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

[2026] SGHC 63

District Court Appeal No 16 of 2025

Between

Chua Jun Yang

… *Appellant*

And

Kang May Teng Maria Olivia

… *Respondent*

In the matter of District Court Originating Claim No 313 of 2022

Between

Kang May Teng Maria Olivia

… *Claimant*

And

Chua Jun Yang

… *Defendant*

JUDGMENT

[Tort — Assault and battery — Digital penetration]

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v
Kang May Teng Maria Olivia

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General Division of the High Court — District Court Appeal No 16 of 2025
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19 November 2025

25 March 2026 Judgment reserved.

Chua Lee Ming J:

Introduction

1 In 2021, the respondent, Ms Kang May Teng, Maria Olivia, made a police report alleging that she was sexually assaulted by an ex-colleague more than four and a half years earlier. The "ex-colleague" referred to in the police report is the appellant, Mr Chua Jun Yang. The appellant and the respondent had been involved in a sexually intimate relationship although it is disputed whether the relationship had ended when the assault was alleged to have taken place.

2 Subsequently, the police informed the appellant and the respondent that it had decided not to take any further action against the appellant. The respondent then commenced DC/OC 313/3022 ("DC 313") claiming damages against the appellant for battery in the form of sexual digital penetration.

3 The District Judge ("DJ") found in favour of the respondent and awarded her damages in the sums of $25,000 for pain and suffering, $20,000 as punitive damages, and $8,697.39 as special damages: *Kang May Teng Maria Olivia v Chua Jun Yang* [2025] SGDC 130 ("Judgment") at [111], [121] and [130]. This is the appellant's appeal against the DJ's decision.

Facts

4 The appellant and respondent first met sometime in 2015 when they were colleagues at the Defence Policy Office ("DPO") of the Ministry of Defence ("MINDEF"). By May 2015, they were involved in a sexually intimate relationship. Neither of them regarded the relationship as that of a boyfriend-girlfriend relationship. To the respondent, the relationship was "not at a serious enough stage".[1] The appellant described the relationship as "more of a casual relationship, which included sexual relations whenever the [respondent] was agreeable to the same".[2]

5 The appellant wanted to be open about their relationship but the respondent wanted to keep it secret. Their differences in this regard were a constant source of tension within their relationship.

6 The respondent claimed that she ended the relationship in or around December 2015 because she felt that they were incompatible, but they remained friends thereafter. However, the appellant claimed that they were still physically intimate with each other after the end of 2015. According to the appellant, he ended his romantic interest in the respondent in or around October 2016 after

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1 Respondent's affidavit of evidence-in-chief ("AEIC"), at para 8 (III(A) RA 10). "III(A) RA 10" means vol III(A) of the Record of Appeal at p 10. References to the Record of Appeal in this judgment will follow this format.

2 Appellant's AEIC, at para 5 (III(B) RA 232).

he found out from a mutual friend, Ms Gan Su Yi ("Su Yi"), that he was merely someone whom the respondent would turn to whenever she was bored, and that the respondent regarded him as being "very accommodating" in this regard.[3]

7 Regardless of when the relationship ended, the respondent admitted that that she continued to hang out with the appellant, go out for meals and attend fitness classes with him.

8 On 9 July 2016, the respondent and some other colleagues went to a nightclub at Marina Square called BANG BANG, after dinner. The respondent messaged the appellant and invited him to join them. The appellant arrived at around 2am on 10 July 2016 and all of them had a couple of drinks. At around 3am, the group called it a night and left BANG BANG.

9 After leaving BANG BANG, the claimant and the respondent went to the latter's apartment, where the sexual assault is alleged to have taken place.

Respondent's version of the alleged sexual assault

10 The respondent's evidence was that as the appellant and respondent were headed in the same direction, they decided to share a taxi ride home. During the ride home, they became physically intimate and started to make out in the taxi. The respondent invited the appellant over to her place to engage in sex.

11 When they reached the respondent's apartment, they continued to make out in the living room. At some point, the respondent went to her bedroom and

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[3] Appellant's AEIC, at para 6 (III(B) RA 233).

took a shower in the ensuite bathroom. Whilst showering, she sobered up and regretted having invited the appellant over to engage in sex.

12 When she exited the bathroom the appellant was sitting on the floor of her bedroom. The respondent told the appellant: "You should go home. This isn't happening". She asked the appellant to leave her apartment immediately. However, the appellant refused to leave, turned emotional and pleaded with her to get back into a romantic relationship with him.

13 The conversation became heated and went on for about ten minutes. Exasperated, the respondent told the appellant to "see [himself] out" and that she was going to bed. Believing that the appellant would leave of his own accord, the respondent retreated to her bed with the lights still on. She laid on her right side with her back facing the appellant.

14 However, the appellant continued to plead with her. In "a matter of seconds", the appellant removed his shirt and his pants and climbed into her bed. Before she could react, he forcefully wrapped his arms around her from behind and restrained her physically. She struggled to push away his arms but was unable to get free. The appellant proceeded to use his left hand and reached into her pyjama shorts, inserting one finger into her vagina without her consent.

15 Shocked and outraged, the respondent pushed his hand away and pushed him off her body, sat up and demanded that he leave immediately. She shouted at him to "Get out". The appellant scoffed, got dressed angrily and left her apartment. A few moments later, the appellant returned, retrieved his belongings that he had left behind in the living room and stormed out at around 4am.

Appellant's version of the alleged assault

16 The appellant said that he could not recall the exact events that transpired at the respondent's apartment. He denied that he would have done anything against respondent's consent, noting that it would not be the first time they were sexually intimate and/or had sexual relations after visiting a club and/or having alcohol.

Events on 10 July 2016 after the alleged assault

17 On 10 July 2016, between 4:24am and 4:32am, the appellant sent the respondent the following text messages:[4]

Time	Text message
04:24:33	Don't ever text me again when you're drunk
04:24:44	Let's avoid situations that we both don't want to be in
04:25:52	I've had enough
04:27:23	Stop stringing me along if this is going no where
04:32:07	I apologize that I got out of control AGAIN
04:32:23	But let's avoid putting ourselves in those situations again yeah
04:32:25	Thanks

18 The appellant also sent the following messages to another mutual friend, Ms Amanda Chua Kai Jia ("Amanda") from 4:28am that morning:[5]

4 V(B) RA 164.

5 V(C) RA 4–5.

Time	Text message
04:28:45	Everyone needs to stop saying that I like Maria
	…
04:32:39	It's going no where
	…
04:36:55	But I've been trying since god knows when
	…
04:37:10	But it's going no where
04:37:17	She has issues that she can't let go of
	…
04:37:42	Which are stopping her from giving it a shot
04:37:47	I'm tired of trying
04:38:07	I really like her but this is really going no where
	…
04:42:30	But she does a really good job of being a bitch to me when she's sober
04:42:48	And only when she's drunk, she gets to me
04:43:08	So I kinda just texted her to tell her never to text me again when she's drunk and to leave me alone

19 The respondent replied to the appellant's messages later that day (10 July 2016) at 12:07pm and both of them exchanged the following messages:[6]

[6] V(B) 164–165.

