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

[2026] SGHC 130

Originating Application No 248 of 2026

Between

Ong Cheng Cheng

… *Claimant*

And

Attorney-General

… *Defendant*

GROUNDS OF DECISION

[Administrative Law — Judicial review — Extension of time]
[Administrative Law — Remedies]
[Civil Procedure — Extension of time]

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Ong Cheng Cheng
v
Attorney-General

[2026] SGHC 130

General Division of the High Court — Originating Application No 248 of 2026
Kwek Mean Luck J
25 May 2026

17 June 2026

Kwek Mean Luck J:

Introduction

1 The applicant, Ms Ong Cheng Cheng ("OCC"), sought an extension of time to file HC/OA 248/2026 ("OA 248") and the grant of the permissions in OA 248. These are permissions to apply for:

> (a) a Quashing Order: that the decision of the respondent, the Attorney-General ("AG"), pursuant to s 13 of the Criminal Procedure Code 2010 ("CPC"), to intervene in and discontinue the private prosecution PS-900012-2024 commenced by OCC against Mr Ong Cheng Poh ("OCP") ("Private Prosecution"), be quashed;

(b) a Mandatory Order: that the AG reconsider its decision to take over and discontinue the Private Prosecution.

2 After carefully considering the parties' submissions, I dismissed OCC's application for an extension of time. I also held that even if I had granted an extension of time, I would have dismissed OA 248 on its merits. OCC has now appealed against my decision. I set out the full grounds for my decision below.

Background

3 OCC commenced Private Prosecution as she was assaulted by her brother, OCP, on 21 January 2023 (the "Incident").[1] The Incident took place when OCC's parents were in the living room of their family home. They were waiting for her brother, OCP, to pick them up for a Chinese New Year reunion dinner. When OCP arrived, OCC was speaking loudly to her father about an earlier incident. According to OCC, OCP assumed that she was bullying their father. In response, OCP pushed her, causing her to fall backwards on the floor and hit her back against the edge of the steps. He then attacked her face while she was on the floor.

4 Later, on the same night, OCP apologised to OCC via WhatsApp.[2] OCC was subsequently hospitalised for two nights, from 22 till 25 January 2023. The doctor's diagnosis was as follows:[3]

> She did not lose consciousness but has giddiness without vertigo. She feels pain right [*sic*] parietal region, bridge of nose, left jaw and bleeding from left ear. Neurologically she is intact with pain in areas mentioned and bleeding in left ear and bruising bridge of nose. Subsequently, she noted pain anterior

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1 Affidavit of Ong Cheng Cheng (Wang Jingjing) ("OCC") dated 4 March 2026 at [B].

2 OCC at p 57.

3 OCC at [36].

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> sternum and mid neck pain posteriorly and inter scapula region pain aggravated by sitting and lying down. CT scan did not show a surgical lesion and xrays did not show a fracture.

5 On 30 January 2023, OCC lodged a police report in relation to the Incident.[4] On 5 July 2023, she then lodged a Magistrate's Complaint against OCP.[5] Following the completion of investigations by the Singapore Police Force ("SPF"), the case proceeded through Private Prosecution.[6] On 31 October 2023 OCC obtained, with OCP's consent, a personal protection order ("PPO") restraining OCP from using family violence against her.[7] On 12 April 2024, OCC commenced the Private Prosecution against OCP for a single charge of Voluntarily Causing Hurt.[8] At a further mention of the Private Prosecution on 19 June 2024, OCC's solicitors informed the court that OCC was seeking a custodial sentence against OCP.[9] OCP's solicitors indicated that he was seeking a community service order.[10] The court noted that this was a "family dispute" and directed OCP's solicitors to write to the Attorney-General's Chambers ("AGC") and update the court on the AGC's position on the Private Prosecution.[11]

6 On 23 July 2024, the AGC wrote to court and stated that, pursuant to ss 11 and 13 of the CPC, the AGC would be intervening to discontinue the

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4 OCC at [43].

