# Public Prosecutor v Mohammed Ali bin Johari
# [2008] SGHC 16

**Case Number** : CC 9/2007

**Decision Date** : 31 January 2008

**Tribunal/Court** : High Court

**Coram** : Kan Ting Chiu J

**Counsel Name(s)** : Christopher Ong, Tan Wee Soon, Stanley Kok Pin Chin and Vinesh Winodan (Attorney-General's Chambers) for the Prosecution; R S Bajwa and Sarindar Singh (Bajwa & Co) for the accused

**Parties** : Public Prosecutor — Mohammed Ali bin Johari

*Criminal Law – Offences – Culpable homicide – Cause of death – Genetic screening – Section 300(c) Penal Code (Cap 224, 1985 Rev Ed) – Elements of s 300(c) – Whether accused intending to immerse deceased in water and causing injury – Whether deceased person's death caused by immersions*

31 January 2008

Kan Ting Chiu J:

1 The events leading to this case attracted considerable public attention. A little girl, who had been reported missing and was the subject of a well-publicised search, was eventually found naked and dead in a recessed chamber under a flyover.

2 The deceased was Nur Asyura Binte Mohamed Fauzi, known as Nonoi to her family, and I shall also refer to her as Nonoi. She was 34 months old.

3 Nonoi's mother is Mastura Binte Kamsir ("Mastura"). Mastura, a divorcee, was remarried to the accused Mohammed Ali bin Johari. Mastura has another child, a son named Daniel (who is also known as Didi), with the accused. The four of them, i.e. the accused, Mastura, Nonoi and Daniel formed a family unit with their home at Pipit Road ("the Pipit Road flat").

4 The accused maintained strong links with his parents, as well as his unmarried siblings who resided at the family home at Circuit Road ("the Circuit Road flat").

5 As Mastura worked as a masseuse and the accused was a free-lance despatch rider, they would bring the two children to the Circuit Road flat and bring them back to their Pipit Road flat after work.

6 They followed the routine on 1 March 2006. They walked with the children to the Circuit Road flat at around noon. They left the children at the flat and went on the accused's motorcycle which was parked at the flat. They went window-shopping for furniture and had lunch, after which the accused sent Mastura to her workplace in Upper Serangoon at about 2.00 pm. The accused then returned to the Circuit Road flat at about 2.15 pm.

7 From that time on, the regularity in their lives was broken. An alarm was raised that Nonoi was missing from the Circuit Road flat. The police were alerted and the accused and Mastura, as well as the accused's siblings went searching for her in vain over the following days.

8 On 4 March 2006, the accused confessed to Mastura and her mother Rozanah binte Salleh ("Rozanah") that Nonoi was dead. The police were informed, and her body was subsequently recovered from a drain within a chamber under the Aljunied flyover along the Pan-Island Expressway.

**The initial admission**

9 The accused made the revelations for the first time to Mastura and her mother Rozanah on 4 March 2006 at about 9.00 am in the Pipit Road flat.

10 Mastura's evidence was:

> On 4 March 2006, at about 9.00 a.m., at the Pipit Road flat, Ali approached my mother and myself in the living room. He told us that he had lied to us. After some questioning from me and my mother, he admitted that he had caused Nonoi's death, but that it had not been done on purpose. My mother and I were shocked, and both started to cry.[note: 1]

11 Rozanah's evidence was:

> 10.On 4 March 2006, at about 7.30 a.m., I was at the Pipit Road flat with Mastura and Ali [the accused]. Ali had just awakened from his sleep. He came to Mastura and me and suddenly asked us for forgiveness. He cried. He told us that he had done something, but he did not know why he had done it and had not intended to do it. I sensed that he was responsible for Nonoi's disappearance and also suspected that he might have raped her or done something else bad to her, and told him to tell us what he had done to her. I was not really sure whether she might still be alive.
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> 11.At this point, myself and Mastura were shocked, angry and crying. We continued to ask Ali to tell us what he had done. He remained quiet for some time, then he finally admitted he had drowned Nonoi. We asked him why he had drowned her. We also asked him where he had hidden her body, but he refused to tell us. He said he would tell the investigating officer.[note: 2]

12 Their evidence was not disputed by the accused. He had also referred to this event in a statement to the police where he recounted that:[note: 3]

> I told them in Malay, "Nonoi, Dah Tak Ada", meaning "Nonoi, no more". They cried and asked me repeatedly what I had done. I replied to them in Malay, "Saya Tak Ada Niat Jadi Kan Dia Be Gi Tu. Dia Lemas", meaning "I had no intention to do that to her. She drowned".

**The statements to the police**

13 The accused went to the police on the same day and told them what had happened. Statements were recorded from him in the course of the police investigations touching on Nonoi's death, and the statements were admitted in evidence in the trial without objections and without any suggestion put to the recording officers and the interpreters that they had misunderstood the accused, or had failed to record properly and completely what he told them.

14 On 4 March 2006, he made the first statement, which was recorded by Staff Sergeant Abdul Razak Said of the Bedok Police Division. In this statement[note: 4] the accused narrated:

> On 1/3/06 @ 2.30 pm to 3 pm I was at home at Pipit Rd with my step daughter whom I call 'Kakak' (recorder's note: Nur Asyura Bte Mohamed Fauzi). My step daughter was crying even

when I told her to stop.

I then slapped her over her body telling her to stop crying. 'Kakak' still continue crying. I then brought her to the toilet and tip her over and dipped her head into the red colour plastic pail. I dipped her into the water in the pail for a few times. The phone then rang and I went to answer it, leaving 'Kakak' dip in the pail of water.

When I return, I found that 'Kakak' was motionless and not breathing. I then carry her out and did cpr [cardiopulmonary resuscitation] on her. She did not response. I then carry her to Circuit Rd.

When I arrived at Circuit Rd, I placed her on the bed. The other family members were busy and did not pay attention to me. I then left home.

I later return back when everyone had left home. Only my father who was about to pray was at home. When my father started praying, I went into the house and pick up 'Kakak'. I then went to the nearby flyover & placed 'Kakak' body in the drain. I then went back home to Circuit.

