

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

[2026] SGHC 115

Magistrate's Appeal No 9145 of 2025

Between

Ankit Sharma

... Appellant

And

Public Prosecutor

... Respondent

JUDGMENT

[Criminal Law — Offences — Outrage of modesty]

[Criminal Law — Appeal — Conviction]

[Criminal Procedure and Sentencing — Statements — Weight of statement]

[Evidence — Witnesses — Credibility]

TABLE OF CONTENTS

FACTS	2
DECISION	11
THE CIRCUMSTANCES LEADING UP TO THE INCIDENT	12
THE PHONE CALLS TO EDNA AND SABRINA	15
ASHISH’S POLICE STATEMENT	23
THE APPELLANT’S LIE.....	30
CONCLUSION	32

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.

Ankit Sharma
v
Public Prosecutor

[2026] SGHC 115

General Division of the High Court — Magistrate's Appeal No 9145 of 2025
Christopher Tan J
30 April 2026

25 May 2026

Judgment reserved.

Christopher Tan J:

1 The Appellant was charged under s 354A of the Penal Code 1871 (2020 Rev Ed) ("PC") for outraging the modesty of the Complainant¹ while wrongfully restraining her.² After a five-day trial, the learned District Judge ("DJ") convicted the Appellant of the charge and sentenced him to four years' imprisonment and six strokes of the cane: *Public Prosecutor v Ankit Sharma* [2025] SGDC 317 ("GD"). The Appellant filed an appeal against both his conviction and sentence in HC/MA 9145/2025/02.

2 I allow the appeal, setting aside the conviction and acquitting the Appellant of the charge.

¹ There is a gag order on the identity of the Complainant.

² Charge C1A (DAC-920294-2023) at ROP p 5.

Facts

3 The Appellant is alleged to have outraged the Complainant’s modesty by kissing her lips, as well as taking her hand and using it to stroke his penis (“Incident”). This happened on the night of 1 March 2023, in a nursing room (“Nursing Room”) at level one of a mall called Changi City Point.

4 At the material time, the Complainant worked as a recruiter in a recruitment firm. Her job scope involved headhunting for technology specialist talents for her firm’s clients to employ.³ It was in the course of her work here that the Complainant came to know of the Appellant. The Complainant’s colleague at the time, one “Roohi”, had given her the Appellant’s profile, with a view to the Complainant approaching the Appellant as a potential recruitment candidate.⁴ At that point, the Appellant was working at a bank which was a client of the Complainant’s recruitment firm (“Client Bank”). The Complainant had voiced her reservations to Roohi about meeting the Appellant, saying that “we are not supposed to poach from our client.”⁵ However, Roohi explained that the Appellant and his wife were looking for a job.⁶ Following Roohi’s referral, the Complainant proceeded to meet the Appellant on 1 March 2023 – this was their very first meeting as the Complainant had not met the Appellant before. They met at the lobby of the Client Bank and walked to a restaurant called “BLVD” at Changi City Point.⁷ At about 6.30pm, they reached BLVD, where the Appellant ordered a beer and the Complainant ordered a gin and tonic.⁸

³ Notes of Evidence (“NE”) Day 1 p 9 lines 9–12.

⁴ NE Day 1 p 9 lines 17–22.

⁵ NE Day 1 p 10 lines 5–11.

⁶ NE Day 1 p 10 lines 13–15.

⁷ NE Day 1 p 11 lines 6–17 and p 12, lines 6–10. See also NE Day 4 p 17 lines 20–23.

⁸ NE Day 1 p 12 lines 21–22. See also NE Day 4 p 18 lines 16–22 and p 19 lines 4–8.

5 The Complainant’s testimony as to what happened next is set out below:

(a) According to the Complainant, the conversation began on a professional note, with the Complainant attempting to understand the job needs of the Appellant and his wife. However, as the night progressed, the conversation got more personal. This began with the Appellant asking the Complainant if she was single. When she replied that she had a boyfriend, the Appellant probed further, asking questions about the Complainant’s boyfriend’s nationality, as well as his character and traits that the Complainant liked.⁹

(b) At or around 8.44pm¹⁰, when the Complainant had been with the Appellant at BLVD for over two hours, she excused herself to go to the toilet as she was getting uncomfortable with the personal questions that the Appellant was asking (“First Toilet Visit”).¹¹ Whilst in the toilet, the Complainant sent a series of messages to Ashish Singh (“Ashish”), her boyfriend at the time, asking him to check in with her at 9.00pm.¹²

(c) After the First Toilet Visit, the Complainant returned to BLVD, where she ordered another round of drinks – this being her fourth round for the night.¹³ At that point, the conversation went beyond being personal and started taking on a highly sexual dimension. The Appellant asked the Complainant whether he could pose her five questions (“Five Questions”). The Complainant had expected him to ask her about

⁹ NE Day 1 p 17 (line 26) to p 18 (line 24).

¹⁰ NE Day 1 p 20 lines 7–11.

¹¹ NE Day 1 p 18 lines 27–29. See also NE Day 1 p 25 lines 18–25.

¹² NE Day 1 p 20 lines 11–21. See also Exhibit P10, at ROP p 594.

¹³ NE Day 1 p 22 lines 5–6. See also NE Day 1 p 12 lines 21–22, p 13 lines 7–9 and p 14 lines 21–28.

employment matters but he instead asked her deeply intimate questions, such as the last time she had sex and whether she had liked it, whether the Complainant preferred sex in a car or hotel, as well as whether the Complainant would cheat on a hypothetical partner of 10 years.¹⁴

(d) At or around 9.25pm¹⁵, the Complainant excused herself to go to the toilet a second time (“Second Toilet Visit”) as she was highly distressed by just how sexual the conversation had become.¹⁶ Whilst in the toilet cubicle, the Complainant called “Edna”, a church friend who stayed near Changi City Point. The Complainant cried and told Edna in a panic that “This guy is talking about sex. Can you just come and pick me up, please?”¹⁷ The Complainant also attempted to call Sabrina Zeddham (“Sabrina”), who was her manager at the recruitment firm, as well as Ashish, but both did not pick up.¹⁸ However, when the Complainant emerged from the cubicle and was about to exit the toilet, Ashish returned her call, upon which the Complainant cried to him: “Please come to Changi City Point now, please.”¹⁹

(e) As the Complainant came out of the toilet, she saw the Appellant leaning on the wall at the exit of the male toilet. He asked her: “Do you consider yourself an impromptu person?”, to which the Complainant answered in the affirmative. According to the Complainant, the

¹⁴ NE Day 1 p 22 (line 7) to p 23 (line 3).