5 OCC at [45].

6 OCC at [48].

7 OCC at [99]; Affidavit of Andre Chong Wei Min ("ACWM") dated 10 April 2026 at [9].

8 ACWM at [10].

9 ACWM at [12].

10 ACWM at [12].

11 ACWM at [12].

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Private Prosecution.[12] The AGC's letter was copied to both OCC and OCP. On 29 July 2024, the AGC intervened in the Private Prosecution and discontinued the proceedings ("Discontinuance Decision"). The court granted OCP a discharge amounting to acquittal ("DATA"). It was undisputed that this was the date of the decision in question for the present application.

7 On 12 August 2024, in response to a letter from OCC' solicitors dated 26 July 2024 querying the reasons for the Public Prosecutor's ("PP") decision, the AGC informed OCC that the Discontinuance Decision was taken "after consideration of all facts and circumstances relevant to the case" and that the SPF would administer a stern warning to OCP in lieu of prosecution.[13]

8 In the months that followed, OCC and/or her solicitors sent correspondence to several different parties, including her Member of Parliament ("MP"), the Ministry of Law, the Prime Minister's Office ("PMO") and the AGC.[14] On 4 March 2026, OCC commenced OA 248.

Time Bar

9 I turn to OCC's first application, which is to seek an extension of time to file OA 248.

Applicable law

10 Order 24 r 5(2) of the Rules of Court 2021 ("ROC 2021") states that:

> Subject to any written law, an application for permission to apply for a Mandatory Order, Prohibiting Order or Quashing

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12 ACWM at [13].

13 OCC at [64]–[65].

14 OCC at [F].

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> Order must be made within 3 months after the date of the omission, judgment, order, conviction or proceedings which gave rise to the application.

11 The Discontinuance Decision was made on 29 July 2024. OA 248 was filed on 4 March 2026, approximately 19 months after the time for doing so had expired.

12 Under the Rules of Court (2014 Rev Ed) ("ROC 2014"), O 53 r 1(6) expressly empowered the Court to extend the time for the filing of an application for permission if "the delay was accounted for to the satisfaction of the Judge". This is not found in the equivalent provision in ROC 2021. The AGC submits that nonetheless, the Court retains a discretion, in the interests of justice, to permit an application for permission brought out of time, to proceed. This is pursuant to O 3 r 2(1) ROC 2021, which provides:

> Where there is no express provision in these Rules or any other written law on any matter, the Court may do whatever the Court considers necessary on the facts of the case before it to ensure that justice is done or to prevent an abuse of the process of the Court, so long as it is not prohibited by law and is consistent with the Ideals.

13 The AGC relies on the Court of Appeal's decision in *Teng Fuh Holdings Pte Ltd v Collector of Land Revenue* [2007] 2 SLR(R) 568 ("*Teng Fuh Holdings*"), for its proposed test for considering an extension of time. In that case, the court considered whether the applicant had the interest, the knowledge and the means to acquire the information to make the application, in assessing whether an extension of time should be granted: at [23].

Decision

14 I agree with the AGC that while ROC 2021 does not contain the equivalent of O 53 r 1(6) of the ROC 2014, the Court nevertheless retains a

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discretion, in the interests of justice, to permit an application for permission brought out of time to proceed, pursuant to O 3 r 2(1) of the ROC 2021.

15 I would, with respect, differ on the applicable legal test for considering an application for an extension of time.

16 What the AGC cited from *Teng Fuh Holdings* are the factors that the court considered relevant in that case. The court did not articulate these factors as the legal test for considering an extension of time for such matters, nor has this been adopted as such in subsequent cases.

17 Instead, in *Per Ah Seng Robin v Housing and Development Board* [2016] 1 SLR 1020 ("*Per Ah Seng*"), the Court of Appeal held that whether the applicant has satisfactorily accounted for the delay is a fact-sensitive inquiry. The court cited Belinda Ang J (as she then was) in *Chai Chwan v Singapore Medical Council* [2009] SGHC 115 ("*Chai Chwan*") where she held that there is no set formula to use in deciding whether a satisfactory account of the delay has been given: at [53]. The court also set out some illustrative cases at [54]:

> (a) In *Chai Chwan*, Belinda Ang J held that the applicant had satisfactorily accounted for his three-year delay in commencing judicial review proceedings because he could only form a view of the subject matter of those proceedings after the disclosure of certain information by the respondent.
>
> (b) In *Zheng Jianxing v AG* [2014] 3 SLR 1100, where there was a delay of more than seven years before the applicant sought leave to apply for a quashing order, Tay Yong Kwang J (as he then was) did not find the applicant's explanation of being a layperson who was without the benefit of legal advice sufficient to account for the delay.
>
> (c) In *Regina v Stratford-on-Avon District Council, ex parte Jackson* [1985] 1 WLR 1319, the English Court of Appeal held that there was "good reason" for the applicant's delay as her delay had been occasioned by her applying for and obtaining legal aid, and by her attempting to persuade the Secretary of State for the Environment to intervene, albeit unsuccessfully.

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18 The Court of Appeal further observed that applicants can expect a certain measure of latitude from the court where judicial review proceedings have been delayed by serious and genuine attempts to resolve the dispute without litigation: at [55]. The court cited *Regina v Hammersmith and Fulham London Borough Council, ex parte Burkett* [2001] Env LR 684, where the English Court of Appeal explained at [14]:

> Judicial review is in principle a remedy of last resort. It follows, as it always does when a potential [applicant] for judicial review expeditiously seeks a reasonable way of resolving the issue without litigation, that the court will lean against penalising him for the passage of time and will where appropriate enlarge time if the alternative expedient fails.

19 In this case, OCC's solicitors submitted that while there was a delay, she was continuously engaged in good faith pursuits for clarifications. OCC relied on the following events to support her case:[15]

(a) OCC's solicitors had written to the AGC asking for their reasons for taking over the Private Prosecution on 26 July 2024.

(b) The AGC responded on 12 August 2024.

(c) The SPF informed her on 14 August 2024 that they had completed their investigation, and after consultation with the AGC, it was decided that a warning be administered to OCP.

(d) On 26 August 2024, OCC approached her MP, who wrote to the AGC on her behalf.

(e) The AGC replied to her MP on 6 November 2024.

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15 OCC at [F].

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(f) OCC saw her MP again on 20 January 2025, who advised her to see the Minister of Law.

(g) On 27 February 2025, OCC wrote to the Chong Pang Meet the People Session to request a meeting with the Minister.

(h) On 3 March 2025, OCC's MP emailed her to say that she had sought the Minister's advice, and the Minister had said that he was unable to overrule the SPF's assessment.

(i) On 3 March 2025, she wrote to the PMO, which responded on 5 June 2025, stating that the actions taken by the authorities were undertaken after careful consideration of the facts and circumstances of the case.

(j) On 24 October 2025, OCC's solicitors wrote again to the AGC to obtain a copy of OCP's solicitor's letter that was sent to the AGC in accordance with the court's directions.

(k) On 6 November 2025, the AGC replied, maintaining that the Discontinuance Decision "was taken after consideration of all facts and circumstances relevant to the case" and they were unable to accede to her request for the correspondence from OCP's solicitors as "generally, letters from accused persons to the Prosecution are privileged and protected from disclosure".

20 The AGC submitted that these events do not constitute good-faith pursuits for clarification. By 12 August 2024, it would have been clear to OCC that the AGC would not be furnishing its reasons for the Discontinuance Decision. There was no indication that the PP was willing to reconsider the

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decision. Under the circumstances, it was unreasonable for OCC to delay seeking permission to commence judicial review.[16]

21 In my view, the series of events set out above indicates that OCC was seeking to prevail first on her MP, then the Minister of Law and later the PMO, to intervene on her behalf with the AGC. She did so without undue delay after receiving a response from each of the above.

22 In *Per Ah Seng*, the Court of Appeal did not see an issue with the appellants seeking to pursue non-legal avenues of obtaining a remedy, such as approaching an MP for help and continuing to attempt to persuade the Housing and Development Board to change its mind even after the Minister's rejection of their appeal. The appellants probably felt that this was a better approach and the court felt that they could not be faulted for taking this view: at [60].

23 In this case, I am of the view that OCC has shown that she was seeking to resolve the issue without litigation up till 5 June 2025. In a similar vein to *Per Ah Seng*, OCC cannot be faulted for seeking to do so.