15 On the same day, after Nonoi's body was recovered, Station Inspector Noorma'at Sawab of the Criminal Investigation Department ("CID") recorded another statement from the accused at the Geylang Serai Neighbourhood Police Post. In this second statement[note: 5], the accused revealed that:

I carried her whole body head first into a pail of water. The pail is a plastic pail. I did this because I wanted to prevent her from crying. She kept on crying and struggling. Although she was crying and struggling, I kept on dipping the body for a while. I pulled her out and she kept on crying. She was wet. I did this two or three times. The last time I pushed her into the pail of water, my handphone rang. I left her inside the pail of water to answer the call. I could not recall who called me. After I answered the call, I remembered about her and went back to her in the toilet. When I saw her, she was not moving and immediately I pulled her out of the pail. Her body was soft. I pressed her abdomen and chest and blow into her mouth and nose. Only a little water came out from her mouth and nose. I brought her to the hall and I placed her on the floor. I pressed her abdomen and chest again. I also blow air into her mouth and nose. I saw that her eyes began to close and close. I carried her up but her body became softer and softer. I was afraid. I pressed her abdomen and chest again and also blow into her mouth and nose. After doing this, her eyes was almost shut and completely did not move anymore. I was afraid. I was confused and do not know what to do. I walked to and fro and thinking what to do next. I had removed her clothing before I dipped her into the paid of water. She was only wearing her pampers. After I dipped her into the pail of water for the first time, her pampers was soaked with water and I removed it. I shooked her to wake her up and called her name but she did not wake up. I picked her up and dried her body with a towel. I then dressed her up with the same clothing that I had taken off before the dipping. I carried her and took her slipper and left the flat at Pipit Road.

16 The accused made a third statement during the early hours of 5 March 2006 to Senior Station Inspector Mazlan Shariff of the CID in the offices of the CID. In this statement[note: 6], the accused said:

On 1.3.06, which was my wife's pay day, as usual, my wife and I sent Didi and Nonoi to my mother's flat at Circuit Road. Thereafter, we went to look for household items to buy and after that I sent her to work on my motorcycle. I then returned to my flat. That day I did not work. On that same afternoon, I went to my mother's flat to visit my children who were being looked after

by my mother and sisters. My father and my children were at the flat. I sat at the flat for awhile and decided to bring Nonoi out for a walk. However, Nonoi started to cry. I held her hand and we left the flat.

I walked her around the flat and proceeded to the shops at Circuit Road. While along this walk, Nonoi would on and off cry. I kept telling her 'Noi, diam! diam!' but she did not stop. At the provision shop, I offered her to buy something but she refused and as such I walked her away. Actually when she started to keep on crying and refused to listen to me in asking her to keep quiet, I began to get angry. I would raise my voice when directing her to be quiet.

After leaving the shop, we walked to Circuit Rd. I brought Noi to the tenth floor of the said block to look for my friend but his flat door was closed and I presumed he was not in. We went down and walked around a few blocks there. Nonoi was still on and off crying. Each time she cried, I would ask her to be quiet but she did not. Normally on other days, she would listen to me but I do not know why she was so stubborn on that day. I decided to go back to my flat to bath and rest for a while. Once, Noi and I entered my flat, she just sat on the mattress and was keeping quiet. I asked why she was quiet and also asked her why not playing around. I switched on the TV and radio. Noi began to cry. That time I had took off my T-shirt I was wearing. I got very angry and demanded her to stop crying but she kept on crying. I slapped her face, body and punched her thigh. She was at that time sitting on the floor at the living hall. She cried even louder. I then threatened her 'tak nak diam! tak nak diam! taruk dalam air eh!' She kept on crying. I pulled her hand and forced her into the toilet at the kitchen. Once inside the toilet I kept on threatening her to put her into the water. She cried loudly. There was one red colour plastic pail in the toilet. It contained water to about half of it. There was also a plastic scoop in the pail. I took out the scoop and placed it aside. I removed her shirt and pants. She did not struggle but kept on crying. She was wearing pampers. She was looking at the pail of water. I gripped both her legs just slightly above the ankles and raised her upwards. I then pushed her legs up and her head was facing the pail. I threatened her again that I would put her into the pail. She still kept on crying. I lowered down her legs and her head was submerged into the water in the pail. The head touched the bottom part of the pail. The water in the pail spilled out a little when I submerged her head down. I hold onto her with her head in the pail for a short while, maybe a few seconds and pull her up. I placed her down on the toilet floor and her head hit the floor. I let go my grip. She stood up and was all wet. I removed her pampers and told her to 'cebok' (means English to wash the private parts). She tried to do so while I was spraying her with the water hose but she could not do it quickly. I hurriedly used my left hand to wash her buttock and private parts. I did it in a hurry and used more strength. She was squatting and kept on crying. I tried to pacify her but failed. I then threatened her again to put her into the pail. As she was stubborn, I put her into the pail the same manner I did earlier. Earlier, while washing her, I had also filled up the pail with more water to about half of it. I submerged her head about twice slowly and her head touched the bottom part of the pail. By then she was already weak. I placed her down on the floor. She tried to stand up but trip and fell. Her back of the head hit the floor. I rubbed her head and I felt there was a bump. She kept on crying. After a while later, she cried again. I put her into the pail again. While doing so the phone, my handphone rang. I just left her in the pail of water and answered the call. When I returned to the toilet, Nonoi was already motionless in the pail. I pulled out and her body was soft. There was some faeces in the toilet, on the floor. I tried to revive her but she was still motionless. Subsequently, I dressed her up using the same clothing and brought her to my mother's flat.

17 Later on in the afternoon of the same day, the accused was charged with the murder of Nonoi, and Acting Inspector Roy Lim Eng Seng of the CID recorded a cautioned statement from him under s 122(6) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed). In this fourth statement[note: 7],

the accused stated:

> I hit her at legs. I slap her face. I dip her into a pail of water, head first, which caused her death. I do not have the intention to do all these as I am not a murderer and I am not a rapist. When she has died, I become afraid and I hide her body in a drain. Instead of giving the death sentence, just imprison me. I ask for forgiveness from everybody and also to the deceased. I will tell the truth of what has happened.

