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

[2025] SGHC 265

Criminal Case No 60 of 2025

Between

Public Prosecutor

And

Albao Shiela Marie Ibales

GROUNDS OF DECISION

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

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Public Prosecutor
v
Albao Shiela Marie Ibales

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General Division of the High Court — Criminal Case No 60 of 2025
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Aidan Xu J:

1 On 27 October 2025, DFG (the "first accused") and Albao Shiela Marie Ibales (the "second accused") plead guilty to and were convicted of, respectively, committing and abetting multiple charges of rape against the first accused's daughter. Various other charges involving other sexual offences were taken into consideration for the purposes of sentencing.

2 The second accused has appealed against the sentences imposed, totalling 22 years' imprisonment for three charges of abetment of rape by the first accused committed against the latter's daughter. These grounds convey the reasoning of the court in determining that a heavy total sentence should be imposed for the shocking crimes committed, which caused great harm to the victim. The total sentence included an additional one year's imprisonment to make up for the second accused avoiding caning provided for under the law.

Background

3 The background facts were contained in the joint statement of facts, which was admitted to by the second accused during the hearing of the plea of guilt mention.

4 In summary, the first and second accused were in a relationship;[1] the victim visited the first accused, her biological father, on weekends under the access arrangements following the first accused's separation from the mother of the victim.[2]

5 The two accused worked together to get the victim to go along with various sexual acts being committed against her; in broad terms, the victim was told that these were bets or dares, with the promise of money prizes if the sexual acts with the victim occurred.[3] Videos and photographs were recorded by the first accused and sent to the second accused.[4]

6 Subsequently, the victim came to realise that what was committed by the first accused on her was wrong, but kept quiet as she was confused, and had been warned by the first accused to keep mum. She eventually informed her teacher, who reported the matter.[5] The police sought to arrest the first accused, asking him to attend at a hospital. However, the first accused, suspecting things were amiss, warned the second accused that he was suspicious and told her to delete all the communications between the two of them. The first accused

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1 Joint Statement of Facts ("JSOF") at para 3.

2 JSOF at para 4.

3 JSOF at paras 8–10. 12, 19–22 and 24,

4 JSOF at paras 10, 13, 20–21, 23–24, and 28–29.

5 JSOF at para 33,

deleted communications between them on his own phone. After the first accused was arrested, he refused to provide the passcode to his phone and tablet, denying committing any offence. However, fortunately, the second accused, did not manage to delete her communications on her phone; the police retrieved videos and photographs from it.[6]

7 The first accused, the father of the victim, pleaded guilty to three charges of statutory rape of a victim below 14 years, while being in an exploitative relationship with the victim, by way of penile-oral and penile-vaginal penetration. He has also pleaded guilty to a single charge of intentionally perverting the course of justice by deleting evidence. Twelve other charges were taken into consideration for sentencing: the offences covered include procuring the commission of an indecent act by the victim, committing indecent acts on the victim, further acts of penetration, recording and distributing videos and photographs of the victim, and refusing to provide passcodes for his devices.

8 The second accused pleaded guilty to three charges of abetment of the acts of rape by the first accused. Eleven other charges of abetment by the first accused of procuring and committing indecent acts, and other instances of rape, as well as producing and distributing videos and photographs of the victim were taken into consideration (the "TIC charges"). The second accused did not face charges of perversion of justice or obstruction of investigations.

9 The victim provided a victim impact statement, detailing her sad and angry feelings, and various other effects from, and thoughts about the abuse. A psychiatric report was also tendered.

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6 JSOF at paras 34–35 and 37.

Summary of the Prosecution's Submissions on Sentence

10 Against the second accused, the Prosecution sought a sentence of at least 22 years' imprisonment in total.[7] In comparison, against the first accused, the Prosecution sought a global sentence of not less than 22 ½ years to 22 years and 8 months' imprisonment, including imprisonment in lieu of caning, which could not be imposed because of the age of the first accused.[8] The Prosecution argued that the second accused's abetment of the first accused's reprehensible acts, should be punished to a similar degree, particularly given that she had encouraged and instigated the first accused to perpetrate the acts of rape and thus bore the same level of culpability as him.[9]

Summary of the First Accused's Submissions on Sentence

11 Briefly stated, counsel for the first accused sought a global sentence of 20 years and 11 months' imprisonment, applying a discount of 30% for the plea of guilt, following the Sentencing Advisory Panels' Guidelines.[10] It was argued that no sentence of imprisonment in lieu of caning should be imposed here.[11]

Summary of the arguments for the second accused

12 In respect of the second accused, counsel accepted that the same framework applied.[12] The second accused had only given instructions to the first

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7 Prosecution's Sentencing Submissions ("PSS") at para 8.

