

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

[2026] SGHC 191

Magistrate's Appeal No 9117 of 2025/01

Between

Kevin Chelvam

... Appellant

And

Public Prosecutor

... Respondent

Magistrate's Appeal No 9117 of 2025/02

Between

Public Prosecutor

... Appellant

And

Kevin Chelvam

... Respondent

GROUNDS OF DECISION

[Criminal Procedure and Sentencing — Sentencing — Appeals]

TABLE OF CONTENTS

INTRODUCTION.....	1
BACKGROUND	2
EVENTS LEADING UP TO DON’S DEATH.....	2
CONVICTION AND SENTENCING OF GAIYATHIRI	3
CONVICTION AND SENTENCING OF PREMA	3
CHARGES FACED BY KEVIN.....	4
THE DECISION BELOW	5
DJ’S DECISION ON CONVICTION.....	5
DJ’S DECISION ON SENTENCE	8
THE APPEALS	11
KEVIN’S APPEAL AGAINST CONVICTION	12
ABETMENT CHARGE.....	12
<i>My decision</i>	12
<i>Observation</i>	16
DISAPPEARING EVIDENCE CHARGE.....	17
<i>Kevin’s submissions</i>	17
<i>My decision</i>	17
KEVIN’S APPEAL AGAINST SENTENCE	19
ABETMENT CHARGE.....	19
HURT CHARGE	21
DISAPPEARING EVIDENCE CHARGE.....	21

FALSE INFORMATION CHARGE	24
HURT CHARGE – CROSS-APPEALS AGAINST SENTENCE	26
PARTIES’ ARGUMENTS.....	26
MY DECISION	27
CONCLUSION.....	29

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.

Kevin Chelvam
v
Public Prosecutor and another appeal

[2026] SGHC 191

General Division of the High Court — Magistrate's Appeal Nos 9117 of 2025/01 and 9117 of 2025/02

See Kee Oon JAD

31 July 2026

21 September 2026

See Kee Oon JAD:

Introduction

1 The accused, Kevin Chelvam ("Kevin"), was a police officer who employed Piang Ngaih Don ("Don"), a Myanmar national, as a domestic worker in his household from 28 May 2015. In the course of her employment, Don was repeatedly subjected to physical and psychological abuse by Kevin's then-wife Gaiyathiri d/o Murugayan ("Gaiyathiri"), and then-mother-in-law Prema d/o S Naraynasamy ("Prema"). The abuse culminated in Don's death on 26 July 2016. At the time of her death, Don was 24 years of age.

2 For his involvement in the events leading up to Don's death, Kevin was charged and tried before the District Court, where he was convicted of four offences and sentenced to a total of 10 years' imprisonment. Kevin appealed

against his conviction and sentence, while the Prosecution appealed against the sentence imposed in respect of one charge.

3 After hearing the parties’ submissions, I dismissed Kevin’s appeal against conviction and sentence and allowed the Prosecution’s cross-appeal against sentence. Consequently, Kevin’s aggregate sentence was enhanced to 11 years and six months’ imprisonment. These are my detailed reasons.

Background

4 The background facts have been set out in the District Judge’s (“DJ”) grounds of decision in *Public Prosecutor v Kevin Chelvam* [2026] SGDC 8 (“GD”) at [1]–[12]. What follows is a summary of the material facts.

Events leading up to Don’s death

5 Kevin resided in a flat with Gaiyathiri, their two children, and two tenants. Prema often stayed over at the flat, sharing a bedroom with Don. There were several CCTV cameras in the flat, with the CCTV recorder (“CCTV Recorder”) installed in the master bedroom.

6 Don’s duties were to carry out household chores and help look after the children. Although Kevin was Don’s registered employer, it was Gaiyathiri who was responsible for the day-to-day supervision and welfare of Don.

7 Gaiyathiri’s physical abuse of Don began around October 2015. Prema also started physically abusing Don from around May 2016 onwards. CCTV footage in the flat captured beatings which occurred almost daily and sometimes more than once a day.

8 On top of the physical abuse, Gaiyathiri also deprived Don of adequate food and rest. Don was given very little to eat, and her meals often comprised only sliced bread soaked in water, cold food from the fridge, and some rice (GD at [18]).

9 On 25 July 2016, Gaiyathiri and Prema inflicted a severe and sustained beating on Don. The next morning, on 26 July 2016, Don was found to have died of hypoxic ischaemic encephalopathy following severe blunt force trauma to her neck.

Conviction and sentencing of Gaiyathiri

10 In February 2021, Gaiyathiri pleaded guilty to 28 charges relating to her role in the abuse and eventual death of Don, with 87 charges taken into consideration for the purposes of sentencing. The 28 charges included a culpable homicide charge and various assault charges. Gaiyathiri was sentenced to 30 years’ imprisonment by the General Division of the High Court (“High Court”), and her sentence was upheld on appeal to the Court of Appeal. The decisions of the High Court and the Court of Appeal in relation to Gaiyathiri’s case can be found at *Public Prosecutor v Gaiyathiri d/o Murugayan* [2022] 4 SLR 560 (“*Gaiyathiri (HC)*”) and *Gaiyathiri d/o Murugayan v Public Prosecutor* [2022] SGCA 49 respectively.

Conviction and sentencing of Prema

11 In November 2022, Prema pleaded guilty to 48 charges and was sentenced to 14 years’ imprisonment. In June 2023, she pleaded guilty to an additional charge of instigating Kevin to dismantle the CCTV Recorder capturing the abuse of Don, for which she was sentenced to another three years’ imprisonment.