¹⁵ NE Day 1 p 26 lines 10–11.

¹⁶ NE Day 1 p 23 lines 11–17.

¹⁷ NE Day 1 p 23 lines 22–31.

¹⁸ NE Day 1 p 24 lines 1–4. See also Exhibit P11, at ROP p 596; Exhibit D1, at ROP p 636.

¹⁹ NE Day 1 p 24 lines 3–7.

Appellant then took his right hand and grabbed her left upper arm, pulling her into the Nursing Room located beside the male and female toilets.²⁰ There, the Incident occurred.²¹

(f) Sometime during the Incident, the Appellant released the Complainant's hand (which he had been holding and using to stroke his penis) and started using his own hand to masturbate himself. With both her hands now free, the Complainant managed to use her phone to text Ashish and Sabrina, as well as give Sabrina a missed call. Sabrina had then responded by calling the Complainant. The Complainant answered Sabrina's call in the Appellant's presence, telling Sabrina: "I'm in Changi City Point. I'm in the baby room [*ie*, Nursing Room]. Come now". This conversation with Sabrina prompted the Appellant to stop masturbating and put his penis back into his pants. He then went to the sink to wash his hands.²² Thereafter, the Appellant instructed the Complainant to act as if nothing had happened and walked out of the Nursing Room. The Complainant followed a few steps behind him,²³ with Sabrina still on the line. At Sabrina's urging, the Complainant called the police and the Appellant was arrested at the scene.²⁴

6 I set out a chronology of the *relevant* messages and calls received and made by the Complainant on the evening of the Incident on 1 March 2023. It is not in dispute that these calls and messages emanated from and were received by the Complainant's phone:

²⁰ NE Day 1 p 34 (line 15) to p 35 (line 5).

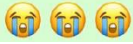
²¹ NE Day 1 p 38 (line 15) to p 39 (line 23).

²² NE Day 1 p 40 lines 5–18 and p 44 lines 8–10.

²³ NE Day 1 p 40 lines 19–21.

²⁴ NE Day 1 p 40 (line 25) to p 41 (line 25). See also Exhibit P4, at ROP p 574.

From	To	Time	Contents
	Sabrina	7.48.45pm	Hey hey Sab
		7.48.57pm	I am meeting someone in [Client Bank] now. Still talking
		7.49.01pm	I text you once I am done
	Ashish	7.49.08pm	Ashish
		7.49.19pm	I met a candidate now. He is from Delhi.
		7.49.29pm	He treat me drink and I am a bit tipsy now
		7.49.35pm	[Image of a gin & tonic drink]
	Sabrina	7.53.45pm	This is the second person I met
		7.53.56pm	This is a candidate Roohi headhunted babe
		7.54.06pm	I update you later. Jacqui asked me to be careful
Sabrina		7.58.34pm	Why careful ?
		7.58.43pm	With [Client Bank] ?
	Sabrina	8.40.53pm	Yes
		8.40.58pm	Omg I am still with him
Ashish		8.44.33pm	Is that G&T?
	Ashish	8.44.43pm	Yes
Ashish		8.44.46pm	Are you ok now?
	Ashish	8.44.55pm	Ashish, can you check in with me by 9pm
		8.45.08pm	This candidate is a bit drunk and I try to protect myself
Ashish		8.45.44pm	You went to recruit a candidateM
		8.45.47pm	?*
		8.45.57pm	Ermhhh I suggest you go home
		8.46.22pm	Yeah sure But I suggest you leave now
		8.46.42pm	It's better to stay away from any sort of trouble
		8.47.03pm	Even though his intentions don't seem bad
Sabrina		8.49.56pm	Babe
		8.50.02pm	Why jb say be careful?
		8.50.12pm	Sexual harassment ?
	Ashish	8.55.39pm	Yes
		8.55.42pm	Ashish
		8.55.47pm	He keep buying me drinks
		8.55.48pm	Omg
		8.56.00pm	Ok I suggest to leave now
		8.56.04pm	I miss you
		9.17.22pm	Should I go find you now?
	Sabrina	9.25.00pm	No lah
		9.25.08pm	Coz we should not approach clients
		9.25.16pm	But Roohi reach out to him
		9.25pm	[Cancelled call]

From	To	Time	Contents
	Ashish	9.26.04pm	[Cancelled call]
		9.26.56pm	Ashish, can you help me to pick me up from Changi City Point?
	Edna	9.27.08pm- 9.27.43pm	[Call lasting 35 seconds]
Ashish		9.31pm	[Call lasting one minute]
		9.33.41pm	I am sorry my battery had died earlier in the gym
		9.33.45pm	I will book a cab
		9.33.54pm	Send me the exact address
Ashish	Ashish	9.37.51pm	Changi City Point
		9.37.54pm	Ashish
		9.37.56pm	Help me
		9.37.59pm	
		9.38.03pm	I am in the baby space
	Sabrina	9.38.16pm	Abe
		9.38pm	[Cancelled call]
Sabrina		9.38pm	[Call lasting 11 minutes]
Ashish		9.39.38pm	[Complainant's name] Yes I am coming
		9.39.59pm	Please don't go out
		9.48.46pm	I am on my way [Complainant's name]
	Ashish	9.50.08pm	Ok
Ashish		9.50pm	[Call lasting 1 minute 58 seconds]
	999	9.52pm	[First Information Report]

7 The Appellant's account of what happened on the evening of 1 March 2023 is by and large similar to that of the Complainant, save that he maintains that the conversation was mutually enjoyable and the Incident was consensual. The Appellant's account is set out below:

(a) It was *the Complainant* (and not the Appellant) who started asking personal questions.²⁵ In fact, when the Appellant indicated that he needed to leave soon, she persuaded him to stay.²⁶ The Complainant,

²⁵ NE Day 4 p 25 lines 4–29.

²⁶ NE Day 4 p 35 lines 3–25.

whom the Appellant observed to be “high on alcohol”,²⁷ also told the Appellant that she was taking a risk by speaking to him, saying: “Not just me but my boss and my boss’s bosses also knows that. I’m trying to poach a [person from Client Bank]”.²⁸ All of a sudden, the Complainant had then asked the Appellant whether he would like to go to a hotel. The Appellant turned down the idea as he was married.²⁹

(b) The Complainant then asked whether he would be interested in kisses, to which the Appellant replied that it was not a good idea as they were in a busy place.³⁰ Contrary to the Complainant’s account, the conversation did not turn sexual then and he never asked the Complainant the Five Questions.³¹ The Complainant neither looked uncomfortable during the conversation nor requested to leave.³² Following the Complainant’s remarks about kisses, the Appellant suggested that he could drop her home in a cab and they could share one or two kisses during the journey.³³ However, the Complainant counter-proposed that they kiss in the Nursing Room.³⁴ The Appellant told her that this would be difficult, given the crowd.³⁵ However, the Complainant insisted that this could be done and said she would wait for

²⁷ NE Day 4 p 39 lines 1–12.

