

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

[2025] SGHC 262

Criminal Case No 67 of 2024

Between

Public Prosecutor

And

Ramalingam Selvasekaran

GROUNDS OF DECISION

[Criminal Law — Offences — Outrage of modesty]

[Criminal Law — Offences — Rape]

[Criminal Procedure and Sentencing — Statements — Admissibility]

[Criminal Procedure and Sentencing — Sentencing]

TABLE OF CONTENTS

BACKGROUND	2
THE VICTIM'S ACCOUNT.....	2
THE ACCUSED'S ACCOUNT	3
SUMMARY OF PROSECUTION'S CASE	4
SUMMARY OF THE DEFENCE'S CASE.....	4
THE DECISION.....	5
THE EVIDENCE	6
OVERVIEW	6
THE VICTIM'S EVIDENCE	7
THE ACCUSED'S EVIDENCE.....	9
<i>Contemporaneous statement</i>	9
<i>Video-recorded interview long statement</i>	10
<i>First and second cautioned statements</i>	11
<i>IMH interviews.....</i>	12
<i>Third cautioned statement.....</i>	12
<i>Case for defence</i>	14
<i>Testimony at trial</i>	14
THE APPLICABLE STANDARD	16
UNUSUALLY CONVINCING EVIDENCE	16
THE VICTIM'S EVIDENCE WAS INTERNALLY CONSISTENT	17
THE VICTIM'S EVIDENCE WAS EXTERNALLY CONSISTENT.....	19

<i>Differences between the victim and the complainant's account</i>	20
<i>The accused's erectile dysfunction.....</i>	21
<i>The absence of objective evidence implicating the accused</i>	22
(1) No camera footage at the lift landing.....	23
(2) Absence of the accused's DNA	23
(3) No CCTV coverage of the incident in the store.....	24
THE ACCUSED'S EVIDENCE WAS INSUFFICIENT TO CAST REASONABLE DOUBT ON THE VICTIM'S EVIDENCE.....	25
OTHER MATTERS	28
CONCLUSION.....	29
CORROBORATION OF THE EVIDENCE OF THE VICTIM.....	29
THE STATEMENTS WERE MADE VOLUNTARILY	30
THE STATEMENTS WERE RELIABLE.....	33
THE STATEMENTS IMPLICATED THE ACCUSED AND SUPPORTED THE EVIDENCE AGAINST HIM	34
CONCLUSION ON CONVICTION	36
SENTENCE	36
OUTRAGE OF MODESTY CHARGES	37
RAPE CHARGE	38
GLOBAL SENTENCE	39

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Public Prosecutor
v
Ramalingam Selvasekaran

[2025] SGHC 262

General Division of the High Court — Criminal Case No 67 of 2024

Aidan Xu J

16, 23, 28, 31 January, 12–13, 25–27 February, 4 March, 19 May, 7 July,
30 July 2025

29 December 2025

Aidan Xu J:

1 The accused was convicted after trial on three charges in respect of a victim under 14 years of age: two charges of outrage of modesty and one charge rape by way of penile-oral penetration.

2 The victim had gone to the store run by the accused to buy some ice-cream. There, the accused had squeezed her buttocks and kissed her on the cheeks and then her mouth, using his tongue. Subsequently, he kissed her with his tongue again, squeezing her buttocks and breasts, and rubbed his fingers over her vagina, through her clothes. The accused then got the victim to kneel, and pushed his then exposed penis into her mouth.

3 He was sentenced to a total of 14 years, three months and two weeks' imprisonment, which included imprisonment in lieu of caning.

4 He has appealed against both his conviction and sentence.

Background

5 On 28 October, at around 4.30pm, the victim had gone, in her school uniform, to the provision shop run by the accused. There, the accused had given her a free drink. She had then gone to her grandfather's home. Subsequently, she returned to the shop, wanting to buy an ice-cream bar.

6 The dispute in this case centred around what had happened during her second visit to the accused's shop.

The victim's account

7 Briefly, the victim's evidence was that when she brought her ice-cream to the counter to make payment, the accused led her to the back of the shop.¹ There he had committed the first offence: as he hugged her, he squeezed her buttocks over her clothes, and kissed her with his tongue.² Then in the storage room, the accused committed the second charge: he kissed her, squeezed her buttocks and breasts, and rubbed his fingers over her vagina, while she was clothed.³ Finally, he committed the third offence, by pushing the victim down, making her kneel, and forcing his penis into her mouth.⁴

¹ Notes of Evidence (“NE”) dated 26 February 2025 at p 14 line 26–28 and p 15 line 1 to p 16 line 4.

² NE dated 26 February 2025 at p 20 lines 1–30.

³ NE dated 26 February 2025 at p 26 line 13 to p 28 line 1.

⁴ NE dated 26 February 2025 at p 29 line 15 to p 31 line 2.

8 She then ran back to her grandfather's home.⁵ After drinking something to rinse her mouth and placing her ice-cream in the freezer, she went back out to look for someone who could speak English.⁶ She sought help from one Mr Juma'at Bin Azahar ("Mr Juma'at"), who assisted her in calling the police and accompanied her back to the accused's shop.⁷ Shortly after, the police arrived and arrested the accused.

The accused's account

9 The accused's case was that is that no sexual acts had occurred. When the victim came back to his shop for ice-cream, the accused was washing his hands in the restroom. When the victim approached him with her ice-cream, he touched her chin and told her to wait for him at the front of his shop. Shortly after, the accused returned to the counter, where he first dealt with another customer before telling the victim that she could take the ice-cream without paying. The victim then left the shop.⁸ At about 5.15pm, Mr Juma'at arrived at the shop with his daughter. Mr Juma'at bought a toy for his child, then continued to loiter outside his shop for some time. When the accused approached to ask if there was anything he wanted, Mr Juma'at accused him of touching his sister. Later, the police arrived and arrested the accused.⁹

⁵ NE dated 26 February at p 32 lines 21–23.

⁶ NE dated 26 February at p 33 line 13 to p 34 line 4.

⁷ NE dated 26 February at p 34 line 26 to p 35 line 18.

⁸ Defence's Closing Submissions ("DCS") at para 3.

⁹ DCS at para 4.

Summary of Prosecution's case

10 The Prosecution argued that the evidence of the victim should be accepted. Her testimony was candid, internally consistent and withstood cross-examination.¹⁰ It was also externally consistent with other evidence.¹¹ As such, her testimony was unusually convincing and sufficed to warrant a conviction of the accused on all charges.¹² The Prosecution also relied on the accused's own admissions to the police, which it said was given voluntarily by the accused and materially corroborated the victim's testimony.¹³

11 Moreover, it argued that the accused's defence was changing and ridden with unsubstantiated afterthoughts and therefore ought not to be preferred over the victim's internally and externally consistent account.¹⁴

Summary of the Defence's case

12 The accused argued that the victim's evidence should not be believed as it was internally and externally inconsistent, and suggested that the victim had made up her allegations as part of a scheme with either gangsters or Mr Juma'at to frame the accused.¹⁵ Further, the accused's previous statements where he had admitted to committing sexual acts with the victim (which he alleged were consensual) were involuntary, and in any case, unreliable.¹⁶

¹⁰ Prosecution's Closing Submissions ("PCS") at paras 31–35 and 50–53

¹¹ PCS at para 36.