8 PSS at para 7.

9 PSS at para 25.

10 First Defendant's Sentencing Submissions ("1DSS") at para 5.

11 1DSS at para 42.

12 Second Accused's Sentencing Submissions ("2DSS") at paras one and 7(c).

accused but had not done the acts herself.[13] The plea of guilt also warranted a 30% reduction.[14] For each offence, a sentence of 13 to 15 years was argued to be appropriate, with a global sentence of 18 to 21 years' imprisonment.[15] No further imprisonment in lieu of caning should be imposed either for her.[16]

The Decision

13 The second accused was sentenced to a total of 22 years' imprisonment: 21 years in all for two charges of abetment of rape, with another year added in lieu of caning. A third charge of abetment of rape was taken into consideration.

14 The sentence of 21 years' imprisonment imposed on the two proceeded charges was calibrated on the basis of the need for deterrence and retribution, the high degree of culpability and criminality of the second accused in having abetted the first accused against his own daughter, and the great harm caused to the victim. One year's imprisonment was imposed in lieu of caning.

15 I accepted the Prosecution's submissions that the primary considerations here are deterrence and retribution. Firstly, the sentences imposed should send a signal to deter others from committing similar offences. Given the surreptitious, and hidden nature of rapes, sexual assault and abuse within the family settings, and the readiness, unfortunately, of some family members in some other cases to hide or overlook such offences, and the vulnerability of the victims involved to pressure and coercion, the sentences imposed must be heavy and severe in order to outweigh these factors. Then as regards retribution, the

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13 2DSS at para 8.

14 2DSS at para 12.

15 2DSS at paras 14–15.

16 2DSS at para 20.

punishment imposed must reflect the opprobrium to be visited on each of the accused, the disgust with which their actions are viewed and the censure of the State acting on behalf of the public. A young person's body, autonomy and privacy was violated, by one of her parents, who betrayed the expectation of love, affection, respect and trust that was due to her, for the satisfaction of the depraved desires of the two accused. The punishment was calibrated to be severe, heavy and harsh.

16 The court, in meting out its punishment, applied the framework in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*"). I accepted also the arguments that I should treat penile-oral and penile-vaginal rape in the same manner, following *JCU v Public Prosecutor* [2025] 3 SLR 1201 at [51].

17 The first accused's sentencing position was relevant in calibrating the sentence of the second accused for proportionality and consistency.

The Sentences imposed on the first accused, for comparison

18 In respect of the first accused who pleaded guilty to 4 proceeded charges, applying the framework in *Terence Ng*, I was satisfied that the starting point for each rape charge, given the circumstances of the case, should be at 16 years' imprisonment, with 12 strokes, which was reduced after accounting for the plea of guilt to 11 years' and two months' imprisonment and caning, with such caning to be substituted by further imprisonment. I imposed eight months' imprisonment for the perversion of justice charge. Two of the rape charges against him were ordered to run consecutively together with the perversion of justice charge. The other charge of rape was to run concurrently. The sentence was 23 years' imprisonment and caning. An additional year's imprisonment in

lieu of caning was imposed, giving a final total sentence of 24 years' imprisonment.

The Sentences imposed on the second accused

19 The second accused pleaded guilty to three charges of abetment of rape by the first accused. The sentences imposed were determined according to the relevant sentencing framework. That determination had to take in the question whether abetment should be treated substantially differently from the primary criminal act, as well as the imposition of further imprisonment in lieu of caning. Weighing these matters, a total sentence of 22 years' imprisonment was imposed in the end.