Charges faced by Kevin

12 In July 2023, Kevin claimed trial to four charges, referred to respectively as the “Abetment Charge”, the “Hurt Charge”, the “Disappearing Evidence Charge”, and the “False Information Charge”. The four charges are set out in full below:

DAC-905137-2018 – Abetting Grievous Hurt

You... are charged that you, before 26 July 2016, at Blk [Redacted], Singapore, did abet Gaiyathiri d/o Murugayan to voluntarily cause grievous hurt to Piang Ngaih Don, a domestic maid employed by you, to wit, by intentionally aiding by illegally omitting to ensure that Gaiyathiri d/o Murugayan provided sufficient food to the said Piang Ngaih Don for not less than 35 days including the period from 21 June 2016 to 26 July 2016, thereby causing her to be in a poor nutritional state, which is hurt that endangered her life, and you have thereby committed an offence under section 325 read with sections 73(2) and 109 of the Penal Code (Cap 224, 2008 Rev Ed).

DAC-931023-2016 – Causing Hurt

You... are charged that you, on 24 June 2016, at about 4.06 pm, at Blk [Redacted], Singapore, being the employer of one Piang Ngaih Don, did voluntarily cause hurt to her, to wit, by grabbing her hair and, in the course of so grabbing, lifting her body off the ground, and you have thereby committed an offence punishable under Section 323 read with Section 73(2) of the Penal Code (Cap 224, 2008 Rev Ed).

DAC-931025-2016 – Causing evidence to disappear

You... are charged that you, on 26 July 2016, at about 12.10pm, at Blk [Redacted], Singapore, having reason to believe that an offence of murder had been committed, did cause evidence of the commission of the said offence to disappear, with the intention of screening Gaiyathiri d/o Murugayan and Prema d/o S Naraynasamy from legal punishment, to wit, by dismantling the Closed Circuit Television recorder (including the hard disk drive) that was installed in the flat, and you have thereby committed an offence under Section 201 of the Penal Code (Cap 224, 2008 Rev Ed).

DAC-931026-2016 – Lying to police officer

You... are charged that you, on 26 July 2016, at or about 4.30pm, at Blk [Redacted], Singapore, did give to a public servant, namely, Inspector Kelvin Leong Lim Chee, an

Investigation Officer attached to the Criminal Investigation Department, information which you knew to be false, to wit, in your verbal statement to the said public servant, you informed him that the Closed Circuit Television (CCTV) recorder (including the hard disk drive) in the flat was removed 6 months ago pursuant to the request of one of your tenants, intending thereby to cause the said public servant to cease searching for CCTV video evidence that is relevant to the investigation into the death of your domestic helper, one Piang Ngaih Don, which the said public servant ought not to have done if the true state of facts respecting which such information is given were known by him, and you have thereby committed an offence under section 182 of the Penal Code (Cap 224, 2008 Rev Ed).

13 In these grounds, the Penal Code (Cap 224, 2008 Rev Ed) is abbreviated as the “Penal Code”, and this abbreviation will also be used for earlier versions of the Penal Code as there are no material differences to the relevant sections.

The decision below

14 At the trial below, the Prosecution called 12 witnesses, including: Gaiyathiri; Prema; the pathologist who performed the autopsy, Dr George Paul (“Dr George”); and the doctor who had pronounced Don dead at the scene, Dr Grace Kwan (“Dr Grace”). Dr Grace had examined Don on two other occasions prior to her death, the details of which will be discussed below.

DJ’s decision on conviction

15 Following the trial, the DJ convicted Kevin of all four charges and sentenced him to a total of 10 years’ imprisonment. I summarise the DJ’s findings in respect of the four charges below.

16 In respect of the Abetment Charge, the DJ found that it was incontrovertible that at the time of her passing, Don had suffered grievous hurt from prolonged deprivation of sufficient food (GD at [40]). Kevin, as Don’s registered employer, was under a legal duty to ensure that Don received

sufficient food (GD at [52]). The DJ found that Kevin was aware of the sustained deprivation of sufficient food, and that it had endangered Don's life. Kevin's awareness could be inferred from:

- (a) the ample time and opportunity he had to observe Don while at home, including the multiple occasions when he had seen her being scolded and assaulted (GD at [72]);
- (b) his knowledge that Don was persistently stealing food despite being beaten for doing so due to her hunger and desperation for food (GD at [79]); and
- (c) his having seen Don's weight loss due to the prolonged food deprivation (GD at [80]) – in this regard, the DJ rejected Kevin's claim that he thought Don's weight loss had to do with a medical condition she was having (GD at [97]).

17 Accordingly, the DJ convicted Kevin of the Abetment Charge. The DJ imposed a sentence of four years' imprisonment in respect of the Abetment Charge.

18 In respect of the Hurt Charge, the DJ was satisfied that, based on the CCTV footage, Kevin had caused Don hurt by grabbing her by her hair, lifting her off the ground in the process, and he had done so intending to cause her bodily pain (GD at [116], [129]). Accordingly, the DJ convicted Kevin of the Hurt Charge. The DJ imposed a sentence of 12 months' imprisonment in respect of the Hurt Charge.

