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

[2025] SGHC 200

Magistrate's Appeal No 9089 of 2025/01

Between

Public Prosecutor

… *Appellant*

And

Ng Whye Quan

… *Respondent*

GROUNDS OF DECISION

[Criminal Procedure and Sentencing — Appeal — Appeal against sentence]
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Introduction

1 In HC/MA 9089/2025/01, the Appellant sought an enhancement of the term of 13 months' imprisonment that was meted out to the Respondent by the District Judge (the "DJ") below for a charge of being a member of an unlawful assembly whose common object was to cause hurt, using violence to prosecute that common object, an offence under s 147 of the Penal Code 1871 (2020 Rev Ed) (the "PC"). The offence in question (the "Rioting Charge") was committed by the Respondent together with five other co-offenders on 25 to 26 November 2024, resulting in physical injuries to the then-17-year-old male victim (the "Victim").

2 I allowed the appeal and enhanced the Respondent's custodial term from 13 months to 18 months for the Rioting Charge. In consequence, the

Respondent's global imprisonment term increased from 18 months to 23 months of imprisonment. In allowing the appeal, brief reasons for my decision were delivered orally. I now set out the full grounds of my decision.

Factual background

3 The Respondent pleaded guilty before the DJ on 18 June 2025 to various charges and admitted to the Statement of Facts without qualification. Where the Rioting Charge was concerned, the relevant background facts may be briefly summarised as follows.

4 The Respondent was 22 years of age at the material time of the offences. On 6 November 2024, the Respondent and another co-accused formed a common intention to steal a motor vehicle in the possession of a third party, and thereby committed an offence under s 379A read with s 34 of the PC (the "Car Theft Charge"). The Respondent was arrested for the Car Theft Charge (among other offences) on 7 November 2024. He was produced in court on 9 November 2024 and then released on bail on 18 November 2024.

5 On 25 November 2024, the Respondent, together with five co-offenders, including one Mr Mohammad Shah Bin Mohd Bahazli, who was 19 years old at the time of offending (the "Accomplice"), brought the Victim to a staircase landing in a residential housing block, whereupon the Respondent and two of the co-offenders physically assaulted the Victim over outstanding compensation which the latter was said to owe to two of their number.

6 The Respondent and the co-offenders then brought the Victim away from the residential block to a cemetery, where they continued to inflict further physical assaults upon the Victim. The Respondent and the Accomplice hit the Victim by punching his face and head multiple times. Most of the other co-

offenders also committed other assaults on the Victim. The violence against the Victim lasted from 25 November 2024, at or around 11.28pm, to 26 November 2024, at or around 1.29am. One of the members of the unlawful assembly also told the Victim to remove his clothes in order to humiliate him, whereupon the Victim removed his shirt and pants.

7 The group then split up. The Respondent, the Accomplice, and one other co-offender brought the Victim to a mutual friend, who punched the Victim several times. After that, the Victim was brought to the Respondent's residential flat and only permitted to leave on 27 November 2024, at or around 5.00pm.

8 The Victim was seen in hospital on 28 November 2024. He was found to have sustained contusion wounds over his bilateral ears and his right cheek, puncture marks over his nape, and abrasion wounds over his left ear and right temporal region. He was discharged that same day with medication and was granted three days' medical leave.

9 The Respondent was re-arrested on 28 November 2024 in relation to the Rioting Charge (among other offences). Upon being charged in court with these offences, he was remanded from 6 December 2024 until the plead guilty mention on 18 June 2025.

Procedural history

10 At the plead guilty mention, the Appellant proceeded on five charges against the Respondent, inclusive of the Rioting Charge and the Car Theft Charge, with two other charges taken into consideration in sentencing. The Respondent was represented by counsel at the time. The Appellant highlighted a relevant antecedent, *viz*, his conviction upon a set of offences on 22 June 2022

for which he was sentenced to reformative training, one of which was for voluntarily causing hurt under s 323 of the Penal Code (Cap 224, 2008 Rev Ed).

11 On the Rioting Charge, the Appellant sought a term of imprisonment of 18 to 20 months with one to two strokes of the cane. The Respondent sought a sentence of 12 months' imprisonment with one stroke of the cane.