Sentencing framework

20 The appropriate sentencing framework was that laid down in *Terence Ng*. This laid down what is now a fairly common two stage structure: at the first stage, the court identifies the specific band that an offence falls in, focusing on the factors that concern the criminal act including the harm caused to the victim, determining a starting point for the sentence to be imposed for the charge. Three bands were laid down in *Terence Ng*: at [73(b)]:

> (b) The sentencing bands prescribe ranges of sentences which would be appropriate for contested cases and are as follows:
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> > (i) Band one comprises cases at the lower end of the spectrum of seriousness which attract sentences of ten to 13 years' imprisonment and six strokes of the cane. Such cases feature no offence-specific aggravating factors or are cases where these factors are only present to a very limited extent and therefore have a limited impact on sentence.
> >
> > (ii) Band 2 comprises cases of rape of a higher level of seriousness which attract sentences of 13–17 years' imprisonment and 12 strokes of the cane. Such cases

> would usually contain two or more offence-specific aggravating factors.
>
> (iii) Band 3 comprises cases which, by reason of the number and intensity of the aggravating factors, present themselves as extremely serious cases of rape. They should attract sentences of between 17–20 years' imprisonment and 18 strokes of the cane.

21 Then the second stage requires the factoring in of the factors relating to the offender, namely the mitigatory and aggravating factors: *Terence Ng* at [73(c)]. This exercise will lead a net increase or reduction from the starting point.

22 As was submitted by the Prosecution, the above framework applies to the present case, where there was penile-oral penetration though *Terence Ng* was specifically concerned with penile-vaginal penetration: see *JCU* at [51].

The first stage, determining the indicative starting point

23 There was little difference between the parties as to the indicative starting point. Both accepted that the applicable band was at the middle to low portion of Band 2: Counsel for the second accused argued that the indicative starting point was 13 years' imprisonment, while for the Prosecution it was 14 years' imprisonment and 12 strokes.[17] The age of the victim as well as the father using his relationship, described by the Prosecution as being in an exploitative relationship, and by the defence as abuse of trust, pointed to a figure in that range.[18]

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17 2DSS at para 7; PSS at para 16.

18 2DSS at para 7; PSS at para 17.

24 There were two aspects to this calibration. The first question was whether the second accused as an abettor should have a sentence generally, and secondly, how the factors relating to the criminal act including harm should be calibrated.

Abetment

25 The Prosecution argued that the second accused's punishment should be equal to that of the first accused for her abetment. This is prescribed under s 109 of the PC, which does not contain any other specific provision for abetment of the specific charges here. The Prosecution argued that offenders sentenced for participation in the same offence should be punished to the same degree unless there is a difference in responsibility or the personal circumstances: *Public Prosecutor v Ramlee* [1998] 3 SLR(R) 95 at [7]. It is argued that accomplices may give encouragement, support and protection, and thus be imbued with the same culpability as the actual attackers: *Public Prosecutor v Leong Soon Kheong* [2009] 4 SLR(R) 63 at [36]; and *Public Prosecutor v CEO* [2024] SGHC 109 at [260]. Here, as the second accused encouraged and instigated the first accused in committing the rape against the victim, she bore the same level of culpability and should receive a similar sentence.[19]

26 The defence argued that while the second accused had provided instructions and given encouragement, she had not done the acts herself and the first accused could have ignored her.[20]

27 While the second accused did not physically carry out the acts and was not physically present, as was argued by her counsel, she had prodded or

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19 PSS at paras 23–25.

20 2DSS at para 8.

encouraged the first accused to do so. The facts admitted by the accused persons show that.

28 Even before the incident, the second accused had fantasised with the first accused about engaging in sexual acts with their future child (as well as their future pet dog, which they would name "Max"). On the day of the incident, the two had exchanged sexualised messages about the victim. The second accused asked the first accused to get a photograph of the victim holding the latter's penis, advising him how he could accomplish this, noting the victim's readiness to comply with his instructions. That led to the first accused coming up with the idea of a fake series of wagers with a reward to spur the victim on.[21] The joint statement of facts described what happened next:[22]

> 9. To set the plan in motion, at about 8.13pm on the same day, DFG sent a voice message to Shiela, asking her to send him a text saying that the victim's hand was too small to fit around his penis. The purpose of the message was to make the victim believe there was a legitimate challenge issued by Shiela and that she had to perform the acts to win the "bet". DFG and Shiela did so as they knew that this would appeal to the victim's competitive nature which in turn would make the victim more likely to comply with their requests.
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> 10. At about 8.20pm, Shiela sent DFG a text message as part of their plan, which read: "I bet 50 that ha[n]d can['t] full[y] hold your cock when it's hard". DFG showed this message to the victim, and at about 8.31pm, managed to make the victim hold and stroke his penis (subject of TRC-900346-2023 and TRC-900238-2024). DFG updated Shiela that he had successfully gotten the victim to do the acts, and sent Shiela eight video clips, which he had recorded using his mobile phone, of the victim holding and stroking his penis. Shiela replied by texting: "Amazing!" and asked if the victim said anything, to which DFG replied: "Nothing" and "She likes that she won the bet".