²⁸ NE Day 4 p 41 lines 22–27.

²⁹ NE Day 4 p 44 lines 14–22.

³⁰ NE Day 4 p 46 lines 16–20.

³¹ NE Day 4 p 49 (line 20) to p 51 (line 31).

³² NE Day 4 p 53 lines 7–10.

³³ NE Day 4 p 53 lines 18–26.

³⁴ NE Day 4 p 55 (line 22) to p 57 (line 20).

³⁵ NE Day 4 p 55 (line 31) to p 56 (line 1).

him outside the Nursing Room. The Complainant then stood up and left for the Nursing Room.³⁶

(c) The Appellant stayed in his seat for a few minutes before he got up to go to the toilet.³⁷ When the Appellant left the toilet, he did not see the Complainant and he went halfway back to BLVD. However, when he saw that there was no one in the area, the Appellant turned back to the toilet.³⁸ It was then that the Appellant spotted the Complainant leaving the ladies' toilet.³⁹ The Appellant and the Complainant made eye contact and they both entered the Nursing Room as planned.⁴⁰

(d) In the Nursing Room, the Incident occurred, albeit with the Complainant's consent. In fact, it was she who offered to masturbate the Appellant⁴¹ and he had permitted her do so until he ejaculated. The Appellant then went to the Nursing Room's sink to wash his hands.⁴² Thereafter, the Complainant wanted to continue kissing but the Appellant was no longer interested, telling her: "There's a smell coming out from your mouth". This angered the Complainant, who pushed the Appellant away and told him to "Fuck off".⁴³

³⁶ NE Day 4 p 57 lines 22–25.

³⁷ NE Day 4 p 58 (line 26) to p 59 (line 31).

³⁸ NE Day 4 p 60 lines 5–27, and p 61 lines 14–19.

³⁹ NE Day 4 p 60 lines 27–31.

⁴⁰ NE Day 4 p 62 lines 1–30.

⁴¹ NE Day 4 p 70 (line 12) to p 71 (line 3).

⁴² NE Day 4 p 77 lines 19–32.

⁴³ NE Day 4 p 78 lines 19–22.

(e) The Appellant then left the Nursing Room with the Complainant following behind him.⁴⁴ He returned to BLVD,⁴⁵ ordered more drinks and sat down to send several messages with his phone.⁴⁶ As the Complainant did not return to the table, the Appellant walked out of BLVD to look for her.⁴⁷ He saw her on the phone outside the adjacent restaurant looking “perfectly okay when she was talking”.⁴⁸ Sometime later, the Appellant was arrested by police officers at the scene.

8 The Appellant’s case was that the Complainant made up the allegations against him as she was offended by his insensitive remark about her breath when she wanted to continue kissing.⁴⁹ On appeal, the Appellant’s counsel suggested that the Complainant was acutely aware of the ethical risks of meeting with the Appellant – with the rendezvous being potentially viewed as an attempt to poach the employee of an important client, *ie*, the Client Bank (see [4] above). She would thus have been concerned that after offending the Appellant by telling him to “fuck off”, she might get into trouble for attempting to headhunt him from the Client Bank. She had thus adopted a “revisionist narrative” by turning the tables around and making allegations against the Appellant.⁵⁰

⁴⁴ NE Day 4 p 79 lines 1–3.

⁴⁵ NE Day 4 p 79 lines 4–5.

⁴⁶ Exhibits D9 to D11.

⁴⁷ NE Day 4 p 101 lines 22–24.

⁴⁸ NE Day 4 p 103 line 8.

⁴⁹ NE Day 2 p 69 lines 28–31 and p 70 lines 29–32.

⁵⁰ Notes of hearing on 30 April 2026.

Decision

9 In setting aside the conviction, I am mindful that an appellate court will only interfere with the trial judge’s findings of fact if they are shown to be plainly wrong or against the weight of the evidence: *Soh Chee Wen v Public Prosecutor* [2025] 2 SLR 176 at [65]. In assessing if that has indeed been the case here, I am also guided by the trite principle that an appellate court is in as good a position as the trial judge to assess the internal and external consistency of the witnesses’ evidence, and to draw necessary inferences of fact from the given circumstances of the case: see, for example, *Haliffie bin Mamat v Public Prosecutor* [2016] 5 SLR 636 at [32].

10 The present case effectively involves one person’s word against another’s. For all practical intents and purposes, the Prosecution’s case hinged entirely on the testimony of the Complainant. I thus had to determine whether her evidence was unusually convincing, in the sense of being sufficient on its own to establish the charge against the Appellant beyond reasonable doubt: *Public Prosecutor v GCK* [2020] 1 SLR 486 at [90]. In doing so, the primary focus of my analysis in this case has been on whether the Prosecution’s case was internally consistent, as well as whether it was externally consistent with the facts and circumstances: *GII v Public Prosecutor* [2025] 3 SLR 578 (“*GII*”) at [27].

11 I am keenly aware that in cases such as this, there will generally be human errors in recollection by the witnesses and care should be exercised to avoid throwing out a complainant’s testimony on account of peripheral inconsistencies: see *GII* at [38]. However, there were issues in the Complainant’s testimony that were not merely peripheral in nature but – in my

view – went to the heart of her allegations against the Appellant. Viewing these in the round, I am not confident that it would be safe to convict the Appellant.

12 The key issues that troubled me are canvassed in turn below.

The circumstances leading up to the Incident

13 The Complainant was with the Appellant for at least three hours, up to the point when the Incident happened. The BLVD receipt⁵¹ shows that both the Complainant and Appellant were at BLVD from 6.30pm onwards. They would have been there until at least 9.35pm when, according to the Complainant’s testimony, the Incident was brought to a halt by the 9.38pm call from Sabrina.

14 With that background in mind, it is necessary to examine the Complainant’s account of how she grew increasingly uncomfortable with the conversational topics being raised by the Appellant during their meeting. To recapitulate, the Complainant testified in court that she made the First Toilet Visit as she was uncomfortable with how the matters raised by the Appellant in their conversation was growing progressively more personal (see [5(b)] above).⁵² At that time, the Complainant had sent a message to Ashish at 8.45.08pm, saying: “This candidate is a bit drunk and I try to protect myself” (see the table at [6] above). According to the Complainant, she returned to BLVD after the First Toilet Visit, where she continued to drink and talk with the Appellant. After that point, the conversation grew sexually explicit, with the Appellant posing the Five Questions. The Complainant testified that this prompted her to go for the Second Toilet Visit, during which she had communicated with both Edna and Ashish (see [5(d)] above):

⁵¹ Exhibit D8.