19 In respect of the Disappearing Evidence Charge, it was not disputed that Kevin had dismantled the CCTV Recorder, and that it was Prema's idea to do

so. The DJ found that Kevin had done so having reason to believe that an offence of murder had been committed, and with the intention to screen Gaiyathiri and Prema from legal punishment. The DJ made the following critical findings:

- (a) Kevin had known of the beatings inflicted by Gaiyathiri and Prema on Don over many months (GD at [160]);
- (b) he knew that the beatings and abuse had escalated in their severity over time (GD at [167]);
- (c) he knew that Don was being starved over a prolonged period, and that this had taken a toll on her physical condition (GD at [170]); and
- (d) the events of the morning of Don's death on 26 July 2016 were unusual, and Don's condition had continued to operate on Kevin's mind that morning (GD at [171], [174]).

20 Taken together, the DJ found that by the time Kevin returned to the flat on 26 July 2016, he already knew that Don's death was linked to Gaiyathiri and Prema's deliberate acts and the ongoing abuse inflicted on her, and he had reason to believe that the police would be investigating the offence of murder (GD at [176]).

21 In light of these findings, the DJ found that when Kevin dismantled the CCTV Recorder, he did so intending to screen Gaiyathiri and Prema from liability. This was the case even if Kevin's account that Prema had shouted and nagged at him to dismantle the CCTV Recorder was to be accepted (which it was not). As a police officer, he would have been aware of the significant evidential value the CCTV footage might have to police

investigations. He had further admitted in his police statement that the purpose of removing the CCTV Recorder was not to allow the police to get hold of it as the events in the flat would have been captured (GD at [200]). Accordingly, the DJ convicted Kevin of the Disappearing Evidence Charge. The DJ imposed a sentence of five years' imprisonment in respect of the Disappearing Evidence Charge.

22 In respect of the False Information Charge, the DJ found that Kevin had intentionally lied to the police officers regarding the whereabouts of the CCTV Recorder, and accordingly convicted Kevin of the False Information Charge. The DJ imposed a sentence of eight months' imprisonment in respect of the False Information Charge.

DJ's decision on sentence

23 The DJ imposed the following sentences for each of the charges (GD at [296]):

Abetment Charge	Four years' imprisonment (consecutive)
Hurt Charge	12 months' imprisonment (consecutive)
Disappearing Evidence Charge	Five years' imprisonment (consecutive)
False Information Charge	Eight months' imprisonment (concurrent)
Aggregate sentence	10 years' imprisonment

24 In respect of the Abetment Charge, the DJ found that although Kevin was not the active perpetrator, he bore equal culpability to Gaiyathiri, who had been sentenced to three years' imprisonment for the mirror grievous hurt offence. The DJ observed that Kevin was in an analogous position to the husband in *Public Prosecutor v Lim Choon Hong* [2017] 5 SLR 989

(“*Lim Choon Hong*”), who had been charged with contravening the condition of the work pass to provide adequate food to his maid (GD at [232], [234], and [236]). The DJ agreed that the harm caused to Don was severe, and sentenced Kevin to four years’ imprisonment.

25 In respect of the Hurt Charge, the DJ referred to the indicative sentencing ranges as set out in *Tay Wee Kiat v Public Prosecutor* [2018] 5 SLR 438 (“*Tay Wee Kiat*”) (GD at [243]):

	Less serious physical harm	More serious physical harm
Less serious psychological harm	3–6 months’ imprisonment	6–18 months’ imprisonment
More serious psychological harm	6–18 months’ imprisonment	20–30 months’ imprisonment

26 The DJ made the following findings:

- (a) Kevin had caused both physical and psychological harm to Don, and she assessed the harm caused as falling within the higher end of less serious physical and psychological harm (GD at [251]).
- (b) The DJ was of the view that Kevin’s single episode of hurt was not comparable to the sustained pattern of abuse by Gaiyathiri and Prema, and therefore it would not be appropriate to ascribe to his hurt offence the same significant psychological harm caused by the hurt offences of Gaiyathiri and Prema (GD at [252], [261]).
- (c) As to mitigation, the DJ noted that the mitigating factors raised by Kevin carried scant mitigating weight and in any case had to be viewed in light of the fact that Kevin had committed multiple offences,

which meant that general deterrence and retribution took centre stage (GD at [253]).

(d) There were multiple aggravating factors in this case which justified an uplift to the indicative sentence. These were: (i) Kevin’s knowledge of Don’s vulnerable state due to the extended period of abuse by Prema and Gaiyathiri that afternoon (as well as in the months prior) and the extended food deprivation; and (ii) his responsibility for ensuring a safe working environment for Don as her legal employer (GD at [267]–[268]).

27 In the round, the DJ applied a substantial uplift to the indicative sentence of three to six months’ imprisonment and imposed a sentence of 12 months’ imprisonment for the Hurt Charge.

28 Turning to the Disappearing Evidence Charge, the DJ found that the potential harm was extremely high – if the CCTV Recorder had not been recovered, the truth of what had happened to Don would not have been discovered (GD at [273]). Further, Kevin’s culpability was higher than Prema’s. Although Prema had instigated him, Kevin’s dismantling of the CCTV Recorder was a considered act on his part and he was an active accomplice (GD at [274]). In any case, a higher sentence than the three years meted out to Prema would be warranted for Kevin. Prema had pleaded guilty and her predicate offence (of culpable homicide) meant that the maximum sentence for *her* s 201 charge was lower than Kevin’s, given that Kevin’s predicate offence was one of murder (GD at [274]–[275]). The DJ also referred to the cases of *Public Prosecutor v McCrea Michael* [2006] 3 SLR(R) 677 (“*McCrea*”) and *Public Prosecutor v Ong Pei Ling Audrey* [2003] SGDC 337 (“*Audrey Ong*”) which she found

instructive. The DJ applied a substantial uplift to Prema's three-year sentence and imposed a sentence of five years' imprisonment on Kevin (GD at [285]).

