

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2026] SGCA 31

Court of Appeal / Criminal Motion No 7 of 2026

Between

Lim Tean

... Applicant

And

Public Prosecutor

... Respondent

JUDGMENT

[Criminal Procedure and Sentencing — Criminal motions]

TABLE OF CONTENTS

BACKGROUND	2
THE LAW	4
QUESTION 1	5
QUESTION 2	7
QUESTION 3	8
QUESTION 4	10
CONCLUSION	11

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher’s duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

Lim Tean
v
Public Prosecutor

[2026] SGCA 31

Court of Appeal — Criminal Motion No 7 of 2026
Sundaresh Menon CJ, Woo Bih Li JAD and See Kee Oon JAD
18 May 2026

6 July 2026

Judgment reserved.

See Kee Oon JAD (delivering the judgment of the court):

1 CA/CM 7/2026 (“CM 7”) is an application by Mr Lim Tean (“Applicant”) seeking permission under s 397(1) of the Criminal Procedure Code 2010 (2020 Rev Ed) (“CPC”) to refer four questions of law of public interest to the Court of Appeal, arising from the decision of a Judge of the General Division of the High Court (“Judge”) in *Public Prosecutor v Lim Tean* [2026] SGHC 44 (“Judgment”).

2 CM 7 has its origins in the decision of the District Judge (“DJ”) in *Public Prosecutor v Lim Tean* [2025] SGMC 33. The DJ had convicted the Applicant of three charges under s 33(1)(a) of the Legal Profession Act (Cap 161, 2009 Rev Ed) (“LPA”) after a trial and imposed an aggregate sentence of six weeks’ imprisonment and a fine of \$1,000 in default one week’s imprisonment. In HC/MA 9028/2025/02, the Judge dismissed the Applicant’s appeal against his conviction and sentence. The Judge allowed

HC/MA 9028/2025/01, which was the Prosecution’s cross-appeal against sentence, and enhanced the aggregate sentence to three months and one week’s imprisonment (Judgment at [97]).

3 Pursuant to ss 238B(1) and 238B(2)(a) of the CPC, having considered the Applicant’s written submissions, the court summarily dismisses CM 7 without setting it down for a hearing.

Background

4 The Applicant had claimed trial to the following three charges under s 33(1)(a) of the LPA (Judgment at [2]):

(a) MAC-903315-2022 (“Charge 1”), a charge under s 33(1)(a)(i) of the LPA: that being an unauthorised person, the Applicant did act as an advocate and solicitor for one Jiangsu New Huaming International Trading Co, Ltd by issuing a writ of summons (HC/S 268/2021) on 1 April 2021;

(b) MAC-903316-2022 (“Charge 2”), a charge under s 33(1)(a)(ii) of the LPA read with s 124(4) of the Criminal Procedure Code (Cap 68, Rev Ed, 2012) (“CPC 2012 Rev Ed”): that being an unauthorised person, the Applicant did act as an advocate and solicitor by commencing, carrying on and defending court proceedings in the name of various clients on 32 occasions; and

(c) MAC-903317-2022 (“Charge 3”), a charge under s 33(1)(a)(iii) of the LPA read with s 124(4) CPC 2012 Rev Ed: that being an unauthorised person, the Applicant did act as an advocate and solicitor

by preparing documents and instruments relating to court proceedings on 32 occasions.

During the period in which the Applicant carried out the acts which are the subject matter of the three charges, he did not have a valid practising certificate (Judgment at [5]).

5 The DJ convicted the Applicant on the three charges. He was sentenced to: (a) a fine of \$1,000 in default one week’s imprisonment for Charge 1; (b) six weeks’ imprisonment for Charge 2; and (c) six weeks’ imprisonment for Charge 3. The DJ ordered the sentences for Charges 2 and 3 to run concurrently, resulting in an aggregate sentence of six weeks’ imprisonment and a fine of \$1,000, in default one week’s imprisonment (Judgment at [3]).