⁵² See also NE Day 2 p 22 line 26.

(a) She called Edna at 9.27pm and told her that the Appellant was “talking about sex”. By the Complainant’s account, she was clearly very distraught by this time as she was *crying* to Edna.⁵³

(b) She also called Ashish and claimed that she had told him: “Please just come to Changi City Point now, please.” According to the Complainant, her distress would also have been evident during this call as she had “cried” to Ashish.⁵⁴

15 Clearly, for the sexually explicit nature of the conversation to have brought the Complainant to the point of tears by the Second Toilet Visit, the Appellant’s words must have been aggravatingly provocative. At the trial below, the Defence repeatedly pressed the Complainant on why, notwithstanding this, she did not simply disengage from the Appellant and leave BLVD prior to the Second Toilet Visit. After all, the Appellant was someone whom she virtually had no personal ties with and the conversation was occurring at a public place (*ie*, in a restaurant within a mall), meaning that there was nothing to stop the Complainant from politely taking her leave at any time. It is also apposite to qualify at this juncture that while the Defence had legitimate cause to press the Complainant for an explanation as to why she did not simply walk away, this line of inquiry must also be tempered against the understanding that victims of sexual offences cannot be straitjacketed in the expectation that they must act or react in a certain manner: see *GBR v Public Prosecutor* [2018] 3 SLR 1048 at [20]. In that regard, the mere failure by the Complainant to take her leave should not be regarded as automatically undermining her credibility.

⁵³ NE Day 2 p 44 line 24.

⁵⁴ NE Day 2 p 47 lines 1–7.

Having said that, it was still necessary to scrutinise her *explanation* for not walking away, when assessing the veracity of her account.

16 It is here that I find the Complainant’s evidence, specifically as regards why she continued to stay with the Appellant, to be problematic.⁵⁵ The Complainant explained that she had asked Ashish to check in on her at 9pm so that she would have an excuse to leave⁵⁶ (see entry timestamped 8.44.55pm in the table at [6] above). However, it is hard to understand why there was even a need to get Ashish involved – if her intent was to find an excuse to politely take her leave, she could have simply done so with or without Ashish in the picture. The Defence thus pressed her on this and, under further cross-examination, the Complainant eventually countered that it was the Appellant who had *stopped* her from leaving by telling her: “Oh, we haven’t finished our conversation”.⁵⁷ This was a switch in her account – she did not mention anything about the Appellant stopping her from leaving while they were at BLVD, whether in her examination-in-chief or in her statement to the police.⁵⁸

17 There were also other internal inconsistencies in the Complainant’s evidence, as regards her discomfort over how the conversation turned increasingly personal just prior to the First Toilet Visit. In her examination-in-chief, the Complainant testified that the First Toilet Visit occurred because she “was a bit not comfortable back then with these questions”⁵⁹ (see [5(b)] above). However, this conflicted with the account in her

⁵⁵ NE Day 2 p 23 (line 22) to p 26 (line 13).

⁵⁶ NE Day 2 p 26 lines 19–24.

⁵⁷ NE Day 2 p 26 (line 26) to p 27 (line 14).

⁵⁸ NE Day 2 p 27 lines 15–17.

⁵⁹ NE Day 1 p 18 lines 28–29.

police statement,⁶⁰ in which she stated that she went to the toilet the first time because she felt tipsy, with no mention of any discomfort over the contents of the conversation with the Appellant.⁶¹ When the Defence cross-examined the Complainant on this, she was unable to offer any convincing explanation for the divergence⁶² and instead did a *volte-face*, testifying that at the point of the First Toilet Visit, she felt that the Appellant’s questions were not that disconcerting after all – specifically, she testified that the questions were “a bit personal, but this [was something] that we can share with someone that we want to connect at a personal level”.⁶³ This was a clear detraction from her evidence-in-chief that the personal nature of the questions had bothered her to the point that she needed to seek refuge by way of the First Toilet Visit.

18 Given the evidence, I find it difficult to agree with the DJ’s view (at [39] of the GD) that the Complainant’s testimony was internally consistent, at least as regards her reasons for staying with the Appellant at BLVD despite her growing distress over his words.

The phone calls to Edna and Sabrina

19 A key facet of the Prosecution’s case was that the Appellant’s claim to the Incident having been consensual was debunked by the phone call which the Complainant made to Edna at 9.27pm, during the Second Toilet Visit. As explained at [14(a)] above, the Complainant testified that she was crying to Edna over the increasingly sexual nature of the conversation. Edna’s evidence in court also appeared to support the Complainant’s account, with Edna

⁶⁰ Exhibit D2, at ROP pp 637–638.

⁶¹ Exhibit D2, at ROP p 638.

⁶² NE Day 2 p 56 (line 12) to p 60 (line 19).

⁶³ NE Day 2 p 59 lines 12–18; see also NE Day 2 p 88 lines 17–24.

testifying that the Complainant told her that the “conversation was getting uncomfortable”, the client was “being funny” and Edna had to be on “standby if required to come down and rescue [the Complainant]”.⁶⁴ The Prosecution thus argued that the Complainant would have no reason to reach out to Edna in this fashion, prior to the Incident, if the Incident that was soon to unfold in the Nursing Room was indeed consensual. In contrast, the Defence’s case was that the Complainant wanted Edna to pick her up because the Complainant was feeling tipsy⁶⁵ and not because of any harassment by the Appellant.

20 What troubles me is that the Prosecution’s evidence on this point does not sit well with the Complainant’s other messages sent at the same time, specifically her WhatsApp message to Sabrina at 9.25pm (see the table at [6] above). By way of background, the Complainant had earlier in the evening messaged Sabrina to say that “Jacqui” (the CEO of their recruitment firm) had cautioned the Complainant to be careful when meeting the Appellant. To this, Sabrina had sent a message at 8.50pm, querying why Jacqui advocated caution with the Appellant and asking if this was because of sexual harassment: “Why [Jacqui] say be careful? Sexual harassment?” Critically, the Complainant had responded to Sabrina at 9.25pm saying “No lah”. The Complainant’s response was noteworthy because it was in reply to a question posed by Sabrina about caution being exercised by the Complainant on account of sexual harassment *from the Appellant specifically*. Furthermore, the Complainant’s reply was just *two minutes* before the Complainant’s call to Edna, in which the Complainant claimed to have been crying over the Appellant’s sexually explicit questions.

