

Tee Chu Feng v Public Prosecutor  
[2005] SGHC 181

**Case Number** : MA 67/2005  
**Decision Date** : 04 October 2005  
**Tribunal/Court** : High Court  
**Coram** : Yong Pung How CJ  
**Counsel Name(s)** : KR Manickavasagam (Manicka and Co) for the appellant; Hay Hung Chun (Deputy Public Prosecutor) for the respondent  
**Parties** : Tee Chu Feng — Public Prosecutor

*Criminal Law – Statutory offences – Misuse of Drugs Act (Cap 185, 2001 Rev Ed) – Appellant convicted of drug trafficking – Inconsistent evidence as to where sale of drugs taking place – Whether conviction unsafe – Section 5(1)(a) Misuse of Drugs Act (Cap 185, 2001 Rev Ed)*

*Criminal Procedure and Sentencing – Voir dire – Whether appellant's statements voluntarily made – Section 24 Evidence Act (Cap 97, 1997 Rev Ed)*

*Evidence – Admissibility of evidence – Weight of evidence – Dead witness previously making statements incriminating appellant – Dead witness allegedly subsequently leaving suicide note exculpating appellant – Prosecution seeking to admit dead witness' statements in evidence under s 378(1)(b)(i) Criminal Procedure Code (Cap 68, 1985 Rev Ed) – Whether trial judge erred in admitting dead witness' statements while placing little weight on suicide note – Section 378(1)(b)(i) Criminal Procedure Code (Cap 68, 1985 Rev Ed)*

*Evidence – Adverse inference – Prosecution seeking to admit statements of witness incriminating appellant – Prosecution declining to admit earlier statement of witness – Whether adverse inference should be drawn against Prosecution – Section 116(g) Evidence Act (Cap 97, 1997 Rev Ed)*

4 October 2005

**Yong Pung How CJ:**

1 The appellant was convicted on an amended charge of drug trafficking under s 5(1)(a) of the Misuse of Drugs Act (Cap 185, 2001 Rev Ed) (“MDA”) for selling five tablets containing 0.71g of N,α-dimethyl-3,4-(methylenedioxy) phenethylamine, a Class A controlled drug listed in the First Schedule of the MDA, to one Yeo Kim Teck sometime between 28 July 2004 to 2 August 2004, at either the “Happy” pub at Tanjong Pagar Road or the “Taboo” pub at Neil Road. The appellant was sentenced to the minimum prescribed sentence of five years’ imprisonment and five strokes of the cane.

2 The appellant appealed against conviction only. I dismissed the appeal and now set out my grounds.

**Background**

3 The appellant was arrested at his residence at Block 521, #11-201, Jurong West Street 52 on 1 October 2004 pursuant to investigations by the Central Narcotics Bureau (“CNB”). The arresting party was led by Senior Staff Sergeant Sivabalan (“SSSgt Sivabalan”) and comprised Staff Sergeant Daniel Gan Wei Teck (“SSgt Gan”), SSgt Chew Swee Long, SSgt How Peck Kiong and Woman Sgt Chan Jee Fong. The appellant’s bedroom was searched but no drugs were found.

4 Yeo Kim Teck, also known as Benny Yeo, had identified the appellant as having sold him five Ecstasy tablets. Benny Yeo subsequently sold the five tablets on 4 August 2004 to Wong Pei Sien,

Trissy ("Trissy"), who sold the five tablets to See Fi Fi, Michelle ("Michelle") later that evening. At about 11.10pm on 4 August 2004, Michelle handed undercover narcotics officer SSgt Gan the five tablets in an "*ang pow*" packet at Rocky Monster Café outside Orchard Cineleisure. SSgt Gan had electronically transferred \$200 for the tablets the day before to a POSB bank account specified by Michelle.

5 The "*ang pow*" packet and its contents were marked, sealed and sent to Health Sciences Authority ("HSA") for analysis. The resulting HSA report (P4) stated that the five tablets were reddish-pink and stamped with an imprint of a "E" symbol, and weighed 1.38g. The tablets were pulverised and homogenised for analysis and found to contain 0.71g of N, $\alpha$ -dimethyl-3,4-(methylenedioxy) phenethylamine (commonly referred to as "Ecstasy"), which is a Class A controlled drug listed in the First Schedule to the MDA.

