IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2026] SGCA 25

Court of Appeal / Criminal Appeal No 1 of 2025

Between

Lian Hoe Heng

… *Appellant*

And

Public Prosecutor

… *Respondent*

In the matter of Criminal Case No 65 of 2024

Between

Public Prosecutor

… *Prosecution*

And

Lian Hoe Heng

… *Accused*

JUDGMENT

[Abuse of Process — Appellant alleging counsel below rendered inadequate legal assistance — Whether allegation of inadequate legal assistance meritless and in abuse of process]
[Criminal Procedure and Sentencing — Appeal — Whether sentence imposed was manifestly inadequate]
[Criminal Procedure and Sentencing — Sentencing — Whether appellant's sentence should be enhanced for abusing the process of the court]

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Lian Hoe Heng
v
Public Prosecutor

[2026] SGCA 25

Court of Appeal — Criminal Appeal No 1 of 2025
Sundaresh Menon CJ, Hri Kumar Nair JCA and Debbie Ong Siew Ling JAD
25 February 2026

12 May 2026 Judgment reserved.

Hri Kumar Nair JCA (delivering the judgment of the court):

1 This appeal against sentence engages two interests in the criminal justice system – first, incentivising appropriate pleas of guilt and, second, deterring accused persons from making baseless allegations against others in criminal proceedings, especially against their own counsel.

2 It is well-established that a plea of guilt is accorded mitigatory weight for at least the utilitarian reason of the savings in public resources that may otherwise have to be expended on a trial. Indeed, a system that facilitates appropriate pleas of guilt is indispensable for the criminal justice system to function. As Hughes LJ (as he then was) observed in *R v Caley* [2012] EWCA Crim 2821 ("*Caley*"), "if in all … cases the defendants were out of defiance or otherwise to insist on each detail of the case being proved to the hilt the administration of criminal justice would be in danger of collapse" (at [6]). While no system should incentivise guilty pleas by innocent persons solely for the sake

of saving resources, guilty persons who assist the State by pleading guilty should be given credit for doing so. This has been recognised, most recently, by the *Guidelines on Reduction in Sentences for Guilty Pleas* (1 October 2023) ("PG Guidelines") issued by the Sentencing Advisory Panel, which provides for a sliding scale of reductions in sentence that is tied to the stage in the proceedings at which an accused person indicates an intention to plead guilty.

3 As against this, there is the need to address what has emerged as a worrying trend of accused persons, for tactical reasons or otherwise, mounting baseless allegations against other participants in the criminal justice system, including their own counsel. This court has observed on multiple occasions that attacks on counsel, and the integrity of the judicial process in which counsel play a vital role, should not be made lightly: see, for example, *Thennarasu s/o Karupiah v Public Prosecutor* [2022] SGCA 4 at [15]; *Arun Ramesh Kumar v Public Prosecutor* [2022] 1 SLR 1152 at [37]; *Masri bin Hussain v Public Prosecutor* [2025] SGCA 9 at [26]–[28]; *Muhammad Salleh bin Hamid v Public Prosecutor* [2025] 1 SLR 554 at [4] and [69]; *CEO v Public Prosecutor* [2025] 1 SLR 626 at [56]; *Affandi bin Mohamed Hassan v Public Prosecutor* [2026] SGCA 17 ("*Affandi*") at [32]. This case, as we explain below, presents yet another example.

4 These two interests can pull in opposite directions in a case like the one before us where, following a plea of guilt, the accused person is dissatisfied with the sentence imposed and appeals on the basis that he had not received adequate assistance from his counsel in the court below. To be clear, an accused person cannot be faulted for bringing an appeal *per se*; that is a right he has, in the same way that every accused person has the right to claim trial, which he cannot be penalised for exercising: *Kuek Ah Lek v Public Prosecutor* [1995] 2 SLR(R) 766 at [65]. That is generally so even if the appeal may be of little merit in law

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or fact. But where the grounds or arguments in the appeal are advanced in bad faith or are otherwise an abuse of the court's process, the appellate court is entitled to make adverse orders to address such abuse and deter similar conduct. In civil cases, this may include making indemnity costs orders and, in appropriate cases, even personal costs orders against counsel: see, for example, *Prometheus Marine Pte Ltd v King, Ann Rita* [2018] 1 SLR 1 at [75]; *Munshi Rasal v Enlighten Furniture Decoration Co Pte Ltd* [2021] 1 SLR 1277 at [21]. In criminal appeals, apart from costs orders, there is the additional dimension of whether the appellant's conduct should be considered for the purposes of sentencing and, if so, how this should be done. That question is made more complicated where the appellant has received a sentencing discount for his plea of guilt at first instance which, as explained above, is intended to *reward* him for his conduct in the proceedings below. This appeal engages the question of how that tension may be resolved.

Factual background

5 The appellant was based in Malaysia during the events giving rise to the five charges that were proceeded against him. From 2020 to his repatriation to Singapore on 16 April 2023, he worked for a drug syndicate, operating under the instructions of one "Kadi" (whose identity is unknown), who was also based in Malaysia.

6 The appellant's role in the syndicate was significant and involved coordinating the supply of controlled drugs into Singapore, which we elaborate on later. In broad terms, Kadi had provided the appellant's contact number to his customers. The appellant would receive orders from customers through phone calls or text messages and convey these to Kadi. Kadi and other syndicate members would then arrange for drugs to be delivered from Malaysia to various

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drop-off points in Singapore. The appellant would inform runners or the customers to collect the drugs from these drop-off points. The customers would in turn inform the appellant after they had collected the drugs. For his role, the appellant was paid in methamphetamine or cash of a few hundred dollars for each order. The scale of the operation increased over time as Kadi's customers would introduce new customers to the appellant, who would then convey these new customers' orders to Kadi.

7 Sometime in 2020, the appellant became acquainted with one Tan Guosheng ("Tan"). Tan, a customer of Kadi, ordered drugs from Kadi through the appellant, received said drugs by following the appellant's instructions for collection, and helped the appellant to collect and distribute Kadi's drugs to other customers in Singapore. The subject of the first charge of drug trafficking (the "1st Charge") involved one such instance (see [9]–[11] below).

8 In addition, the appellant handled the proceeds of the supply of Kadi's drugs and facilitated their transfer out of the jurisdiction. Acting on Kadi's instructions, the appellant would sometimes instruct customers or runners who had collected payments for the drugs from customers to transfer the payments, representing Kadi's benefits of drug dealing, to various bank accounts in Singapore or Malaysia. The appellant also transferred his own benefits from the enterprise from bank accounts in Singapore to bank accounts in Malaysia and Vietnam. Occasionally, the appellant enlisted the help of one "Lao Ban Niang" (whose identity is unknown) to transfer the appellant's and Kadi's drug benefits from Singapore bank accounts to Malaysian bank accounts. These broadly formed the subject of four money laundering charges under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed) ("CDSA"), namely, the 6th, 8th, 11th, and 13th Charges.

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Facts pertaining to the drug trafficking charge (1st Charge)

9 On 7 October 2020, the appellant coordinated a drug distribution that formed the basis of the 1st Charge of abetting Tan's possession of not less than 249.99g of methamphetamine for the purposes of trafficking under s 5(1)(*a*) read with ss 5(2) and 13(*b*) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"). That day, a syndicate runner deposited a package containing five packets of methamphetamine in crystalline form (hereinafter referred to as "ice", the common street name for methamphetamine in this form) weighing approximately 500g at a lift lobby of a residential block of flats in Singapore. After the appellant received the location of the drop-off and photographs of the package and location, the appellant instructed Tan to collect the package so that the ice could later be distributed to customers in Singapore.

10 Tan, in turn, enlisted one Chew Yee Hoe Baldwin ("Baldwin") to assist with the collection of the package. As Baldwin wanted 125g of ice for his personal use, the appellant instructed Tan to provide Baldwin with this quantity in exchange for $4,500. After Baldwin collected the package, he retained one packet of ice weighing approximately 125g and passed the remaining four packets of ice to Tan. Tan collected the $4,500 from Baldwin, retained $500 as his commission, and deposited $4,000 into a bank account previously designated by the appellant for collecting drug payments.

11 Tan was subsequently arrested by officers from the Central Narcotics Bureau ("CNB") with the four packets of ice in his possession. The four packets of ice were seized by the CNB and contained not less 373.2g of crystalline substance which was found on analysis to contain not less than 253g of methamphetamine. Although this amount of methamphetamine crossed the capital threshold of 250g, the Prosecution, in its exercise of prosecutorial

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discretion, charged Tan and the appellant, respectively, with non-capital offences of trafficking and abetting the trafficking of not less than 249.99g of methamphetamine.

Facts pertaining to the money laundering charges (the 6th, 8th, 11th and 13th Charges)

12 The remaining charges concerned the appellant's systematic laundering of drug proceeds over extended periods which were punishable under ss 43 and 46 of the CDSA:

(a) 6th Charge: From 6 October 2020 to 14 December 2020, the appellant engaged Lao Ban Niang to transfer $160,000 of his own benefits of the drug enterprise from his bank account in Singapore to Malaysian bank accounts. In coordination with Lao Ban Niang, the appellant made 14 fund transfers from his bank account to various other bank accounts in Singapore, following which Lao Ban Niang procured the crediting of equivalent amounts in Malaysian ringgit in bank accounts in Malaysia, including MYR 183,050 in an account of the appellant himself. This was an offence under s 46(1)(*b*) of the CDSA, which charge was amalgamated under s 124(2) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) ("CPC") as the appellant had embarked on a course of conduct to remove property from jurisdiction (the total sum of $160,000) which were the benefits of his drug dealing.

(b) 8th Charge: From 14 September 2020 to 7 October 2020, the appellant arranged with Tan to transfer Kadi's drug benefits totalling $103,300 to certain designated accounts. Under Kadi's instructions, the appellant directed Tan to deposit these proceeds into two Singapore bank accounts over 15 occasions – $68,800 into the appellant's account

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and $34,500 into another account. This was an offence under s 43(1)(*a*) of the CDSA as the appellant was involved in an arrangement with Tan to facilitate Kadi's control of his drug benefits, knowing that the proceeds were the benefits of Kadi's drug dealing.

(c) 11th Charge: From 22 August 2020 to 21 August 2021, the appellant engaged Lao Ban Niang's assistance to transfer $714,180 of Kadi's drug benefits to Malaysian bank accounts. This was the most substantial of the money laundering charges. It involved 202 fund transfers from the appellant's bank account to various other Singapore bank accounts, following which Lao Ban Niang procured the crediting of equivalent amounts in Malaysian ringgit in Malaysian bank accounts, including MYR 103,100 in an account of the appellant. This was an offence under s 46(2)(*b*) of the CDSA, which charge was amalgamated under s 124(2) of the CPC, as the appellant had embarked on a course of conduct to remove property from jurisdiction (the total sum of $714,180) which were the benefits of Kadi's drug dealing.

(d) 13th Charge: From 14 September 2020 to 9 November 2020, the appellant acted on Kadi's instructions and transferred $101,700 of Kadi's drug benefits over 12 fund transfers from the appellant's bank account to two Singapore bank accounts in the name of one Sivakumar s/o Madivanan. The funds were subsequently dissipated. This was an offence under s 46(2)(*b*) of the CDSA, which charge was amalgamated under s 124(2) of the CPC, as the appellant had embarked on a course of conduct to transfer property (the total sum of $101,700) which were Kadi's benefits of drug dealing.

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Decision below

13 The appellant pleaded guilty to the five charges above at the earliest stage of the proceedings. 18 other charges, comprising abetment of drug possession and trafficking under the MDA, other money laundering offences under the CDSA, and one count of possession of a false passport under the Passports Act 2007 (2020 Rev Ed), were taken into consideration ("TIC") for the purposes of sentencing. The Judge imposed the following sentences, giving the appellant discounts for his early plea of guilt in accordance with the PG Guidelines ("PG discounts"):

Charge	**Sentence before PG discount**	**Final sentence after PG discount**
1st Charge: Abetting the possession of not less than 249.99g of methamphetamine for the purpose of trafficking under s 5(1)(*a*) read with ss 5(2) and 13(*b*) of the MDA	28 years and six months' imprisonment	25 years and seven months' imprisonment, after applying a 10% PG discount (*concurrent*)
6th Charge: Removing own benefits of drug dealing (amounting to $160,000) from jurisdiction under s 46(1)(*b*) of the CDSA, which charge was amalgamated pursuant to s 124(2) of the CPC	17 months' imprisonment	12 months' imprisonment, after applying a 30% PG discount
8th Charge: Facilitating control of Kadi's benefits of drug dealing (amounting to $103,300) under s 43(1)(*a*) of the CDSA	30 months' imprisonment	20 months' imprisonment, after applying a 30% PG discount

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11th Charge: Removing Kadi's benefits of drug dealing (amounting to $714,180) from jurisdiction under s 46(2)(*b*) of the CDSA, which charge was amalgamated pursuant to s 124(2) of the CPC	60 months' imprisonment	38 months' imprisonment, after applying a 30% PG discount (*concurrent*)
13th Charge: Transferring Kadi's benefits of drug dealing (amount to $101,700) under s 46(2)(*b*) of the CDSA, which charge was amalgamated pursuant to s 124(2) of the CPC	30 months' imprisonment	20 months' imprisonment, after applying a 30% PG discount

14 The Judge ran the sentences for the 1st and 11th Charges consecutively, arriving at a global sentence of 28 years and nine months' imprisonment.