12 The main basis for the Respondent's sentencing position was the parity principle. The Accomplice had already been sentenced upon pleading guilty to a similar rioting charge in relation to his involvement in the same incident. At the Respondent's plead guilty mention, the Appellant informed the DJ that the Accomplice had been sentenced to eight months' imprisonment and one stroke of caning for that charge, with no further details furnished.

13 The relevant records on the State Courts' Integrated Case Management System ("ICMS") showed that the Accomplice's global term of imprisonment was eight months and two weeks (*viz*, his eight-month term for rioting was ordered to run consecutively with a two-week term for an offence under s 13(1)(*a*) of the Arms and Explosives Act 1913 (2020 Rev Ed)). His sentence took effect from 5 June 2025, that is, the date he had pleaded guilty and was sentenced by DJ Kessler Soh Boon Leng ("DJ Soh"). Further, the ICMS records reflected that, as of 5 June 2025, the Accomplice had been "[r]emanded [f]rom" 30 November 2024 for "6 months and 6 days". However, none of these facts were highlighted to the DJ by the Appellant at the Respondent's plead guilty mention.

The sentence on the Rioting Charge

14 Having considered the parties' sentencing submissions, the DJ sentenced the Respondent to five months' imprisonment and 12 months'

disqualification from holding or obtaining all classes of driving licences ("DQAC") for the Car Theft Charge, and to a further 13 months' imprisonment and one stroke of the cane for the Rioting Charge. She ordered those two imprisonment terms to run consecutively, with the imprisonment terms imposed for the other offences to run concurrently. The global imprisonment sentence was therefore 18 months' imprisonment (backdated to 7 November 2024, but excluding the bail period of 18 to 28 November 2024).

15 The full written grounds for the DJ's decision were furnished on 8 July 2025 and published as *Public Prosecutor v Ng Whye Quan* [2025] SGDC 170 (the "GD"). She explained that the Respondent's sentence for the Rioting Charge was premised on considerations of sentencing parity. The Accomplice had been sentenced to eight months' imprisonment and one stroke of the cane for his role in the same offence (GD at [31]). The roles played by both the Respondent and the Accomplice were broadly similar. In fact, the Accomplice was the first to have inflicted violence on the Victim (GD at [34]). Furthermore, while the Respondent had a similar antecedent, having been sentenced to reformative training for voluntarily causing hurt, among other offences, the Accomplice also had a recent antecedent. On 20 June 2023, the Accomplice was sentenced to reformative training for voluntarily causing hurt and being a member of an unlawful assembly under ss 323 and 143 respectively of the PC (GD at [35]).

16 The only differences between the Respondent and the Accomplice were that: (a) the Accomplice was 19 years old and below the age of majority of 21 years, while the Respondent was 22 years old at the time of their offending, although the difference was not great; and (b) the Respondent had re-offended whilst he was on bail, while the Accomplice had not (GD at [36]).

17 The DJ was not persuaded by the Appellant that these two factors above merited such a significant increase in the custodial term from eight months in respect of the Accomplice to 18 to 20 months in respect of the Respondent, that is, more than *double* the Accomplice's sentence (GD at [38(c)]). She regarded an uplift of five months to be more than sufficient to account for the two differences she identified between the co-offenders, resulting in a custodial term of 13 months for the Rioting Charge (GD at [38(c)] and [51]–[52]).

The appeal

18 On 25 June 2025, the Appellant lodged their notice of appeal against the DJ's sentence for the Rioting Charge. The petition of appeal stated that the sentence imposed for the Rioting Charge failed to "underscore the gravity of the offence committed". While the petition of appeal did not expressly state the enhancement of sentence sought, it could be surmised that the Appellant was seeking the same custodial sentence as sought below, *viz*, 18 to 20 months' imprisonment. In oral submissions, the Appellant clarified that they were seeking a custodial term of 18 months for the Rioting Charge.

19 I sought clarification from the Appellant as to the circumstances behind the remand period for the Accomplice, as reflected on ICMS (at [13] above). The Appellant informed me that the Accomplice was *not* remanded in custody in relation to the rioting offence; rather, he had previously been sentenced to reformative training for the antecedent offences at [15] above. In response to my queries, the Appellant conveyed the following details:

(a) The Accomplice was sentenced to reformative training for 12 months on 20 June 2023 for a series of offences. He was released in June 2024, having served the minimum period of detention under

s 305(6)(*b*) of the Criminal Procedure Code 2010 (2020 Rev Ed) (the "CPC").