6 Michelle was arrested on 26 August 2004, and Trissy on 27 August 2004. Both Michelle and Trissy were convicted and sentenced to five years' imprisonment for drug trafficking.

7 At the trial below, Michelle testified that on 4 August 2004, she sold five pink Ecstasy tablets in an "*ang pow*" packet to SSgt Gan for \$200, and that she had obtained the tablets from her only supplier of drugs, Trissy. She also testified that she did not know the appellant.

8 Trissy testified that on 4 August 2004, she bought five Ecstasy tablets for \$150 from her only supplier of drugs, "Benny", whom she identified from a Polaroid photograph of Benny Yeo that was shown to her. She had received the five tablets in an "*ang pow*" packet, which she then sold to Michelle for \$150. She too testified that she did not know the appellant.

9 Benny Yeo was arrested on 25 September 2004 at about 1.14am at Happy pub, Tanjong Pagar, and escorted to the CNB for investigations.

10 Benny Yeo died of carbon monoxide poisoning on 22 December 2004, a day before he was to appear in court for a pre-trial conference to plead guilty to a number of charges under the MDA, including a charge of drug trafficking for selling Trissy the five Ecstasy tablets in the present case.

11 The Prosecution sought to admit in evidence two further statements from Benny Yeo under s 378(1)(b)(i) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC"), and the appellant's counsel at the trial below did not object. The first of these statements (P3) was recorded on 25 September 2004 at 7.00pm at the Central Police Division Lockup, and the second (P3A) on 20 October 2004 at 2.40pm at the Special Investigation Team's office, CNB. Narcotics officer Assistant Superintendent of Police Omer Ali Saifudeen ("ASP Omer Ali"), who recorded both statements, testified that P3 and P3A had been properly recorded and that Benny Yeo had given the statements voluntarily.

12 In the first statement (P3), Benny Yeo stated that he had gone to town to meet one "Tazz", his only supplier, who passed him five Ecstasy tablets in a plastic bag. He then packed the five tablets into an "*ang pow*" packet for convenience and sold them to Trissy for \$150 at Paragon Shopping Centre. He identified Trissy from a Polaroid photograph shown to him. Trissy had requested for the five Ecstasy tablets about a week before he handed them to her on 4 August 2004. In the second statement (P3A), Benny Yeo identified the appellant from a Polaroid photograph to be the "Tazz" from whom he purchased the five Ecstasy tablets for Trissy for \$150. Tazz had passed the tablets to him in a plastic sachet in town "somewhere in Orchard Road". Benny Yeo stated that shortly after he was released on bail, he called Tazz to warn him to be careful as the CNB was looking for him.

13 On 1 October 2004, ASP Omer Ali recorded a further statement from the appellant from 7.15pm to 8.45pm (P6) and a cautioned statement under s 122(6) of the CPC from 9.00pm to 9.15pm (P7) at the CNB. In his statement (P6), the appellant stated that he had known Benny since the end of 2003 and that they met through a friend called Randy. He received a call from Benny Yeo on a Saturday to say that CNB was on the lookout for him (the appellant), to which he replied that he had already flushed all the drugs away even before Benny Yeo called him. The appellant identified Benny Yeo from a Polaroid photograph. The appellant also identified Trissy from a Polaroid photograph as a "hi' and 'bye'" friend. The appellant stated that about one week before National Day, he sold five Ecstasy tablets to Benny Yeo for \$150 at either the Taboo pub or the Happy pub. The tablets were pink and had a "£" symbol on them and were placed in a plastic "Ziploc" sachet. The appellant recounted three other occasions on which he had sold or given other types of Ecstasy tablets to Benny Yeo, the last of these occasions being on the night Benny Yeo was arrested at Happy pub. The appellant also stated that his drug supplier was his ex-lover by the name of Jack. In his cautioned statement (P7), the appellant also admitted to having sold Benny Yeo five Ecstasy tablets.

