IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2025] SGCA 48

Court of Appeal / Criminal Appeal No 21 of 2024

Between

Public Prosecutor

… *Appellant*

And

Mark Kalaivanan s/o Tamilarasan

… *Respondent*

GROUNDS OF DECISION

[Criminal Procedure and Sentencing — Sentencing — Principles — Discretion to impose imprisonment in lieu of caning]

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Public Prosecutor
v
Mark Kalaivanan s/o Tamilarasan

[2025] SGCA 48

Court of Appeal — Criminal Appeal No 21 of 2024
Tay Yong Kwang JCA, Steven Chong JCA and Debbie Ong Siew Ling JAD
10 September 2025

13 October 2025

Tay Yong Kwang JCA (delivering the grounds of decision of the court):

Introduction

1 The respondent, Mr Mark Kalaivanan s/o Tamilarasan, was convicted on a charge of aggravated sexual assault by penetration and three other related charges. He was originally sentenced to preventive detention ("PD") for 18 years and to the mandatory minimum of 12 strokes of the cane by a Judge of the High Court ("Judge"). The PD was not backdated but took effect on the date of sentence on 7 August 2023.

2 The respondent appealed against his sentence. On 9 September 2024, this Court varied the sentence by increasing the PD from 18 years to the maximum 20 years. However, we also backdated the PD to commence from the date of arrest on 15 July 2017. We noted that we were actually imposing a sentence that was more favourable to the respondent because the backdating

resulted in the PD period being shortened to less than 13 years after taking into account the period of remand pending trial. We upheld the sentence of 12 strokes of the cane.

3 After the appeal, it transpired that the respondent had been certified to be medically unfit for caning before the appeal was heard. The respondent had multiple medical issues, including cervical spondylosis. Pursuant to s 332 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC"), a further hearing was fixed before the Judge for him to decide whether to remit the caning fully or to impose a term of imprisonment in place of the caning.

4 At the further hearing, the Prosecution asked that an additional imprisonment term of six months be imposed by the court in place of the caning. The Judge declined to do so. Instead, he remitted the sentence of caning in full. The Judge's grounds of decision are in *Public Prosecutor v Mark Kalaivanan s/o Tamilarasan* [2025] SGHC 89 ("*Caning GD*"). The Prosecution appealed against this decision.

5 We heard the Prosecution's appeal on 10 September 2025 and dismissed it. We now set out the reasons for our decision.

Background

6 The respondent is a Singaporean male. He was 38 years old at the time he committed the offences set out in the charges.

7 The offences took place on 15 July 2017. The respondent was at the front door of a flat that was not locked. He let himself into the flat and saw a woman ("V") ironing clothes in her bedroom. The respondent falsely identified himself as a police officer and asked for V's passport, work permit and money.

V tried to phone her employer but the respondent snatched her mobile phone away. He then molested V. Next, he pulled V into the toilet and threatened to hit her. He made her sit on the toilet bowl and inserted his penis into her mouth without her consent.

8 The respondent was convicted by the Judge after trial on the following four charges under the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code"):

S/N	Offence	Description
1	s 376(1)(*a*) punishable under s 376(4)(*a*)(ii) of the Penal Code	Aggravated sexual assault by penetration by penetrating V's mouth with his penis
2	s 451 of the Penal Code	House-trespass to commit sexual assault by penetration
3	s 354(1) of the Penal Code	Outrage of modesty by grabbing V's left breast and touching her right thigh
4	s 170 of the Penal Code	Impersonating a police officer and instructing V to hand over her passport and work permit

Under s 376(4) of the Penal Code, the first charge of aggravated sexual assault by penetration (the "aggravated SAP charge") carried a mandatory minimum sentence of 8 years' imprisonment and 12 strokes of the cane.

9 At the time he committed these offences, the respondent already had many antecedents involving serious crimes. These antecedents included a prior conviction in 2003 on one charge of aggravated rape and two charges of abetting by intentionally aiding aggravated rape. In that case, he was sentenced to a total of 16 years' imprisonment and 24 strokes of the cane: see *Public Prosecutor v Mark Kalaivanan s/o Tamilarasan* [2024] SGHC 73 ("*Trial GD*") at [89].