(b) The Accomplice was placed on a supervision order (see regs 4(2) and 12(1) of the Criminal Procedure Code (Reformative Training) Regulations 2018 (the "RTR 2018")) from 14 August 2024 to 19 June 2027.

(c) The Accomplice breached the terms of the supervision order by re-offending (see reg 12(2) of the RTR 2018), including the commission of the rioting offence with the Respondent. He was served a recall order (see reg 13(1) of the RTR 2018) for the period of 29 November 2024 to 19 June 2026.

(d) He was formally charged in court on 30 November 2024 and he was eventually sentenced to a global term of eight months and two weeks' imprisonment, taking effect from the date of his sentence (*viz*, 5 June 2025). As a result of the recall order at [19(c)] above, he was not offered bail.

(e) After he is released from prison upon serving his sentence for the rioting offence, the Singapore Prison Service ("Prisons") will have the discretion to require that the Accomplice serve out the full duration of his recall order (*ie*, until June 2026) or to release him and place him on a remission order.

20 I also conveyed to the Appellant that these facts at [19] above were material and ought to have been communicated to the DJ. Had she been apprised of these facts and circumstances, she was highly likely to have approached the sentencing exercise – particularly, the application of the principle of parity –

rather differently. The Appellant acknowledged that this was an unfortunate oversight on their part.

21 Finally, the Appellant represented that the custodial term of eight months had been the sentence that they had sought for the Accomplice's rioting offence before DJ Soh.

22 After considering the parties' submissions, I allowed the appeal, and I enhanced the Respondent's sentence on the terms stated at [39] below.

The Appellant's submissions

23 The Appellant's primary submissions were that the 13 months' term of imprisonment was manifestly inadequate for two main reasons:

(a) First, it was not in line with the sentencing precedents, and, in particular, the case of *Phua Song Hua v Public Prosecutor* [2004] SGHC 33 ("*Phua Song Hua*"), which held (at [42]) that rioting offences of the non-secret society variety should ordinarily be punished with a term of 18 to 36 months' imprisonment and three to 12 strokes of the cane. Considering an increase in the statutory maximum from five to seven years' imprisonment since *Phua Song Hua* was decided, and calibrating that sentencing range proportionately to 25 to 50 months' imprisonment, before one applied the 30% sentencing discount to the Respondent for his timeous plea of guilt (see Sentencing Advisory Panel, *Guidelines on Reduction in Sentences for Guilty Pleas* (1 October 2023) ("PG Guidelines") at para 9 (Table 2, Stage 1)), the sentence at the lowest end of the range would have been 17.5 months. That showed that the imprisonment term of 13 months was manifestly inadequate.

(b) Second, the DJ ought to have accorded greater weight to certain aggravating factors in the Rioting Charge, including the fact that there was a degree of premeditation in bringing the Victim to a more secluded location (the cemetery at [6] above) before assaulting him, the Victim's young age, and the Respondent's detention of the Victim at his flat for more than a day after the assaults (at [7] above).

24 In relation to the DJ's reliance on the parity principle, the Appellant stated that the principle of parity was not an immutable rule, and relied on the case of *Lim Bee Ngan Karen v Public Prosecutor* [2015] 4 SLR 1120 ("*Karen Lim*") for the proposition (at [42]) that parity cannot be invoked to impose a sentence upon a co-offender that "is unduly lenient as compared with th[e] precedents", and that a later court need not "necessarily punish the co-offender in a similarly lenient fashion" as their co-accused, who was sentenced before them. Further, the Appellant suggested the DJ ought to have accorded a higher uplift from the eight months' term of imprisonment meted out to the Accomplice, on account of the Respondent being above the age of majority; whereas, the Accomplice was below the age of 21 years. Thus, rehabilitation was presumptively the dominant sentencing consideration in the Accomplice's case, albeit that it was displaced by the sentencing considerations of deterrence and retribution on the facts here. In contrast, it was said that, since deterrence and retribution applied with full force to the Respondent, his sentence ought to have been substantially higher than the Accomplice's, especially considering the precedents at [23(a)] above.