Time	Sender	Test message
12:07:29	Respondent	Sorry
12:11:47	Appellant	Nvm. I'm sorry too for being childish and throwing a hissy fit
12:11:55	Appellant	Shld have left the moment you told me too
12:13:53	Respondent	Ya btw no one allowed on my bed unless clean
12:14:03	Respondent	And your hair was dirty humph cos you were at the club
12:14:45	Respondent	Have to change pillow case
12:15:07	Appellant	Sorry about that
12:15:13	Appellant	I can wash it for you
12:16:07	Respondent	Lol it's fine
12:16:40	Respondent	I think we could have enjoyed each other last night and had fun and I wanted to
12:16:48	Respondent	But not for the wrong reasons
12:16:58	Appellant	I don't understand
12:17:21	Appellant	What do you mean not for the wrong reasons
12:17:39	Respondent	Bad judgement
12:18:05	Respondent	I'm not in the best place in my life to make decisions that affect people's emotions
12:18:43	Respondent	And when you were charging your phone where did you put it huh

12:18:47	Respondent	On the ledge or on my bed
12:19:24	Appellant	So are you saying you wanted to do not because of bad judgement
12:19:56	Respondent	Too many negatives I'm confused now
12:20:02	Appellant	I'm also confused lol
12:20:12	Respondent	It means without thinking, would have done it
12:20:25	Respondent	But that's having bad judgement
12:20:36	Respondent	I sobered up and thought about it in the shower
12:20:46	Respondent	So i couldn't
12:21:00	Appellant	Yeah I figured
12:21:16	Respondent	Ledge or bed - phone :(
12:21:29	Appellant	Ledge
12:21:48	Appellant	I would have loved to do it last night
12:23:03	Appellant	But not
12:23:07	Appellant	For the wrong reasons
12:39:40	Appellant	I still stand by what I said btw - whatever your emotional state is now, it's better for both of us if you just let me in
13:17:54	Respondent	That was really sweet and I really appreciate it. Enjoy the movie

Events after 10 July 2016

20 After 10 July 2016, the respondent continued to exchange numerous WhatsApp messages with the appellant and to meet up with the appellant. The respondent's WhatsApp messages included messages:

(a) asking the appellant to go shopping with her (on 4 August 2016);[7]

(b) asking the appellant to pass by Somerset on his way to meet his friend (instead of taking the MRT) so that she could "intercept" him (on 7 August 2016);[8]

(c) asking the appellant to call her to wake her up (on 11 August 2016);[9]

(d) inviting the appellant to a party at her place (on 12 August 2016) and telling him to "hurry" after he said that he might go around midnight if he was done (on 13 August 2016);[10]

(e) telling the appellant that she was just looking for company (on 16 August 2016);[11]

(f) asking the appellant to join her and their mutual friends (on 20 August 2016);[12]

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7 V(B) RA 166 (4/8/16, 01:43:58).

8 V(B) RA 170 (7/8/16, 13:28:23)–171 (7/8/16, 13:45:20).

9 V(B) RA 172 (11/8/16, 00:55:36–00:58:06).

10 V(B) RA 173 (12/8/16, 23:05:43)–174 (13/8/16, 23:23:28).

11 V(B) RA 176 (16/8/16, 02:26:05–02:26:44).

12 V(B) RA 180 (20/8/16, 22:09:40–22:14:30).

(g) asking the appellant to "hang out this weekend or next" (on 22 October 2016);[13]

(h) telling the appellant that her "uber" was going past his house that morning and she had wanted to pick him up if he was still home (14 November 2016);[14]

(i) telling the appellant that she was "on off" (*ie*, on a day off) and that she wanted him to "play truant" with her and go with her for a meal (on 20 December 2016);[15]

(j) asking the appellant (on 30 December 2016) whether he was going to the party at her house the next day;[16]

(k) complaining that the appellant felt "distant and cold" and that that made her "kinda sad" (on 31 December 2016);[17] and

(l) asking the appellant to "bump someone off" to have dinner with her when he told her that his social calendar was packed (on 4 January 2017).[18]

21 In his AEIC, the appellant said that:

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13 V(B) RA 195 (22/10/16, 14:39:22).

14 V(A) RA 171 (14/11/16, 12:50:53–12:51:04)

15 V(B) RA 206–207 (20/12/16, 12:51:10–13:01:49).

16 V(A) RA 172 (30/12/16, 20:18:31).

17 V(B) RA 210 (31/12/16, 12:57:24).

18 V(B) RA 219 (4/1/17, 01:30:21–01:33:31).

(a) the respondent invited the appellant to spend the night at her place and greeted him dressed only in her undergarments (in or around September 2016);[19] and

(b) the respondent asked him if he would try to do anything if she was in her underwear in front of him at that moment (on 3 November 2016).[20]

The appellant was not challenged on the fact that the above incidents took place. In her affidavit of evidence-in-chief ("AEIC"), the respondent admitted that she made "sporadic romantic advances" towards the appellant after 10 July 2016.[21]

22 On 1 October 2016, the respondent exchanged the following messages with Su Yi about the appellant (whom the respondent referred to as "jy"):[22]

Time	Sender	Test message
10:31:33	Respondent	I just called jy no wonder no answer
10:31:45	Respondent	Sian sian sian
		…
10:32:05	Su Yi	Tsk tsk tsk is he your go-to person in boredom
10:32:09	Su Yi	That's… Evil
		…

19 Respondent's AEIC, at para 11(g) (III(B) RA 240).

20 Appellant's AEIC, at para 11(a) (III(B) RA 241. There is an earlier para 11(a) at III(B) RA 239 due to a duplication in paragraph numbers, but that refers to a different incident.); III(D) RA 5 (at 3/11/16, 1:39:11 AM).

21 Appellant's AEIC, at para 41 (III(A) RA 23).

22 V(B) RA 256–257.

10:33:01	Respondent	He's very accommodating when I'm bored
10:33:18	Respondent	Always talks to meeee I guess I will find someone else
		…
10:33:37	Su Yi	This is evil
		…
10:33:47	Su Yi	Don't feed this sad man
10:33:55	Respondent	What did I do

23 Su Yi told the appellant what the respondent had said. On the same night (1 October 2016), the appellant confronted the respondent over WhatsApp and said Su Yi told him what the respondent had said.[23] They had an argument during which the respondent said that her comment to Su Yi about the appellant "was meant to be a nice thing because [she knew she could] always count on [the appellant]".[24] According to the appellant, he turned cold on the respondent after their argument.

24 Sometime around October 2016, the appellant entered into a romantic relationship with another colleague, Ms Jane Sea ("Jane").[25] The appellant subsequently married Jane.

25 During a WhatsApp conversation with the appellant on 31 December 2016, the respondent referred to gossip about him and asked him if there was

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[23] V(B) RA 190 (at 22:36:18 and 22:39:52).

[24] V(B) RA 191 (at 22:44:25).

[25] Jane's AEIC, at para 7 (III(D) RA 68).

anyone he was interested in.[26] The appellant did not answer her directly and she continued to press him about it, sending him the following messages:[27]

Time	Sender	Test message
16:52:32	Respondent	Stop acting so cavalier
16:53:00	Respondent	You can talk to me
16:53:18	Respondent	I know I've been an asshole to you all year
16:54:40	Respondent	But you still mean to me

26 Later that evening (31 December 2016), the respondent sent the appellant the following messages:[28]

Time	Sender	Test message
20:08:28	Respondent	Im more concerned about you
20:08:45	Respondent	And Im afraid to mean nothing to you
20:09:00	Respondent	Which is ironic after how I treated you

27 The appellant was rotated out of the DPO at MINDEF in December 2016 / January 2017.

28 On 11 January 2017, the respondent and appellant exchanged the following messages:[29]

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26 V(B) RA 210 (31/12/16, 15:40:04–15:40:16).