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21 JSOF at paras 6–8.

22 JSOF at paras 9–10.

29 Bad as it was, the two accused then took things further:[23]

> 11. DFG told Shiela that he should have asked the victim to suck his penis to "make it hard faster". Shiela agreed and suggested that they tell the victim that she had lost the bet as DFG's penis was not "hard enough" and that she had to "suck it". DFG then told Shiela to issue another "challenge" to the victim.
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> 12. Arising from this, the victim was asked to suck DFG's penis, and was told that if she did so successfully, she would win $100. In the course of this, DFG and Shiela exchanged messages with DFG asking her if she was "wet and horny", and with Shiela confirming she was and saying that she wished she was there with DFG and the victim so that all three of them could "go to bed".
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> 13. At about 9.09pm, DFG penetrated the victim's mouth with his penis. He similarly recorded a video of this on his mobile phone and sent a copy of the recording to Shiela. DFG reported to Shiela that the victim appeared happy to have won the bet, even though he stated he was "[n]ot sure she liked it".

30 The second accused continued to encourage the first defendant to carry out other sexual acts on the victim and to send her videos of the acts, even after the victim went to sleep.[24] When she was dissatisfied with one of the videos as it did not show the first accused's face, she even instructed the first accused to tell the victim to repeat the sexual act so he could send her another video.[25]

31 As evidenced from the above, the second accused clearly encouraged, supported and furthered the objectives of the two of them, to get the victim ensnared in their sexual activity. Though she cheered and encouraged the first accused on, she was not just a cheerleader on the sidelines: She helped plot the way forward and was almost there beside the first accused as he committed the

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23 JSOF at paras 11–13.

24 JSOF at paras 16–28.

25 JSOF at para 20.

physical acts on the victim. She and the first accused stoked each other's titillation and spurred his acts.

32 While the second accused did not do these things, she had started the whole incident off by asking for the lewd photograph with the victim. She had also given continued and sustained encouragement. Though she was not in a familial relationship with the victim, her encouragement and support had clearly spurred on all the actions of the first accused violating the victim. There was little to separate their level of criminal responsibility. The severe harm caused demanded severe and heavy punishment. Her perversion, and selfish disregard for the effect on the victim must attract a heavy and punitive response.

33 As noted by the Prosecution, the law does not distinguish between abettors and principal offenders simply because the latter would be the one committing the actual crime: the abettor would have assisted or instigated or planned the act just as much as the principal offender.[26] It is only where there is some other differentiation in culpability or causing of harm, or in mitigatory or aggravating factors, that the sentence would differ. Here, the second accused had encouraged and instigated the first accused to commit the acts of rape against his daughter.

34 There was I found that there was no substantial difference through abetment that should lead to markedly different indicative sentences between the two.

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[26] PSS at para 24.

Calibration of the indicative sentence

35 In terms of calibration of the indicative sentence, the Prosecution and the defence were fairly aligned, as noted above. Both looked at the age of the victim as well as the exploitation by the first accused, the father, or his abuse of trust.[27] However, counsel for the second accused had argued that the age should not be a significant factor in this calibration, as the offence is specifically concerned with young victims.[28]

36 I accepted that the age would not be a significant factor in the calibration of the initial starting point. It may be that as regards a very young victim, this would figure more, but here I did not think that the age of the victim was such a factor that it should operate additionally to affect the starting point. Nonetheless there were factors that pointed to the range being at the higher end of the middle band.

37 In particular, the offence stemmed from the abuse by the first accused of his position as the father, and his egregious exploitation of the vulnerability of the victim. This the second accused exploited as well through her abetment. Secondly, there was the exploitation of a deceitful and diabolical scheme, praying on the trust and innocence of the young, immature victim. All of this was done while the victim was staying with the first accused as part of the arrangements between the first accused and his wife. The victim would really have been at the mercy and control of the first accused. This, again, the second accused through her abetment was responsible for, to the same or similar degree as the first accused. Her position did not overlap to exactly the same degree

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27 2DSS at para 7; PSS at para 17.