¹² PCS at para 45.

¹³ PCS at paras 30 and 57–65.

¹⁴ PCS at paras 28 and 54–56.

¹⁵ DCS at paras 13–18 and 21.

¹⁶ DCS at paras 19 and 21.

The decision

13 Having heard the arguments and considered the evidence, I was satisfied that the charges had all been made out beyond a reasonable doubt.

14 The three charges required establishment of the alleged sexual acts, *ie*, the kissing with tongue, touching of the victim's buttocks, breasts and vagina over her clothes, and the oral penetration, and that the accused had the requisite *mens rea* when committing the acts. In this case, the accused's case was that no sexual acts had occurred. He did not raise any other defences. As such, the case turned on whether the incident took place at all.

15 The Prosecution's case largely relied on the testimony of the victim, and the statements given by the accused, which incriminated him. I therefore had to determine whether the victim's allegations should be accepted, and whether this was strong enough, together with the other evidence relied upon by the Prosecution, to outweigh the evidence and arguments of the defence, so that I could conclude that there was no reasonable doubt that he had committed the offences. No significant legal issue arose.

16 I accepted that the Prosecution's case had been established beyond a reasonable doubt. As argued by the Prosecution, the victim's evidence about the assault was consistent on the main points and unshaken. I found that there were no significant weaknesses in her recounting of the events. Her behaviour and conduct were also not such to put her evidence into doubt. The fact that she had not run off after the first act of molest, or that she did not resist the assaults, or inform her grandfather, were all to my mind sufficiently explained, particularly given that she was still young and immature. Her reaction and behaviour could

not be measured by the standards of a rational, mature adult exercising autonomy. She was just a child.

17 The strength of the evidence against the accused was also bolstered by the recorded statements from the accused, who stated to the police in the interviews that he had hugged and kissed the victim, that he had shown his penis to her, and that she had consented, and, in at least the contemporaneous statement, admitted to her committing *fellatio*. In his cautioned statements, the accused admitted that he had made a mistake. These statements were clearly voluntary from what could be seen from the recordings, and the other evidence; they were ruled admissible by me. The accused's allegations of distress and pressure were not made out from what could be seen. I found that his later statements denying the commission of the offences were merely an attempt to resile from what he had admitted, and did not contain the truth.

The evidence

Overview

18 There was no objective evidence in this case directly relating to the incidents. While the provision shop run by the accused had CCTV cameras, there was no recording of the incident or the interaction of the complainant and the accused on the day. What video evidence there was, was only of the victim at a lift, the accused being interrogated by the police at the store, and the statements given by him at the police station.

19 The Prosecution's case thus rested on the victim's evidence, as well as the accused's first four statements, in which he admitted to committing some of

the sexual acts.¹⁷ In turn, the accused argued that the victim's testimony and his later statements were false, and that the truth was instead contained in his later statements.

The victim's evidence

20 In her testimony, the victim recounted how she had gone to the accused's shop to buy an ice-cream; she was given a drink by the accused and left.¹⁸ She finished her drink by the time she had taken the elevator up to her grandfather's home, and threw away the drink packet.¹⁹ At her grandfather's home, she changed out of her school uniform and asked for some money from her grandfather to buy ice cream. At 4.53 pm, she took the elevator, wearing a green t-shirt and her school shorts.²⁰ Then at the accused's shop, she wanted to buy an ice cream bar, going to the counter to pay.²¹ At this point, the accused then got the victim to follow him to the back of the shop. There the accused seemed to want a hug, as he had opened up his arms widely; she hugged him there.²² As they hugged, the accused squeezed the victim's buttocks, pulled down her face mask and kissed her, on both cheeks and then on her lips. The victim said that his tongue went everyway in her mouth. She was shocked. This lasted for a few seconds.²³ The accused then told her to wait. However, she did not obey him and went to the counter to pay for the ice cream. She saw the accused deal with another young customer. After the other customer left, she wanted to pay, but

¹⁷ PCS at para 20.

¹⁸ NE dated 26 February 2025 at p 10 lines 9–11 and p 11 lines 19–23.

¹⁹ NE dated 26 February 2025 at p 12 line 18 to p 13 line 4.

²⁰ NE dated 26 February 2025 at p 13 line 7 to p 14 line 12.

²¹ NE dated 26 February 2025 at p 14 line 26 to p 15 line 4.

²² NE dated 26 February 2025 at p 15 lines 19–30.

²³ NE dated 26 February 2025 at p 20 lines 1–30.

the accused took her by the wrist, and pulled her to the back of the shop, to a storage room.²⁴

21 There the accused opened the door, pulling her in before closing the door.²⁵ He then pulled her face mask down and kissed her like before, with his tongue for at least a minute, squeezing her buttocks, her breasts and rubbing his fingers on her vagina. These touches each lasted for a few seconds and were over her clothes.²⁶ The victim felt disgusted.²⁷

22 The accused then pushed his “sarong” to the side.²⁸ The victim saw a lot of pubic hair.²⁹ The accused told the victim to kneel; though the victim said no, the accused pushed the victim’s shoulders down, causing her to come to her knees.³⁰ The victim was confused.³¹ He suddenly pushed the victim’s head towards his penis, causing her to gasp; his penis went into her mouth, until her mouth reached his pubic hair.³² The accused pushed her head back and forth for a minute.³³ The victim’s mind went blank.³⁴ The accused stopped. He did not ejaculate into her mouth. He then left her, telling her to wait.³⁵

²⁴ NE dated 26 February 2025 p 21 lines 2–30 and p 22 lines 13–27.

²⁵ NE dated 26 February 2025 at p 23 lines 1–6 and p 24 lines 28–31.

²⁶ NE dated 26 February 2025 at p 26 line 13 to p 27 line 28.

²⁷ NE dated 26 February 2025 at p 28 line 5.

²⁸ NE dated 26 February 2025 at p 28 line 28 to p 29 line 1.

²⁹ NE dated 26 February 2025 at p 29 lines 2–7.

³⁰ NE dated 26 February 2025 at p 29 lines 10–21.

³¹ NE dated 26 February 2025 at p 29 lines 26–27.

³² NE dated 26 February 2025 at p 30 lines 13–30.

³³ NE dated 26 February 2025 at p 31 lines 1–2.

³⁴ NE dated 26 February 2025 at p 31 lines 7–10.

³⁵ NE dated 26 February 2025 at p 31 lines 11–28.

23 The victim, however, left the shop and ran home.³⁶

24 She saw a passerby, Mr Juma'at, but continued on home, where she drank to rinse her mouth, and put the ice cream into the freezer.³⁷ At 5.04pm, she went downstairs, looking for someone who could speak English. She then saw Mr Juma'at again, and told him that someone tried to rape her, asking him to call the police.³⁸ They then went to the store, where Mr Juma'at confronted the accused before the police arrived. No physical altercation took place.³⁹

The accused's evidence

Contemporaneous statement

25 The contemporaneous statement was recorded by ASP Ramesh Vincent S/O Kasavalu ("ASP Ramesh") less than three hours after the incident. The accused's recounting of events in his contemporaneous statement was largely similar to the victim's recollection, save that he claimed the sexual acts were consensual.

