**IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE**

**[2019] SGCA 12**

Criminal Appeal No 11 of 2018

Between

**ROGER YUE JR**

… *Appellant*

And

**PUBLIC PROSECUTOR**

… *Respondent*

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# *EX TEMPORE* JUDGMENT

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[Criminal Law] — [Offences] — [Rape]
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# Yue Roger Jr
# v
# Public Prosecutor

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22 February 2019

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**Andrew Phang Boon Leong JA (delivering the judgment of the court *ex tempore*):**

1 The appellant, Roger Yue Jr, was convicted by the High Court of seven charges proceeded with at trial, namely, two charges for rape of a minor under 14 years of age, punishable under s 375(1)(*b*) read with s 375(2) of the Penal Code (Cap 224, 2008 Rev Ed), and five charges for sexual penetration of a minor under 14 years of age, punishable under s 376A(1)(*a*)/s 376A(1)(*b*) read with s 376A(3) of the Penal Code. These offences were committed against the same victim. The appellant was sentenced to a global imprisonment term of 25 years (see *Public Prosecutor v Yue Roger Jr* [2018] SGHC 125).

## Our decision

### *Conviction*

2 Having carefully considered the appellant's as well as the Prosecution's written and oral submissions, we agree with the reasoning and decision of the trial judge on conviction. The trial judge had carefully considered all the relevant evidence as well as arguments in meticulous detail. The Prosecution had proved its case beyond a reasonable doubt that the appellant committed two offences of statutory rape and five offences of sexual penetration of a minor under 14 years of age.

3 First, the trial judge was right to find that the victim's testimony was on the whole believable and credible. Moreover, the appellant had adduced no evidence to show that the victim had any motive to falsely accuse him. The mere fact that the victim did not complain in a timely manner and had remained in contact with the appellant over the extended duration of the abuse did not rob her of credibility. The trial judge accepted the victim's explanation for her behaviour, and he was sensitive to the fact that people react in different ways to sexual abuse, including compartmentalising or rationalising their reactions. The trial judge was also particularly sensitive to the fact that a child may react very differently from an adult. We agree with the trial judge's assessment. This was not an assessment for which the trial judge required psychiatric evidence, especially since the appellant never raised the point that psychiatric evidence was needed to evaluate the victim's behaviour. There is no basis for the appellant to now argue on appeal that the trial judge needed psychiatric evidence to explain the victim's behaviour.

4 Second, the trial judge was right to find that the Prosecution had proved its case beyond a reasonable doubt that the appellant's second statement to the

police had been given voluntarily. The appellant had not been threatened in the manner he alleged and there was also no oppression which caused his will to be overborne when he gave that statement. The appellant's allegations of threat and oppression were mere afterthoughts which were raised late in the day. The trial judge was thus right in giving full weight to the appellant's statement to the police.

5 Third and very significantly, the victim's testimony and the appellant's statement to the police were fully corroborated by the very detailed case notes and report of the psychiatrist who interviewed the appellant for the purpose of a psychiatric assessment. The trial judge was right in giving full weight to the psychiatrist's case notes and report. In the light of the appellant's own evidence which corroborated the victim's testimony, we agree with the trial judge that the Prosecution had proved its case beyond a reasonable doubt that the appellant committed the seven offences.

6 Additionally, the trial judge was right in not drawing any adverse inference against the Prosecution. The victim's psychiatric report from when she was seen by a psychiatrist at the Child Guidance Clinic was not a material piece of evidence. The victim's non-contemporaneous word document, in which she typed an account of the offences around five to six years after they had been committed against her, was also not a material piece of evidence. The former boyfriends and the uncle of the victim, in whom the victim confided sometime after the time of the offences, were also not material witnesses. The Prosecution's decision not to adduce these documents or to call these witnesses had not been taken with an ulterior motive.

***Sentence***

7 We note that, in oral submissions, the appellant stated that he was now not appealing against sentence. In any event, we agree with the decision of the trial judge to sentence the appellant to a global imprisonment term of 25 years. In view of the fact that the appellant was convicted of two offences of statutory rape and five offences of sexual penetration of a minor under 14 years of age, the global imprisonment term cannot be considered to be excessive. In particular, the trial judge was acutely aware of the offence-specific aggravating factors in the present case. The appellant, who was then in his early fifties, had exploited his position as the victim's coach and mentor and carried out these heinous acts against her, a vulnerable victim. The offences were premeditated by the appellant who had sexually groomed the victim and thereafter escalated his acts to sexual penetration of the victim, and then rape of the victim.

8 The trial judge, in coming to his decision, sentenced the appellant to 14 years' imprisonment for each offence of statutory rape and 11 years' imprisonment for each offence of sexual penetration of a minor under 14 years of age. Having regard to this court's decision in *Pram Nair v Public Prosecutor* [2017] 2 SLR 1015, the trial judge also set out his sentencing approach for the offences of sexual penetration of a minor under 14 years of age punishable under s 376A(3) of the Penal Code.

9 In view of the fact that the global imprisonment term of 25 years imposed on the appellant is amply justified in this case, it is unnecessary in the present appeal for us to comment on the trial judge's sentencing approach for the offences of sexual penetration of a minor under 14 years of age. We thus do not make any comments on the general sentencing approach for offences of sexual penetration of a minor under 14 years of age punishable under s 376A(3)

of the Penal Code. To be clear, we are also making no comment on the appropriate sentencing approach with respect to different types of sexual penetration, apart from digital penetration of the vagina. We are of the view that the result of imposing on the appellant a global imprisonment term of 25 years would have been arrived at regardless of whether the trial judge's sentencing approach for the offences of sexual penetration was adopted or not. We shall thus leave the issue of the appropriate sentencing approach for an offence of sexual penetration, or of a specific type of sexual penetration, of a minor under 14 years of age punishable under s 376A(3) of the Penal Code to be decided on another occasion as and when necessary.

**Conclusion**

10 In conclusion, we find no basis to disturb the trial judge's conviction of the appellant of the two charges for rape of a minor under 14 years of age and five charges for sexual penetration of a minor under 14 years of age and his appeal against conviction is dismissed. We also find no basis to disturb the trial judge's decision to sentence the appellant to a global imprisonment term of 25 years.

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| Andrew Phang Boon Leong | Judith Prakash | Steven Chong |
| Judge of Appeal | Judge of Appeal | Judge of Appeal |

Peter Keith Fernando, Kavita Pandey and Renuga Devi (Leo Fernando LLC) for the appellant;
David Khoo and Winston Man (Attorney-General's Chambers) for the respondent.

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