence of D's son

46 D's son also gave evidence. He said that between 2.00am and 3.00am of 10 March 2003, the Accused kept kicking the metal gate to D's flat until eventually a piece fell down. He said that during the conversation between the Accused and K, he heard the Accused mentioning he had known D and him for more than ten years. He also heard the Accused say about four times that he was willing to die together with D. At about 4.00am when he answered a call from the Accused, the Accused had told him to inform D to answer his calls or else he would break the front door (of D's flat).

Evidence of Leong Siew Choon and Goh Poh See

47 I now come to the evidence of two prosecution witnesses as to what happened at Block 202, after the Accused had taken D out of her office earlier on 10 March 2003. They were Mdm Leong Siew Choon and Mdm Goh Poh See. Each of them live in a unit on the ninth floor of Block 202. To get to the ninth floor, they have to take a lift to the tenth floor, where D's flat is, and walk down to the ninth floor.

48 On that day, Mdm Leong and Mdm Goh had left home at about 12.00pm to fetch their respective children from a kindergarten. They met each other at the kindergarten. Together with the children, they walked back to Block 202. On the way back, they noticed the Accused's white lorry which was driven at a high speed towards Block 202. Mdm Goh said she heard a loud screeching sound from the lorry and she remarked to Mdm Leong that the driver must be out of his mind. When the two women arrived at the void deck of Block 202 waiting for the lift, they noticed a Chinese couple walking towards them. The couple were at about the letterboxes on the ground floor. I would add that the women did not claim to recognise the Chinese couple or to be able to identify the Accused subsequently, but they were able to describe the couple's attire. It was not disputed that the Chinese couple they saw were the Accused and D. When the doors of one of the two lifts opened, the women and the children got into the lift and went up to the tenth floor. The Chinese couple were still on the ground floor. At the tenth floor, Mdm Leong and Mdm Goh got out and chatted for a while after which Mdm Leong went to the left while Mdm Goh went to the right of the lift landing.

49 According to Mdm Leong, while she and her daughter were in front of unit #10-69 along the common corridor, her daughter tugged at her hand and asked her to look behind. When Mdm Leong turned around, she saw the Chinese couple. Mdm Leong said she saw the male Chinese using his hands to lift up both legs of the female Chinese. She demonstrated how his hands were slightly stretched with the palms open and facing upwards and said he was holding the knees of the female Chinese.[8] The legs of the female Chinese were raised off the ground and her body was not in contact with the ground. The female Chinese was holding on to the iron railing of the parapet at the tenth floor common corridor with both her hands and uttering something like "aw, aw, aw" rather softly.[9] However, these words did not make any impression on her.[10] At that time, Mdm Leong's daughter asked her what the couple were doing and Mdm Leong replied that they might be playing. She said this because the female Chinese was not struggling.[11] As she finished saying that, Mdm Leong noticed that the male Chinese had lifted both the legs of the female Chinese higher and split seconds after that the body of the female Chinese disappeared from her sight. She went towards the parapet on her right, looked down and saw the body of a person lying motionless on the pavement below. Mdm Leong said the female Chinese had been lifted up continuously and slowly.[12] Mdm Leong was required during cross-examination to demonstrate how long it took the male Chinese to lift the legs of the female Chinese. From her demonstration, it appeared to be about five seconds.[13]

50 Mdm Leong said she then saw the male Chinese walk towards the front of the lifts as though he was waiting for the lift to go downstairs.[14] Seconds later, she saw a bespectacled elderly male Chinese appearing behind the male Chinese. She recognised the elderly male Chinese as one who lived in D's flat. Seconds later, the wife of the elderly man and a teenage boy stood behind the elderly man. The elderly man held onto the neck of the male Chinese and asked him loudly in Hokkien something to the effect as to why he did what he did and the male Chinese replied that there was no need to be afraid; he would not run away. Mdm Leong heard the elderly man shout at the teenage boy to call the police and then asking the boy whether he had done so. As Mdm Leong's daughter told her she was scared and asked to go home, Mdm Leong then proceeded home with her daughter.

51 Mdm Leong said she was on the tenth floor corridor two units away when she witnessed the incident pertaining to the Chinese couple. She indicated a distance in court which was more than 30ft. Mdm Leong was about 38 years of age then.

52 Mdm Leong disagreed with defence counsel, Mr Rasif, that the male Chinese had both his arms around the knees of the female Chinese. She said she did not know whether the female Chinese was trying to push herself off the balcony as she was not the female Chinese, but she disagreed unhesitatingly that the male Chinese was trying to prevent the female Chinese from throwing herself over.[15] Mdm Leong also disagreed that the male Chinese did not throw the female Chinese over.[16]

53 The other witness Mdm Goh said that she and her son were walking along the common corridor in front of #10-63 when she heard a female voice uttering "ai, ai" behind. She turned around and saw the same Chinese couple she had earlier seen at the void deck of the ground floor. The female Chinese was holding onto the iron railing of the parapet with both her hands while the male Chinese, who was behind the female Chinese, was holding onto both her legs. In cross-examination, Mdm Goh demonstrated the grabbing of both ankles by two hands with an upward movement to lift the body. She thought the Chinese couple were acting in an uncouth manner and was embarrassed when she saw the upper thigh region of the female Chinese as the male Chinese kept lifting her legs higher. As she was afraid the male Chinese would scold her for looking at them, she left immediately with her son for home. The sounds she heard *ie* "ai, ai" did not create any impression on her mind.[17]

54 Mdm Goh said she did not see the male Chinese holding the knees of the female Chinese with his palms open. She said the female Chinese was not struggling.[18] It did not occur to Mdm Goh that the male Chinese was trying to throw the female Chinese over the railing[19] but Mdm Goh said that the female Chinese was not trying to climb over the railing.[20] Mdm Goh also elaborated that when she and Mdm Leong saw the Chinese couple earlier on the ground floor, the male Chinese was holding the waist of the female Chinese. She did get the impression that they were a couple and the female Chinese did not appear to be in distress.[21]

Evidence of D's father

55 D's father gave evidence that on the AOD he and his wife had left D's flat at about 1.25am for their stall. They returned at about 11.30am and discovered a section of the metal gate missing. He was told that the Accused had knocked and damaged the gate. He was very angry and called D for the Accused's handphone number. He then called the Accused who apologised and said he would get the metal gate repaired.[22] So D's father decided to let the matter rest. D's father elaborated that during the conversation, the Accused said he had waited ten years for D. He had sacrificed his family and work. He wanted to find out where D was. D's father responded that the Accused should not be rash and if there was a problem, he would help the Accused. D's father then terminated the call.[23]

56 D's father then decided to repair the gate with the help of D's son. At about 12.20pm, while trying to repair the gate, D's father heard some heavy footsteps coming from the direction of the lift landing and the common corridor. I would add that D's flat is the first unit on the right of the lift doors as one exits the lift. The door of the flat is not facing the lift doors but is perpendicular to the lift doors. Suddenly his wife rushed past him and went out to the common corridor. As his curiosity was aroused, he went out and at this juncture heard a female voice screaming followed by the sound of a loud thud. His wife yelled that the Accused had thrown D down. D's father looked over the parapet of the common corridor and saw D lying motionless. He then saw the Accused entering a lift and rushed towards him and grabbed him around his neck. He pulled the Accused into D's flat and the police were

contacted. He could not recall whether he or D's son called the police. He claimed he asked the Accused why he had thrown D down and the Accused said he had no choice and he (the Accused) could accompany D. According to D's father's elaboration, the Accused said he had no choice twice, once after D's father had grabbed the Accused while the latter was in a lift and the second time while both he and the Accused were in the living room of D's flat.

Evidence of D's mother

57 D's mother gave evidence that in the afternoon of Sunday 9 March 2003, the Accused had come to D's flat and handed over a birdcage with a bird in it and left. Shortly after, he returned and passed her an envelope addressed to D and left again.

58 In the evening of 9 March 2003, when D was not at home, the Accused had repeatedly called insisting on speaking to D. She told the Accused that D was not in. During the third or fourth call, the Accused said that D's mother should treat it as if she had given birth to one less daughter.

59 On 10 March 2003 at about 1.15am, as she was preparing to go to work, D's mother heard banging sounds as though somebody was kicking the metal gate of D's flat. She opened the wooden door and saw the Accused standing outside. He seemed to be using his handphone. When he saw her, he apologised repeatedly and walked away. She did not talk to him. After that, she and D's father left for their stall.