14 At trial, the appellant claimed that these statements were given involuntarily as he had been threatened by the arresting officers, and that he was sick and tired and had no rest or sustenance. A *voir dire* was held, pursuant to which the trial judge concluded that the statements were voluntarily made and admissible in evidence. The appellant was then called upon to give his defence.

15 The appellant's defence was one of bare denial. His evidence was a repetition of what he had stated during the *voir dire*, that he was tired, sick and stressed when he gave the statements (P6 and P7). On 2 October 2004, when he was remanded at the Queenstown Remand Prison, he was referred to the Prison's sick bay for observation because his psychiatrist had informed the prison that the appellant might be suicidal.

16 The appellant also relied on a note (D2) allegedly written by Benny Yeo before his demise on 22 December 2004 exculpating the appellant of the crime ("the suicide note"). In the suicide note dated 20 December 2004, Benny Yeo stated that he had wrongly accused the appellant of giving him the Ecstasy tablets, and that he had only realised his mistake after he had read the charge sheet which stated the colour and logo of the tablets. He further stated that the tablets were obtained from another person who had since disappeared, and he was not sure if that person had been caught by CNB.

17 Benny Yeo's advocate and solicitor, Ng Hoe Lun ("Ng"), testified that on 23 December 2004 at the Subordinate Courts, Benny Yeo's surety, Wayne, handed him an envelope addressed to him. The suicide note was contained in the envelope. The last time he spoke to Benny Yeo was on 21 December 2004 between 5.00pm to 6.00pm when they made an appointment to meet in court on 23 December 2004 for the pre-trial conference in relation to Benny Yeo's case. However, Benny Yeo had not mentioned anything about the note during the conversation. Ng sent a copy of the note to the appellant's counsel and the Prosecution. On 26 January 2005, ASP Omer Ali sent a photocopy of the note and the two further police statements signed by Benny Yeo (P3 and P3A) to HSA for examination. The resultant HSA report (D6) stated that the possibility that Benny Yeo had signed the suicide note could not be ruled out.

18 On the totality of the evidence, the trial judge found the appellant to be an unreliable and untruthful witness and disbelieved the appellant's defence. At the end of the trial, the trial judge was duly satisfied that the Prosecution had proved its case beyond a reasonable doubt and found the appellant guilty as charged.

## **The appeal**

19 The appellant's contentions before me may be categorised as follows:

- (a) whether the trial judge erred in admitting the appellant's statements (P6 and P7); and
- (b) whether the trial judge erred in convicting the appellant.

20 As the majority of the appellant's allegations were, inevitably, made in relation to the trial judge's findings of fact, I reminded myself of the principle that an appellate court ought to be slow to overturn the findings of fact made by the trial judge, especially where they hinge on the trial judge's assessment of the credibility and veracity of witnesses, unless they are clearly wrong or wholly against the weight of the evidence. Should the appellate court wish to reverse the trial judge's decision, it must not merely entertain doubts as to whether the decision is right, but must be convinced that it is wrong: *Lim Ah Poh v PP* [1992] 1 SLR 713; *PP v Poh Oh Sim* [1990] SLR 1047; *PP v Azman bin Abdullah* [1998] 2 SLR 704. However, the appellate court is as competent as any trial judge to draw any necessary inferences of fact from the primary facts and circumstances of the case: *PP v Choo Thiam Hock* [1994] 3 SLR 248; *PP v Rozman bin Jusoh* [1995] 3 SLR 317; *Yap Giau Beng Terence v PP* [1998] 3 SLR 656.

21 After hearing the appellant's submissions and scrutinising the evidence, I concluded that the appellant had failed to provide me with sufficient reason to overturn the decision below.

### ***Whether the trial judge erred in admitting the appellant's statements***

22 The appellant's statements (P6 and P7) were clearly confessions in that they established elements constituting the offence of drug trafficking. It is trite law that statements made to narcotics officers, such as the appellant's statements in the present case (P6 and P7), fall to be tested under s 24 of the Evidence Act (Cap 97, 1997 Rev Ed) ("EA") and not s 122(5) of the CPC: *Cheng Siah Johnson v PP* [2002] 2 SLR 481; *Chai Chien Wei Kelvin v PP* [1999] 1 SLR 25; *Tan Siew Chay v PP* [1993] 2 SLR 14; *Sim Ah Cheoh v PP* [1991] SLR 150.