25 When I highlighted the fact that the Accomplice's sentence only took effect on the date of sentencing, whereas the Respondent's had been backdated to account for his remand period, the Appellant argued, first, that a distinction should be drawn between the serving of a reformative training recall order for a

breach of the supervision order, on the one hand, and the Respondent serving a pre-conviction period in remand, on the other. Secondly, it was suggested that, nevertheless, the difference ought to have been highlighted to the DJ below for her consideration, and that DJ Soh might have been minded to consider that the Accomplice could be liable to serve out the remainder of his recall order until June 2026, even after he had served his term of imprisonment, when he was sentencing the Accomplice.

The Respondent's submissions

26 The Respondent was unrepresented for the appeal. He relied primarily upon the principle of parity in view of the Accomplice's sentence of eight months' imprisonment. In his written submissions, he expressed that the difference in their ages was not so substantial as to justify an imprisonment term that was more than twice that of the Accomplice.

27 At the hearing, the Respondent expressed that he understood that the Accomplice's sentence of eight months' imprisonment was not backdated. He took issue with the Appellant's argument that the Accomplice would be liable to serve the remainder of his recall order after his imprisonment term ended, as he represented that he knew of other youthful offenders who had not been recalled to the reformative training centre (the "RTC") after having served out an ordinary term of imprisonment, despite having been subject to an RTC recall order. This submission prompted the Appellant's clarification at [19(e)] above that it was up to Prisons to exercise their discretion to determine whether to put an offender in such a position on a remission order (see Pt 5B, Div 2 of the Prisons Act 1933 (2020 Rev Ed) (the "PA")) or to require them to serve out the remainder of their recall order in the RTC or to place them on another

supervision order (see regs 13(3)(*a*) and 13(7)(*a*) of the RTR 2018), among other options.

Issues to be determined

28 I begin my analysis by reiterating the standard for appellate intervention with a sentence imposed in first instance proceedings (see *Public Prosecutor v Cheong Hock Lai and other appeals* [2004] 3 SLR(R) 203 at [26]), *viz*:

(a) the first instance judge erred regarding the proper factual basis for the sentence;

(b) the first instance judge failed to appreciate the materials placed before him or her;

(c) the sentence imposed was contrary to law and/or principle; or,

(d) the sentence was manifestly inadequate or excessive, as the case may be.

29 Thus, the principal issue I had to decide was whether the Respondent's sentence of 13 months' imprisonment for the Rioting Charge merited appellate intervention. I held that it did, primarily, as the application of the parity principle in regards to the Accomplice's eight months' term of imprisonment for the same offence ought to have taken account of a relevant consideration, namely, the fact that the Accomplice's custodial term was *not* backdated to account for the period in which he was held in custody (*viz*, recalled to the RTC) prior to his conviction and sentencing. On the other hand, the Respondent's sentence *was* backdated to account for his period in remand.

My decision

The principle of parity justified an enhancement of the sentence

30 The principle of parity rests on the justification that offenders ought to be treated equally under the law. It follows that similarly situated co-offenders should generally receive similar or comparable sentences, barring any relevant reasons for their sentences to differ between them (see *Muhamad Azmi bin Kamil v Public Prosecutor* [2022] 2 SLR 1432 at [25]). The test for applying the parity principle is fashioned based on the need to maintain public confidence in the due administration of justice, *viz*, "whether the public, with knowledge of the various sentences, would perceive that the a[ccused] had suffered injustice", considered "objectively from the stance of a reasonable mind looking at all the circumstances" to determine whether "the sentences are inexplicably disparate" from that perspective (see *Chong Han Rui v Public Prosecutor* [2016] SGHC 25 at [47] and [49]).

31 Whether a sentence is backdated to account for a custodial period is clearly a relevant consideration that has the effect of placing two co-offenders in dissimilar positions as regards that fact. The principle of parity has to be applied with reference to substance over form (see *Public Prosecutor v Ng Sae Kiat and other appeals* [2015] 5 SLR 167 ("*Ng Sae Kiat*") at [76], applying the High Court of Australia's *ratio* in *Green v R* (2011) 283 ALR 1). Consequently, it would be wrong to apply the principle of parity with reference only to the *gross* lengths of the terms of imprisonment imposed upon co-offenders of similar culpability. To illustrate this, if an offender is sentenced to ten months' imprisonment without backdating to account for ten months spent in remand, and another co-offender (whose offending was similar or comparable) is *also* sentenced to ten months' imprisonment, but with his sentence backdated to

account for remand, it would plainly be wrong to say that both offenders have been treated equally simply because their sentences are equivalent. In practical terms, the former has suffered a deprivation of physical liberty which is twice the relative burden imposed on the latter for the same offending.