60 At about 11.30am when they returned to D's flat, they discovered a section of the front metal gate of the flat missing. D's son told D's father that the Accused had damaged the metal gate. Subsequently, D's son and D's father started repairing the gate. D's mother was then in the kitchen to hang the laundry. While doing so, she heard D yelling in Mandarin, "No! No! No!" She rushed out of the kitchen towards the open sliding window in the living room that was facing the common corridor. She saw D being dragged along the common corridor outside the windows of the living room. She immediately rushed out of the flat to the common corridor. She saw the Accused standing beside the parapet of the common corridor. He was retracting his hands as though somebody had fallen off them. She heard a loud thud coming from the ground floor. She looked over the parapet and saw D lying motionless at the foot of Block 202.

61 However, in cross-examination, D's mother admitted that she did not rush towards the open window in the living room nor did she see D being dragged along the common corridor. Upon hearing D saying "No! No! No!" whilst she was in the kitchen, she had turned her head and looked towards the window and saw a shadow which was not clear. She then ran to and out of the main door.[24]

62 D's mother also clarified in cross-examination that her husband D's father first looked over the parapet before she did.[25] She confirmed that when the Accused had gone into a lift on the tenth floor, D's father then grabbed hold of him.[26]

The Accused's letter

63 I now come to the envelope which the Accused had handed to D's mother on 9 March 2004. It contained a handwritten letter in Chinese. The Prosecution adduced evidence from Tan Teck Heng, a translator attached to the Translation Section of the Criminal Investigation Department ("CID"). Mr Tan had prepared an English translation of the letter but he placed some question marks on his translation as at times he could not make out the Chinese characters from the handwritten letter or the meaning of the sentence was not clear to him.[27] Mr Rasif then produced another English translation. Although the person who prepared that translation was not called as a witness, Mr Tan

did say he was prepared to accept that translation.[28] However, as there was no material difference between the two translations and as questions from the Prosecution were based on Mr Tan's translation, I will set out below Mr Tan's translation only. It reads:

> Dear,
>
> I do not know that I did wrong. Maybe you have found the exciting and colorful life you want. I am really not capable of anything now. I am not paid any salary and I can only work like hell. You may think that I do not want you or care about you, but I really have only you in my heart(?). I can accept it if you have a change of heart because I have no money. I can understand, as there are many men at 97(?). However, it is because of work that I have no time to keep you company. I will have regrets even if I die. I know I am useless and you have to lead a miserable life(?). You may think that the reason I want to be with you is to have sex with you. You are wrong, dear(?). I have four work assignments this month and I have to work like hell. I really have no time to keep you company. I really have nothing to say(?) and I hope you will be happy.

Evidence of Staff Sergeant Ishak bin Mohamed

64 Staff Sergeant Ishak bin Mohamed ("SSgt Ishak") was on patrol duty with Special Constable Mohd Shahrul bin Ismail ("SC Shahrul") on 10 March 2003 at 12.30pm. At that time, they were attached to the Choa Chu Kang Neighbourhood Police Centre. They overheard a message over a police radio set stating, "A man throw my daughter down." The location given was Block 202. Although a patrol car was despatched, they proceeded to the location to assist. When they arrived at Block 202 at about 12.32pm, they saw an ambulance paramedic there and saw a Chinese boy squatting beside a body and crying. The boy was identified as D's son and the body as that of D's. D's son, SSgt Ishak and SC Shahrul went up to the tenth floor and saw two Chinese men exchanging words. Their identities were established to be that of the Accused and D's father.

65 The Accused smelt of alcohol. He appeared aggressive and was gesticulating wildly as he argued with D's father who had tears in his eyes. The two police officers separated these two men. SSgt Ishak asked D's son whom he had referred to earlier when they were at the first floor and he immediately pointed to the Accused. SSgt Ishak said he asked the Accused, "What had happened?" The Accused replied spontaneously in English, "I killed her". When the Accused said this, he was not calm and appeared aggressive.[29] Upon hearing this, SSgt Ishak requested the Accused to calm down to gather more facts from him. The Accused continued in English saying that he had waited ten years. He also mentioned his company had gone bankrupt and aggressively said, "I already push her down. Do you want me to jump down I can do it." SC Shahrul reduced into writing what the Accused had said in a patrol car log sheet and SSgt Ishak signed at the end of the log sheet after their tour of duty.

66 Subsequently, other police officers arrived. The Accused had calmed down and offered both his hands to be handcuffed and brought to the ground floor using a lift. He was escorted by SSgt Ishak, one Sgt Low, and SC Shahrul. As the lift was descending, the Accused repeatedly asked to see his girlfriend, meaning D, for the last time. The requests were refused. At the ground floor, the Accused again requested to see D but SSgt Ishak turned down the request. The Accused turned violent and tried to force his way to where the body was lying. He had to be restrained and put into the left rear passenger seat of a police car. Later, SSgt Ishak returned to the car and opened the right passenger door. He saw the Accused knocking his head against the left passenger window. He kept demanding to see D but was refused. Suddenly the Accused's right leg kicked the right side of SSgt Ishak's face. SSgt Ishak then shut the right passenger door. It is not necessary for me to set out the evidence on the Accused's further acts of violence while he was in the car.

Evidence of SC Shahrul

67 The Prosecution did not seek to introduce the relevant page of the log sheet through SSgt Ishak. They sought to do so through SC Shahrul. The Defence objected to this as SC Shahrul was below the rank of sergeant.

68 Mr Rasif referred to ss 25 and 26 of the Evidence Act (Cap 97, 1997 Rev Ed) which state:

Confession to police officer below the rank of sergeant not to be proved

> 25. No confession made to a police officer who is below the rank of sergeant by a person accused of any offence shall be proved as against the person.

Confession by accused while in custody of police not to be proved against him

> 26. Subject to any express provision in any written law, no confession made by any person whilst he is in the custody of a police officer, unless it is made in the immediate presence of a Magistrate, shall be proved as against the person.

69 Mr Rasif also referred to s 122(5) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC") which states:

> Where any person is charged with an offence any statement, whether it amounts to a confession or not or is oral or in writing, made at any time, whether before or after that person is charged and whether in the course of a police investigation or not, by that person to or in the hearing of any police officer of or above the rank of sergeant shall be admissible at his trial in evidence and, if that person tenders himself as witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit:
>
> Provided that the court shall refuse to admit such statement or allow it to be used as aforesaid if the making of the statement appears to the court to have been caused by any inducement, threat or promise having reference to the charge against such person, proceeding from a person in authority and sufficient, in the opinion of the court, to give such person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

70 On the facts before me, it was irrelevant whether the Accused was in the custody of a police officer at the time he allegedly said what was attributed to him. If he was, s 26 Evidence Act itself is subject to any express provision in any written law. Section 122(5) CPC is such a provision. Under s 122(5), any statement of an accused person to or in the hearing of a police officer of or above the rank of sergeant is admissible, whether it amounts to a confession or not.

71 Section 122(5) CPC applies whether the accused person is in the custody of the police or not. It overlaps but is not identical with s 25 Evidence Act. The latter is restricted to confessions whereas s 122(5) CPC is not. Curiously, the latter applies only to confessions made to a police officer whereas s 122(5) CPC applies to any statement made to "or in the hearing of" a police officer of or above the rank of sergeant.

72 On the facts before me, this last difference I have mentioned is immaterial because it was not in dispute that the alleged statements from the Accused were made to SSgt Ishak and not just within his hearing. However, I digress briefly to note that an interesting situation could arise in future

if a confession is not made to a police officer of or above the rank of sergeant but within his hearing. Would such a confession be admissible under s 122(5) CPC or inadmissible under s 25 Evidence Act? After all, s 25 is not specifically stated to be subject to any express provision in any written law, unlike s 26 Evidence Act.

73 Coming back to the facts before me, the Defence did not object to the evidence of SSgt Ishak but to the intended evidence of SC Shahrul. The Prosecution submitted that SC Shahrul's evidence on the log sheet was admissible because the log sheet was a contemporaneous record of the questions and responses between SSgt Ishak and the Accused. The Prosecution also used the illustration that if an interpreter had assisted SSgt Ishak in recording the Accused's responses, the interpreter's evidence would be admissible.

74 The Defence submitted that the log sheet could not be said to be the statement of the Accused because it was not signed by him. Accordingly, it submitted that even if the log sheet was written by SSgt Ishak himself, that log sheet would not be admissible.

75 The Defence further submitted that para 8 of the conditioned statement of SC Shahrul stated that the log sheet was dated 19 March 2003, some nine days after the alleged responses of the Accused to SSgt Ishak on 10 March 2003. On this point, the Prosecution submitted that evidence would be given by SC Shahrul to establish that the 19 March 2003 date in his para 8 should actually refer to 10 March 2003 *ie* the AOD. Indeed para 9 of SSgt Ishak's conditioned statement referred to the date of the log sheet as being 10 March 2003, and not 19 March 2003.