26 The victim first visited the accused's shop on the way home from school. When she greeted the accused, he commented that she looked tired and asked if she wanted a drink. He then gave her a free drink. The victim took the drink and left.⁴⁰

³⁶ NE dated 26 February 2025 at p 31 lines 28–31.

³⁷ NE dated 26 February 2025 at p 33 lines 2–21.

³⁸ NE dated 26 February 2025 at p 33 line 25 to p 34 line 9 and p 35 lines 1–7.

³⁹ NE dated 26 February 2025 at p 35 lines 15–20 and p 36 line 30 to p 27 line 9.

⁴⁰ Bundle of Documents ("BOD") at p 230.

27 About half an hour later, the victim returned to the shop and took an ice-cream from the freezer outside. When she entered, the accused called her over to the rear of the shop and opened his arms. The victim asked if he wanted a hug, which the accused confirmed. They hugged, and the accused kissed the victim on the lips. The accused then left to attend to a customer.⁴¹

28 The victim followed the accused to the front of the shop and asked if he wanted payment for the ice-cream. The accused said he did not need payment and beckoned her over to the back of the shop once more. They went to the room at the back, each taking different routes. There, the accused showed the victim his penis, and the victim sucked his penis. This lasted for less than a minute as another customer entered the shop. The accused did not ejaculate into the victim's mouth. The victim then left the shop.⁴²

29 About 20 minutes later, the victim returned to the shop with a man, *ie*, Mr Juma'at. Mr Juma'at bought a toy from his shop, before telling the accused to come out, introducing himself as the victim's brother, and asking the accused why he touched his sister. The accused first denied touching the victim, then asked for forgiveness. Shortly after, the police arrived.⁴³

Video-recorded interview long statement

30 The accused's long statement was recorded by ASP Joyce Lau in a video-recorded interview ("VRI") the next day with the assistance of an interpreter. In his VRI long statement, the accused maintained his admission

⁴¹ BOD at p 230.

⁴² BOD at pp 230–231.

⁴³ BOD at p 231.

that he had hugged the victim,⁴⁴ kissed her on the lips and inserted his tongue into her mouth twice,⁴⁵ and exposed himself to her,⁴⁶ and that she had sucked his penis.⁴⁷ However, he denied touching the victim's buttocks, chest, and vagina.⁴⁸ He also supplemented his admission with more details that matched the victim's recounting – namely, that after taking her to the back of the shop once more, he had kissed the victim a second time, before exposing his penis to her by pushing his veshti to the side.⁴⁹ He also explained that that day, Mr Juma'at had been to the accused's shop twice – first, to buy a toy, then sometime later to confront him with the victim.⁵⁰ He did not complain of any violence from Mr Juma'at.

31 The accused also mentioned that people would go to his shop and bully him. However, he did not suggest that this was linked to the present case in any way. It appeared that he raised this point to illustrate the hardships he faced in running his provision shop.⁵¹

First and second cautioned statements

32 In his two cautioned statements taken later that same day, the accused admitted to making a “mistake” but maintained that whatever had been done had been with the victim's consent.⁵²

⁴⁴ BOD at p 106 line 28.

⁴⁵ BOD at p 111 lines 18–28 and p 122 lines 1–8.

⁴⁶ BOD at p 124 lines 10–21.

⁴⁷ BOD at p 136 line 7 to p 137 line 13.

⁴⁸ BOD at p 114 lines 19–23 and p 144 line 22 to p 147 line 11.

⁴⁹ BOD at p 122 at lines 28–30 and 124 at lines 10–21.

⁵⁰ BOD at p 147 lines 13–14 and p 150 lines 11–16.

⁵¹ BOD at p 161 line 15 to p 162 line 10.

⁵² BOD at pp 244 and 249.

IMH interviews

33 Then, in his interviews with Dr Lee Kim Huat Jason (“Dr Lee”) from the IMH conducted between 5 November 2021 and 17 November 2021, he denied committing the offences and that any sexual acts occurred. Instead, he claimed that he had been in the toilet washing his hands when the victim saw him and went over to hug him. He patted the victim on the back and used his five fingers to tap her lips in a playful manner. After that, when he was back at his shop, the victim offered to pay him for an ice cream, but he told her that she did not need to pay. Around 30 minutes later, the victim returned with a man who appeared very angry and confronted him about touching his younger sister. Subsequently, he was arrested by the police.⁵³

Third cautioned statement

34 In his third cautioned statement taken a year later on 14 October 2022, the accused denied committing the offences. He claimed that his previous statements were false and that he had only patted the victim on her cheeks.⁵⁴

35 The accused claimed that that when the victim returned to the shop on the day of the incident, he was in the toilet washing his hands. When the victim approached him at the back of the shop with the ice-cream, he told her to wait and patted her cheek. When the accused returned to the front of the shop, the victim asked if he wanted money for the ice-cream. He declined and the victim left. The accused then received a phone call and thus “did not know if [the victim] went out or went into the shop”. An hour later, Mr Juma’at arrived at the shop with his daughter. He bought a sweet for his daughter, then continued

⁵³ BOD at p 203–204.

⁵⁴ D8a at pp 1–2.

standing outside the shop. When the accused asked what he wanted, he asked the accused why he touched his sister. In response, the accused asked who his sister was. Mr Juma'at then told him not to leave the shop and threatened to beat him if he moved.⁵⁵

36 The accused claimed that he had given false statements to the police because he had been facing problems with gangsters – *ie*, underaged individuals who would come to his shop and cause trouble and curse in Malay when the accused refused to sell them cigarettes. They had come to his shop on four previous occasions and the police had been called on each occasion. In the days before the incident, these gangsters had attacked the accused with a weighing scale and threatened him with a knife. They also harassed the two Chinese customers present at the shop, one of whom called the police. The police did not follow up on this incident despite reports from the accused and his customer. One day before the incident, four individuals dressed in police uniforms came to his shop to buy cigarettes. They were in his shop for about 15 minutes and had “create[ed] trouble”. On the day of the incident, the accused also received 4 unknown calls in Mandarin.⁵⁶

37 The accused also claimed that after the police arrived, a police officer had told him to “tell the truth if not he will ask in a different manner”. The accused was angered by this and had thus given a false statement. The accused also alleged that at the time, he did not know if he was being charged because of the gangsters or because of the victim’s complaint.⁵⁷

⁵⁵ D8a at pp 1–2.

⁵⁶ D8a at p 1.

⁵⁷ D8a at p 2.