The parties' submissions on appeal

The appellant's submissions

15 The appellant filed an appeal against his sentence. He raised three grounds of appeal: (a) first, his sentence was manifestly excessive; (b) second, he "[sought] clarification" on why the sentence for his money laundering charges were "on the higher [end of the] spectrum considering that it [was his] first offence"; and (c) third, he had received "ineffective assistance" from his counsel below, Mr Choo Si Sen ("Mr Choo"), as Mr Choo had "promised to deliver a sentence of 23 years 1 month for [the appellant's] global sentence", comprising 22 years for the 1st Charge and 13 months for the money laundering charges, which promise "was not fulfilled".

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The independent counsel's submissions

16 Given the appellant's allegation that he had received inadequate assistance from Mr Choo, and because he was not legally represented in the appeal, we appointed an independent counsel, Ms Sadhana Rai ("Ms Rai"), to address the following questions (the "Questions"):

> **Question 1:** Whether and to what extent the court may consider allegations made by an accused person against other parties, including his defence counsel, the Prosecution or the trial court, in deciding on the appropriate sentence to be imposed on the accused person (if convicted), where such allegations are found to be baseless and/or raised in bad faith?
>
> **Question 2:** If the answer to Question 1 is yes, what is the basis for doing so?
>
> **Question 3:** If the court may enhance an accused's sentence by reason of such allegations, whether the court may effect this by disapplying or reducing any default sentencing discount recommended by the Guidelines on Reduction in Sentences for Guilty Pleas which the accused may be eligible to receive, or given in favour of the accused person below, on account of his plea of guilt?
>
> **Question 4:** Whether and to what extent the individual sentences imposed on the Appellant should be enhanced:
>
> > (a) in respect of the 1st, 6th, 8th, 11th, and 13th charges, considering the role the Appellant played in a sophisticated transnational syndicate by liaising with runners and coordinating both the supply and demand of drugs; and
> >
> > (b) in respect of the 6th, 8th, 11th, and 13th charges, considering the value of benefits of drug trafficking involved?
>
> **Question 5:** Whether the aggregate sentence imposed on the Appellant should be enhanced considering:
>
> > (a) all the circumstances before the Judge, including the Appellant's role in the syndicated drug enterprise, the number of charges that were brought (including both proceeded charges and those taken into consideration) and the value of benefits of drug trafficking involved; and

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> (b) the Appellant's allegations on the conduct of the Defence Counsel who represented him, if such allegations were found to be baseless and/or raised in bad faith?

17 In gist, Ms Rai's responses are as follows:

(a) Questions 1 and 2 (Relevance of Baseless Allegations Against Counsel in Sentencing): The sentencing and appellate courts may consider adverse litigation conduct, including baseless or bad faith allegations, in sentencing. Such conduct demonstrates a lack of remorse (an aggravating factor) and constitutes an abuse of process. Further, this approach is supported by policy considerations such as the need for specific and general deterrence, the need to protect the integrity of the judicial process, the need to ensure the efficient administration of justice, and the need to protect court officers.

(b) Question 3 (Reducing the Discount under the PG Guidelines for Baseless Allegations Against Counsel on Appeal): An appellate court may "claw back" a PG discount if the appellant's conduct negates the utilitarian benefits obtained from an early plea of guilt.

(c) Question 4 (Enhancement of Individual Sentences): The sentence for the 6th Charge need not be interfered with, but the sentences for the 1st, 8th, 11th, and 13th Charges are manifestly inadequate or wrong in principle. The appellant's "central coordinating role and high culpability, particularly regarding the money laundering offences", should have warranted higher indicative starting sentences. In this regard, Ms Rai submits that the sentences be enhanced as follows:

(i) 1st Charge: between approximately 26 years and one month's imprisonment to 27 years' imprisonment (if the

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appellant is given the full 10% PG discount under the PG Guidelines as assessed to be appropriate for drug trafficking offences by this court in *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673 ("*Iskandar bin Jinan*"));

(ii) 8th Charge: 42 months' imprisonment (if the appellant is given the full 30% PG discount under the PG Guidelines);

(iii) 11th Charge: 63 months' imprisonment (if the appellant is given the full 30% PG discount under the PG Guidelines); and

(iv) 13th Charge: 42 months' imprisonment (if the appellant is given the full 30% reduction in sentence under the PG Guidelines).

(d) Question 5 (Enhancement of Aggregate Sentence): It would offend the rule against double counting for the appellant's aggregate sentence to be enhanced based on the circumstances of the offending that were considered by the Judge in calibrating the individual sentences. However, the aggregate sentence may be enhanced if the appellant's allegations against Mr Choo are found to be baseless and raised in bad faith, either by clawing back the discount on sentence under the PG Guidelines or by enhancing individual sentences based on the appellant's lack of remorse.

The Prosecution's submissions

18 The Prosecution did not file an appeal and initially supported the individual and aggregate sentences given by the Judge. However, in response to the Questions and Ms Rai's opinion, the Prosecution's position is as follows:

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(a) Questions 1 and 2 (Relevance of Baseless Allegations Against Counsel in Sentencing): The Prosecution agrees with Ms Rai that courts may consider baseless or bad faith allegations in both the pre-sentencing and post-sentencing stages. The legal basis includes established case law recognising an accused's lack of remorse as an aggravating factor, and statutory provisions in the CPC (ss 228(2)(*c*), 228(6), 230(1)(*x*), and 390) that empower courts to consider such relevant sentencing factors.

(b) Question 3 (Reducing the Discount under the PG Guidelines for Baseless Allegations Against Counsel on Appeal): The Prosecution agrees that courts may enhance sentences by disapplying or reducing PG discounts when baseless allegations by accused persons undercut the utilitarian benefits of guilty pleas. They point out that this is consistent with existing exceptions in the PG Guidelines such as where they provide that the maximum reductions in sentence should not apply where a Newton hearing is conducted because that would generally undercut the utilitarian benefits of the guilty plea (at para 13(a)). However, they submit that the court should not treat the same allegation as both grounds for reducing PG discounts, and simultaneously, as a separate aggravating factor as that may "amount to double counting".

(c) Question 4 (Enhancement of Individual Sentences): The Prosecution disagrees with Ms Rai regarding the 1st Charge, arguing that the sentence of 25 years and seven months' imprisonment imposed by the Judge is neither wrong in principle nor manifestly inadequate. The Judge was right to have made no adjustment to the indicative sentence of 28 and a half years' imprisonment because he had to balance the aggravating factors against the mitigating factors, including the appellant's cooperation with the authorities. However, the Prosecution

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agrees with Ms Rai that the sentences for the 8th, 11th, and 13th Charges can be enhanced because of the appellant's heightened culpability, albeit not to the same extent proposed by Ms Rai:

(i) 8th Charge: 35 months' imprisonment (if the appellant is given the full 30% PG discount under the PG Guidelines);

(ii) 11th Charge: 56 months' imprisonment (if the appellant is given the full 30% PG discount under the PG Guidelines); and

(iii) 13th Charge: 35 months' imprisonment (if the appellant is given the full 30% PG discount under the PG Guidelines).

(d) Question 5 (Enhancement of Aggregate Sentence): The Prosecution agrees no further enhancement is needed based on the appellant's role and criminality, as these were appropriately reflected by the individual sentences imposed and the running of the sentences of the 1st and 11th Charge consecutively. However, if the appellant's allegations against Mr Choo are found baseless and/or to have been made in bad faith, they propose a 5% clawback of the PG discount for the 1st Charge only, resulting in a sentence of 27 years' imprisonment for the 1st Charge and a global sentence (based on running the sentences for the 1st and 11th Charges consecutively) of 31 years and eight months' imprisonment.

Issues to be determined

19 This appeal raises three broad issues:

(a) Were the appellant's allegations against Mr Choo baseless?

(b) If so, what is the legal relevance of this finding?

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(c) Were the sentences imposed by the Judge, individually or globally, wrong in principle or manifestly inadequate having regard to all the circumstances of the case including the appellant's conduct in this appeal?

The appellant's allegations against his counsel

20 In the appellant's first set of submissions on appeal, he made three specific allegations against Mr Choo:

(a) Mr Choo "promised to deliver a [global] sentence of 23 years 1 month", comprising 22 years' imprisonment for the 1st Charge and 13 months for the money laundering charges, and this "was not fulfilled";

(b) on the day of his sentencing, he "barely had any information or updates pertaining to [his] charges", and he only received the agreed statement of facts on the day itself; and

(c) his "representation" (which we understand to refer to his mitigation plea) was only given to him on 6 January 2025, after his sentencing on 30 December 2024.

21 We directed Mr Choo to file an affidavit if he wished to respond to the allegations. Mr Choo did so and categorically denied all the appellant's claims:

(a) First, Mr Choo denied making any promise to the appellant on the sentence that would be imposed. While he might have told the appellant that, based on the authorities and the facts, he could persuade the court to impose sentences of 22 years' imprisonment for the 1st Charge and between 12 and 18 months' imprisonment for the money laundering charges, as well as to have the shortest sentence for the

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money laundering charges run consecutively with the 1st Charge, it has never been his practice to make promises to clients on the sentence to be imposed as this is strictly a matter for the court to decide.

(b) Second, Mr Choo denied the appellant's claim that he had failed to keep the appellant updated on the matter, as he had visited the appellant in prison on four occasions between August 2024 and November 2024. These meetings were also attended by Mr Choo's colleague. Mr Choo had also kept the appellant's sister informed of the developments in the appellant's case.

(c) Third, Mr Choo rejected the appellant's claim that the appellant had only seen the statement of facts for the first time on the day of his sentencing and the mitigation plea only after his sentencing. According to Mr Choo, he had, during a visit to the appellant on 14 November 2024, read to the appellant the draft statement of facts and a draft of the mitigation plea. It was only because the appellant agreed with both documents that Mr Choo informed the Prosecution of this on 10 December 2024. Subsequently, as the appellant had requested for a copy of the statement of facts and the plea in mitigation, Mr Choo sent these documents to the appellant at Changi Prison by fax and post on 23 December 2024.

22 After we invited Ms Rai to address us on the Questions and Ms Rai filed her opinion, the appellant purported to withdraw his allegations against Mr Choo. In his further written submissions filed in response to Ms Rai's opinion, the appellant claimed that he "ha[d] now come to understand the system and how it works" and attempted to play down his allegations as a misunderstanding caused by his lack of "language skills and understanding of the law". Notably,

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the appellant acknowledged that Mr Choo had said that he would "would *try* to get" the appellant a sentence of 23 and a half years' imprisonment but that "in [his] ignorance, [he] thought that was the truth" [emphasis added]. But, at the same time, the appellant maintained that Mr Choo "should have taken a little more effort" in explaining the difference between the position he had advanced on the appellant's behalf and the sentences imposed by the Judge.

23 As mentioned, we have taken pains to emphasise in recent decisions that allegations against defence counsel should not be made lightly, and if found to be baseless, may be met with appropriate consequences. We say more about this below, but it suffices to say here that making baseless allegations of inadequate representation inflict a great injustice and disservice to the efforts of defence counsel who play an indispensable role in the proper administration of justice. We are certainly not saying that the court will invariably view such allegations with a presumptive suspicion of falsity. Far from it. Indeed, in *Muhammad Farid bin Batra v Public Prosecutor* [2020] 1 SLR 907 ("*Farid*"), we accepted that inadequate legal assistance was a valid ground of appeal as a matter of principle. The courts have also had no qualms calling out the conduct of defence counsel where it has been found to have been improper or inadequate: see, for example, *Zhou Tong v Public Prosecutor* [2010] 4 SLR 534. The point that we make is not that accused persons should keep silent out of fear of some sort of reprisal, but that there must be a legitimate and cogent basis before making the serious allegation that one's counsel has, in substance, failed to discharge his duty to his client and to the court.

24 In this case, we are cognisant that the appellant, who is self-represented in the appeal, may not be well-versed with the legal system or legal principles, as well as what standards are expected of counsel. Indeed, we accept that some latitude may be given to self-represented persons as it is not unforeseeable that

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they could become disgruntled and make allegations against their former counsel due to genuine miscommunication or misunderstanding: see, in this regard, the remarks made by the High Court in the context of allegations against the first instance judge in *Sukla Lalatendu v Public Prosecutor* [2018] 5 SLR 1183 at [1]. But there can be no excuse for contriving allegations with the cynical aim of undermining a conviction or sentence.

25 In our judgment, the appellant's allegations against Mr Choo clearly fall on the wrong side of the line. Although the appellant has withdrawn (or has purported to withdraw) his allegations against Mr Choo, his explanations for his conduct are neither satisfactory nor credible, and indeed, only reinforce the fact that they were entirely baseless.

26 First, the appellant did not make general assertions about the legal process or system, but specific *factual* claims that he had not seen the statement of facts or the mitigation plea until either the day of the hearing or after it, thus creating the clear impression that Mr Choo had left him in the dark with respect to the matters set out in those documents, and had submitted them to the Prosecution and the Judge without his approval. While it is not clear where exactly the appellant had intended to take this allegation, if his point was that he did not understand or have enough time to make an informed decision as to whether he wished to admit to the statement of facts, it could have gone as far as to call into question the voluntariness of the appellant's guilty plea and therefore the integrity of the whole proceedings below. In any event, the appellant's allegation was comprehensively refuted by Mr Choo who stated that he had visited the appellant in prison, read him the draft statement of facts and the draft mitigation plea, and had obtained his approval on their contents. Indeed, the complete silence on the appellant's part of his complaint during the proceedings below speaks volumes. If it were true that he had not seen or

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approved the statement of facts or the mitigation plea until the hearing itself, one would have expected him to have indicated this to the Judge at the time that the statement of facts was read, when his plea was taken or when sentencing submissions were made. But nothing of the sort was intimated by the appellant. In the circumstances, it is impossible for allegations of such specificity to be chalked up to genuine misunderstanding caused by his lack of "language skills and understanding of the law". We are left in no doubt that the appellant's allegations were a complete fabrication.