24 However, the delay between 5 June 2025 and 4 March 2026 of approximately nine months had not been accounted for by OCC:

(a) There was a delay of several months before her solicitors wrote again to the AGC on 24 October 2025. This was to make a request that had been made before, as early as 27 February 2025, and which had already been rejected by the AGC on 6 May 2025.

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16 Respondent's Submissions at [40]–[44].

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(b) Even after the AGC replied on 6 November 2025, maintaining their position, OCC still took around four months from 6 November 2025, before she filed OA 248 on 4 March 2026.

25 OCC tendered three explanations in addition to the above for the delay. First, that she was occupied as the sole deputy of her mother. Second, that she was occupied with her mother's medical care and hospitalisation. Third, that she had been busy with home renovations to make the house accessible for her mother.[17] I assess them below in turn.

26 First, while OCC stated that she faced personal constraints due to her appointment as sole deputy of her mother on 27 October 2023, this did not prevent her from writing or instructing her solicitors to write to the various parties from 26 July 2024 onwards. OCC did not aver that her personal constraints left her with no time to provide instructions to her solicitors.

27 Second, while OCC said that her mother had emergency hospital admissions, the last two admissions were from 29 April 2025 to 5 May 2025 and then from 12 September 2025 to 17 September 2025. The first of these admissions occurred before PMO's reply on 5 June 2025. The second of these admissions was for about one week, out of a nine-month period from 5 June 2025 to 4 March 2026.[18]

28 Third, OCC also said that she was carrying out renovations to make the family home accessible for her mother from September 2024 to November

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17 Applicant's Submissions ("AS") at [14].

18 OCC at [90].

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2024.[19] However, that does not explain why she was unable to give instructions to her solicitors to commence her application for leave, during the material period from June 2025 to March 2026.

29 Thus, these factors do not satisfactorily explain why there was a nine-month delay after PMO replied on 5 June 2025 or a four-month delay after the AGC's reply on 6 November 2025. Even if OCC was busy or occupied in the nine-month period, there is no indication that she was so busy such that *no steps* could be taken.

30 OCC also states that she only received advice of the three-month limitation period on 24 October 2025.[20] However, a lay person's ignorance of the law is not a sufficient explanation for the delay in bringing judicial review: *Madan Mohan Singh v Attorney-General* [2015] 2 SLR 1085 at [67]. In any event, this does not satisfactorily explain the delay, since OCC had the benefit of solicitors since the time she began correspondence with the various parties in July 2024. It also does not explain why there was a five-month delay after receiving such advice before commencing OA 248.

31 I therefore found that OCC had not satisfactorily explained her delay of nine months since 5 June 2025 and declined to grant OCC an extension of time to file her application in OA 248.

Permission for leave

32 For completeness, I nevertheless assessed OCC's application for permission for leave on its merits.

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19 OCC at [93].

20 AS at [11].

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Applicable law

33 To obtain permission to apply for a quashing order or a mandatory order, OCC as the applicant, bears the burden of showing the following: see *Gobi a/l Avedian v Attorney-General* [2020] 2 SLR 883 ("*Gobi*") at [44]:

> (a) the subject matter of the complaint has to be susceptible to judicial review;
>
> (b) the applicant has sufficient interest in the matter; and
>
> (c) the material before the Court discloses an arguable or *prima facie* case of reasonable suspicion in favour of granting the remedies sought.

34 In this case, only requirement (c) is in dispute.

35 During oral submissions, counsel for OCC made only a very brief submission containing the following points: There was an offence where a sister was violently beaten up by her brother. OCP was prepared to plead guilty. The PP's only real explanation is that this was not in the public interest for prosecution to proceed. What is the public interest for PP to intervene and why was it withdrawn. The public interest demands that the PP proceeds with the prosecution.[21]

36 As OCC's written submissions fleshed out her case further, and the oral submission were consistent with them, I examined her case based on her written submissions.

[21] Notes of Evidence dated 25 May 2026 at pp 3–4.

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Article 12(1) of the Constitution

37 OCC's first ground is that there is a breach of Article 12(1) of the Constitution. This provides that "[a]ll persons are equal before the law and entitled to the equal protection of the law".