76 I was of the view that the correct date of the log sheet was irrelevant to the question of admissibility. If the log sheet was admissible, then the date of what was recorded thereon might affect the weight of the evidence. If the log sheet was not admissible, then the date thereon was irrelevant.

77 The Defence also raised an argument that the page of the log sheet which was sought to be admitted, a copy of which was found in p 230 of the Preliminary Inquiry bundle, was not signed by SSgt Ishak although he said he had signed the log sheet at the end of his tour of duty that day. However, the Prosecution submitted that the page exhibited was only the page that was relevant for this case. It did not contain all the entries for that day.

78 Further evidence on the log sheet was not yet before me at the time the Defence raised its objection. SSgt Ishak had only referred to the relevant page of the log sheet in para 9 of his conditioned statement, and, in oral testimony, had only mentioned he had signed it at the end of his tour of duty that day, without identifying the log sheet.

79 I had to decide whether SC Shahrul should be allowed to give evidence of the relevant page of the log sheet. If SSgt Ishak had made the entry in the log sheet himself, there was no doubt in my mind that he could give evidence on it. The fact that the log sheet was not signed by the Accused would not make it inadmissible unless his statement was made involuntarily. While the Accused had more room to deny the accuracy of what was recorded since he did not sign it, that was a different point.

80 In my view, there was nothing in s 25 Evidence Act or s 122(5) CPC that requires a statement to be signed by an accused person before it is admissible. Interestingly, when s 122(5) was re-introduced in 1959, as a proposed amendment to the CPC, it was assumed that the statement of an accused person would be admissible even if it was not read to or signed by the accused person. It appears that that was one of the reasons the Singapore Bar Committee objected to the

amendment. The memorandum of the Bar Committee dated 5 October 1959 to the Select Committee quoted the views of various eminent jurists, one of which was the following statement of the editors of *Ranganadhaiyar's Code of Criminal Procedure* (7th Ed, 1954) vol 1 at 543:

> The reason is plain enough; such statements are recorded by police-officers in the most haphazard manner. Officers conducting an investigation not unnaturally record what seems in their opinion material to the case at the stage and omit many matters equally material and it may be of supreme importance as the case develops. … Over and above all, they cannot be in any sense trained depositions, for they are not prepared in the way of a deposition. They are not read over to*, nor are they signed by the deponents*. There is no guarantee that they contain much more or much less than what the witness had said.
>
> [emphasis added]

At that time, the proposed s 122(5) would render an accused person's statement to a police officer admissible if the officer was of the rank of inspector or above. After s 122(5) was passed, the provision was amended to lower the rank of the officer to that of sergeant.

81 The next question in my analysis was whether SC Shahrul could give evidence of the relevant page of the log sheet, if the statement therein had been recorded by SSgt Ishak himself. If SC Shahrul was present at the time the Accused's statement was given to SSgt Ishak, I was of the view that there was no reason why he could not give evidence to corroborate SSgt Ishak's evidence, but not as independent evidence of the Accused's statement. The purpose of having a minimum rank of sergeant under s 122(5) was a step towards ensuring that an accused person's confession was voluntarily given. It was not contrary to that purpose if SC Shahrul was allowed to give corroborative evidence.

82 Did the fact that SSgt Ishak did not personally record the statement in the log sheet make a difference? I did not think so. In my view, SC Shahrul's evidence was still admissible but only to corroborate SSgt Ishak's evidence and I ruled thus accordingly.

83 SC Shahrul gave evidence as to what the Accused had said to SSgt Ishak in his presence and evidence as to how he recorded what the Accused had said in a patrol car log sheet. It was about an hour between the time he and SSgt Ishak were at the tenth floor of Block 202 and the time he and SSgt Ishak were at the void deck of the same block when he made a written record in the log sheet. As it turned out, he had recorded what SSgt Ishak had dictated to him. Had I known this at the time submissions were being made as to the admissibility of SC Shahrul's evidence, it would have been an additional reason for me to admit SC Shahrul's evidence. During the one hour before the written record was made, SSgt Ishak and SC Shahrul were busy. They had been escorting the Accused to a patrol car and cordoning off the scene at the first floor.[30] SC Shahrul's handwritten record reads:

> ... At the 10th floor mobile saw two male Chinese were quarreling. Establish that one of them was the culprit.
>
> B1) Harith Gary Lee @ Lee Cheng Thiam (Male 1964)
>
> S1630553G
>
> Blk 424 WOODLANDS St 41 #12-xxx

P2) [Deceased's father]

[NRIC number]

Blk 202 Choa Chu Kang Ave 1 #10-xx

mobile then ask the P1 who was the man he was referring to earlier he then pointed to B1. When mobile was interviewing B1 he was aggressive, smell of alcohol drunkard and bare footed he was wearing a shirt (few of the shirt button were unbutton) tuck out and blue jeans. When SSgt Ishak ask B1 what happen he said "I KILLED HER" AND HE MENTIONED "I WAITED FOR TEN YEARS". Culprit also mention his company had went Bankrupt. Mobile then asked him to calm down, however he aggressively inform "I already push her down. DO YOU WANT ME TO JUMP DOWN I CAN DO IT."

SC Shahrul explained that the word "mobile" referred to SSgt Ishak and "B1" referred to the Accused. I would add that the words "I already push her down" ("the Additional Words") were inserted with a caret. SC Shahrul explained that after he had written what the Accused had said, he had also written another segment, also dictated by SSgt Ishak to him, as to what D's father had said to SSgt Ishak, also in SC Shahrul's presence. It was after SSgt Ishak had read the two segments that SSgt Ishak told SC Shahrul to insert the Additional Words. SC Shahrul also accepted that chronologically the segment recording what D's father had said should have come first before what the Accused had said. However, SC Shahrul confirmed that what he had recorded about the Accused's words, including the Additional Words, was what he had heard on the tenth floor that day.[31]

Evidence of Kalaselvi d/o Rama Krishna

84 Kalaselvi d/o Rama Krishna is a paramedic of the Singapore Civil Defence Force holding the rank of sergeant. On the AOD, she and her ambulance driver and an ambulance attendance were activated to attend at Block 202. They reached the scene at about 12.33pm. After the ambulance was parked, she alighted and saw D's body. She examined the body. D was already dead.

Evidence of Dr George Paul

85 Dr George Paul is a forensic pathologist attached to the Centre for Forensic Medicine of the Health Sciences Authority. He arrived at the scene around Block 202 at 4.25pm on the AOD. He conducted his examination of D's body at about 4.30pm. She was already dead. The autopsy was performed the next day at 9.30am. In his report, he gave the height of D as 148cm and her weight as 45kg. She had multiple external and internal injuries which were consistent with a fall from a height although some of the external injuries might not have been caused by a fall. The injuries which were consistent with a fall from a height were sufficient to cause death in the ordinary course of nature.

Evidence of Staff Sergeant Ng Leng Sing and Senior Staff Sergeant Pavia Roy Nicholas

86 Staff Sergeant Ng Leng Sing ("SSgt Ng)" said he and Senior Staff Sergeant Pavia Roy Nicholas ("SSSgt Pavia") had received instructions on the AOD to interview the Accused. At about 2.30pm, they arrived at Jurong Police Division Headquarters where the Accused was being held. They were led by a police officer to the property register room in the charge room when they met two police officers, Sergeant Phua Kok Leng ("Sgt Phua") and Corporal Subaneswaran s/o Kanagasundram ("Cpl Subaneswaran") who were in the property register room with the Accused. SSSgt Pavia requested to use an adjacent search room to interview the Accused. While the Accused was being brought there, he turned violent and refused to calm down. Once inside the search room, SSSgt Pavia

directed Sgt Phua and Cpl Subaneswaran to wait outside while SSSgt Pavia and SSgt Ng remained inside. SSSgt Pavia spoke in English to the Accused and introduced himself and SSgt Ng. The Accused refused to sit and started banging his head against a metal cabinet in the room and uttered in Hokkien, "I kill human being. I did not run. I waited for you all to come. Why you all treat me like that? I want to take revenge against the police." SSgt Ng interpreted what the Accused had said into English to SSSgt Pavia. In his conditioned statement, SSgt Ng said he immediately interpreted what the Accused had said to SSSgt Pavia into English. In cross-examination, SSgt Ng accepted that there was an interval of between five to ten minutes before he said the English version to SSSgt Pavia after SSSgt Pavia asked him what the Accused had said. During this time, the Accused had to be subdued and taken away to a cell. SSgt Ng presumed that the Accused had been angry with the way he was treated by the police and accepted that the Accused's breath smelt of alcohol when he uttered the words.[32]