28 2DSS at para 9.

since she was not a parent to the victim. This would be a reason to calibrate her culpability slightly downwards. Nonetheless, I found that her degree of responsibility was still high as she had abetted the first accused in committing those acts against the victim, his daughter.

38 The offences harmed the victim tremendously, destroying the innocence and childhood of the victim. The severe harm caused demanded severe and heavy punishment. She was also exposed to pregnancy, with the possibility of all the damage that would entail, as well as to the risks of disease.

39 The second accused argued that no special trauma was caused to the victim as the offences had occurred over one occasion, though for a period of about 30 hours. No threat of violence was used, though there was a ruse, in the form of the bets.[29]

40 The special trauma referred to by the second accused was described in *Terence Ng* at [44(i)] as including repeated rape in one attack, or sexual degradation of the victim, amongst others.

> (i) Deliberate infliction of special trauma: This differs from the previous factor in the sense that this relates to the intention of the offender as manifested in the manner of the offending, rather than the effect which it had on the victim. Cases in which it can be said that there has been deliberate infliction of special trauma include repeated rape in the course of one attack, where there was further degradation of the victim (eg, by forced oral sex or urination on the victim or participation in fetishistic sexual acts), or where there is a rape by a man who knows that he is suffering from a life-threatening sexually transmissible disease, whether or not he has told the victim of his condition (and whether or not the disease was actually transmitted to the victim).

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[29] 2DSS at para 11.

While it is true that the acts committed on the victim here were not those specifically mentioned by the Court of Appeal in that paragraph, the rape here was by a father on his own daughter. The offender's intention, *ie*, the father's intention, to have sex with his own daughter, violating norms and expectations of behaviour, was an intrinsic part of the criminal act. That, to my mind, was a relevant factor pointing to a higher starting point.

41 The defence further argued, citing *Public Prosecutor v Ridhaudin bin Bakri and Ors* [2020] 4 SLR 790, that harm should not be regarded as an offence-specific aggravating factor as this would be giving it double weight.[30]

42 The relevant passages in *Ridhaudin* read as follows (at [23] to [26]):

> 23 I disagreed with the Prosecution's submission that the harm caused to the Complainant was an offence-specific aggravating factor. In *Public Prosecutor v BMR* [2019] 3 SLR 270 at [32], I mentioned that physical and emotional harm caused to a victim of rape would have to be especially serious to amount to an aggravating factor under the *Terence Ng* ([7] *supra*) framework. The indelible physical and emotional effects of rape on victims are already reflected by the fact that it is a serious offence. In the absence of especially serious physical or emotional harm, harm caused to victims should not be regarded as an offence-specific aggravating factor as to do so would give this factor double weight.
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> 24 Although I recognised that the Complainant undoubtedly suffered both physical and emotional harm as a result of the acts of the accused, I did not think that such harm rose to the level of an offence-specific aggravating factor under the Terence Ng framework. One of the main factors relied on by the Prosecution was that there was some suggestion that the Complainant suffered from post-traumatic stress disorder ("PTSD")…

As it was, the Court in *Ridhaudin* found that PTSD was not established on the facts.

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30 2DSS at para 10.

43 With respect, I do not read *Terence Ng* as requiring harm to be of the level of post-traumatic stress disorder before it can be taken into account as a factor. All instances of rape would indeed involve harm. But there will be a spectrum of harmful effects depending on the circumstances. Here, the factors I have listed above, namely the assault on the victim by her own father, the exploitation of their relationship, and the destruction of the innocence of the victim, and the effect on her, would be matters that should lead to a higher starting point. In so far as *Ridhaudin* stands for anything contrary to this, I respectfully decline to follow it.

44 The great culpability and harm of these offences committed by the first defendant, as well as the State's abhorrence of his actions, had to be reflected in the severity of the sentences imposed, but bearing in mind in particular that the second accused, was not in the position of a parent, though she had abetted the offences.

45 In the circumstances, therefore, I found that an appropriate starting point was 15 years' imprisonment, at the mid-point of Band 2 in the *Terence Ng* framework.

The second stage of the framework

46 As for the factors that are specific to this accused, the sheer number, scale and range of the charges taken into consideration relating to the abuse against the victim increased the level of punishment that should be imposed.

47 The second accused had 3 charges proceeded with, and 11 taken into consideration. In comparison, the first accused had 4 charges proceeded with, and 12 taken into consideration. The difference lay in the perversion of justice and investigation-related charges.

