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

[2025] SGHC 117

Criminal Case No 48 of 2024

Between

Public Prosecutor

… *Prosecution*

And

CQW

… *Defendant*

GROUNDS OF DECISION

[Criminal Procedure and Sentencing — Statements — Voluntariness]
[Criminal Law — Offences — Sexual offences]

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v
CQW

[2025] SGHC 117

General Division of the High Court — Criminal Case No 48 of 2024
Mavis Chionh Sze Chyi J
10, 23–27, 30 September 2024, 2–6 December 2024, 26 February, 28 March 2025

30 June 2025

Mavis Chionh Sze Chyi J:

Introduction

1 The accused in this case (the "Accused") was charged with the rape and sexual assault of his stepdaughter (the "Complainant") over a period of seven months, when she was between 13 and 14 years of age. He claimed trial to the following eight charges, which involved offences allegedly committed between March and September 2021:

> **1st Charge**
>
> sometime between 4 September 2021 and 12 September 2021, at [address redacted] did penetrate with your penis the vagina of [the Complainant] (female, then 14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 375(1)(*a*), and punishable under s 375(2) of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code").

2nd Charge

sometime in March 2021, at [address redacted] did sexually penetrate, with your finger, the vagina of [the Complainant] (female, then 13 years old, D.O.B: 14 April 2007), a person below 14 years of age, without her consent, when you were in a relationship that is exploitative of her, and you have thereby committed an offence under s 376(2)(*a*), and punishable under s 376(4)(*c*) of the Penal Code.

3rd Charge

sometime between April and May 2021, at [address redacted] did penetrate with your penis the vagina of [the Complainant] (female, then 13-14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 375(1)(*a*), and punishable under s 375(2) of the Penal Code.

4th Charge

sometime between June and July 2021, at [address redacted] did penetrate with your penis the vagina of [the Complainant] (female, then 14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 375(1)(*a*), and punishable under s 375(2) of the Penal Code.

5th Charge

sometime in August 2021, on a first occasion, at [address redacted] did penetrate with your penis the vagina of [the Complainant] (female, then 14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 375(1)(*a*), and punishable under s 375(2) of the Penal Code.

6th Charge

sometime in August 2021, on a second occasion, at [address redacted] did penetrate with your penis the vagina of [the Complainant] (female, then 14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 375(1)(*a*), and punishable under s 375(2) of the Penal Code.

7th Charge

> sometime between 4 September 2021 and 12 September 2021, at [address redacted] did penetrate with your penis the mouth of [the Complainant] (female, then 14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 375(1A)(*a*), and punishable under s 375(2) of the Penal Code.
>
> **8th Charge**
>
> sometime between 4 September 2021 and 12 September 2021, at [address redacted] did sexually penetrate, with your finger, the vagina of [the Complainant] (female, then 14 years old, D.O.B: 14 April 2007), without her consent, and you have thereby committed an offence under s 376(2)(*a*), and punishable under s 376(3) of the Penal Code.

2 At the conclusion of the trial, I convicted the Accused of all the charges except for the 6th Charge. The seven charges on which I convicted the Accused consisted of four charges of penile-vaginal rape, one charge of penile-oral rape, one charge of exploitative sexual assault by digital vaginal penetration, and one charge of sexual assault by digital vaginal penetration. The Accused was sentenced to an aggregate imprisonment term of 25 years and a total of 24 strokes of the cane. As he has appealed against both conviction and sentence, I set out below the full grounds of my decision.

The undisputed facts

Background

3 The Accused is presently 31 years old. He got to know the Complainant's mother, [W], in 2017. Shortly thereafter, he embarked on a romantic relationship with [W]. Sometime at the end of 2017 or in 2018, the Accused moved into [W]'s one-room rental flat (the "Flat") to stay with [W] and the Complainant. The Complainant was one of [W]'s three children with her late husband, the other children being her two sons (collectively, the

"brothers"). [W]'s late husband (*ie*, the Complainant's biological father) passed away in 2006, prior to the Complainant being born in April 2007.[1]

4 In the Flat, the Accused and [W] would sleep on a queen-sized bed, whilst the Complainant would sleep on the floor next to them. The Complainant's brothers lived with their paternal grandmother at the latter's residence.[2]

5 The Accused married [W] in early 2020.[3] It was not disputed that the Accused and the Complainant developed a close and affectionate relationship.[4]

The alleged incidents

6 As I describe in greater detail below (at [37]), the eight offences of sexual assault and rape were allegedly carried out by the Accused in six distinct incidents between March and September 2021, when the Complainant was between 13 and 14 years of age. According to the Prosecution's case, the first incident took place sometime in March 2021, one month before the Complainant's 14th birthday. At the material time, the Accused was working as a delivery driver and had a flexible work schedule.[5] [W], on the other hand, was working as a nurse; and her schedule required her to work five-and-a-half days almost every week, including Saturday mornings.[6] All six incidents of sexual assault allegedly took place on days when [W] was out for work – usually on

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1 Agreed Bundle of Documents dated 5 September 2024 ("ABOD") at p 10, para 2.

2 ABOD at p 1, para 2; p 10, para 2.

3 ABOD at p 10, para 2.

4 27 Sep 2024 Transcript at p 5, lines 21–22; 4 Dec 2024 Transcript at p 35, lines 14–31.

5 3 Dec 2024 Transcript at p 46, lines 20–21.

6 5 Dec 2024 Transcript at p 67, lines 5–10.

Saturday mornings when only the Accused and the Complainant were in the Flat. All six incidents allegedly took place on the queen-sized bed in the Flat.

7 In September 2021, the Complainant heard a rumour in school about someone in her class having had sex. This caused her to become emotional and to cry. When her friend approached her to ask what was wrong, the Complainant wrote on a piece of paper, telling her friend that her stepfather, the Accused, had committed sexual assault. The Complainant's friend encouraged her to inform the teachers about this matter. The following day (24 September 2021), the Complainant spoke to her then-form teacher and disclosed that she had been sexually assaulted by her stepfather. The matter was also escalated to other school personnel, who referred the matter to the police and the Ministry of Social and Family Development ("MSF"). The Complainant was brought to the MSF building at 512 Thomson Road that same day.[7]

8 On the same day, the Accused and [W] – having learned that the Complainant was at the MSF – proceeded to the MSF building together. There, the Accused was arrested and taken to the Police Cantonment Complex. He has remained in remand since his arrest on 24 September 2021.

The parties' cases

9 The Prosecution's case was based primarily on the Complainant's oral testimony, which was said to be consistent with the accounts she had provided to the doctors who examined her on 29 September 2021 and 7 December 2021, as well as the accounts she gave to other individuals such as her friend and her then form teacher on 23 and 24 September 2021. Further, the Prosecution

[7] ABOD at pp 3–7, and 9.

submitted that the Complainant's account of the six incidents was corroborated by admissions which the Accused himself had made in his Video Recorded Interview ("VRI") statements and cautioned statements on 24 and 29 September 2021.

10 The Accused's defence was that he had never engaged in any sexual contact with the Complainant and that none of the sexual acts described in the charges had taken place. According to the Accused, the Complainant lied about being raped and sexually assaulted by him because she was angry with him for confiscating her handphone and the television ("TV") remote to prevent her from watching shows featuring her favourite Korean boy band.

The voluntariness of the VRI statements and the cautioned statements

11 It will be apparent from the above summary that the Accused's admissions in his VRI and cautioned statements formed a key plank of the Prosecution's case. In the course of the trial, the Accused disputed the voluntariness of these statements. However, this position only emerged midway through the trial. In fact, regrettably, the Accused's position on the voluntariness of his statements shifted several times during the proceedings. At the pre-trial conference before me on 12 August 2024, defence counsel had stated that the Accused was not challenging the voluntariness of his VRI statements but instead, challenging the *accuracy* of certain portions of these statements. When the trial commenced, defence counsel informed that the Accused was not challenging the accuracy of the answers recorded in the statements *per se*, but instead, taking the position that certain answers in his VRI statements had been given only as a result of the Malay interpreter for the VRIs having "wrongfully exceeded her role" as an interpreter and "taken on the role of an investigator". Even at that stage, defence counsel maintained that the voluntariness of the

Accused's VRI statements was not an issue. This continued to be the position adopted by defence counsel throughout his cross-examination of the Prosecution's witnesses. It was on this basis that the Accused's VRI statements of 24 and 29 September 2021 and his first two cautioned statements of 24 and 30 September 2021 were admitted in evidence at the close of the Prosecution's case: the Prosecution relied on the Accused's admissions in these statements as corroboration of the Complainant's evidence about the various sexual acts he had carried out on her.

12 In the course of the Accused's evidence-in-chief, however, he gave – for the first time − an entirely different version of how the admissions in these statements had come about. According to the Accused, these admissions were all untrue: he had made these admissions only because of certain things said to him by one "SI Faizal" (identified as Inspector Muhammad Faizal bin Mahmood of the Serious Sexual Crime Branch ("SSCB")). The Accused claimed that SI Faizal had:

(a) asked him repeatedly whether he had "[played] with his daughter" and "made her suck";

(b) told him to think about when his child would be able to go home if he kept "giving excuses or evading";

(c) subsequently informed him that his statement and his child's statement did not tally; and

(d) asked him whether there was any "upside-down" position, by which the accused understood him to mean the "69" sexual position.

13 The Accused claimed that as a result of what SI Faizal had said to him, he became fearful that the Complainant would be held in police custody for making a false report of sexual assault, and he therefore decided to falsely admit to having committed the various sexual acts alleged.

14 While the above allegations were put forward by the Accused only in his evidence-in-chief and after he had raised no objections to the statements during the Prosecution's case, the nature of these allegations was such that I was obliged to treat the voluntariness – and thus the admissibility – of the statements as being in dispute at the close of the trial. To be fair to both sides, I had to conduct what was in effect an ancillary hearing in the midst of the Accused's evidence-in-chief. The Accused was given the opportunity to elaborate on his allegations against SI Faizal and to offer a full explanation as to the contents of his statements. The Prosecution was permitted to recall those witnesses whose evidence it deemed relevant to the issue of voluntariness, and defence counsel was given the opportunity to cross-examine these witnesses and to put to them the Accused's allegations about the circumstances in which his statements were recorded.

15 Somewhat confoundingly, in his written closing submissions, defence counsel insisted yet again that the Accused was *not* challenging the voluntariness of the statement "*in a sense*"[8], that the Accused "g[a]ve the statements on [*sic*] his own free will", and that "there was no threat, inducement or promise offered to him".[9] At the same time, counsel also contended in the same set of submissions that the Accused "had lied in his various statements to the police … solely to protect [the Complainant] from getting in trouble for

8 DCS at para 67.

9 DCS at para 75.

making a false report against him".[10] This latter contention really amounted to a repetition of the allegations made by the Accused about the circumstances leading to his "false" admissions. Given the Accused's own evidence, I decided to disregard defence counsel's submissions about the Accused having given the statements "on his own free will"; and I proceeded to evaluate the evidence at the close of the trial on the basis that the voluntariness of the statements was a matter in dispute.

16 For the avoidance of doubt, the Accused's belated challenge to the voluntariness of the statements did not change the fact that there was in any event sufficient evidence for his defence to be called at the close of the Prosecution's case – even without taking these statements into consideration. What the Prosecution is required to establish at the close of its case is that "there is some evidence, which is not inherently incredible and which, if accepted to be accurate, would prove every essential element in the charge brought against the accused" (*Haw Tua Tau & another v PP* [1981] 2 MLJ 49 ("*Haw Tua Tau*"), *Kong See Chew v PP* [2001] 1 SLR(R) 874). In the present case, even if the Accused's statements were to be left out of consideration at the close of the Prosecution's case, there was still the evidence given by the Complainant in her conditioned statement of each of the eight alleged offences,[11] that evidence being amplified by her testimony at trial. In my view, this evidence would have been enough to satisfy the *Haw Tua Tau* test at the close of the Prosecution's case.

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10 DCS at para 75.