87 In his conditioned statement, SSSgt Pavia said he wrote down what he was told by SSgt Ng in his field diary book. After that, he hurriedly signalled through a small glass window for the other two police officers to come in. The Accused was subdued and SSSgt Pavia directed these two police officers to place him in a padded lock-up cell which they did with the assistance of three other police officers. In cross-examination, SSSgt Pavia clarified that the Accused was no longer in the search room when the English version of what the Accused had said was given to SSSgt Pavia by SSgt Ng and he recorded it in his field diary book. SSSgt Pavia estimated that the interval between the time the Accused was banging his head on a metal cabinet and being led out of the search room was between five to ten minutes. He accepted that the Accused had appeared intoxicated and was running amok and the situation in the search room was chaotic.[33]

Evidence of Dr Tommy Tan

88 Dr Tommy Tan is a psychiatric consultant attached to Woodbridge Hospital. He examined the Accused on 2 April 2003 at Changi Prison Hospital. He read the nursing observations made of the Accused while the Accused was in remand, read the statement of facts recorded by the investigating officer ("IO") Station Inspector Mazlan bin Shariff of the CID and interviewed the Accused's wife and Mr Soon. In Dr Tan's opinion, the Accused does not have a mental disorder and was not of unsound mind at the time of the alleged offence. Dr Tan was also of the opinion that the Accused did not qualify for diminished responsibility.[34]

Evidence of Dr Danny Lo Siaw Teck

89 Dr Danny Lo Siaw Teck is an analyst with the Centre for Forensic Science. He had examined, *inter alia*, a urine sample which was marked with D's name. He found the urine to contain codeine, ephedrine and phenyltoloxamine.

90 Dr Lo said that according to literature, the possible side effects of codeine includes nausea, vomiting, constipation, light headache and mild somnolence. Somnolence is the inability to sleep and a state of excitement. Codeine is taken or administered as a cough and cold remedy.

91 As for ephedrine, possible side effects according to literature are tachycardia meaning a very fast heartbeat, hypertension, seizure, stroke and mycardial infection meaning damage to the heart muscle. Ephedrine is a drug meant for asthma and is also administered for cough and cold.

92 Phenyltoloxamine is an anti-histamine and is also meant for cough and cold. Its side effects are similar to those for codeine.

93 The three chemicals are active ingredients in cough and cold medication available in Singapore. Aside from these three chemicals being taken as a cough and cold remedy, Dr Lo was not able to offer any reason as to how they came to be found in D's urine.[35]

Evidence of telephone records

94 Evidence was also given for the Prosecution by witnesses from Mobile One Ltd and Singapore Telecom Mobile Pte Ltd about the call details of telephones used by the Accused and by D.

Evidence on the Accused's statements

95 Assistant Superintendent of Police Ang Bee Chin gave evidence regarding the Accused's statement under s 122(6) CPC, after a charge of murder was administered to him at about 4.25pm of 11 March 2003. A Mandarin interpreter Mdm Low Sau Heng was present. This statement reads:

> I did not kill her. That day I managed to get her at her office. I had been trying to get her for the past 3 days. We went to the carpark at Kranji. We had a talk for a while. She was heavily indebted. She owed credit card companies at least S$10,000/= over. I was unable to help her anymore. In fact, I had helped her to repay the credit card companies and expenses for more than S$20,000/=. She was a drug addict and spent at least S$500/= a month on the drugs. Her salary was not enough for her expenses. I love her very much and had all along tolerated what she had done. At that time, I was badly drank [*sic*] as I had been drinking since last Friday. As I could not help her anymore, we discussed and decided to die together. She suggested that we go back to her block of flat. She had just bought this flat at Block 202 Choa Chu Kang Avenue 1 #10-xx and she had a lot of financial and family problems pertaining to this flat. I drove her back to her block of flat in my lorry. I parked my lorry at the carpark haphazardly because she already ran out of the lorry. I chased after her and went up to the 10th floor together with her in the lift. When the lift door opened at the 10th floor, she ran out and climbed over the parapet. I wanted to follow her but her father came out of the flat and grabbed my body. …. Furthermore, she was a drug addict.

96 The IO gave evidence on various matters including two other statements from the Accused. One was given on 13 March 2003 from 10.20am to 4.15pm with a break for lunch.[36] Mdm Low, the Mandarin interpreter, was present. Another was given on 25 March 2003 from 10.45am to 5.00pm with a break for lunch.[37] Mdm Low, the Mandarin interpreter, was present again. I will revert to these two statements later.

Evidence for the Defence

97 At the close of the case for the Prosecution, I was satisfied that the Prosecution had established a *prima facie* case and called for the defence of the Accused. He elected to give evidence and was the only witness for the Defence.

98 The Accused said he had known D since 1993. He had met her in a karaoke lounge named Galaxy where she was working as a karaoke jockey. They became friends. At that time she had an Indonesian Chinese boyfriend. D told the Accused that she knew he liked her a lot but she was not suitable for him as she was the playful sort.

99 In about January 1995, the Accused had divorced his first wife. He was upset and left for Malaysia. D was a great help to him between 1995 and 1998 as she would bring his son to visit him in Johore during the school holidays. D also helped him to instruct lawyers in his battle for custody for

his son and eventually he was given custody.

100 In early 2002, the Accused was not getting along with his second wife. At that time, D told him that her godbrother Ah Tee had committed suicide. D, Ah Tee and Ah Tee's wife Kim (meaning Annie Lim, one of the prosecution witnesses) were having a very complex relationship and D moved out of the Toa Payoh flat of Ah Tee and Kim. Ah Tee kept asking D to move back but she refused. Ah Tee committed suicide by jumping from his flat. D was very upset and her weight was down to over 30kg. The Accused's heart ached for D. He spent more time with her at beer gardens and bringing her on fishing trips. She became happier and her health improved. Around June 2002, he bought her an air ticket for Malaysia and subsequently joined her there for a while before both returned to Singapore. It was while they were in Malaysia that he became her boyfriend but they did not have an intimate relationship then.[38]

101 The Accused said that he knew that D was indebted to various credit card companies. As at the AOD, she was owing more than $10,000. He said he had helped her to pay her debts from time to time after they had become a couple.[39] His financial help was more than $20,000. He also said D was a drug addict consuming the drug "Ice". Her drug habit was costing at least $500 a month.

102 The Accused agreed that D was an extrovert and wanted an exciting and colourful life. However, he added that she pretended she was happy and wanted people to think she was rich and did not face any problem.[40] He disagreed that his company was having financial problems and explained that perhaps it was having a slight cash-flow problem.[41] His partner was still carrying on the business and helping his family. His company had not gone bankrupt.[42]

103 The Accused said it was he who suggested that D buy over the flat, which became D's flat, even though he knew about her credit card debts. He felt she could afford it with her CPF contributions and she was working. Most importantly, D and her son and her parents would not have to move out.[43]

104 The Accused denied that his relationship with D was on the rocks. He also denied that before the AOD, D had informed him that she wanted to break off. On Valentine's Day *ie* 14 February 2003, he had collected a nose stud which he had ordered for her. He had bought her jewellery before. After collecting the nose stud, he fetched D and Rita from work. After he dropped Rita off, D mentioned the usual place they frequented and he drove to Gateway Hotel. He said they were very happy spending the next few days there.[44]

105 On 7 March 2003, which was a Friday, he had called D. In cross-examination, he was adamant that he did not ask her out. He said he merely asked whether she wanted to go out.[45] However, in his statement to the IO on 13 March 2003, *ie* three days after the AOD, he said that he had asked her to go out that evening. In cross-examination, he said that when he asked D whether she wanted to go out, she had said she was going shopping with Rita. It was only during the second conversation later that D had said she was tired.[46] However, in his same statement to the IO, he said she had said she was tired when he asked her to go out. The Accused continued to say in cross-examination that the first time he had called D was from his office. He then went to a mini-market and then back to his flat. He called her a second time and asked where she was because whenever she went shopping with Rita, he would fetch her thereafter. It was during this second conversation that he asked her to go out and she said she was very tired. He told her he would bring her fruits. I presume that he must have learnt then that she was at Rita's mother's flat, if not during the first call, because he drove his lorry there and delivered some fruits to D. He said he did not ask her out again as she had said she would have to work the next day *ie* Saturday, and he told her he had a new project. He said that before he left, he told her he would contact her and she said "okay".[47] After

reaching home, he tried to contact her more than twice and eventually spoke to D on the telephone.[48] He could not remember what they talked about. After this conversation, he did try to call her again but she did not answer his call. He said he tried to call her again a couple of times because he had nothing to do and he only wanted to talk to her.[49] Also, when he had told her (at Rita's mother's flat) that he would call her, she had said "okay".[50] He said he was not angry when she did not respond to his calls on 7 March 2003.[51]