32 By parity of reasoning, in a hypothetical situation where an offender has been held in remand for ten months after first being charged in court, while another co-offender (of equal culpability) was released on bail for the same period, it cannot be that the principle of parity would demand that both offenders should be sentenced to the same imprisonment term of, *ex hypothesi*, 20 months. The substantive effect of such sentences of equal length would be to create extreme and patently unjustifiable inequality and disparity between them. All else being equal, a more justifiable sentencing approach might perhaps be to impose a sentence of ten months' imprisonment (without backdating) for the former, and a sentence of 20 months' imprisonment for the latter, while ordering both sentences to take effect from the date of sentencing. Such "disparate" sentences on the face of the sentences passed would still be consistent with the principle of parity and the "broader principle of equal justice" upon which it rests (see *Karen Lim* at [30]), since the end result is a comparable deprivation of physical liberty of more broadly similar lengths as between similarly placed co-offenders. While the co-offenders are being treated unequally in regards to the gross duration of their sentences, equality does not mean all persons are treated equally, but that "all persons in like situations will be treated alike" (see *Attorney-General v Datchinamurthy a/l Kataiah* [2022] SGCA 46 at [29], applying the Court of Appeal's *ratio* in *Public Prosecutor v Taw Cheng Kong* [1998] 2 SLR(R) 489 at [54]). As a matter of common sense, an offender who has undergone a pre-conviction custodial period is not at all in a like position as compared to a co-offender who has *not*.

33 Applying these principles to the present facts, the Accomplice received a gross sentence of eight months' imprisonment and one stroke of caning for rioting under similar circumstances as the Rioting Charge. In formalistic terms, on the face of the sentences passed, he had received a more lenient sentence than the Respondent, who was sentenced to 13 months' imprisonment and one stroke of the cane for the Rioting Charge. In practical terms, however, the Accomplice had been subjected to an RTC recall order from 29 November 2024. He was charged on 30 November 2024, and he remained in custody at the RTC until he was sentenced by DJ Soh on 5 June 2025. It was not open to DJ Soh to backdate the imprisonment term to include the period in which he had been recalled to the RTC. This would explain why the Accomplice's sentence was not backdated at all. In sentencing the Accomplice, however, DJ Soh would certainly have taken proper account of the fact that the Accomplice had already been held in custody for six months and six to seven days before he came to be sentenced. The substantive effect of DJ Soh's imprisonment term of eight months was that the Accomplice would be liable to face approximately 14 months of deprivation of his physical liberty. Moreover, given that sentencing judges are generally cognisant of the typical one-third remission of imprisonment terms granted by Prisons *per* s 50I(1) of the PA when meting out sentences to accused persons (see *Iskandar bin Jinan v Public Prosecutor and another appeal* [2024] 2 SLR 673 at [129]; see also, *eg*, *Public Prosecutor v Irha Maddi Bin Nordaim* [2024] SGDC 194 at [50]–[51]), after accounting for the one-third remission of the global term of eight months and two weeks (the bulk of which was attributable to the eight months' imprisonment term for rioting), it was likely that the Accomplice would be released after spending roughly 11 months or so in custody.

34 This outcome stands in clear contrast with the Respondent's imprisonment term of 13 months, which *was* backdated to 7 November 2024, accounting for the time he spent in remand, *ie*, around seven months. That sentence of 13 months' imprisonment meant that the Respondent was liable to a deprivation of his physical liberty for a duration which was *less* than the 14 months effectively imposed on the Accomplice. When one factors in the usual one-third remission that may be given for good behaviour, while the Accomplice would be released after being held in custody for approximately 11 months, the likely period of custody for the Respondent (as regards *only* the penalty for the Rioting Charge) was around eight months and 20 days (*ie*, two-thirds of 13 months). This is much lower than the roughly 11 months' custodial period which the Accomplice would experience, in the event of remission.