29 Lastly, on the False Information Charge, the DJ agreed with the Prosecution that Kevin's culpability was high as he knew his statement to be false (GD at [290]). As a police officer himself, he knew that the police would be asking for the CCTV footage, and his lie was calculated to mislead the police into believing that there was no CCTV footage (GD at [290]). He had also persisted in his lie until the police obtained contrary information from his four-year-old daughter, who told the police that she had seen a recording of Don on Gaiyathiri's phone just the day before (GD at [142], [290]). The DJ also considered that although the CCTV footage was recovered and actual harm did not eventuate, the potential for harm was real and significant, as the CCTV footage was of significant evidential value (GD at [291]).

30 As compared to precedent cases involving less severe predicate offences, where the offenders had pleaded guilty and were sentenced to six months' imprisonment, the DJ was of the view that a substantial uplift was appropriate, and accordingly imposed a sentence of eight months' imprisonment on Kevin (GD at [293]–[295]).

The appeals

31 Following the DJ's decision, cross-appeals were filed by Kevin and the Prosecution. In HC/MA 9117/2025/01, Kevin appealed against his conviction and sentence. At the hearing before me, Kevin's counsel, Mr Ramesh Tiwary ("Mr Tiwary"), confirmed that he was only maintaining his appeal against conviction in relation to the Abetment and Disappearing Evidence Charges, and would be appealing against his sentence in respect of all four charges.

HC/MA 9117/2025/02 was the Prosecution's appeal against Kevin's sentence on the Hurt Charge.

Kevin's appeal against conviction

Abetment Charge

32 As set out above (at [12]), the Abetment Charge pertained to Kevin's failure to ensure that Gaiyathiri provided sufficient food to Don for not less than 35 days prior to her death. The main issue was whether Kevin omitted to act with the requisite *mens rea* – ie, whether he knew that Gaiyathiri was wrongfully depriving Don of adequate food during those 35 days, thereby endangering Don's life (GD at [57]).

33 On appeal, Kevin's submissions largely challenged the inference drawn by the DJ that he must have possessed the relevant *mens rea* at the time. Amongst other things, Kevin submitted that medical evidence as to Don's state of health could not be attributed to him as he was not medically trained. He also argued that simply because he had the time and opportunity to observe Don, this did not mean that he had in fact done so. Overall, there was insufficient evidence to draw the inference that he knew that Don's life was in danger from food deprivation.

My decision

34 I found that the DJ's decision was not plainly wrong or against the weight of the evidence. There was sufficient evidence for the DJ to infer that Kevin must have known that Don's life was endangered from being deprived of adequate food in the 35 days leading up to her death. In particular, I agreed with the DJ's view that any reasonable person in Kevin's shoes would have been made aware of Don's drastic condition by her: (a) severe weight loss and change

in physical appearance, coupled with (b) her attempts to steal food in such a desperate manner. I elaborate on these two facts.

35 First, in respect of Don’s severe weight loss, as the Prosecution pointed out, Kevin had *agreed* in trial that “Don’s drastic loss of weight was obviously visible to [him] and that [he] did notice it”. This was inconsistent with his evidence that he “did not notice anything else” about her physical appearance.

36 In any case, the evidence showed that Kevin must have noticed Don’s physical deterioration. Dr George, the pathologist who performed Don’s autopsy, had testified that by the time of her death, Don was in an “obviously visible” state of emaciation. I disagreed with Kevin’s argument that the medical evidence was irrelevant as he was not medically trained. Dr George’s evidence went towards establishing Don’s physical characteristics in the period leading up to her death. The import of Dr George’s evidence was that Don’s severe state of malnourishment would likely have been apparent even to a layperson. It was therefore no answer for Kevin to hide behind his lack of medical knowledge.

37 In this regard, Kevin relied on the fact that Dr Grace did not notice any life-threatening weight loss when Don had visited her clinic on two prior occasions on 19 January and 23 May 2016. It is true that Dr Grace had said she did not think Don looked thin at the time of the 23 May visit. However, it was irrelevant that Dr Grace did not notice anything at these visits for the following reasons:

- (a) The physical abuse only started in October 2015, with Prema joining in from May 2016 onwards (GD at [5]). The effects of the abuse might not have been immediately apparent to Dr Grace in January 2016 as the abuse had only just begun (or had not yet increased in intensity).

(b) Dr Grace had not taken Don’s height and weight in either visit. The 23 May 2016 visit lasted only about 20 minutes and Don did not have the opportunity to speak at all during the consultation. Unlike Dr Grace, Kevin had the opportunity to observe Don over a prolonged period.

(c) Further, the Abetment Charge was in respect of the period from 21 June to 26 July 2016. This was almost a month *after* the 23 May 2016 visit. I did not think much weight could be placed on Dr Grace’s assessment of Don’s condition when it had taken place a month prior to the relevant period, by which time the abuse had escalated to encompass the failure to provide Don sufficient food on top of the physical and psychological abuse.

(d) Dr Grace had clarified at trial that Don’s condition *in July* would have been obvious to even a layperson. According to her, “the skin wrapping bone ... [a]nyone can tell” that Don was severely malnourished.

38 I was conscious that Dr Grace’s evidence as to Don’s condition on 23 May 2016 had to be viewed with some circumspection. Having examined Don on two occasions prior to her death, Dr Grace would conceivably have had a personal interest in ensuring that her professional conduct was not called into question. It could not be ruled out that this could have, even if unwittingly, coloured her account of Don’s condition on 23 May 2016. That being said, I did not think that Dr Grace’s evidence was wholly self-serving or unreliable.