27 V(B) RA 211.

28 V(B) RA 211.

29 V(B) RA 225.

Time	Sender	Test message
01:05:48	Respondent	1) since you only have that one spot for someone you would go out of your way for, is she in that spot already? 2) does she already mean the world to you
01:17:33	Appellant	I feel like both questions are kinda the same?
01:18:00	Appellant	I think the answer is not yet but otw?

29 In her oral testimony, the respondent said that she had heard a rumour that the appellant was dating Jane and that she was keen to find out whether he was dating and who he was dating.[30]

30 On 15 January 2017, the respondent asked the appellant if they could have another conversation.[31] The appellant agreed and they met later that night. It is not disputed that at this meeting, the respondent asked the appellant if he would consider giving their relationship one last shot but the appellant rejected the suggestion.[32]

31 On 20 January 2017, the respondent and the appellant exchanged the following WhatsApp messages about the appellant's relationship with Jane:[33]

Time	Sender	Test message
23:25:05	Respondent	Are you guys already together

30 NE, 23 September 2024, at 126:7 – 127:8 (III(E) RA 132–133).

31 V(B) RA 227 (15/1/17, 18:39:36).

32 Appellant's AEIC, at para 11(m) (III(B) RA 244); NE, 23 September 2024, at 127:16–128:6 (III(E) RA 133–134); V(B) RA 229 (16/1/17, 13:43:31–16:26:11).

33 V(A) RA 173 (20/1/17, 23:25:05–23:38:53).

23:27:25	Appellant	Nope
		…
23:27:36	Appellant	I'll make sure you're the first to know if we are
23:27:52	Respondent	Idk
23:38:03	Respondent	I don't think I could take it
23:38:53	Respondent	Are you sure that you'd be happier with her

The appellant did not immediately reply to the respondent's last question and it appears that she then called him but he missed her call.[34]

32 The next day (21 January 2017), the appellant answered the respondent's question as follows: "I can't be sure but I think she and I deserve a shot".[35] Later that night and the next day, the respondent and the appellant exchanged the following messages:[36]

Date	Time	Sender	Test message
21/1/17	22:50:53	Respondent	I just hope you're not with her to escape me
	22:51:01	Respondent	And that you're not just her rebound
22/1/17	12:42:35	Appellant	Hahha thanks for the concern
	12:42:42	Appellant	Very clear that I'm not

[34] V(A) RA 173 (21/1/17, 18:23:06).

[35] V(A) RA 173 (21/1/17, 18:23:31).

[36] V(B) RA 230 (21/1/17, 22:50:53 – 22/1/17, 12:43:15).

	12:43:15	Appellant	And I'm quite sure I'm not just her rebound too

33 On 9 February 2017, the appellant told the respondent that Jane and he were "official now" and the respondent thanked him for letting her know.[37]

34 Almost a year later, on 28 January 2018, the respondent met with three of her friends from university for lunch. One of them was Ms Rachel Lai Yanfen ("Rachel"). The respondent told them that she was sexually assaulted by the appellant in 2016 but did not provide more details about the incident. Her friends became quiet and the respondent tried to change the topic.[38]

35 The next day, on 29 January 2018, the respondent met with her then colleague, Mr Ang Zhe Wei Jeremy ("Jeremy") for dinner. She told Jeremy that the appellant had sexually assaulted her in her apartment after a night out, that he had forced himself on her by grabbing her from behind and penetrating her vagina with his finger, and that she still felt very confused because she did not expect someone like the respondent to have the propensity to commit sexual assault.[39]

36 More than two years later, on 15 November 2020, the respondent wrote a letter to Rachel in which the respondent referred to the lunch on 28 January 2018 (see [34] above) and recounted the alleged sexual assault, this time with details ("15 November 2020 Letter").[40] This was the first time that the

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37 V(B) RA 231 (9/2/17, 01:57:59–22:43:52).

38 Respondent's AEIC, at para 47 (III(A) RA 25); Rachel's AEIC, at para 13 (III(B) RA 150).

39 Respondent's AEIC, at para 48 (III(A) RA 25); Jeremy's AEIC, at para 12 (III(B) RA 142).

40 V(A) RA 16–20.

respondent documented the alleged sexual assault in detail. The respondent handed the 15 November 2020 Letter to Rachel only on 20 December 2020.

37 On 22 November 2020, the respondent wrote another letter, this time to her friend, Mr Lim Jia Jun Eugene ("Eugene") in which the respondent voiced her unhappiness with Eugene over his reaction when she told him about the alleged sexual assault ("22 November 2020 Letter").[41] The respondent said she did not recall when she told Eugene about the alleged sexual assault.[42] According to Eugene, the respondent told him sometime in 2020.[43] The respondent handed the 22 November 2020 Letter to Eugene only on 23 December 2020.

38 On 2 March 2021, the respondent submitted a complaint to the senior management of MINDEF alleging the following:[44]

(a) when she was a junior officer who had worked for just a year after graduating, a senior officer had asked her if things would have been different between them if he was not her boss and if he was not married;

(b) a few years later, she was sexually assaulted by a civilian officer; and

(c) the previous year (*ie*, 2020), she was sexually assaulted by another officer.

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41 V(A) RA 22–26.

42 NE, 23 September 2024, at 94:28–29 and 101:3–11 (III(E) RA 100–101).

43 Eugene's AEIC, at para 12 (III(B) RA 172).

44 V(A) RA 28–32.

The respondent asked the senior management to investigate whether there was a "serious problem of sexual harassment and assault, and impropriety in MINDEF/SAF" and if so, what senior management was "going to do to change this culture and prevent future incidents from occurring", pointing out that three female colleagues had encountered sexual harassment or assault.

39 On 9 March 2021, the Head of MINDEF Human Resources Department encouraged the respondent to file an official report with the SAF Military Police Command. On 15 March 2021, the respondent filed a report with the SAF Military Policy Command's Special Investigations Branch.

40 As the appellant was a civil servant, the Military Police Command redirected the respondent to file a police report. On 26 March 2021, the respondent filed a police report. The complaint in the report was just one sentence: "On [10 July 2016, 2am to 3am], I was sexually assaulted by an ex-colleague."[45]

41 The respondent resigned from MINDEF at the end of March 2021.[46]

42 On 28 February 2022, SPF informed the appellant and the respondent that, in consultation with the Attorney-General's Chambers, it had decided not to take further action against the appellant.[47]

43 On 7 July 2022, the respondent filed DC 313.

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45 V(A) RA 34.

46 Respondent's AEIC, at para 65 (III(A) RA 37).

47 III(D) RA 34; Respondents AEIC, at para 69 (III(A) RA 38–39).

Respondent's explanations for her WhatsApp messages on 10 July 2016

44 The respondent explained that the appellant's words made her feel that it was her fault, and he attempted to reconcile, so she apologised to him instinctively and tried to converse to de-escalate any tensions and return the relationship between them to normalcy.[48]

Respondent's explanations for her conduct after 10 July 2016

45 The respondent explained that she continued to exchange WhatsApp messages and meet up with the appellant "to keep [their] relationship friendly" because "at the material time, it had not occurred to [her] that she was sexually assaulted" by the appellant, she "had not understood the full gravity of the appellant's actions" and she "felt responsible for hurting his feelings and blamed [herself] for provoking him into taking out his anger on [her]".[49]

46 The respondent also claimed that she could not avoid the respondent even if she wanted to, that there were times when she tried but was unsuccessful and that it was impossible to cut ties with him because they worked in the same office and shared mutual friends, and on occasion, the appellant would "guilt-trip" her by reminding her that she had said they would still be friends.[50]

47 As for her attempt to re-start her relationship with the appellant, the respondent claimed that she was "acting under the warped belief that if the [appellant] genuinely loved [her] and if [they] entered a romantic relationship

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48 Respondent's AEIC, at para 35 (III(A) RA 20–21).

