IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

[2025] SGHC 100

Criminal Case No 25 of 2025

Between

Public Prosecutor

And

Muhammad Isnalli David

GROUNDS OF DECISION

[Criminal Law — Offences — Rape]
[Criminal Procedure and Sentencing — Sentencing — Young offenders]

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Public Prosecutor
v
Muhammad Isnalli David

[2025] SGHC 100

General Division of the High Court — Criminal Case No 25 of 2025
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Aidan Xu @ Aedit Abdullah J:

1 The accused, a 22-year-old male Singaporean, pleaded guilty to one charge of penile-vaginal rape, an offence under s 375(1)(*a*) of the Penal Code 1871 (2020 Rev Ed) (the "Penal Code"). Under s 375(2) of the Penal Code, he was to be punished with imprisonment for a term which may extend to 20 years, and was also liable to fine or to caning. The accused also consented to three charges being taken into consideration for sentencing, which were as follows:

(a) one charge of criminal trespass under s 447 of the Penal Code (the accused's "first charge taken into consideration for sentencing");

(b) one charge of sexual assault involving penetration under s 376(2)(*a*) of the Penal Code, punishable under s 376(3) of the Penal Code (the accused's "second charge taken into consideration for sentencing"); and

(c) one charge of penile-vaginal rape under s 375(1)(*a*) of the Penal Code, punishable under s 375(2) of the Penal Code (the accused's "third charge taken into consideration for sentencing").

2 Having considered the arguments before me, I was satisfied that a sentence of 12.5 years' imprisonment and six strokes of the cane should be imposed on the accused. He has appealed against my decision on his sentence.

3 There were also two other male Singaporeans who were co-accused persons with the accused: one Raden Zulhusni bin Zulkifri ("Raden") and one Muhammad Al'Amin bin Selamat ("Al'Amin"). Raden chose to claim trial while Al'Amin pleaded guilty to his proceeded charge of penile-oral rape, an offence under s 375(1A)(*a*) of the Penal Code punishable under s 375(2) of the Penal Code. Al'Amin has not appealed against my decision on his sentence, *ie*, 10.5 years' imprisonment and 12 strokes of the cane.

Facts

4 The accused admitted to the statement of facts, which disclosed the circumstances of the offence.

5 On 27 March 2022 at about 4.00pm, the victim, a female Singaporean who was then 16 years old,[1] met her friend ("A1") and the accused for a movie.[2] The accused was 19 years old at the time.[3] A1 was acquainted with the accused and this was the first time that the victim met the accused.[4]

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1 Statement of Facts dated 1 April 2025 ("SOF") at para 4.

2 SOF at para 5.

3 SOF at para 1.

4 SOF at para 5.

6 After the movie, the accused purchased a bottle of gin and six cans of "Redbull" and headed to Admiralty Park, 6A Admiralty Road, Singapore (the "park") with the victim and A1. At 8.00pm, they were joined by Raden, Al'Amin and a female Singaporean, one Nur Alia Syakirah binte Faizal ("Syakirah").[5] Raden, Al'Amin and Syakirah had not met the victim before.[6]

7 The group drank from the bottle of gin purchased by the accused earlier. At about 9.00pm, they were joined by another female Singaporean, who was friends with Syakirah. The victim drank a number of cups of gin mixed with "Red Bull" and became intoxicated. Meanwhile, the accused drank a few cups of gin and became intoxicated as well. Both Raden and Al'Amin also consumed alcoholic drinks.[7]

8 Subsequently, the victim felt the urge to vomit. The accused supported and helped her to a female toilet at the park (the "female toilet"). The victim leaned over at a sink located outside the female toilet as the accused supported her. The accused then dragged her left arm and they entered a cubicle (the "cubicle") in the female toilet at 9.43pm. The accused locked the door to the cubicle, which formed the accused's first charge taken into consideration for sentencing.[8]

9 In the cubicle, the accused pulled up the victim's crop top to expose her bra, pulled down her jeans to her ankles, then removed her jeans from one leg. The accused pulled down her underwear to her ankles as well. He also removed his jeans and boxers. He placed the cover of the toilet seat down and sat on it.