35 Accordingly, taking a substance-over-form approach with reference to *Ng Sae Kiat* at [76] (see at [31] above), the result was that the Respondent, in effect, received a more lenient sentence *in practical terms* than that meted out to the Accomplice. That was contrary to the principle of parity, given that there were sentencing factors within the Respondent's case, and absent in the Accomplice's (as at [16] above), that would potentially justify a higher sentence for the Respondent. Thus, the sentence for the Rioting Charge was susceptible to appellate interference on two of the grounds at [28] above. First, the DJ, with respect, erred as to the "proper factual basis" for sentencing by not taking into account a relevant fact (*viz*, the non-backdating of the Accomplice's term of imprisonment). Second, the sentence for the Rioting Charge was "contrary to … principle", *viz*, the principle of parity, by reason of [33]–[34] above (see *Haliffie bin Mamat v Public Prosecutor and other appeals* [2016] 5 SLR 636 at [71(a)] and [71(c)]).

36 I emphasise here, as I conveyed to the Appellant at the hearing (see at [20] above), that the DJ's sentencing error was primarily attributable to the Appellant's failure to place all the facts relevant to the Respondent's sentencing – including those relevant to the application of the parity principle regarding the Accomplice's sentence – before the DJ for her to consider in her sentencing analysis. That being said, the DJ and counsel who had acted for the Respondent below ought also to have made due enquiries to ascertain these facts before the sentence was passed.

37 I pause here to observe that my reason for allowing the appeal was based on a proper application of the parity principle and *not*, as the Appellant argued, that lesser weight should be accorded to the parity principle for the reasons I summarised at [24] above. I add, for completeness, that there was a tension in the positions taken by the Appellant in the Accomplice's sentencing and their reliance on the proposition in *Karen Lim* (at [42]) for this appeal. The exception recognised in *Karen Lim*, *viz*, that a court is not bound to give an unduly lenient sentence to one co-accused if their co-accused had earlier been given an unduly lenient sentence, required the Appellant to show that the sentence meted out to the Accomplice by DJ Soh was "unduly lenient" (at [42]). However, as stated at [21] above, the Appellant acknowledged before me that the sentence imposed on the Accomplice was in fact the sentence sought by them before DJ Soh. As a result, for the Appellant to invoke the principle in *Karen Lim* (at [42]) to argue that the parity principle should be departed from on the facts of the present case was an adoption of inconsistent legal positions in the Accomplice's and the Appellant's cases. As I have not proceeded on that basis, I say no more on the matter.

38 In sentencing the Respondent based upon the principle of parity, I took account of the roughly six months which the Accomplice spent in custody at the

RTC prior to being sentenced by DJ Soh. That pre-conviction custodial period functioned as the *de facto* equivalent of the Respondent's pre-conviction period in remand. I was cognisant of the formalistic legal differences between an RTC recall order and remand. The former was partly punitive, in that it was imposed for a culpable breach of the terms of one's RTC supervision order (see regs 12(2) and 13(1) of the RTR 2018), whilst the latter held no punitive element in relation to any breach or conviction, but served as a prophylactic measure to preclude acts of the accused that prejudice the administration of justice in his or her matter (see ss 92–96 of the CPC and *Public Prosecutor v Yang Yin* [2015] 2 SLR 78 at [43]–[46]). However, I was not minded to give weight to such a technical conceptual differentiation, which did not reflect the lived realities of the Accomplice's and Respondent's respective situations. Both the Accomplice's RTC recall order and the Respondent's remand had served as periods in which they were held in physical custody prior to their being convicted and sentenced upon the offences for which they had been charged. In any case, the ICMS records in the record of appeal also reflected the Accomplice's period spent in the RTC serving his recall order as the period "[f]rom" which he had been "[r]emanded" (see at [13] above), reflecting their functional equivalence as pre-sentencing durations spent in custody.

39 Thus, I enhanced the Respondent's sentence for the Rioting Charge from 13 months to 18 months' imprisonment. The practical effect would be that, after taking remission into account, the Respondent would spend about 12 months in custody, slightly higher than the roughly 11 months the Accomplice was likely to spend in custody in the event of remission (see at [33]–[34] above). Even if remission was not accounted for in the case of both offenders, the 14 months or so that the Accomplice would spend in custody was about four months lower than the 18 months the Respondent would spend in custody for the Rioting Charge in that event. Having considered the nearly identical roles played by the

Accomplice and Respondent in relation to the Rioting Charge, coupled with the sentencing factors present in the case of the Respondent and absent for the Accomplice's, as identified by the DJ below (see at [16] above), I considered this enhancement to 18 months' imprisonment to be a broadly fair and proportionate punishment in all the circumstances.