49 Respondent's AEIC, at paras 37–38 (III(A) RA 21–22).

50 Respondent's AEIC, at para 39 (III(A) RA 22).

again, then the non-consensual incident on 10 July 2016 may not have mattered in the grand scheme of things".[51]

48 The respondent's explanations for subsequently deciding to tell her friends in January 2018 about the alleged sexual assault were as follows:[52]

(a) In mid-2017, she "came to the sudden realisation that [she] had been sexually assaulted" by the appellant after she was exposed to the rise of the "Me Too" movement, a global social movement against sexual violence. Up until that point, she was unable to reconcile the fact that the non-consensual digital penetration by the appellant constituted sexual assault because it did not cross her mind that someone she trusted, such as the appellant, could be said to have sexually assaulted her.

(b) Her struggle to reconcile his sexual assault on her with her feelings of shame and guilt that she deserved what he had done to her because she had upset him. This caused her to experience depression and symptoms of anxiety. She attempted to tell close friends about the incident but could not find the words or courage to describe what had happened. By December 2017, she was feeling worse and knew she could no longer keep the incident to herself.

49 The respondent's explanations for deciding to write the 15 and 22 November 2020 Letters, submitting her complaint to MINDEF and making the police report in March 2021 were as follows:

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51 Respondent's AEIC, at para 40 (III(A) RA 22).

52 Respondent's AEIC, at paras 44–46 (III(A) RA 23–24).

(a) In early 2020, MINDEF sent out several internal communications about sexual misconduct and harassment, stating that it did not tolerate such behaviours and that anyone who had been a victim should come forward to seek help from the Singapore Armed Forces ("SAF") Counselling Centre.

(b) The respondent felt triggered by all the notices or emails. Sometime in mid-2020, her mental health plummeted severely. She decided to speak to a Counsellor and in July 2020, she attended a counselling session at the SAF Counselling Centre. She also underwent Eye Movement Desensitisation and Reprocessing therapy sessions and turned to homeopathic remedies. Gradually, she "came to terms" with the fact that she was sexually assaulted.[53]

(c) The respondent decided it was necessary to confront her friends, Rachel and Eugene, whom she felt had not been as supportive as she had hoped, and she wrote the 15 November 2020 Letter and the 22 November 2020 Letter (see [36]–[37] above).[54]

(d) The respondent also learnt that some of her colleagues had experienced sexual harassment and/or assault. She felt aggrieved and on 2 March 2021, she sent an email to the Senior Management of MINDEF, (see [38] above).[55]

(e) She filed a report with the SAF Military Police Command after being encouraged to do so by the Head of MINDEF Human Resources

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53 Respondent's AEIC, at para 56 (III(A) RA 27–28).

54 Respondent's AEIC, at para 57 (III(A) RA 28).

55 Respondent's AEIC, at para 66 (III(A) RA 37).

Department. However, she was redirected to lodge a report with the SPF as the appellant was not subject to the SAF Act.[56]

50 In her AEIC, the respondent explained that:[57]

(a) She did not seek professional help earlier as she did not want to risk jeopardizing her security clearance which would have put her job on the line.

(b) She was highly averse to lodging a police report earlier because she did not have sufficient support from those around her, she felt trapped as she still shared the same social circle with the appellant, she was afraid the appellant would blame her for ruining his reputation and the risk of the appellant assaulting anyone else was extremely low after he started a new relationship.

The DJ's decision

51 The DJ found as follows:

(a) The standard of proof was the balance of probabilities. However, due to the serious implications of the allegation, cogent evidence was required before a court would be satisfied that the allegation of sexual assault was established (Judgment at [29]).

(b) The respondent's account of what had happened on 10 July 2016 was substantially unchanged across the 15 and 22 November Letters, her AEIC and her oral evidence (Judgment at [31]).

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56 Respondent's AEIC, at paras 67–68 (III(A) RA 38).

57 Respondent's AEIC, at paras 51–53 (III(A) RA 26).

(c) The text messages exchanged between the appellant and the respondent on 10 July 2016 corroborated the respondent's account of the events that unfolded in the early hours of 10 July 2016 (Judgment at [63] and [106]).

(d) The fact that the respondent did not confront the appellant immediately after the incident did not mean that the sexual assault did not happen or that it was consensual (Judgment at [77] and [80]).

(e) The respondent's behaviour in the six months post-incident (August 2016 to January 2017) was both plausibly and cogently explained and did not detract from her credibility (Judgment at [94]).

(f) The delay in the respondent's disclosure and her reluctance to report the incident earlier were based on legitimate and credible reasons and did not undermine her credibility (Judgment at [102]).

52 Accordingly, the DJ found that that the respondent had proven on a balance of probabilities that the tort of battery had occurred on 10 July 2016 (Judgment at [106]).

53 With respect to damages, the DJ:

(a) awarded the respondent $25,000 for pain and suffering (Judgment at [111]);

(b) disallowed the respondent's claim for loss of amenities on the ground that there was nothing to indicate that the respondent's ability to form long-lasting relationships with male partners had been permanently affected (Judgment at [112]);

(c) found that the respondent had failed to prove that she suffered adjustment disorder as a result of the tort (Judgment at [117]);

(d) declined to award aggravated damages as it was an isolated incident in the context of the parties' relationship (Judgment at [119]);

(e) awarded the respondent $20,000 in punitive damages on the ground that the compensatory award (for pain and suffering) was inadequate to sufficiently serve the aim of punishment (Judgment at [121]); and

(f) awarded the respondent special damages assessed in the sum of $8,697.39 for medical and other expenses which were related to the tort (Judgment at [122], [125] and [130]).

The respondent did not appeal against the DJ's findings on damages.

Parties' cases in this appeal

54 The appellant's case is that:

(a) the DJ did not apply the correct evidentiary approach;

(b) the DJ erred in her analysis of the evidence, in particular on the issue of corroboration; and

(c) the DJ erred in awarding punitive damages.

55 Understandably, the respondent supports the DJ's findings.

The role of an appellate court

56 The principles are well-established. As a general rule, an appellate court will not disturb findings of fact by the trial judge unless they are reached against the weight of the evidence or are plainly wrong; however, where a particular finding of fact is based on an inference drawn from the facts or the evaluation of primary facts, the appellate court is in as good a position as the trial judge to undertake that exercise: *Tat Seng Machine Movers Pte Ltd v Orix Leasing Singapore Ltd* [2009] 4 SLR(R) 1101 at [41].

57 The present case involves findings of facts based on inferences drawn from the facts or the evaluation of primary facts, in many respects.

Whether the DJ applied the correct evidentiary approach

58 It is by now well-established that there is no third burden of proof apart from the civil burden of balance of probabilities and the criminal burden of beyond reasonable doubt: *Alwie Handoyo v Tjong Very Sumito* [2013] 4 SLR 308 ("*Alwie Handoyo*") at [159]. It is also well-established that where a serious allegation (*eg*, fraud or dishonesty) is made, cogent evidence is required before a court will be satisfied that the allegation is established (*Alwie Handoyo* at [161]).