48 The defence raised the proposition stated in *Public Prosecutor v BMR* [2019] 3 SLR 270 ("*BMR*") that a sentence should not be increased on the basis of charges taken into consideration if the factors pertaining to those charges are already accounted for in the proceeded charges.[31] I was doubtful that this assisted the second accused in any meaningful way. In coming to the appropriate sentencing band and starting sentence for each rape charge, I had not taken into account any factors relating to the TIC charges.

49 *BMR* involved a stepfather who had sexually abused the victim on multiple occasions across a period of at least four years, with the abuse slowly escalating over the years from molestation to rape. The Prosecution proceeded with three charges relating to rape, while charges relating to outrage of modesty and sexual assault by penetration were taken into consideration for sentencing: *BMR* at [1]. In coming to the appropriate sentence for the rape charges, the court noted the fact that the sexual abuse had occurred over a long duration of time and that the sexual violations were not limited to rape, amongst others, constituted offence-specific aggravating factors: *BMR* at [30]–[31]. Then, in response to the Prosecution's argument that the presence of the TIC charges should be treated as an offender-specific aggravating factor, the court stated as follows (at [40]):

> 40 The Prosecution urged me to treat the presence of the 1st to 3rd charges (*ie*, the TIC charges) as an aggravating factor in this case. They cited the CA's pronouncement in *Terence Ng* (at [64(a)]) that a court will normally increase an offender's sentence where the TIC charges are of a similar nature. I rejected this submission. In *Terence Ng*, the CA recognised that 'a court is not bound to increase a sentence merely because there are TIC offences'. On the facts of that case, the CA took the view (at [91]) that the uplift resulting from the offender's TIC charges cancelled out any sentencing discount attributable to his guilty plea. In my view, a court should not increase a rape

[31] 2DSS at para 17.

> offender's sentence merely because there are TIC charges if the factors pertaining to those charges have already been accounted for in Stage one of the *Terence Ng* framework. Otherwise those factors would be given double weight. Here, I took the view that the facts pertaining to the TIC charges showed that the sexual violations had taken place over a long duration and I took this into account as an aggravating factor at Stage 1. In *Terence Ng*, the CA did not take into account the facts surrounding the TIC charges at Stage 1. Instead, the CA took into account the TIC charges at Stage 2 in finding that they cancelled out any discount attributable to the offender's guilty plea.

In other words, the court in *BMR* was of the view that as the court had taken the TIC charges into account when coming to the indicative starting sentence, the TIC charges should not be relevant yet again in considering whether adjustments should be made to that indicative starting sentence.

50 As such, the present case was distinguishable from *BMR* as there was no similar risk of factors pertaining to the TIC charges being given double weight. Accordingly, I found that the presence of the TIC charges was in fact a relevant offender-specific factor to be taken into account at this second stage. Charges taken into consideration are material in sentencing because they involve other criminal acts and offences having occurred. They thus add to the overall criminal responsibility of the offender, and are relevant for that purpose. The larger the number of other offences, the heavier the responsibility.

51 But while I needed to take into account the charges taken into consideration, there was also the issue of the sentence in lieu of caning, to be dealt with below. There was also the plea of guilt to weigh: there was a saving of resources, as well as sparing the victim from having to testify. In the circumstances, I gave the full 30% reduction for the plea of guilt, and gave no uplift on the charges taken into consideration.

52 The defence argued for a sentence of 13 to 15 years starting point for the respective charges, with a global sentence of 18 to 21 years' imprisonment, with no sentence in lieu of caning. The submissions did not quantify how the starting point was to be adjusted to give that global sentence.[32]

53 As it was then for each charge of abetment of rape, the starting point should be 15 years imprisonment. With a 30% reduction for the plea of guilt, this would be 10 and ½ years' imprisonment. Two of the charges were ordered to run consecutively, namely the second and tenth charges against her, with the third charge concurrently. The total was thus 21 years' imprisonment.

Sentence in lieu of caning

54 As the second accused was female, the Prosecution had argued for an enhanced sentence to be imposed in lieu of caning.[33] I had some concerns about this, but having considered the Prosecution's arguments, I was satisfied that it would be necessary in the present case to impose a sentence in lieu of caning, given the need for full retributive effect.