106 The Accused said that the next day, *ie* 8 March 2003, he called D from his office. She said she was waiting for a taxi at Rita's flat. He told her he might be able to fetch her from work and asked her to call him after she finished work. She agreed.[52] At about 4.00pm, he called D's office. A man picked up the call and said that that was a Saturday and D was not working that day. On hearing that, he was a little bit angry.[53] He tried calling D's handphone for a long time but there was no response. He was a bit angry but was more frustrated.[54] He also called D's home number and managed to reach her. He asked her why she did not call him when she said she would and informed her that when he had called her office, a man had answered and said she did not turn up for work. D kept quiet. He tried calling D again on her handphone and at her home. She did not answer his calls. He said he did not feel much as her family had informed him she was sleeping.[55] He said he wanted to find out why she said she was going to work that day when she had not. Yet the thought did not cross his mind that she was lying. He was not getting angrier but was getting more frustrated.[56] He also said he did not get the impression that she was trying to avoid him.[57]

107 The next day was Sunday, 9 March 2003. He had ordered a bird for D and wanted to collect it. He had to get a bird cage first which had been left at D's flat. So he went there to get the bird cage. He said it did not cross his mind whether to see D or not[58] but he did call D's son when he was there to ask where D was and her son said she was sleeping. He then went to get the bird and returned to Block 202. Before going up to D's flat, he wrote a letter to her. This was the letter I have already mentioned above. He said he wrote it because on two previous occasions when she refused to answer his calls, he would just write her a letter and she would then call him after receiving the letter.[59] Initially he said she would avoid him if her finances were tight and then he said he did not know why she was avoiding him.[60]

108 Although this letter started with "I do not know what I did wrong", the Accused claimed he did not think he had done anything wrong. He was just penning his thoughts to get D to call him. He also did not think she was avoiding him but only pretending to do so.[61] However, later in cross-examination, he said that he knew she was avoiding him.[62]

109 The second sentence of the letter was "Maybe you found the exciting and colorful life you want." Yet the Accused said that D did not find life with him boring. He repeated that he was just penning his thoughts and said he did not even take a second look at the letter.[63]

110 Another part of the letter read "I can accept it if you have a change of heart because I have no money. I can understand, as there are many men at 97". Yet the Accused said it did not cross his mind that D could turn to other men with money when he wrote this.[64]

111 Another sentence in the letter read, "You may think that the reason I want to be with you is to have sex with you. You are wrong …" However, the Accused said D did not tell him that he was interested in her because of sex and he himself did not think that that was how she felt.[65] He was merely penning his thoughts.[66]

112 As for the sentence, "I will have regrets even if I die", the Accused said he did not have regrets about the relationship.[67]

113 When it was suggested to the Accused that the letter was not written because of her credit card problems, he said he was not trying to convey any special message.[68] However, in para 11 of the Accused's statement to the IO of 13 March 2003, he had said that he had written the letter because of her credit card expenses and he had wanted to discuss with her about her financial matters. He then said that this part of his statement to the IO was not true. However, he had in mind the two previous occasions when everything became alright after he paid her bills for her.[69]

114 The Accused had written the letter before he went up to D's flat to hand over the bird cage with the bird inside. However, he forgot to hand over the letter. After he came down the block, he realised this and went up and handed the letter (in an envelope) to D's mother and left.

115 In the evening of 9 March 2003, the Accused returned to Block 202. He was waiting for D at the void deck. His reason was that her mother had said she had gone out and would return in a while.[70]

116 The telephone records showed that on 9 March 2003, the Accused had called D's flat nine times between 11.00am to 8.00pm[71] even though the Accused said he did not usually call there as D had in the past asked him to call her handphone.[72] The Accused was told that D was sleeping and on one occasion her mother had told him D had gone out. He denied he had told the mother that she should treat it as if she had given birth to one less daughter. He also denied that he was angry and getting angrier when he could not reach D each time that day. However, he was frustrated.[73]

117 As for his telephone discussion with Rita on 9 March 2003 at around 8.00pm, the Accused said he could not recall saying that she should just take it that she had lost a good friend. He also could not recall telling Rita that D had mentioned something to the effect that she wanted to end her relationship with him.[74]

118 The telephone records also showed that the Accused had called D's handphone five times between 8.27pm to 8.37pm of 9 March 2003, *ie* in the space of ten minutes.

119 The Accused was waiting for D in the void deck of Block 202 on the night of 9 March 2003. He fell asleep and woke up around midnight. He discovered his handphone was missing. So he took a spare handphone from his lorry and started calling D's flat again. The Accused accepted that the telephone records also showed that he was calling D's handphone and Rita's handphone after 12 midnight also. He was looking for D.[75]

120 The Accused remembered going up to D's flat only once, not twice, in the early morning of 10 March 2003 *ie* the AOD. He said he kicked the aluminium gate of D's flat because D's son had spoken harshly to him. He did not agree that he was behaving violently because the gate was broken as it had been damaged previously by someone else.[76]

121 The Accused said he could not remember saying that he had told K, who was also present at that time, that he could hold on to D and jump down and that he had no regrets in the world.[77]

122 The telephone records also showed that the Accused had called D's handphone five times between 1.00am to 2.00am of the AOD. One of the calls was for over 16 minutes. The Accused remembered D telling him that he as a boyfriend did not know how to take care of his girlfriend. However, he did not remember D asking him whether he was happy and his negative reply. He also could not remember D saying that since he and she were not happy, they should not "walk together".[78]

123 From D's flat, the Accused drove to Rita's flat to look for D. He said he did not remember banging on the door of Rita's flat but para 14 of his statement of 13 March 2003 states that he banged hard on Rita's door. The Accused found it strange that Rita's husband Kim Huat was scolding him after he had opened the door. The Accused accepted he then went to his lorry to get a padlock and went up to padlock the gate of Rita's flat. He thought that D was inside the flat and would come out to see him when he padlocked the gate. He denied receiving any message on his handphone that D would settle the problem with him after work that day.[79]

124 The Accused said that although Rita had told him that D had sent a message to Rita to say that she (D) would not be going to work that day, he thought Rita was lying. So he went to D's office in the morning of the AOD. He accepted that D's credit card problems were the last thing on his mind as he felt he was being treated like a toy. He said that when he saw D in the office it did not occur to him that she had been avoiding him.[80] When he saw D at her office, she was smiling and chatting with a colleague. At that instance, he got very angry. He felt that D had treated him like a monkey.[81] He grabbed D by her hair and dragged her out of the office. He could not remember punching D in the face. As regards Rita, he only remembered that she had grabbed his hand and he swept her hand away. He did not remember hearing D say she was in pain.

125 The Accused said that after D and he left her office that day, he drove her to a car park near Kranji Dam. He asked her why she was avoiding him and whether this was because of her financial problems. She kept quiet. Then she scolded him for embarrassing her by his conduct in the night and in the morning that day. He scolded her back and said he was not the cause of all this. He should not be blamed totally. She kept saying she had a lot of problems she could not solve and told him to stop troubling her. He started scolding her again and suggested that they might as well die together. She agreed. He asked her where they should die together and both of them kept quiet. He lit a cigarette and smoked for a while. Then she said, "Go home." He took a glance at her and drove his lorry to Block 202. During the drive to Block 202, there was no conversation between them.[82]

126 However, in the Accused's statement of 25 March 2003, he had said in response to question 5 that the most important matter he had wanted to discuss with her was her drug problem. In cross-examination he said that he did not have a chance to talk to her about this because she had scolded him at Kranji when he wanted to speak to her. He said he did think about her drug problem as he was driving to Block 202 with her. He thought that perhaps she was embarrassed to go back to her office and that when they reached her flat, he could get her mother to help her settle her credit card debts and maybe persuade her to kick her drug habit.[83]

127 The Accused initially agreed that he was driving at a fast speed from Kranji to Block 202.[84] Then he said he did not think he was driving very fast as he had to pass through many corners before reaching the car park at Block 202. The screeching sound that Mdm Goh had heard was perhaps because he did not change the gears of the lorry. D got out of the lorry at Block 202 and he followed her. The lorry was found parked across three parking lots. The Accused said it did not occur to him to park the lorry properly.[85]

128 The Accused said that D and he got into the lift and went to the tenth floor. At the tenth floor, he was distracted because he saw someone repairing the gate of D's flat although he could not make out who it was. He was in a daze. As he stood looking at the gate, D had walked further to the right and was about three metres away from him when he noticed that she was at the parapet. Everything happened very quickly. Her legs were already lifted from the ground and her hands were on the railing of the parapet. He was unable to elaborate how high her feet were above the ground when he first saw D at the parapet or whether her body was straight or at an angle. However, he said she did not put any of her feet onto the parapet to climb over it.[86] He moved forward to grab hold of

her but did not succeed. His hands had touched both her legs and he did not have his arms around her knees. He felt as if something bounced off his hands.[87]

129 However, in para 5 of his statement of 13 March 2003, the Accused said that D had climbed over the parapet. He was right behind her. He had touched her body when she was climbing over the parapet but he could not remember which part of her body he had touched.