⁶⁴ NE Day 3 p 22 lines 20–30.

⁶⁵ NE Day 2 p 76 lines 8–11.

21 It is of course possible to view the response “No lah” as simply a clarification by the Complainant to Sabrina as to what exactly Jacqui’s concerns were. Still, the Complainant’s unqualified negative response “No lah” raises more questions than answers, given the specific allusion in Sabrina’s question to sexual harassment by the Appellant specifically, at a point when – according to the Complainant – the Appellant’s sexual advances had already reduced her to tears. It was not as if Sabrina was someone whom the Complainant was reticent about confiding in. When the Incident happened, the only other person the Complainant had called other than Ashish (her boyfriend) and Edna (her friend from church who lived nearby) was Sabrina. It is also troubling that following from the negative reply “No lah” to Sabrina’s query about sexual harassment by the Appellant, the Complainant went on to message Sabrina *further* about business, explaining that Jacqui had sounded caution because of the risk of their recruitment firm being perceived as poaching an employee of the Client Bank, as well as describing how it was Roohi who had reached out to make contact with the Appellant (see the entries timestamped 9.25.08pm and 9.25.16pm in the table at [6] above). The exchange of messages with Sabrina thus stood in stark incongruity with the image that the Prosecution sought to portray with the call to Edna, *ie*, that the Complainant had been harassed by the Appellant’s sexually explicit conversations to the point of tears.

22 Again, I am mindful that as a victim of a sexual offence, the Complainant cannot be pigeon-holed by expectations that she behave in any preconceived manner when responding to Sabrina’s message: see [15] above. The Complainant’s negative response “No lah” cannot in and of itself be regarded as debunking her account. A more textured analysis of her explanation (juxtaposed against the context of the surrounding facts) is required. In this respect, the Complainant’s explanation for her negative response presented

difficulties for the Prosecution’s case. Specifically, the Complainant had explained in cross-examination that she texted “No lah” because “[w]hen you have that emotions, you don’t text, you---you want to speak and further clarify and ask for help, which is what I did.”⁶⁶ However, this explanation – *ie*, that when it came to such emotions, the Complainant preferred to speak rather than text – was unconvincing. Her texts to Ashish at 9.37.51pm to 9.38.03pm showed that she was quite open to expressing her emotions over text messages (see the table at [6] above). To recapitulate, these were messages, including one with three crying face emojis, that (according to the Complainant) were sent to Ashish *whilst the Incident was happening*.⁶⁷

23 While the negative response “No lah” is not in any way determinative in undermining the Prosecution’s case, it adds material heft to the defence when viewed together with the other surrounding evidence, especially that pertaining to the timing of the calls and messages. This now leads me to a critical portion of the Prosecution’s evidence – regarding the phone call with Sabrina. The Complainant testified in examination-in-chief that while the Incident was taking place, the Appellant had released her hand so that he could masturbate himself. With both her hands now free, she was able to text Ashish and give Sabrina a missed call⁶⁸ (see [5(f)] above). Sabrina had then responded with a call to the Complainant at 9.38pm and thereafter remained on the line with the Complainant for 11 minutes. It was the Complainant’s evidence that when Sabrina called, the Complainant told her: “*Sab[r]ina, I’m in Changi City Point. I’m in the baby room [ie, Nursing Room]. Come now.*”⁶⁹ In other words, when

⁶⁶ NE Day 2 p 31 lines 8–10.

⁶⁷ NE Day 1 p 49 lines 26–30.

⁶⁸ NE Day 1 p 40 lines 5–9.

⁶⁹ NE Day 1 p 40 lines 13–14.

the Appellant heard the Complainant speaking to Sabrina and overtly giving away their location, this prompted him to resile from what he was doing, put his penis back into his pants and wash his hands at the Nursing Room's sink.⁷⁰ The Complainant claimed that the Appellant had then instructed her to act as if nothing had happened, after which he left the Nursing Room, with the Complainant following a few steps behind him.⁷¹ According to the Complainant, "*Throughout this time, Sabrina hold on to the call silently*" (which explains why Sabrina's 9.38pm call to the Complainant lasted 11 minutes).⁷² Once they were outside the Nursing Room, the Appellant went back to BLVD by himself. This left the Complainant standing there alone, upon which she started crying to Sabrina over the phone and telling her what happened.⁷³

24 The Appellant argued that the Complainant's evidence about her call with Sabrina was inconsistent with Sabrina's testimony in court. Specifically, during Sabrina's cross-examination, she answered as follows:⁷⁴

A: Yes, [the Complainant] gave me a missed call.

Q: Okay. And then you called her back, correct?

A: Correct.

Q: She picked up your call, correct?

A: Correct.

Q: She told you that she's in the toilet, correct?

A: Correct.

Q: She told you that she's alone, correct?

A: Correct.

⁷⁰ NE Day 1 p 40 lines 15–16.

⁷¹ NE Day 1 p 40 lines 19–21.

⁷² NE Day 1 p 40 lines 21–22.

⁷³ NE Day 1 p 40 lines 22–25.

⁷⁴ NE Day 3 p 31 (line 30) to p 32 (line 6).

I should add that although Sabrina used the term “toilet”, she could have been meaning to refer to the Nursing Room, as she appeared to have used both terms interchangeably.⁷⁵ In any event, the Appellant argued that the series of replies from Sabrina’s cross-examination extracted above shows that the Complainant had informed Sabrina that the Complainant was *alone* in the toilet (or Nursing Room, assuming Sabrina used the term “toilet” loosely) at the time of Sabrina’s call. This, argued the Appellant, shows that what the Complainant told Sabrina is at odds with what the Complainant testified in court, which was that the Complainant was *not* alone in the Nursing Room at the point when Sabrina called as the Appellant was with her and in the midst of the offending act.

25 However, the series of cross-examination questions in the preceding paragraph captured Sabrina’s evidence in a highly disjointed fashion, failing to properly set out the underlying chronology. A clearer picture is gleaned from Sabrina’s evidence-in-chief, where she lucidly testified:⁷⁶

So, when she replied, she was crying for a while. And then I tried to understand what is happening and---and then she told me that someone followed her in---in the toilet and I understood that this is a---this is something really, really bad. And I tried to calm her and because I don’t know where she is, I---***I don’t really know if she’s still in the toilet or something.*** I tried to ask her if she’s safe and if---if she’s alone. ***Then she said that she’s alone*** and I tried to ask her if there is people around. And asked her to go where other people can see her and---and call the police.