27 Second, the appellant did not offer any explanation as to why he had alleged that Mr Choo had "promised to deliver" a sentence of 23 years 1 month's imprisonment, which he accused Mr Choo of not fulfilling, when he now acknowledged that Mr Choo had only said that he "would *try* to get" a sentence of 23 and a half years' imprisonment [emphasis added]. Indeed, even ignoring the discrepancy in the sentence that the appellant alleged Mr Choo "promised" or had indicated he "would try to get" across his two sets of written submissions, given the appellant's own recollection of what Mr Choo had said, there was clearly no basis for him to have accused Mr Choo of making unfulfilled promises. His attempt to rely on his lack of language skills was plainly an afterthought.

28 Third, the timing of the appellant's retraction of his earlier allegations suggests that it was not the product of genuine remorse or contrition but a case of the appellant experiencing cold feet after the possibly adverse consequences of making baseless allegations against Mr Choo were brought home to him based on the Questions posed to Ms Rai and Ms Rai's responses to the Questions.

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29 To give some context, after Mr Choo's affidavit was filed on 1 August 2025, we directed on 4 August 2025 that a hearing of the appeal scheduled the next day would be adjourned. We also indicated that we were considering the possibility of enhancing the sentences imposed by the Judge for reasons including "the attack on the conduct of [Mr Choo] if this is found to be baseless", and the potential appointment of an independent counsel to address us on some issues of concern given that the appellant was self-represented. Despite this, the appellant did not withdraw the allegations against Mr Choo. It was only after the filing of Ms Rai's opinion on 31 October 2025, where she recommended that the sentences be enhanced if the appellant's allegations were found to be baseless, that the appellant purported, on 16 November 2025, to retract the allegations against Mr Choo in his further submissions filed on 24 November 2025 in response to Ms Rai's opinion (see [22] above). It would have been reasonably obvious to the appellant from the framing of the Questions or, at the very least, Ms Rai's opinion, that he may have courted trouble if the court were to find that his allegations against Mr Choo were unfounded. In our view, it is tolerably clear that the appellant's retraction was little more than a last-ditch effort to avoid the possibly adverse consequences that could follow if he stood by the allegations and had his bluff called out by the court.

30 The dim view we have taken of the appellant's conduct is fortified by the fact that, apart from offering what were flimsy and illogical reasons for his conduct, the appellant did not even apologise to Mr Choo for his attack on Mr Choo's competence and character. In fact, quite the contrary occurred, as despite purporting to retract his earlier complaints, the appellant in the same breath tabled a *new* attack that Mr Choo had failed to explain the reasons for the divergence between the position he had advocated and the sentences imposed by the Judge. In our view, the absence of an apology coupled with the

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appellant's recalcitrance in making allegations against Mr Choo, speak to an abject lack of remorse for his actions.

31 Having regard to the reasons above, we are satisfied from the totality of the appellant's conduct and the surrounding circumstances that his making of allegations of inadequate legal assistance against Mr Choo was an ill-conceived bid to improve the prospects of his appeal, and their withdrawal was only due to his realisation that they would negatively affect his appeal instead of assisting it. At the end of it, the appellant's conduct, from the initial making of the allegations up until the subsequent retraction, has been clearly exposed as cynical and dishonest.

The legal relevance of the appellant's conduct

32 Having found that the appellant's allegations against Mr Choo were baseless and made in bad faith, we turn to consider the relevance of this finding to his sentence.

Abuse of process

33 As a starting point, in a case where an accused person is found to have made baseless allegations against his counsel (or other persons) during the legal proceedings which are animated by bad faith, the accused person would be guilty of an abuse of process. Such conduct bears all the hallmarks of abuse of process as the accused person would, at the very least, have (see *Chee Siok Chin v Minister for Home Affairs* [2006] 1 SLR(R) 582 at [34]):

(a) acted with a collateral purpose as the allegations would not have been raised *bona fide* but instrumentalised for the purpose of attacking the integrity of the process;

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(b) used the machinery of the court and the appellate process in a manner which caused or was likely to cause vexation and oppression of the target of the allegations;

(c) caused the expenditure of resources to addressing the allegations for no good purpose; and

(d) attempted to practice deception on the court by raising fictitious or sham allegations.

34 In our view, the abusive conduct of an accused person can legitimately be considered for the purposes of sentencing, with the result that it can be a basis on which a sentence that might otherwise be untouched by error or manifest inadequacy may be enhanced by an appellate court.

35 This is not unprecedented. In the decision of this court in *BLV v Public Prosecutor* [2019] 2 SLR 726 ("*BLV*"), the appellant had obtained a remittal of the proceedings to the trial judge after he had indicated in his appeal against conviction and sentence that he had located a witness that was willing to give evidence which, if true, could have absolved him of the charges against him. The trial judge found that the further evidence was false and that the appellant had abused the court's process by procuring another to give false testimony. The judge's finding on this point was upheld by this court.

36 What is pertinent for present purposes is that this court saw fit to impose a significant uplift to the appellant's aggregate sentence on account of his abuse of process: *BLV* at [83]. More specifically, each of the individual sentences imposed on the appellant were enhanced, resulting in a corresponding increase in the aggregate imprisonment term from 23 years and 6 months to 28 years:

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BLV at [104]. We highlighted that there were three interests that weighed in favour of enhancing the appellant's sentence:

(a) First, the need for specific deterrence, as the appellant's willingness to resort to procuring false evidence reflected a "grave lack of remorse and a wilful refusal to acknowledge his wrongdoing": *BLV* at [84]–[85].

(b) Second, the need for general deterrence, to deter the giving of, or the procuring of the giving of, false evidence to the court: *BLV* at [86]–[87].

(c) Third, the need to protect the integrity of the judicial process, which had been impugned by the appellant who had used his right of appeal in bad faith by attacking the trial judge's decision on a false basis: *BLV* at [88]–[89].

37 In our view, the position in *BLV* is analogous to the situation in this case. The appellant's raising of fabricated allegations against Mr Choo is not dissimilar although perhaps not as egregious as the procuring of false evidence to be given to the court in *BLV*. In both cases, the accused person had challenged the integrity of the proceedings below on a false basis – on the one hand, based on not receiving adequate legal assistance, and on the other, based on the court not receiving material evidence. At its core, the accused person has, through conduct that he must know is dishonest, wasted court time and resources and risked undermining the integrity of the court process. In view of this, the same three interests highlighted in *BLV* provide an impetus for potentially uplifting the sentence imposed by the Judge in this case.

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38 First, where an accused person raises unfounded or baseless allegations against his counsel, this may reflect a lack of remorse and insight into his conduct. Whether, and the extent to which, the court may draw this inference will depend on the circumstances of the case. But the inference can legitimately be drawn because an accused person who chooses to blame someone else for the punishment imposed on him, rather than accepting that it is his own actions that has occasioned such a penalty, is self-evidently one that is less likely to be remorseful. It is trite that where the court finds a lack of remorse, considerations of specific deterrence come to the fore: see, for example, *Thong Sing Hock v Public Prosecutor* [2009] 3 SLR(R) 47 ("*Thong Sing Hock*") at [59].

39 Second, there is a need to deter accused persons from mounting baseless allegations against their counsel. Such allegations are a stain on the reputation and work done by defence counsel and undermine the essential role that they play in the administration of justice. The law cannot allow baseless allegations of inadequacy to loom over the heads of counsel who go about their duties to the best of their ability and in good faith. This is especially true of defence counsel – many of whom provide their services on a *pro bono* or low *bono* basis. Indeed, in our experience, many cases tried in the High Court, as well as appeals before the Court of Appeal, including those involving capital offences, have been ably conducted by counsel acting *pro bono*, appointed for example through the Legal Assistance Scheme for Capital Offences. As one Member of Parliament observed at the second reading of the Post-Appeal Applications in Capital Cases Bill (Bill No. 34/2022), these defence counsel "[play] an important part in our criminal justice system" and "we owe a debt of gratitude to them [and] appreciate their key role and contributions": *Singapore Parl Debates*; Vol 95, Sitting No 77; [29 November 2022] (Mr Zhulkarnain Abdul Rahim, Member of Parliament). In his Mass Call Address of 2021, Sundaresh

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Menon CJ similarly described this *pro bono* spirit as being "among the very best traditions of our Bar": Chief Justice Sundaresh Menon, Supreme Court of Singapore, "The Legal Profession Amidst the Pandemic: Change and Continuity", address at the Mass Call 2021 (23 August 2021) at para 20. We must jealously guard this tradition against baseless allegations that seek to attack and undermine the invaluable work defence counsel do for the community. It is untenable and unproductive for defence counsel to discharge their duties with the nagging fear of their clients turning on them if the clients receive what they perceive to be an unsatisfactory result in their cases. The proper functioning of the criminal justice system requires that counsel be entitled to advance their clients' cause without such fear weighing on their minds. If left unaddressed, such allegations will not only compel defence counsel to engage in defensive practices, which is not conducive to fostering a healthy and professional relationship with their clients, but they may also discourage lawyers from volunteering to take up criminal cases. This will ultimately undermine the administration of justice.

40 Indeed, it is because counsel must be given deference and latitude in deciding how to conduct their cases that we recognised in *Farid* that the threshold for making out a complaint of inadequate legal assistance ought to be pegged at the high threshold of "flagrant or egregious incompetence or indifference" or conduct which was "stark and glaring" (at [135]). This is intended to ensure that such claims are not made lightly. Given the obvious importance of this principle, we consider that the high threshold and its underlying policy should not merely be stated but *enforced* through sentences (and enhancements to sentences).

41 Third, related to the point we have just made is the importance of safeguarding the integrity of the judicial process. In *Farid*, we noted that, if left

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unchecked, wanton allegations of inadequate legal assistance could undermine the finality of the criminal justice process (at [136]):

> It must be remembered that allegations made against previous counsel could subsequently also be made against present counsel if the present counsel are not able to secure the desired outcome for the client. In this manner, such collateral attacks against court decisions could go on almost indefinitely. They are collateral attacks because they do not engage the merits of the court decisions on the evidence or the submissions made but seek to impugn the decisions indirectly by alleging that the court did not have the full evidence before it or was given wrong information because of inept counsel. The court must therefore be astute to ensure that its processes are not abused by incessant applications to retry or to re-open concluded matters by using such collateral attacks on court decisions through the device of complaints against previous counsel for alleged incompetence and/or indifference.

42 We have emphasised the importance of finality in criminal proceedings on several occasions and across different contexts: see, for example, *Public Prosecutor v Pang Chie Wei* [2022] 1 SLR 452 at [7]–[13]. It is well to recall the sage advice of Chao Hick Tin JA (as he then was) that "[p]eople must be able to order their affairs according to the settled conviction that the last word of the court *is* the last word, and that the last full stop in a written judgment is not liable to be turned into an open-ended and uncertain ellipsis" [emphasis in original]: *Kho Jabing v Public Prosecutor* [2016] 3 SLR 135 at [1]. The concern which this court referred to in *Farid* was the possibility that an accused person could attempt to relitigate the soundness of his conviction or sentence *ad infinitum*, if not at least *ad nauseam*, through challenges to the conduct of his former counsel, current counsel, next counsel, and so on. That is antithetical to the finality of litigation.

43 It is true that considerations of finality do not operate with as much force in the present context of an appeal from a first instance decision as compared to the post-appeal context. But that does not mean that finality is not relevant at

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all. One way in which the finality of proceedings is achieved is by avoiding the proliferation of new areas of dispute that were not in play in the court below. In *Azuin bin Mohd Tap v Public Prosecutor* [2025] 1 SLR 259 ("*Azuin*"), we were confronted with an example of this in the form of an attempt by an appellant to change his case on appeal that included an application to adduce evidence from a different expert than that which he had relied on below, whose evidence appeared to contradict a material premise of the appellant's case below. We deprecated this attempt at "expert shopping" as conduct which "strikes at the heart of the principle of finality" in these terms (at [27]):

> It is simply impermissible for a litigant to run a case and lead expert evidence that is built specifically on one premise at first instance and, when that case fails, run a different case founded on an inconsistent premise and seek to adduce fresh evidence to support that change in position. The reason is obvious. There would be no end to litigation if the appellate process is allowed to be used as a rewind button for a litigant to engage in trial and error of different permutations of his or her case.

44 The conduct in *BLV* was of the same ilk as the concern we raised in *Azuin*, although more egregious as it was coloured by the additional element of flagrant dishonesty. So too in this case. When an accused person appeals on the basis that he has received inadequate legal assistance below, that is, as we noted in *Farid*, a collateral attack on the decision below in so far as it does not challenge the decision on its merits but targets it at the more fundamental level of procedural fairness, and indeed, the integrity of the process. Persistent unfounded challenges of this kind will make nonsense of the principle of finality, and if left to fester, undermine confidence in the judicial process. It is imperative that the courts act firmly to prevent these deleterious consequences from taking root.

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The legal basis for enhancing sentences for abuse of process

45 Having explored the rationales that justify enhancing sentences when an accused person is found to have abused the process of the court, we come to the question of how they should be implemented.

46 In our judgment, there are two bases on which a court may enhance a sentence:

(a) First, in a case where the accused person has pleaded guilty, by reducing the mitigatory weight accorded to the plea of guilt, in the light of the loss of the utilitarian value of the plea and, to a more limited extent, the absence of remorse on the accused person's part.