6 On appeal by the Applicant and by the Prosecution, the Judge upheld the Applicant’s conviction and enhanced the sentence for Charge 1 to one week’s imprisonment, and for Charge 2 and Charge 3 to three months’ imprisonment per charge. He ordered the sentences in Charge 1 and Charge 2 to run consecutively, resulting in an aggregate sentence of three months and one week’s imprisonment (Judgment at [96]–[97]). Pertinently, the Judge applied the three-step sentencing framework for amalgamated charges laid down in *Prakash s/o Mathivanan v Public Prosecutor* [2025] 4 SLR 1386 (“*Prakash*”) to Charge 2 and Charge 3 (Judgment at [85]). This approach is largely the focus of the questions posed by the Applicant in CM 7. The four questions are:

(a) Whether, as a matter of law, an appellate court may apply a sentencing framework articulated only after the first-instance sentencing decision to enhance sentence in the same proceedings, or whether such

a subsequently articulated framework may only operate prospectively and not as a basis for appellate enhancement of sentence (“Question 1”).

(b) Whether, as a matter of law, a first-instance sentencing decision may properly be characterised on appeal as “wrong in principle” or “manifestly inadequate” solely by reason that it did not apply a sentencing framework which had not yet been articulated at the time the sentence was imposed (“Question 2”).

(c) Whether, as a matter of law, offences charged under different limbs of section 33(1)(a) of the Legal Profession Act, when proceeded with as amalgamated charges under section 124(4) of the Criminal Procedure Code, may properly be treated as constituting a single species of offence for the purpose of identifying a common base-offence starting point in sentencing (“Question 3”).

(d) Whether, as a matter of law, it is permissible for the courts to treat a custodial sentence as the starting point or default sentencing position for offences under section 33(1)(a) of the Legal Profession Act, such that a non-custodial sentence is regarded as appropriate only in exceptional cases, in the absence of express statutory provision or binding appellate authority establishing such a custodial threshold (“Question 4”).

The law

7 Four cumulative conditions must be satisfied before permission to file a reference to the Court of Appeal may be granted under s 397(1) of the CPC (*S Iswaran v Public Prosecutor* [2024] 1 SLR 1210 at [8]–[9]):

- (a) The reference must relate to a criminal matter decided by the General Division of the High Court in the exercise of its appellate or revisionary jurisdiction;
- (b) The reference must relate to a question of law of public interest;
- (c) The question of law must have arisen from the case before the General Division of the High Court; and
- (d) The determination of that question of law by the General Division of the High Court must have affected the outcome of the case.

8 It is uncontroversial that CM 7 relates to a criminal matter decided by the General Division of the High Court in the exercise of its appellate jurisdiction. However, for the reasons set out below, we find that the three remaining conditions are not satisfied in respect of the four questions. We address the questions in turn.

Question 1

9 The Applicant’s main contention with respect to Question 1 is with respect to the Judge’s application of the sentencing framework in *Prakash* which was only established after the DJ had delivered his decision on sentence. However, Question 1 does not relate to a question of law of public interest. As the Applicant himself highlights, it is settled law that judicial pronouncements are by default retroactive in nature. In *Adri Anton Kalangie v Public Prosecutor* [2018] 2 SLR 557 (“*Adri Anton Kalangie*”) at [39] and [43], the Court of Appeal clarified that “it is only in an *exceptional* case that the court may exercise its discretion to invoke the doctrine of prospective overruling” [emphasis in original]. Indeed, the Judge had duly considered whether prospective overruling

should have applied but ultimately decided that the framework set out in *Prakash* should apply (Judgment at [85]). Critically, the Applicant himself accepted this approach below (Judgment at [85]), but now chooses to take an inconsistent position in spite of his earlier concession. It appears that he is impermissibly attempting to relitigate this point through CM 7.

10 In any case, the Judge’s application of the framework in *Prakash* was uncontroversial. The court in *Prakash* itself did not invoke the doctrine of prospective overruling when establishing the sentencing framework for amalgamated charges (*ie*, where there was none before). For completeness, the factors relevant to whether prospective overruling should apply, *ie*, the degree of entrenchment of the prior position, the extent of the change to the law, the foreseeability of the change to the law, and the extent of reliance on the law or legal principle concerned (see *Public Prosecutor v Hue An Li* [2014] 4 SLR 661 (“*Hue An Li*”) at [124]), all point against invoking the doctrine in this case. While these factors do not explicitly feature in the Judgment, we are of the view that the Judge’s conclusion is sufficiently supported in any event by *Adri Anton Kalangie* and *Prakash*, both of which establish the same default position on the retroactivity of judicial pronouncements.