Case for defence

38 The accused's account in his case for defence was largely the same as that in his third cautioned statement, save that he claimed to have touched the victim on her chin, rather than her cheek, and he provided more details on his interaction with Mr Juma'at – after the accused asked Mr Juma'at who his sister was, Mr Juma'at did not respond and continued to stand outside his shop. Then, after Mr Juma'at received a phone call, he became angry, beat the accused, and told the accused not to move.⁵⁸

39 He claimed that he had given false statements to the police as he was suffering from "heavy depression" due to his issues with gangsters. He also claimed that before the incident where the gangsters attacked him with a weighing scale and threatened him with a knife (which he dated as being on 5 September 2020), a Chinese man, who was the leader of the gangsters, had come to his shop with his son and girlfriend on the night of 21 July 2020. The leader of the gangsters asked the accused to suck his penis, before threatening to sexually assault the accused's wife and claiming that he would close the accused's shop through the police if the accused disagreed. The gangster's son filmed the entire interaction.⁵⁹

Testimony at trial

40 At trial, the accused maintained that he had not committed the offences. His account of the day of the incident was the same as in his case for defence.⁶⁰ He also claimed, for the first time, that gangsters were also present on the day

⁵⁸ Case for Defence ("CFD") at paras 2(a)–2(c).

⁵⁹ CFD at para 2(f).

⁶⁰ NE dated 27 February 2025 at p 3 line 21 to p 5 line 31.

of the incident. According to the accused, he had seen more than 10 gangsters at the nearby coffee shop about 10 to 30 minutes before the incident, and when he was arrested, the gangster leader, his wife, and a friend were standing nearby and clapping.⁶¹ Further, the victim had not been in the shop when the police arrived. Instead, she was at the coffee shop with the gangsters.⁶²

41 The accused also alleged that the police officers had been working together with the gangsters.⁶³ His basis for this allegation was somewhat unclear. Initially, he suggested that he had seen a gangster talk extensively with the police officers.⁶⁴ However, he later testified that he had not, in fact, seen any police officers talk to any gangsters. Instead, he had inferred that the police officers had been working with the gangsters, as after ASP Ramesh had finished taking his statement, he had informed the accused that he was going to the coffee shop (where the gangsters were) to speak to its manager.⁶⁵

42 Separately, during his cross-examination of the complainant, Mr Juma'at, the accused alleged that the victim had made up her account together with Mr Juma'at.⁶⁶ This was as Mr Juma'at had many prior disagreements with the accused.⁶⁷

⁶¹ NE dated 13 February 2025 at p 49 lines 1–17; NE dated 27 February 2025 at p 9 line 29 to p 10 line 17 and p 12 lines 18–28.

⁶² NE dated 12 February 2025 at p 52 lines 11–12.

⁶³ NE dated 27 February 2025 at p 11 lines 29–30.

⁶⁴ NE dated 13 February 2025 at p 48 lines 30–31.

⁶⁵ NE dated 27 February 2025 at p 11 line 29 to p 12 line 17.

⁶⁶ NE dated 26 February 2025 at p 50 lines 16–18.

⁶⁷ NE dated 12 February 2025 at p 26 line 30 to p 27 line 8; NE dated 26 February 2025 at p 50 lines 28–31.

The applicable standard

43 In assessing the evidence of the victim in this context, I was mindful of the guidance that her evidence had to be unusually convincing, before I could convict on such evidence alone.

44 As emphasised by the Court of Appeal in *Public Prosecutor v GCK* [2020] 1 SLR 486 (“GCK”) at [92], this does not impose a standard different from the usual criminal one of strength beyond a reasonable doubt. The unusually convincing requirement is primarily a reminder to the judge that there should be careful assessment when it is one person’s word against another.

45 The unusually convincing standard is not applicable where there is independent corroborating evidence: *CHJ v Public Prosecutor* [2025] SGCA 38 at [12]–[13]; *GCK* at [87]–[89]; *Ler Chun Poh v Public Prosecutor* [2024] 6 SLR 410 at [104].

46 I was satisfied that the victim’s evidence, which was clear, cogent and consistent, was unusually convincing and should be preferred over the accused’s changing accounts. But even if I was wrong, I agreed with the Prosecution that the initial statements of the accused served as corroboration of the victim’s testimony, supplying an external and independent support for her version of events.

Unusually convincing evidence

47 I found that the victim’s evidence was unusually convincing.

48 A witness’s testimony may only be found to be unusually convincing by weighing the demeanour of the witness alongside both the internal and external

consistencies found in the witness' testimony: *AOF v Public Prosecutor* [2012] 3 SLR 34 ("AOF") at [115]. Further, the court in conducting its assessment must consider the witness' testimony against that of the accused – such that the testimony is found to be unusually convincing to the extent that the court can safely say that his account is to be unreservedly preferred over that of another: *Kunasekaran s/o Kalimuthu Somasundara v Public Prosecutor* [2018] 4 SLR 580 at [27].

49 I found that the victims' evidence was internally and externally consistent and was preferable to the accused's evidence.

The victim's evidence was internally consistent

50 I found that the victim's evidence was internally consistent. Her testimony was clear and cogent. She was able to describe the events of 28 October 2021 in detail, and her account remained consistent throughout her testimony, including the cross-examination by the accused. I also agreed with the Prosecution that the explanations she provided for her behaviour were reasonable and pointed to the truth of her evidence.⁶⁸

51 The accused attacked the victim's version on a number of grounds, claiming there were inconsistencies, and that the victim was not credible. The accused claimed that:⁶⁹

- (a) the victim's evidence should not be believed as to where he was located when she wanted to pay for the ice-cream that she wanted to buy;

⁶⁸ PCS at para 32.

⁶⁹ DCS at paras 18(a)–18(g).

- (b) he could not have grabbed her as she described because of the way they were facing each other and the constrained space;
- (c) it was unbelievable that she would have gone to a stranger for help, when she could have gone to someone she knew, and there were others nearby;
- (d) the accused was actually depressed and in a bad state, and had lost weight, but the victim said that she had thought of him as a nice and sweet guy;
- (e) the victim had admitted to hugging the accused first, yet the Prosecution had not submitted any expert evidence on the victim's state of mind; and
- (f) the victim's version of events was contradictory with what had "really happened" and was like a "story".

52 Some of the matters raised by the accused were not really inconsistencies in the evidence of the victim. The issues of where the accused was located before the first incident (*ie*, whether he was at the counter or in the toilet), whether or not the accused could have grabbed her based on their positions relative to each other, whether there were other people nearby that the victim could have sought help from; and whether or not the accused was in a bad state around the time of the offence were instead differences between the accused's version and that of the victim.

53 None of the points raised by the accused about the victim's version undermined the credibility of her evidence. Her description of how he had acted against her was not impossible; I saw no reason to reject her version of where the accused was when she wanted to pay, but even if she was mistaken or wrong

about this, it was only a small point. Similarly, even if the accused had been in a bad physical condition around the time of the offence, her testimony that she had thought of him as a nice and sweet guy was not a statement about the accused's state, and therefore would not have been contradictory.

54 I found that her conduct in approaching a stranger is not unbelievable, nor did it undermine her credibility. As emphasised in multiple cases, the behaviour of a victim of sexual assault, particularly a young victim, cannot be expected to conform to stereotypical notions of how a victim should behave. Children will have different thought processes. Thus here, her decision to seek out someone who spoke English, in preference to her grandfather, who only spoke Malay, was understandable.⁷⁰ Similarly, I accepted her explanation that she had approached Mr Juma'at, in particular, as he was the only adult she had seen around when she was running back home.⁷¹

55 Nor did her conduct of hugging the accused cast any doubt on her evidence. It was unclear what point the accused was making by raising this issue, but in any case, the fact that she had given the accused a hug after what she interpreted as a request for a hug did not suggest that her account of the accused's unwanted sexual advances was untrue, or that her evidence was otherwise unreliable.