(b) Second, if the court is satisfied that the accused person's conduct reflects a lack of remorse, by treating the lack of remorse as an aggravating factor that warrants an enhancement of the sentence(s) imposed. This may be done either:

(i) on an individual sentence level; or

(ii) in the case of a multiple offender, at the global sentence level as part of the application of the totality principle.

Reducing the mitigatory weight of a plea of guilt

47 It is well-established that a plea of guilt is a mitigating factor that can warrant a reduction in the accused's sentence. In *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*"), this court recognised that the mitigatory weight of a plea of guilt was based on both remorse-based and utilitarian justifications: (a) a plea of guilt can be an expression of genuine remorse and contrition; (b) a plea of guilt spares the victim of the ordeal of

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testifying, thereby saving the victim the horror of re-living the incident; and (c) a plea of guilt saves the resources of the state that would otherwise have to be expended if there were a trial (at [66], citing *R v Millberry* [2003] 1 WLR 546 at [27]–[28]). In recognising the latter two utilitarian justifications as a distinct strand of the mitigatory weight of a plea of guilt, this court repudiated the more restrictive approach in earlier authorities like *Angliss Singapore Pte Ltd v Public Prosecutor* [2006] 4 SLR(R) 663 and *Thong Sing Hock* which had only recognised a plea of guilt as a mitigating factor if the court was satisfied that it was motivated by genuine remorse and contrition.

48 The PG Guidelines were devised after our decision in *Terence Ng* and now represent the prevailing understanding of how a plea of guilt should operate as a mitigating factor.

49 In broad terms, the approach adopted by the PG Guidelines is to tie the mitigatory weight of a plea of guilt (in terms of a reduction in sentence) to the timeliness of the plea of guilt. This philosophy is embodied in the three-step approach prescribed by the PG Guidelines for determining the sentence to be imposed on an accused person who pleads guilty:

> (a) Step 1: The court first determines the sentence that it would have imposed if the accused person had been convicted after trial. At this stage, the court may (if appropriate) consider if the accused person has demonstrated remorse in other ways apart from pleading guilty. However, factors relating to the accused person's plea of guilt (such as the victim having been spared from having to testify) should not be considered at this step.

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(b) Step 2: The court then determines the applicable stage of the proceedings at which the accused pleaded guilty to the charges.

Stage	**Description**	**Reduction in sentence to be considered**
1	From the first mention until 12 weeks after the hearing when the prosecution informs the court and the accused person that the case is ready for the plea to be taken.	Up to a maximum of 30%
2	After Stage 1, until either of the following: For cases subject to Criminal Case Disclosure ("CCD") procedures, when the court first gives directions for the filing of the Case for the Prosecution in relation to the charge. For cases not subject to CCD procedures, when the court first fixes trial dates for the charge.	Up to a maximum of 20%
3	After Stage 2, until before the first day of the trial.	Up to a maximum of 10%
4	On or after the first day of the trial.	Up to a maximum of 5%

(c) Step 3: The court applies an appropriate reduction to the sentence determined in Step 1 for each charge (*ie*, the PG discount). Generally, the strength of the evidence against the accused should not be considered when determining the appropriate PG discount, subject to the public interest exception set out in para 13(b) of the PG Guidelines.

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50 In *Iskandar bin Jinan*, this court had occasion to consider the application of the PG Guidelines on a general level and in the specific context of drug trafficking and drug importation charges. Although we noted the orthodox view in *Terence Ng* of there being both utilitarian and remorse-based justifications for the mitigatory weight of a plea of guilt, it was observed that the former was the principal driver for giving mitigatory weight to a plea of guilt under the PG Guidelines (at [66]).

51 In our view, while we agree that the primary focus of the PG Guidelines is on the utilitarian value of a plea of guilt (as seen from the linkage of the PG discount to the timeliness of the plea), it is not the *exclusive* basis as the PG Guidelines do accord some mitigatory weight to a plea of guilt on the basis that it can be a demonstration of remorse by the accused person. This is clear from how the PG Guidelines direct the court to consider demonstrations of remorse *other than the plea of guilt* as a mitigating factor when determining the sentence(s) to be imposed under Step 1 of the analysis. What this means is that, to the extent that the accused person may have shown remorse through his plea of guilt, that is to be accounted for within the PG discount afforded by the PG Guidelines, and it would be double counting to take this into account as a mitigating factor at Step 1 of the analysis. Indeed, it might even be said that the PG Guidelines *presumptively* treats the accused person as having demonstrated remorse through pleading guilty and gives him credit for this without him having to *prove* that his plea of guilt was in fact animated by remorse. Thus, both the utilitarian and remorse-based justifications for the mitigatory weight of a plea of guilt continue to apply under the PG Guidelines, even if it is tolerably clear that the emphasis is on the former.

52 Seen in this light, we are of the view that, in a case where an accused person has engaged in abusive conduct such as making baseless allegations in

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bad faith against his former counsel, the effect of such conduct would be to diminish the mitigatory weight given to his plea of guilt on account of both the utilitarian and remorse-based justifications:

(a) First, on the utilitarian front, in so far as the accused person's conduct may have caused the proceedings to be drawn-out, the resource savings of the plea of guilt will not have been fully realised. Even if the necessity of a full trial has been averted by the plea of guilt, there will have been *some* wastage of resources engendered by the need to respond to the accused person's allegations. What would otherwise have been a sentencing hearing or appeal may require the court to divert time and resources to investigating the veracity of the allegations. It would offend common sense to give the same credit to such an accused person that would be given to a different accused person who does not engage in similar antics.

(b) Second, to the extent that the accused person's conduct suggests that he is in fact not remorseful, it would be wrong to nonetheless treat him as such by giving him credit on this basis. As explained above, the PG Guidelines do build remorse into the PG discount by deeming the plea of guilt to be a demonstration of *some* remorse on the part of the accused person (although he or she may also do so in other ways). It does not make sense for the court to not be able to reduce the mitigatory weight of the plea of guilt, if it considers that the premise does not hold on the facts before it.

53 Accordingly, when faced with abusive conduct by an accused person, the court is entitled to reduce the mitigatory weight ascribed to his plea of guilt. This can be done by reducing the PG discount that would otherwise apply based

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on the stage of the proceedings when the accused pleads guilty or removing the PG discount entirely. To illustrate, if the accused pleads guilty at Stage 1, such that the applicable PG discount under the PG Guidelines would generally be up to a maximum of 30%, the court may depart from the general rule of applying a reduction at or close to the maximum (see *Iskandar bin Jinan* at [112]), and instead apply a lower reduction or, if it considers appropriate, *no* reduction at all.

54 There is no legal impediment to the court cutting down or not applying the PG discount under the PG Guidelines. In the first place, the PG Guidelines are not binding on the court, and the court has control over whether to adopt them in each case and how they should be applied (at para 2). The PG Guidelines thus do not fetter the court's discretion to mete out a sentence that is appropriate on the facts.

55 In any event, there is specific provision within the PG Guidelines for reducing the mitigatory weight of a plea of guilt if the circumstances of the case warrant this. In particular, para 13 of the PG Guidelines contemplates that the prescribed maximum PG discounts do not apply in some situations, including if:

(a) a Newton hearing is conducted as "the conduct of a Newton hearing generally undercuts the benefits [of a plea of guilt]" (see para 13(a) of the PG Guidelines); or

(b) the court is of the view that it would be contrary to the public interest for the PG Guidelines to be applied given the circumstances of the specific case (see para 13(b) of the PG Guidelines).

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In both situations, the court is empowered to apply a PG discount which it considers "just and proportionate".

56 To the extent that a legal basis for reducing the mitigatory weight of a plea of guilt must be located within the PG Guidelines (which we do not think is the case given their non-binding nature) in cases where the accused has abused the process of the court, we would find that in the public interest exception under para 13(b) of the PG Guidelines. The link between the public interest and the proper redress of abusive conduct by the accused person is reasonably clear and has been explored at [33]–[44] above.

57 The exclusion of cases involving a Newton hearing is, in our view, no more than an application of the general point we have made above on how the mitigatory weight of a plea of guilt must be assessed in the circumstances of each case. It reflects common sense that if the full extent of the utilitarian benefits of a plea of guilt are not reaped due to the convening of a Newton hearing – which, in essence, is a mini-trial – then there may be cause for not giving the accused person the full PG discount that may otherwise be given for his plea of guilt. This was explained by Hughes LJ in *Caley* in the following observations which we find instructive (at [26]–[27]):

> 26 The [English equivalent to the PG Guidelines] expressly stipulates … that if the trial of an issue by way of Newton hearing is necessary because the Defendant asserts a false basis of plea or otherwise disputes a part of the case against him, then if his case is rejected that should be taken into account in determining the level of reduction for plea of guilty. This is only commonsense. *The reduction is to recognise the public benefits which flow from a plea of guilty. If despite a plea to the indictment the Defendant insists on a version of events which calls for a trial of the issue before the judge some witnesses may well have to give evidence and even if they do not court time will be taken up and further preparation by the Crown will often be necessary.* Of course, if the Crown cannot prove its

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> version, the Defendant's reduction for plea of guilty will be unaffected. But if the Defendant fails, the converse follows. …
>
> 27 *We do not think that it is either necessary or possible to attempt to lay down a rule as to what (if any) reduction for plea should survive an adverse Newton finding. It will depend, as it seems to us, on all the circumstances of the case, including the extent of the issue determined, on whether lay witnesses have to give evidence and on the extra public time and effort that has been involved.* Some cases involve little more than an assertion in mitigation which the judge is not minded to accept at face value, so that the Defendant is given an opportunity to give evidence about it, often (sensibly) there and then. In that case, the reduction ought normally to be less than it would have been if the (false) assertion had not been made, but significant reduction for plea of guilty will, we anticipate, normally survive. Other cases may be one where something akin to a full trial has to take place, with full preparation by the Crown, lay witnesses having to be called and considerable court time taken up. In such a case, the reduction for plea of guilty which survives is likely, we suggest, to be very small, and may be none at all. In between there may be a considerable range of situations. These must be left to the informed judgment of the sentencing judge.
>
> [emphasis added]

58 In our view, Hughes LJ rightly highlights the context-specific nature of the exercise of identifying what an appropriate reduction in sentence for a plea of guilt should be. If the proceedings are drawn out by an unsuccessful challenge by the accused person that results in a Newton hearing, the court should be entitled to count that against him and reduce the credit given for his plea of guilt in terms of the PG discount. By parity of reasoning, where there has been unreasonable conduct occasioning a wastage of resources and time due to the making of spurious allegations against counsel, the court should be entitled to reduce the PG discount as may be appropriate.

59 For a similar reason, if the accused person's conduct casts doubt on whether his plea of guilt was a demonstration of remorse, the court is at liberty to disentitle the accused person from receiving full or any credit for the plea of guilt.

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Lack of remorse as an aggravating factor

60 This segues into the second method by which the court may take cognisance of the abusive conduct of the accused person in sentencing. Apart from reducing the mitigatory weight of the plea of guilt, we consider that the court may, if it considers that the accused person has not merely failed to show remorse but has shown a *lack of remorse*, count this as an *aggravating* factor that warrants an uplift in the sentence.

61 Preliminarily, it is useful to clarify the difference between an accused person failing to show remorse and showing a lack of remorse: *Terence Ng* at [64(c)] and [65(a)]. The former ("failing to show remorse") entails the absence of a mitigating factor, in that the accused person is not given credit for showing remorse. The latter ("lack of remorse"), on the other hand, is an aggravating factor, in that the court finds that the accused person has demonstrated a lack of remorse through his words or conduct, such that this is taken *adversely* against him in sentencing. Put another way, it is a positive finding that the accused person is *not* remorseful. This distinction may be subtle, but it is a principled one that our courts routinely apply: *Edwin s/o Suse Nathen v Public Prosecutor* [2013] 4 SLR 1139 at [24]; *Law Society of Singapore v Dhanwant Singh* [2020] 4 SLR 736 at [123]; *Kreetharan s/o Kathireson v Public Prosecutor* [2020] 2 SLR 1175 at [37].

62 In general, the court will not infer a lack of remorse based on omissions. That will at best usually be a failure to show remorse which does not operate as an aggravating factor. In other words, the absence of evidence is not necessarily evidence of absence. Instead, a lack of remorse will generally only be found if there is positive evidence in the form of some reprehensible conduct on the

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accused person's part that justifies the court inferring that he is unremorseful. Two illustrations make the point:

(a) In *Thong Sing Hock*, the appellant had pleaded guilty at first instance before claiming on appeal that he did not have knowledge of certain facts that was an element of some of the charges to which he had pleaded guilty. The appellant alleged that he had informed his counsel of this, but the latter had nonetheless advised him to plead guilty. This allegation was ultimately found by the court to be without basis. In deciding to further enhance the appellant's sentence (on top of an earlier finding that the sentence below should be enhanced as it was manifestly inadequate), V K Rajah JA considered that the appellant had demonstrated a lack of remorse in "launching a myriad of baseless allegations against his previous counsel, his former colleagues at the [Immigration and Checkpoints Authority], and the [Corrupt Practice Investigation Bureau]", and this "deserved a more severe sentence" (at [62]).

(b) In *Seng Yong Yi Lucas v Public Prosecutor* [2025] SGHC 158, the appellant claimed trial to three charges of unlawful stalking. At trial, acting in person, the appellant conducted his defence in an "outrageous" manner that involved antics such as victim-blaming, scandalous and irrelevant questions in cross-examination, and baseless allegations that the Prosecution, law enforcement agencies and witnesses had fabricated evidence and were engaged in a conspiracy against him (at [41]). Vincent Hoong J held that the district judge had correctly found that these actions reflected a lack of remorse on the appellant's part and was also entitled to consider them as an aggravating factor (at [27]).