23 For confessions to be admissible under s 24 of the EA, they must not have been made in consequence of any threat, inducement or promise, which in the opinion of the court would lead the accused to reasonably suppose that by making the confession he would gain any advantage or avoid any evil of a temporal nature in reference to the proceeding against him. The burden is on the Prosecution to prove beyond a reasonable doubt that the confession was made voluntarily: *Koh Aik Siew v PP* [1993] 2 SLR 599; *Panya Martmontree v PP* [1995] 3 SLR 341.

24 At the conclusion of the *voir dire*, the trial judge found that the appellant had given an untruthful account of the events concerning the manner in which the further statement (P6) and the s 122(6) CPC statement (P7) were recorded.

25 The arresting officers, including SSgt Gan who recorded an earlier statement from the appellant, denied the appellant's allegations that they had threatened to repossess his flat, charge his sister for lying that he was not at home, and beat him up. The trial judge believed the evidence of the arresting officers as there was no reason for the officers to threaten or induce the appellant to admit to the offence, as the CNB already had evidence implicating the appellant.

26 The trial judge also disbelieved the appellant's evidence that he was frightened and in a confused state of mind when he gave his statements to ASP Omer Ali. ASP Omer Ali testified that before and during the recording of the statements (P6 and P7), the appellant's demeanour was normal and that he was calm, collected and steady. The appellant was not distressed or angry, and did not

show any signs of discomfort or make any complaints. The trial judge noted that the appellant had been forewarned by Benny Yeo that CNB was tracking him and was clearly aware of what was happening. When first confronted and informed that Benny Yeo had implicated him for trafficking in drugs, he was calm and collected in admitting that he knew Benny Yeo. He denied trafficking in drugs. The appellant said that he knew that the CNB was coming for him but he did not know when. The appellant was also aware that Benny Yeo had been arrested and had identified the appellant as his drug supplier. These facts were confirmed by SSgt Gan, SSSgt Sivabalan and by Benny Yeo who in his further statement (P3A) stated that shortly after he was released on bail, he warned the appellant to be careful as the CNB was looking for him.

27 The trial judge found that there was no reason for ASP Omer Ali, in acting as a recorder of both the further statement (P6) and the statement under s 122(6) of the CPC (P7), to threaten or induce the appellant to admit to an offence of drug trafficking. ASP Omer Ali was only the recorder of the statement; he did not participate in the appellant's arrest and had no interest in the case, and was also not aware of any of the facts of the case. The trial judge also disbelieved the appellant's allegation that ASP Omer Ali had fabricated the statement. The trial judge found that ASP Omer Ali could not have typed out the statement (P6) himself and have asked the appellant to sign it, because the statement contained several details that were clearly not within the knowledge of ASP Omer Ali and could only have come from the appellant, who must have volunteered the information to ASP Omer Ali during the recording of the statement (P6). The trial judge was of the view that the account of events provided by the appellant as recorded in the statement was also not a confused account, which clearly indicated that the appellant was rational and not in a confused state of mind during the recording of the statement.

28 On the evidence, the trial judge found that the Prosecution had proved beyond a reasonable doubt that both the statements (P6 and P7) were voluntarily given by the appellant.

*Whether the trial judge's findings should be upheld*

29 I noted in *Kwan Peng Hong v PP* [2000] 4 SLR 96 at [58] that "where there are keenly contested versions of events, the trial judge has the basic duty to lay down in a detailed and clear way how, why, the factors, evidence and considerations that he has taken or refused to take into account, the weight he has attached to them, in arriving at his findings of fact".

30 In this case, it was clear from his detailed grounds of decision that the trial judge had scrutinised the various testimonies and the objective evidence meticulously. The trial judge was justified in believing the testimony of the Prosecution witnesses, who gave cogent testimony consistent with the objective evidence before the court. I therefore found no basis to interfere with the trial judge's findings as to the veracity of the witnesses and the circumstances in which the appellant made his statements (P6 and P7).