10 The Judge decided that this was a suitable case to impose the maximum PD term of 20 years: *Trial GD* at [109]. The Judge did not backdate the PD. However, he considered it appropriate to reduce the PD period by two years to account for the fact that the respondent had already spent six years in remand at the time of sentencing: *Trial GD* at [114]. Finally, the Judge also sentenced the respondent to 12 strokes of the cane, as mandated by s 376(4) of the Penal Code: *Trial GD* at [115].

11 On 9 September 2024, we heard the respondent's appeal against the sentence imposed by the Judge. We made some variations to the sentence imposed, by (a) increasing the period of PD to the maximum of 20 years, and (b) giving full effect to s 318(3) of the CPC by backdating the PD to 15 July 2017, the date of the respondent's arrest. We also ordered the sentence of 12 strokes of the cane to stand.

Decision of the High Court

12 Subsequently, after the appeal, the Prosecution became aware that the respondent had been certified to be unfit for caning. As mentioned earlier, a hearing was fixed before the Judge pursuant to s 332 of the CPC to decide whether to remit the sentence of caning in full or to impose a term of imprisonment in place of caning.

13 The Prosecution submitted that an additional term of six months' imprisonment was necessary to compensate for the deterrent and retributive effect that was lost as a result of the respondent's exemption from caning. The Prosecution relied on the following factors: (a) the gravity of the aggravated SAP charge; (b) the respondent's recalcitrant behaviour; and (c) the harm done to V.

14 The Judge disagreed with the Prosecution. He highlighted that the respondent was exempted from caning on medical grounds. This meant that the respondent would not have known at the outset that he could not be caned. An additional imprisonment term was therefore not needed to replace the lost deterrent effect of caning in this case: *Caning GD* at [42]. Further, the marginal retributive value of an additional six months' imprisonment would not be effective in replacing the lost retributive effect of the 12 strokes of the cane in the light of the length of the PD imposed: *Caning GD* at [50]. The Judge therefore exercised his discretion under s 332(2)(*a*) of the CPC to remit the sentence of caning in full by not imposing the additional term of imprisonment sought by the Prosecution.

The parties' arguments on appeal

15 The Prosecution appealed against the Judge's decision on the grounds that it was wrong in principle and/or that the sentence imposed was manifestly inadequate. The Prosecution contended that, despite the unexpected cause of the exemption from caning, an additional imprisonment term was necessary to address the need for specific deterrence. It relied on the following factors:

(a) The respondent's criminal history, which revealed a predilection for using violence in the commission of serious sexual offences, as evidenced by his previous conviction for aggravated rape in 2003.

(b) The respondent returned to his criminal ways merely two years after he was released from prison in 2014.

(c) The respondent was also completely unremorseful throughout the course of the proceedings as he continued to deny committing any offences against V.

(d) The preventive detention suitability reports stated that the respondent was at a high risk of criminal re-offending. Specifically, his risk of sexual violence re-offending was assessed to be high.

16 The Prosecution also submitted that an additional imprisonment term would be effective in replacing the lost deterrent and retributive effect of caning, notwithstanding the lengthy term of PD ordered. The Prosecution pointed out that the Court of Appeal had imposed imprisonment in place of caning in a case involving a lengthy imprisonment term: *Isham bin Kayubi v Public Prosecutor* [2021] SGCA 22 ("*Isham bin Kayubi*").

17 During the hearing, we pointed out to the Prosecution that there was an anterior question regarding the court's power to impose an additional imprisonment term where an offender was sentenced to undergo PD. The Prosecution argued that the court's power could be derived from s 332(2)(*b*) of the CPC, which permitted the court to impose imprisonment in place of caning "in addition to any other punishment to which the offender has been sentenced". Further, the Prosecution contended that an additional term of imprisonment could be imposed even if this meant that the respondent would be incarcerated for a period in excess of 20 years (see s 332(3) of the CPC).

18 The respondent sought to uphold the Judge's decision not to impose an additional term of imprisonment. He raised the following arguments:

(a) There was no lost deterrent effect given that the respondent's exemption from caning was on medical grounds.

(b) There was little to no marginal deterrent value of an additional imprisonment term in the light of the very long term of PD. The additional imprisonment term and the PD would be longer than what the

respondent would have received had he been sentenced to imprisonment instead of PD.

(c) Similarly, given that PD already embodied a severe form of punishment, an additional term of imprisonment would not enhance materially the retributive effect of the respondent's sentence.

Issues to be determined

19 Three questions arose for our determination:

(a) First, does the court have the power to impose imprisonment in place of caning when an offender is sentenced to PD?