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63 *Thong Sing Hock* is particularly instructive given the similarity of its facts with the present case. As mentioned above, where an accused person raises baseless allegations against his counsel, this may reflect a lack of remorse and insight into his conduct. An accused person who, instead of accepting responsibility, seeks to push the blame to others for the position he finds himself in is more likely to be unremorseful as compared to one who accepts the punishment meted out without reservation (subject, of course, to the right of appeal on the merits). The court can, in such cases, not merely decline to grant the plea of guilt full or any mitigatory weight on the basis that it is not a manifestation of remorse, but also go on to find the accused person unremorseful and enhance the sentence based on this aggravating factor.

64 In principle, the aggravating weight of an accused person's lack of remorse can be given effect in two ways. First, it can be considered in the calibration of an individual sentence together with all relevant aggravating and mitigating factors. Thus, for example, in a case where the accused person has pleaded guilty, lack of remorse can be considered as part of the analysis under Stage 1 for determining the sentence that may be imposed. Second, in a case where the accused is charged with multiple offences, the court may consider the aggravating factor of lack of remorse when calibrating the global sentence based on the totality principle. As a matter of practice, we consider that the second approach would be preferable in most cases as it would be more logical for the court to consider the effect of the accused person's lack of remorse in the round at the aggregate sentence stage, particularly since such conduct would likely be relevant to all the charges against the accused person.

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The approach to be taken

65 In our view, the two ways of enhancing a sentence based on an accused person's abuse of process outlined above can be applied sequentially in two stages:

(a) First, the court should consider if part or the whole of the PG discount under the PG Guidelines should be nullified.

(b) Second, if the entire PG discount is nullified, the court should then go on to consider if the sentence(s) should be enhanced further.

66 In essence, under the first stage of the analysis, the court would weigh any extant utilitarian value of the plea of guilt against the accused person's lack of remorse and see where the balance lies. If the court considers that the mitigatory weight of the former outweighs the aggravating weight of the latter, the discount in sentence under the PG Guidelines would not be completely exhausted and the analysis would terminate at the first stage with some extent of the discount intact. If, however, the court reduces the discount to zero, this does not necessarily reflect that the plea of guilt had *no* utilitarian value as it could reflect the court's conclusion that the mitigatory weight of the utilitarian benefit(s) of the plea of guilt were overwhelmed by the aggravating factor of the accused's lack of remorse. The court may either stop there at the first stage or, if it considers that the accused's conduct has not adequately been given effect to, proceed to the second stage and make a further enhancement to the sentence.

67 At the hearing, Ms Rai expressed doubts on the correctness of this tiered framework on the basis that the utilitarian and remorse-based justifications for the mitigatory weight of a plea of guilt were conceptually distinct, and it was thus possible for the court to enhance a sentence on the basis of the accused

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person's lack of remorse while also acknowledging *some* utilitarian benefit derived from his plea of guilt by not nullifying the *entirety* of the PG discount under the PG Guidelines. We acknowledge the force in this argument. But, in our view, it is neater to approach the matter sequentially as such an approach commends itself to easier application. As we observed to Ms Rai, the practical effect of reducing the PG discount and then enhancing the sentence based on an aggravating factor is the same in that the sentence imposed would be increased.

68 We note that the Prosecution had, in its written submissions, raised the concern that cumulatively reducing the PG discount *and* enhancing the sentence based on lack of remorse as an aggravating factor would offend the rule against double counting in so far as the reason underlying both of these was the accused person's abusive conduct. It appeared to us, however, that the Prosecution abandoned this argument at the hearing as the learned Deputy Public Prosecutor, Mr Ivan Chua ("DPP Chua"), agreed with the sequential approach we have outlined above.

69 In any event, we consider an objection based on the rule against double counting to be misconceived. As Menon CJ explained in *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 ("*Raveen Balakrishnan*"), an issue of double counting may arise "where two or more nominally different sentencing factors share the *same normative substance*" [emphasis added] (at [88]). As an illustration of this, Menon CJ referred to *Guay Seng Tiong Nickson v Public Prosecutor* [2016] 3 SLR 1079, where the High Court held that the district judge had erred in law by placing significant weight on the damage caused to the vehicles from the appellant's driving as an aggravating factor. While the Prosecution argued that the extent of damage was strongly indicative that the appellant had approached the junction at an excessive speed, the court rejected this argument because the district judge had already taken the manner in which

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the appellant had approached the junction into account in assessing the degree of his negligence (at [78]). In other words, the speed at which the appellant had approached the junction and the extent of damage caused shared "the same normative substance", and it would be double counting to treat them as distinct considerations.

70 In our judgment, no such concern arises here. First, there is no difficulty in reducing a PG discount under the PG Guidelines: (a) based on the loss of the utilitarian value of the plea of guilt; and (b) because the court is not satisfied that the plea of guilt is a demonstration of remorse due to the accused person's conduct. Both strands of reasoning do not share "the same normative substance" notwithstanding that they flow from the same conduct of the accused person. Second, no issue of double counting arises in: (a) first, nullifying the mitigatory weight of a plea of guilt based on the accused person failing to show remorse (which is the absence of a mitigating factor); and (b) thereafter, enhancing the sentence due to the accused person's lack of remorse (which is an aggravating factor) (see [61] and [64] above).

The appropriate sentences to impose

71 We turn to consider the appropriate sentences to be imposed for each of the charges against the appellant.

72 It is well-established that an appellate court will not ordinarily disturb the sentence imposed by a first instance court unless it is satisfied that: (a) the judge erred with respect to the proper factual basis for sentencing; (b) the judge erred in failing to appreciate the material placed before him; (c) the sentence was wrong in principle; or (d) the sentence was manifestly excessive or manifestly inadequate: see, for example, *Public Prosecutor v UI* [2008] 4

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SLR(R) 500 ("*UI*") at [12]; *Koh Lian Kok v Public Prosecutor* [2024] 4 SLR 1526 at [102].

73 These bases of appellate intervention, and the direction that the appellate court's intervention may take, are not dependent on whether the appeal is brought by the accused person or the Prosecution. Thus, although the Prosecution did not bring a cross-appeal in this case, this court has the power to enhance the sentences imposed on the appellant: *DAN v Public Prosecutor* [2025] 2 SLR 19 at [33]–[36]. We highlight that the appellant was given notice by way of the Questions of the possibility that his sentences may be enhanced and was also afforded the opportunity to address the court on the same in both written submissions and at the hearing.

74 Having considered the parties' submissions, we find the sentences imposed by the Judge for all the charges either wrong in principle or manifestly inadequate. We therefore enhance the individual sentences in the manner explained below. In addition to the enhancement of the individual sentences, we are satisfied that there is cause to revoke the PG discount given to the appellant on account of his abusive conduct. This means that the aggregate sentence to be imposed would also be enhanced, which we return to at the end below.

The drug trafficking charge (1st Charge)

75 The Judge imposed a sentence of 25 years and seven months' imprisonment for the 1st Charge. His reasoning proceeded in the following way:

(a) As the 1st Charge involved trafficking in the quantity of not less than 249.99g of methamphetamine, this case fell within Band 3 of the sentencing framework set out by this court in *Adri Anton Kalangie v Public Prosecutor* [2018] 2 SLR 557 ("*Adri Anton Kalangie*"), which

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provides for an indicative starting point of 26 to 29 years' imprisonment. Since 249.99g was at the uppermost boundary of Band 3, the Judge used a starting point of 28 years and six months' imprisonment.

Sentencing band	**Quantity of methamphetamine trafficked or imported**	**Imprisonment (years)**	**Caning**
1	167.00–192.99g	20–22	15 strokes
2	193.00–216.99g	23–25	
3	217.00–250.00g	26–29	

(b) Next, the Judge considered the appellant's culpability, as well as the relevant aggravating and mitigating factors, but declined to impose any uplift from his starting point of 28 years and six months' imprisonment. We note that the Judge did so despite noting that: (i) the appellant played a "significant role in the drug syndicate" as a "central piece of the drug enterprise, coordinating both the supply and demand side of the operations"; (ii) the appellant had been remunerated by the drug syndicate; and (iii) the appellant had a number of other TIC charges for drug-related offences.

(c) Finally, the Judge applied a 10% PG discount based on the guidance in *Iskandar bin Jinan*, arriving at an imprisonment term of 25 years and seven months.

76 In our view, the sentence imposed by the Judge on the 1st Charge was, with respect, wrong in principle and manifestly inadequate. While the Judge correctly placed this case within Band 3 of the *Adri Anton Kalangie* framework, we consider that he should have imposed an uplift from his starting point given

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his acknowledgment that there were at least three substantial aggravating factors in play (see [75(b)] above). We deal with each in turn.

77 First, the appellant occupied a central coordinating role within the drug syndicate. His position within the drug enterprise significantly increases his culpability. This is both common sense and recognised in the authorities. For example, in *Public Prosecutor v Steven John a/l Gobalkrishnan* [2021] SGHC 111 ("*Steven John*") the court held that the accused's culpability was high because he was "not a mere courier", but had instead "played an active role in facilitating [the] drug trafficking enterprise" by helping to "collect, deliver, and repackage" the drugs (at [24]–[28]).

78 In this case, the appellant's involvement was far more extensive. Not only did he facilitate the collection and delivery of drugs, he was also effectively coordinating the operations between Kadi (on whose instructions he acted), various couriers and runners across the Singapore-Malaysia border and drug customers in Singapore. He maintained a sophisticated operation involving designated drop-off points and communication systems to facilitate drug distribution in Singapore. Indeed, as the Judge observed, "[the appellant] was a central piece of the drug enterprise, coordinating both the supply and demand side of the operations. He took orders from customers and conveyed them to Kadi, as well as arranged for delivery of the drugs to the customers. To that end, he relayed instructions to runners on the delivery of and payment for the drugs". The appellant was also involved in the transmission of the proceeds of the sale of drugs, which are the subject of the money laundering charges under the CDSA. In our view, this level of organisation and control far exceeds that of a typical courier and significantly increases the appellant's culpability.

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79 Second, the appellant received substantial financial rewards for his drug trafficking activities. While we accept that financial motivation alone would not ordinarily amount to an aggravating factor because most drug traffickers would be motivated by some form of financial or material gain, the case law recognises that there are exceptions to this.

80 In *Adri Anton Kalangie*, the accused was a courier who was promised about $1,600 for carrying out a delivery of drugs from China. In this context, the Court of Appeal disagreed with the lower court's decision to attribute aggravating weight to the accused's motivation by financial gain and held that "most drugs traffickers or importers would be motivated by some form of financial or material gain, and that the presence of such motivation did not render the offence materially more serious, or the offender more culpable, than any other case of drug trafficking or importation" (at [82]). However, the court went on to acknowledge that "[i]t might be otherwise if there was something exceptional about the circumstances of the case, such as *the role of the offender or the amount of the gain* but nothing of that kind was proven in the present case" [emphasis added].

81 Likewise, in *Public Prosecutor v Lai Teck Guan* [2018] 5 SLR 852, the Prosecution argued that the accused's "repeat[ed] … profit[ing] from his sales to other addicts" was aggravating. The court disagreed and held that "financial gain *per se* is not an aggravating factor, *unless the repeat offender's trade is unusually lucrative or the respondent particularly experienced*" [emphasis added] (at [55]). In that case, the court noted that the accused (a) had purchased packets of drugs on about 100 occasions, (b) had purchased 30 packets days before his arrest; and (c) would sell them for a profit of only about $10 per packet. In these circumstances, the accused's trade was not unusually lucrative and his profiting did not amount to an aggravating factor.

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82 This case stands on an entirely different footing. The appellant personally profited by at least about $160,000 (the subject of the 6th Charge) and laundered almost $1.3m in drug proceeds for himself and syndicate members. This level of financial gain, combined with his senior position and critical role in the syndicate, warrants aggravating effect. The appellant was not driven by desperation or modest gain, but by substantial profit derived from orchestrating a sophisticated criminal enterprise over an extended period.

83 The third aggravating factor is the presence of *nine* other serious drug-related TIC charges for abetting the possession and trafficking of drugs. These included one charge carrying a maximum of 20 years' imprisonment and 15 strokes (for abetting the possession of not less than 91.45g of methamphetamine for the purpose of trafficking), with eight others carrying significant terms of imprisonment (for abetting the possession of various controlled drugs). In our view, these additional charges alone would have warranted an uplift to 30 years' imprisonment given their sheer number and similarity to the 1st Charge. We note that the Judge did recognise – correctly – that these charges "must exert some upward pressure on the sentence imposed", although he did not go on to do so. In our judgment, to impose no uplift at all cannot be correct as an offender who agrees to have charges taken into consideration has admitted in substance to committing the offences in those charges and must therefore face some reprisal for them, even if the cumulative sentence would not be as high as the sentence he would have received if he had been convicted on all the charges: *UI* at [36]–[38]. Although the court has a discretion and is not bound to increase the sentence imposed on account of TIC charges, it should justify its decision for not doing so. The Judge's failure to do so means that "the only conclusion" which we may reach is that "the sentencing court erred in its treatment of the TIC offences": *UI* at [38].