31 A careful perusal of the notes of evidence of the trial below revealed that the appellant's own evidence during the *voir dire* was riddled with loopholes and contradictions, and devoid of any measure of credibility. The appellant was unable to maintain a consistent stand as to who had threatened him and what they had said. As the examination progressed, the appellant raised an increasing number of new complaints as to the conduct of the arresting officers and ASP Omer Ali. The appellant even went as far as to make the absurd allegation that ASP Omer Ali had instructed him to cook up stories to admit to the charges, and when he refused, ASP Omer Ali proceeded to fabricate the statement himself in order to frame the appellant.

32 The appellant also made several allegations against ASP Omer Ali which were not put to

ASP Omer Ali, who had taken the stand before the appellant. This would justify an inference that the appellant had formulated the allegations on the spur of the moment, and served to undermine the credibility of the allegations: *Ng Chye Meng v PP* [1994] 2 SLR 809; *Sim Yew Thong v Ng Loy Nam Thomas* [2000] 4 SLR 193.

33 In my opinion, the appellant's belated claims of threats and allusions to oppression indicated that he was an unreliable witness who was prone to fabrication and embellishment. The appellant's testimony was completely demolished by the contrary evidence of the Prosecution witnesses, which was, in my view, rightly believed by the trial judge. On the totality of the evidence, including the opportunity afforded to the trial judge to observe the demeanour of the witnesses before him, there was no reason for me to overturn the trial judge's finding that the Prosecution had proved the voluntariness of the appellant's statements (P6 and P7) beyond a reasonable doubt.

### ***Whether the trial judge erred in convicting the appellant***

#### *Whether the charge against the appellant had been made out*

34 The trial judge found that the Prosecution had painstakingly proved, through the chain of evidence from SSgt Gan, Michelle, Trissy and Benny Yeo, that the five Ecstasy tablets forming the subject matter of the charge came from the appellant. The trial judge was thus satisfied that the Prosecution had proved the charge of trafficking against the appellant beyond a reasonable doubt.

35 The trial judge found no reason to doubt the testimony of Michelle or Trissy as both women were not known to the appellant and had no dealings with him. Both women had admitted to and were serving sentences for trafficking in the drugs in question. The trial judge was also cognisant of the fact that Benny Yeo was deceased and his statements (P3 and P3A) could not be subjected to scrutiny by cross-examination. The trial judge thus considered what the appellant stated in his statement (P6) in determining the true facts, and found that both the appellant and Benny Yeo had confirmed the sale and purchase of the five Ecstasy tablets.

36 The trial judge found that all the elements of the charge against the appellant had been made out. The trial judge concluded that the sale took place within the period from 28 July 2004 to 2 August 2004. The appellant admitted that he sold the tablets to Benny Yeo a week before National Day, ie, 9 August 2004. Benny Yeo stated that he had procured the tablets upon Trissy's request which was made a week before he sold them to her. Trissy testified that she had obtained the tablets from Benny Yeo on 4 August 2004 and sold them to Michelle, who testified that she had sold them to SSgt Gan that same day.

37 As regards the Ecstasy tablets, the appellant said in his statement (P6) that he sold Benny Yeo five pink Ecstasy tablets imprinted with a "£" symbol in a plastic "Ziploc" sachet for \$150. Benny Yeo stated in P3 and P3A that he paid the appellant \$150 for five Ecstasy tablets which were passed to him in a plastic sachet, and that he repacked them into an "*ang pow*" packet for convenience and sold them to Trissy for \$150. Trissy testified that she paid Benny Yeo \$150 for five Ecstasy tablets which were handed to her in an "*ang pow*" packet, and that she did not inspect the contents of the packet and handed the "*ang pow*" packet to Michelle in exchange for \$150. Michelle testified that she obtained five Ecstasy tablets from Trissy which were pink and placed in an "*ang pow*" packet, and that she sold them to SSgt Gan for \$200. SSgt Gan testified that Michelle sold him five Ecstasy tablets, which were pink and imprinted with a "£" symbol, in an "*ang pow*" packet for \$200. The description of the tablets is confirmed by the HSA report (P4). The trial judge found the chain of evidence as to the sale and delivery of the drugs to have been established and was satisfied that the drugs sold by the appellant to Benny Yeo were the same drugs that were sold by Michelle to SSgt

Gan. The trial judge was also satisfied that what Benny Yeo had stated in his statement (P3) about the packing of the drugs and sale of them to Trissy was true.