11 ABOD at p 1 para 5 to p 2 para 13.

The Parties' respective cases on the voluntariness of the statements

The Accused's case on the voluntariness of the statements

17 The Accused claimed that his VRI statement and cautioned statement of 24 September 2021were made as a result of the following circumstances:

(a) When the Accused and [W] arrived at the MSF building on the afternoon of 24 September 2021, the Accused was told by SI Faizal that he had to follow the police officers to assist in investigations. He told SI Faizal that his car was still at the taxi stand and he had to park his car first. With SI Faizal seated next to him, he drove his car to the open-air carpark next to the MSF building, after which he and SI Faizal proceeded to smoke cigarettes beside the car. According to the Accused, while they were smoking, SI Faizal asked him repeatedly whether he had "*ma'in*" (a Malay term which the Accused understood to mean "having sex") or "played with [his] daughter and whether [he] made her suck" whenever his wife was not around. The Accused denied having done any of these things, saying "[n]o, crazy or what?".[12] During this conversation, SI Faizal also told the Accused: "I had done my research about you, and I know that you had worked together with the police and you have assisted them and that is how I know how to approach you".[13]

(b) On the way from MSF to the Police Cantonment Complex, the Accused sat in the rear of the police vehicle with SI Faizal next to him. According to the Accused, SI Faizal continued to press him about having

12 4 Dec 2024 Transcript at pp 8–9.

13 4 Dec 2024 Transcript at p 9, lines 18–20.

"sexual relations with the Complainant ... until she made a report".[14] The Accused continued to deny these allegations.[15]

(c) Upon arrival at the Police Cantonment Complex, the Accused was taken to an interview room. There, SI Faizal told him "You better think. If you keep giving excuses or evading, when will your child come home? If you give the story to us, we don't have to get angry with you".[16] The Accused understood this to mean that the Complainant was in police custody. At this point, the Accused remained silent, but when the investigation officer (IO Chew) entered the room, SI Faizal told IO Chew, "he PG".[17]

(d) Having heard what SI Faizal said, the Accused felt that he had to save the Complainant from being punished by the police for making up false accusations of sexual assault. He decided that he would save the Complainant by making false admissions in the VRI statement and the cautioned statement recorded by the police on 24 September 2021.[18]

18 The Accused claimed that he maintained these false admissions in his subsequent VRI statement of 29 September 2021 and his cautioned statement of 30 September 2021 because he continued to be affected by what SI Faizal had said to him on 24 September 2021. Additionally, SI Faizal was alleged to have said or done the following other things:

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14 4 Dec 2024 Transcript at p 10, lines 15–16.

15 4 Dec 2024 Transcript at p 10, line 24.

16 4 Dec 2024 Transcript at p 21, lines 3–10.

17 4 Dec 2024 Transcript at p 11, line 4 to p 12, line 9.

18 4 Dec 2024 Transcript at p 21, lines 12–32, p 22 line 28 to p 23 line 13.

(a) On 28 September 2021, SI Faizal and another officer brought the Accused to have his photograph taken at the Police Cantonment Complex. On this occasion, the Accused asked SI Faizal how the Complainant was, to which SI Faizal allegedly replied, "your child is okay except that your statement and her statement [doesn't] tally". SI Faizal then asked the Accused about this discrepancy, specifically, if there were any "upside-down" positions (which the Accused understood to mean the sexual position known as "69"). The Accused did not reply.[19]

(b) SI Faizal also asked the Accused if there was a password for his handphone. The Accused replied that he had already turned off the password feature on his handphone as instructed.[20]

The Prosecution's case on the voluntariness of the statements

19 The Prosecution submitted that the Accused's allegations about SI Faizal surfaced only towards the end of the trial, and that the court should thus draw an adverse inference that the allegations were simply belated afterthoughts.[21]

20 To refute the Accused's allegations, the Prosecution recalled SI Faizal, IO Chew, and Ms Maria, the Malay interpreter present at the VRIs, to give evidence on the matters brought up by the Accused.

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19 5 Dec 2024 Transcript at p 9 line 16 to p 10 line 11.

20 5 Dec 2024 Transcript at p 5, lines 3–31.

21 PCS at paras 78–80.

The law on voluntariness

21 There are two cumulative limbs to the test for voluntariness (*Sulaiman bin Jumari v PP* [2021] 1 SLR 557 ("*Sulaiman*") at [39]):

> (a) an objective limb which is satisfied if, on an objective assessment, an inducement, threat, or promise was made to the accused; and
>
> (b) a subjective limb which is satisfied if the said inducement, threat, or promise operated on the mind of the accused such that it would be reasonable for the accused to think that he would gain some advantage or avoid some adverse consequences in relation to the proceedings against him.

22 The legal burden lies on the Prosecution to prove beyond a reasonable doubt that the statement was made voluntarily (*Sulaiman* at [36]). However, the Prosecution only needs to remove reasonable doubt of the existence of threat, inducement or promise and not "every lurking shadow of influence or remnants of fear" (*PP v Mohamed Ansari bin Mohamed Abdul Aziz and another* [2019] SGHC 268 at [9]).

My findings on the voluntariness of the statements

There was no threat, inducement, or promise

23 On the facts, I found that SI Faizal did not in fact make any threat, inducement, or promise to the Accused. I explain.

24 First, the Accused's claims about SI Faizal having tried to get him to admit to certain sexual acts flew in the face of logic and available evidence.

According to the Accused's version of events, upon meeting him for the first time at MSF on 24 September 2021, SI Faizal had almost immediately started making suggestions about the Accused having had sex with the Complainant, having "played" with her, and having "made [her] suck". I found this quite unbelievable. It did not appear to me possible that SI Faizal would have had sufficient information about the details of the accusations against the Accused at that early stage to be able to make the kind of suggestions described by the Accused. SI Faizal's evidence was that he only learned of the specific sexual acts committed by the Accused during the latter's first VRI on 24 September 2021: prior to that first VRI, the only information SI Faizal had about the case was that it involved alleged statutory rape.[22] This was corroborated by IO Chew, who gave evidence that when she and SI Faizal arrived at MSF together with their colleagues on the evening of 24 September 2021, the only thing she had been told about the case was that it involved "intra-familial" rape of "a 14 year-old female".[23] Given the paucity of information available to the SSCB team when they first met the Accused at MSF on 24 September 2024, it was inconceivable that SI Faizal should have been able to ask the Accused leading questions about any specific sexual acts such as making the Complainant "suck". Indeed, given the paucity of information available to SSCB at that nascent stage of the investigation process, any suggestions by SI Faizal to the Accused about any specific sexual acts he might have committed would have been most injudicious – if not downright silly.

25 I also rejected the Accused's allegation that during a photo-taking session prior to his second VRI on 29 September 2021, SI Faizal had told him that his statement did not tally with the Complainant's statement and had asked

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22 PCS at para 83; 6 Dec 2024 Transcript at p 5 line 29 to p 6 line 2.

23 ABOD at p 115, para 2.

him whether there was any "upside-down" position (which the Accused understood to mean the "69" sexual position). SI Faizal's evidence was that at the time of the photo-taking session, he did not know about any allegations of a "69" position and therefore could not have asked such a question − let alone assert that there was a discrepancy between the accused's and the Complainant's statements in this respect. SI Faizal's evidence was corroborated by IO Chew, who confirmed that the photo-taking was held on the morning of 27 September 2021, and that at the time of the photo-taking, she too had been unaware of any allegation of a "69" position.[24]

26 Second, the Accused's narrative at trial was completely inconsistent with his own conduct after giving the disputed statements. According to the Accused, he falsely confessed to the commission of sexual acts against the Complainant because he was frightened that the police would otherwise punish the Complainant for fabricating allegations of sexual assault. In particular, he claimed that SI Faizal had made it clear that the Complainant was being held by the police and that her release depended on his "giv[ing] the story to [the police]".

27 If indeed the Accused had been acting out of a desperate wish to save the Complainant from being further detained and possibly punished by the police, one would have expected him to press the police to release her following his "false" confessions – or at least to check on her whereabouts and wellbeing. After all, he was expressly given the opportunity to raise any matters he wanted before the commencement and at the conclusion of the VRIs.[25] Yet, despite his avowed intention to save the Complainant from police custody and punishment,

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[24] PCS at para 84; 6 Dec 2024 Transcript at p 37 lines 7–12.

[25] P1T-A at p 3, lines 13–16; P3T-A at p 3, line 27 to p 4 line 2.

the Accused made no effort to ask where she was and how she was doing.[26] When he met with [W] on 28 September 2021, for example, he did not bother to ask her about the Complainant.[27] When asked by IO Chew at the conclusion of his VRI on 29 September 2021 if he had "any other things to say", he expressed *inter alia* hope for his own release on "a small amount of bail" and brought up the fact that his birthday was "coming in a month's time" – but made no mention of the Complainant, nor sought to establish if she had been released from custody.[28] This lack of concern for the Complainant was completely at odds with his claims about having been so desperate to "protect" her that he falsely confessed to the commission of various sexual acts.

28 Third, the Accused's allegations about SI Faizal's conduct and the effect it had on him came up at a very late stage in the proceedings, after the Prosecution had already closed its case. In fact, not only were these allegations brought up late in the day, they were also never mentioned in the Case for the Defence filed on 17 August 2023.[29] If anything, the position taken in the Case for the Defence on the voluntariness of the Accused's statements was equivocal, if not entirely confused – and confusing. On the one hand, the Case for the Defence referred to the Accused's statement of 29 September 2021 (apparently a reference to his VRI statement of that date) and stated that the voluntariness of the statement "on the face value [*sic*] does not look disputable". On the other hand, it was also stated that there were "inaccuracies and a pack of fabrications by the accused" in the 29 September 2021 statement, and that "[i]n that sense, factually the statement would be challenged as involuntary". Nothing was said

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26 5 Dec 2024 Transcript at p 25, lines 16–19.

27 5 Dec 2024 Transcript at p 25, lines 13–15.

28 P3T-A at pp 121–122.

29 Exhibit P30.

in the Case for the Defence about the Accused's VRI statement of 24 September 2021 and/or his cautioned statements of 24 September and 30 September 2021. Even if I were to assume that the sentence "factually the statement would be challenged as involuntary" was intended to be a reference to all four statements, this did not explain the Accused's failure to say anything in his Case for the Defence about SI Faizal's conduct and its effect on him. Instead, what the Accused said in his Case for the Defence was that IO Chew might have "posed leading questions or suggestive answers", and that the Malay interpreter Ms Maria had also conducted "most of the interview" by asking leading or suggestive questions. It was also alleged that in answering the questions posed during the statement-recording, the Accused "may not be being truthful and trying to satisfy the ego of the investigator and living a lie".

29 In belatedly bringing up the allegations about SI Faizal in the course of the trial, the Accused failed to provide any explanation as to why these allegations were not made known in his Case for the Defence – or for that matter, at any other point prior to his evidence-in-chief. He also failed to provide any explanation as to why his counsel had – presumably on his instructions – repeatedly stated before and during the trial that he was not disputing the voluntariness of the statements relied on by the Prosecution. In the circumstances, I agreed with the Prosecution that pursuant to s 221(1)(*c*) Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC"), an adverse inference should be drawn against the Accused: it should be inferred that the allegations about SI Faizal were made up by the Accused only when he took the witness stand.

30 For the reasons set out above at [24]–[29], I found that the Accused's VRI statements of 24 September and 29 September 2021 and his cautioned

statements of 24 September and 29 September 2021 were voluntarily made and constituted admissible evidence in the trial.

31 In the next section of these written grounds, I set out my assessment of the evidence in respect of each of the eight Charges.

The applicable principles

32 In the present case, the only witness to the offences described in the eight Charges was the Complainant. It was not disputed that as a matter of general principle, the "unusually convincing" standard would apply to the uncorroborated evidence of a witness in any offence, where such evidence formed the sole basis for a conviction; and that this standard would apply regardless of whether the witness was an alleged victim or an eyewitness (*Public Prosecutor v GCK and another matter* [2020] 1 SLR 486 ("*GCK*") at [104]).