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84 For completeness, we note the Prosecution's argument that the Judge took into account two mitigating factors – namely, the appellant's admission of guilt and his cooperation with the authorities in their investigations – on the basis that these had been referred to by Mr Choo before the Judge, and that this could explain his decision not to impose any uplift from his starting point. We do not accept this. First, it does not appear that the Judge did consider these factors as he stated that "there appears to be nothing that merits a downward adjustment" from his starting point and these factors also did not feature in his reasoning at all. It is thus speculative for the Prosecution to suggest that he did so. Second, the appellant's admission of guilt – through his plea – was properly given effect to at the last stage of the analysis through the PG discount rather than being weighed alongside the aggravating factors above: *Iskandar bin Jinan* at [121]. Third, while some mitigating weight can be accorded to the appellant's cooperation with investigations, we do not think that this detracts from the conclusion that there should have been an uplift in the sentence from the starting point. There is nothing that suggests that the assistance rendered was of an extraordinary nature. Although DPP Chua stated at the hearing before us that the Prosecution might not have been able to make out a case against the appellant but for his cooperation, we consider that the mitigatory weight of this ought to be attributed to, and would be sufficiently accounted for by, the appellant's plea of guilt and admission to the statement of facts. In any event, as mentioned above, we think that the TIC charges *alone* would have warranted an uplift to 30 years' imprisonment. The cumulative weight of the TIC charges along with the other serious aggravating factors such as the appellant's role in the syndicate completely overwhelms the mitigating weight of his cooperation.

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85 The cumulative effect of these factors should have compelled the Judge to impose an uplift from the starting point of 28 years and six months' imprisonment to a sentence in the region of 30 years' imprisonment.

86 This sentence of 30 years' imprisonment is in line with the precedents. In *Iskandar bin Jinan*, this court noted that the general trend was an imprisonment term ranging from 26 to 28 years for drug traffickers of high culpability *despite a plea of guilt*, including in the following cases which bear some similarities to the present case (at [96]):

(a) In *Muhammad Amirul Aliff bin Md Zainal v Public Prosecutor* [2021] 2 SLR 299, the offender who had instructed his co-accused in the drug venture, was a member of a Malaysian-based drug syndicate and had received payment for his role (at [24]), was sentenced to 27 years' imprisonment and 15 strokes of the cane.

(b) In *Public Prosecutor v Mohamed Affandi bin Mohamed Yuz Al-Haj* [2021] SGHC 151, the offender played multiple roles in trafficking – apart from transferring drugs, he also repackaged them, collected payment from customers, and remitted the moneys overseas (for which there were several TIC charges under the CDSA). The offender had also been paid a "not negligible" sum of money for his work which had gone on for some time (at [15]). A sentence of 28 years' imprisonment was imposed (at [25]).

(c) In *Steven John*, the offender was not merely a courier and played an active role in facilitating the drug trafficking enterprise, including sourcing for his own customers and being paid a commission for the delivery of drugs. He was sentenced to 27 years' imprisonment and 15 strokes of the cane (at [28]). A co-accused person, who had an additional

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TIC charge of trafficking, was sentenced to 29 years' imprisonment (at [29]).

In our view, the appellant's culpability substantially exceeds that of these offenders. As explained above, his central coordinating role, the substantial financial rewards he gained, as well as the nine TIC charges, justify a sentence of 30 years' imprisonment.

87 Finally, on a different note, we also bear in mind the need for parity between the appellant and Tan given that the 1st Charge concerns the appellant's abetment of Tan's trafficking. This is a relevant consideration as the principle of parity gives effect to the common sense that offenders ought to be treated equally under the law. Thus, co-offenders of similar culpability should receive similar sentences, while those of greater culpability should receive more severe punishments: *Chong Han Rui v Public Prosecutor* [2016] SGHC 25 ("*Chong Han Rui*") at [1]. The test is whether the public, with knowledge of the various sentences, would perceive that one of the co-offenders has suffered injustice due to an inexplicable disparity between the sentences imposed on him and his co-offender(s): *Chong Han Rui* at [47] and [49].

88 Tan was sentenced by the General Division of the High Court ("General Division") to 27 years and three months' imprisonment for his charge of trafficking in not less than 249.99g of methamphetamine (before a 10% PG discount was applied for his plea of guilt). This was not disturbed on appeal to this court. In our view, the appellant's culpability is considerably higher than that of Tan given the appellant's role and that Tan acted on the appellant's instructions (see [9]–[11] above). This justifies a significant uplift from the sentence imposed on Tan, and a difference of around two and a half years'

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imprisonment as between the sentence assessed as appropriate for Tan and the sentence we have arrived at for the 1st Charge gives effect to this.

The money laundering charges (6th, 8th, 11th, and 13th Charges)

The appropriate sentencing framework

89 Before turning to the individual sentences, we begin by clarifying the appropriate sentencing framework for the money laundering charges under the CDSA.

90 To recap, the money laundering charges against the appellant consisted of two categories:

(a) First, the 6th Charge, which consisted of the laundering of the appellant's own benefits of drug dealing of $160,000 by removing them from jurisdiction, an offence under s 46(1)(*a*) of the CDSA.

(b) Second, the 8th, 11th and 13th Charges, which consisted of the laundering of Kadi's benefits of drug trafficking as follows:

(i) 8th Charge: facilitating the control of Kadi's benefits of $103,000, an offence under s 43(1)(*a*) of the CDSA;

(ii) 11th Charge: removing Kadi's benefits of $714,180 from jurisdiction, an offence under s 46(1)(*b*) of the CDSA; and

(iii) 13th Charge: transferring Kadi's benefits of $101,700, an offence under s 46(2)(*b*) of the CDSA.

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(1) The significance of the amalgamation of 6th, 11th and 13th Charges

91 As a preliminary point, three of the four charges above (the 6th, 11th and 13th Charges) were amalgamated under s 124(2) of the CPC, in that while they were framed as individual charges, each charge comprised multiple instances where the same offence was committed by the appellant. The significance, so far as sentencing is concerned, is that s 124(8)(*a*)(i) of the CPC operates to increase the sentencing limit for an amalgamated charge by a factor of two; in other words, the maximum sentence that the court may impose for an amalgamated charge is two times the prescribed punishment for the relevant offence. This adjustment "caters for the punishment of an offender convicted of an amalgamated charge … that is in fact constituted by *multiple incidents of offending*" [emphasis in original]: *Prakash s/o Mathivanan v Public Prosecutor* [2025] 4 SLR 1386 ("*Prakash*") at [36]–[40], considering s 124(8)(*a*)(ii) of the CPC.

92 It appears that, in the court below, the Prosecution did not address the Judge on the implications, if any, of s 124(8) of the CPC in this case and what effect it might have on the court's approach in sentencing the appellant on the 6th, 11th and 13th Charges. Before us, neither the Prosecution nor the IC addressed us on the point, and the submissions on the appropriate sentence on these charges proceeded on the basis that it is not necessary for the court to consider s 124(8)(*a*)(i) of the CPC. In the absence of submissions on the significance of amalgamation, and there being no cross-appeal by the Prosecution seeking an enhancement of the appellant's sentence, we are content to proceed along these lines, although we bear in mind that the effect of s 124(8)(*a*)(i) of the CPC is that, in principle, the sentencing limit on the 6th, 11th and 13th Charges would be doubled. We would highlight, however, that to the extent that we have not been addressed on the effect of s 124(8)(*a*)(i) of the

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CPC, the sentences imposed on the appellant for these charges may be considered lenient. It goes without saying, therefore, that, in future cases, the sentences imposed here should be viewed with this in mind when comparisons are sought to be drawn.

93 Before leaving the issue of amalgamation, we make three points on the effect of amalgamation and s 124(8)(*a*)(i) of the CPC that are of some relevance.

94 The first is that, although s 124(8)(*a*) of the CPC operates to double the sentencing limit that applies to the base offence for which the accused person is charged, it does not follow from this that it should be applied as a blunt tool that doubles the sentence that would have been imposed if the same harm had been caused in a single incident rather than across multiple instances. It is true that, as a general principle, an offender who commits multiple acts of offending should, all else being equal, be treated more harshly than one who commits a one-off act, even if both offenders cause the same outcome. Section 124(8)(*a*) of the CPC codifies this general principle, as amalgamation under ss 124(2) or 124(4) of the CPC is "not merely administrative or procedural in nature", but "may be used to signal the higher *criminality* of the accused and the gravity of the course of criminal conduct", as seen in the doubled punishment limit under s 124(8)(*a*) of the CPC in respect of an amalgamated charge: *Public Prosecutor v Song Hauming Oskar* [2021] 5 SLR 963 at [69]–[70]; *Public Prosecutor v Loh Cheok San* [2023] 5 SLR 1646 ("*Loh Cheok San*") at [62]; *Prakash* at [43]. Thus, to use the 11th Charge in the present case as an example, the appellant, having removed $714,180 of Kadi's benefits of drug dealing from jurisdiction through a series of 202 fund transfers, would, all else being equal, be more culpable than a hypothetical offender who had removed the same quantum of benefits of drug dealing from jurisdiction through a single transfer. However, there is plainly nothing as a matter of logic or in s 124(8)(*a*) of the CPC itself

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that requires the court to impose on the former a sentence that is double that of what would be imposed on the latter simply because the same quantum of benefits of drug dealing was laundered over more than one incident. What s 124(8)(*a*) of the CPC does is to *extend* the range of sentences that the court may impose by doubling the *maximum* punishment for a single offence. It does not enact a general rule that an offender who commits an offence across multiple incidents is two times more culpable than one who commits the same offence in a single incident.

95 This leads us into the second point, which is the logic that underlies s 124(8)(*a*) of the CPC and which informs its application. It seems to us that the reason why s 124(8)(*a*) of the CPC allows the court to go beyond the prescribed maximum sentence for a given offence when sentencing on an amalgamated charge for that offence is to give effect to the reality that an accused person who is convicted of an amalgamated charge is, in substance, being convicted of more than one offence, in which case there is the theoretical possibility that, if not for the amalgamation, the same offending conduct could attract a maximum global sentence of at least two times the prescribed sentence for the offence if the Prosecution had proceeded on separate charges. What s 124(8)(*a*) of the CPC does is to ensure parity in the sentencing outcomes between an accused person who faces an amalgamated charge comprising a number of incidents and another who, having hypothetically engaged in the *exact same criminality*, is separately charged for each incident. The purpose of doubling the sentencing limit is thus to counteract the risk that the accused person may receive an undue discount for multiple offending if the maximum sentence for an amalgamated charge were limited to the maximum sentence for an individual offence: *Public Prosecutor v Tan Teck Leong Melvin* [2023] 5 SLR 1666 at [57].

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96 The final point follows from the two points we have just made. In calibrating the sentence for an amalgamated charge, adequate account must be given in terms of ascribing due aggravating weight to the fact that the accused person has engaged in a course of criminal conduct rather than a single incident. As the court in *Prakash* cautioned, "[a]ny failure to recognise that the offender had sustained a course of offending conduct would result in an undue discount for multiple offending" (at [39]). This would be contrary to the purpose of s 124(8)(*a*) of the CPC which, as explained at [95] above, is precisely to avoid such a result. Thus, although the Prosecution has not invoked s 124(8)(*a*) of the CPC in respect of the relevant money laundering charges, we bear in mind that s 124(8)(*a*) signals that the appellant is as a matter of principle of a higher culpability than if each of the offences in the 6th, 11th and 13th Charges had been committed on a single occasion. That said, as prefaced at [92] above, the sentences imposed may be lenient to the extent that the possibility of exceeding the prescribed maximum sentence for these Charges has not been addressed by the parties.

(2) The appropriate sentencing framework for offences under ss 43(1) and 46(1) of the CDSA

97 We come then to the question of the applicable sentencing framework for the money laundering charges under the CDSA in this case. For a start, we note that the Judge appears to have applied two different sentencing approaches to each of the two categories we have identified at [90] above.

98 For the first category (comprising the 6th Charge) relating to the appellant's laundering of his *own* benefits of drug dealing, the Judge relied on *Public Prosecutor v Juandi bin Pungot* [2022] 5 SLR 470 ("*Juandi*"), which referred to the sentencing ranges used by the District Court in *Public Prosecutor*

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v Ho Man Yuk [2017] SGDC 23 ("*Ho Man Yuk*"), a case where the accused person was sentenced after trial and where the moneys laundered were recovered (see *Ho Man Yuk* at [141]):

(a) For amounts less than $5,000: two weeks' imprisonment.

(b) For amounts from $5,000 to less than $10,000: one months' imprisonment.

(c) For amounts from $10,000 to less than $40,000: two to four months' imprisonment.

(d) For amounts from $40,000 to less than $100,000: five to nine months' imprisonment.

(e) For amounts from $100,000 to less than $300,000: ten to 11 months' imprisonment.

(f) For amounts from $300,000 to $500,000: 12 to 13 months' imprisonment.