18 On 8 March 2006, the investigation officer ASP Ang Bee Chin recorded a fifth statement from the accused. In this statement,[note: 8] he recounted in greater detail than he had done before the circumstances of Nonoi's death thus:

> 12 I asked Nonoi why she was keeping quiet. I told her to play with her toys. Usually, upon arriving in the house, she would play with her toys without being told, but on that day, she started to cry. I did not know why she cried. She insisted on going back to my parents' house. She said, "Balik, rumah nenek, rumah atuk", meaning "Go back to grandmother's house, grandfather's house". I understood her what she meant. I replied to her in a high pitch voice, "Baru Sampai, kan? Papa nak mandi kan? tunggu", meaning "We just arrived, right? Papa wants to bath, right? Wait". After telling her these, I switched on the switch which connects both the television and radio. Usually, the sound from the radio would be "on" for me to hear and the television sound would be "off". Usually, Nonoi would glance on and off at the program shown on TV. Usually, it was the Kids Central program. But Nonoi continued to cry. Earlier outside, she was just reluctant to follow and she was like crying faintly without shedding any tears. But at home, she shed tears.
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> 13 As Nonoi continued to cry, I began very angry. This is because she had really upset me since being at my parents' house where she behaved so strangely by not following me to the shop willingly and on reaching home, she continued with the strange behaviour. Normally, I would slap her lightly or warn her and she would obey me. This time, although I talked to her, she was still crying. I then slapped her once on her back, once on her right hand and once on her right cheek.
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> 14 During our conversation and when I hit her, she was sitting on the mattress. After slapping her on the cheek, I sat down on the floor in front of the mattress and facing her. I pulled both her legs towards me and as a result, her body moved forward and her buttocks moved over the edge of the mattress and ended on the floor, facing me. She was crying. This made me very furious. I warned her to keep quiet by saying in Malay, "Diam! Ta Nak Diam Juga?", meaning "Quiet! You don't want to keep quiet?". She kept on crying.
>
> 15 I pulled both her legs forward. She was still in a sitting position. I was also sitting down. I then used my right hand to punch her on her right thigh twice – first on the outer thigh, then on the inner thigh. After the first punch on her outer right thigh, I asked her in Malay, "Tak Nak Diam?", meaning "Don't want to keep quiet?". She did not answer me. She kept on crying. As I punched her the second time, I asked Nonoi the same question again and her reaction was the same. Then, I used my right hand and punched her on left thigh twice – first on the inner thigh and then on the outer thigh. After the third punch, I asked her the same question and she reacted in the same manner. After the fourth punch, I asked again and she kept on crying. When I was punching, I was using my finger knuckles. This was to cause pain and frighten her so that she would keep quiet. They were not the real punches that would injure her badly. If I had punched her hard, my wife would know and scold me.

16 These punches happened within a short while, just to teach her a lesson for crying. If she had stopped crying, all these would not had happened. This was the first time she behaved in such a manner. I had ever scolded and hit her before this but not like this time. This time, I was really angry. Her crying really made me furious. Each time my punch landed on her, she cried louder and after that, the crying became softer. She did not call my name or tell me to stop. She did not stop crying. Normally, I only hit her gently once or twice and she would keep quiet.

17 After this, I told her again to keep quiet, saying in Malay, "Tak Nak Diam, Papa Masuk Dalam Air", meaning "Don't keep quiet, Papa put you in the water". She still kept on crying, in the same manner as when I earlier hit her. I know Nonoi knows the word "Diam" but I was not sure if she understood what I meant when I told her I would put her in the water. At that time, I said these because I was very, very angry already. I had no intention to make her die like that.

18 I pulled Nonoi by one of her hands to the toilet. Just outside the toilet, I told her in Malay, "Nampak Tu Baldi?" meaning "Can you see that pail?". She kept on crying. I did not know whether she understood me but what I knew, after I showed her the pail, she looked at it. She continued crying. She did not say anything.

19 I became angrier. I pulled her into the toilet. I took out her clothings because I did not want them to get wet. I left her pampers on. I dipped her into the pail of water, which was three-quarter full. The pail of water was already there and it was not filled by me.

20 Before dipping her, I removed the red scoop from the red pail and placed it on the toilet cover. I lifted her up by both her legs with her head facing downwards. Is it very cruel if I tell you I did it this way? As I held her by her legs, I told her in Malay, "Noi Nangis Eh? Papa Masukkan? Papa Masukkan Dalam Air", meaning "Noi, you cried eh? Papa put you in the water." She was still crying in the same manner.

21 As she continued crying, I put her into the water, head first, for a short while. I had to bend both my knees slightly. I pressed her downwards and her head landed on the base of the pail. I had to bend both knees lower but not to the extent of squatting or kneeling. After that, I pressed her downwards some more until both her legs were in the pail and her body was a foetus position for a while. After pressing her down, I lifted her up straightaway. Water overflowed from the pail, leaving it one-quarter full. I paused for a while and I was still holding onto both her legs and she was still in the upside-down position.

22 I put her down, with her head touching the toilet floor first, followed by the body and then the legs. She stood up herself. She was wet all over, from the head to the toes. I could see that there was water coming out from her mouth and nose. There was no sound of crying. As her pampers was wet, I removed it after she stood up. There was urine on the pampers, as it looked yellowish. It was wet and heavy. I folded the pampers using its self-adhesive tape and threw it into the rubbish chute.

23 I went back to the toilet and talked to her in Malay, "Cebok", meaning "Wash yourself". She reacted slowly. She squatted down slowly and started to cry again. I turned on the tap with my left hand and pulled the hose near to her thighs using my right hand. Her right hand was at the groin area to wash herself but since she was slow in washing herself up, I talked to her in Malay, "Eh, Cepatlah?", meaning "Eh, hurry up". As she was slow in washing herself, I helped her to wash her vagina area with my left hand in a fast and rough manner but I am very sure that my finger did not enter her vagina. She was still crying.

24 Normally, when Nonoi urinated in the pampers, her mother would do the washing for her. But on that day, I did it because her mother was not around.

25 After washing up, I talked to her in Malay, "Masih Nak Nangis?", meaning "Still want to cry?" I filled the pail using the water from the hose until it was half full. I turned off the tap.

26 As she was still crying, I became very furious and I had reached a stage that I could not take it anymore. She was standing inside the toilet. I bent my body forward and lifted her by both her legs. She fell backwards and became seated on the floor. I lifted her legs up and I straightened my body, till I came to a totally upright position.

27 Then I bent my body slightly forward and put her into the pail of water, with her head down first, like the first time. I had to bend both my knees slightly. I pressed her downwards and her head landed on the base of the pail. I bent both knees lower but not to the extent of squatting or kneeling. I pressed her downwards some more until both her legs were in the pail and her body was a foetus position for a while. After pressing her down, I lifted her up straightaway. Water overflowed slightly from the pail. I released my hands from her legs completely from my chest level and her head hit the toilet floor. She was still crying but I cannot recall now whether it was loud or soft compared to the earlier crying. She tried to stand up by herself but she slipped and fell backwards onto the toilet floor with her face facing upwards. There was a loud sound from her fall but I did not know which part of her body had hit the floor.

28 She stood up again and was still crying. I was still angry. I talked to her in Malay, "Masih Nagis?", meaning "Still cry?" She was still crying. She did not answer me.