39 Second, in respect of Don’s attempts to steal food, Kevin submitted that this did not mean that Don was so deprived of food that her life was in danger.

I did not accept this submission. I highlight the following findings made by the DJ, which were not disputed on appeal:

- (a) On one occasion in September 2015, Don had climbed out of a window and was later found eating at a coffee shop (GD at [76]).
- (b) Even in June 2016, Don continued stealing food items and hiding to eat them despite the scoldings and beatings she received (GD at [77]).
- (c) Don stole whatever she could lay her hands on to eat, including food seasoning and spoilt food retrieved from the rubbish bin (GD at [78]).

40 I agreed with the DJ that these actions would have revealed to a reasonable person that Don was stealing food out of hunger and desperation (see GD at [75]–[79]).

41 Finally, I disagreed with Kevin’s submission that an inescapable inference could not be drawn from only two pieces of evidence (*ie*, Don’s weight loss and her attempts to steal food). It would be short-sighted to focus on the *quantity* rather than the *quality* of the evidence. A person in Kevin’s shoes, being aware of Don’s extremely drastic weight loss and desperate attempts at stealing food, would have objectively known that Don’s life was being endangered from food deprivation.

42 For the above reasons, I dismissed Kevin’s appeal against his conviction on the Abetment Charge.

Observation

43 At this juncture, I pause to note that the GD appears to contain an erroneous reference at [53]. The DJ stated that Kevin’s legal duty was set out in the Fourth Schedule of the Employment of Foreign Manpower (Work Passes) Regulations 2012 (“Work Pass Regulations”), reproduced as follows:

1. Except as the Controller specifies otherwise in writing, the employer is responsible for —

(a) the upkeep and maintenance of the foreign employee in Singapore, **including the provision of adequate food and medical treatment;** and

(b) bearing the costs of such upkeep and maintenance.

.....

3. Subject to paragraph 2, the employer shall, so far as is reasonably practicable, **ensure that the life or personal safety of the foreign employee is not endangered during and in the course of employment**, and that the foreign employee acts in a manner which is in accordance with the work practices stipulated by the Controller in its training courses and relevant safety and training materials.

[emphasis added by DJ]

44 These provisions are found in a later version of the Work Pass Regulations which was not in force at the time of the offences (the version cited by the DJ took effect from 1 April 2017). The operative provisions of para 1 of the Fourth Schedule to the 3 January 2016 version of the Work Pass Regulations which were applicable to Kevin instead read:

1. The employer must be responsible for and bear the costs of the upkeep and maintenance of the foreign employee in Singapore except as the Controller specifies otherwise in writing. The cost of upkeep and maintenance includes the provision of adequate food as well as medical treatment.

45 However, I considered that despite the difference in wording between the two versions, the change was merely stylistic rather than substantive, and

that no prejudice was occasioned to Kevin as a result of the erroneous reference. For completeness, I should add that there is no difference in the wording of para 3 between the two versions.

Disappearing Evidence Charge

Kevin's submissions

46 Broadly summarised, Kevin made three arguments in support of his appeal against conviction on this charge:

- (a) At the time he dismantled the CCTV Recorder, he was not aware that Don had passed because of Gaiyathiri's and Prema's actions.
- (b) He dismantled the CCTV Recorder because Prema kept shouting and nagging at him to do so. There was no evidence that he knew Prema was going to dispose of it or make it disappear.
- (c) The dismantling of the CCTV Recorder did not cause evidence to disappear because whatever was recorded was not lost.

My decision

47 I did not find Kevin's arguments persuasive. I explain below.

48 In respect of the first argument, it was undisputed that Kevin had already been informed of Don's passing that morning before he came home from work. In light of the factual findings reached in respect of the Abetment Charge (*ie*, to the effect that Kevin had been aware of the long-standing abuse), it was untenable for Kevin to claim that he was unaware that Don had passed because of the abuse inflicted by Gaiyathiri and Prema.

49 In respect of the second argument, I agreed with the DJ that Kevin had dismantled the CCTV Recorder intending to screen Gaiyathiri and Prema from criminal liability:

(a) Kevin did not state in his police statements that Prema had “nagged” him to remove the camera – I agreed with the DJ that his original account was one of passive compliance (GD at [179]).

(b) Kevin admitted in cross-examination that he was reluctant to remove the recorder because he knew that it captured the events within the flat, and he *agreed* that he was “reluctant to remove it because [he] knew [he] would be getting rid of evidence” (although he subsequently tried to change his evidence on this). By this, Kevin must have meant that he was getting rid of evidence of *Gaiyathiri’s and Prema’s* wrongdoing, and he was therefore intending to screen them from criminal liability.