99 For the second category (comprising the 8th, 11th and 13th Charges) relating to the appellant's laundering of *Kadi's* benefits of drug dealing, the Judge applied the framework set out in *Huang Ying-Chun v Public Prosecutor* [2019] 3 SLR 606 ("*Huang Ying-Chun*"), which framework can be summarised as comprising the following three stages:

(a) First, identify the level of harm caused by the offence (ranging from slight to moderate to severe) and the level of the accused's culpability (ranging from low to medium to high) based on the offence-specific factors, including:

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Offence-specific factors	
Factors going towards harm	Factors going towards culpability
(a) The amount [laundered] (b) Involvement of a syndicate (c) Involvement of a transnational element (d) The seriousness of the predicate offence (e) Harm done to confidence in public administration	(a) The degree of planning and premeditation (b) The level of sophistication (c) The duration of offending (d) The offender's role (e) Abuse of position and breach of trust (f) The mental state of the offender (g) Whether commission of offence was the offender's sole purpose for being in Singapore (h) The offender's knowledge of the underlying predicate offence (i) The prospect of a large reward

(b) Second, determine the appropriate starting point within the relevant indicative sentencing ranges, based on the following harm-culpability matrix:

Harm / **Culpability**	**Slight**	**Moderate**	**Severe**
Low	Fine and/or short custodial term	10 to 30 months' imprisonment	30 to 60 months' imprisonment
Medium	10 to 30 months' imprisonment	30 to 60 months' imprisonment	60 to 90 months' imprisonment

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High	30 to 60 months' imprisonment	60 to 90 months' imprisonment	90 to 120 months' imprisonment

(c) Third, make the appropriate adjustments to the starting point by taking into account the offender-specific aggravating and mitigating factors, including the following:

Offender-specific factors	
Aggravating factors	Mitigating factors
(a) Offences taken into consideration for sentencing purposes (b) Relevant antecedents (c) Evident lack of remorse	(a) A guilty plea (b) Voluntary restitution (c) Cooperation with the authorities

It is worth noting that, as *Huang Ying-Chun* was decided before the enactment of the PG Guidelines, its application would now be adjusted to accommodate the PG Guidelines, in that the plea of guilt would not be considered alongside the other offender-specific aggravating and mitigating factors under the third stage above, but would instead be considered separately at the end of the analysis in line with the PG Guidelines' methodology (see [49] above).

100 With respect, we have several difficulties with the Judge's (and the Prosecution's) application of different standards for the two categories of CDSA charges proceeded against the appellant. First, the application of different standards is inappropriate given that the prescribed punishments for *all* the proceeded CDSA charges are the *same*, namely, either a fine not exceeding $500,000 or an imprisonment term not exceeding ten years, or both: see ss 43(5) and 46(6) of the CDSA.

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101 Second, the use of the sentencing ranges in *Ho Man Yuk* is not correct. In the recent decision of a three-judge coram of the General Division in *Public Prosecutor v Tan Shay Howe* [2026] SGHC 90 ("*Tan Shay Howe*"), the court observed that the sentencing ranges in *Ho Man Yuk* were "to ensure internal consistency within the four walls of that case and were not meant to be followed unquestionably in other cases" (at [33]). We agree. The District Court in *Ho Man Yuk* was not purporting to lay down any sort of general sentencing framework. This much is apparent from how the highest range set out there – for laundering of $300,000 to $500,000 – only attracted 12 to 13 months' imprisonment, when the prescribed maximum imprisonment term is about ten times that range. To the extent that they are sought to be used as general sentencing benchmarks, it begs the question of what justification may exist for the court to deem the laundering of up to $500,000 a relatively minor offence given that the prescribed maximum sentence is close to ten times the range identified by the District Court for such an offence. The ranges identified in *Ho Man Yuk* are also, with respect, somewhat arbitrary when taken outside the specific facts of the case.

102 In this regard, we find the recent decision in *Tan Shay Howe* instructive. There, the court held that the *Huang Ying-Chun* framework should apply to offences under s 54(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act 1992 (2020 Rev Ed) ("2020 CDSA"). The predecessor provision to s 54(1) of the 2020 CDSA under the CDSA (which the appellant was charged under) is s 47(1) of the CDSA, which is materially identical to s 46(1) of the CDSA (the subject of the 6th, 11th and 13th Charges), save that the former is concerned with the benefits of criminal conduct generally while the latter concerns the benefits of drug dealing specifically. In *Tan Shay Howe*, the court affirmed the desirability of adopting a consistent sentencing

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approach for related punishment provisions in the same legislation in the interest of ensuring theoretical and practical coherence (at [42], citing *Chen Song v Public Prosecutor* [2025] 3 SLR 509 at [120]). On this basis, the court held that the *Huang Ying-Chun* framework, which was laid down in the context of s 44(1) of the CDSA (the equivalent to s 51(1) of the 2020 CDSA), should be applied to offences under s 54(1) of the 2020 CDSA as both provisions "involve the *same underlying criminality* and carry the *same prescribed punishments*" [emphasis in original] (at [42]), notwithstanding that s 51(1) of the 2020 CDSA deals with the laundering of *another person's* benefits from criminal conduct whereas s 54(1) of the CDSA deals with the laundering of the *accused person's own* benefits from criminal conduct.

103 In our view, the same reasoning applies as between ss 46(1) and 47(1) of the CDSA (and their modern equivalents under ss 53(1) and 54(1) of the 2020 CDSA) where, as noted above, the only difference between the two relates to the provenance of the laundered moneys being criminal conduct generally or drug dealing specifically. The fact that the prescribed punishments for offences under ss 46(1) and 47(1) are the same indicates that no difference in terms of the sentencing approach is warranted: see ss 46(6) and 47(6) of the CDSA; see also, for the current position in respect of ss 53(1) and 54(1) of the 2020 CDSA, ss 53(5) and 54(5) of the 2020 CDSA.

104 For the same reasons, we are of the view that the *Huang Ying-Chun* framework can also be applied to s 43(1) of the CDSA (and its modern equivalent under s 50(1) of the 2020 CDSA), which is the subject of the 8th Charge, notwithstanding that *Huang Ying-Chun* was strictly a case involving s 44(1) of the CDSA. The difference between ss 43(1) and 44(1) of the CDSA is the same as the distinction between ss 46(1) and 47(1) of the CDSA: the provenance of the laundered moneys being criminal conduct or drug dealing.

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That is not a relevant distinction so far as the sentencing approach is concerned. Like ss 46(6) and 47(6) of the CDSA, the prescribed punishments for offences under ss 43(1) and 44(1) of the CDSA are the same: see ss 43(5) and 44(5) of the CDSA; see also, for the current position in respect of ss 50(1) and 51(1) of the 2020 CDSA, ss 50(5) and 51(5) of the 2020 CDSA.

105 It follows that, to the extent that the Judge applied the framework in *Ho Man Yuk* in sentencing the appellant on the 6th Charge, we consider that he erred in doing so. For the reasons set out above, we are of the view that the *Huang Ying-Chun* framework ought to be applied in sentencing the appellant on *all* the money laundering charges under ss 43(1) (the 8th Charge) and 46(1) (the 6th, 11th and 13th Charges) of the CDSA.

106 For completeness, to the extent that there are now conflicting decisions on the applicable sentencing framework for s 47(1) of the CDSA following *Tan Shay Howe*, we also take the opportunity to formally overrule earlier decisions of the General Division and High Court which have applied *Ho Man Yuk* or some variation of it (see, for example, *Juandi* and *Chong Kum Heng v Public Prosecutor* [2020] 4 SLR 1056), and affirm the view in *Tan Shay Howe* that the *Huang Ying-Chun* framework should be applied to s 47(1) of the CDSA (and its modern equivalent in s 54(1) of the 2020 CDSA). The sentences imposed in decisions which have applied *Ho Man Yuk* should thus be viewed with appropriate circumspection having regard to the issues we have highlighted above.

The appropriate sentences to impose for each of the money laundering charges

107 Applying the *Huang Ying-Chun* framework, the Judge determined that the harm occasioned for the 8th and 13th Charges should be pegged at no less

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than "moderate", while the harm for the 11th Charge should be pegged at the highest band of "severe". As for the appellant's culpability, the Judge found that this should be pegged at no less than "medium" for all three charges. Based on these bands, the Judge imposed the following sentences for the 8th, 11th and 13th Charges (after applying a further 30% PG discount):

(a) 20 months' imprisonment for the 8th Charge;

(b) 38 months' imprisonment for the 11th Charge; and

(c) 20 months' imprisonment for the 13th Charge.

108 On the other hand, applying *Ho Man Yuk*, the Judge imposed a sentence of 12 months' imprisonment for the 6th Charge. This, as we have explained, was in error as the *Huang Ying-Chun* framework should also have been applied for the 6th Charge.

109 In our view, based on a proper application of the *Huang Ying-Chun* framework, the sentences imposed by the Judge for all the money laundering charges were both wrong in principle and manifestly inadequate. We explain our reasons below.

(1) The harm caused by the money laundering charges

110 As a starting point, we agree with the Judge's classifications for the 8th and 13th Charges as comprising of "moderate" harm. In our view, the 6th Charge would also be in the same category of "moderate" harm. On the other hand, we regard the 11th Charge, which relates to a significantly higher quantum of laundered moneys, as falling within the category of "severe" harm.

111 The following factors inform our conclusion:

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(a) First, the quantum of laundered moneys for each of the 6th, 8th and 13th Charges which are respectively $160,000, $103,000 and $101,700. These are by no means unsubstantial. On the other hand, the amount involved for the 11th Charge ($714,180), is clearly substantial.

(b) Second, the involvement of a syndicate in which the appellant acted under Kadi's instructions.

(c) Third, the transnational element of the syndicate's activities in operating across at least Singapore and Malaysia.

(d) Fourth, the seriousness of drug trafficking as a predicate offence. Although the court in *Huang Ying-Chun* cautioned that "only limited weight should be given to this factor" because the Prosecution is not required to prove the predicate offence beyond a reasonable doubt, it also acknowledged that the court may take this into account to the extent that there are facts which are admitted or not contested which clearly bear out the nature of the underlying criminal conduct (at [63]–[67]). In the present case, the appellant has unequivocally admitted through the statement of facts that the laundered moneys that were the subject of the CDSA charges were the proceeds of the syndicate's activities in drug trafficking. In our view, this can be given some weight, although we do not accord too much weight to it having regard to the fact that the appellant was charged under provisions which relate specifically to drug dealing. At the very least, the appellant's long-term involvement in the syndicate reflects that the laundered moneys that are the subject of the CDSA charges against him were not the result of isolated incidents but represented a continuous, and thus substantial, stream of drug dealing operations.

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(2) The culpability of the appellant for each of the money laundering charges

112 As for the culpability of the appellant, we find that the Judge erred in placing it at the "medium" level for all the money laundering charges. In our view, his culpability should have been classified as "high" across all the charges, for the following reasons.

(a) First, as explained earlier (at [77]–[78]), the appellant was a central piece of the drug syndicate. He was not a mere courier.

(b) Second, the appellant acted with full knowledge of the predicate offences of drug trafficking. As a member of the syndicate, he knew that he was facilitating and coordinating the efforts of a drug ring and that the moneys he was laundering represented the proceeds of drug dealing. Indeed, the money laundering charges under the CDSA were brought under the "knowing" rather than the "having reasonable grounds to believe" limb of the relevant provisions, with the former entailing higher culpability than the latter: *Huang Ying-Chun* at [74].

(c) Third, there was a high degree of planning and premeditation on the part of the appellant. In relation to the predicate offence of drug trafficking, the appellant had to coordinate between Kadi in Malaysia, customers in Singapore, and various runners and couriers across the Singapore-Malaysia border. He had a sophisticated arrangement in place with designated drop-off points and communication systems to facilitate the distribution of drugs in Singapore. In relation to the money laundering charges specifically, the appellant had in place a plan to obscure the trail of the drug moneys by engaging "Lao Ban Niang" to facilitate the transfer of some of the moneys. It is particularly striking

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that, for the 11th Charge, a total sum of $714,180 was transferred via *over 200 payments across the period of a year*. This sustained period of offending, which is reflected in the amalgamation of the 11th Charge, increases the appellant's culpability.

(d) Fourth, the appellant was involved in the syndicate for a significant period. He started working for the syndicate from 2020 and continued until he was arrested in 2023. This was not a momentary lapse of judgment under the pressure of short-term financial difficulties. The appellant deliberately participated in the syndicate over the course of three years and was clearly enticed by the prospect of large rewards from drug dealing, having laundered almost $1.3m. Although most of this was Kadi's benefits (under the 8th, 11th and 13th Charges), the amount that the appellant himself profited was substantial ($160,000, under the 6th Charge).

113 We do not agree with the Prosecution that the appellant's culpability should only be placed at the "higher end of 'medium'" because the appellant was "not at the apex of the syndicate". Even if the appellant did not sit at the "apex" of the syndicate, he was evidently placed relatively high in the hierarchy, and he occupied a critical role at every stage of the supply chain – from taking orders from customers, liaising with suppliers, coordinating the drop-off and pick-up of the drugs, and the collection and transfer of the drug trafficking proceeds. And as noted at [6] above, the scale of the operation increased over time through Kadi's customers introducing more customers to the appellant. Moreover, the "high" culpability band encompasses a wide sentencing range precisely to accommodate varying degrees of involvement within that category. While an "apex" leader might warrant a sentence at the upper end of this range, that does not disqualify other key members of a syndicate from receiving

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sentences within the same band. We would therefore place all four money laundering charges comfortably within the "high" culpability range.

(3) The indicative starting sentences

114 Having identified the level of harm and culpability for each charge, the harm-culpability matrix in *Huang Ying-Chun* (set out at [99(b)] above) gives rise to the following indicative sentencing ranges:

(a) 6th Charge: 60 to 90 months' imprisonment;

(b) 8th Charge: 60 to 90 months' imprisonment;

(c) 11th Charge: 90 to 120 months' imprisonment; and

(d) 13th Charge: 60 to 90 months' imprisonment

115 Given that all four charges involve substantially similar culpability and harm factors, the amount laundered serves as the principal distinguishing factor for determining the specific indicative starting sentence within the respective sentencing ranges. In our assessment, based on the factors canvassed above, it would be fair to arrive at the following indicative starting sentences:

(a) 6th Charge ($160,000): 70 months' imprisonment;

(b) 8th Charge ($103,300): 60 months' imprisonment;

(c) 11th Charge ($714,180): 100 months' imprisonment; and

(d) 13th Charge ($101,700): 60 months' imprisonment.