29 Immediately, I bent down and pulled her legs. I lifted her by holding onto her legs and she fell backwards. I stood up, lifted her legs and put her into the pail of the remaining water. I had to bend both my knees slightly. I pressed her downwards and her head landed on the base of the pail. I bent both knees lower but not to the extent of squatting or kneeling. I pressed her downwards some more until both her legs were in the pail and her body was a foetus position.

30 At this point of time, my handphone rang. I walked hurriedly to answer the handphone which was placed on the table and still being charged. I did not disconnect the handphone from the charger. It was a telephone call. I talked to the caller but I did not pay much attention as my mind was disturbed. I could not concentrate to listen or talk on the phone because my mind was on Nonoi. The phone conversation was a very short one. I cannot remember now who the caller was and what the conversation was about. After that, I hang up the phone and placed the phone back to the table. The charging for the handphone continued.

31 I walked hurriedly back to the toilet. On reaching the entrance of the toilet, I saw Nonoi was not moving. She was still stuck in the pail. I quickly lifted her up by the legs and placed her on the toilet floor. She laid on the floor. After that, I carried her by the sides of her body. I shook her body to wake her and at the same time, called her name many times. Her body was soft and weak. Her eyes opened and closed. Then, I saw shit on the toilet floor. I placed her on the toilet floor and pressed her abdomen and chest repeatedly. Water came out from her mouth and nose but she still did not wake up. Her body was still soft. Then I blew air into her mouth and nose at the same time. Some water came out from her mouth and nose. I did not know the correct way of getting out the water from the body but I tried my best to help her in my own way. By then, I had already moved aside the pail and scoop so that I could have the space to help her.

32 After a short while, I lifted her by the sides of her body and brought her out of the toilet. I

placed her on the floor just outside the toilet, in the kitchen. There, I did the same thing as I did in the toilet, trying to save her. Her body was very soft and her eyes were opening and closing. A bit of water came out from her mouth and nose. Still, there was no response from her.

33 When I saw Nonoi like this, I became scared because she had died. I did not have the intention to cause her death. I love Nonoi very much. She and Didi filled up the vacuum of my first three children whom I had no custody. Even until now, I am scared because she had died and I am worried about the death sentence the Court may give me.

34 After I realized that Nonoi had died, I did not know what to do. I paced up and down in the flat aimlessly. A lot of thoughts went on my mind, whether to call the police or not. I took a brown towel from the bamboo pole and wiped Nonoi's wet body. With the towel, I wiped her body and brought her to the mattress. I laid her on the mattress and continued to wipe her body. I left the towel on her body. I paced in the flat to and fro again, thinking of what to do next. A lot of thoughts came to my mind again – to whom should I inform, what should I tell them. I became very scared.

35 I put on the same clothings, which I had earlier removed, for Nonoi. I did not wear pampers for her. She was still on the bed. I took the things which I had earlier placed on the table. I carried Nonoi and held her with her buttocks resting on my right arm and her face touching the right side of my neck. My left hand held onto her head because it was soft. I held her in this manner because I did not want people to see and ask me questions. People would think that Nonoi was sleeping if anyone sees me holding her in this manner. Her body was soft and cold. I opened the door and metal gate, turned right and took the lift down. There was no one at the fifth floor and inside the lift. On reaching the ground floor, I walked hurriedly when there was no one near to me but I saw people nearby, I tried to walk slowly as if nothing had happened. I was scared because I did not know what to do. I walked to my parents' house, carrying Nonoi in the same position all the while.

**The account to the psychiatrist**

19 The accused also described the events to Dr G Sathyadevan, Senior Consultant Psychiatrist, Institute of Mental Health while the doctor was making a psychiatric assessment of him. Dr Sathyadevan saw him on 14 and March, and 11 and 18 April 2006 and recorded in his report:[note: 9]

… He [the accused] eventually brought her [Nonoi] to his flat but she cried when they reached the flat. He was alone with her in the flat. As she continued to cry, he slapped her in her face, legs and back. He was angry with her because she did not stop crying. He then punched her in the leg and ribs. As she still continued to cry, he pulled her by her hand to the toilet. There was a red pail in the toilet, which was half-filled with water. He pulled her by her legs and she was upside down. He dipped her head into the water. Half of her body was immersed. He took her out of the water. She continued to cry. He dipped her head a second time into the water and took her out of the pail. She still continued to cry. He dipped her head into the water on the third time. While her head was still inside the water, his phone rang. He then left her in the pail and went over to the table to answer a phone call. He did speak to someone. When he came back, he noticed that victim was not moving. He placed her on the floor and tried to revive her. He kept talking to her but she did not wake up. He panicked at this point. He removed her pampers, changed her wet clothes into dry ones and then carried her to his mother's flat.

**The post-mortem examination**

20 A post-mortem examination was carried out on Nonoi by consultant forensic pathologist Associate Professor Gilbert Lau ("A/Prof Lau") of the Centre for Forensic Medicine. A/Prof Lau was present when Nonoi's body was recovered on 4 March 2006. He examined the body in situ and found that she had been dead for two or three days, and he noticed some blood over the external genitalia and the perineum.

21 On 5 March 2006, A/Prof Lau conducted an autopsy of the body and put up an autopsy report.[note: 10] The relevant findings recorded in the autopsy report are:

*External Injuries*

Examination of the external genitalia showed extensive laceration of the fourchette, associated with apparent obliteration of the hymen and localised, acute haemorrhage.

*Heart*

The heart was in situs solitus, with veno-atrial, atrio-ventricular and ventriculo-arterial concordance.

Epicardium : healthy.

Myocardium : apparently healthy, with anatomical closure of the foramen ovale.

Endocardium : healthy, apart from post-mortem emolytic staining.

Cardiac valves : healthy.

Coronary arteries : fully patent, with normal anatomy.

Thoracic aorta : healthy, with anatomical closure of the ductus arteriosus

Superior vena cava : patent.

There was no macroscopic evidence of any congenital cardiovascular anomaly.

*Lungs*

Both lungs were voluminous, with numerous post-mortem sub-pleural bulla. Cut sections showed acute pulmonary oedema and congestion, bilaterally.

*Reproductive system*

En bloc pelvic dissection (comprising the removal of the pelvic viscera in anatomical continuity with the perineal structures, including the external genitalia and the anus) demonstrated an apparent rupture, measuring 2 cm in its widest dimension, in the right anterolateral wall of the mid-vagina. No ano-rectal or urinary tract rupture or laceration was seen.