11 Applying the *Hue An Li* factors, prior to *Prakash*, there was no established sentencing framework for amalgamated charges, so there was no entrenched law or legal principle being displaced. As for the extent of the change, the *Prakash* framework had built upon existing sentencing principles and had given coherent content to a statutory provision already in force. As for the foreseeability of the change, the statutory provisions governing amalgamated charges had already been in existence, making the articulation of a structured sentencing framework entirely foreseeable. Lastly, as for the extent of reliance, the Applicant committed the offences in deliberate disregard of a

clear statutory prohibition, and not in reliance on a more favourable sentencing approach.

12 Question 1 is therefore not a question of public interest. It is settled law that judicial pronouncements are by default retroactive, and the application of *Prakash* on appeal to the Judge raises no novel legal issue.

Question 2

13 Question 2 is closely related to Question 1. Apart from impermissibly attempting to resile from his earlier acceptance of the *Prakash* framework, the Applicant incorrectly assumes that the Judge had relied solely on the framework to find that the DJ had erred and to thereby enhance the sentence on appeal. For the reasons below, Question 2 is not a question of law of public interest and did not arise from the case before the High Court; further, the determination of Question 2 would not have affected the outcome of the case.

14 First, Question 2 is not a question of law of public interest because it is readily resolved by settled principles. The threshold for appellate intervention in sentencing is well-established. A sentence may be disturbed where the sentencing judge had erred with respect to the proper factual matrix, erred in appreciating the material before him, imposed a sentence that was wrong in principle, or imposed a sentence that was manifestly excessive or manifestly inadequate. These are not novel propositions (Judgment at [63]).

15 The premise of Question 2, *ie*, that the Judge characterised the DJ's sentencing decision as wrong solely because he did not apply a framework that did not yet exist, is a mischaracterisation of the Judgment. The Judge did not hold that the DJ erred merely because he lacked the benefit of guidance from *Prakash*. Rather, the Judge applied the *Prakash* framework as the correct legal

framework and assessed the sentences afresh on appeal, concluding that the DJ's sentences were manifestly inadequate having regard to the full sentencing analysis required by the framework. The characterisation of the DJ's approach as manifestly inadequate was therefore a consequence of the Judge's application of the *Prakash* framework. It was *not* a freestanding finding of error based solely on the DJ's failure to apply a framework which was established only after the DJ's decision was delivered.

16 Second, since Question 2 is premised on a characterisation of the Judgment that the Judgment does not bear, it therefore did not arise from the case before the High Court.

17 Third, determining Question 2 would not have changed the outcome as the Judge's enhanced sentence would stand regardless of how the DJ's sentencing approach is characterised.

18 Therefore, Question 2 is not a question of law of public interest and did not arise from the case before the High Court. The determination of Question 2 would not have affected the outcome of the case.

Question 3

19 As regards Question 3, the Applicant challenges the Judge's holding that ss 33(1)(a)(i), 33(1)(a)(ii) and 33(1)(a)(iii) of the LPA are "different variations of the same species of offence" and therefore Charge 2 and Charge 3 ought to share a common starting point sentence as Charge 1 (Judgment at [86]). However, Question 3 is again premised on a misreading of the Judgment. The legal proposition the Applicant seeks to challenge, *ie*, that offences under different limbs of s 33(1)(a) of the LPA constitute a single species of offence as a matter of law, was never established in the Judgment, and was never

enunciated by the Judge. For the reasons explained below, Question 3 is not a question of law of public interest and did not arise from the case before the High Court; further, the determination of Question 3 would not have affected the outcome of the case.

20 First, Question 3 is not a question of law of public interest because the question of whether Charge 2 and Charge 3 shared a common base-offence starting point was not a question that the *Prakash* framework raised or answered. It was instead a sentencing calibration the Judge made on the finding that the offences were of equivalent gravity.