130 The Accused did not agree that D had said, "No, No, No" in Mandarin before she had fallen from the tenth floor.

131 He accepted that as D's height was 1.48m and her platform shoes were 11cm high, the railing of the parapet wall would be at about D's shoulder level.[88]

132 The Accused said that he did not shout at D to stop or for any kind of help as it all happened very fast.[89] After he bounced backwards, his body turned and he took a few steps forward. He was then within a tiled area in the lift landing of the tenth floor. He looked at his hands and was in a daze. He recovered from his daze and wanted to walk towards the parapet as he really wanted to follow D down. However, D's father had grabbed him. He said he told D's father that D had jumped down and D's father should let him follow her. He denied that he was entering the lift when D's father grabbed him.[90] He also denied that when D's father asked him why he threw D down, he said he had no choice.

133 The Accused said that after the first police officers had arrived at D's flat, he spoke to one of them in English because that officer was a Malay. He did not dispute that this was SSgt Ishak. He denied telling the officer he had waited for ten years. What he had said was that he had known D for ten years. He said he told the officer she was on the verge of bankruptcy and denied that he had said his company had gone bankrupt. He did not agree that his company was in fact facing financial problems. It was just that as they were paid upon completion of a project, his payments to workers would be made a bit later.[91] He said his partner was still carrying on the business and was helping his family. His company had not gone bankrupt.[92] The Accused said he told the officer that the others had said he killed her. He denied telling the officer, "I killed her" or "I already push her down. Do you want me to jump down I can do it." He said he could remember what he had said to the officer.

134 As for the time when the Accused was at Jurong Police Division Headquarters, after he was brought there from Block 202, the Accused denied saying in Hokkien that he had killed a human being. He said that what he had said was that he did not kill a human being.[93] However he agreed that he did say the rest of the words mentioned by SSgt Ng, *ie* "I did not run. I waited for you all to come. Why you treat me like that. I want to take revenge against the police."[94] He said he was not treated as a human being. He had been dumped in a police car (at Block 202) and the air conditioning was not switched on. He was not allowed to see D. He was scolded with Hokkien vulgarities. At the police station, he was soaked in sweat. He had to take off his short-sleeve shirt and a pair of shorts. He was shivering and asked for an extra shirt but was refused it. Someone kept scolding him and said that he was not a human being and that he might as well die.[95]

135 The Accused did not dispute the voluntariness of the statements he had given ASP Ang and the IO after the AOD.

The court's decision

136 Although the Accused had been helping D with her financial problems, I was of the view that

he had his own financial problems. This was evident from the evidence of his friend Mr Soon and from Elis and the Accused's letter to D.

137 Contrary to the Accused's position, it was obvious to me that his relationship with D was soon under strain. This was not just a question of lovers' quarrels from time to time as Mr Rasif had sought to suggest. True, the Accused and D appeared to have patched up around October or December 2002, according to Rita, but Rita had also said that D continued to tell her that D was not happy with the relationship. D had said the same thing to Celine.

138 Mr Rasif stressed that even as late as Valentine's Day on 14 February 2003, the Accused had bought D a specially-ordered nose stud and the couple had spent their time at Gateway Hotel for a few days. In my view, this did not detract from the fact that D had told Rita that she was tired of going to Gateway Hotel.

139 What is more significant is what transpired in March 2003. According to the Accused's friend Mr Soon, the Accused was exceptionally quiet on 4 March 2003 before Mr Soon asked him if he had any problem. The Accused eventually said that he and D had broken up for about a week already when Mr Soon had asked about them. I did not accept the Accused's position that he did not say this. Mr Soon was a steady witness and there was no reason for him to lie.

140 On 6 March 2003, D had signed the papers for the transfer of her parents' flat at Block 202 to her. Although D had had credit card debts of around $20,000, there was no evidence that she was overwhelmed by them to the point of considering suicide. Indeed, the Accused admitted that she had never mentioned that she wanted to committed suicide because of such debts.[96] Furthermore, if she had been overwhelmed by such debts, the Accused would not have suggested to D that she buy over her parents' flat, because he must have known that she would have had to take a loan to do so, besides using her CPF funds.

141 After signing the papers for the transfer of the flat on 6 March 2003, D then went to Beyond 97 at night with Celine. Celine observed D to be happy and behaving normally that night.

142 On the next day, Friday, 7 March 2003, the Accused contacted D at night. I accepted Rita's evidence that D told her that the Accused had wanted D to go to Gateway Hotel but she turned him down as she was tired of going there. Although the Accused said in cross-examination that he did not ask her to go out with him in the first conversation, his statement to the IO of 13 March 2003 contradicted what he had said in cross-examination. True, the Accused did go to Rita's mother's flat, where Rita, her husband and D were having dinner, to deliver fruits to D which D did receive. In my view, this was because the Accused missed D. That is why the Accused kept on calling D that night even though she had told him that she was tired.

143 On the next day, Saturday, 8 March 2003, the Accused continued trying to reach D. When he called D's office in the afternoon, he said he was told she did not go into the office. It was the Accused's evidence that subsequently he managed to speak to D once and she kept quiet when he said that a man at her office had said she had not gone to the office. He made several telephone calls to D and to her flat but she did not answer him.

144 However, in my view, D must have told the Accused again on Saturday 8 March 2003 that she wanted to break off with him. I say this for various reasons.

145 First, the Accused had written the letter which I have mentioned the next day *ie* Sunday, 9 March 2003. I rejected the Accused's evidence that there was nothing wrong with their relationship

then and he was just penning his thoughts. If there was nothing wrong with their relationship, he would not have the thoughts as reflected in the letter. It spoke volumes. I also rejected the Accused's evidence that there were two previous occasions when D had been silent and the letter was his way of getting her to talk to him. If he had really expected her to call him after receiving the letter, he would have waited for her call instead of making the numerous calls he did that day to her flat and to her handphone and to Rita.

146 Secondly, the Accused had spoken to Rita at about 8.00pm that night. I accepted Rita's evidence that he had told her something to the effect that the day before, D had said she wanted to end their relationship. Indeed, Rita also said that when D went to her flat that same night, D had also told her that the day before, she had told the Accused she had wanted to end their relationship.

147 I also accepted the evidence of Rita that the Accused had said in the same conversation at about 8.00pm words in Mandarin meaning, "Never mind, you just take it that you have lost a good friend". Although the Accused sought to deny this, he had to say in cross-examination that he did not remember saying this.[97]

148 It was suggested by Mr Rasif that I should be wary of accepting the evidence of D's friends. In the case of Rita, she had said that she blamed the Accused for D's death. While that may be so, I found Rita to be a steady and credible witness who did not fabricate or exaggerate her evidence.

149 Thirdly, the Accused's conduct in kicking the metal gate of D's flat and banging on the door of Rita's flat and padlocking her gate on Sunday night also demonstrated that D must have told him that she wanted to break off with him. I also accepted the evidence of K who was a steady witness that the Accused had said a few times that he could hold on to D and jump down in Mandarin and the evidence of D's son that the Accused had said about four times that he was willing to die with D. Indeed, the son's evidence was not challenged at all.

150 Fourthly, the Accused's conduct in seeking D out at her office in the morning of the AOD and then dragging her by her hair and punching her on the face reinforced my view. These actions were not just because she was avoiding him and had treated him like a toy or a monkey. The point was why she was avoiding him and why he was so anxious to get hold of her. The answer to me was obvious. She wanted to break off with him but he could not bear the thought of her leaving him. He was getting angrier and angrier when he could not get D to meet with him.