[emphasis added in bold italics]

From the above, it is clear that contrary to the Appellant’s suggestion, Sabrina did *not* conjoin the Complainant’s statement about being *alone* with the point

⁷⁵ See NE Day 3 p 29 lines 25-26, where Sabrina said that the Complainant told her that someone *followed her into the toilet*, when both parties were agreed that the Incident took place in the Nursing Room and not the toilet.

⁷⁶ NE Day 3 p 29 lines 24–32.

in time when the Complainant was in the Nursing Room (or toilet, being the term that Sabrina used). In this specific respect, Sabrina's account of what the Complainant relayed to her could easily be reconciled with the Complainant's evidence in court, with their respective versions comfortably co-existing within the following chain of events:

- (a) The Complainant was in the Nursing Room when Sabrina called. Clearly, the Complainant would *not* have been "alone" then as the Appellant was still with her.
- (b) After the Incident, both the Complainant and the Appellant left the Nursing Room, upon which then Appellant proceeded ahead to BLVD and leaving the Complainant alone outside the Nursing Room. By this time, the Complainant *would* have been "alone" and she could conceivably have told Sabrina that she was "alone" then.

I thus disagree with the Appellant that there was any inconsistency, as between Sabrina's account of what the Complainant told her on the one hand and the Complainant's evidence in court on the other, at least in this regard.

26 What I *do* find to be glaringly inconsistent is Sabrina's evidence that when the Complainant was recounting to Sabrina how the latter's call had effectively saved the Complainant from the Appellant, the Complainant said the following to Sabrina:⁷⁷

"Oh, this is where you saved me because when you called, *I also lied to him and **said it's my boyfriend***, so he know I need to pick up, and this is where he"---"he went away from the toilet."

[emphasis in italics and bold italics added]

⁷⁷ NE Day 3 p 31 lines 13–16.

Sabrina again confirmed this under cross-examination:⁷⁸

Q: Okay. And at that conversation, she told you that your call saved her, correct?

A: True.

Q: And she told you that because you called, ***she told the accused person that it was her boyfriend***, and then he left her alone, correct?

A: True.

[emphasis in italics and bold italics added]

As seen from these extracts of Sabrina’s testimony immediately above, the Complainant appears to have told Sabrina that the latter’s call saved the Complainant as it allowed the Complainant to bluff the Appellant into thinking that her *boyfriend (ie, Ashish) was arriving*. This plainly diverged from the Complainant’s testimony in court that the Appellant brought the sexual encounter to an abrupt halt because the overt manner in which she had answered Sabrina’s call – “*Sab[r]ina, I’m in Changi City Point. I’m in the baby [ie, Nursing R]oom. Come now*” (see [23] above) – this manner of answering the call would have made him think that it was ***Sabrina*** who was arriving. Unfortunately, the Prosecution failed to re-examine Sabrina on this or recall the Complainant to explain the inconsistency. In the circumstances, Sabrina’s evidence failed to tally with the Complainant’s testimony in a material respect, giving rise to a marked *external* inconsistency in the Complainant’s account.

27 Apart from being inconsistent with the external evidence (*ie*, Sabrina’s testimony), the Complainant’s testimony on this point also appears to be *internally* inconsistent when compared against her police statement.⁷⁹ In her

⁷⁸ NE Day 3 p 32 lines 15–21.

⁷⁹ Exhibit D2, at ROP p 638.

police statement, the Complainant stated that it was she who called Sabrina (rather than Sabrina calling her) and, critically, only *after* (rather than during) the Incident:

I pushed [the Appellant] away and told him 'no', He washed his hand and came back. I called my boss and [the Appellant] told me to go back to the restaurant and treat it as nothing happened. I told my boss everything and waited outside the restaurant.

28 I should nevertheless caveat that the inconsistencies between the evidence of Sabrina and the Complainant, pertaining to the manner in which the latter had answered Sabrina's call in the Appellant's presence, did not appear to have been specifically highlighted to either the Complainant or Sabrina. This meant that neither witness appears to have been given the chance explain the disconnect. Consequently, I am somewhat hesitant to attribute significant weight to this inconsistency.

29 Having said that, the evidence pertaining to Sabrina's call to the Complainant spawns a more fundamental inconsistency, in light of the account given by Ashish in his police statement. It is to that which I now turn.

Ashish's police statement

30 What troubles me the most in this case is the inconsistency which arises when the Prosecution's evidence is juxtaposed against the statement that Ashish gave the police.

31 The Prosecution had originally intended to call Ashish to testify as a Prosecution witness. However, on the second day of trial, the Prosecution informed the court and the Defence that it will no longer be calling Ashish. The Investigation Officer, Mr Terence Chong, testified that Ashish did not wish to

be involved in this case and did not wish to be present in court.⁸⁰ Nevertheless, the Prosecution disclosed Ashish's police statement⁸¹ to the Defence.⁸² The Defence had then tried to subpoena Ashish to appear as a witness for the Defence but was unfortunately unable to reach him at the address provided. Accordingly, the Defence had to resort to applying for Ashish's police statement to be admitted through the hearsay exception.⁸³

32 The material portion of Ashish's police statement reads:⁸⁴

... at around 9pm plus, I received a call from [the Complainant].
She was crying and she said something like

“this guy forced himself on her in the baby's room. The guy held her hand and pulled her into the baby room. He locked the door, he started kissing her. After awhile, he unzipped his pants and he forcibly held [the Complainant's] hand and placed it on his dick. He forced himself on her and *wanted to penetrate her*. He [was trying] to pull [the Complainant's] pant. He stopped because [the Complainant] is on her period. He insisted her to go to a hotel. When she to[o]k out her phone to call, the guy went out”.

This call to me was made when she was ***alone in the baby room***. I advised her to call for the Police while I make my way down.

[Emphasis added in italics and bold italics]

It is critical at this juncture to note that according to Ashish's police statement, the Complainant called him and relayed the Incident to him *while she was crying and alone in the baby room* (ie, Nursing Room).

⁸⁰ NE Day 3 p 49 lines 4–8.

⁸¹ Exhibit D15.

⁸² NE Day 2 p 1 line 13–18.

⁸³ NE Day 5 p 33 lines 8–19.

⁸⁴ Exhibit D15, at ROP p 775.