59 The appellant accepts that the civil standard of proof – the balance of probabilities – remains the standard applicable to the allegation of sexual misconduct in the present case. However, the appellant complains that the DJ did not consider whether the "unusually convincing" standard or the "fine toothcomb" approach should be taken.

60 The appellant relies on *AOF v Public Prosecutor* [2012] 3 SLR 34 ("*AOF*") in which the Court of Appeal said as follows (at [111]–[112]):

> 111 It is well-established that in a case where no other evidence is available, a complainant's testimony can constitute proof beyond reasonable doubt (see s 136 of the Evidence Act (Cap 97, 1997 Rev Ed) ("EA")) – but only when it is so "unusually convincing" as to overcome any doubts that might arise from the lack of corroboration …
>
> 112 The need for "fine-tooth comb" scrutiny in so far as allegations of sexual abuse are concerned is particularly acute, "given both the ease with which allegations of sexual assault may be fabricated and the concomitant difficulty of rebutting such allegations" …

61 As the Court of Appeal has clarified, the "unusually convincing" standard applies to the *uncorroborated* evidence of a witness in *all* offences and not just sexual offences, where such evidence forms the sole basis for a conviction: *Public Prosecutor v GCK* [2020] 1 SLR 486 ("*GCK*") at [104].

62 The appellant submits that the "unusually convincing" or "fine-tooth comb" standards should also apply in civil cases involving uncorroborated evidence of sexual misconduct. The appellant refers to *WOC v WOD* [2023] SGFC 22 ("*WOC*"), in which the District Court expressed the following view (at [75]):

> 75 While the above observations [in *AOF*] are from criminal cases, I see no reason why the reasoning would not apply in civil proceedings too. Regardless of the burden of proof to be applied, these general observations must ring true as a matter of common sense.

63 Applying the "unusually convincing" standard in civil cases may cause some confusion. That standard has (save for *WOC*) hitherto been applied in the context of criminal cases and the term itself connotes a degree of proof that is perhaps more readily associated with the higher standard of proof of beyond a reasonable doubt in criminal cases.

64 However, as the Court of Appeal explained in *GCK* at [91]–[92], the "unusually convincing" standard is not a test but a *heuristic tool*; its aim is to ensure that the trial judge has an awareness of the dangers of convicting the accused person on uncorroborated evidence and that he or she (as well as an appellate court) undertakes a rigorous and holistic assessment of the evidence. It can be misleading to refer to it as a standard because it is not a standard of proof at all; rather, it is a qualitative description of the overall calibre of the testimony of that sole witness: *GII v Public Prosecutor* [2025] SGHC 38 at [25].

65 A judge must undertake a rigorous and holistic assessment of the evidence in all cases, whether criminal or civil although he must, of course, apply the appropriate burden of proof. Nothing less will do. The "unusually convincing" standard is a heuristic tool to assist the trial judge in making findings of fact based on uncorroborated evidence. With that in mind, I agree with *WOC* that there is no reason in principle why it should not apply in civil cases as well, subject to the caveat that the burden of proof in civil cases is that of a balance of probabilities. In other words, the question in a civil case is whether the uncorroborated evidence is sufficient on its own to prove the relevant allegation on a balance of probabilities.

66 That said, in my view, the appellant's submission that the DJ erred in not considering whether the "unusually convincing" approach should be taken, is misplaced. The "unusually convincing" approach or standard is engaged only in the case of *uncorroborated* evidence (See [61] above). In the present case, the DJ found that the respondent's allegation of sexual assault was corroborated by the appellant's messages (Judgment at [106]). There was therefore no need for the DJ to consider whether the "unusually convincing" standard was applicable.

67 The DJ directed herself that cogent evidence of the respondent's allegation of sexual assault was required and that given the appellant's position that he could not recall what had happened on the day in question, the case centred on the evaluation of the respondent's evidence and the reliability of her account (Judgment at [29]–[30]). In my view, the DJ's direction to herself was correct and cannot be faulted.

Whether the DJ erred in her analysis of the evidence

68 The issues are whether:

(a) the DJ erred in finding that the respondent's evidence was corroborated by the appellant's text messages; and

(b) the DJ erred in finding that the respondent had proven the alleged sexual assault on a balance of probabilities.

Whether the respondent's allegation of sexual assault was corroborated by the text messages

69 In the Judgment (at [63]), the DJ found that the text messages exchanged between the appellant and the respondent on 10 July 2016 (see [17]–[18] above) corroborated the respondent's account that:

(a) she had invited the appellant to her place to have sex;

(b) she changed her mind after taking a shower and sobering up;

(c) she told the appellant to leave but he did not;

(d) they had a heated conversation;

(e) at some point the appellant was on her bed; and

(f) the appellant eventually left in a huff.

The above allegations that were found to have been corroborated do *not* include the most crucial allegation in the respondent's account, which was the sexual assault itself (*ie*, that the appellant forcefully wrapped his arms around her from behind and inserted his finger into her vagina without her consent). The above allegations do not, in themselves, prove that the alleged sexual assault had taken place. Thus, the fact that the messages corroborated the above allegations does not mean that the messages also corroborate the alleged sexual assault.

70 However, in her conclusion, the DJ concluded that the respondent's evidence of the events that unfolded in the early hours of 10 July 2016 (which would include the alleged sexual assault) was corroborated by the contemporaneous text messages exchanged between the parties (Judgment at [106]).

71 The DJ appears to have found corroboration of the alleged sexual assault in the appellant's message in which he said: "I apologize that I got out of control AGAIN" (see [17] above). The DJ rejected the appellant's explanation that the message referred to him losing control of his *emotions* and allowing himself to get into a heated argument with the respondent (Judgment at [65]–[66]). Instead, the DJ concluded that this message was likely to have been a hark back to an incident on 1 July 2016 where the appellant had overstepped the respondent's *physical* boundaries (Judgment at [69]).

72 In deciding whether evidence is corroborative, what is important is the substance as well as the relevance of the evidence, and whether it is supportive or confirmative of the weak evidence which it is meant to corroborate: *Public*

Prosecutor v Mohammed Liton Mohammed Syeed Mallik [2008] 1 SLR(R) 601 at [43].

73 The question therefore is whether the "got out of control AGAIN" message corroborated the alleged sexual assault (*ie*, that the appellant forcefully wrapped his arms around the respondent from behind and inserted his finger into her vagina without her consent). To answer this question, it is important to first understand what the appellant's "got out of control AGAIN" message meant. The appellant's message would corroborate the alleged sexual assault only if it meant that his loss of control referred to the alleged sexual assault, *ie*, loss of physical control. However, the same message is equally capable of meaning (as the appellant claimed) loss of emotional control that led him to get into a heated argument with the respondent. Whether the message meant loss of physical or emotional control would depend on what was the previous incident that the word "AGAIN" referred to, and whether the appellant lost physical or emotional control during that previous incident.

74 The respondent's case did not state what was the previous incident that the word "AGAIN" referred to. The DJ's conclusion that the message was a hark back to the 1 July 2016 incident meant that she took the word "AGAIN" to refer to the 1 July 2016 incident. The question then is what happened during the 1 July 2016 incident?