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(4) Adjustments for offender-specific factors

116 Finally, we turn to make appropriate adjustments based on the relevant offender-specific aggravating and mitigating factors. In our view, the starting sentences should be enhanced to account for the *eight* other money laundering TIC charges under the CDSA. Collectively, these eight TIC charges involved $193,349.93 of laundered proceeds, which aggravates the severity of the appellant's proceeded charges.

117 While the Prosecution also referred to the appellant's cooperation with the authorities as a mitigating factor for the money laundering charges, that cannot nullify the substantial aggravating effect of his eight other TIC charges. Consequently, we impose a 10% uplift on each imprisonment sentence from the indicative starting sentences above, resulting in the following sentences for the money laundering charges:

(a) 6th Charge ($160,000): 77 months' imprisonment;

(b) 8th Charge ($103,300): 66 months' imprisonment;

(c) 11th Charge ($714,180): 110 months' imprisonment; and

(d) 13th Charge ($101,700): 66 months' imprisonment.

PG discount

118 Having determined the individual sentences for each of the charges, we turn to consider the issue of the appropriate PG discount (if any) to be given to the appellant. The Judge had applied the maximum 10% discount for the 1st Charge (based on the modified benchmarks laid down in *Iskandar bin Jinan* for drug trafficking offences) and the maximum 30% discount for the money

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laundering charges as the appellant had pleaded guilty at Stage 1 under the PG Guidelines. The question is whether this should be maintained or modified in the light of the appellant's conduct in this appeal. In doing so, we apply the two-stage framework where the accused person is found to have engaged in abusive conduct (see [65] above).

119 We have concluded above that the appellant's allegations of inadequate legal assistance by Mr Choo were baseless and indeed, completely fabricated. We have also found that the appellant's conduct was cynical and dishonest in that he set out to use Mr Choo as a means to the end of procuring a favourable result in his appeal against his sentence. Having regard to the circumstances, we consider this to be an appropriate case to revoke the *entirety* of the PG discount given to him below.

120 We highlight that the appellant's allegations did cause some wastage of time and resources. The hearing of the appeal had to be pushed back to enable Mr Choo to respond to the allegations against him and for us to consider that response which was filed only a few days before the initial hearing and its implications. Although we accept that there remains some utilitarian value in the appellant's plea of guilt, we think that due credit is given for this by not imposing any further uplift under the second stage. As explained at [30] above, we consider the appellant's conduct to be redolent of a lack of remorse, which operates as an aggravating factor. In our view, any remaining utilitarian value of the appellant's plea of guilt would be set off and exhausted against the aggravating weight of his lack of remorse. That justifies nullifying the entire PG discount. From that point, we do not think it necessary to make any further upward adjustment to the sentence.

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Aggregate sentence

121 Finally, we turn to consider the global sentence to be imposed. The relevant principles are trite and can be summarised as follows:

(a) If an offender is convicted and sentenced to imprisonment for at least three distinct offences, the court must order the sentences for at least two of the offences to run consecutively: see s 307(1) of the CPC. The court has a discretion as to which sentences should run concurrently or consecutively as well as in the calibration of the aggregate sentence to be imposed. The exercise of this discretion is guided by two principles:

(i) First, the one-transaction rule, which contemplates that where two or more offences are committed in the course of a single transaction, all sentences in respect of those offences should run concurrently rather than consecutively: *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Shouffee*") at [27]. The question of whether various offences form part of a single transaction depends on whether they constitute "a single invasion of the same legally protected interest", and in assessing this, the court may consider the proximities in time, place, continuity of action, and continuity in purpose or design: *Shouffee* at [28] and [30].

(ii) Second, the totality principle, which at its core is concerned with the proportionality of the aggregate sentence. The totality principle is generally understood as consisting of two limbs:

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(A) At the first limb, the court examines whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed: *Shouffee* at [54]. The court's focus is on the range of sentences normally imposed for the most serious offence, rather than a specific sentencing benchmark or starting point: *Shouffee* at [56]; *Haliffie bin Mamat v Public Prosecutor* [2016] 5 SLR 636 at [79].

(B) At the second limb, the court considers whether the effect of the sentence on the offender is crushing and not in keeping with his past record and his future prospects: *Shouffee* at [57]. In this regard, the court should bear in mind that the risk of disproportionality is greater in cases involving longer aggregate sentences, such as where the offender is sentenced for numerous offences in one sitting or where the individual sentences are themselves relatively lengthy: *Raveen Balakrishnan* at [79]–[80].

(b) If the application of the totality principle indicates that the aggregate sentence is disproportionate, the court should consider if the aggregate sentence should be reduced, either by (i) reassessing which sentences should run consecutively; or (ii) reducing the individual sentences: *Shouffee* at [59].

122 In this case, we have enhanced the individual sentences as follows:

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Charge	Sentence imposed by Judge	Enhanced sentence
1st Charge: Abetting the possession of not less than 249.99g of methamphetamine for the purpose of trafficking under s 5(1)(*a*) read with ss 5(2) and 13(*b*) of the MDA	25 years and seven months' imprisonment (*consecutive*)	30 years' imprisonment
6th Charge: Removing own benefits of drug dealing (amounting to $160,000) from jurisdiction under s 46(1)(*b*) of the CDSA, which charge was amalgamated pursuant to s 124(2) of the CPC	12 months' imprisonment	77 months' imprisonment
8th Charge: Facilitating control of Kadi's benefits of drug dealing (amounting to $103,300) under s 43(1)(*a*) of the CDSA	20 months' imprisonment	66 months' imprisonment
11th Charge: Removing Kadi's benefits of drug dealing (amounting to $714,180) from jurisdiction under s 46(2)(*b*) of the CDSA, which charge was amalgamated pursuant to s 124(2) of the CPC	38 months' imprisonment (*consecutive*)	110 months' imprisonment
13th Charge: Transferring Kadi's benefits of drug dealing (amounting to $101,700) under s 46(2)(*b*) of the CDSA, which charge was amalgamated pursuant to s 124(2) of the CPC	20 months' imprisonment	66 months' imprisonment

123 We do not see any error in the Judge's choice of running the sentences for the 1st and 11th Charges consecutively and therefore do not disturb that decision. With the sentences for the 1st and 11th Charges running consecutively, the aggregate sentence comes up to 39 years and two months' imprisonment.

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124 However, in our view, such a sentence would be excessive and crushing. In sentencing offenders facing multiple charges, we have previously recognised that the adverse effects of a longer sentence are not linear but exponential: *Raveen Balakrishnan* at [75] and [77], citing *R v MAK* [2006] NSWCCA 381 at [15]–[18]. What this means, in short, is that the adverse effects on an offender of a sentence of, for example, ten years' imprisonment, are more than twice as severe as a sentence of five years' imprisonment, even though the length of the former is only twice that of the latter.

125 From this perspective, the aggregate sentence is reduced by virtue of the totality principle "not as a bulk discount on account of multiple offending, but rather as a recognition of the fact that an aggregation resulting in a longer sentence [carries] a compounding effect that bears more than a linear relation to the cumulative and overall criminality of the case" [emphasis in original omitted]: *Raveen Balakrishnan* at [77]. It follows that the case for a reduction of the aggregate sentence on account of proportionality would be greater the longer the aggregate sentence is: *Raveen Balakrishnan* at [79].

126 Here, a disproportionately crushing effect of a lengthy aggregate sentence would be felt by the appellant if he was handed an aggregate sentence of 39 years and two months' imprisonment without any moderation. We therefore apply the totality principle to reduce the sentences for the 1st and 11th Charges to 27 years imprisonment and 84 months' (seven years') imprisonment respectively. This brings the aggregate sentence down to 34 years' imprisonment.

127 Beginning with the first limb of the totality principle, the question is whether the sentence is substantially above the normal level of sentences for the most serious offence. That in this case is the 1st Charge. The broad guideline in

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Iskandar bin Jinan is that the usual range of sentences imposed for serious drug trafficking cases is between 26 and 28 years' imprisonment notwithstanding a plea of guilt (see [86] above). Although the aggregate sentence of 34 years' imprisonment we consider to be appropriate can be said to be substantially above the normal level of sentences for serious drug trafficking, and thus possibly in breach of the first limb of the totality principle, the law has recognised that a sentence may nonetheless be upheld if it is commensurate with the overall criminality: *Juandi* at [94]; *Loh Cheok San* at [65]. In other words, the first limb cannot be an immutable rule and should not be applied rigidly or blindly. Otherwise, where the sentence imposed on the most serious offence is at the upper end of the sentencing range for that offence (for example, trafficking 249.99g of methamphetamine), the aggregate sentence would necessarily, if not quite often, be excessive the moment another term is run consecutively as required by s 307(1) of the CPC. What ultimately lies at the heart of the totality principle is proportionality. That is embodied by the second limb of the totality principle which considers if the global sentence is crushing.

128 In our view, a global sentence of 34 years' imprisonment is proportionate to and accords with the overall criminality of the appellant, considering the following factors:

(a) First, the nature of the offences and the role played by the appellant in perpetrating them. Drug trafficking and international money laundering are indisputably serious offences. The appellant was not a mere courier, but a central coordinator in an international drug syndicate. For the 1st Charge, he has admitted to orchestrating the distribution of approximately 253g of methamphetamine. This would have ordinarily been punishable with a death sentence, if not for the Prosecution electing to proceed against him for abetting the trafficking

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of only not less than 249.99g of methamphetamine – just shy of the capital threshold. In saying this, we are cognisant that the fact that the charge proceeded against the accused person has been reduced from a more serious charge does not of itself justify the imposition of a higher sentence on the proceeded charge or treating the accused person as if he had been convicted of the more serious charge: *Sim Gek Yong v Public Prosecutor* [1995] 1 SLR(R) 185 at [15]; *Suventher Shanmugam v Public Prosecutor* [2017] 2 SLR 115 at [36]. However, we refer to the appellant's admission to having abetted the trafficking of a quantity of methamphetamine above the capital threshold to underscore his culpability: *Public Prosecutor v Muhammad Shafie bin Ahmad Abdullah* [2011] 1 SLR 325 at [16]; *Sriram s/o Seevalingam v Public Prosecutor* [2023] 3 SLR 1006 at [6]. As for the money laundering charges under the CDSA, the appellant systematically laundered over $1.3m in drug proceeds across multiple jurisdictions over an extended period. Indeed, according to the Prosecution, the present case is unprecedented in so far as it is the "largest case of money laundering of drug proceeds" in terms of quantum.

(b) Second, there being *five* proceeded charges against the appellant, which is not a small number.

(c) Third, the presence of *18* TIC charges – none of which were for minor offences.

(d) Fourth, the appellant's abusive conduct in this appeal in making baseless allegations against his counsel below which has caused the needless protraction of the proceedings and demonstrated a regrettable lack of remorse on his part.

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129 Finally, further confirming this sentence as appropriate is the fact that, if not for his cynical complaint against counsel in this appeal, an aggregate sentence of slightly under 34 years' imprisonment (before any application of the totality principle) would have been arrived at based on the appellant getting the full PG discount of 10% for the 1st Charge (27 years' imprisonment, down from 30 years' imprisonment) and 30% for the 11th Charge (77 months' imprisonment, down from 110 months' imprisonment). Having regard to this, once the appellant's conduct in this appeal is added to the picture, the aggregate sentence of 34 years' imprisonment which we have arrived at is not excessive, and can even be said to be quite lenient.

Conclusion

130 For the reasons provided above, we dismiss the appeal and exercise our discretion to enhance the appellant's individual sentences as follows:

(a) 1st Charge: 27 years' imprisonment (*consecutive*);

(b) 6th Charge: 77 months' imprisonment (concurrent);

(c) 8th Charge: 66 months' imprisonment (concurrent);

(d) 11th Charge: 84 months' imprisonment (*consecutive*); and

(e) 13th Charge: 66 months' imprisonment (concurrent).

131 The global sentence imposed on the appellant, based on running the sentences for the 1st and the 11th Charges consecutively, is enhanced to 34 years' imprisonment.

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132 We close by reiterating that everyone, including and especially accused persons, has an interest in protecting and upholding the integrity of the criminal justice system. While accused persons face serious consequences if convicted, this, as this court recently observed in *Affandi* (at [33]), does not provide a licence for trampling on the rights and legitimate interests of other persons who play a critical role in the administration of criminal justice. Making dishonest and baseless allegations against the critical participants of the criminal justice system – whether defence counsel, the Prosecution, investigating authorities, witnesses, or the court – is especially egregious as such allegations undermine the integrity of the system and public confidence in the same. Such acts of abuse will not be tolerated and will be met with appropriate sanctions. In this regard, we remind accused persons that PG discounts are a privilege and not an entitlement. The courts will not hesitate to reduce, withhold or withdraw such discounts, and even enhance sentences, where accused persons are found to have engaged in abusive conduct. This approach is necessary to:

(a) protect the integrity of the judicial process;

(b) provide specific and general deterrence by discouraging the accused person and others from similar conduct in the future;

(c) safeguard officers of the court and other participants from unfounded attacks that could otherwise have a chilling effect on their willingness to serve the criminal justice system; and

(d) promote the efficient administration of justice by discouraging frivolous applications and baseless allegations that waste judicial resources and delay proceedings.

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133 It remains for us to thank Ms Rai and her colleague Mr Pramnath Vijayakumar for their very helpful and comprehensive set of submissions.

Sundaresh Menon
Chief Justice

Hri Kumar Nair
Justice of the Court of Appeal

Debbie Ong Siew Ling
Judge of the Appellate Division

The appellant in person;
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