33 The term "unusually convincing" is not a standard of proof, but rather describes the quality of testimony required when a conviction rests solely on one witness's uncorroborated evidence. Its use stems from the recognition that while there is no formal legal requirement for corroboration under the law, it may be unsafe to convict an accused person on the basis of the uncorroborated evidence of a witness unless such evidence is unusually convincing. The abiding inquiry remains whether any reasonable doubt exists as to the accused person's guilt (*GII v PP* [2025] 3 SLR 578 ("*GII*") at [25]–[26]).

34 In the present case, the Prosecution contended that the Complainant's account of all eight alleged offences was corroborated by the Accused's admissions in his VRI statements and cautioned statements. According to the Prosecution, therefore, the Complainant's testimony did not need to be

"unusually convincing" in order to sustain a conviction in respect of all eight Charges.

35 The existence of corroborative evidence notwithstanding, it should be noted that the burden remained on the Prosecution to prove, beyond reasonable doubt, the elements of each of the charges. As Menon CJ recently explained in *GII* at [27]–[28], the matter is typically approached from two angles:

> (a) First, there must be proof beyond a reasonable doubt *within* the Prosecution's own case. This requires an assessment of the internal and external consistency of the Prosecution's own case. If there are weaknesses or inconsistencies in the Prosecution's case that are sufficient to generate a reasonable doubt, weaknesses in the case for the defence cannot ordinarily be called in aid to shore up what is lacking in the Prosecution's case.
>
> (b) Second, there must be proof beyond reasonable doubt on the *totality* of the evidence. This necessarily involves a comparative exercise between the narrative advanced by the Prosecution, and the narrative advanced by the defence. Conviction can only be secured if after considering the entirety of the evidence, there remains no reasonable doubt as to the accused's guilt.

36 I approached the evidence in respect of each of the eight alleged offences with the above principles in mind.

An outline of the offences alleged

37 To recapitulate, the Prosecution's case was that the offences alleged in the Charges involved six separate incidents of rape and sexual assault:

(a) The first incident took place during the March school holidays in 2021. In this first incident, the Accused penetrated the Complainant's vagina with his finger (2nd Charge).

(b) The second incident took place on a Saturday morning in April or May 2021. The Accused asked the Complainant for a hug, after which they both lay on the bed watching a live-stream on his phone. The Accused then touched the Complainant's breasts underneath her bra and guided the Complainant's hand to masturbate his penis (skin-to-skin) before making her lie on top of him and inserting his penis into her vagina. After a while, he pushed the Complainant off and ejaculated (3rd Charge).

(c) The third incident took place sometime in June and July 2021. The Accused touched and sucked the Complainant's breast. He then pulled the Complainant to lie on top of him, removed his boxer shorts, and pulled the Complainant's shorts and underwear to one side before inserting his penis into her vagina. After a while, he pushed the Complainant off and ejaculated (4th Charge).

(d) The fourth incident took place on a Saturday morning in August 2021. The Accused touched the Complainant's breast and licked her vagina (skin-to-skin). He then removed his boxer shorts, pulled the Complainant to lie on top of him and inserted his penis into her vagina. After a while, he withdrew his penis and ejaculated (5th Charge).

(e) The fifth incident took place on a Saturday morning around 27 August 2021. The Accused touched the Complainant's breast and licked her vagina before removing his boxer shorts and pulling her to lie

on top of him. He then inserted his penis into her vagina. After a while, he withdrew his penis and ejaculated (6th Charge)

(f) The sixth incident took place during the September school holidays (4–12 September 2021). The Accused first touched the Complainant's breast and licked her vagina. He then inserted his penis into her vagina while she was on top of him. After a while, he pulled her off and ejaculated. Subsequently, he made the Complainant get into the sexual position colloquially known as "69", whereby he and the Complainant had their heads positioned at each other's crotch. In this position, he inserted his penis into her mouth and simultaneously licked her vagina before eventually ejaculating into her mouth (1st, 7th and 8th Charge).

38 I deal with the evidence in respect of each of these incidents in chronological order.

The first incident in March 2021 (2nd Charge)

The Complainant's evidence

39 In respect of the first incident in March 2021, the Complainant was able to provide a generally consistent account.

40 The Complainant's conditioned statement described the first incident as having occurred during the March 2021 school holidays. The Complainant stated that after her mother ([W]) left for work, the Accused asked her for a hug. As they were hugging, the Accused touched her breast under her brassiere. He also touched her vagina before inserting his finger into her vagina. The Complainant felt shocked and did not know what to do. The Complainant

recalled the entire incident as lasting for about half an hour. Thereafter, the Accused left the Flat. The Complainant cried after he left.[30]

41 The Complainant's testimony at trial was generally consistent with the account given in her conditioned statement.[31] The Complainant also elaborated on certain portions of the account in her conditioned statement. *Inter alia*, she testified that the Accused had put his hand "under [her] shirt, from the bottom" in order to touch her breast; that he had touched her vagina by putting his hand through the waistband of her shorts and underneath her underwear;[32] further, that they were both lying sideways facing the cupboard next to the bed when the digital-vaginal penetration took place.[33] She was able to gauge that the entire incident had taken about half an hour because there was a clock opposite the bed.[34]

42 In assessing the Complainant's credibility, I did note that at some points, she appeared unable and/or reluctant to recall certain details. For example, she was unable to describe the exact manner in which the Accused touched her vagina beneath her underwear (whether it was a light touch or a smack or some other sort of motion) and also could not recall how many fingers he inserted into her vagina.[35] However, the Complainant's apparent inability and/or reluctance to recall some of the details of the sexual assault did not necessarily lead to the conclusion that she was lying about the incident. The Complainant's reticence

30 ABOD at p 1, para 5.

31 27 Sep 2024 Transcript at pp 6–14.

32 27 Sep 2024 Transcript at p 9 line 25 to p 10, line 11.

33 27 Sep 2024 Transcript at p 11, lines 1–4.

34 27 Sep 2024 Transcript at p 11, lines 15–18.

35 27 Sep 2024 Transcript at p 10 line 20 to p 11, line 13.

must be seen in context. She was, after all, a teenage girl who was being asked to testify against her stepfather – a man with whom she had shared a close bond. Indeed, given that the Complainant's biological father had passed away before she was born, the Accused represented the only father figure she had ever known.[36] The Complainant's emotional attachment to the Accused could be seen from her tearful description of her attempts to "really [try] to forget" the sexual assaults in order to preserve the "father-daughter bond".[37] In the circumstances, it would no doubt have been extremely stressful for her to be asked to recount in court every aspect of the sexual assault she experienced at the Accused's hands. Further, the distress and angst which the Complainant associated with testifying against the Accused was exacerbated by the anger which her mother [W] had openly expressed against her for reporting him to the authorities.[38]

43 The Complainant's apparent reluctance to dwell on certain specifics of the incident was consistent with the MSF psychologist's assessment of her mental state. In the psychological therapy report prepared by Ms Isabel Yap ("Ms Yap") from the MSF Clinical and Forensic Psychology Services,[39] Ms Yap noted that the Complainant displayed an "avoidant style of coping with negative thoughts and feelings". Ms Yap observed that in the 14 therapy sessions which the Complainant attended between July and November 2022 at the orphanage where she was placed, the Complainant often responded with "I don't know" when asked about her thoughts and feelings in relation to stressors.[40] Ms Yap also observed that the Complainant "tended to keep quiet

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36 30 Sep 2024 Transcript at p 43, lines 1–17.

37 30 Sep 2024 Transcript at p 43, lines 1–2.

38 5 Dec 2024 Transcript at p 91, lines 7–20.

39 Exhibit P29.

40 Exhibit P29 at paras 3 and 5.

when distressed, likely due to her desire to avoid thinking and talking about distressing thoughts and feelings".[41]

44 Clearly, therefore, the Complainant struggled to express herself when faced with stressors. Clearly too, the requirement that she recall each detail of the first incident of sexual assault would have been a significant stressor. In so far as she was unable (or unwilling) to recall certain details, it did not appear to me that this was due to a lack of probity. On the contrary, having had the opportunity to observe the Complainant in the witness stand and having reviewed her evidence, I found her to be on the whole an honest witness.

The medical reports

45 In arguing against the Complainant's credibility, the Accused pointed to her omission to tell the two doctors who examined her in September 2021 and December 2021 that digital-vaginal penetration had occurred during this first incident.[42] These doctors were:

(a) Dr Yash Bhanji Boricha ("Dr Yash") of the KK Women's and Children's Hospital ("KKH") who examined the Complainant on 29 September 2021;[43] and

(b) Dr Parvathy Pathy ("Dr Parvathy") of the Institute of Mental Health ("IMH") who examined the Complainant on 7 December 2021.[44]

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41 Exhibit P29, para 3.

42 DCS at para 21.

43 26 Sep 2024 Transcript at p 46, lines 8–13.

44 26 Sep 2024 Transcript at p 12, lines 13–28.

46 Dr Yash's report recorded the Complainant telling him that during the first incident in March 2021, the Accused had "touched her on the chest area".[45] While Dr Yash did also record the Complainant telling him about two incidents of digital-vaginal penetration, these were described in the report as "two *subsequent similar incidents*" [emphasis added] to the first incident. This appeared to imply that the two incidents of digital-vaginal penetration took place *subsequent to* the first incident in March 2021. I rejected the Prosecution's suggestion that the first incident in March 2021 must have been one of these two incidents of digital-vaginal penetration as this suggestion appeared to me to be overreaching.[46] As for Dr Parvathy, her report stated that the Complainant had described the Accused touching "her breasts and genital area outside her clothes" during the first incident in March 2021.[47] A few paragraphs down in the same report, Dr Parvathy recorded the Complainant stating that "on a few occasions, her stepfather [the Accused] also put his finger inside her vagina"[48] – but it was not clear whether the first incident was one of the "few occasions".

47 In short, therefore, I accepted that the Complainant did not expressly tell Dr Yash and Dr Parvathy that digital-vaginal penetration occurred during the first incident in March 2021.[49] However, I rejected the Accused's argument that this omission showed the Complainant must have been lying in her conditioned statement and in her testimony at trial when she gave evidence about digital-vaginal penetration having taken place during the first incident. The Accused argued that since the Complainant's accounts to Dr Yash and Dr Parvathy were

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45 ABOD at p 25.

46 PCS at para 35; PRS at para 13.

47 ABOD at p 35.

48 ABOD at p 36.

49 ABOD at pp 25, 31, and 35–36.

given closer in time to the first incident than her conditioned statement,[50] there was no reason for the Complainant to have omitted to mention to the doctors the digital-vaginal penetration if it had in fact happened. This argument failed to appreciate the context in which the two doctors' medical reports were prepared and in which the Complainant recounted to them the instances of sexual assault.

(a) Dr Yash's medical report was primarily intended to guide his medical examination of the Complainant. As Dr Yash explained in his testimony, his focus was on determining the *types* of sexual acts that had occurred, as this information would inform his examination approach.[51] For instance, allegations of penile-vaginal penetration would prompt him to look for evidence of hymenal injury.[52] In other words, in order for Dr Yash to carry out his medical assessment of the Complainant, it was sufficient for him to understand what *types* of sexual acts had taken place: he did not need to establish comprehensive details such as the precise number of occasions when a particular sexual act was committed and/or the chronological order in which the various sexual acts were committed.

(b) As for Dr Parvathy, her report was prepared for the purpose of assessing whether the Complainant was fit to testify in court.[53] This meant that she too would not have been concerned with determining the full details of each incident. In *PP v BLV* [2020] 3 SLR 166 at [42], the

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50 DCS at para 23.

51 26 Sep 2024 Transcript at p 46, lines 8–13.

52 26 Sep 2024 Transcript at p 46, lines 8–13.

53 26 Sep 2024 Transcript at p 12, lines 13–28.

> High Court explained the discrepancies in a similar medical report on the basis that "the primary purposes of the reports had been to determine the Victim's physical and mental states and her fitness to give testimony, rather than to obtain a full and complete set of facts surrounding each of the offences. This would naturally render the focus and content of their reports different from that of the Victim's statements and testimony." The same reasoning applied in respect of Dr Parvathy's report in the present case.

48 Given the narrowly defined object of each doctor's report, neither doctor would have been seeking to extract from the Complainant a complete and chronologically accurate account of each incident of sexual assault. It was not surprising, in the circumstances, that there might have been some gaps and/or confusion in the accounts of the incidents which they obtained from the Complainant.