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5 SOF at para 6.

6 SOF at para 6.

7 SOF at para 7.

8 SOF at para 8.

The victim was standing and facing him at the same time. He inserted his finger into the victim's vagina without her consent, which formed his second charge taken into consideration for sentencing.[9]

10 Shortly after, the accused changed their positions. The victim sat on the toilet seat while he stood in front of her. He lowered himself while facing her and penetrated her vagina with his penis without her consent (on the first occasion).[10]

11 Meanwhile, Raden and Al'Amin went to the female toilet. Al'Amin entered the female toilet at about 9.51pm and entered another cubicle next to the cubicle which the accused and the victim were in. At about 9.53pm, Raden entered the female toilet. Raden and Al'Amin saw the accused penetrate the victim's vagina. A 52-second video was taken of this.[11]

12 The accused then switched their positions. He sat down on the toilet seat and placed the victim on his lap. Both of them were facing the door of the cubicle at the time. He penetrated the victim's vagina with his penis again, without her consent, for a while. This was the subject of his third charge taken into consideration for sentencing.[12]

13 Subsequently, Raden and Al'Amin entered the cubicle and conducted sexual penetrative acts against the victim. After Raden and Al'Amin left the cubicle and the female toilet, the accused penetrated the victim's vagina with his penis without her consent, for the third time. He stopped after a while and

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9 SOF at para 9.

10 SOF at para 10.

11 SOF at para 11.

12 SOF at para 12.

helped both of them get dressed. They left the female toilet at 10.17pm. During the sexual assault by the accused, Raden and Al'Amin, the victim muttered "don't" and "no" in Malay a few times. The accused knew that the victim was intoxicated and he did not use a condom when penetrating the victim's vagina with his penis.[13]

14 The accused was released on a Reformative Training supervision order from 24 November 2021 to 20 November 2023 and was on e-tagging at the material time. He was convicted on 21 December 2019 for the offences of rioting, impersonating a public servant and theft with common intention, and sentenced to Reformative Training.[14]

15 The accused was arrested on 29 March 2022 and was remanded up till the proceedings before me. As a result of the commission of the present offence, he was issued a recall order which took effect on 30 March 2022.[15]

The Prosecution's submissions

16 The Prosecution argued for a sentence of 12 to 13 years' imprisonment and 12 strokes of the cane.[16]

17 The Prosecution submitted that the dominant sentencing considerations were deterrence and retribution.[17] The accused was 19 years old at the time of the offence and 22 years old when he pleaded guilty to the charge. As he was

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13 SOF at paras 13–17.

14 SOF at para 23.

15 SOF at para 24.

16 Prosecution's Sentencing Submissions dated 1 April 2025 ("PSS") at para 1(a).

17 PSS at para 2.

below 21 years old when he committed the offence, the retrospective rationale that justified rehabilitation continued to be relevant while the prospective rationale would not apply to him as strongly, if at all (*A Karthik v Public Prosecutor* [2018] 5 SLR 1289 ("*A Karthik*") at [45]).[18]

18 The Prosecution submitted that even if rehabilitation were presumed as the dominant sentencing consideration given the accused's young age (*A Karthik* at [33]), the two-stage sentencing inquiry in *Public Prosecutor v Koh Wen Jie Boaz* [2016] 1 SLR 334 ("*Boaz Koh*") would still apply such that deterrence and rehabilitation have eclipsed rehabilitation as the dominant sentencing considerations. The inquiry is as follows (at [28]):[19]

(a) First, the court must identify and prioritise the primary sentencing consideration(s) appropriate to the youth in question having regard to all the circumstances including those of the offence; and

(b) Second, the court must select the appropriate sentence that would best meet those sentencing considerations and the priority that the court has placed upon the relevant ones.

19 Following *Boaz Koh*, while rehabilitation is generally the main sentencing consideration for young offenders (*vis-à-vis* the first stage), it is neither singular nor unyielding. Deterrence and retribution can eclipse rehabilitation where: (a) the offence is serious; (b) the harm caused is severe; (c) the offender is hardened and recalcitrant; or (d) the conditions do not exist to make rehabilitative sentencing options such as probation or reformative

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18 PSS at para 3.