The victim's evidence was externally consistent

56 The accused also raised issues about her external consistency. He argued that the complainant, Mr Juma'at gave a differing account of how he was

⁷⁰ NE dated 26 February 2025 at p 33 line 29 to p 34 line 2 and p 74 lines 22–29.

⁷¹ NE dated 26 February 2025 at p 34 lines 26–29.

approached.⁷² He also alleged that it was impossible for him to have committed the offences due to his erectile dysfunction.⁷³ Further, the accused complained of a lack of objective evidence pointing to the accused committing the offence.⁷⁴

Differences between the victim and the complainant's account

57 The victim's evidence regarding Mr Juma'at was that she had approached him asking for help, he asked her what had happened, and she responded by telling him that someone had tried to rape her. However, during cross-examination, Mr Juma'at stated that he had struck up a conversation with the victim to ask if she needed help:⁷⁵

Witness: There's the second time---the first time I saw her, I---I know, like, there's something wrong with her because from the watery eyes. So the second time I saw her again, there's a reason---that's where the time that, like, I made a conversation with her to ask if there's anything I can help.

58 I did not view this minor difference in the testimony of the victim and Mr Juma'at regarding how they first came to talk to each other as material. As noted by the High Court in *Public Prosecutor v DGH* [2025] SGHC 140 at [182] (citing *Jagatheesan s/o Krishnasamy v Public Prosecutor* [2006] 4 SLR(R) 45 at [82]), inconsistencies in a witness's statement may be the result of different interpretations of the same event. It may well be that Mr Juma'at perceived himself as having initiated the conversation by asking the victim what happened.

⁷² DCS at para 18(i).

⁷³ DCS at para 14.

⁷⁴ DCS at paras 13, 18(e) and 18(h).

⁷⁵ NE dated 12 February 2025 at p 17 lines 16–20.

The accused's erectile dysfunction

59 The victim's testimony regarding the penile-oral insertion was that the accused had pushed her to her knees, then suddenly pushed her head towards his groin.⁷⁶ The victim gasped due to the sudden push, and the accused fully inserted his penis into her open mouth.⁷⁷ He then pushed her head back and forth for about one minute.⁷⁸ The victim did not resist as she was afraid of what else the accused might do.⁷⁹

60 The accused alleged that this was impossible as he suffered from erectile dysfunction and his un-erect penis was too small (at about one to one and a half inches) to penetrate the victim's mouth.⁸⁰

61 While there was no dispute that the accused suffered from erectile dysfunction, the Prosecution argued that their expert, Dr Ng Kok Kit ("Dr Ng"), a urologist at Changi General Hospital, gave a cogent explanation that oral-penile penetration remained possible.⁸¹ Dr Ng had explained that, while the accused's erectile dysfunction made it such that his penis was not hard enough for vaginal penetration, it would still be possible for him to insert his penis into an open mouth if the recipient was not actively resisting penetration.⁸² He also disagreed with the accused's assertion that his penis was too small to penetrate the victim's mouth – the accused's penis was of a similar size to that of other

⁷⁶ NE dated 26 February 2025 at p 29 lines 15–21 and p 30 lines 20–21.

⁷⁷ NE dated 26 February 2025 at p 30 lines 20–30.

⁷⁸ NE dated 26 February 2025 at p 31 lines 1–2.

⁷⁹ NE dated 26 February 2025 at p 77 lines 1–7.

⁸⁰ DCS at para 14; NE dated 25 February 2025 at p 59 lines 13–20.

⁸¹ PCS at para 16.

⁸² NE dated 25 February 2025 at p 54 lines 1–23.

patients of his age, and in any case, so long as a penis was protruding out, it could be brought into a recipient's mouth.⁸³ As such, even with his dysfunction, the accused could still insert his penis into the mouth of the victim.

62 I accepted Dr Ng's evidence. Accordingly, the victim's account of the penile-oral penetration was not inconsistent with the accused's erectile dysfunction. On the victim's own account, her mouth had been open and she had not resisted.

The absence of objective evidence implicating the accused

63 The absence of objective evidence pointing to the accused committing the offence did not cause any reasonable doubt.

64 It was argued, among other things:

- (a) it was suspicious and undermined the prosecution's case that there was no police camera footage of her returning to her home after the incident;⁸⁴
- (b) the prosecution did not adduce expert evidence about the victim's state of mind;⁸⁵
- (c) his DNA was not recovered on the victim;⁸⁶ and

⁸³ NE dated 25 February 2025 at p 59 lines 25–32.

⁸⁴ DCS at para 18(h).

⁸⁵ DCS at para 18(e).

⁸⁶ DCS at para 13.

(d) there was no recording on his store CCTV, which pointed to something sinister in the conduct of the investigations.⁸⁷

I did not accept that any of these raised any reasonable doubt.

(1) No camera footage at the lift landing

65 The accused argued that while the victim had been captured taking the lift up to her home and back down before the incident, and taking the stairs down after the incident, there was no footage of her returning home in between these two trips. This was suspicious as the only way to her home was by the lift or the staircase.⁸⁸

66 The absence of any camera footage of the victim at the lift after the incident did not undermine her evidence at all. Despite the accused's assertions, it was not established on the evidence that the only paths to the victim's home were covered by cameras. She could have taken a different route. The undisputed evidence of ASP Ramesh, the police officer who had reviewed the footage, was also that the victim had taken a different route not captured by the cameras.⁸⁹ As noted above, such behaviour after being assaulted is entirely credible and understandable.

(2) Absence of the accused's DNA

67 As for the absence of accused's DNA on the samples from the victim, I am satisfied that this was at most neutral, and did not undermine her evidence that she had been assaulted and raped. As noted in *GII v Public Prosecutor*

⁸⁷ DCS at paras 17 and 22–23.

⁸⁸ DCS at para 18(e).

⁸⁹ NE dated 13 February 2025 at p 36 lines 27–29.

[2025] SGHC 38 (at [56]), there may be various reasons why relevant DNA may not be detected or even transferred, and therefore, a negative finding of DNA *per se* generally does not point against the commission of the offences. This was especially so in the present case where the victim had also testified to rinsing her mouth after the offence, which could explain the absence of the accused's DNA.⁹⁰

(3) No CCTV coverage of the incident in the store

68 The fact that there was no CCTV coverage of the incident would seem to be explained by the settings on the recorder which do not appear to have been properly configured to allow for sequential, chronological storage of the footage from the cameras. Much time was spent in court trying to unravel the recordings, but in the end, there was nothing that was useful to the accused from the recordings.

69 I did not find that the absence of any recording was anything suspicious, let alone indicative of any police or prosecutorial misconduct. Certainly, had the recording system been set up properly, with a history of clips being recorded every day, or even most days, capturing activity in the store at all hours, the absence of any footage of the incident or at least the victim being in the store at the relevant time would have been very suspicious, and would possibly have triggered at least further inquiry, if not an adverse finding against the Prosecution. But given the haphazard storage within the machine, and the absence of any system of dating and naming, the absence of any such recording did not lead to any reasonable doubt being raised against the Prosecution's case.