38 As for the *situs* at which the appellant sold the five Ecstasy tablets to Benny Yeo, Benny Yeo stated in his statement (P3A) that he had obtained the five Ecstasy tablets he sold to Trissy from the appellant "in town somewhere in Orchard Road" and "should be in the daytime". However, the appellant in his statement (P6) stated that the sale took place either at Taboo pub or at Happy pub, and that he thought it was "around 12am or 1am". The trial judge, on reading the statements of Benny Yeo and the appellant, found it clear that Benny Yeo's account of the sale of the drugs in question was less detailed than the appellant's account, and that the appellant's recollection of events was more specific. The trial judge also found that both their statements confirmed the sale and purchase of the said drugs, and that the marked similarities of events mentioned in both their statements led to the sole conclusion that the appellant's account relating to the sale and purchase of the five Ecstasy tablets must be true. Accordingly, the trial judge accepted the appellant's admission that he had sold the said drugs to Benny Yeo either at Taboo pub at Neil Road or at Happy pub at Tanjong Pagar Road.

39 Before me, the appellant argued that the inconsistent description as to where the sale of the drugs took place was an irresolvable conflict of evidence that rendered the appellant's conviction unsafe. The appellant, however, failed to convince me that his conviction warranted appellate intervention. In my view, the trial judge had carefully considered this discrepancy and had weighed the evidence in arriving at the truth. From the trial judge's findings of fact on the other elements of the charge and on the evidence, I had no doubt that the appellant and Benny Yeo had been referring to the same transaction in their respective statements. In any event, Benny Yeo's statements were but one of the many pieces of evidence that came together to paint a clear picture of the appellant's guilt.

*Whether the trial judge erred in his treatment of Benny Yeo's evidence*

40 The appellant also contended that the trial judge erred in (a) admitting Benny Yeo's statements (P3 and P3A) while rejecting his suicide note (D2) which exculpated the appellant; and (b) failing to draw an adverse inference against the Prosecution under s 116(g) of the EA for only admitting portions of Benny Yeo's statements. The appellant argued that the parts which were not produced would, if produced, be unfavourable to the Prosecution.

41 I found the appellant's belated protest to the admission of Benny Yeo's statements untenable, as counsel for the appellant in the trial below had not objected to their admissibility.

42 As regards the suicide note, the trial judge had noted that, in view of the HSA report (D6) that Benny Yeo could have signed the suicide note, it was accepted that at least two days before his demise, Benny Yeo had, for reasons unknown, decided to exculpate the appellant. However, the trial judge found that although Benny Yeo stated in the suicide note that the tablets in question were not obtained from the accused, the fact remained that the appellant, in his own statement (P6), had clearly and accurately described that he had sold Benny Yeo five pink tablets with the imprint of a "£" symbol. In his cautioned statement (P7), the appellant also admitted giving the said drugs to Benny Yeo. The trial judge took the view that since the appellant was selling the tablets, he surely must have known the colour and the markings on the pills he sold to Benny Yeo. In view of the appellant's own admissions in his statement (P6), the trial judge placed little weight on Benny Yeo's suicide note.

43 The appellant failed to persuade me that, in so doing, the trial judge had acted wrongly or against the weight of the evidence. The HSA report (P6) stating that Benny Yeo could not be ruled

out as the signatory of the note was inconclusive. Benny Yeo had not mentioned anything about the suicide note to his lawyer Ng, and Benny Yeo's surety Wayne, who handed over the note to Ng, was not called to give evidence on how he had obtained the note from Benny Yeo. Furthermore, in view of the fact that Benny Yeo's statements (P6 and P7) and the appellant's statements (P3 and P3A) corroborated each other, I found the appellant's reliance on Benny Yeo's suicide note to have been misplaced.