(b) Second, if the court has the power to do so, can the court impose additional imprisonment if the aggregate term of imprisonment and PD would exceed the statutory maximum of 20 years for PD?

(c) Third, if the court has such power, should the court impose additional imprisonment in the circumstances of the present case?

Our decision

Preventive detention replaces all sentences of imprisonment, including imprisonment in place of caning

20 There does not appear to be any case authority on the issue of whether imprisonment in place of caning can be imposed where the court sentences the offender to PD. The parties were content to proceed on the basis that it was permissible to impose both sentences consecutively.

21 The starting point is to consider the language used in s 332 of the CPC which reads:

> **Procedure if punishment cannot be inflicted under section 331**
>
> **332.**—(1) Where a sentence of caning is wholly or partially prevented from being carried out under section 331, the offender must be kept in custody until the court that passed the sentence can revise it.
>
> (2) Subject to any other written law, that court may —
>
> (*a*) remit the sentence; or
>
> (*b*) sentence the offender instead of caning, or instead of as much of the sentence of caning as was not carried out, to imprisonment of not more than 12 months, which may be in addition to any other punishment to which the offender has been sentenced for the offence or offences in respect of which the court has imposed caning (referred to in this section as the relevant offences).
>
> (3) A court may impose a term of imprisonment under subsection 2(*b*) even though the aggregate of such term and the imprisonment term imposed for any of the relevant offences exceeds the maximum term of imprisonment prescribed for any of those offences.
>
> (4) A Magistrate's Court or District Court may impose a term of imprisonment under subsection (2)(*b*) even though the aggregate sentence of imprisonment (comprising the term of imprisonment imposed under subsection (2)(*b*) and the combined terms of imprisonment imposed by the court in respect of the relevant offences) exceeds the limits prescribed by section 306.
>
> (5) The power of a court to impose the additional term of imprisonment under subsection (2)(*b*) does not apply in relation to any offence which is committed before 2 January 2011.

22 Section 331 of the CPC, which is referred to in s 332, states that caning may be inflicted only if a medical officer is present and certifies that the offender is in a fit state of health to undergo such punishment. If, during the execution of caning, the medical officer certifies that the offender is not in a fit state of health to undergo the rest of the caning, the caning must stop.

23 Reading s 332(2)(*b*) by itself would suggest that there is no impediment to the imposition of an additional term of imprisonment in place of caning even where an offender is sentenced to PD. This is because the provision states that the additional imprisonment term "may be in addition to any other punishment to which the offender has been sentenced". The words "any other punishment" would include a sentence of PD.

24 During the parliamentary debates, the Minister for Law explained that the rationale for granting the court a discretion to impose imprisonment in place of caning was to ensure that there was parity between co-accused persons, where one may be caned and the other may not: see Singapore Parl Debates; Vol 87; Sitting No 3; Col 422; 18 May 2010 (Mr K Shanmugam, Minister for Law); see also *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 ("*Amin bin Abdullah*") at [10]. There was no indication whether this applies only to sentences of imprisonment or whether it extends to PD as well.

25 However, we must also consider s 304(2) of the CPC which sets out the conditions for ordering PD. Section 304(2) is set out below:

> **Corrective training and preventive detention**
>
> …
>
> (2) Where a person of the age of 30 years or above —
>
> (*a*) is convicted before the General Division of the High Court or a District Court of an offence punishable with imprisonment for 2 years or more, and has been convicted in Singapore or elsewhere at least 3 times since he or she reached 16 years of age for offences punishable with such a sentence, and was on at least 2 of those occasions sentenced to imprisonment or corrective training; or
>
> (*b*) is convicted at one trial before the General Division of the High Court or a District Court of 3 or more distinct offences punishable with

> imprisonment for 2 years or more, and has been convicted and sentenced in Singapore or elsewhere to imprisonment for at least one month since he or she reached 16 years of age for an offence punishable with imprisonment for 2 years or more,
>
> then, if the court is satisfied that it is expedient for the protection of the public that the person should be detained in custody for a substantial period of time, followed by a period of supervision if released before the expiration of his or her sentence, the court, unless it has special reasons for not doing so, must sentence him or her to preventive detention for a period of 7 to 20 years in lieu of any sentence of imprisonment, or any sentence of imprisonment and fine.

26 Section 304(2) of the CPC provides that PD is "in lieu of any sentence of imprisonment". In other words, PD replaces any sentence of imprisonment that could have been ordered by the court.