19 PSS at paras 3–4.

training viable (*Boaz Koh* at [30]). This applied in the present case as it involved a serious offence and severe harm was caused to the victim.[20] The dominant sentencing considerations for serious sexual offences, such as rape, are retribution, public protection and general deterrence (*Chang Kar Meng v Public Prosecutor* [2017] 2 SLR 68 at [35]).[21]

20 In the present case, the accused was the main perpetrator of a group sexual assault against a 16-year-old victim who was intoxicated.[22] The victim suffered severe harm, including psychological and emotional trauma, and a draconian sentence which primarily encapsulated retribution and deterrence was ineluctably required and would invariably be meted out to an offender like the accused (*Public Prosecutor v V Murusegan* [2005] SGHC 160 at [54]–[55]).[23] The victim's relationships with her grandmother and brother also deteriorated as they blamed her for the incident. Further, she found it hard to trust men after the incident.[24] Therefore, rehabilitation was displaced by deterrence and retribution as the dominant sentencing considerations.[25]

21 As for the appropriate custodial sentence to be imposed, the Prosecution relied on the two-step sentencing framework for the offence of penile-vaginal rape under s 375 of the Penal Code, as laid out in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*"). Under the *Terence Ng*

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20 PSS at para 5.

21 PSS at para 6.

22 PSS at para 7.

23 PSS at para 8.

24 PSS at para 9 and pp 21–33.

25 PSS at para 10.

sentencing framework, the court must embark on the following two stages of the inquiry:[26]

> (a) First, the court must identify which band the offence falls within, having regard to the offence-specific factors (*ie,* factors related to the manner and mode by which the offence was committed, and the harm caused to the victim). After which, the court must derive an indicative starting point by determining precisely where the present offence falls within that range. The indicative starting point would reflect the intrinsic seriousness of the offending act (*Terence Ng* at [39(a)] and [42]). Three distinct sentencing bands for an offender who claimed trial were identified as follows (*Terence Ng* at [50], [53] and [57]):

Sentencing Band	**Description**
Band One: ten to 13 years' imprisonment, six strokes of the cane	Cases at the lower end of the spectrum of seriousness. Such cases would feature no offence-specific aggravating factors or where the factor(s) were only present to a very limited extent.
Band Two: 13 to 17 years' imprisonment, 12 strokes of the cane	Cases of rape of a higher level of seriousness. Such cases would usually contain two or more offence-specific aggravating factors.
Band Three: 17 to 20 years' imprisonment, 18 strokes of the cane	Extremely serious cases of rape owing to the number and intensity of offence-specific aggravating factors.

[26] PSS at para 11.

(b) Second, the court must have regard to the offender-specific factors (*ie*, the aggravating and mitigating factors personal to the offender) to calibrate the appropriate sentence for the offender (*Terence Ng* at [39(b)] and [62]).

22 The Prosecution argued that, firstly, the present case involved the offence-specific aggravating factors of there being a group rape perpetuated mainly by the accused, a victim who was intoxicated and thus vulnerable, the accused's failure to use a condom which exposed the victim to the risk of sexually transmitted diseases and pregnancy, and the harm occasioned to the victim.[27] Thus, the case would fall within the low to middle range of Band Two of the *Terence Ng* sentencing framework which would result in an indicative starting point of 14 to 15 years' imprisonment and 12 strokes of the cane.[28]

23 Secondly, the Prosecution considered the offender-specific aggravating factors, namely: the accused's three charges taken into consideration for sentencing, his voluntary intoxication when committing the offences, and that he was on a Reformative Training supervision order and e-tagging at the time of the offence.[29] The Prosecution balanced these against the accused's youth at the material time, and arrived at a sentence of 15 to 16 years' imprisonment and 12 strokes of the cane.[30] As more than 12 weeks had elapsed between the date the Prosecution was ready with its position and the date that the accused indicated that he would plead guilty, only a 20% discount applied, in accordance with the Sentencing Advisory Panel's Guidelines on Reduction in Sentence for

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27 PSS at paras 12 and 14–18.