55 The Prosecution argued for an additional 12 months or one year's imprisonment in lieu of caning that could not be imposed on the second accused primarily on the basis that retribution and deterrence were both required, but their effect would be lost if the additional sentence was not imposed. A strong deterrent message was required by Parliament. While the sentence to be imposed on the second defendant was substantial, the additional period would still have some additional effect. It was also argued that the imprisonment was required as the second defendant would have known ahead of the crimes that

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32 2DSS at paras 14–17.

33 PSS at para 35.

she would not be caned. *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 ("*Amin*") was cited in support. The case of *Public Prosecutor v Mark Kalaivanan s/o Tamilarasan* [2025] SGCA 48 was distinguished.[34]

56 The defence argued that no additional imprisonment should be imposed as it would otherwise be disproportionate and crushing. No additional imprisonment was imposed in *Public Prosecutor v BQW* [2017] SGHC 136 ("*BQW*") despite multiple sexual offences being committed. The Prosecution had not urged such a sentence there, as the sentence would otherwise be crushing.[35]

57 The guidance of the High Court in *Amin* is fairly detailed. The decision noted that the imposition of an additional sentence where caning cannot be imposed is not a default position. It would be justified to do so if the deterrent and retribution effect of caning still had to be vindicated and effected and if such a sentence was needed to maintain parity. Regard would need to be given to the reasons for exemption for caning, in respect of deterrence, whether the offender knew before committing the offence that he or she would be exempted from such caning. The length of imprisonment already imposed would be a relevant consideration both for deterrence and retribution: where the original sentence was already lengthy the additional imprisonment term would not add more deterrence. The court noted that the issue should be considered holistically, taking in factors such pointing against the additional sentence, including medical grounds, age, compassion, proportionality and the parliamentary objectives: *Amin* at [58]–[60] and [87]–[88]. A range of sentences were

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34 PSS at paras 38–45.

35 2DSS at para 20.

suggested by the court, with about six months' imprisonment suggested for 12 strokes avoided, and 12 months for more than 19 strokes: *Amin* at [90].

58 As it was, an additional term was not imposed in *Amin* as the exemption from caning was on medical grounds, and there was likely to be less of a deterrent effect given the long minimum sentence of 20 years' imprisonment: *Amin* at [95].

59 In the present case, I was persuaded that there was a strong need for retribution and deterrence. The depravity and heinousness of the criminal acts, including the abetment by the second accused, who had egged on and suggested ways and means for the first accused to persuade the victim, needed a very strong response, especially that the victim was very young and the daughter of the first defendant.

60 It was true that the sentence to be imposed on the victim was long, but given that heinousness and depravity, the imposition of an additional year would to my mind still further the deterrent and retributive objectives that were paramount in sentencing in the present case. This distinguished the case of *Amin Abdullah* itself where the court stated that an additional year would not seem to add much given the 20-year sentence already imposed there: at [95].

61 The defence referred to the case of *BQW*.[36] In that case, however, the Prosecution did not seek a sentence in lieu, as it considered that the sentence overall might be crushing: at [23]. The court there noted nothing was shown to warrant such a sentence in lieu, and that the minimum sentence was already long: *BQW* at [50].

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[36] 2DSS at para 20.

62 Leaving aside the fact that no sentence in lieu was sought, I would respectfully distinguish *BQW* as being concerned with a situation where nothing appeared to warrant a further sentence being imposed. To my mind, with respect, the fact that an eight-year minimum sentence was prescribed did not affect the question at all. I am not sure that a further point is really relevant in this context, but I further note that the court there considered separately that the overall sentence should not be crushing in view of age: *BQW* at [52]. In the present case, age is not relevant, but again, I would respectfully disagree with the approach in *BWQ* that age would be a relevant consideration anyway.

63 One year's imprisonment was imposed in lieu, taking into account the circumstances of the offences, and the lost deterrent effect if caning was not imposed. In respect of the first accused, who was more than 50 years old at the time of sentencing, I accepted the Prosecution's arguments that one year's imprisonment should be imposed as the notional number of strokes would have been 24, given the seriousness of the offences committed. Thus, as regards the second accused, I did accept that had caning been available against her, a similar number of strokes would have been merited. From that, it followed that she should also have an increase of one year.

Conclusion

64 For the reasons above, a total sentence of 22 years was thus imposed on the second accused.

Aidan Xu
Judge of the High Court

Wong Woon Kwong SC and Wong Shiau Yin (Attorney-General's Chambers) for the Prosecution;
Sofia Bennita d/o Mohamed Bakhash (Phoenix Law Corporation) for the accused.