⁹⁰ NE dated 26 February 2025 at p 33 lines 2–21.

The accused's evidence was insufficient to cast reasonable doubt on the victim's evidence

70 I also did not find that the accused's evidence was sufficient to cast any reasonable doubt on the victim's evidence.

71 The accused claimed that nothing had happened with the victim and that gangsters had bullied and persecuted him. The gangsters had caused him much distress, and even heavy depression and lack of sleep.⁹¹ One of these gangsters, who had previously threatened to close his shop through the police, had spoken to the police on the day of the incident, and was present and celebrating when he was arrested.⁹² A photograph, D3, was produced purportedly showing this gangster. There was also a suggestion from the accused that the complainant, Mr Juma'at, had worked with the gangsters to trap the accused.⁹³

72 The Prosecution argued that these allegations were without foundation, unsubstantiated and were false, being afterthoughts, raised a year after investigations were begun.

73 I agreed with the Prosecution. Even if I disregarded the accused's admissions in his initial statements, there were issues with the accused's account. The involvement of these gangsters was indeed vague, lacked substantiation, and were raised late in the day. Furthermore, there was no clear linkage to the Prosecution's case, or how it would help his defence, through undermining the Prosecution's assertions.

⁹¹ DCS at para 18(d).

⁹² NE dated 27 February 2025 at p 9 lines 29–31, p 12 lines 16–17 and p 13 line 7,

⁹³ DCS at para 21.

74 The accused referred to these gangsters, but could not elaborate sufficiently about who they were, what their dispute was with him, and how they impacted him. The little details he could provide were contradictory. In his third cautioned statement, he claimed the gangsters were underaged individuals or “youngsters” who would come to his shop to buy cigarettes, and cause trouble when the accused refused.⁹⁴ However, in his case for defence and at trial, he claimed that the leader of these gangsters was an adult male with a son old enough to consciously film an interaction between his father and the accused. He also appeared to suggest that the dispute arose from the accused’s refusal to allow the gangsters to sexually assault his wife.⁹⁵ Further, the role these gangsters played in the case appeared to evolve over time. At first, the gangsters were merely raised as an explanation for why the accused had given false statements to the police.⁹⁶ He did not allege any other connection between the gangsters and the present case. Then, at trial, the accused claimed for the first time that the gangsters had worked with the police to set him up.⁹⁷ These changing accounts materially affected his credibility.

75 There was also no substantiation about the interaction of the accused with supposed gangsters leading to anything involving the victim or the present case against him. The accused alleged that the gangsters had come to his store and caused trouble on four occasions, and the police had been called each time. Four police reports were identified by the Prosecution as being made, but only one was possibly related to these so-called gangsters. On 6 September 2021, a customer of the accused’s shop reported that three youngsters were threatening

⁹⁴ D8a at p 1.

⁹⁵ CFD at para 2(f)(i); NE dated 27 February 2025 at p 19 line 26 to p 20 line 12.

⁹⁶ D8a at p 1; CFD at para 2(f).

⁹⁷ 27 February 2025 at p 11 lines 29–30.

the accused. When the police arrived at the scene, it was discovered that three Chinese boys had wanted to buy cigarettes from the accused's shop, and an argument arose when the accused refused to sell them the cigarettes. No assault or threats had taken place. This report substantiated the accused's claim that he had previously faced issues with underage individuals looking to buy cigarettes from him. However, one police report about underage individuals causing trouble was not proof of a long-running harassment campaign by hardened gangsters. That, contrary to the accused's claims, there was only one police report, and the police recorded that no assault or threats had taken place, in fact cast doubt on the accused's allegations of persistent harassment from gangsters.

76 While the accused had produced D3, a photo of the alleged leader of these gangsters, this was not in itself proof that the person in the photograph was a gangster and had committed the acts the accused complained of. The accused also alleged that the gangster that he had a photo of had spoken to the police the day of the incident, but there was no other evidence of this, and the accused did not even make a specific allegation about what this could be about.

77 The accused also claimed that worries about the gangsters caused him to be depressed, and to lose weight. These claims were relevant to his allegations that his statements were involuntary and/or unreliable, which I elaborate on below at [86]–[93].

78 The accused suggested that the complainant, Mr Juma'at, had worked with the gangsters to trap the accused. This was not supported by anything. It was not put to Mr Juma'at that he was working with the victim, the gangsters, or anyone else to frame the accused. At most, the accused suggested to Mr Juma'at that they had previously argued "many times" before this incident. According to the accused, he had previously confronted Mr Juma'at about

leaving the fridge open for some time, to which Mr Juma'at responded by throwing money, and on another occasion, a Coke can at the accused.⁹⁸ Mr Juma'at had denied that these incidents occurred,⁹⁹ but even if the accused's allegations were true, this would at most establish a weak motive. The fact remained that there was no evidence of this alleged collusion. I also could not see anything from the evidence before the court to connect this witness to any group of gangsters or indeed anyone else who might want to cause ill to the accused. The evidence showed that the complainant was just a passerby who was concerned about the state of the victim.

79 In summary, these allegations about the gangsters were to my mind a clear attempt to create a narrative to deflect from the charges. There was no rhyme, no reason and no substance to what the accused alleged. Nothing was put forward to support his assertions. Nothing seemed plausible. And nothing raised any reasonable doubt.

Other matters

80 I should note that the Prosecution also relied on the psychological distress caused to the victim as evidence pointing to the guilt of the accused. I was not convinced that this was something that should be entered into the weighing whether the case was proven. There was to my mind insufficient evidence in this case to show that such psychological distress was caused by sexual assault by the accused, even when taken with the other evidence relied upon by the Prosecution. Any probative effect was thus minimal at most.

⁹⁸ NE dated 12 February 2025 at p 26 line 30 to p 27 line 8.

⁹⁹ NE dated 12 February 2025 at p 27 lines 10–17.

Conclusion

81 Based on the above, I found that the victim's evidence was unusually convincing. The victim's account was clear, cogent and rich with details, and was internally and externally consistent. None of the alleged inconsistencies raised by the accused were sufficient to raise any reasonable doubts. In contrast, the accused's own account was unsubstantiated, unclear, and changed over time. As such, I found the victim's evidence to be unusually convincing to the extent that I could safely say that her account was to be preferred over that of the accused.

Corroboration of the evidence of the victim

82 However, even if I was wrong, her evidence was corroborated by the accused's own statements.

83 The Prosecution argued that the victim's evidence was corroborated by statements made by the accused very close in time to the alleged assault. These were identified as: (a) his contemporaneous statement; (b) the VRI long statement recorded the day after the incident; and (c) the two cautioned statements recorded later that same day.¹⁰⁰

84 The accused did not appear to deny that the statements were inculpatory. However, he claimed that the statements were involuntary and hence inadmissible. Alternatively, little weight should be given to the statements as the accused was under significant mental distress at the time they were taken, and they were recorded inaccurately.¹⁰¹

¹⁰⁰ PCS at para 57.

¹⁰¹ NE dated 31 January 2025 at p 57 line 12 to p 58 line 12; DCS at and 19.