28 PSS at paras 13 and 19.

29 PSS at para 21.

30 PSS at para 22.

Guilty Pleas (the "Sentencing Guidelines").[31] Therefore, the Prosecution submitted for a sentence of 12 to 13 years' imprisonment and 12 strokes of the cane,[32] backdated to the accused's remand period after the recall period for his Reformative Training (for unrelated offences) ended (*ie*, 20 November 2022).[33]

The Defence's submissions

24 The Defence submitted for a sentence of seven years' imprisonment and not more than four strokes of the cane.[34] The Defence argued that the accused was a youthful offender and similarly took guidance from *Boaz Koh* (cited above at [18]–[19]).[35] The Defence conceded that rehabilitation had been displaced by deterrence and retribution as the dominant sentencing considerations as the offence was a serious one. However, the Defence submitted that the offence and the accused's conduct were not to the point that rehabilitation was no longer possible.[36]

25 The Defence also cited the *Terence Ng* sentencing framework (above at [21]). In relation to the first stage of the *Terence Ng* sentencing framework, the Defence argued that the present offence fell within the lowest band, *ie*, Band One, for the following reasons.[37]

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31 PSS at paras 20 and 23.

32 PSS at para 23.

33 PSS at para 36(b).

34 Defence's Sentencing Submissions and Mitigation dated 27 March 2025 ("DSS") at para 3.

35 DSS at paras 5–6.

36 DSS at para 7.

37 DSS at paras 9–10.

26 Firstly, despite the involvement of other accused persons, the offence should not be considered as a group rape, following *Public Prosecutor v GHW* [2023] SGDC 155 ("*GHW*") where the court found that there was no group rape on the facts. In *GHW*, the offender was the only perpetuator of the assault and the accomplice only assisted to carry the victim on his own volition and not on the offender's request.[38] Likewise, the accused in the present case had been alone with the victim before Raden and Al'Amin entered the female toilet. The accused had in fact stopped and / or paused the act of penetration when Al'Amin entered the cubicle.[39] Secondly, the victim was not forced or coerced to consume alcohol.[40]

27 As for the second stage of the *Terence Ng* sentencing framework, the Defence submitted that the sentence should also be calibrated downwards given the accused's young age and his plea of guilt.[41] This would be consistent with the approach taken by the court in *GHW*, *Public Prosecutor v Ridhaudin Ridhwan bin Bakri and others* [2020] 4 SLR 790 (and *Public Prosecutor v Ridhaudin Ridhwan bin Bakri and others* [2019] SGHC 105), and *See Li Quan Mendel v Public Prosecutor* [2020] 2 SLR 630.[42] Further, the court would not be bound to increase a sentence merely because there were charges taken into consideration for sentencing (*Public Prosecutor v UI* [2008] 4 SLR(R) 500 at [36]–[38]).[43] Additionally, there were other mitigating factors in the accused's

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38 DSS at para 10.1.

39 DSS at para 10.2.

40 DSS at para 10.3.

41 DSS at para 11.

42 DSS at paras 11–12.

43 DSS at paras 14–15.

favour, such as that he was a young person who expressed plans for furthering his education and had come from a broken family.[44]

My decision on sentence

28 In imposing a sentence of 12.5 years' imprisonment and 12 strokes of the cane, I found that rehabilitation, which is a sentencing consideration usually applicable to youthful offenders, did not apply to the accused. Instead, retribution and deterrence had displaced rehabilitation as the dominant sentencing considerations given the seriousness of the offence.

29 Further, the custodial sentence imposed on the accused should be a heavy one given the perpetuation of an opportunistic multiple assault, the vulnerable state of the victim, and the accused's failure to use a condom. The offender-specific mitigating factors, which only consisted of his plea of guilt, would reduce his sentence by 20%; however, these were counterbalanced by his antecedents, state of intoxication at the material time, and three charges taken into consideration for sentencing.