44 The appellant also relied on s 116(g) of the EA, which states that the court may presume that "evidence which could be and is not produced would if produced be unfavourable to the person who withholds it". The appellant sought to argue that the Prosecution should have adduced the earlier statement Benny Yeo had given to SSgt Gan. At the beginning of his further statement (P3), Benny Yeo stated that he was hesitant to sign the last page of the earlier statement as he had panicked after SSgt Gan informed him that he was committing a trafficking offence by passing Trissy the five Ecstasy pills. The appellant thus surmised that Benny Yeo must have sought to implicate the appellant as his supplier in his further statements (P3 and P3A).

4 5 I failed to see how the appellant's attempt to divine the contents of Benny Yeo's earlier statement could be of any assistance to his appeal. In my opinion, the absence of Benny Yeo's earlier statement would not have affected the outcome of the case in any way, as there already was ample evidence pointing to the appellant's culpability. As such, no adverse inference could be drawn against the Prosecution for not admitting Benny Yeo's earlier statement.

*Whether the trial judge erred in accepting the Prosecution's evidence over the appellant's*

4 6 Finally, the appellant contended that the trial judge should not have accepted the Prosecution's evidence over that of the appellant's. The appellant's defence at the trial below had been one of bare denial, and he repeated his testimony during the *voir dire* that he was tired, sick and stressed when he gave his confessions (P6 and P7). After considering all the evidence adduced, the trial judge found the appellant to be an unreliable and untruthful witness and disbelieved the appellant's defence to the charge. The trial judge explained in his grounds that he disbelieved the appellant's allegations that he was threatened by the CNB officers and was frightened, confused and sick, as the evidence was to the contrary. The trial judge chose instead to believe the appellant's evidence in his statement (P6) that Benny Yeo had called to inform him that the CNB was on the lookout for him, to which he replied that he had already flushed all drugs away before Benny Yeo called him. This explained why the appellant was cool, calm and collected throughout and also why no drugs were found in his bedroom: the appellant had been expecting the CNB to come calling on him, and he had ensured that there were no drugs in the flat to incriminate him. The appellant had shown no signs of being frightened or sick, neither did he make any complaints or request to see a medical practitioner.

47 The trial judge was, in my view, justified in disbelieving the appellant's defence and finding that the contents of the appellant's statement (P6) were true, as several parts of the statement were buttressed by the objective evidence or even the appellant's own testimony at trial. For instance, in his statement (P6), the appellant recounted three other occasions on which he sold or gave other types of Ecstasy tablets to Benny Yeo, the last of these occasions being on the night Benny Yeo was arrested at Happy pub. The appellant himself testified during the *voir dire* that when SSgt Gan asked him where he was when Benny Yeo was arrested on Friday night, he answered that on Friday, he had gone to the Happy pub and then to the Taboo pub. The appellant also testified during his defence that he had met Benny Yeo at the Happy pub the night Benny Yeo was arrested.

48 It is settled law that an accused person can be convicted on his own confession, even if it is



retracted, if the court is satisfied of its truth, without any need for corroborative evidence to support it: *Osman v PP* [1965–1968] SLR 128; *PP v Rozman bin Jusoh* ([20] *supra*). In this case, the trial judge was satisfied as to the truth of the appellant’s confessions contained in his statements (P6 and P7). Moreover, the confessions were cogently corroborated by the circumstantial evidence and the testimonies of the prosecution witnesses.

49 Further, where an accused has not proffered at trial any explanation, other than repeating what he had said at the *voir dire* that he was forced to fabricate the incriminating parts of his statements as a result of the treatment he received at the hands of the police, the accused’s statements ought to be treated as *prima facie* more reliable than his evidence in court, although it would still have to be considered against the weight of all the evidence: *PP v Huang Rong Tai* [2003] 2 SLR 43. In the present case, the appellant adduced no evidence at trial to explain why he gave the confessions in P6 and P7, save for the same allegations raised during the *voir dire*, which had already been canvassed before and rejected by the trial judge.

## **Conclusion**

50 In the result, I was of the view that the trial judge’s finding that the Prosecution had proved the charge against the appellant beyond reasonable doubt was not wrong or against the weight of the evidence. I thus found no justification to interfere with the trial judge’s finding of guilt and dismissed the appeal accordingly.

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