85 Following an ancillary hearing, the statements were admitted. I found that these statements were indeed made voluntarily. Considering the evidence from the whole of the trial, I was also satisfied that they were in fact reliable. The statements indeed implicated the accused, and supported the evidence of the victim.

The statements were made voluntarily

86 The burden lies on the Prosecution to establish beyond reasonable doubt that a statement was given voluntarily and therefore that the statement is not inadmissible pursuant to s 258(3) of the CPC. The test of voluntariness is partly objective and partly subjective – the objective component relates to determining whether the threat, inducement or promise was made, whereas the subjective component relates to determining whether the threat, inducement or promise, if made, would operate on the accused's mind. Both components must be present before a statement should be excluded on the ground that it was not voluntarily made: *Public Prosecutor v Jeffrey Pe* [2023] SGHC 313 at [128]–[129]. Furthermore, of particular relevance to this case, s 258(3) of the CPC only applies to threats, inducements, or promises proceeding from a person in authority.

87 Throughout the ancillary hearing, when the video statements were being played, the accused maintained that he was distressed while giving the statements. This was as he had allegedly been tortured by Mr Juma'at, and the police had arrested him without asking him for any explanation. He had also on a number of occasions indicated to the court that he had given false statements due to distress caused by continued harassment and threats by gangsters, with such distress being visible. There was also SSS Gunaseelan Ravesadran ("SSS Gunaseelan"), who had threatened consequences, or, as best as can be discerned

by this court, a threat to the accused that he would be hit or assaulted, and had tortured the accused by asking many questions.¹⁰² At the conclusion of the ancillary hearing, the accused told the court that he was mentally distressed, that he was arrested without being given an opportunity to speak; and he claimed that he was tortured and told to just admit.¹⁰³ The accused also claimed that he was attacked and hit by the mother of the victim and one other person during the taking of the contemporaneous statement, though this was not recorded on the bodycam of SSS Gunaseelan.¹⁰⁴ After the conclusion of the ancillary hearing, the accused also suggested that the videos recording the taking of the statements were unreliable as they had been edited and there were errors in translation.¹⁰⁵

88 The Prosecution argued that none of these allegations of assault or distress were made out:

(a) In respect of the contemporaneous statement, the body camera video did not show any assault by SSS Gunaseelan, or by any other person. The officer recording the statement, ASP Ramesh, did so in a calm manner. SSS Gunaseelan was also seen to be calm. All that SSS Gunaseelan did was to tell him to speak properly, otherwise he would be scolded. There was no operative threat, inducement or promise. While SSS Gunaseelan had asked some questions multiple times, this did not amount to oppression or any threat, inducement or promise. The questioning did not go on for an interminably long time, nor was the will

¹⁰² NE dated 31 January 2025 at p 18 lines 14–19.

¹⁰³ NE dated 31 January 2025 at p 57 lines 22–31.

¹⁰⁴ NE dated 31 January 2025 at p 58 lines 1–3.

¹⁰⁵ NE dated 4 March 2025 at p 45 lines 13–15; DCS at para 19.

of the accused sapped, shown by his ability to deny some of the things that were put to him. When the contemporaneous statement was recorded after this interaction, SSS Gunaseelan did not pose any questions to the accused for the recording of his statement. The accused in fact was able to understand what was asked of him and clarify questions.¹⁰⁶

(b) As for the VRI statement, no specific allegations were made against the recorders. The accused just maintained that he was distressed or was hit during the interview. This was not shown in the video: he was not distressed nor was he hit. He confirmed at various points, when asked, that he was well. He was able to respond to questions and denied some allegations.¹⁰⁷

(c) As for the two cautioned statements, the interpreter was present, and the footage did not show him being forced to sign the statements, or of him being assaulted as he claimed.¹⁰⁸

(d) Finally, the accused's allegation that the footage had been altered was brought up late in the day and unsubstantiated.¹⁰⁹

89 Having considered these arguments and the evidence before me, I found that the statements were all given voluntarily and were admissible under s 258 of the CPC. There was no threat, inducement, promise, or oppression emanating from persons in authority. Nothing of the sort was shown on the videos, which

¹⁰⁶ NE dated 31 January 2025 at p 53 line 2 to p 55 line 12.

¹⁰⁷ NE dated 31 January 2025 at p 55 lines 16–31.

¹⁰⁸ NE dated 31 January 2025 at lines 1–9.

¹⁰⁹ DCS at para 59.

I found to be reliable – as noted by the Prosecution, the videos contained timers showing that each frame in the clip was succeeded by the one that happened in the next second.¹¹⁰ These videos in fact showed that the accused was able to respond freely, that he was following what was happening and that his will was certainly not overborn. Nor did SSS Gunaseelan’s remark to the accused, *ie*, that he should tell the truth or he would be scolded, amount to any threat or inducement at all.

90 While the accused claimed to have been distressed because of threats made by gangsters, as explained above, no evidence had been put forward to prove that he had been facing issues with gangsters. In any case, such threats, even if truly made, would not have affected the voluntariness as they did not emanate from persons in authority. Nor was there any assault by any other person.

91 The statements were thus admissible.

The statements were reliable

92 The accused had alleged that his statements were unreliable due to distress resulting from the gangsters, his arrest, and the alleged assault and threats by SSS Gunaseelan and other persons.¹¹¹ He also pointed to inaccuracies in translation regarding the VRI statement – namely, he noted that he had stated he was from Tamil Nadu when asked which part of India he was from, but his response was translated and recorded as Kamanari.¹¹²

¹¹⁰ DCS at para 59.

¹¹¹ DCS at paras 6–12.

¹¹² DCS at para 19.

93 Considering the evidence from the whole of the trial, I was also satisfied that the statements were in fact reliable. As noted above, the accused did not appear distressed during the videos. The videos in fact showed that he was able to follow what was happening and was able to respond freely. There was also no evidence that he had been harassed or threatened by gangsters or assaulted by any person. The accused's allegation that there were inaccuracies in the translation was raised for the first time in his closing submissions; he had not put this to the translator or to any of the interviewers in cross-examination. Accordingly, this was a bare allegation raised far too late in the day. In any case, even if the alleged inaccuracy was true, it was a minor error and insufficient to affect the reliability of the statements as a whole.

The statements implicated the accused and supported the evidence against him

94 These inculpatory statements substantiated and supported the evidence of the victim that she had indeed been molested, and that she had sucked his penis. Other details recounted by the victim were also substantiated by the contents of these statements.

95 The Singapore Court has preferred a more liberal approach to corroboration, as opposed to the stricter common law definition laid down in *The King v Baskerville* [1916] 2 KB 658 at 667 of independent evidence implicating the Appellant in a material particular ("Baskerville corroboration"). Under this liberal approach, the trial judge has the necessary flexibility to treat relevant evidence as corroborative. What is important is the substance as well as the relevance of the evidence, and whether it is supportive or confirmative of the weak evidence which it is meant to corroborate. However, while a failure to meet the strict standards of *Baskerville* corroboration does not rule out the

relevance of evidence, this deficiency is likely to adversely affect the weight of the evidence a court may accord to it: *AOF* at [173]–[177].