The sentence of eight months' imprisonment was out of line with prevailing sentencing benchmarks

40 I was reinforced in my view as to the appropriateness of that increase by reference to the prevailing sentencing precedents, particularly, the case of *Phua Song Hua*, in which Yong Pung How CJ held (at [42]) in relation to a charge of rioting that:

> The sentence of 18 months' imprisonment and three strokes of the cane was reasonable, being at the lower range of the sentences meted out for "non-secret society related" offences. The courts have consistently imposed 18 to 36 months' imprisonment, as well as caning from three to 12 strokes …

41 I agreed with the Appellant that *Phua Song Hua* at [42] could be applied as the general sentencing benchmark in relation to rioting offences in non-secret society cases. That would have the benefit of providing consistency and clarity in relation to sentences meted out for such offending. Indeed, that cohered with the prior sentences imposed on rioting offenders in the General Division of the High Court in *Public Prosecutor v Ng Soon Kiat* [2025] SGHC 48 at [54] and [60]–[61] and before the High Court in *Pannirselvam s/o Anthonisamy v Public Prosecutor* [2005] 1 SLR(R) 784 at [73]–[74].

42 At the time *Phua Song Hua* was decided, the maximum imprisonment term for rioting under s 147 of the PC then in force was five years. That was increased to seven years in s 105 of, read with the First Schedule (S/N 58) to,

the Penal Code (Amendment) Act 2007 (Act 51 of 2007), taking effect from 1 February 2008. The statutory maximum penalty signals the gravity that Parliament has attached to the offence in question, and the court must ensure that the full spectrum of available sentences is explored in the sentencing analysis (see *Poh Boon Kiat v Public Prosecutor* [2014] 4 SLR 892 at [60] and [64] and *GBR v Public Prosecutor and another appeal* [2018] 3 SLR 1048 at [31]). Hence, in principle, the sentencing range in *Phua Song Hua* for non-secret society rioting should be proportionately enhanced to 25 months on the low end and 50 months on the high end. The range in *Phua Song Hua* was laid down in relation to cases where the accused did *not* plead guilty (at [2]–[3] and [13]). Where an offender in the Respondent's position has received the maximum sentencing discount in Stage 1 of the PG Guidelines (at paras 9 (Table 2) and 11), *viz*, 30%, the post-discount range would be approximately 17.5 to 35 months' imprisonment.

43 The sentence meted out below of 13 months' imprisonment was clearly well below the default sentencing range for non-secret society rioting offences, which would *prima facie* indicate that that sentence was manifestly inadequate (see at [28(d)] above). The enhanced sentence of 18 months' imprisonment fell at the lower end of the post-discount sentencing range at [42] above. In light of the Respondent's young age – which remained a relevant sentencing factor even if rehabilitation was not the presumptively dominant sentencing consideration (see *Kesavan Chandiran v Public Prosecutor* [2023] 4 SLR 1187 at [19] and [21], following *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 at [65(b)]) – and the need for parity with the Accomplice's sentence, I held that a sentence at the lower end of the default range was fair on the present facts.

Conclusion

44 For the foregoing reasons, I allowed the Appellant's appeal against the sentence below and I enhanced the Respondent's sentence from 13 months' imprisonment for the Rioting Charge to 18 months' imprisonment. There was no change to all the remaining sentences imposed below and the charges that were to run consecutively and concurrently with one another. The Respondent's global sentence below was 18 months' imprisonment, one stroke of the cane, a fine of $800 (in default four days' imprisonment), and a DQAC for two years with effect from the date of his release and 12 months with effect from 18 June 2025. On appeal, the global imprisonment term was increased to 23 months (backdated to 7 November 2024 and excluding the period during which the Respondent was out on bail), with all other facets of his global sentence remaining the same.

See Kee Oon
Judge of the Appellate Division

Eugene Lee Yee Leng and Janessa Phua Pei Xuan (Attorney-General's Chambers) for the appellant;
The respondent in person.