Conclusions:

1. The body was that of a naked, young Asian female child, measuring 93 cm in height and weighing 12 kg.

2. There was evidence of moderate putrefaction.

3. There was also evidence of apparent sexual interference, comprising extensive laceration of the fourchette, apparent obliteration of the hymen and an apparent rupture in the right anterolateral wall of the mid-vagina.

4. Both lungs were apparently voluminous, with acute pulmonary oedema and congestion, bilaterally.

5. There was no evidence of any significant head injury.

6. At the time of the autopsy, there was no macroscopic evidence of any natural disease which could have caused or contributed to death.

7. A supplementary report will be issued upon the completion of the extensive post-mortem ancillary investigations and a comprehensive review of the deceased's past medical and family history.

Cause of death:

I(a) Cardiorespiratory failure pending further investigations.

22 Subsequently, A/Prof Lau put up a supplementary report[note: 11] after genetic analysis was carried out that:

> The ovaries were not amendable to karyotyping (chromosomal studies due to post-mortem decomposition.
>
> Genetic analysis of a sample of heart tissue (for sudden cardiac death) yielded inconclusive results. The possibility of sudden death arising from a risk of developing a cardiac arrhythmia (abnormal heart rhythm) in the presence of an environmental trigger cannot be excluded.

23 On 17 August 2006, A/Prof Lau issued another report captioned Final Cause of Death:[note: 12]

> The deceased was a young, Malay girl, whose naked and putrefying body was found beneath the Aljunied flyover on 4 March, 2006. The delay in the issuance of the final report was occasioned by the difficulties encountered in obtaining the medical records of the deceased and her family.
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> 2. Autopsy showed evidence of extensive laceration of the fourchette, apparent obliteration of the hymen and an apparent rupture in the right anterolateral wall of the mid-vagina. However, no spermatozoa, semen or DNA was recovered from the external and internal genitalia, the groins, thighs, or oral cavity. These features, taken together, are compatible with digital or instrumental vaginal penetration. It should be said that the genital injuries, in themselves, are not necessarily lethal.
>
> 3. A comprehensive post-mortem examination showed no definite evidence of other injuries which could, in the ordinary cause of nature, have caused or contributed to death. While the voluminous appearance of the lungs, coupled with acute pulmonary oedema, are compatible with drowning or immersion, these features are by no means strictly or exclusively diagnostic of such an event, in part because of the degree of putrefaction encountered at autopsy. Nevertheless, it should be noted that an asphyxial mechanism, such as that caused by smothering or suffocation, which may leave no permanent or discernible marks on the body, cannot be excluded.

4. Extensive ancillary investigations, including post-mortem histology, toxicology, virology, biochemistry and genetic studies showed either negative or inconclusive results. In particular, genetic screening for sudden cardiac death could not exclude the possibility that a cardiac arrhythmia (abnormal heart rhythm) might have developed in the presence of an environmental trigger. While some form of mechanical asphyxia, immersion, or the genital injuries inflicted could have supplied this extraneous trigger, such a proposition remains unverifiable.

5. The available medical records pertaining to the deceased and her family, obtained through the Criminal Investigation Department, were reviewed. These revealed that she had previously been admitted to the National University Hospital on a number of occasions in 2003 and 2004 for various conditions including an episode of gastroenteritis-provoked seizures (at the age of approximately 8 months), as well as mild anaemia, upper respiratory tract infection and viral fever. It is known that gastroenteritis-provoked seizures generally constitute a benign condition. There appears to be no family history of epilepsy or any lethal hereditary disease among persons known to be the deceased's biological parents.

6. In conclusion, the totality of the available forensic medical evidence, interpreted in the context of the scene of death, would support a necessarily guarded opinion that the actual medical cause of death is unlikely to be due entirely to a natural disease process. However, in this instance, both the putrefied state of the deceased's body and the absence of unequivocal pathological evidence of any lethal disease or injury (apart from the genital injuries) have confounded a rigorous endeavour to ascertain the definitive cause of death.

7. Accordingly, in the interest of objectivity, the cause of death would have to be certified as being Unascertained.

24 This final certification that the cause of death was unascertained raised the question of causation, i.e. whether the accused's actions had caused Nonoi's death.

25 A/Prof Lau explained that he had been told of the immersions before he made his autopsy report and that he had received the accused's statements before he gave evidence in court.

26 He added that his autopsy findings were consistent with death by drowning or secondary drowning i.e. delayed death from immersion, smothering or suffocation, and that from the accused's accounts of the events, there were no other possible causes of death.

27 When A/Prof Lau's reliance on the genetic studies and the medical records of Nonoi came under scrutiny, he conceded that he was not an expert on genetic examination, and that he was not able to explain fully the partial seizure and the secondary diagnosis of status epilepticus recorded in Nonoi's clinical records.

28 After these issues came up, the prosecution applied to call two additional witnesses, namely Professor Edmund Lee of the Pharmacology Department, National University Hospital ("NUH"), who conducted the genetic screening, and Dr Foo Chong Wee, a member of the medical team at NUH which treated Nonoi and made the secondary diagnosis of status epilepticus.

29 I allowed the application. The possibility of Nonoi dying from a natural cause such as a seizure or cardiac failure must be examined against all the available and relevant information, and it would be wrong to keep out direct evidence from Prof Lee and Dr Foo.

30 Dr Foo, a House Officer (or houseman as is commonly known) when he saw Nonoi, is now a full

Medical Officer in the NUH. When Nonoi was admitted to the Paediatric Ward of the NUH as an eight month-old baby on 26 January 2004, she was seen by Dr Ng Kar Hui, and the consultant in charge was Dr Kirk Charles Roland. Dr Foo was responsible for taking notes on the observations, diagnosis and prescriptions made. According to Dr Foo, Dr Kirk was an expatriate and has left Singapore, and Dr Ng was on training overseas at the time of the trial.

31 Dr Foo's evidence was that a provisional diagnosis of status epilepticus with partial seizures was made on the day of admission when Nonoi was observed to have a partial tonic seizure. However, on 29 January 2004, when Nonoi's case was reviewed by Dr Kirk, he diagnosed the seizures to be gastroenteritis-provoked, and that diagnosis was confirmed by Dr Ng and Dr Foo on 30 January 2004 when Nonoi was discharged. On her discharge, the principal diagnosis was gastroenteritis-provoked seizures, and the secondary diagnosis was status epilepticus.