50 In respect of the third argument, Kevin submitted that the evidence did not actually “disappear”. This was a non-issue. The present facts were wholly analogous to *Abdul Salam bin Mohamed Salleh v Public Prosecutor* [1991] 2 SLR(R) 344, where the Court of Appeal held that a failure to submit relevant investigation papers amounted to a “disappearance” for the purpose of s 201 of the then applicable version of the Penal Code, notwithstanding that the appellant had kept the papers in his desk and had surrendered them immediately upon being asked (at [27]–[28]):

27 Mr Rubin submitted that P3 did not “disappear”, because the appellant kept it in his desk drawer, and P3 was produced to the CPIB officer immediately when the appellant was asked about it. He referred us to the definition of the word by the Privy Council in *Ratnam v Law Society of Singapore* [1974–1976] SLR(R) 629. In that case, the appellant at the time of his arrest, still had in his office two files, and did

not disclose them to the police officers who arrested him and searched his office in pursuance of a search warrant. It was argued that he had committed no offence under s 201, because “disappear” involves removing evidence permanently or for so long that it cannot be used in the legal proceedings to which it was relevant, which was not the case, because the two files were subsequently handed over to the police. The Privy Council explained the meaning of “disappear” in the context of s 201 in the following passage (at [44]):

The argument on the word ‘disappear’ was based partly on what was alleged to be the ordinary use of that term – namely, ‘cease to be visible or traceable’ – partly on the Indian case of *Harbans Lal v The State* AIR 1967 HP 10. But their Lordships consider that the word ‘disappear’ in s 201 must be contrasted with the words ‘secrete or destroy’ in s 204. *For the purpose of s 201 the degree or length of the secretion of the evidence is immaterial, provided that the evidence in question is for a time caused to escape the vigilance of those who are seeking it as evidence.* This accords with the apparent purpose of the section; and the sense of ‘disappear’ involved is well within the ordinary meaning of the word. Their Lordships do not think that *Harbans Lal v The State* would necessarily be followed in other jurisdictions. [emphasis added]

28 In the present case, the appellant should have submitted P3 with the investigation papers, but retained it and kept it in his drawer. In our opinion, this was done to keep it from the sight of those to whom it should have been shown, and this was sufficient to bring the action within the meaning and purpose of s 201.

51 For the above reasons, I dismissed Kevin’s appeal against his conviction on the Disappearing Evidence Charge.

Kevin’s appeal against sentence

Abetment Charge

52 Kevin was sentenced to four years’ imprisonment in respect of the Abetment Charge. On appeal, he submitted that a sentence of three years’ imprisonment would suffice, for the following reasons:

(a) The DJ had sentenced Kevin to imprisonment for a year more than Gaiyathiri, who was sentenced to three years' imprisonment for the mirror charge, even though Gaiyathiri was more liable. He had not assisted or encouraged Gaiyathiri, nor was he present at the time of Gaiyathiri's acts.

(b) *Lim Choon Hong* was not relevant because it was a decision under the then Employment of Foreign Manpower Act (Cap 91A, 2009 Rev Ed) ("EFMA") (now the Employment of Foreign Manpower Act 1990 (2020 Rev Ed)) read with the relevant work pass regulations, and *Lim Choon Hong* should be read in light of that context.

(c) The fact that Gaiyathiri had pleaded guilty should not have been taken into account because Gaiyathiri was initially charged with murder, but this was reduced to culpable homicide. Her plea of guilt was not borne out of a sense of remorse but the fact that the capital charge was amended.

53 I disagreed with Kevin's submission that he was any less culpable than Gaiyathiri and agreed with the DJ's adoption of the observations in *Lim Choon Hong* (see [24] above).

54 While *Lim Choon Hong* was a decision concerning the EFMA, the principle it stands for – that the legal employer may bear equal culpability on account of his or her legal duty to safeguard the domestic helper – was a commonsense one that applied with equal force in this case. This was especially so since Kevin had been convicted of abetting grievous hurt by illegally omitting to fulfil his legal duties to Don as imposed by the Work Pass Regulations, which were promulgated under the then operative version of the EFMA.

55 Mr Tiwary submitted at the hearing before me that Gaiyathiri was more culpable as she was responsible for actively depriving Don of food, while Kevin merely omitted to act as he should have. While acts are *ordinarily* more egregious than omissions, I found that the distinction was elided when the omission took place *in the face of a positive duty to act otherwise*.

56 Further, the difference in the sentences imposed on Kevin and Gaiyathiri was justified on the basis of Gaiyathiri's psychiatric condition and her plea of guilt, as was explained by the DJ (see GD at [237]). I had previously found that Gaiyathiri's condition attenuated her culpability to some extent (see *Gaiyathiri (HC)* at [73]). In my view, taking into account the above factors, the DJ could not be said to have erred in law, or to have imposed a manifestly excessive sentence, by imposing a higher sentence on Kevin.

57 For the above reasons, I dismissed Kevin's appeal against the sentence imposed in respect of the Abetment Charge.

Hurt Charge

58 I have considered Kevin's appeal against his sentence for the Hurt Charge together with the Prosecution's cross-appeal below at [69].

Disappearing Evidence Charge

59 Kevin was sentenced to five years' imprisonment. On appeal, Kevin sought a reduced sentence of three years and six months. His submissions are summarised as follows:

- (a) Prema was the one who had instigated him to commit the offence. However, Prema had been given a lower sentence of three years' imprisonment.

(b) There was “very little difference” between Prema and himself (presumably, in terms of culpability). Although Prema had pleaded guilty, she was not truly remorseful as she had lied in Kevin’s trial. Further, Prema was shielding *herself* and Gaiyathiri, while Kevin was not protecting himself. The submission here was presumably that Prema was more culpable because she had acted in a self-interested manner.

(c) *McCrea* involved more egregious facts, but the offender was only sentenced to four years’ imprisonment.

60 Kevin’s submissions raised three questions: (a) whether Prema’s culpability was in fact higher than Kevin’s; (b) relatedly, whether any regard ought to be had to the lower sentence of three years’ imprisonment imposed on Prema; and (c) whether Kevin’s sentence was out of line with the precedents.