151 I make no finding as to whether the Accused had driven to a car park at Kranji Dam and spoken to her as he had alleged. However, I find that when he was driving to Block 202, whether from Kranji Dam or from D's office, he was still angry. That is why he was driving at a fast speed near Block 202, notwithstanding the existence of some bends in the approach to Block 202. Mdm Leong and Mdm Goh had noticed his white lorry speeding towards Block 202 and Mdm Goh had said she heard a loud screeching sound from the lorry. The fact that these two women did not notice anything amiss when they saw the couple approaching them was neither here nor there as they were not paying any particular attention to the couple. Indeed, neither Mdm Leong nor Mdm Goh could subsequently identify the Accused at an identification parade, even though they had seen him and D also at the tenth floor corridor of Block 202 the same day. The fact that one of them saw the male Chinese holding the female Chinese's waist was also, in my view, neither here nor there.

152 I come now to the crucial evidence of each of these two witnesses as to what had transpired at the tenth floor corridor that day. I have already set out above their respective evidence. It is true that there appeared to be some inconsistency between Mdm Leong's and Mdm Goh's evidence as to how the male Chinese had held the legs of the female Chinese. Mdm Leong said and demonstrated

that he had been holding her around her knees with his arms stretched out and his palms open facing upwards. Mdm Goh said and demonstrated that he had been holding onto her ankles and lifting her up. One reason for the inconsistency could be that each was looking at the scene at a different time. Each of them was on opposite sides of the corridor. Assuming that this was not the reason, I took into account the fact that these witnesses had still not suspected that anything was amiss even as they saw what was going on. As each of them said, they thought the couple were playing. They were not paying any particular attention as to the details such as which part of D's legs the Accused was holding and the position of his hands.

153 In my view, the inconsistency did not detract from their evidence that each of them did see the male Chinese holding the legs of the female Chinese. Each of them also saw the male Chinese lifting the legs of the female Chinese higher. Furthermore, although Mdm Goh had left because she did not want the male Chinese to think she was looking at them, Mdm Leong remained at the tenth floor and she saw the male Chinese lift the female Chinese higher and higher until the body of the female Chinese disappeared from sight. As I have said, Mdm Leong disagreed unhesitatingly that the male Chinese was trying to prevent the female Chinese from throwing herself over and she also disagreed that the male Chinese did not throw the female Chinese over.

154 Mdm Leong's veracity was tested by Mr Rasif when he suggested to her that she could not have thereafter seen D's body on the ground floor from her position on the tenth floor, as alleged by her, because of the lift shaft protruding from the block. However, Mdm Leong stood firm on this point. She said that even an officer from the CID had queried her about it. She had to bring him to the spot where she was standing and show how her line of sight enabled her to see the body below and he accepted what she had said.[98] Thereafter, Mr Rasif did not pursue this test.

155 Mr Rasif also sought to challenge the veracity of the two witnesses as regards the same spot where each had said she had seen the couple at the tenth floor corridor standing. This spot was within the first section of the parapet which was between the wall of the lift landing at the tenth floor and a column, as one exits from the lift and turns right. The Accused had said that D was at a position after the first section when he saw her near the parapet. Mr Rasif submitted that no fingerprint was found on the railing in front of the spot identified by the witnesses. However, there was no evidence of any fingerprint found elsewhere on the railing. Mr Rasif also submitted that the location of D's body on the ground floor corresponded vertically to the place where the Accused said she had thrown herself off. D's body was found on the ground floor lying further out and not close to the façade of Block 202. Only her head was lying on the pavement at the ground floor. After considering a sketch plan, the photographs of the scene with D's body and subsequently inspecting the scene, I was of the view that the location of D's body did not necessarily correspond vertically to the place where the Accused said she had thrown herself off. In other words, the location of her body was not necessarily inconsistent with her having fallen or being pushed from the first section of the parapet.

156 Furthermore, the Accused's version as to how D had come to fall down was unconvincing.

157 First, his counsel had suggested to Mdm Leong that the Accused had wrapped his arms around D's knees. This must have been on the instructions of the Accused. Mdm Leong denied that the Accused had done so. The Accused too denied he had done this when he was giving evidence.

158 Secondly, the Accused had said in cross-examination that he was in a daze because he noticed someone behind the door of D's flat as both of them came out of the lift. That is why D managed to get three metres away from him when he looked back at her. I saw no logical reason as to why he should be in a daze to the extent that he lost his attention on D. I did not accept that he

was so embarrassed by what he had done to the metal gate earlier that morning. He was consumed by the thought of D leaving him. Furthermore, in his statement of 13 March 2003 to the IO, he had said that he was right behind her.

159 Thirdly, the Accused was unable to elaborate as to how D had climbed over the parapet by herself. I did not accept that she could do so by herself as quickly as he was suggesting. The parapet has a railing affixed onto it. The railing was round and this made it impossible for D to place her palms flat on it and push herself up. It would not have been easy for D to grab the railing with her hands and then push herself up before swinging a leg over the railing especially since the railing was at her shoulder level. Besides, D was still wearing her platform shoes as her platform shoes were found on the ground floor too. How did she swing one of her legs first over a railing which was at her shoulder level, while still wearing her platform shoes? If she had been pushing herself up and climbing over, it must have been quite an exercise which the Accused could not have failed to notice and he would then have been able to elaborate on her efforts in his evidence. Besides, in my view, he would also have been able to stop her from pushing herself over.

160 I also considered whether D had managed to grab the railing and push herself straight up before tilting her body over the railing. Again, this would not have been easily carried out and neither Mdm Leong nor the Accused had suggested that this was what had happened.

161 I also considered the point that D was not seen to be struggling when the Accused was lifting her legs. In my view, this could have been because she did not expect him to actually push her over the parapet or she had given in to his possessive behaviour, just like when she decided to accompany him in his lorry after he had dragged her from her office. Whatever the reason for the absence of a struggle, it did not detract from the evidence that the Accused was seen lifting her legs until her body fell over the parapet and the other points I have made above.

162 The Accused had also said repeatedly in his evidence that he felt something bounce off his hands or his body bouncing backwards.[99] In my view, this was telling. He was actually describing the recoil effect after he had pushed D. If indeed he had just touched her legs as she was falling over, there would not have been the bouncing effect he kept referring to.

163 After D had fallen over, D's father said he had grabbed the Accused around his neck as the Accused was entering a lift. D's father's evidence was that he asked the Accused why he had thrown D and the Accused said he had no choice. This was allegedly said by the Accused twice but the Accused denied having said it at all. I had some doubt as to whether the Accused had said this twice and hence I also could not make a finding that he said it at all.

164 As for D's mother, I was of the view that because of her inconsistencies on some material facts, it was unsafe for me to accept her evidence on other material facts.

165 I come now to what the Accused allegedly said to SSgt Ishak. Did the Accused say, "I killed her"? It is significant that when Mr Rasif cross-examined SSgt Ishak, Mr Rasif suggested that what the Accused meant, when he said this, was that the Accused felt responsible for D's death.[100] However, when the Accused took the witness stand, he denied saying this at all.[101] In my view, the Accused did make this statement and by that statement he was not merely suggesting that he was somehow responsible for her death but that he had pushed her down.

166 Did the Accused also say, "I already push her down" to SSgt Ishak? These were the Additional Words which SSgt Ishak had dictated to SC Shahrul as I have mentioned. I was of the view that the fact that these words were added after SSgt Ishak had read SC Shahrul's record did not

mean that they were fabricated. There was no reason for SSgt Ishak who had just arrived at the scene to fabricate such evidence. In my view, SSgt Ishak must have realised he had omitted these words and hence required them to be included in the record. They were written in small letters unlike other important words, not because they were unimportant, but because there was less space to add them in.

167 Was SSgt Ishak's recollection of the Additional Words reliable? In my view it was. As I have mentioned, after reading SC Shahrul's record, he must have realised these words had been omitted. He would not have asked for them to be added in the log sheet if the words had not been said. I found him to be a steady witness. The fact that another part of the day's recording was chronologically out of sequence did not make this recollection unreliable.

168 As I have mentioned, SC Shahrul corroborated SSgt Ishak's evidence as to what the Accused had said. Even if SC Shahrul's evidence were not to be admissible because of s 121(5) CPC or s 25 or s 26 of the Evidence Act, I would still have accepted SSgt Ishak's evidence.