75 The 1 July 2016 incident was an incident in which the respondent had gotten upset and lashed out at the appellant over the appellant touching her on her shoulder when they were in the office; this led to an argument between them within earshot of her colleagues. The incident is reflected in the following

messages exchanged between the respondent and the appellant on 1–2 July 2016:[58]

Date	Time	Sender	Test message
1/7/16	22:24:07	Respondent	I don't understand why people feel like they can do anything to me
	22:24:18	Respondent	And just touch me even if it's my shoulder or arm
	22:24:20	Respondent	Anytime they want
	22:25:25	Respondent	So yes, my first reaction was a confirmation of my thought – that I didn't want you thinking that you could be intimate with me anytime
	22:25:33	Respondent	And then your subsequent reaction trying to fight it out in the office
	22:25:43	Respondent	Within earshot of all my cube mates
	22:26:03	Respondent	Was the validation that I'm truly a mess right now and I seem to f*** up everyone who comes near me
			…
2/7/16	00:10:37	Appellant	I'm sorry, didn't realise you'd be so sensitive to me touching you lightly in the office … to me, it was minimal contact and just a small gesture to show you that I cared. I'll stop.
	00:12:52	Appellant	I'm also sorry I lashed out, it was not cool. …

[58] V(B) RA 158 (1/7/16, 22:24:07)–159 (2/7/16, 00:12:52).

76 There is nothing to suggest that the appellant or the respondent regarded the appellant's touch on the respondent's shoulder on 1 July 2016 as an action resulting from a loss of control. The respondent's objection was simply that she did not want the appellant "thinking [he] could be intimate with [her] anytime".[59] The appellant described it as "minimal contact and just a small gesture to show [the respondent] that [he] cared";[60] the respondent did not disagree. It was also not the respondent's case below that the touch on her shoulder on 1 July 2016 resulted from the appellant's loss of control.

77 Instead, it is clear from the exchange of messages between the appellant and the respondent on 1 July 2016 (see [75] above) that the appellant's loss of control on 1 July 2016 was emotional, not physical. The respondent was upset that the appellant reacted by picking a fight in the office within earshot of her colleagues. The appellant apologised for having "lashed out" at her.

78 Therefore, if the word "AGAIN" referred to the 1 July 2016 incident, the appellant's message could only mean loss of emotional control that led him to get into a heated argument with the respondent, as was the case during the 1 July 2016 incident. It could not have meant loss of physical control that led him to commit the alleged sexual assault. There was no evidence of any other previous incident in which the appellant had lost physical control towards the respondent. Thus, there was no evidence based upon which the appellant's message could be interpreted to refer to alleged sexual assault.

79 In addition, on 10 July 2016, the appellant had apologised "for being childish and throwing a hissy fit" (see [19] above). This contemporaneous

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59 V(B) RA 159 (1/7/16, 22:25:25).

60 V(B) RA 159 (2/7/16, 00:10:37).

evidence supports the appellant's claim that his "got out of control AGAIN" message referred to him losing control and getting into an argument with the respondent. In the Judgment, the DJ did not refer to this message when dealing with the inference to be drawn from the appellant's "got out of control AGAIN" message.

80 I agree with the appellant's submission that the DJ's reliance on the 1 July 2016 incident for her inference that the appellant's apology in his "got out of control AGAIN" message was for the alleged sexual assault (rather than the heated argument with the respondent) is untenable. In my view, the DJ erred in concluding that the messages on 10 July 2016 corroborated the respondent's allegation of the sexual assault.

81 The respondent further submitted before the DJ that the respondent's account of the alleged sexual assault was also corroborated by:

(a) the 15 November 2020 Letter to Rachel (see [36] above);

(b) the 22 November 2020 Letter to Eugene (see [37] above);

(c) her complaint to MINDEF on 2 March 2021 (see [38] above);

(d) her police report on 26 March 2021 (see [40] above); and

(e) what she told her psychiatrist during her consultations with him on 24 August 2022, 6 September 2022 and 28 September 2022.

82 The essential qualities of corroborative evidence are its independence, admissibility and whether it implicates the accused (or the defendant) in a material particular: *Kwan Peng Hong v Public Prosecutor* [2000] 2 SLR(R) 824 at [37]. In my view, the above documents and the respondent's statements to her psychiatrist do not constitute corroborative evidence. They have little

additional evidential value as they were essentially self-serving and cannot be considered independent evidence.

Whether the evidence proves the sexual assault on a balance of probabilities

83 One of the grounds for the DJ's finding that the respondent had proved the tort of battery was her finding that the respondent's allegation of the sexual assault was corroborated by the text messages on 10 July 2016 (Judgment at [106]). I have disagreed with her finding and found instead that the respondent's account of the alleged sexual assault was not corroborated.

84 The question then is whether the uncorroborated evidence in this case is sufficient on its own to prove the alleged sexual assault on a balance of probabilities. As the DJ noted, the present case centred on the evaluation of the respondent's evidence and the reliability of her account (Judgment at [30]). In evaluating the evidence, I am guided by the following:

(a) The DJ's findings of fact should not be disturbed unless they are reached against the weight of the evidence or are plainly wrong. However, I am in as good a position as the DJ to make findings of facts based on inferences drawn from the facts or the evaluation of primary facts (see [56] above). As stated earlier, many aspects of the present case involve the drawing of inferences from the facts or the evaluation of primary facts.

(b) There is no one "typical" emotional or behavioural reaction that is expected to be exhibited by victims of sexual offences: *Thangarajan Elanchezhian v Public Prosecutor* [2024] 6 SLR 507at [72(b)]. The fact that the victim did not complain in a timely manner and remained in contact with the accused over the extended duration of the sexual abuse

> does not rob the victim of credibility; the explanation for any delay in reporting is to be considered and assessed by the court on a case-by-case basis; a calm, undisturbed disposition may generally incline the court to conclude that no wrong was committed, but it is not necessary for a complainant to be distraught for her to be believed: *Public Prosecutor v Yue Roger Jr* [2019] 3 SLR 749 at [30], [33]–[34].

85 A victim's conduct in reacting to an alleged sexual assault is relevant to the credibility of the allegation. Such conduct may be passive, *eg*, failure or delay to confront, complain or report the sexual assault. It may be active, *eg*, where the victim displays active behaviour that is inconsistent with the allegation of sexual assault. Such conduct, whether passive or active, would negatively affect the complainant's credibility, *if unexplained*.

86 The assessment of an explanation offered by a victim involves a two-step process. First, the court has to decide whether it accepts the explanation as true. For example, an explanation may be rejected on the ground that it is contradicted by other objective evidence. If the court rejects the explanation, then the complainant's conduct (whether it is a passive or active reaction) is to be evaluated on the basis that it is unexplained. If the court accepts the explanation, it then moves to the second step which is to consider whether and to what extent the explanation explains the complaint's conduct. To the extent that the explanation does explain the complainant's conduct, then that conduct will not affect the victim's credibility. It is during this second step that the court has to bear in mind the fact that there is no typical emotional or behavioural reaction that is expected to be exhibited by victims of sexual assaults.

Whether the relationship ended before 10 July 2016

87 The respondent claimed that she ended the relationship in or around December 2015. However, the appellant claimed that he ended his relationship with the respondent in or around October 2016 after he learned from Su Yi that the respondent merely treated him as someone whom she would turn to whenever she was bored.