33 It is undisputed that Ashish made two calls – one at 9.31pm and another at 9.50pm – to the Complainant at the material time (see the relevant entries in the table at [6] above). It is also clear that the call in which the Complainant relayed the Incident to Ashish could *not* have been the 9.31pm call as this call would have occurred *before* the Incident. According to the Complainant, the messages which she sent to Ashish at about 9.37.51pm asking for help (see the table at [6] above) were sent while the Incident was happening – the Appellant had released the Complainant’s hand so that he could masturbate himself, leaving the Complainant with both hands free which she then used to text Ashish for help. Furthermore, the Complainant claimed that when Sabrina called her shortly after that, at 9.38pm, it was the Complainant’s act of answering this call that prompted the Appellant to stop his offending actions. Assuming the Complainant’s account to be true, the 9.31pm call must thus have occurred *prior to* the Incident, *ie*, when the Complainant was still crying over the increasingly sexual nature of the conversation with the Appellant. This means that the only other call in which the Complainant could have relayed the Incident to the Appellant would have been the 9.50pm call. This is where the Prosecution’s case gets fraught with difficulties.

34 It is difficult to see how the Complainant could have called Ashish at 9.50pm to relay the Incident, while she was (as stated in Ashish’s police statement) *alone in the Nursing Room*, if the Complainant’s account about Sabrina’s call is true. According to the Complainant, after Sabrina’s 9.38pm call precipitated the end of the Incident, the Appellant had put his penis back in his pants and walked out of the Nursing Room. The Complainant followed behind him, with Sabrina quietly staying on the line. Once the Appellant had walked ahead to BLVD and the Complainant was alone, she broke down and cried, telling Sabrina (who was still on the line) what happened. This sequence of

events would have culminated with the Complainant being alone *outside* the Nursing Room and crying to Sabrina over the call. That call (lasting for 11 minutes) would have ended at 9.49pm, *ie*, just one minute before the call from Ashish. If the Complainant was already outside the Nursing Room relaying the Incident to Sabrina, how could she (one minute after the call with Sabrina ended) be back *inside* the Nursing Room, alone and relaying the Incident to Ashish? It was *not* the Complainant's evidence that she had gone *back* into the Nursing Room after her call with Sabrina ended, to speak to Ashish.

35 The Complainant was thus questioned extensively by the Defence about what she said to Ashish in the two calls of 9.31pm and 9.50pm. In the course of cross-examination, the Complainant sought to refute the contents of Ashish's police statement by insisting that she did *not* describe the Incident to him in *either* the 9.31pm call or the 9.50pm call. Rather, her evidence was as follows:

- (a) For the 9.31pm call, all she said to Ashish was "Please just come to Changi City Point now. Please pick me up", although she had "cried" when she was speaking to him.⁸⁵
- (b) For the 9.50pm call, she said that all she communicated to him were the directions to Changi City Point.⁸⁶

The Complainant was thus adamant that she never told Ashish about the Incident in either of the two calls above.

36 Ashish's account thus could not be reconciled with the Complainant's version of how Sabrina's call (which, according to the Complainant, had served

⁸⁵ NE Day 2 p 46 (line 19) to p 47 (line 9).

⁸⁶ NE Day 2 p 72 lines 7–11.

the critical purpose of bringing the Incident to a halt) had concluded, nor with the Complainant's own account of what she had told Ashish. Yet, the Complainant was unable to explain the account given by Ashish in his police statement, save to say that Ashish had lied.⁸⁷

37 There was yet another material inconsistency in the Prosecution's case, arising from Ashish's police statement. As seen in the extract at [32] above, Ashish had recounted in his police statement that the Complainant told him that the Appellant "wanted to penetrate her". This was at odds with the testimony of the Complainant, who maintained that although the Appellant tried to pull down her panties, she never said that he wanted to penetrate her. When the Complainant was confronted with what Ashish said in his police statement, she retorted flatly that she never told Ashish about the Appellant's purported attempt at penetration. Yet again, the Complainant asserted that Ashish was lying, declaring that she "never used the word "penetrate" in [her] entire life".⁸⁸ Although the Complainant's position was that Ashish lied in his police statement, it is not possible for me to simply prefer the Complainant's evidence over that of Ashish on this point, especially since Ashish's account *appears* to be consistent with the triage nurse's report (which would presumably have been prepared with the Complainant's input) that the Appellant "attempted to *?rape her*"⁸⁹ (emphasis added in italics). The triage nurse was never called to court as a witness to explain how she took down the "chief complaint", and the Complainant was not recalled to deal with this aspect of what she presumably told the triage nurse.

⁸⁷ NE Day 2 p 71 lines 16–31.

⁸⁸ NE Day 2 p 70 lines 10–28.

⁸⁹ Exhibit D5 – under "Chief Complaint" of "Triage" section, at ROP p 647; NE Day 3 p 7 lines 13–19.

38 The contradictions arising from Ashish’s police statement are highly material. Ashish was not a supporting actor with a minor role in the plot. He was the Complainant’s boyfriend at that point and she spoke with him, both immediately before and after the Incident, as well as messaged him during the Incident. Given his central role, it becomes that much more difficult to sweep his account under the carpet in preference for the Complainant’s evidence, just because he was not called to explain his police statement. The concerns pertaining to Ashish’s version of the facts could have been resolved if he had been in court to explain what transpired during the call between him and the Complainant. Unfortunately, the Prosecution decided not to call him as a witness, with the result that the question marks raised above were left unanswered. It is also noteworthy that the Defence cannot be blamed for Ashish’s absence as it had tried to subpoena him on the fifth day of trial (well after the Complainant had repeatedly testified under cross-examination that Ashish had lied in his police statement) but was unable to reach him. Consequently, all the Defence could do was adduce Ashish’s police statement as evidence of its contents (see [31] above).

39 The Prosecution submitted that since Ashish’s police statement is hearsay, it “necessarily attracts limited weight”.⁹⁰ In my view, while it is true that Ashish’s police statement *was* hearsay, the fact is that it has been admitted into court as evidence of its contents because Ashish, through no fault of the Defence, could not be put on the stand. The Prosecution sought to discount the weight of Ashish’s police statement by saying that it contained items that are objectively false.⁹¹ During the appeal hearing before me, the Prosecution pointed out that Ashish’s police statement recounted that he “*received* a call

⁹⁰ Respondent’s Written Submissions dated 13 April 2026 at para 109.

⁹¹ See also Prosecution’s Reply Submissions at paras 21–23, ROP p 632.

from” [emphasis added] the Complainant, when the records clearly showed that for both the 9.31pm and 9.50pm calls, it was Ashish who *made these calls to* (and *not received them from*) the Complainant.⁹² I have some hesitation in discounting Ashish’s police statement as inaccurate, simply on account of this. It must be stressed that the Complainant had given Ashish a *missed call*, and this was what prompted him to call her back at 9.31pm. To paint Ashish’s claim that he *received* a call from the Complainant as inaccurate would fail to properly account for the context.