27 It is well-established that PD and imprisonment are distinct sentences which are underpinned by different objectives and rationales: see *Public Prosecutor v Wong Wing Hung* [1999] 3 SLR(R) 304 at [10]; *Public Prosecutor v Perumal s/o Suppiah* [2000] 2 SLR(R) 145 ("*Perumal s/o Suppiah*") at [38]. While a sentence of imprisonment reflects the traditional objectives of prevention, deterrence, rehabilitation and retribution, PD is intended to protect the public from an offender who has been shown to be a menace to society: see *Perumal s/o Suppiah* at [38]; *Kua Hoon Chua v Public Prosecutor* [1995] 2 SLR(R) 1 at [7]. In similar vein, the court in *Public Prosecutor v Raffi bin Jelan and another* [2004] SGHC 120 at [24]–[25] had this to say about the PD regime:

> [24] It is clear from the statutory scheme in the [CPC] that a sentence of preventive detention is an extreme measure that is prescribed for certain classes of habitual offenders and/or potential recidivists who are viewed as being beyond the reach of conventional sentencing and its underlying *raison d'être*. Preventive detention has a wholly different penological objective. The rationale for preventive sentencing is preventive

> control that extends beyond the parameters of conventional sentencing which requires the sentence to fit the crime. The overwhelming consideration is whether the court is satisfied in the circumstances that it is 'expedient for the protection of the public' that an offender be incarcerated for a protracted period. If the court forms the view that such a repeat offender by virtue of his propensity to offend may yet again do so if unchecked, there would be a compelling case for the imposition of a sentence of preventive detention. Such an offender by reason of his past conduct and anticipated future conduct will be viewed as having forfeited his right to be accorded the considerations and attributes peculiar to conventional sentencing.
>
> [25] The goal of preventive detention is primarily to ensure that in instances where there is an appreciable and justifiable concern that a dangerous offender will commit an offence again, he ought not to be 'afforded even the slightest opportunity to give sway to his criminal tendencies again': *Tan Ngin Hai v Public Prosecutor* [2001] 3 SLR 161 at [8]. Criminals who repeatedly eschew the norms of civilised behaviour cannot complain if harsh measures are taken to isolate them.

28 In our view, there are two safeguards for the imposition of PD under s 304(2) of the CPC. The first safeguard is that the court can impose PD for a maximum duration of 20 years. The second safeguard is that only one sentence of PD may be imposed at one trial in respect of all the charges faced by an accused person: see *Yusoff bin Hassan v Public Prosecutor* [1992] 2 SLR(R) 160 ("*Yusoff bin Hassan*") at [8] and [11]; *Public Prosecutor v Rahim bin Basron* [2010] 3 SLR 278 at [57]. Consecutive terms of PD may only be imposed at separate trials: see *Nicholas Kenneth v Public Prosecutor* [2003] 1 SLR(R) 80 at [26].

29 With these considerations in mind, we hold the view that the court does not have the power to impose an additional term of imprisonment in place of caning where an offender who is sentenced to PD and caning cannot be caned for any of the reasons provided by law. First, the plain language of s 304(2) of the CPC does not draw a distinction between sentences of ordinary imprisonment and sentences of additional imprisonment imposed in place of

caning. The use of the phrase "in lieu of any sentence of imprisonment" makes it clear that all sentences of imprisonment would be subsumed in a sentence of PD. As the court in *Yusoff bin Hassan* stated (at [11]), PD is meant to "supplant" the aggregate sentence of imprisonment which the court would otherwise have imposed.

30 Second, we acknowledge that the use of the phrase "which may be in addition to any other punishment" s 332(2)(*b*) of the CPC is broad enough to suggest that the court may impose additional imprisonment in place of caning on an offender sentenced to PD. However, the court's power is also constrained by the opening words "Subject to any other written law". In our view, the words in s 304(2) of the CPC stating that PD is "in lieu of any sentence of imprisonment" encompass both ordinary imprisonment under any written law and additional imprisonment that may be ordered under s 332(2)(*b*). Accordingly, s 304(2) constrains the meaning of the words "any other punishment" in s 332(2)(*b*) by excluding additional imprisonment in place of caning for an offender who is sentenced to undergo PD.