96 In this case, the statements of the accused were clearly independent from that of the victim. The accused's admissions in his statements also went to the particulars of the charges against him. He admitted to kissing the victim on the lips and inserting his tongue into her mouth twice, which partially forms the basis for the first and second outrage of modesty charges respectively: above at [27] and [30]. He also admitted that he had penetrated the victim's mouth with his penis, which is the basis for the charge for rape by penile-oral penetration: above at [28] and [30].

97 I accorded little weight to the accused's denials of the other acts forming the basis for the first and second outrage of modesty charges (*ie*, touching the victim's buttocks, rubbing her vagina and squeezing her breasts over her clothes) and his allegation that the sexual acts he had admitted to were consensual. The court is not bound to accept the truth of exculpatory portions of a mixed statement: *Chan Kin Choi v Public Prosecutor* [1991] 1 SLR(R) 111 (“*Chan Kin Choi*”) at [19]. Instead, the court must consider both the incriminating and exculpatory parts of a statement in determining where the truth lies. However, usually, the incriminating portions are likely to be true whereas excuses do not carry the same weight: *Chan Kin Choi* at [34]–[35].

98 In this case, the details provided by the accused in his statements mirrored the details recounted by the victim:

- (a) that he had called the victim to the back of the shop and opened his arms, which prompted the victim to ask if he wanted a hug, and initiate a hug after his confirmation (at [20] and [27] above);

- (b) that the first incident, where he had hugged and kissed the victim, had ended as the accused left to deal with a customer (at [20] and [27] above);
- (c) that he had exposed himself to the victim by pushing his veshti to the side (at [22] and [30] above);
- (d) that he had not ejaculated in the victim's mouth (at [22] and [28] above); and
- (e) that Mr Juma'at had come to his shop with the victim (at [24] and [29] above).

The fact that the details in the accused's initial statements matched those in the victim's account suggested that the victim's account was, as a whole, true.

99 As such, I found that the accused's initial statements amounted to corroboration of the victim's evidence.

Conclusion on Conviction

100 The accused was accordingly convicted of the charges.

Sentence

101 On the three charges, the Prosecution sought sentences of 8 months' imprisonment, 12 months and 6 weeks in lieu of caning, and 13 years and 24 weeks in lieu of caning, respectively, with a total of 13 years and 8 months, and 30 weeks in lieu.¹¹³ The accused maintained his innocence and did not wish to

¹¹³ Prosecution's Sentencing Submissions ("PSS") at para 1.

say anything in response, save for leniency and that he did not have any criminal record.

102 I accepted the Prosecution's argument that the primary sentencing considerations here were deterrence and retribution.¹¹⁴ Specific deterrence was not a primary factor given that the accused was already 58 years old. General deterrence was required to protect young victims from predation and exploitation, from others like the accused who may be tempted to force themselves on such victims. Substantive retribution was called for given the clear impact on the victim, with evidence given of the psychological harm suffered by her, as well as to address the exploitation of a vulnerable young victim. While the accused was not in a position of trust and authority in relation to the victim, he was an adult, who clearly made use of the age difference and the immaturity of the victim to assault her.

103 The accused was at the time of sentencing 58 years old. His age was not to my mind a reason for any reduction in sentence. The accused had claimed trial and thus was not entitled to any reduction for a plea of guilt. In short, there were no substantial mitigating factors in play here.

Outrage of modesty charges

104 The Prosecution argued that the relevant framework for outrage of modesty charges was that laid down in *GBR v Public Prosecutor* [2018] 3 SLR 1048 (“GBR”).¹¹⁵ The first outrage of modesty charge should fall within the mid to upper end of Band 1 and 8 months' imprisonment would be suitable. This was as the accused had carried out his intrusion in an aggressive

¹¹⁴ PSS at para 2.

¹¹⁵ PSS at para 5.

and rough manner.¹¹⁶ The second outrage of modesty charge should fall within the lower range of Band 2. The sexual exploitation involved intrusion of the victim's private parts over her clothes, in addition to similar intrusions as the first outrage of modesty charge. Weight should also be given to the accused's persistence in offending. Accordingly, a sentence of 12 months' imprisonment and 3 strokes of the cane would be appropriate.¹¹⁷

105 I accepted that the relevant framework for the outrage of modesty charges was in *GBR*. The first charge involved kissing, inserting his tongue and touching the victim's buttocks over clothing, placing it within Band 1 of the *GBR* framework. I accepted that this was not a fleeting, opportunistic touch, but neither was it so prolonged or egregious that it should reach the upper end. However, given that the band extends up to 1 year, I found that 8 months' imprisonment as argued for by the Prosecution was appropriate.

106 As for the second outrage of modesty charge, there was aggressive and invasive intrusion of private parts, over her clothes. I also accepted that there was deliberation in moving the victim to an isolated area. These factors to my mind did point to a sentence of 12 months. 3 strokes of the cane ought to be imposed.

Rape charge

107 The Prosecution argued that following *JCU v Public Prosecutor* [2025] 3 SLR 1201 (at [51]), the applicable framework was the two-step sentencing framework laid out in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("Terence Ng"). Applying this framework to the present case,

¹¹⁶ PSS at paras 9–12.

¹¹⁷ PSS at paras 13–18.

the rape charge fell within the lower end of Band 2. This was as accused had committed forcible rape of a victim below 14, one of the statutory aggravating factors under s 375(3) of the Penal Code.

108 I agreed that the sentencing framework applicable to the charge of rape by penile-oral penetration was that laid out in *Terence Ng*. The relevant factor in play, to my mind, was the use of force on a vulnerable young victim, pushing her down when she did not want to kneel, and pushing her head towards his penis. I also noted that she had been brought by that accused to that isolated area, allowing him the freedom to force her in this manner. There was, however, no abuse of authority, nor was there assault or abuse over a prolonged period. I accepted therefore that the sentence should be 13 years' imprisonment, at the bottom of Band 2, with 12 strokes of the cane.

Global sentence

109 As least two of the sentences of imprisonment were to run consecutively. There was a short break in time between the first charge on the one hand, and the second and third charges on the other. The criminal acts in the second and third charges flowed together. It would thus be appropriate to order the imprisonment in the 1st and the 3rd charges to run consecutively. That would give a total of 13 years, and 8 months' imprisonment, and 15 strokes of the cane.

110 As the accused was 58 years old at the time of sentencing, no caning would be imposed. Following the decision in *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904, to effect retribution and deterrence, and given the circumstances of the offences, I was satisfied that sentences in lieu of caning should be imposed. For the second charge, with 3 strokes, I was satisfied that 6 weeks' imprisonment should be imposed. For the third charge, for 12 strokes, 6

months' imprisonment should be imposed. This totalled to 7 months' and 2 weeks' of imprisonment in lieu of caning.

111 That gave a total of 13 years' and 8 months' imprisonment and additionally 7 months and 2 weeks' imprisonment in lieu of caning, which converted to 14 years, 3 months and 2 weeks' imprisonment.

112 I was satisfied that the running of the sentences and the total sentence properly reflected the criminality of the accused and was appropriate and thus did not make any further adjustments. I had taken his prior remand into account.

Aidan Xu
Judge of the High Court

Susanna Abigail Yim, Kelly Ng Wei Qi and David Khoo Kim Leng
(Attorney-General's Chambers) for the Prosecution;
The accused in person.