88 The DJ did not make a finding on whether the parties' relationship had ended before 10 July 2016. In my view, she did not have to. When the relationship actually ended is not material to the question whether the alleged sexual assault took place on 10 July 2016. It was not disputed that on 10 July 2016, the respondent invited the appellant to her apartment to engage in sex. Even if they were still in a relationship on 10 July 2016, the respondent had every right to change her mind. The question remains whether the appellant committed the sexual assault as alleged.

Whether the respondent's evidence was internally consistent

89 The DJ found that the respondent's account of the alleged sexual assault remained substantially unchanged across the 15 and 22 November 2020 Letters, her AEIC and her oral evidence (Judgment at [31]).

90 I disagree with the DJ's evaluation of the evidence. In my judgment, the respondent's evidence was internally inconsistent in one material aspect.

91 The respondent's pleaded case was that (a) she proceeded to lay on the right side of her bed, further away from the appellant, with her back facing the appellant, (b) the appellant undressed himself and proceeded to climb onto the

left side of the bed, and (c) before she could react, the appellant forcefully wrapped his arms around her from the back, physically restraining her.[61]

92 In her AEIC, the respondent stated as follows:[62]

> 22. After my shower, I exited the bathroom with my mind fully made up. The [appellant] was sitting on the floor of my bedroom. I said to the [appellant] "*You should go home. This isn't happening*". …
>
> 23. Upon hearing this, the [appellant] was taken aback and refused to leave. He turned emotional and pleaded with me to get back into a romantic relationship with him.
>
> 24. This escalated to a heated conversation between us. … This exchange went on for about ten (10) minutes … Exasperated, I firmly instructed the [appellant] to "see [*himself*] out" and told him that I was going to bed.
>
> 25. Believing that the [appellant] would leave of his own accord, I impatiently retreated to my bed with the lights still on, I laid on my right side **with my back facing the [appellant]**. …
>
> 26. However, instead of leaving, the [appellant] continued to plead with me.
>
> 27. In **a matter of seconds**, the [appellant] removed his shirt and his pants and climbed into my bed. **Before I could react**, he forcefully wrapped his arms around me from behind and restrained me physically. I struggled to push away his arms but was unable to get free. The [appellant] proceeded to use his left hand and reached into my pyjama's shorts, inserting one finger into my vagina without my consent.
>
> [*italics* in original; emphasis added in bold]

In her oral testimony, the respondent confirmed that the appellant came from behind and climbed onto the bed.[63] The bed was a queen-sized bed.[64]

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61 Statement of Claim (Amendment No 1), at paras 5(f)–(g) (II RA 12–13).

62 Respondent's AEIC, at paras 26–27 (III(A) RA 15–16).

63 NE, 23 September 2024, at 46:19–21 (III(E) RA 52).

64 NE, 23 September 2024, at 49:1–2 (III(E) RA 55).

93 The scenario that the respondent painted in her AEIC was that (a) she laid on the right side of her bed with her back to the appellant, (b) the unoccupied part of the queen-sized bed separated her from the appellant, (c) in "a matter of seconds" the appellant removed his shirt and pants and climbed onto the left side of her bed, and (d) before the respondent could react, the appellant moved to her side of the bed and held her from behind, restraining her physically.

94 However, in the 15 November 2020 Letter, the respondent told Rachel that the appellant "kept coming closer to [her] bed" and she "warned him, no dirty clothes touch [her] bed".[65] In her oral testimony, the respondent agreed that she warned the appellant that no dirty clothes were to touch her bed *as he was walking to her*.[66] The respondent also confirmed that the respondent took off his clothes after that and agreed that the appellant was responding to what she said.[67]

95 The 22 November 2020 Letter is consistent with the 15 November 2020 Letter. In the 22 November 2020 Letter, the respondent told Eugene that she reminded the appellant that "dirty clothes can't touch [her] bed (cos of [her] OCD) and it was meant to mean, 'stay away'" and instead, the appellant "took off his dirty clubbing clothes … and got into [her] bed".[68]

96 In her AEIC, the respondent did not mention that she had warned the appellant that no dirty clothes were to touch her bed. Before the DJ, the appellant argued that the fact that the respondent had said that dirty clothes cannot touch her bed showed that she had anticipated the appellant climbing onto her bed;

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65 III(A) RA 30.

66 NE, 23 September 2024, at 54:15–27 (III(E) RA 60).

67 NE, 23 September 2024, at 55:17–24 (III(E) RA 61).

68 III(A) RA 34.

this was in contrast to the appellant removing his clothes and climbing onto the bed "in a matter of seconds" such that the respondent had no time to react.

97 The DJ found as follows (Judgment at [51]):

> … I did not find this to be an inconsistency of any substance. As the [respondent] recounted in her letters to Rachel and Eugene, this had been said to the [appellant] in the expectation that he would give up and leave. Given that her back was to him, the [appellant's] reaction was therefore unexpected, giving her little time to react.

98 I disagree with the DJ's finding that there was no inconsistency of any substance. In my judgment, the logical inference from the respondent's accounts in the 15 and 22 November 2020 Letters, and her oral testimony in connection with the former, is that she warned the appellant not to let his dirty clothes touch her bed because she saw the appellant walking towards her and she either anticipated or realised that he was getting onto her bed. This is materially different from her account in her AEIC.

The text messages on 10 July 2016

99 The fact that the appellant and respondent had a heated argument on 10 July 2016 is not disputed. A proper analysis of the appellant's "got out of control AGAIN" message has shown that the appellant was referring to his loss of control causing him to enter into a heated argument with the respondent (see [78]–[79] above). With the "got out of control AGAIN" message properly understood, it can be seen that there is nothing in the messages between the appellant and the respondent on 10 July 2016 that suggests that the alleged sexual assault took place. Even the fact that at some point, the appellant was on the respondent's bed (as the messages confirmed) does not mean that the alleged sexual assault must have taken place.

100 The messages are consistent with the fact that the appellant was upset by the respondent changing her mind after having invited him to her apartment to engage in sex, and they had a heated argument. As the appellant told the respondent: "Stop stringing me along if this is going no where" (see [17] above).

101 In her messages (see [19] above), the respondent made no mention of the alleged sexual assault. After saying "Sorry" to the appellant, the respondent proceeded to complain about having to change the pillowcase because the appellant's hair was dirty. The respondent was also concerned with whether the appellant had placed his phone on the ledge or on her bed, when charging it. In her oral testimony, the respondent confirmed that she was concerned about whether the appellant's phone had dirtied her bed.[69]

102 Importantly, the respondent said: "I think we could have enjoyed each other last night and had fun and I wanted to" and "But not for the wrong reasons".[70] In response to the appellant's question as to what she meant by "not for the wrong reasons", the respondent said it would have been "bad judgment" and that she was "not in the best place in [her] life to make decisions that affect people's emotions".[71] The respondent's "we could have enjoyed each other" message is very much at odds with her claim that she had been sexually assaulted by the appellant just a few hours earlier that day.

103 In her AEIC, the respondent explained that: [72]

> 35. … His words made me feel that it was my fault that him asking to get back into a romantic relationship ended up

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69 NE, 23 September 2024, at 71:11–16 (III(E) RA 77).