32 A/Prof Lau had sought Prof Lee's assistance to analyse the genetic makeup of Nonoi to investigate whether there were genetic factors that could have contributed to sudden cardiac death. Prof Lee put up a report on his screening[note: 13] with the conclusion that:

> While a clear genetic diagnostic pattern cannot be derived from the analysis as these variants were commonly found in 'normal' people, we do not exclude the possibility that these variants may individually or haplotypically contribute to the molecular basis of sudden death by conferring a risk of developing arrhythmias in the presence of an environmental trigger.

He explained his findings further in his statement of evidence[note: 14] (or conditioned statement, as such a statement is also called):

> 4 From the study of the genetic makeup of the deceased, two genetic variants (G38S-KCNE1 and K89T-HERG) were identified that have been speculatively linked to abnormalities of heart rhythm. However, these variants occur commonly in the general (presumably normal) Malay population, and it is thus difficult to identify them as being responsible for sudden cardiac death syndrome, which occurs only rarely. For example, the genetic variant K897T-HERG appears in 11.9% of the general Malay population, but the incidence of sudden cardiac death is much smaller than that percentage. Ultimately, it is highly speculative at this point in time whether there is an association between these variants, either individually or in combination, with the onset of sudden cardiac death.
>
> 5 At the last paragraph of my report, I also refer to the possibility of these genetic variants conferring a risk of developing cardiac arrhythmia in the presence of an "environmental trigger". The term "environmental trigger" is a general term referring to anything that is not connected to the genetic makeup of a person. Theoretically, such an "environmental trigger" may set off an abnormal heart rhythm in a person whose genetic makeup predisposes him to cardiac arrhythmia. However, this theory is again speculative and not scientifically proven, and no specific "triggers" have yet been identified conclusively.
>
> 6 Hence, in respect of the genetic variants identified in the deceased, these have no diagnostic value whatsoever. It is not proven that the two genetic variants are, in fact, linked to sudden cardiac death, nor is it proven that those variants could result in a sudden cardiac arrhythmia in the presence of an environmental trigger. As such, the results of my study into the deceased's genetic makeup have no diagnostic value whatsoever, and any possibility of a link between the genetic variants identified in her genetic makeup and sudden cardiac death is highly speculative.

**The call detail record**

33 The investigation officer had obtained the call detail record of the accused's mobile phone 8XXXXXXX. She obtained from the service provider MobileOne Ltd the record for the period 27 February 2006 to 4 March 2006[note: 15] which showed that there were three answered incoming calls received at that number on 3 March 2006, at 12.07 pm, 7.02 pm and 7.04 pm and three other calls made on the same day during 6.48 pm to the accused's phone which were not answered but were forwarded.[note: 16] The effect of the evidence was that there were no calls answered on the accused's mobile phone on 1 March 2006.

**The accused's defence**

34 On the basis of the accused's statements and the autopsy findings, I found that the prosecution had presented a sufficient case for me to call on the accused to enter his defence. The accused gave evidence in his own defence, but did not call any witnesses.

35 His account of the events of 1 March 2006 leading to Nonoi's death was broadly similar to the accounts that he had given to the police and the psychiatrist.

36 He recounted that after he sent his wife to work, he returned to his parent's flat at Circuit Road. He took Nonoi with him as he felt that her presence would reduce the risk of drug enforcement officers stopping and checking him for drug consumption.

37 On the way back to his flat at Pipit Road, Nonoi was not her usual cheerful self, but was quiet and crying. When he brought her to a neighbourhood shop where she would usually buy something for herself, she did not want anything. They left the shop, and went to look for a friend, but the friend was not home, and they went back to the Pipit Road flat.

38 When they were at the flat, Nonoi was still crying and uncommunicative. He was annoyed at her, and scolded her, but she did not stop crying. He became angrier and slapped her face and punched her legs. Then he pulled her by her hand to the toilet and warned her that if she did not stop crying, he would immerse her in a pail. When she continued crying, he removed her clothes to frighten her.

39 He then recounted in his own words:

> … I took off her clothes. …
>
> … So I immersed her once, then I pulled her up. Then I put her down on the floor, but she was still crying.
>
> … …
>
> … so I immersed her in the pail of water for a second time. So I took her out, she was crying, she fell down on the floor. I was angry. She refused to keep quiet. So I immersed again – immersed her again for the third time. Her condition shocked me at that time.
>
> … …
>
> … From being angry, I turned into someone who is very shocked. I did not know what to do at that time. What acted to my mind is that, since I have immersed her in the pail of water, she

might have been drowned. She might drown.

… …

Since I have immersed her in the pail of water, she might have drowned because that was what I had done --- I --- that I had immersed her in the pail of water. I tried to --- I tried to resuscitate her.

… …

I --- I pressed her stomach area. I blow --- I blow air in her mouth like how they did when someone is drowning --- someone had drowned. I do not know --- I do not know how to perform the real CPR [cardiopulmonary resuscitation] but I keep on --- I tried.

… …

… her eyes are opened and closed, opened and closed. Her body was weak ...

… …

She was conscious at that time. She was weak, her eyes was opened and closed.[note: 17] …

40 He put her clothes back on, and carried her out of the flat. He said:

… I just went here and there. I do not know what to do. I was in fear. I --- it didn't occur to my mind to shout for help or ask anyone for help. I just carried her. Whilst carrying her, I was talking to her to wake up and --- "Please do not do this to me", I told her, "Please do not do this to me".[note: 18] …

41 When they were at his parents' flat, he placed Nonoi on a bed, covered her with pillows and told the other persons in the flat that Nonoi was sleeping. Later in the day, when his mother and siblings left the flat, he took Nonoi from the bed and walked out of the flat.

42 He described what he did thereafter:

… I just carried her and walked. … I was not aware where I was when I walked. There are so many --- there were so many things on my mind.

… …

I was still talking to Nonoi, "Please wake up, don't do this to me". All of a sudden, I was in this dark area.

… …

I felt that I have --- have nowhere else to go. So I just placed her there.[note: 19]…

43 He returned to the Pipit Road flat alone, cleaned himself, and went back to his parents' flat. By that time, Nonoi's absence had been discovered. He was asked about her, but he lied that Nonoi was not with him. He went on his motorcycle to fetch his wife from her place of work, and told her that Nonoi was missing. They made a police report and he joined in the search for Nonoi.