169 Did the Accused say at the Jurong Police Division Headquarters in Hokkien, "I kill human being" later during the same day? When SSgt Ng was cross-examined, Mr Rasif put it to him that the Accused did not say this.[102] SSgt Ng disagreed. Then, when the Accused was on the witness stand, his evidence was that what he had actually said was, "I did not kill human being". Yet this version was never suggested to SSgt Ng. The rest of what SSgt Ng had remembered the Accused saying was not disputed. I found SSgt Ng's testimony steady and concluded that the Accused did say in Hokkien, "I kill human being". He said this not just simply out of frustration but also because it was true and he was still obsessed with her.

170 It was also significant, as the Prosecution submitted, that the Accused did not tell SSgt Ishak or the officers at Jurong Police Division Headquarters on 10 March 2003 that D had committed suicide. This was suggested by him for the first time when he was giving his statement under s 122(6) CPC on 11 March 2003.

171 In summary, the Accused had known D for about ten years as at the AOD. He had waited for about eight to nine years before D became his girlfriend. However, their relationship was a mismatch. She was an outgoing person, full of life but spending beyond her means. On the other hand, the Accused is a quiet person who had his own financial problems. Unfortunately, the Accused was also possessive about D as the evidence clearly showed. Their relationship was under strain.

172 Although D had financial problems, she did not let such problems weigh her down. On 6 March 2003, after signing the papers for the transfer of the flat in Block 202, she went to Beyond 97 and was her usual happy self.

173 In my view, the suggestion that D had killed herself because of her financial problems was a red herring conjured up by the Accused. Her financial problems were not even mentioned in his letter to her of 9 March 2003.

174 I was also of the view that the Accused's evidence about D having spent money on illegal drugs was untrue. None of D's friends or family was aware that she was taking drugs. It was another red herring by the Accused.

175 Mr Rasif sought to make something from the presence of codeine in D's urine. He submitted that D had not been on medical leave prior to her death and there was no direct evidence that she was taking medicine. No cough mixture was seized from D's flat or Rita's flat. As codeine had side

effects which could put a person in an excitable frame of mind, this, Mr Rasif submitted, could have some bearing on D causing her to choose suicide to solve her problems. I rejected this suggestion. Dr Lo had said in his evidence that the three chemicals found in D's urine were ingredients in cough and cold medication available in Singapore. Other than these chemicals being taken as a cough and cold remedy, he was unable to offer any reason as to how they came to be in her urine. In my view, D had taken some cough and cold medication. More importantly, there was no evidence that D was more excitable than normal even in the face of the pressure she was facing from the Accused on the night of 9 March 2003. On the morning of Monday 10 March 2003, she was seen smiling at her colleague, according to the Accused, before the Accused dragged her off by her hair. Even then she had offered to go with him if he would let go of her hair. There was no suggestion that she was in an excitable frame of mind.

176 The events in the last 48 hours of D's life showed that it was the Accused who was harassing her because she wanted to break off with him. He was not prepared to accept this. He wanted to meet her but she was avoiding him on 9 and 10 March 2003.

177 The Accused became desperate and he had told Rita this.[103] His desperation was reflected in what various persons heard him saying, for example:

(a) He also told Rita, "Never mind, you just take it that you have lost a good friend";

(b) K heard him say a few times that he could hold on to D and jump down together with D;

(c) D's son also heard him say a few times that he was willing to die with D.

178 Furthermore, his desperation manifested itself in acts of aggression or violence on 9 and 10 March 2003. For example:

(a) his kicking the gate of D's flat,

(b) his padlocking the gate of Rita's flat,

(c) his grabbing D by her hair and dragging her out of her office, and

(d) his punching D in the face.

179 The Accused was in a rage and in my view that rage had not subsided when he drove D to Block 202 around 12.00pm of 10 March 2003. That is why he was seen driving hurriedly there with a screeching sound from his vehicle.

180 I had no doubt that thereafter the Accused pushed D over the parapet at the tenth floor of Block 202. In so doing, he sealed her fate and his own.

181 Accordingly, I found that the Prosecution had proved the charge of murder against the Accused beyond a reasonable doubt. I convicted the Accused and sentenced him according to the law.

Observations

182 I should mention a few developments during the trial which caused me concern.

Fingernail clippings

183 The Prosecution had adduced evidence of analysis done of ten fingernail clippings obtained from D's fingers. Each fingernail was supposed to have been returned by the Health Sciences Authority ("HSA") to the IO in a plastic container. However when the containers were introduced in evidence by the IO it was discovered that none of them contained a fingernail clipping. The discovery was made only after I had asked the IO to check the presence of the fingernail clippings in the containers. The IO subsequently explained that he had called HSA who said that they had put all the fingernails together in a pool but that did not explain how it was that HSA returned him the containers each sealed and purportedly with a fingernail clipping in it without warning him that there was no fingernail clipping. It also demonstrated that the IO did not check the containers when he received them by shaking each container to ascertain the presence of each fingernail clipping.

184 Accordingly, any analysis of such fingernails was unreliable. Although this did not have a material impact on the outcome of the case, this development revealed an unsatisfactory lapse in the preservation of evidence. On another point, if fingernails are obtained from a common source but preserved individually then the person who subsequently puts them together in a pool should give evidence to link those in the pool with those which had been preserved individually.

Sketch plan

185 A sketch plan of the scene on the ground floor was prepared and produced but with the qualification that it was not drawn to scale. However, aside from this qualification, the sketch plan was inaccurate because it did not depict the ground floor pavement accurately. The ground floor pavement on the right of the lift lobby, as one looks at the sketch, is shown to have ended at the lift lobby, when actually the pavement makes a right turn and continues along the length of the block. Consequently, the position of D's shoes were drawn on the sketch plan as having landed outside the pavement when in fact one had landed on the pavement and the other had landed just outside the pavement.

186 I hope that more attention will be paid to such details when a sketch plan is drawn as they could become material.

Records of telephone calls

187 Records of telephone calls made from and to certain telephone numbers were provided by certain service providers as I have mentioned. One of the records which appeared to be a print-out from a computer was actually the result of a manual input of data obtained from a computer. As it turned out, there were errors therein. The representatives of service providers who turn up as witnesses should be questioned carefully as to how the records of telephone calls are generated and the records should be checked for obvious errors before being adduced as evidence. Fortunately, in the present case, the errors were detected before the relevant witness had concluded his evidence.

Accused convicted.

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[1]See Annie's conditioned statements, paras 3 and 4

[2]NE 387

[3]NE 375 and 376

[4]NE 388

[5]NE 388

[6]NE 442 and 443

[7]NE 148

[8]NE 181

[9]NE 198

[10]NE 198

[11]NE 182

[12]NE 185

[13]NE 186

[14]NE 188

[15]NE 187

[16]NE 183

[17]NE 219

[18]NE 206

[19]NE 217

[20]NE 217 and 218

[21]NE 210 and 211

[22]NE 221

[23]NE 222

[24]NE 268 and 269, 272 and 273

[25]NE 276

[26]NE 277

[27]NE 362 to 363

[28]NE 473 and 474

[29]NE 97

[30]NE 556, 558, 580

[31]NE 580

[32]NE 508 to 510

[33]NE 499 to 501

[34]NE 60

[35]NE 53

[36]p 344 to 351 of the PI Bundle

[37]Exhibit D4

[38]NE 735

[39]NE 822 to 824

[40]NE 825 and 828

[41]NE 948 and 949

[42]NE 961

[43]NE 848

[44]NE 791

[45]NE 850

[46]NE 850

[47]NE 855 and 857

[48]NE 851

[49]NE 856

[50]NE 858

[51]NE 859

[52]NE 859

[53]NE 860

[54]NE 860

[55]NE 864

[56]NE 864

[57]NE 870

[58]NE 870

[59]NE 871

[60]NE 836 and 838

[61]NE 872 and 873

[62]NE 877

[63]NE 873

[64]NE 876

[65]NE 838 and 876

[66]NE 839

[67]NE 877

[68]NE 878

[69]NE 885

[70]NE 892

[71]NE 879

[72]NE 864

[73]NE 880 to 883

[74]NE 889

[75]NE 899

[76]NE 901

[77]NE 902 and 903

[78]NE 904 and 905

[79]NE 909

[80]NE 913

[81]NE 746

[82]NE 915 and 916

[83]NE 917

[84]NE 918

[85]NE 919 and 920

[86]NE 926

[87]NE 925 to 928

[88]NE 934 and 935

[89]NE 941

[90]NE 944

[91]NE 949

[92]NE 961

[93]NE 507 and 950

[94]NE 950

[95]NE 780 and 781

[96]NE 824

[97]NE 889

[98]NE 193

[99]For example NE 750, 754, 925, 928 and 938

[100]NE 99

[101]NE 778

[102]NE 507

[103]see para 25 of her conditioned statement

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