49 As for the Complainant herself, she testified that she could have forgotten specifically to mention to the doctors that digital penetration took place during the first incident.[54] In cross-examination, she also explained that during the interview with Dr Yash on 29 September 2021, she had been pre-occupied with thoughts of other matters such as "family problems", which she said included her parents' "expectations" and her mother's habit of comparing her with her brothers.[55] Defence counsel suggested that the Complainant's testimony was unbelievable. I did not find it to be so. It should be remembered that the Complainant was at the material time a 14-year-old adolescent who had been unable to reunite with her mother and to return to her family home after

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54 27 Sep 2024 Transcript at p 51, lines 1–6.

55 27 Sep 2024 Transcript at p 79, lines 2–13.

being brought to MSF on 24 September 2021. I did not find it surprising that she should have been in a distracted state of mind on 29 September 2021 and/or that she should have been fretting about her family situation. The fact that neither the medical examination on 29 September 2021 nor the psychiatric evaluation on 7 December 2021 was designed to extract from her a complete set of facts surrounding each sexual assault also meant that there was no reason for her to set aside her pre-occupation with family problems and to concentrate on recalling the exhaustive details of each assault.

The Accused's admissions

50 Importantly, the Complainant's account of the first incident in March 2021 was consistent with and corroborated by the Accused's admissions.

51 In his VRI statements, the Accused said he could not remember when exactly the first incident took place. He thought it could have been in April or May 2021, on a Saturday morning after his wife had left for work.[56] According to the Accused, he did not have penile-vaginal intercourse with the Complainant on this occasion[57] − which was consistent with the Complainant's evidence. When IO Chew informed the Accused that their investigations showed he had inserted his finger into the Complainant's vagina in March 2021,[58] he admitted rubbing the Complainant's vagina, although he claimed he could not remember whether he had also inserted his finger into her vagina.[59] He also admitted that he had touched her vagina by putting his hand "under [her] shirt, from the bottom" through the waistband of her shorts and underneath her underwear, and

56 P1T-A at pp 53–56.

57 P1T-A at p 61, lines 2–29 and p 66, lines 9–28.

58 P3T-A at p 76, line 26 to p 80, line 21.

59 P3T-A at p 92, lines 8–28.

also that he had touched her breast underneath her brassiere – all of which was, again, consistent with the Complainant's evidence.

52 Subsequently, in his cautioned statement of 30 September 2021, the Accused admitted to digitally penetrating the Complainant's vagina with his finger and expressed remorse for his actions. He stated that he was "sorry", that he wanted to "beg for leniency, lighter sentence, lower amount of bail", and that it would be his "first…and last offence".[60]

53 In sum, therefore, the Accused's admissions in his VRI and cautioned statements corroborated the Complainant's account of the first incident.

The Complainant's psychological trauma and her account of sexual assaults to various individuals

54 On the other hand, I did not accept the Prosecution's argument that the psychological trauma demonstrated by the Complainant also corroborated her account of the first incident in March 2021.[61]

55 It is well-established that a complainant's distress in the *immediate* aftermath of an incident can be corroborative evidence (*Haliffie bin Mamat v PP and other appeals* [2016] 5 SLR 636 at [64]–[66]; *GDC v PP* [2020] 5 SLR 1130 at [14]). In this case, however, the demonstrations of distress which the Prosecution relied on – *eg*, the Complainant crying when recounting the sexual assaults to her teacher on 24 September 2021 – all occurred months after the first incident in March 2021. Given the length of time which had elapsed between the first incident and the distress observed on 24 September 2021, it

60 ABOD at pp 417–418.

61 PCS at paras 47–56.

was possible that such distress arose from other causes not associated with the alleged offence (see *Goh Han Heng v PP* [2003] 4 SLR(R) 374 at [30]).

56 The fact that the Complainant had told various individuals about being sexually assaulted by the Accused was also not in itself corroboration of the Complainant's testimony about the first incident. By the time the Complainant spoke with individuals such as her friend, her then-form teacher, Dr Yash and Dr Parvathy, months had already passed since the first incident. Further, in so far as her friend and her teacher were concerned, the Complainant did not disclose very much beyond confiding that she had been sexually assaulted by her stepfather. As for Dr Yash and Dr Parvathy, there were gaps in the accounts they recorded from the Accused of the first incident − although, as I noted earlier (at [47]–[49] above), there were reasonable explanations for these gaps. In the final analysis, the Complainant's accounts of sexual assault to these assorted individuals showed at best that she was consistent in maintaining she had been sexually assaulted by the Accused, but could not be regarded as corroboration of her evidence about the first incident.

Summary of the evidence in respect of the first incident in March 2021 (2nd Charge)

57 In sum, I found the Complainant to be a truthful witness; and while there were some gaps and omissions in her evidence about the first incident, her account of events was corroborated by the Accused's admissions in his VRI and cautioned statements.

Existence of an exploitative relationship

58 In so far as the existence of an exploitative relationship formed an element of the 2nd charge, s 377CA(2)(*a*) of the Penal Code presumes that an

accused person's relationship with a minor below 18 years of age is exploitative where "the accused person is the … step-parent … of the minor". The defence did not dispute this.

The second incident in April or May 2021 (3rd Charge)

The Complainant's evidence

59 In respect of the second incident in May or April 2021 (the 3rd Charge), I found that the Complainant was also able to provide a generally consistent account.

60 In both her conditioned statement and her evidence in chief, the Complainant described the second incident as having taken place on a Saturday morning in April or May 2021. After her mother left for work, the Accused – who was lying on the bed – asked her for a hug. When the Complainant obliged by giving the Accused a hug, he pulled her to lie down on the bed. They then watched a video on his phone as they lay on the bed, facing the same direction. While in this position, the Accused put his hand under the Complainant's shirt and brassiere and touched her breast. Next, he took the Complainant's hand, guided it to his penis under his boxer shorts, and made her masturbate him by using his hand to move her hand up and down his penis (skin-to-skin). Following this, he removed her shorts and underwear, before pulling her to lie on top of him. At this point, he had also removed his boxer shorts. He then inserted his penis into the Complainant's vagina and moved his buttocks up and down. After a while, he pulled the Complainant off and ejaculated on the bed. The Complainant felt shocked and did not know what to do.[62]

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62 ABOD at pp 1–2, para 7; 27 Sep 2024 Transcript at pp 15–21.

61 The Complainant was unable to recall some of the details of this second incident: for example, while she could recall that the Accused had used his hand to insert his penis into her vagina, she could not recall whether he had used one hand or both hands.[63] As I explained earlier at [44], however, having had the opportunity to observe the Complainant in the witness stand and having reviewed her evidence, I found her to be an honest witness. I was satisfied that her inability (or reluctance) to recall certain specifics of the sexual assaults was a reflection of the distress and angst caused by her circumstances – as opposed to being an indication of a lack of probity.

The Accused's admissions

62 The Complainant's account of the incident of penile-vaginal penetration in April or May 2021 was corroborated by the Accused's admissions in his VRI statements. The Accused stated that he had penile-vaginal intercourse with the Complainant for the first time sometime in April or May 2021.[64] According to the Accused, the Complainant was on top of him when he inserted his penis into her vagina, and he pulled her off before he ejaculated.[65] This was consistent with the Complainant's account (although the Accused's recollection was that he had ejaculated on his underwear).[66] The Accused also admitted to having touched the Complainant's breast in the course of this second incident in April or May 2021 – which was, again, consistent with the Complainant's account.[67]

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63 27 Sep 2024 Transcript at p 20, line 31 to p 21, line 2.

64 P1T-A at p 52, lines 12–23 and p 79, lines 11–19; P3T-A at p 99, lines 5–30.

65 P1T-A at p 75, lines 1–24.

66 P1T-A at p 75, lines 1–24.

67 P3T-A at p 64, lines 1–9 read with P1T-A p 56, lines 9–27.

Summary of the evidence in respect of the second incident in April or May 2021 (3rd Charge)

63 For the same reasons I explained earlier at [56], I did not find that the demonstrations of psychological trauma by the Complainant could amount to corroboration of her evidence about the second incident in April or May 2021. For the same reasons set out at [56], while the accounts of events she provided to persons such as her teacher showed that she had generally been consistent in maintaining that she was sexually assaulted by the Accused, they did not amount to corroboration of her evidence about the second incident.

64 In sum, while there were some gaps and omissions in the Complainant's evidence about the second incident, her testimony was corroborated by the Accused's admissions in his VRI statements.

The third incident in June or July 2021 (4th Charge)

The Complainant's evidence

65 In respect of the third incident in June or July 2021 (the 4th Charge), the Complainant's account in her conditioned statement was consistent with her testimony at trial. According to the Complainant, on this occasion, the Accused was on the bed when he called her over to lie on the bed next to him. As the Complainant was lying next to him, the Accused put his hand under the Complainant's shirt and brassiere and touched her breast. Next, while the Complainant was lying supine on the bed, the Accused lifted her shirt and brassiere and sucked on her nipples. He then pulled the Complainant on top of him, removed his boxer shorts, and pulled her shorts and underwear to one side before inserting his penis into her vagina. In her testimony at trial, the Complainant testified that she felt a bit of pain when the Accused inserted his

penis into her vagina, although she did not experience any bleeding.[68] The Accused moved his buttocks up and down in this position for a while, after which he pulled the Complainant off and ejaculated on the bed.[69]

66 As with her account of the earlier incidents, there were some gaps in the Complainant's recollection of the third incident. For example, she could not remember certain specific details such as the extent to which her shorts and underwear were pulled down.[70] She also could not remember if there were stains on the bedsheet after the Accused ejaculated on the bed.[71] However, as I explained earlier at [44], she struck me as being on the whole an honest witness. I was satisfied that her inability and/or reluctance to recall certain details of the sexual assaults was a reflection of the stress and anguish caused by her circumstances – and not an attempt at dissimulation.

The Accused's admission

67 As with the earlier incidents, the Complainant's evidence about the third incident was corroborated by the Accused's admissions. In his VRI statement of 24 September 2021, the Accused admitted to having engaged in penile-vaginal penetration of the Complainant on one occasion in June 2021,[72] during the June school holidays.[73] The Accused stated that on this occasion, his penis had "hardened" while the Complainant was lying on top of him, and that his erect penis had "slipped" into the Complainant's vagina. He also claimed that

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68 30 Sep 2024 Transcript at p 7, lines 23–26.

69 ABOD at p 2 para 8; 27 Sep 2024 Transcript at pp 21–27.

70 30 Sep 2024 Transcript at p 7, lines 2–19.

71 30 Sep 2024 Transcript at p 8, lines 22–23.

72 P1T-A at p 81, lines 14–22.

73 P1T-A at p 81, lines 4–16.

he had inserted his penis into her vagina "just a little" and demonstrated this to the recording officer by indicating the first section of his finger.[74]

Summary of the evidence in respect of the third incident in June or July 2021 (4th Charge)

68 For the reasons I explained earlier at [56], I found that neither the demonstrations of psychological trauma by the Complainant nor her accounts of sexual assaults to her teacher and other persons could amount to corroboration of her evidence about the third incident.

69 To sum up the third incident, while the Complainant's recollection of this incident was less than perfect, her testimony was corroborated by the Accused's admissions in his VRI statement.

The fourth incident in August 2021 (5th Charge)

The Complainant's evidence

70 In respect of the fourth incident in August 2021 (the 5th Charge), the Complainant's testimony was consistent with her conditioned statement and also elaborated on a number of the details of the sexual assault. The Complainant testified that this fourth incident took place on a Saturday morning. The Accused started by asking the Complainant to lie on the bed with him. When the Complainant obliged and lay down on the bed beside him, the Accused touched the Complainant's breast under her shirt and brassiere. Next, he removed her shorts and underwear before proceeding to lick her vagina (skin-to-skin). As this was happening, the Complainant was lying supine on the bed while the Accused was positioned at the foot of the bed, facing the Complainant.

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74 P1T-A at p 89 line 28 to p 90 line 23.