38 In *Syed Suhail bin Syed Zin v Attorney-General* [2021] 1 SLR 809 ("*Syed Suhail*"), the Court of Appeal set out at [61]–[62] a two-step test to determine whether an executive action breaches Article 12(1) of the Constitution (the "*Syed Suhail* test"):

(a) Step 1: Whether the executive action resulted in the applicant being treated differently from other equally situated persons; and

(b) Step 2: Whether this differential treatment was reasonable in that it was based on legitimate reasons.

39 At Step 1, the applicant bears the evidential burden of showing that she can be considered equally situated with some other person who was treated differently. If the applicant discharges this burden, the evidential burden shifts to the decision-maker to show that such differential treatment was reasonable, in that it was based on legitimate reasons.

40 The *Syed Suhail* test was applied to the exercise of the prosecutorial power in *Xu Yuan Chen v Attorney-General* [2022] 2 SLR 1131 ("*Xu Yuan Chen*"). In *Kottakki Srinivas Patnaik v Attorney-General* [2024] 1 SLR 239 ("*Kottakki*"), the Court of Appeal reiterated the observations the court had made in *Muhammad Ridzuan bin Mohd Ali v Attorney-General* [2015] SGCA 53, that the applicant may raise a reasonable suspicion of the existence of grounds of

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judicial review by showing that others in the same or virtually identical situation were treated differently with no evident basis to justify this.

41 The threshold requirement for an applicant to establish a reasonable suspicion of the PP's arbitrary decision-making is that the applicant must show that the parties whose cases he is comparing his with are situated virtually identically with him: *Kottakki* at [23]. The fact that one individual faces prosecution while another, who may have committed similar actions, does not face prosecution, does not, without more, indicate a breach of Article 12 of the Constitution. The multitude of factors which the PP is entitled and obliged to take into account in making prosecutorial decisions in each case means that it will generally be relatively challenging for an applicant to establish that he is "equally situated" to another person, or "so situated that it is reasonable to consider that they should be similarly treated": *Xu Yuan Chen* at [27].

42 In this case, OCC did not adduce any evidence that she was treated differently from other persons who were equally situated when they commenced private prosecutions. She cited only *PP v Tobin Lau Chee Bing* [2019] SGDC 178 ("*Tobin Lau*") in her written submissions.[22] However, *Tobin Lau* involved *public* prosecution. Unlike private prosecutions, in public prosecutions there would be an assessment by the PP that there is a public interest to prosecute. The appropriate comparator here, would hence be private prosecutions, where the PP has not intervened to discontinue.

43 In any event, there are material differences in the facts in *Tobin Lau* and this case, which further renders *Tobin Lau* unsuitable as a comparator. The differences are the nature of relationship and severity of injuries. In *Tobin Lau*,

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22 AS at [19].

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the accused and victim were previously in a relationship and had broken up. The accused returned to the unit where they were staying. The accused assaulted the victim, who amongst other things, suffered a fracture of the right side of the orbital floor.

44 In contrast, the Incident occurred between family members, who have a history of disputes over the care of their parents. On OCC's evidence, she was shouting at her father when OCP came into the family room and assumed that she was bullying their father. It appears that this led him to act on the spur of the moment. OCP showed remorse through his conduct, in apologising to OCC in the same evening by WhatsApp, by consenting to the PPO sought by OCC and being willing to plead guilty in the Private Prosecution. The severity of the injuries suffered are also different. In *Tobin Lau*, the victim had suffered a fracture to the right side of her orbital floor. OCC did not suffer a fracture.

45 As OCC does not satisfy Stage 1 of the *Syed Suhail* test, there is no *prima facie* case of a reasonable suspicion that her Article 12(1) constitutional right was breached. I thus found no merit to OCC's first ground.

PP's exercise of power

46 OCC's second ground is that there is a reasonable suspicion of arbitrariness in the PP's exercise of power. This is because: (a) there is objective proof of the assault from the CCTV footage; (b) OCP had already indicated an intention to plead guilty and parties were directed to prepare sentencing submissions. To intervene and grant a DATA at the threshold of sentencing raises a reasonable suspicion of arbitrariness; and (c) the AGC continues to refuse to disclose the letter from OCP's solicitors to the AGC.