Sentencing considerations

30 The parties were not in dispute that deterrence and retribution had displaced rehabilitation as the dominant sentencing considerations in the present case. I agreed with the parties' position as well as their reliance on *Boaz Koh*, which, in my view, set out the applicable principles in sentencing youthful offenders: while rehabilitation is generally the main sentencing object for youthful offenders, it can be eclipsed by deterrence and retribution in some

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44 DSS at para 17.

circumstances, including where the offence is serious or the harm caused is severe (*Boaz Koh* at [30]) (reproduced partly above at [18]–[19]).

31 In the present case, I was satisfied that the applicable sentencing objectives were retribution and deterrence. Rehabilitation had been largely displaced as a sentencing consideration by the seriousness of the offence. There were no exceptional circumstances justifying a departure from a custodial sentence. The arguments which set great store on the youth of the accused were plainly misplaced. The law is clear that youth or immaturity cannot excuse or lessen the imperative to severely punish such heinous crimes violating the sanctity of the person of the victim. Rehabilitation may be a significant consideration for youthful offenders where property offences or bodily injury are committed, but cannot be a substantial object where rape of this nature is concerned. In the absence of exceptional circumstances, the gravity of the offence requires a harsh sentence regardless of the age or immaturity of the perpetuator.

32 For completeness, I took note of *Public Prosecutor v CPS* [2024] 2 SLR 749 ("*CPS*"), which was understandably not cited by the parties as they agreed that rehabilitation would be displaced as the dominant sentencing consideration (above at [20] and [24]). It suffices for me to state that it was correctly taken by the parties here that rehabilitation would not be engaged given the circumstances of the rape here.

Terence Ng *sentencing framework*

33 The need for retribution and deterrence warranted the imposition of a custodial sentence. In calibrating a sentence and deciding what was condign, I applied the sentencing framework in *Terence Ng* (above at [21]) and found that the appropriate starting point was in the middle to the higher end of Band Two,

ie, about 15 years' imprisonment and 12 strokes of the cane. This was in view of several aggravating factors present, which formed the intrinsic seriousness of the offence: the opportunistic multiple assault, vulnerability of the victim and the accused's failure to use a condom.

34 Next, calibrating the sentence in view of his plea of guilt, antecedents, three charges taken into consideration for sentencing, and state of intoxication during the offence, I arrived at a sentence of 12.5 years' imprisonment and 12 strokes of the cane.

Intrinsic seriousness of the offence

35 I was satisfied that the intrinsic seriousness of the offence placed it in Band Two of the *Terence Ng* sentencing framework. I considered the factors which related to the manner and mode by which the offence was committed, and the harm caused to the victim. These were: (a) the opportunistic multiple assault; (b) the vulnerable state of the victim who was intoxicated; and (c) the accused's failure to use a condom.

(1) Opportunistic multiple assault

36 I first considered the fact that there was, what I had termed at the hearing, a cluster assault, meaning that there was an opportunistic successive assault by the accused, Raden and Al'Amin. I was unable to agree with the Defence's submissions that there was no "group rape" as the accused did not enable Raden and / or Al'Amin to join in the assault on the victim. The accused's rape of the victim created the opportunity for the other parties' assaults to take place. This did not require coordination as such, or common participation; such factors would have led to other charges being formulated. In *CPS* (at [35] (citing *Terence Ng* at [44(a)])), the Court of Appeal factored into consideration the

group element to the offence and endorsed the ruling in *Terence Ng* that offences which were committed by groups of persons, even if not the product of syndicated or planned action, are more serious. This is because, in the context of group rape, the trauma and sense of helplessness visited upon the victim as well as the degree of public disquiet generated increases exponentially.

37 The fact that the accused here started off the attack, as opposed to exploiting an existing situation, did not reduce his culpability. In assaulting the victim in the manner he did, the accused created the opportunity for others to take advantage of the victim. It could not be said that his acts were distinct and unrelated to the attacks by the other accused persons. Even if he did not know or could not have foreseen what the others would do, that was no excuse. It was enough that his actions started off a spiral of further assault on the victim.