31 Rule 31(2) of the Criminal Procedure Code (Corrective Training and Preventive Detention) Regulations 2010 (the "PD Regulations") provides that if a person is sentenced to imprisonment while released on licence, "any period for which he is imprisoned under that sentence shall count as part of the period for which he is liable to detention under the original sentence [of PD]". The effect of r 31(2) is that all sentences of imprisonment imposed at a subsequent trial would have to run concurrently with the remainder of the PD period. As stated in Kow Keng Siong, *Sentencing Principles in Singapore* (2nd Ed, Academy Publishing, 2019) at para 27.278:

> If an offender is sentenced to preventive detention and there are outstanding charges against him for other offences, for which

> he is sentenced to a term of imprisonment, it has been held that the sentence of imprisonment must be concurrent with the sentence of preventive detention. It cannot take effect at the conclusion of the preventive detention …

If a person's imprisonment for subsequent offences must be concurrent with his existing PD, it seems logical that any additional imprisonment term in place of caning arising from the charges which are the subject of the PD should also count as part of the PD period. Any such additional imprisonment would therefore be subsumed within the PD period.

32 As a practical observation, it seems odd that an offender undergoing PD should be made to undergo imprisonment after the conclusion of the PD period. Under the PD Regulations, an offender will become eligible for release on licence after serving a substantial portion of his sentence in prison (rr 25(1) and 25(2)). The Minister for Home Affairs may release the offender on licence after taking into account the interests of the protection of the public as well as the character, conduct and prospects of that person (r 27(1)). If he is released on licence, it seems odd that he would thereafter be required to serve imprisonment upon the completion of PD.

The aggregate period of incarceration cannot exceed 20 years where PD is ordered

33 The present case involves an offender who was sentenced to the statutory maximum of 20 years' PD. Even if additional imprisonment could be imposed in place of caning for PD cases, we hold that such additional imprisonment cannot result in the PD effectively exceeding the statutory maximum of 20 years.

34 Section 332(3) of the CPC permits the court to impose additional imprisonment in place of caning even though the aggregate sentence for any of

the relevant offences exceeds the maximum term of imprisonment prescribed for any of those offences. However, s 332(3) uses the words "maximum term of imprisonment". There is no indication that "imprisonment" here includes PD or that the statutory maximum of 20 years for PD could also be exceeded, in practical effect if not literally, by aggregating any additional imprisonment in place of caning with the maximum period of PD already ordered.

35 The present CPC draws a distinction between imprisonment and PD. An example of this is s 318. Section 318(3) provides that the court may "direct that a sentence of imprisonment, corrective training or preventive detention is to take effect on a date earlier than the date the sentence is passed". Prior to the amendments made in 2018 by s 90 of the Criminal Justice Reform Act 2018 (Act 19 of 2018), s 318 referred only to a sentence of "imprisonment". On that basis, the Court of Appeal in *Public Prosecutor v Rosli bin Yassin* [2013] 2 SLR 831 ("*Rosli bin Yassin*") held that there was "no express statutory provision conferring on the court the discretion to take into account the time the accused has spent in remand in so far as a sentence of *preventive detention* is concerned" [emphasis in original]: *Rosli bin Yassin* at [17]. The Court of Appeal therefore decided that it could not backdate a sentence of PD although it would be permissible to sentence an offender to a shorter term of PD to take into account the time an offender had spent in remand: *Rosli bin Yassin* at [20].

36 A three-judge court in the General Division of the High Court had the opportunity in *Kamis bin Basir v Public Prosecutor* [2024] 3 SLR 1713 ("*Kamis bin Basir*") to revisit the above Court of Appeal decision after the 2018 amendments to the CPC. Given the express inclusion of the words "preventive detention" in the amended s 318(3), the court in *Kamis bin Basir* held that Parliament had "clearly intended that sentences of regular imprisonment,

corrective training and PD be treated in the same manner" in so far as the question of backdating the sentence was concerned: *Kamis bin Basir* at [40].

37 Unlike s 318(3), no such amendments were made to s 332(3). Section 332(3) only permits the court to exceed the maximum term of imprisonment prescribed for an offence by imposing additional imprisonment in place of caning. It does not authorise the same for the maximum term of PD.