The Accused subsequently removed his boxer shorts and pulled the Complainant to lie on top of him while he himself lay supine on the bed. He then inserted his penis into the Complainant's vagina and moved his buttocks up and down for a while before pushing the Complainant off and ejaculating on the bed.[75]

71 Although the Complainant could not remember certain details about the fourth incident when cross-examined, I did not consider these gaps in her recollection to be fatal to her credibility. For one, some of the details that she was asked to recall were in my view either irrelevant to the elements of the alleged offence or at best of peripheral relevance: for example, how the Accused had removed his boxer shorts and where he had placed the boxer shorts after removing them.[76] Further, as I noted earlier (at [42]−[44]), there was a reasonable explanation for the Complainant's inability (or reluctance) to recount certain details of the sexual assault; and I was satisfied that such inability (or reluctance) was not an indication of untruthfulness.

The Accused's admissions

72 The Complainant's evidence of the fourth incident was moreover corroborated by the Accused's admissions in his VRI statement. In his VRI statement of 24 September 2021, the Accused admitted that on one occasion in August 2021, he had engaged in penile-vaginal penetration of the Complainant.[77] The Accused stated that on this occasion, he had inserted his penis into the Complainant's vagina while she was lying on top of him. He added that he had not inserted his penis fully and demonstrated this to the

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75 ABOD at p 2, para 9; 27 Sep 2024 Transcript at pp 27–30.

76 30 Sep 2024 Transcript at p 10, lines 17–18; p 11, lines 23–25.

77 P1T-A at p 95 line 16 to p 97 line 20.

recording officer by indicating two sections of his finger.[78] According to the Accused, on this occasion he had also ejaculated outside of the Complainant[79] – which was consistent with the Complainant's account of the incident.

Summary of the evidence in respect of the fourth incident in August 2021 (5th Charge)

73 For the reasons explained earlier at [56], I found that neither the demonstrations of psychological trauma by the Complainant nor her accounts of sexual assaults to her teacher and other persons amounted to corroboration of her evidence about the fourth incident.

74 In sum, while there were some gaps in C's recollection of this fourth incident, her evidence was corroborated by the Accused's admissions in his VRI statement.

The fifth incident in August 2021 (6th Charge)

75 According to the Complainant, there was a second, separate occasion of penile-vaginal penetration by the Accused in August 2021.[80]

No admission by the Accused

76 Unlike the other incidents described in the 1st to the 5th (as well as the 7th and 8th) Charges, the Complainant's account of the fifth incident (6th Charge) was not corroborated by any admissions from the Accused. In so far as penile-vaginal intercourse was concerned, the Accused's evidence in his VRI

78 P1T-A at p 102, lines 6–30.

79 P1T-A at p 104, lines 2–8.

80 ABOD at p 2, para 10; 27 Sep 2024 Transcript at pp 31–33.

statement of 24 September 2021 was that in the period between the first and the last time he had penile-vaginal sex with the Complainant, there were "*four or five*" other similar incidents.[81] However, the Accused admitted in the same VRI statement to only one incident of penile-vaginal sex in the month of August 2021.

No other corroborative evidence

77 For the reasons explained earlier at [56], I found that the demonstrations of psychological trauma by the Complainant and her accounts of sexual assaults to her teacher and other persons could not amount to corroboration of her evidence about the fifth incident. At best, the signs of psychological trauma noted from late September onwards, as well as the narrative she presented to various individuals in that period, showed that she was consistent in maintaining she had been sexually assaulted by her stepfather – but they did not corroborate her assertion that there was a second, separate occasion of penile-vaginal penetration by the Accused in August 2021.

The application of the "unusually convincing" standard to the Complainant's evidence on the fifth incident

78 As the Court of Appeal held in *GCK* –

> 89 …In the absence of any other corroborative evidence, the testimony of a witness, whether an eyewitness or an alleged victim, becomes the keystone upon which the Prosecution's entire case will rest. Such evidence can sustain a conviction only if it is "unusually convincing" and thereby capable of overcoming any concerns arising from the lack of corroboration and the fact that such evidence will typically be controverted by that of the accused person: see the decision of this court in *AOF v Public Prosecutor* [2012] 3 SLR 34 ("*AOF*") at [111].

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81 P1T-A at p 80, line 12.

> 90 Put simply, the "unusually convincing" standard entails that the witness's testimony *alone* is sufficient to prove the Prosecution's case beyond a reasonable doubt: see *Teo Keng Pong v Public Prosecutor* [1996] 2 SLR(R) 890 at [73]…
>
> [emphasis in original]

79 In the present case, given the absence of corroboration, the Complainant's evidence had to be "unusually convincing" in order to sustain the 6th Charge of penile-vaginal penetration. I did not find that it was so. The Complainant was unable to recall various details of this alleged second, separate occasion of penile-vaginal penetration in August 2021. *Inter alia*, she could not recall whether the Accused had removed her shorts and underwear completely or whether he had pushed them to one side; and she also could not recall the position which the Accused was in when he removed his boxer shorts (whether lying down or standing or sitting), or whether he changed his position on the bed from the point when he removed his boxer shorts to the point when he made her lie on top of him. She stated that she felt the Accused moving his buttocks up and down after he inserted his penis into her vagina, but could not recall how long it took before he ejaculated.[82] Given the gaps in the Complainant's recollection of this incident and the absence of evidence capable of corroborating her account, I concluded that the Complainant's evidence could not be said to be so "unusually convincing" that it was capable of proving the 6th Charge beyond a reasonable doubt.

80 I should emphasise that this finding in no way implied any dishonesty on the Complainant's part. As I have repeatedly highlighted in these written grounds, I found the Complainant to be an honest witness: she showed no inclination towards embellishment or artifice, even when pressed in cross-

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82 30 Sep 2024 Transcript at pp 15–17.

examination. Nevertheless, even honest witnesses may have less than perfect recollection; and in the absence of any corroborative evidence, I did not find it safe to convict the Accused of the 6th Charge based solely on the Complainant's testimony alone.

The sixth incident in September 2021 (1st, 7th, and 8th Charges)

The Complainant's evidence

81 The sixth incident involved three separate charges of penile-vaginal penetration, penile-oral penetration, and digital-vaginal penetration (the 1st, 7th and 8th Charges). The Complainant's evidence, *per* her conditioned statement and her testimony at trial, was that this incident had taken place on a morning sometime between 4 September and 12 September 2021. On this occasion, the Accused again asked her for a hug while he was lying on the bed. When the Complainant climbed onto the bed to give him a hug, the Accused removed the Complainant's shorts and underwear and licked her vagina (skin-to-skin). At this point, the Complainant was lying supine on the bed while the Accused was positioned at the foot of the bed, facing her.

82 Next, the Accused removed his boxer shorts and pulled the Complainant to lie on top of him. He then inserted his penis into the Complainant's vagina and moved his buttocks up and down. After a while, he pushed the Complainant off and ejaculated on the bed.

83 Thereafter, the Accused moved to lie diagonally across the bed, with his head at the foot of the bed. At this point, the Complainant was lying on top of the Accused, with her legs at the foot of the bed. In this position, the Accused's head was facing the Complainant's vagina, while his penis was positioned near the Complainant's face: *ie*, they were in the "69" sexual position. The Accused

then used his hands to put his penis into the Complainant's mouth and moved his buttocks up and down. At the same time, he licked her vagina (skin-to-skin). After a while, he ejaculated into the Complainant's mouth.

84 The Complainant's account of the penile-vaginal and penile-oral penetration on this occasion in September 2021 (the 1st and 7th Charges respectively) was more detailed than her account of the earlier incidents. She was able to describe, for example, how she and the Accused had both been lying diagonally across the bed just prior to the "69" sexual position; and she also recalled that after ejaculating into her mouth during the "69" sexual position, the Accused went to the bathroom to shower, while she went to the kitchen sink to spit out the semen in her mouth.

85 The main gap in the Complainant's evidence about the sixth incident was her omission to mention the act of digital-vaginal penetration (the 8th Charge) in either her conditioned statement or her testimony at trial. There appeared to be an oblique partial reference to this act of digital-vaginal penetration in Dr Yash's report: when examined by Dr Yash on 29 September 2021, the Complainant had alluded to two incidents of digital-vaginal penetration.[83] It may be noted that of the eight charges against the Accused, two concerned digital-vaginal penetration. However, Dr Yash's report did not mention the dates of these two incidents of digital-vaginal penetration.[84] The Prosecution did not ask the Complainant to explain this reference in her evidence-in-chief; and when the Complainant was cross-examined about this portion of Dr Yash's report, she stated that she could not remember telling him about the two incidents. Ultimately, however, the gap was not fatal to the

83 ABOD at p 25.

84 ABOD at p 25.

Prosecution's case on the 8th Charge, because it was the Accused himself who volunteered – in not inconsiderable detail – the evidence of this act of digital-vaginal penetration in his VRI statements, in addition to corroborating the Complainant's account of the penile-vaginal and penile-oral penetration.

The Accused's admissions

86 In his VRI statement of 29 September 2021, the Accused claimed that while the Complainant was hugging him, she had "crossed her leg over [his] stomach" and "fiddle[d]" with his shorts.[85] He went on to describe how he had pulled her to lie on top of him, "play[ed]" with her breast, and helped her remove her pants before removing his own shorts and inserting his penis into her vagina.[86] He then moved his buttocks up and down. According to the Accused, as he was moving, the Complainant too moved her buttocks up and down.[87] He "[took] out" his penis and "shift[ed]" the Complainant away before ejaculating.[88] His recollection was that after shifting the Complainant away from him, he "immediately" put his boxer shorts and underwear back on before ejaculating into his underwear.[89]

87 Next, the Accused described how he got himself and the Complainant into the "69" position. It was in this context that the Accused described how, in addition to licking the Complainant's vagina, he had inserted a finger into her

85 P3T-A at p 19 line 29 to p 20 line 3.

86 P3T-A at pp 18–28.

87 P3T-A at p 23, lines 25–30.

88 P3T-A at p 27 line 31 to p 28, line 11.

89 P3T-A at p 28, lines 21–28.

vagina. He was able to recall that it was his right index finger and that he had inserted the finger up to the depth of "two lines" on his finger.[90]

Summary of the evidence in respect of the sixth incident in September 2021 (1st, 7th & 8th Charges)

88 For the reasons explained at [56], I found that neither the demonstrations of psychological trauma by the Complainant nor her accounts of sexual assaults to her teacher and other persons amounted to corroboration of her evidence about the sixth incident.

89 To recapitulate: the Complainant's evidence about the penile-vaginal penetration and penile-oral penetration was corroborated by the Accused's admissions. While there was a gap in C's account of this incident in that she did not mention the act of digital-vaginal penetration, the gap was filled by the Accused himself, who volunteered to IO Chew the details of this act during the VRI on 29 September 2021. Indeed, the Accused was asked by IO Chew to confirm that for the incident in September 2021, he had engaged in penile-vaginal penetration, penile-oral penetration, *and digital-vaginal penetration*. He affirmed that this was the case.[91]

The lack of consent

90 Leaving aside the 6th Charge (in respect of which I found it unsafe to convict on the basis of the Complainant's uncorroborated testimony), all the other seven Charges alleged that the sexual acts described therein were committed without the Complainant's consent. In both her conditioned statement and her evidence-in-chief, the Complainant stated that the sexual acts

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90 P3T-A at pp 29–31.

91 P3T-A at p 33, lines 6–9.

were carried out by the Accused without her consent. In her evidence-in-chief, the Complainant testified that when the Accused asked her for hugs, she had obliged by going over to the bed to hug him because it was "a regular routine" for her to give hugs to him, and she was concerned that if she refused to do so, it "might seem like a bit weird".[92] In the course of the sexual assaults carried out by the Accused, she had sought to resist the Accused during the various incidents by "[trying] to move away from him when [she] was on top of him" and trying to "push [herself] off and then lie down on [her] back". However, she was unsuccessful in her attempts as the Accused was stronger and would just "pull [her] back up again".[93] She did not shout for help during these incidents as she did not think that anybody would hear her.[94]

91 I accepted the Complainant's assertion that she did not consent to any of the sexual acts carried out by the Accused. The fact that she did not adopt more aggressive tactics for resisting the sexual assaults – such as screaming and fighting off the Accused – did not, in my view, indicate any sort of consent on her part to the sexual acts. As the High Court astutely pointed out in *GBR v PP and another appeal* [2018] 3 SLR 1048 (at [20]), "victims of sexual crimes cannot be straitjacketed in the expectation that they must act or react in a certain manner". In the present case, the Complainant's reaction to the sexual assaults had to be seen in the context of her personal and family circumstances. Not only was she a sexually inexperienced adolescent at the time of these assaults, the perpetrator of these assaults was a man who had − in the several years prior – become the first and the only father figure in her life.