38 I was of the view that the assault by all three individuals, including the accused, gave rise to the prolonged violation of the victim, which increased the overall harm caused by their collective criminal acts. From the admitted facts, the manner in which one assault after another was inflicted on the victim by different persons could only have demeaned and increased the sense of violation felt by the victim.

39 Further, as accurately noted by the Prosecution,[45] an opportunistic assault such as the one in the present case would go against the sense of public security that the law protects. A single assault by a single perpetuator is already bad enough, but assaults done one after another would further degrade the security and public peace and would thus warrant a heavy response by the law.

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[45] PSS at para 14.

40 A substantial uplift to the sentence was thus called for by this factor.

(2) Vulnerability of the victim

41 Secondly, the victim was vulnerable due to her state of intoxication at the time of the offence. This would have reduced her ability to resist and look after herself. The intoxication of a victim, and thus the victim's vulnerability, was considered as an aggravating factor in *CPS* (at [34]). Further, I did not accept the Defence's attempt to downplay this factor by highlighting that the victim was not forced or coerced to consume alcohol. As was held in *CPS* (at [34] (citing, as examples, *Public Prosecutor v BSR* [2020] 4 SLR 335 at [16] and *Public Prosecutor v Ong Soon Heng* [2018] SGHC 58 at [132])), the essence of a victim's vulnerability as an aggravating factor does not depend on whether the vulnerability was caused or contributed by the offender; it lies in the exploitation of that vulnerability. In the present case, the accused knew that the victim was intoxicated. He offered to support and bring her to the female toilet when she felt the urge to vomit but seized the opportunity to exploit her at her weakest. Accordingly, her vulnerability must feature as an aggravating factor.

(3) The accused's failure to use a condom

42 Thirdly, the accused failed to use a condom when he penetrated the victim's vagina, which exposed her to the risk of sexually transmitted diseases and pregnancy. This was likewise an aggravating factor that was considered by the Court of Appeal in *CPS* (at [39]).

43 I noted also that the Prosecution emphasised the severe harm suffered by the victim. The court, and indeed the Defence, did not downplay the harm suffered by the victim. However, I was of the view that the harm caused had

already been factored into the *Terence Ng* sentencing framework. Rape causes harm to all victims, affecting them psychologically in their daily lives and in their relationships. The *Terence Ng* sentencing framework has specified a sentencing response which takes into account such harm caused. What, then, the framework allows for is further increases to the custodial sentence because of severe harm which stretches beyond that, meriting additional punishment. Here, I was of the view that the harm suffered by the victim was already addressed by the heavy sentences which the *Terence Ng* sentencing framework already provided for.

44 Therefore, the appropriate starting point for the sentence would be in the middle to the higher end of Band Two, *ie*, about 15 years' imprisonment and 12 strokes of the cane.

Offender-specific factors

45 Lastly, as for the offender-specific factors, I agreed with the Prosecution that a 20% discount applied, following the Sentencing Guidelines at paragraph nine. However, this had to be weighed against the accused's antecedents, which indicated greater culpability and responsibility because of his continuing criminal behaviour (*Tan Kay Beng v Public Prosecutor* [2006] 4 SLR(R) 10 at [14]–[16]), his state of intoxication at the material time, and his three charges taken into consideration for sentencing. Ultimately, I adjusted the sentence slightly downwards from the starting point of 15 years' imprisonment and 12 strokes of the cane (above at [46]) and imposed a sentence of 12.5 years' imprisonment and six strokes of the cane.

Conclusion

46 In conclusion, the sentence imposed on the accused was 12.5 years' imprisonment and six strokes of the cane, with the term of imprisonment backdated to the date he completed his Reformative Training recall period whilst in remand, *ie*, 20 November 2022.

Aidan Xu
Judge of the High Court

Tay Jia En and Melissa Heng Yu Qing (Attorney-General's Chambers) for the Prosecution;
Sofia Bennita d/o Mohamed Bakhash (Phoenix Law Corporation) for the accused.