61 In my view, Kevin was as culpable as Prema (if not more so) for the following reasons:

(a) First, it was not disputed that Kevin was the one who had actually dismantled the CCTV Recorder, which was what caused the evidence to disappear. I acknowledged that all Kevin did *thereafter* was to throw the CCTV Recorder onto the mattress or give the CCTV Recorder to Prema (GD at [147]), and it was *Prema* who had subsequently sought to dispose of the CCTV Recorder. However, this did not significantly lessen Kevin’s culpability because, in the circumstances, Kevin would have known or ought reasonably to have known that Prema would dispose of the CCTV Recorder.

(b) Second, the key fact that Kevin relied on to support his assertion of lower culpability was that he had carried out the offence *at Prema’s*

instigation. However, the effect of Prema's instigation should not be overstated. I agreed with the DJ's finding that the dismantling of the CCTV Recorder was a considered act by Kevin himself (GD at [274]).

(c) Third, in so far as Kevin appeared to imply that his culpability was lower as he was not seeking to protect himself, I could not accept such a suggestion. The relevant provisions in s 201 of the Penal Code did not draw a distinction between the shielding of offences committed by oneself and the shielding of offences committed by another. In this regard, I echo the following observations by the three-Judge panel of the High Court in *Koh Yong Chiah v Public Prosecutor* [2017] 3 SLR 447 (*"Koh Yong Chiah"*) (at [27]):

27 From the above, it appears that offenders who provide false information to shield *another person* from investigation or prosecution have not necessarily been treated less severely than offenders who provide false information to shield *themselves*. Nevertheless, on some occasions, offenders who committed the offence to protect another person have been treated more lightly by the courts if no other aggravating factors are present (see for eg, *Ee Chong Kiat Tommy* and *Kuah Geok Bee*, which were cited in *Yang Suan Piau Steven v PP* [2013] 1 SLR 809 at [23] as being "exceptions to the norm" due to their unique circumstances). It would appear that in some circumstances, the absence of personal gain could play a role in reducing the seriousness of the offence.

[emphasis in original]

While these remarks were made in the context of offences under s 182 of the Penal Code, they applied equally here. There were no exceptional circumstances which made Kevin's act of shielding Gaiyathiri and Prema any less aggravating.

(d) Fourth, I agreed with the DJ's finding that Kevin would also have been aware of the nature and evidential value of the footage

captured by the CCTV Recorder – there was no suggestion that Kevin’s knowledge in this respect was lesser than Prema’s.

62 Turning to the relevance of the sentence imposed on Prema, I considered that the lower sentence imposed on Prema could be distinguished on two main bases: (a) Prema had pleaded guilty to the s 201 charge; and (b) the charge was framed on the basis of a *lesser* predicate offence of culpable homicide (which attracts a lower maximum sentence of seven years’ imprisonment).

63 Finally, in respect of the existing precedents, the case of *McCrea* was distinguishable. The offender in *McCrea* was given a lower sentence of four years’ imprisonment for the s 201 charge; the court was conscious of the totality principle because he was also to be sentenced for two other culpable homicide charges (*McCrea* at [17]). His co-offender in *Audrey Ong* was sentenced to six years’ imprisonment for each of the two s 201 charges which she had pleaded guilty to.

64 In sum, the DJ’s sentence of five years’ imprisonment in respect of the Disappearing Evidence Charge could not be said to be manifestly excessive. As such, I dismissed Kevin’s appeal against his sentence for the Disappearing Evidence Charge.

False Information Charge

65 Kevin was sentenced to eight months’ imprisonment. He did not make any submissions other than to ask for a lower sentence of six months’ imprisonment.

66 In *Koh Yong Chiah*, the court endorsed the following list of (non-exhaustive) sentencing factors to assess harm and culpability (at [43]–[44]; and [56]):

43 The *further* factors which are relevant in assessing the *level of culpability* of the offender include:

- (a) whether the offender knew or merely believed that the statement given was false;
- (b) whether the offender intended or merely knew it to be likely that the harm would arise;
- (c) whether the giving of false information was pre-meditated or planned, or whether it was simply spontaneous;
- (d) whether active, deliberate or sophisticated steps were taken by the offender to bolster the deception and boost the chances of hoodwinking the public authorities;
- (e) the motive of the offender in giving the false information (malicious, revenge, innocuous, or altruistic intention);
- (f) whether the deception was perpetrated despite or in active defiance of a warning not to lie;
- (g) the number of times the lie was actively said;
- (h) the number of people instigated or involved in the deception, and the specific role played by the offender;
- (i) whether the offender had exploited or exerted pressure on others in the commission of the offence; and
- (j) whether the offence is committed due to threat or pressure or fear of another person, which is a mitigating factor.

44 The *further* factors which are relevant in assessing the *level of harm* caused by the offence include:

- (a) whether the false statement was recanted, and if so, after how long;
- (b) the gravity of the predicate offence which the offender seeks to avoid or help another avoid;
- (c) the investigative resources unnecessarily expended;

(d) the extent to which the innocent victims were affected, how many victims were affected, and the seriousness of the falsely-alleged crime; and

(e) whether the offender obtained a financial advantage from the commission of the offence.

[emphasis in original]

67 I agreed with the DJ that, having regard to the analysis in *Koh Yong Chiah*, both culpability and (potential) harm were high in this case:

(a) Kevin was highly culpable as he knew the statement was false. His lie was also deliberate as he pretended to search for the CCTV Recorder in his home.