40 The Appellant has gone as far as to suggest that I should draw an adverse inference against the Prosecution for failing to call Ashish. I have my reservations about this submission. There is nothing on the record to indicate that the Prosecution withheld evidence in its possession. Indeed, on the very day that the Prosecution decided against calling Ashish as a witness, it disclosed Ashish’s police statement to the Defence, in compliance with its obligations under *Muhammad Nabill bin Mohd Fuad v Public Prosecutor* [2020] 1 SLR 984 (“*Nabill*”). The Prosecution was also transparent in disclosing *why* it was not calling Ashish as a witness: he did not wish to be involved in the case and did not wish to come to court (see [31] above). In short, there was nothing to suggest that the Prosecution had been anything short of open and aboveboard in its dealings with the Defence on this point.

41 In any event, there is no need to draw an adverse inference against the Prosecution. Ashish’s police statement had raised material contradictions within the Prosecution’s own case that, given the centrality of Ashish’s role, demanded an explanation. The Prosecution’s omission to call Ashish (or any other witness) to specifically address these contradictions militated in favour of the conclusion

⁹² Notes of hearing on 30 April 2026.

that the evidential burden placed upon the Prosecution’s shoulders has not been discharged: see also *Nabill* at [79]. In my view, the DJ ought to have dealt with the rifts in the Prosecution’s case arising from Ashish’s police statement. The failure to do so, as well as the omission to address the other critical inconsistencies that I have cited above, leads me to conclude that the conviction was, with respect, against the weight of the evidence.

The Appellant’s lie

42 At trial, a “Police Message Form” was admitted into evidence by consent.⁹³ This was a record capturing the account of events provided by both the Complainant and the Appellant to the police when they arrived at the scene on the night of the Incident.⁹⁴ The relevant portion of the Police Message Form, as recorded by one Sgt Kelvin Lim Kheng Wei (“Sgt Kelvin”), states:⁹⁵

When they were at the bar, [the Appellant] admitted in following [the Complainant] to the toilet and waited outside because he wanted to make sure she is safe. [The Appellant] then claimed that it was [the Complainant] who had requested to talk to him inside the room beside the toilet, in which he agreed to. [The Appellant] informed that he did not touch [the Complainant] at all when they were inside the said room, and when he left the room; he saw that [the Complainant] was on the call with someone.

43 It is evident from what was captured by Sgt Kelvin that the Appellant lied to the police, saying that he had followed the Complainant to the toilet to make sure that she was safe and thereafter did not touch her in the Nursing Room. This went completely against the grain of his defence at trial, which was that they had engaged in a consensual tryst in the Nursing Room. On the stand,

⁹³ Exhibit P16, at ROP pp 613–614; NE Day 4 p 7 lines 3–14.

⁹⁴ NE Day 4 p 7 lines 18–24.

⁹⁵ ROP p 614.

the Appellant tried to explain that he was in a state of shock at the point of arrest⁹⁶ and that he was blabbering words to the police officers which did not properly reflect his thoughts:⁹⁷

I did blabber something which I don't remember, but I did blabber. When---when they were asking questions, I was answering to them, but my mind, my words were not coming out at that point of time. My mind and word was totally---the first thing which came in my mind was something in Hindi. That was my basic language. I wanted to convert that into English. My mind was not even processing to convert that Hindi words into English where I can say those words which I was thinking. So I was in that state of mind where I'm not able to---what I'm thinking, I'm not able to speak.

The DJ rejected the Appellant's explanation and made a finding that he had told a *Lucas* lie: [33] to [36] of the GD.

44 The Appellant takes issue with the DJ's conclusion that a *Lucas* lie was told. Specifically, the Appellant argues that Defence Counsel *did* attempt to make submissions that the Appellant's lie failed to meet the conditions for qualifying as a *Lucas* lie, only to be told by the DJ that there was no need to address the court on this:⁹⁸

Defence: ... And the *Lucas* lie test says that in order for a Court to use that untruth to corroborate a finding of guilt, there are four conditions that first have to be met.

Court: Yes, but we are not doing that, are we? This case is not about that. It's not about the fact that he lied and therefore is guilty.

Defence: I agree.

Court: Yes.

⁹⁶ NE Day 5 p 9 (line 3) to p 13 (line 19).

⁹⁷ NE Day 5 p 13 (line 27) to p 14 (line 4).

⁹⁸ NE Day 6 p 17 lines 12–30.

Defence: Then I don't---then if Your Honour---then I don't need to pursue that point anymore.

Court: Yes, you don't need to deal with *Lucas* lies.

The Appellant was thus aggrieved when the DJ subsequently found that his lie *did* amount to a *Lucas* lie.

45 In my view, the Appellant's grievance is justified. Having told the Defence that there was no need to make any submissions on whether the Appellant's lie was a *Lucas* lie, fairness dictated that the DJ ought to have refrained from making a finding that a *Lucas* lie had been told. If this was thought to be a sufficiently important issue, the DJ could have revisited the same by calling parties back and giving them a chance to address the court on it. Nevertheless, any prejudice to the Appellant appears to have been limited as the DJ did specifically hold, at [37] of the GD, that his conclusion about a *Lucas* lie having been told bore no material impact on his decision.

46 More to the point, to the extent that the Appellant's lie had damaged his credibility, it is trite that "weaknesses in the case for the Defence cannot ordinarily be called in aid to shore up what is lacking in the Prosecution's case": *GII* at [27]. For the reasons cited above, I am not sufficiently convinced that the Complainant's testimony was internally consistent when viewed as a whole, or that it was externally consistent with the surrounding evidence. That in turn makes it difficult for me to agree with the DJ that the Complainant's testimony was unusually convincing. The fact that the Appellant may not have been particularly convincing himself does little to sway the outcome.

Conclusion

47 Based on the evidence adduced at trial, I conclude that the Prosecution had failed to discharge its burden of proving its case against the Appellant

beyond a reasonable doubt at the trial below. The Appellant's conviction was thus against the weight of the evidence.

48 Accordingly, I allow the appeal and set aside the Appellant's conviction, ordering that the Appellant be acquitted of the charge instead.

Christopher Tan
Judge of the High Court

Gregory Vijayendran SC and David Menon (Rajah & Tann Singapore LLP)
for the appellant;
Terence Chua & Colin Ng (Attorney-General's Chambers)
for the respondent.