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92 27 Sep 2024 Transcript at p 42, lines 24–25.

93 27 Sep 2024 Transcript at p 41 line 24 to p 42 line 7.

94 27 Sep 2024 Transcript at p 42, lines 8–13.

92 I also noted, in addition, that the Accused did not challenge the Prosecution's case on the lack of consent: defence counsel did not ask the Complainant any questions about the issue of consent and did not deal with this issue in his written submissions.

93 In her conditioned statement, the Complainant stated that she "knew it was not right for [the Accused] to be doing these sexual acts to [her]", and that she did not tell anyone – including her mother, [W] − about the incidents of sexual assaults because she was scared.[95] I deal with the issue of the Complainant's delay in reporting the sexual assaults at [96]–[98] below.

The accused's defence did not raise a reasonable doubt

94 Leaving aside the 6th Charge, I also found that the Accused's defence did not raise a reasonable doubt in respect of the Prosecution's case on the other seven Charges. I set out below my reasons for rejecting the arguments raised by the Accused.

The Complainant's delay in coming forth

95 First, the Accused argued that the Complainant's delay in coming forward to report him for sexual abuse suggested that the sexual acts never took place.[96]

96 I rejected this argument. There is no general rule requiring victims of sexual offences to report such offences immediately or in a timely fashion. In particular, young victims of sexual assault may not report offences in a timely

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95 ABOD at p 2 para 13.

96 DCS at para 66; DRS at para 29.

manner for various reasons including feelings of shame and fear. Delay in reporting is not, on its own, a reason to disbelieve a victim: the court has to consider the reasons for the delay in reporting the offences to the police or to anyone else (*PP v Mohd Ariffan bin Mohd Hassan* [2019] 2 SLR 490 at [65]–[68]). In *Chng Yew Chin v PP* [2006] 4 SLR(R) 124 at [38], VK Rajah J (as he then was) explained this as follows:

> In the present appeal, the evidence is clear that the reason the complainant did not confide in Lina was because, as Lina herself testified, they were not very close. In my view, ***a victim of molest ought not to be penalised or her credibility prejudiced merely because shame, discomfort or fear has prevented her from telling her story immediately or soon thereafter***. Any reason that impedes such disclosure will always be a question of fact that can be explained or clarified plausibly by the temperament and/or character of a complainant. ***To suggest, as a general proposition, that a victim of molest must immediately report her situation even if it is to a mere acquaintance, is totally unrealistic and reflects a patent lack of appreciation for the plight and dilemma of victims of sexual abuse. In fact, such a submission by counsel has unsheathed a sword that could cut both ways.*** It might also be contended quite plausibly on the other hand that if the complainant was indeed bent on ensuring that the allegations she had fabricated would stick, she *would* have told Lina about the incidents so as to establish a prior and consistent pattern of molestation by the appellant.
>
> [emphasis in original in italics, emphasis added in bold italics]

97 In the present case, the Complainant's delay in reporting her stepfather's conduct to the authorities was entirely understandable given her personal and family circumstances. As I noted earlier, it was not disputed that the Complainant's biological father had passed away in 2006, before she was born in April 2007. The Accused clearly became the all-important father figure in her life when he moved in with her and her mother. The Accused himself

acknowledged that he developed a close and affectionate relationship with the Complainant after he became part of her life. In the Complainant's own words:[97]

> …[I]t was, like, so long since I had, like, a happy family. So I wanted to feel like that for a long period of time.

98 The Complainant's overwhelming desire for "a happy family" led to her being "scared" that her "family would break apart" if she told anyone about the incidents of sexual assault by the Accused. As such, instead of disclosing to anyone the sexual violation she was experiencing at the Accused's hands, she "really tried to forget" the incidents.[98] She was also uncertain whether her mother, [W], would believe her.[99] Unfortunately for the Complainant, her fears proved well-founded when [W] subsequently blamed her for giving [W] "stress" by reporting the Accused.[100]

Photographs showing affectionate relationship between the Complainant and the Accused

99 Second, the Accused sought to rely on a number of photographs taken during the period when the sexual assaults occurred. According to the Accused, these photographs showed that he had a "friendly" relationship with the Complainant right up to the point when she reported him for sexual assault on 24 September 2024.[101] The Accused argued that this evidence of their "friendly" relationship militated against the Prosecution's case that he had committed numerous sexual assaults against her during the same period.

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97 27 Sep 2024 Transcript at p 44, lines 7–8.

98 30 Sep 2024 Transcript at p 43, lines 1–17.

99 27 Sep 2024 Transcript at p 44, lines 3–5.

100 5 Dec 2024 Transcript at p 91, lines 7–20.

101 DCS at para 54.

100 I rejected this argument. The photographs in question proved nothing beyond the fact that the Complainant had a close relationship with her stepfather. This was something the Complainant herself had attested to.[102] In fact, it was precisely because they had always had a close relationship that the Complainant found it difficult to avoid him after the first incident of sexual assault in March 2021: as she explained in her evidence-in-chief, her mother [W] knew that she was very close to the Accused, and she was afraid that if it seemed that they were becoming "distant", her mother would wonder why she was "acting this way" and whether there was "something weird happening".[103] As I noted above, the Complainant's evidence was that she did not dare to tell her mother about the sexual assault because she was uncertain whether she would be believed.

[W]'s failure to notice the stains on the bedsheets

101 Third, the Accused claimed that although the Complainant gave evidence about his having ejaculated on the bed during the various incidents, [W] – who was responsible for doing the laundry in their household – had not noticed any stains on the bedsheets when she washed them each week.[104] According to the Accused, this proved that the Complainant must have been lying.

102 I rejected this argument. [W]'s testimony was simply that she had not noticed "anything in particular" about the mattress and bedsheets when washing them.[105] This evidence was tentative at best. Defence counsel did not ask [W] to

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102 30 Sep 2024 Transcript at p 32, lines 14–26.

103 27 Sep 2024 Transcript at p 43, lines 6–7, 13–16.

104 DCS at para 34.

105 5 Dec 2024 Transcript at p 80, line 12 to p 81, line 7.

describe how thoroughly (or not) she inspected the bedsheets before washing them; and there was no evidence adduced by the Accused in any event as to how obvious (or not) semen stains would have been on the bedsheets habitually used in their household. [W]'s evidence was thus not conclusive in either proving or disproving the presence of semen stains on the bedsheets.

Presence of a CCTV camera in the Flat

103 The Defence also sought to adduce evidence from [W] regarding a closed-circuit television ("CCTV") camera which was said to have been present in the Flat. [W] testified that the CCTV camera was placed on the television rack and that it could be rotated so as to allow surveillance of the living room area of the one-room flat.[106] [W] claimed that the CCTV camera was equipped with a microphone and speaker that she used to monitor and to communicate with the Complainant.[107] According to [W], this camera was switched on 24 hours a day, but only displayed live footage (*ie*, it did not have recording capabilities).[108]

104 Defence counsel did not elaborate in his written submissions on the relevance of the above evidence. I inferred that what the Accused was trying to say was that he would not have ventured to engage in any sexual activity with the Complainant when he knew there was a CCTV camera present in the Flat. Assuming this was what the Accused intended to show, I found that [W]'s evidence was in fact unhelpful to the Defence. In cross-examination by the Prosecution, [W] conceded that the CCTV camera had not been working for

106 5 Dec 2024 Transcript at p 68 line 15 to p 69 line 27.

107 5 Dec 2024 Transcript at p 70, lines 28–30.

108 5 Dec 2024 Transcript at p 69 line 28 to p 70 line 5.

some time.[109] When pressed, she was unable to specify when exactly the camera stopped working and accepted that this was due to her infrequent use of the device.[110] In the circumstances, there was in effect no evidence that the CCTV camera was functioning throughout the period of March to September 2021, when the various sexual assaults occurred.

Motive for the Complainant to falsely implicate the Accused

105 Fourth, the Accused argued that the Complainant had a motive to falsely incriminate him because she was upset with him for confiscating her handphone, hiding the TV remote control, and refusing to let her watch YouTube clips featuring her favourite Korean boy-band.[111]

106 I rejected this argument. Where a motive for a false allegation is raised, it is for the defence to first establish sufficient evidence of such a motive (*GCK* at [102]). The Accused himself testified that he had imposed these disciplinary actions "[m]ore than once" since the start of 2021.[112] Assuming the Complainant was truly upset with the Accused for imposing these disciplinary measures, it made no sense that she should have waited until September 2021 to make a false report against him. In his reply submissions, defence counsel asserted that it was a "buildup of emotions" which had led the Complainant to report the Accused on 24 September 2021. However, this assertion that the Complainant had undergone a "buildup of emotions" between the start of 2021 and September 2021 was never put to her in cross-examination, and neither the Accused nor [W] gave any evidence about having noticed signs of increasing frustration

109 5 Dec 2024 Transcript at p 86, lines 1–17.

110 5 Dec 2024 Transcript at p 86, lines 26–30.

111 DCS at paras 47–56; DRS at paras 40–42.

112 4 Dec 2024 Transcript at p 3, lines 11–26.

and/or resentment on the Complainant's part in the months leading up to 24 September 2021. On the contrary, as I observed earlier, the Accused himself produced photographs to show that throughout the period of the alleged sexual assaults, the Complainant had continued to be "friendly" towards him. Indeed, more fundamentally, given the close bond which both the Complainant and the Accused attested to sharing, it made no sense for the Complainant to jeopardise their relationship by falsely accusing the Accused of sexual abuse over the relatively trifling matter of being able to watch YouTube videos.

The alleged misconduct of the interpreter during the VRIs

107 Finally, the Accused also sought to cast doubt on the weight to be given to his VRI statements by raising allegations about the conduct of the Malay interpreter, Ms Maria, during the recording of these statements. According to defence counsel, Ms Maria "had taken on the role of the investigating officer and asked questions relating to investigations without the prompt [*sic*] of IO Chew".[113] In support of this argument, defence counsel produced a series of extracts from the VRI transcripts which purportedly showed Ms Maria "exceeding her role as an interpreter" by asking questions on her own initiative.[114]

108 I rejected this argument. A review of the extracts produced by counsel showed clearly that all Ms Maria was doing in asking questions during the VRIs was simply to clarify the responses given by the Accused to questions originally asked by IO Chew. For example, the Accused took issue with the following

113 DCS at para 76.

114 "Areas of the VRI Statements that we are challenging" marked "E".

exchange from the VRI of 24 September 2021, concerning the first incident of sexual intimacy between the Accused and the Complainant:[115]

> 00:03:04 Maria: So the first time still she was sitting in, I mean she was on top of you ([the Accused] nods) but 'uh' was there sex?
>
> 00:03:41 [the Accused]: Yes, yes. Besides, besides...
>
> 00:03:43 Maria: Meaning.
>
> 00:03:44 [the Accused]: ...from the rubbing earlier.
>
> 00:03:46 Maria: '***Uh' 'huh'***
>
> 00:03:47 [the Accused]: '***Ah***', the category that we discuss because this one we talk about is all about the penetration only '***ah***'. Correct or not?
>
> 00:03:53 Maria: No, ***'uh'*** correct. So but the one that we, she wants to know, the first time you and her...
>
> 00:03:59: [the Accused]: ***'Mm', 'hm'***
>
> 00:04:00 Maria: ***'Uh'*** was there you did, penetrate your penis into her vagina?
>
> 00:04:05 [the Accused]: Meaning ***'ya' 'la'*** the time, the first time that I penetrate ***'la'***.
>
> 00:04:10 Maria: The first time you, your penis penetrates into her vagina or not?
>
> 00:04:14 [the Accused]: ***'Mm', 'hm'***
>
> [underlined portions spoken in Malay but translated into English for the transcript]

109 Relying on the above extract, defence counsel claimed that Ms Maria had taken the initiative to ask the Accused whether there was sex and whether

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115 P1T-A at p 65, lines 2–29. The underlined portions were spoken in Malay but translated into English for the purposes of the transcript: ABOD at p 282.

there was penetration of the Complainant's vagina with his penis.[116] However, as Ms Maria pointed out during cross-examination, the questions she asked were merely to seek clarification of the Accused's response to *a question which IO Chew had asked* less than a minute beforehand:[117]

> 00:02:37 Chew: …that was the time where also your penis insert into her vagina ***'uh'***? OK or you want her to explain to you, so to confirm the, the first sexual intimacy and the, because he also did mention that was the first time they had sex together.