44 He referred to the admissions he made on the morning of 4 March 2006. He said:

> … When I work up, I felt that I'm --- I was still dreaming. I told myself that this wasn't a dream, but this is the reality. I could not lie anymore. I tried to be strong to face my wife and my mother-in-law at that time to tell them the truth what happened. They were shocked.[note: 20]

45 He explained that he had kept quiet for three days because:

> My fear was there. On the day of the incident, I told myself that I couldn't tell the truth. …
>
> … …
>
> Actually, I have had all along wanted to tell the truth, but I did not have the time to do it. I still felt very reluctant to tell the truth.[note: 21]

and he eventually broke his silence because:

> I had to be responsible for what had happened.
>
> … …
>
> I felt guilty of leaving Nonoi there.[note: 22]

46 I have stated that the accused's account of the events given in his defence was broadly similar to the accounts given in his statements to the police and to the psychiatrist. There was, however, one significant difference. Whereas he had mentioned in the earlier statements that when Nonoi was immersed in the pail for the third time, his mobile phone rang, and he answered the call, that was noticeably absent from his evidence until he was cross-examined on it by the prosecutor.

47 The prosecutor took him through the parts of his statements where he had stated that his mobile phone rang and he had gone to answer it. He was first referred to [30] of his statement of 8 March 2006 set out in [18] hereof, and he said:

> The telephone did rang but I'm not sure whether it's the telephone or radio, I was at a confused state at that time. I cannot remember I give this statement to the I---IO.[note: 23]

48 The prosecutor then referred to his first statement of 4 March 2006 set out in [14] hereof, and his response was:

> I cannot remember the statement --- this statement which I gave.
>
> … …
>
> At that time I was in fear, I was confused. I have no idea that I gave this statement.[note: 24]

49 With reference to his second statement of 4 March 2006, set out in [15] hereof, he said:

> I cannot remember giving this statement. But as far as I can recall, I heard a sound; it's either a telephone ring or radio. I was at a state of anger and confused at that time.[note: 25]

50 As for the mention of the phone call recorded in his statement of 5 March 2006 set out in [16] hereof, his explanation was:

I do not know why I gave this statement.[note: 26]

51 He was also asked about his account of the events recorded by the psychiatrist and his reply was:

> … I was asked about the telephone ringing. He asked me how did the telephone ring, then … then what I did after that. I merely answered the question posed to me. Now I cannot recall what the doctor asked me and the reply given by me.[note: 27]

52 The prosecutor also brought the accused through his account of the events after the three immersions. The accused confirmed that after the immersions, Nonoi was weak and soft and was blinking her eyes. When he was asked why he did not seek help, he said he was in a state of panic:

> … I was in fear. Even at that moment I could not say anything. I could not speak.[note: 28]
>
> … …
>
> I was frightened. I was frightened that something bad might --- was --- was happening to her. I became --- I became panicky.[note: 29]

53 The accused knew that Nonoi died eventually. There was some uncertainty as to the time when he realised that; it was either at the time he left the Pipit Road flat, or when he had returned to the Circuit Road flat.

**Evaluation of the evidence**

54 There were two main issues, firstly, what did the accused do to Nonoi, and secondly, what caused Nonoi's death.

55 What did the accused do to Nonoi? There were two parts to this question. The first was whether he had molested her and caused the genital injuries. The prosecutor argued that he must have done that and inflicted the injuries as he was the only person who was with Nonoi from the time they left the Circuit Road flat till the time she died, and that he immersed her into the pail of water to stop her crying following that.

56 There was no direct evidence on that, and the accused had not made any admissions to this in his statements when he admitted to the immersions. The prosecution did not charge him with molesting Nonoi. In any event, the alleged molestation had a limited bearing on the charge of murder that the accused faced as the genital injuries were not life-threatening. In the circumstances, it is not necessary for there to be a finding as to whether the accused had inflicted those injuries.

57 The second point was the intention and effect of the immersions. The accused admitted to immersing Nonoi head-first into a pail of water three times, and the post-mortem examination revealed conditions compatible with drowning or immersion. His evidence and his earlier accounts differ over the duration of immersion, particularly the third immersion.

58 He had, in the course of the police investigations and during the examination by the psychiatrist, said that he left Nonoi in the pail during the third immersion to answer a call on his mobile phone. The significance of this call was that it set the third immersion apart from the other two. From his description, Nonoi was immersed into the pail and withdrawn almost immediately in the first and

second immersions. She did not appear to have suffered from those immersions, and continued to cry and he immersed her for the third time. The third immersion, however, ended in tragedy because he did not remove her immediately upon immersion, but left her in the pail when he answered his ringing mobile phone.

59 On the evidence, I had no doubt that he told the officers and the psychiatrist about the phone call. Defence counsel Mr Bajwa did not suggest to the recording officers and interpreters who he cross-examined or the psychiatrist, that the accounts recorded did not come from the accused, or did not reflect accurately what he had said about the immersions or the phone call. I found that he did not answer any call on his phone during the third immersion.

60 The conclusion that I came to was that the third immersion was not a quick immersion, and that he allowed Nonoi to remain immersed head-first in the pail, and that did not happen because he had to answer his phone.

61 It was clear that the accused wanted to stop Nonoi's crying, whether because he had molested her or because she was having a tantrum. He was quite determined and did not stop after the first two immersions, and immersed her on the third occasion for a longer duration.

62 There was a secondary question - why did he not get help for her? I did not accept his explanation that he was in such a state of fear and panic that he could not speak. By his own evidence, he did not lose the ability to speak as he spoke to Nonoi and pleaded with her to wake up. Nor was he in such a state that he could not think, as he had attempted to revive her. Further, he described in [34] and [35] of his statement of 8 March 2006 set out in [18] hereof that "(a) lot of thoughts went on my mind, whether to call the police or not", and that he carried Nonoi with her face to his neck, and he walked slowly when there were other persons, to avoid arousing their suspicions.

63 What caused Nonoi's death? Although she had a medical history, she did not suffer from any life-threatening condition. Pathologist A/Prof Lau was unable to establish a specific cause of death because of the state of decomposition of the body when the autopsy was performed. To his credit, he arranged for genetic examination to be done to ascertain whether Nonoi could have died through natural causes.

64 Mr Bajwa argued in the closing submissions that the prosecution had not proved that the accused caused Nonoi's death because:

> … There are alternative ways that the deceased could have died. Indeed, the pathologist concludes in his autopsy report that the cause of death is unascertained. He initially thought it was asphyxia – possibly suffocation or smothering and also considered drowning due to the voluminous lungs of the deceased. When questioned during cross-examination, he admits that he stands by his report. He has not excluded cardiac arrhythmia in this case as cause of death. When asked during cross-examination about an extraneous trigger and his finding that such a proposition remains unverifiable, he answered in the affirmative:
>
> > Mr Bajwa – 'Do you agree with proposition that external trigger could've been immersion, mechanical asphyxia or injuries are unverifiable?
> >
> > Dr Lau – 'Yes'
>
> The deceased has a long medical history considering her age. There are previous incidence of seizures and breathing problems. Additionally, the deceased's genetic markers show that she

could have a pre-disposition to sudden cardiac arrhythmia.