(b) The potential harm was also high because the lie only unravelled when Kevin's four-year-old daughter informed the police that she had seen CCTV footage on Gaiyathiri's phone. If not for his daughter, the lie might have been successfully maintained. Further, the lie was told to cover up a serious matter – the circumstances leading up to Don's death.

68 For these reasons, I dismissed Kevin's appeal against his sentence for the False Information Charge.

Hurt Charge – cross-appeals against sentence

Parties' arguments

69 Before the DJ, the Prosecution had submitted for a sentence of 30 to 36 months' imprisonment, while Kevin submitted for a sentence of three months' imprisonment. The DJ eventually sentenced Kevin to 12 months' imprisonment. On appeal:

(a) Kevin sought a lower sentence of six months’ imprisonment on the basis that it was manifestly excessive to uplift the indicative sentence of three to six months, up to 12 months. Kevin argued that the DJ had erred in taking into account that he had “committed multiple offences” when he was already being separately sentenced for each of these offences.

(b) The Prosecution sought a higher sentence of 30 to 36 months’ imprisonment. The Prosecution submitted that the DJ had failed to apply the correct indicative sentencing range, as this was a case of more serious physical and psychological harm. Further, the DJ erred in her application of the parity principle. The DJ also failed to give adequate weight to general deterrence and retribution.

My decision

70 I agreed with the Prosecution that the sentence imposed in respect of the Hurt Charge was manifestly inadequate.

71 In particular, I agreed with the Prosecution that the DJ had erred in assessing the harm caused only in so far as it was the result of a “single episode of hurt” (GD at [252]). The harm suffered by Don as a result of the incident on 24 June 2016 was more serious because it took place *against the backdrop* of a sustained pattern of abuse *which Kevin was aware of*. This was the difference between kicking someone *per se* and kicking someone who was already down. In my view, the harm caused to Don by Kevin fell within the “more serious physical harm” and “more serious psychological harm” sentencing ranges as set out in *Tay Wee Kiat*. This placed Kevin within the 20- to 30 months’ indicative sentencing range in *Tay Wee Kiat* (see above at [25]).

72 That being said, I was hesitant to impose a *further uplift* to the indicative sentencing range. The Prosecution appeared to justify an uplift with reference to the sentences imposed on Prema and Gaiyathiri:

(a) Prema was charged with causing hurt under s 323 of the Penal Code, in respect of the same incident on 24 June 2016, and was sentenced to two years' imprisonment. The Prosecution argued that although Prema "had more direct physical contact" with Don, Kevin was present and "would have seen much of what Prema was doing to [Don]". On that basis, the Prosecution asserted that the two were *jointly involved* in abusing Don, and that the DJ should have taken into account Prema's sentence in calibrating Kevin's sentence. In particular, Kevin's sentence should have been *higher* than Prema's, considering that Prema had pleaded guilty to the charge.

(b) The Prosecution also asserted that a sentence of 30 to 36 months' imprisonment would have been broadly consistent with Gaiyathiri's sentences of between 18 to 24 months' imprisonment for her hurt-related charges.

73 I agreed with the Prosecution that Prema and Gaiyathiri's sentences in respect of the same or similar offences were relevant and should be taken into account. I also agreed that it was relevant to bear in mind that Prema and Gaiyathiri: (a) had pleaded guilty to their offences; and (b) had faced a significantly higher number of charges – factors which were not present in Kevin's case. However, I did not think that this *alone* could form the basis of a *further uplift* to the sentence imposed on Kevin, *beyond* the indicative sentencing range of 20 to 30 months' imprisonment.

74 In light of the above comments, I found that Kevin’s cross-appeal must be dismissed. I briefly address Kevin’s submissions made in this regard:

(a) First, the DJ’s comments about how Kevin had committed “multiple offences” (GD at [253]) were made in the context of explaining why Kevin’s personal hardship, clean record, and character testimonials carried little mitigating weight. Even if the DJ had erred in double counting these other offences, I agreed with the DJ that these factors (*ie*, personal hardship, clean record and character testimonials) should carry little (if any) mitigating weight because deterrence and retribution come to the fore as sentencing considerations in domestic abuse cases (GD at [253]).

(b) Second, as I explained above, the nature of Kevin’s offending warranted a higher sentence than Prema regardless.

75 In sum, I dismissed Kevin’s appeal and allowed the Prosecution’s cross-appeal against the sentence imposed for the Hurt Charge, increasing the sentence to 30 months’ imprisonment (*ie*, two years and six months’ imprisonment).

Conclusion

76 For the aforementioned reasons, I dismissed Kevin’s appeal against conviction and sentence in HC/MA 9117/2025/01 and allowed the Prosecution’s appeal against sentence in respect of the Hurt Charge in HC/MA 9117/2025/02, enhancing the said sentence to two years and six months’ imprisonment.

77 I affirmed the DJ’s decision to order that three of the sentences (the Abetment Charge, Hurt Charge, and Disappearing Evidence Charge) run

consecutively. I agreed with the Prosecution that these three offences related to three different legally protected interests, and the totality principle warranted the False Information Charge to be run concurrently (as opposed to any of the other charges). There was also no submission by Kevin that the totality principle warranted any adjustment to the global sentence. As such, the aggregate sentence imposed was 11 years and six months' imprisonment.

See Kee Oon
Judge of the Appellate Division

Ramesh Chandr Tiwary (M/s Ramesh Tiwary) for the appellant in
MA 9117/2025/01 and the respondent in MA 9117/2025/02;
Stephanie Koh and Sean Teh (Attorney-General's Chambers)
for the respondent in MA 9117/2025/01 and the appellant in MA
9117/2025/02.