38 It may be argued that 20 years' PD plus any additional imprisonment will not breach the statutory limit for PD because imprisonment is a different type of sentence. However, as explained earlier, one of the safeguards for PD is the statutory maximum of 20 years. The court in *Kamis bin Basir* highlighted (at [50]) that it would run counter to this statutory limit if a court were to refuse to backdate a sentence of preventive detention on the sole basis that an offender ought to be kept out of society for longer than 20 years. It could have been equally argued in *Kamis bin Basir* that the period of remand before the maximum period of PD is imposed is a different type of incarceration and there would therefore not be any breach of the statutory maximum for PD. In line with *Kamis bin Basir*, we hold that it would be equally inconsistent with the statutory maximum for PD to impose additional imprisonment in place of caning in a case where the maximum PD period has been ordered.

39 For these reasons, we hold that the court does not have the power to sentence the respondent, who has been sentenced to undergo PD, to additional imprisonment in place of caning. This is even more so where the statutory maximum PD period has been ordered.

In any event, it was neither necessary nor effective to impose imprisonment in lieu of caning in the present case

40 Having considered the legal issue whether the court can order additional imprisonment in place of caning for a case involving PD, we now discuss the factual issue whether the court should do so if it has the power. This involves the consideration whether additional imprisonment is necessary and/or effective to replace the lost deterrent and/or retributive effect of caning.

41 The starting point in law is that an offender's term of imprisonment should not be enhanced unless there are grounds to do so: *Amin bin Abdullah* at [58]. In determining whether such grounds exist, the court would consider whether an additional term of imprisonment is necessary and/or would be effective to replace the lost deterrent and/or retributive effect of caning that is lost by reason of the exemption: *Amin bin Abdullah* at [66]–[70]. Among other things, the court will have regard to the length of the original sentence that was imposed and the reason for the offender's exemption from caning: *Amin bin Abdullah* at [66]–[70].

42 With these principles in mind, we do not think that the additional six months' imprisonment sought by the Prosecution would have a significant retributive or deterrent effect on the respondent. This is because the sentence of 20 years' PD is a lengthy one and is sufficiently retributive and deterrent. We agree with the Judge that the marginal impact of an additional six months' imprisonment would be low: *Caning GD* at [50].

43 The Prosecution relied heavily on the Court of Appeal's decision in *Isham bin Kayubi* in submitting that a lengthy original sentence would not preclude the imposition of imprisonment in place of caning. *Isham bin Kayubi* was a case where the offender was sentenced to a total of 32 years'

imprisonment and 24 strokes of the cane for committing sexual offences. He was subsequently certified to be medically unfit for caning due to age-related spinal degeneration. He was later sentenced to an additional 12 months' imprisonment in place of the 24 strokes of the cane imposed. The Court of Appeal, in refusing to grant leave to the offender to file his appeal out of time, observed that while it was not generally necessary to enhance the sentences of offenders exempted from caning on medical grounds, this was not a categorical rule: *Isham bin Kayubi* at [24(b)]. The Court of Appeal further noted that the case before it was a "case sordid to its core" as the offender had raped and sexually penetrated two young girls under the threat of force and he had been convicted previously for a similar offence involving three young victims: *Isham bin Kayubi* at [24(a)].

44 The case of *Isham bin Kayubi* involved imprisonment and not PD but this is not an important distinction for the present purpose. As noted by the Judge in his *Caning GD* at [55], it was clear that the degree of harm in *Isham bin Kayubi* was greater than the present case which involved aggravated sexual assault by penetration of one adult victim. Where general deterrence is concerned, the respondent was exempted from caning on medical grounds: *Caning GD* at [42]. As for specific deterrence raised by the Prosecution in this appeal, a sentence would only serve the ends of specific deterrence if the offender in question is capable of being deterred: see *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 at [22]. If the 20 years' PD is not capable of reforming the respondent and deterring him from further offences, then another six months' imprisonment is not likely to have a meaningful impact.

45 Accordingly, even if we have the power to impose an additional term of imprisonment in place of caning, we do not consider it necessary on the facts in

this appeal. We therefore do not accept the Prosecution's contentions on this issue.

Conclusion

46 We dismissed the Prosecution's appeal for additional imprisonment of six months in place of caning because the law does not allow this to be done in a case involving PD. This is even more so where the statutory maximum of PD has been ordered. In any case, even if the law permits it, we do not consider it necessary to order such additional imprisonment on the facts of this appeal.

Tay Yong Kwang
Justice of the Court of Appeal

Steven Chong
Justice of the Court of Appeal

Debbie Ong Siew Ling
Judge of the Appellate Division

Eugene Lee and Sheldon Lim (Attorney-General's Chambers) for the appellant;
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