110 As another example, counsel for the Accused took issue with Ms Maria asking the Accused whether he and the Complainant were naked during a particular incident:[118]

> 00:00:05 Maria: So ***'uh'*** you all were naked? ***'Uh'*** bottom?
>
> 00:00:08 [the Accused]: ***'Ya'*** same like just now.

Again, however, a review of the transcript showed that Maria was merely seeking clarification of the Accused's response to *IO Chew's prior question*:[119]

> 00:01:14 Chew: So your, but the both of you were naked at the bottom ***'la'***?
>
> 00:01:17 [the Accused]: Naked at the bottom, yes.

111 In short, it was clear that insofar as Ms Maria did ask questions of the Accused during the VRIs, she was simply *clarifying* the Accused's responses to questions posed by the recording officer, IO Chew. She was not, as defence

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116 25 September 2024 Transcript at p 38, lines 17–20.

117 25 September 2024 Transcript at p 42, lines 10–11; P1T-A at p 64, lines 3–6.

118 25 September 2024 Transcript at p 43, lines 12–15; P1T-A at p 68, lines 9–11.

119 25 September 2024 Transcript at p 43, lines 16–29; P1T-A at p 61, lines 22–24.

counsel seemed to imply, going off on a frolic of her own; much less attempting in any way to suggest to the Accused how he should answer certain questions.

Conclusion on conviction

112 Having regard to the analysis set out at [39]–[74] and [81]–[111], I was satisfied that the Prosecution had successfully proven the 1st, 2nd, 3rd, 4th, 5th, 7th, and 8th Charges beyond a reasonable doubt; and I therefore convicted the Accused of these Charges. For the reasons explained in [75]–[80], I acquitted the Accused of the 6th Charge.

Decision on sentence

113 I next set out the reasons for my decision on sentence.

114 In summary, the Prosecution's and the Defence's respective positions were as follows:

Charge	**Offence**	**Prosecution's proposed sentence**	**Defence's proposed sentence**
1st Charge	Penile-Vaginal Rape s 375(1)(a) p/u s 375(2) Penal Code	15–17 years' imprisonment and 12 strokes (**consecutive)**	13 years' imprisonment and 12 strokes (**consecutive**)

2nd Charge	Exploitative Digital-Vaginal sexual assault by penetration s 376(2)(a) p/u s 376(4)(c) Penal Code	13–14 years' imprisonment and 12 strokes **(consecutive)**	7 years' imprisonment and 4 strokes
3rd Charge	Penile-Vaginal Rape s 375(1)(a) p/u s 375(2) Penal Code	15–17 years' imprisonment and 12 strokes	13 years' imprisonment and 12 strokes
4th Charge	Penile-Vaginal Rape s 375(1)(a) p/u s 375(2) Penal Code	15–17 years' imprisonment and 12 strokes	13 years' imprisonment and 12 strokes
5th Charge	Penile-Vaginal Rape s 375(1)(a) p/u s 375(2) Penal Code	15–17 years' imprisonment and 12 strokes	13 years' imprisonment and 12 strokes
7th Charge	Penile-Oral Rape s 375(1A)(a) p/u s 375(2) Penal Code	15–17 years' imprisonment and 12 strokes	13 years' imprisonment and 12 strokes
8th Charge	Digital-Vaginal sexual assault by penetration s 376(2)(a) p/u s 376(4)(c) Penal Code	12–13 years' imprisonment and 8 strokes	7 years' imprisonment and 4 strokes (**consecutive)**

Global sentence	**28–31 years' imprisonment and 24 strokes**	**20 years' imprisonment and 16 strokes**

115 Broadly speaking, the seven charges on which the Accused was convicted could be grouped into two categories: (a) the rape charges (the 1st, 3rd, 4th, 5th, and 7th Charges); and (b) the charges of sexual assault by digital-vaginal penetration (2nd and 8th charge). I deal with each category in turn.

The appropriate sentence for the rape charges

The applicable sentencing framework for the rape charges

116 In respect of the rape charges, I applied the sentencing framework established in *Ng Kean Meng Terence v PP* [2017] 2 SLR 449 ("*Terence Ng*"). There are two stages to the *Terence Ng* sentencing framework.

117 At the first stage, the court determines an indicative starting sentence having regard to the relevant offence-specific factors. Such factors relate to the manner and mode by which the offence was committed as well as the harm caused to the victim. They include: (a) abuse of position and breach of trust; (b) premeditation and a considered commitment towards law-breaking; (c) the actual or threatened use of excessive violence over and above the force that is inherently necessary to commit rape; (d) the especial vulnerability of the victim; (e) the commission of rape as a hate crime; and (f) severe harm caused to the victim (*Terence Ng* at [44]).

118 Based on the number of offence-specific factors present, the court should identify the appropriate band in which the offence falls within (*Terence Ng* at [73(b)]):

(a) Band 1 comprises cases of rape at the lower end of the spectrum of seriousness with no offence-specific aggravating factors or where those factor(s) are only present to a very limited extent and therefore should have a limited impact on sentence. Such cases attract sentences of ten to 13 years of imprisonment and six strokes of the cane (at [50] and [73(b)(i)]).

(b) Band 2 comprises cases of rape of a higher level of seriousness usually with two or more offence-specific aggravating factors. Such cases attract sentences of 13 to 17 years of imprisonment and 12 strokes of the cane (at [53] and [73(b)(ii)]).

(c) Band 3 comprises extremely serious cases of rape by reason of the number and intensity of offence-specific aggravating factors. Such cases attract sentences of 17 to 20 years of imprisonment and 18 strokes of the cane (at [57] and [73(b)(iii)]).

119 The court then identifies precisely where within that range the present offence falls in order to derive an "indicative starting point". In exceptional cases, the court may decide on an indicative starting point which falls outside the prescribed range, although cogent reasons should be given for such a decision (*Terence Ng* at [73(a)]).

120 Once an indicative starting sentence is obtained, the court turns to the second stage to calibrate that starting sentence based on the offender-specific mitigating and aggravating factors which are personal to the offender in

question. Some offender-specific *aggravating* factors may include: (a) the presence of other offences taken into consideration for the purposes of sentencing; (b) the presence of relevant antecedents; and (c) an evident lack of remorse (*Terence Ng* at [64]). Conversely, some offender-specific mitigating factors may include: (a) the display of evident remorse; (b) the offender's youth; and (c) the offender's advanced age (*Terence Ng* at [65]).

My decision on the sentence in respect of the rape charges

(1) Stage one: determining the indicative starting sentence based on the offence-specific factors

(A) THE PRESENT OFFENCE-SPECIFIC AGGRAVATING FACTORS

121 At the first stage of the *Terence Ng* framework, I determined that there were four clear offence-specific aggravating factors in this case. These were:

(a) Abuse of position: As the Complainant's stepfather, the Accused was in a position of responsibility towards the Complainant; and from the evidence adduced, the Complainant clearly looked up to the Accused as the only father figure she had ever known. Tragically, he repaid her innocent affection and undoubted faith in him with multiple acts of sexual violence. His flagrant abuse of his position for selfish sexual gratification constituted a well-established aggravating factor at the first stage of the *Terence Ng* framework (*Terence Ng* at [44(b)]; *BPH v PP and another appeal* [2019] 2 SLR 764 ("*BPH v PP*") at [64]–[67]; *BSR v PP and another matter* [2020] 2 SLR 758 at [13]).

(b) Vulnerability of the Complainant as a young victim: At the time the rape offences were committed, the Complainant had just turned 14 years old. The law recognises that the rape of a victim who is especially

vulnerable because of age, physical frailty, mental impairment or disorder, is an aggravating factor (*Terence Ng* at [44(e)]). In his submissions on sentence, defence counsel rightly accepted that the Complainant's vulnerability as a young victim was an aggravating factor in this case.[120]

(c) Prolonged duration of offences: The rape offences were carried out by the Accused over the course of some seven months. While the Defence sought to downplay the duration of the Accused's offending conduct by comparing the seven-month period in this case to the four-year period of sexual abuse in *PP v BQD* [2021] SGHC 183 ("*BQD*"), it should be noted that *BQD* did not set any minimum threshold for what would constitute prolonged abuse. In *Terence Ng*, the Court of Appeal considered (at [55]) the fact that the offender in *PP v Sim Wei Liang Benjamin* [2015] SGHC 240 had committed multiple sexual offences over a three-month period to be an aggravating factor.

(d) Exposure to the risk of unwanted pregnancy and sexually transmitted diseases: It was not disputed that the Accused did not wear a condom when he engaged in penile-vaginal intercourse with the Complainant. The Complainant was thus exposed to the risk of unwanted pregnancy and/or the transmission of sexually transmitted diseases. This constituted another well-established offence-specific aggravating factor in rape cases (*Isham bin Kayubi v PP* [2020] SGCA 42 at [21]; *Chang Kar Meng v PP* [2017] 2 SLR 68 at [21(b)]; *PP v CPS* [2024] 2 SLR 749 ("*PP v CPS*") at [39]).

120 DSS at para 11.

122 The Prosecution argued that I should take into consideration two other offence-specific aggravating factors at this first stage of the *Terence Ng* framework. First, the Prosecution argued that there was severe harm caused by the Accused which should be treated as a distinct aggravating factor. Second, it was submitted that the Accused had exhibited "significant opportunism" in his commission of the various rape offences, which – according to the Prosecution – constituted an additional, distinct aggravating factor.

123 I did not agree with the above arguments.

(B) SEVERE HARM

124 For the sentencing court to find that the harm caused by the rape offence amounts to a distinct aggravating factor under the first stage of the *Terence Ng* framework, the court must find that the harm in question was "*especially* serious". This was made clear by the Court of Appeal in *Terence Ng*: in enumerating "severe harm to victim" as an offence-specific aggravating factor at [44(g)] of its judgement, the Court noted that "every act of rape *invariably* inflicts immeasurable harm on a victim", before holding that "[w]here the rape results in *especially serious physical or mental effects on the victim* such as pregnancy, the transmission of a serious disease, or a psychiatric illness, this is a serious aggravating factor".

125 More recently, in *PP v CPS*, the Court of Appeal reiterated that in order for the harm caused to a rape victim to be given weight as a separate aggravating factor in sentencing, the harm in question should be "beyond that suffered normally by victims of rape" (at [44]). In *PP v Ridhaudin Ridhwan bin Bakri and others* [2020] 4 SLR 790 (at [23]), Woo J (as he then was) explained the reasoning behind this requirement as follows:

> … physical and emotional harm caused to a victim of rape would have to be especially serious to amount to an aggravating factor under the *Terence Ng* framework. The indelible physical and emotional effects of rape on victims are already reflected by the fact that it is a serious offence. In the absence of especially serious physical or emotional harm, harm caused to victims should not be regarded as an offence-specific aggravating factor as to do so would give this factor double weight.

126 In arguing that the present case involved harm sufficiently severe to amount to a separate aggravating factor, the Prosecution pointed to evidence of the Complainant's negative cognitions, her mood changes and involuntary recollections of the incidents, as well as the breakdown of her relationship with her family.[121] With respect, and without seeking to downplay in any way the emotional and psychological distress suffered by the Complainant, I did not find that this evidence showed harm that was "*especially serious*" and that should be given weight as a distinct aggravating factor.