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47 Article 35(8) of the Constitution provides that the AG (*qua* PP) has the prosecutorial power "to institute, conduct or discontinue any proceedings for any offence". The PP's prosecutorial power to take over the conduct of a prosecution is also stated in s 13 of the CPC. This states that where a prosecution is conducted by a person other than the PP, "the [PP] may, if he or she thinks fit, take over the conduct of the prosecution at any stage of the proceedings and continue or discontinue the prosecution".

48 In *Ramalingam Ravinthran v Attorney-General* [2012] 2 SLR 49 ("*Ramalingam*"), the Court of Appeal held at [17] that the exercise of prosecutorial power is subject to judicial review in two situations: (a) where the prosecutorial power is abused (*ie*, exercised in bad faith or for an extraneous purpose); and (b) where its exercise contravenes constitutional protections and rights.

49 As OCC was unclear in her submissions which ground she relied on, the AGC made its submissions in relation to OCC's second ground on the assumption that OCC was relying on the first situation described in *Ramalingam*, where judicial review of the prosecutorial power is permitted on the basis that it is "exercised in bad faith or for an extraneous purpose", and which situation has also been described as being an "arbitrary exercise of the prosecutorial power".[23] Counsel for OCC did not contend otherwise during the hearing.

50 I have also proceeded with the analysis on this basis, since this is the closest situation described in *Ramalingam* that relates to OCC's second ground.

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[23] Respondent's Submissions at [31] and [54].

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51 With respect to the CCTV evidence and OCP's willingness to plead guilty, it has been held by the Court of Appeal in *Ramalingam* at [53]:

> It is not the policy of the law under our legal system that all offenders must be prosecuted, regardless of the circumstances in which they have committed offences. Furthermore, not all offences are provable in a court of law. **It is not necessarily in the public interest that every offender must be prosecuted, or that an offender must be prosecuted for the most serious possible offence available in the statute book**.
>
> [emphasis added]

52 In *Xu Yuan Chen*, the Court of Appeal held at [26]:

> **It is well established that the Prosecution is "entitled and obliged to take into account many factors" in making prosecutorial decisions,** and that **relevant factors for the Prosecution's consideration "include the available evidence, public interest considerations, the personal circumstances of the offender, the offender's degree of culpability", and other factors**. The Prosecution thus has to consider:
>
> > … in addition to the legal guilt of the offender, his moral blameworthiness, the gravity of the harm caused to the public welfare by his criminal activity, and a myriad of other factors, including whether there is sufficient evidence against a particular offender …
>
> [emphasis added]

53 Consequently, in light of the clear holdings in these two Court of Appeal decisions, I found that the PP's decision not to prosecute despite the presence of CCTV evidence of the assault or the willingness of OCP to plead guilty, does not in itself, give rise to a *prima facie* reasonable suspicion that the PP exercised his power arbitrarily.

54 In relation to the AGC's refusal to disclose the correspondence from OCP's solicitors to the AGC, it was held by the Court of Appeal in *Ramalingam* at [74] that the PP has no general obligation to disclose his reasons for making

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a particular prosecutorial decision, and that this reflected the English position at common law. Given that the PP is not obliged to disclose his reasons, it follows that the PP is also not obliged to disclose correspondence or material received that may have affected his reasoning or decision.

55 I hence found that there is no *prima facie* case of a reasonable suspicion of arbitrariness in the PP's exercise of his power in this case.

Conclusion

56 In summary, I did not grant the extension of time sought by OCC for OA 248. Even if I had done so, I would have dismissed OA 248 on the basis that OCC had not demonstrated that there is a *prima facie* case of reasonable suspicion in favour of granting the remedies sought. Costs were awarded to the AGC in the amount of $7,000 plus reasonable disbursements of $573.80.

Kwek Mean Luck
Judge of the High Court

Hassan Esa Almenoar and Liane Yong (R Ramason & Almenoar) for the Applicant;
Chua Han Yuan Kenneth and Hairul Hakkim Kuthibutheen (Attorney-General's Chambers) for the Respondent

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