The deceased has 2 genetic variants which have been associated with sudden cardiac death and the genetics expert called by the Prosecution, Professor Lee … is unable to verify nor rule out the possibility of the same causing the death of the deceased.[note: 30]

65 However, A/Prof Lau's evidence must be taken together with Prof Lee's evidence, particularly [4] and [6] of his conditioned statement set out in [32] hereof. Prof Lee had explained that the possibility that the two genetic variants identified conferring a risk of causing cardiac arrhythmia in the presence of a trigger is speculative and not scientifically proven. Mr Bajwa did not present any material or call any witness to rebut Prof Lee's evidence.

66 The references to seizures in the NUH records on Nonoi must be read in the context of the full records, as well as Dr Foo's evidence. The diagnosis of status epilepticus with partial seizures was a provisional diagnosis made at the point of admission on the information that Nonoi had exhibited stiffening of the limbs and uprolling of the eyes for half an hour prior to her admission. Dr Foo's explanation was that after further observation and treatment, the principal diagnosis was gastroenteritis-provoked seizures, with status epilepticus as the secondary diagnosis. Furthermore, the fact that the accused did not observe any stiffening limbs or uprolling eyes or other signs associated with seizures indicated that Nonoi did not have a seizure, whether from status epilepticus or other causes.

67 Mr Bajwa also submitted that the accused did not have the requisite intention to be guilty of murder in that:

In all the statements of the accused, he has maintained his position that the act of him dipping the deceased in the pail of water was because he was so angry at her incessant crying and he was trying to punish her for the same. He has maintained all along that he was not trying to cause the death of the deceased.[note: 31]

68 For an offence of murder to be made out, an intention to cause death, or knowledge that the act carried out is likely to cause death does not have to be established in every case. Section 300 of the Penal Code (Cap 224, Rev Ed 1985) prescribes that murder is committed

(a) if the act by which the death is caused is done with the intention of causing death;

(b) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused;

(c) if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

(d) if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death, or such injury as aforesaid.

69 The prosecution did not establish a case against the accused under limbs (a) and (b). The case against the accused fell to be considered under limb (c). The elements of s 300(c) were spelt out in the landmark decision of the Supreme Court of India in *Virsa Singh v State of Punjab* AIR 1958 SC 465 by V Bose J at [12]:

First, it must establish, quite objectively, that a bodily injury is present;

Secondly, the nature of the injury must be proved. These are purely objective investigations.

Thirdly, it must be proved that there was an intention to inflict that particular bodily injury, that is to say, that it was not accidental or unintentional, or that some other kind of injury was intended.

Once these three elements are proved to be present, the enquiry proceeds further and,

Fourthly, it must be proved that the injury of the type just described made up of the three elements set out above is sufficient to cause death in the ordinary course of nature. This part of the enquiry is purely objective and inferential and has nothing to do with the intention of the offender.

This test has been referred to and adopted by our courts in numerous cases. In particular, the Court of Appeal in *Public Prosecutor v Lim Poh Lye and Another* [2005] 4 SLR 582 gave a careful explanation on the effect and application of this provision.

70 Injury is defined in s 44 of the Penal Code to include any bodily harm whatever illegally caused to a person. When the accused immersed Nonoi into the pail of water on the three occasions, he must have known that she would be unable to breathe, or she would inhale water. Her enlarged and waterlogged lungs were consistent with the latter. When water is inhaled into the lungs, that can cause death in the ordinary course of nature.

71 The pathologist found that the condition of Nonoi's lungs was compatible with drowning or immersion, but he could not conclude that to be the cause of death on the basis of the autopsy examination because he could not exclude asphyxia and sudden cardiac failure as causes of death.

72 I was not constrained to look only at the autopsy findings, and I can and should consider all other relevant evidence. By the evidence of the accused who was with Nonoi at the time leading to her death, she was not smothered or suffocated, so death by asphyxia can be excluded.

73 Prof Lee's findings and evidence were that there was no scientifically proven evidence that Nonoi's genetic makeup put her at risk of sudden cardiac failure. Consequently sudden cardiac failure can also be excluded as a cause of death, and that left drowning or immersion as the cause of death.

74 On the totality of the evidence, I found that the accused knew and intended, when he immersed Nonoi head-first in the pail of water, that she would experience difficulty in breathing and might inhale water. If a person is immersed in water in that manner for a sufficient period, the person will die. In this respect, I found that the accused intentionally kept Nonoi immersed in the water for a longer duration on the third occasion and it was not accidental, and that he was not distracted by having to answer a phone call. It should also be remembered that at the trial the accused did not repeat the account about answering the phone. His evidence was that he was not sure if there was a phone call and he did not recall making the statements about answering the call. Lastly, I found, by the exclusion of other likely causes of death, that she died from the effects of the immersions.

75 The elements of s 300(c) of the Penal Code were therefore established. On that basis, I found the accused guilty and convicted him for the murder of Nonoi, and imposed the death sentence on him.

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[note: 1]PS17A para 13

[note: 2]PS18A paras 10 and 11

[note: 3]P238 para 53

[note: 4]P229

[note: 5]P230

[note: 6]P231

[note: 7]P233

[note: 8]P237

[note: 9]P226, para 28

[note: 10]P212

[note: 11]P213

[note: 12]P214

[note: 13]P278

[note: 14]PS51

[note: 15]P227

[note: 16]D1, page 9

[note: 17]Notes of Evidence pages 369-370

[note: 18]Notes of Evidence page 370

[note: 19]Notes of Evidence pages 371-372

[note: 20]Notes of Evidence page 373

[note: 21]Notes of Evidence page 373

[note: 22]Notes of Evidence page 374

[note: 23]Notes of Evidence page 404

[note: 24]Notes of Evidence page 406

[note: 25]Notes of Evidence page 407

[note: 26]Notes of Evidence page 408

[note: 27]Notes of Evidence page 436

[note: 28]Notes of Evidence page 422

[note: 29]Notes of Evidence page 427

[note: 30]Defences' Skeletal Submissions

[note: 31]Defences' Skeletal Submissions

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