127 In an attempt to demonstrate the severity of the harm caused to the Complainant, the Prosecution also pointed to evidence of an incident in which the Complainant had allegedly cut her wrist using the wire of her face mask. However, Dr Parvathy's report made it clear that she was told by the Complainant that the Complainant had "cut herself *when she felt stressed about not being able to see her family*" [emphasis added].[122] In other words, the Complainant's self-cutting incident was triggered by the stress of the isolation she felt from her family, rather than psychological trauma from the sexual assaults.

128 The Prosecution also sought to rely on the judgement of the Court of Appeal in *CJH v PP* [2023] SGCA 19 ("*CJH v PP*"). *CJH v PP* involved an

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121 ABOD at pp 16–18.

122 ABOD at p 36.

offender who had raped his biological sister on three separate occasions whilst she was between nine and 12 years old. On appeal, the defence argued that the victim's medical reports did not show "severe or considerable harm over and above what is often associated with an offence of rape, such that this would constitute a separate aggravating factor". The Prosecution highlighted that in rejecting this argument, the Court of Appeal had remarked (at [16]) that "[w]hile a court may not take into account facts that are part and parcel of the offence itself, there is no reason to exclude the type of harm and suffering that may be experienced by a victim just because many victims in a similar position would also experience such harm". It must be noted, however, that the Court went on in the same passage to make the following additional observations:

> … In this case, it is difficult to suggest that there was no severe harm when V was so young during the time of the offences. As the trial Judge noted, having suffered pain and alarm, V retreated into a position of not resisting the appellant's assaults because she felt it was pointless to resist as the appellant was stronger than her and there was no one else present in the family home on those occasions. In any case, even if we disregard this factor of severe harm, there would still be four aggravating factors which would put this case firmly in the middle of band 2 for both sentencing frameworks. Overall, considering the totality of the offences, we do not think that the indicative starting points used by the trial Judge were excessive at all.

129 Clearly, the Court of Appeal in *CJH* did not at any point reject the position it took in *Terence Ng* and *PP v CPS* that the harm caused to a rape victim had to be "especially serious" in order for it to be treated as a separate aggravating factor. What the Court of Appeal in *CJH did* find was that severe harm had been caused to the victim in that case (primarily because she "was so young at the time of the offences") and that the degree of severity of the harm was sufficient for it to amount to a separate aggravating factor. This was a

finding specific to the facts in *CJH*, which did not assist the Prosecution in the present case.

(C) SIGNIFICANT OPPORTUNISM

130 In respect of the issue of "significant opportunism", the Prosecution relied on *Muhammad Alif bin Ab Rahim v PP* [2021] SGCA 106, where the Court of Appeal upheld the High Court's finding that the offender's "significant opportunism" was an offence-specific aggravating factor (at [39]). In that case, the significant opportunism stemmed from the offender taking advantage of the fact that the victim was acquainted with him and had trusted him enough to accompany him to a secluded area in a park, ostensibly to have a cola drink and a chat (*PP v Muhammad Alif bin Ab Rahim* [2021] SGHC 115 at [18]).

131 In my view, most cases of rape will in practice involve some degree of opportunism. For this to amount to a distinct aggravating factor, the opportunism must have been of a *significant* degree. In the present case, the fact that the Accused would carry out the sexual assaults on the Complainant at home only when her mother was not present did not amount to *significant* opportunism.

132 While I rejected the Prosecution's arguments on the issues of severe harm and significant opportunism, I did agree – having regard to the four offence-specific aggravating factors set out above (at [121]) − that the rape offences in this case should fall around the middle of Band 2 in the *Terence Ng* framework. An appropriate indicative starting sentence for each of the rape charges would be 15 years' imprisonment and 12 strokes of the cane.

(2) Stage two: calibrating the starting sentence based on the offender-specific factors

133 As to the offender-specific aggravating factors, the Defence submitted that the only offender-specific aggravating factor was "abuse of trust". This was incorrect, since abuse of position and breach of trust are clearly offence-specific, rather than offender-specific, aggravating factors. The Prosecution, for its part, submitted that there were no offender-specific aggravating factors. I did not agree.

134 In my view, the Accused's conduct in "casting blatantly false aspersions against multiple officers of the Singapore Police Force" demonstrated a lack of remorse. This conduct was in fact highlighted and castigated by the Prosecution in its submissions on sentence (although somewhat puzzlingly, the Prosecution did not apparently view it as an offender-specific aggravating factor). It will be recalled that in his evidence-in-chief, the Accused alleged that he had admitted to committing various sexual acts against the Complainant only because SI Faizal had repeatedly alluded to the Complainant being in custody, had warned the Accused not to give "excuses" or "evade", and had intimated that the Complainant's release depended on the Accused giving the police "the story" so that they would not "get angry" with him. These allegations were made very late in the day by the Accused, leading to a number of the Prosecution's witnesses having to be recalled so that his allegations could be put to them. Case law has established that an accused's conduct in casting unjustified aspersions on the conduct of the police may be held to demonstrate a lack of remorse (*PP v Amir Hamzah Bin Mohammad* [2012] SGHC 165 at [19]). In the present case, I found that the Accused's belated − and unjustified – allegations against the police demonstrated a lack of remorse which amounted to an offender-specific aggravating factor.

135 As to offender-specific mitigating factors, on the other hand, there were none in this case. Although the Accused sought to emphasise his clean record, it is well-established that "[t]he lack of antecedents is no more than the absence of an aggravating factor, which is not mitigating but neutral in the sentencing process" (*per* the Court of Appeal in *BPH v PP* at [84]–[85]).

136 Similarly, the Accused's medical conditions did not qualify as a mitigating factor. In *Chew Soo Chun v PP and another appeal* [2016] 2 SLR 78 at [34], the Court of Appeal held that ill health may act as a mitigating factor where the offender faces far greater suffering than the usual hardship in serving a term of imprisonment; further, that this is generally constituted by a risk of significant deterioration in health or a significant exacerbation of pain and suffering. Where the impact on the offender "does rise to such a sufficiently serious level", it "causes the sentence that is otherwise appropriate with regard to the offence committed, to be out of line on the ground of proportionality". In the present case, the Accused's migraines and chest pains did not "rise to such a sufficiently serious level".

137 Finally, the Accused argued that his mother would suffer exceptional hardship as a result of his imprisonment. I did not accept this argument. As Phang JCA noted in delivering the judgement of the Court of Appeal in *CCG v PP* [2022] SGCA 19 (at [6]), exceptional circumstances are required for familial hardship to amount to a mitigating factor. The facts of the present case were by no means exceptional.

138 In light of the offender-specific aggravating factor present, I calibrated the indicative starting sentence for each of the rape charges upwards to 16 years' imprisonment and 12 strokes of the cane.

The appropriate sentence for the sexual penetration charges

139 I turn next to the appropriate sentences for the two charges of sexual assault by digital-vaginal penetration (the 2nd and 8th Charges). In respect of the offence in the 2nd Charge, this carried a mandatory minimum sentence of 8 years' imprisonment and 12 strokes of the cane, as it was punishable under s 376(4)(*c*) of the Penal Code.

The applicable sentencing framework for the sexual penetration charges

140 The sentencing framework set out in *Pram Nair v PP* [2017] 2 SLR 1015 applies to both the 2nd and 8th Charges. The *Pram Nair* framework largely mirrors the two-stage *Terence Ng* framework set out earlier at [118], where the court starts by determining an indicative sentence based on the offence-specific factors, before calibrating that starting point based on the offender-specific factors. In the *Pram Nair* framework, the sentencing bands applicable at the first stage are as follows:

(a) Band 1 comprises cases which feature no offence-specific aggravating factors or cases where these factors are only present to a very limited extent and therefore have a limited impact on the sentence. Such cases attract sentences of 7 to 10 years of imprisonment and 4 strokes of the cane.

(b) Band 2 comprises cases usually containing two or more offence-specific aggravating factors. Such cases attract sentences of 10 to 15 years of imprisonment and 8 strokes of the cane.

(c) Band 3 comprises extremely serious cases by reason of the number and intensity of offence-specific aggravating factors. Such cases

attract sentences of 15 to 20 years of imprisonment and 12 strokes of the cane.

141 Once an indicative starting sentence is obtained within the applicable band, the court will calibrate it based on the relevant offender-specific factors.

My decision on the sentence in respect of the sexual penetration charges

142 I accepted the Prosecution's submission that under the first stage of the *Pram Nair* framework, the offence-specific aggravating factors examined earlier (at [121]) – *ie*, the Accused's abuse of position, the Complainant's vulnerability as a young victim, and the seven-month period over which the Complainant suffered the Accused's sexual assaults − would apply equally to the sexual penetration charges. In my view, these two offences should be placed somewhere near the middle of Band 2 of the *Pram Nair* framework. Bearing in mind the Complainant's younger age at the time of the offence in the 2nd Charge, I determined that the indicative starting sentence for the 2nd Charge should be 13 years' imprisonment, plus the mandatory minimum of 12 strokes of the cane; while the indicative sentence for the 8th Charge should be 11 years' imprisonment and 8 strokes of the cane.

143 The offender-specific aggravating factor of lack of remorse which I referred to earlier (at [133]) was also present in relation to these two sexual penetration charges. As such, I calibrated the indicative sentence for the 2nd Charge upwards to 14 years' imprisonment and 12 strokes of the cane. I also calibrated the indicative sentence for the 8th Charge to 12 years' imprisonment and 8 strokes of the cane.

The global sentence

144 Under s 307(1) of the Criminal Procedure Code 2010, at least two of the imprisonment sentences must run consecutively. I accepted the Defence's submission that the imprisonment sentence on the 8th Charge of sexual assault by digital-vaginal penetration should be ordered to run consecutively to the imprisonment sentence on the 1st charge of penile-vaginal rape. This would result in an aggregate imprisonment term of 28 years.

145 At this stage of the sentencing process, the sentencing court is required to "take a 'last look' at all the facts and circumstances to ensure that the aggregate sentence is sufficient and proportionate to the offender's overall criminality" (*PP v Raveen Balakrishnan* [2018] 5 SLR 799 at [98(c)]). As Menon CJ explained in *Mohamed Shouffee bin Adam v PP* [2014] 2 SLR 998 ("*Mohamed Shouffee*"), the totality principle is a manifestation of the requirement of proportionality. The first limb of the totality principle examines whether the aggregate sentence is substantially above the normal level of sentences imposed for the most serious of the individual offences committed (*Mohamed Shouffee* at [54]). The second limb considers whether the effect of the sentence on the offender is crushing and not in keeping with his past record and his future prospects (*Mohamed Shouffee* at [57]).

146 Applying both limbs of the totality principle, I found an aggregate imprisonment sentence of 28 years to be excessive. I therefore adjusted the imprisonment sentences for the rape charges down to 15 years each; and I also adjusted the imprisonment sentence for the charge of sexual assault by digital-vaginal penetration (8th charge) down to 10 years.

147 Having made these adjustments, I sentenced the Accused as follows:

(a) in respect of the penile-vaginal rape charges (1st, 3rd, 4th, and 5th Charges) and the penile-oral rape charge (7th Charge): the Accused was sentenced to 15 years' imprisonment and 12 strokes of the cane for each charge;

(b) in respect of the charge of exploitative sexual assault by digital-vaginal penetration (2nd Charge): the Accused was sentenced to 14 years' imprisonment and 12 strokes of the cane; and

(c) in respect of the charge of sexual assault by digital-vaginal penetration (8th Charge): the Accused was sentenced to 10 years' imprisonment and 8 strokes of the cane.

148 The imprisonment sentence on the 8th Charge was ordered to run consecutively to the imprisonment sentence on the 1st Charge. Pursuant to s 328 of the CPC, caning was limited to 24 strokes. The aggregate sentence was therefore 25 years' imprisonment and 24 strokes of the cane, with the aggregate imprisonment term being backdated to the Accused's date of arrest (24 September 2021)

Mavis Chionh Sze Chyi
Judge of the High Court

Jane Lim Ern Hui and Jeremy Bin Wen Hao (Attorney-General's Chambers) for the Prosecution;
Mr K Jayakumar Naidu (Jay Law Corporation) for the accused.