21 For context, the *Prakash* framework requires the court at step one of the framework to identify the punishment prescribed for a single incident of the base offence, meaning the offence specified in the individual amalgamated charge. The appropriate sentencing approach for amalgamated charges is distinct from the approach that is generally adopted when sentencing for multiple offences involving separate charges (*Prakash* at [129]). An amalgamated charge is deemed by s 124(4)(b) of the CPC (which mirrors s 124(4)(b) of the CPC 2012 Rev Ed) to be a charge for one offence (*Prakash* at [32]), and s 124(8)(a)(ii) of the CPC (which mirrors s 124(8)(a)(ii) of the CPC 2012 Rev Ed) expressly doubles the sentencing limit for an offence, regardless of the number of incidents of offending or the aggregate outcome of the offending (*Prakash* at [17]).

22 On the facts, Charge 2 and Charge 3 were separately framed under ss 33(1)(a)(ii) and 33(1)(a)(iii) LPA respectively, each being an amalgamated charge under s 124(4) of the CPC 2012 Rev Ed. They are distinct charges for distinct offences. The *Prakash* framework applied to each charge.

23 What the Judge actually held at [86] of the Judgment was that the offences under ss 33(1)(a)(i) to 33(1)(a)(iii) of the LPA are “different variations of the same species of offences” and that “it is appropriate that they all possess the same starting point sentence.” This is a factual and purposive observation about the regulatory character of the provision that all three limbs serve the same protective function of protecting the public and the legitimacy of the legal profession. It is not a legal holding that they are the same offence or that the base offence is legally identical across the three limbs. The practical consequence was simply that the one-week starting point derived for Charge 1 was applied equally to Charge 2 and Charge 3 at step one of the *Prakash* analysis, and this is a permissible exercise of the Judge’s sentencing discretion.

24 In the circumstances, Question 3 therefore had not arisen from the case before the High Court. The legal proposition that Question 3 seeks to challenge, *ie*, that offences under different limbs of s 33(1)(a) of the LPA constitute a single species of offence as a matter of law, was never established in the Judgment. Since no such legal rule was laid down, answering the question would not have had a bearing on the outcome of the case.

25 Therefore, Question 3 is not a question of law of public interest and did not arise from the case before the High Court. The determination of Question 3 would not have affected the outcome of the case.

Question 4

26 Finally, as regards Question 4, the Applicant argues that the Judge had articulated a default position of a custodial sentence for offences under s 33(1)(a) of the LPA although the statute “does not make imprisonment mandatory”. This is again premised on a misreading of the Judgment. To our

understanding, the Judgment did not establish such a default position. For the reasons explained below, Question 4 is not a question of law of public interest and did not arise from the case before the High Court; further, the determination of Question 4 would not have affected the outcome of the case.

27 The DJ’s position that non-custodial sentences are appropriate only in exceptional cases was drawn from the sentencing precedents of *Public Prosecutor v Bhaskaran Shamkumar* [2005] SGDC 147 and *Public Prosecutor v Mahadevan Lukshumayeh* [2005] SGDC 129, both of which involved blatant breaches of s 33(1)(a) of the LPA (Judgment at [17]–[18]). On appeal, the Judge did not purport to endorse or lay down a blanket rule that a default custodial sentence would be imposed. Rather, he affirmed on the facts of this case that a custodial sentence was appropriate and warranted (Judgment at [72]–[83], [88]–[94]). The Judgment did not treat imprisonment as mandatory or as a default for s 33(1)(a) LPA offences. Accordingly, the ostensible rule that imprisonment is the default sentence in such cases, which the Applicant seeks to challenge, was not established. Question 4 is neither a question of law of public interest nor one which arose from the case before the High Court.

28 Since the Judge’s imposition of the enhanced custodial sentence rested on the specific facts of the case, determining Question 4 would not have affected the outcome of the case.

Conclusion

29 For the above reasons, we summarily dismiss CM 7. We note that the execution of the applicant’s sentence has been stayed and his existing bail has been extended pending the final disposal of CM 7. Given the dismissal of CM 7,

the Appellant is to surrender at Court 4A of the State Courts on 20 July 2026 at 12:00pm to begin serving his sentence. Bail is extended on the present terms.

Sundaresh Menon
Chief Justice

Woo Bih Li
Judge of the Appellate Division

See Kee Oon
Judge of the Appellate Division

A. Revi Shanker s/o K. Annamalai (ARShanker Law Chambers)
for the applicant;
Ng Yiwen and Bryan Wong Jun Bin (Attorney-General's Chambers)
for the respondent.