70 V(B) RA 164 (10/7/16, 12:16:40)–165 (10/7/16, 12:16:48).

71 V(B) RA 165 (10/7/16, 12:17:21–12:18:05)

72 Respondent's AEIC at para 35 (III(A) RA 21).

> as a situation where he "*got out of control*" leading to him penetrating my vagina with his finger. He also apologised and sweetly asked me to "let [him] in [emotionally]" which I saw as his attempt to reconcile. I apologised to him instinctively, and tried to converse to de-escalate any tensions and return the relationship to normalcy.
>
> [*italics* in original]

104 There are several problems with the respondent's explanation. First, as already explained, the appellant's "get out of control AGAIN" message referred to his loss of emotional control leading to him getting into a heated argument with the respondent, and not loss of physical control leading to him penetrating her vagina with his finger.

105 Second, the above passage does not explain the respondent's "we could have enjoyed each other" message.

106 Third, her claim that she "tried to converse to de-escalate any tensions and return the relationship to normalcy" is not borne out by the messages. After the respondent apologised to the appellant, the appellant's messages in response – "Nvm, Im sorry too for being childish and throwing a hissy fit" and "Shld have left the moment you told me too" – were contrite and apologetic. No continuing "tension" can be discerned from the appellant's replies or the messages that followed.

107 Fourth, in the above passage, the respondent gave the impression that one of the reasons that led her to apologise was the fact that the appellant had "sweetly" asked her to let him in emotionally and that she saw that as his attempt to reconcile. However, the respondent's apology was the very first message that she sent to the appellant. It had nothing to do with the appellant's subsequent message (at the end of the exchange) asking her to let him in emotionally.

108 In my judgment, the respondent's explanation for her messages is not credible and should be rejected. The messages exchanged between the appellant and the respondent on 10 July 2016, in particular the respondent's "we could have enjoyed each other" message, are unexplained and inconsistent with the alleged sexual assault.

The respondent's interaction with the appellant between 10 July 2016 and 28 January 2017

109 The respondent did not confront the appellant about the alleged sexual assault. There was nothing in the respondent's conduct towards the appellant that suggested that the alleged sexual assault had taken place.

110 Instead, the respondent continued to interact with the appellant (see [20]–[23] above). She exchanged numerous WhatsApp messages with the appellant very frequently between August 2016 and January 2017, at times on a daily basis. She asked the appellant to go shopping with her, to give her a wake-up call, to "hang out" with her, to "play truant" with her and to "bump someone off" his social calendar so that he could have dinner with her. She sought the appellant's company, invited him to spend the night with her and greeted him in her undergarments. She told him that she was sad that he felt "distant and cold". The respondent herself admitted to making "sporadic romantic advances" towards the appellant after 10 July 2016.

111 The respondent regarded the appellant as someone who was "very accommodating when [she is] bored". She told the appellant that she knew she could always count on him.

112 After she heard that the appellant was interested in Jane, the respondent told the appellant on 31 December 2016 that she was "afraid to mean nothing"

to him (see [25] above). In her messages, the respondent also acknowledged that *she* had treated him badly.

113 The respondent explained that she continued to keep her relationship with the appellant friendly because she had not understood the full gravity of the appellant's actions, she blamed herself, she could not avoid the respondent, she had tried unsuccessfully to avoid the respondent and it was impossible to cut ties with him because they worked in the same office and shared mutual friends (see [45]–[46] above).

114 The DJ found that the respondent's explanations for her behaviour were not implausible or improbable, given the context in which the incident had taken place and the relationship between the parties (Judgment at [91]).

115 I disagree with the DJ's evaluation of the respondent's explanations. In my view, the respondent's explanations are not credible and should be rejected. They sound hollow in the light of the frequency, tone and content of her messages and the nature of her interactions with the appellant. The respondent's actions went far beyond just keeping her relationship with the appellant friendly (as she claimed). The respondent actively sought the appellant out to chat with him on WhatsApp, for his company and for various activities, including in particular spending the night at her place.

116 Further, it was the respondent who invited the appellant to parties at her place, and to join her and their mutual friends. Under re-examination, the respondent referred to a surprise party that she was organising for one of her friends and said that she had no choice but to invite the appellant to large social events as she had no good reason to explain why she did not do so without

having to tell them what had happened.[73] However, this does not explain her inviting the appellant to her house party in August 2016 and telling him to "hurry" (see [20(d)] above).

117 The respondent's interactions with the appellant are unexplained and inconsistent with the alleged sexual assault.

The respondent wanted to get back into a relationship with the appellant

118 On 15 January 2017, the respondent wanted to re-start her relationship with the appellant but was rejected by the appellant (see [30] above). The respondent's messages to the appellant on 20 and 21 January 2017 show that she still wanted to get back into a relationship with the appellant (see [31]–[32] above).

119 The respondent's explanation for her attempt to re-start her relationship with the appellant was her "warped belief" that if they entered into a romantic relationship again, the alleged sexual assault may not have mattered in the grand scheme of things" (see [47] above).

120 In my view, the respondent's explanation is not believable. After hearing rumours that the appellant was dating someone else, the respondent told the appellant that he still meant something to her and that she was afraid to mean nothing to him, and asked him if Jane "already meant the world" to him (see [25]–[29] above). Subsequently, she asked if she could re-start her relationship with the appellant. Even after the appellant rejected her, she told him that she hoped he was not with Jane "to escape" her (the respondent) (see [31]–[32] above). In her oral testimony, the respondent agreed that she was upset that the

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[73] NE, 26 September 2024, at 11:24–12:8 (III(F) RA 18).

appellant had decided to pursue Jane romantically and that she preferred that he had a relationship with her instead.[74] The very clear inference from the evidence is that the respondent attempted to re-start her relationship with the appellant after she learnt that he was dating Jane and she felt that he should be in a relationship with her instead of Jane. In my view, the respondent's alleged "warped belief" is contradicted by the contemporaneous objective evidence.

121 The respondent's conduct in wanting to re-start her relationship with the appellant is unexplained and inconsistent with the alleged sexual assault.

The respondent's delay in complaining about or reporting the alleged sexual assault

122 The respondent did not speak to anyone about the alleged sexual assault until January 2018 (see [34]–[35] above). She wrote the 15 and 22 November 2020 Letters more than two year after that (see [36] above). Her complaint email to MINDEF was sent on 2 March 2021 (see [38] above). Her police report was filed on 26 March 2021 (see [40] above).

123 The respondent's explanations for her delay in complaining about or reporting the alleged sexual assault are summarised at [48]–[50] above. It is not necessary to deal with her explanations in this regard in the light of my finding that the evidence does not prove the alleged sexual assault, without having to take the delay in complaining/reporting into consideration.

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74 NE, at 23 September 2024, 28:5–16 (III(E) RA 34).

The appellant's inability to recall the events of 10 July 2016

124 In his AEIC, the appellant said that as the alleged incident was around seven years ago, he could not recall the exact events that transpired when he was at the respondent's place on 10 July 2016.[75]

125 The DJ found the appellant's inability to recall the events of 10 July 2016 to be "more convenient than credible" (Judgment at [70]). The DJ was of the view that there was no reason why the appellant could not recall what had happened on 10 July 2016 when he was able to recall that he and the respondent had consensual sexual relations on 14 October 2015 and 31 January 2016 simply from an interpretation of the messages on those dates even though there was nothing that explicitly stated that they had consensual sexual intercourse and there was nothing significant about the two instances that would leave an imprint in this memory.

126 However, in my view, the comparison with the events and messages on 14 October 2015 and 31 January 2016 is not justified. The appellant did not "recall" that he had sexual relations with the respondent on those two dates. He was merely drawing inferences from the messages that he had sexual relations with the respondent.

127 With respect to 14 October 2015, the respondent sent the appellant the following message: "If my period started last tues it should be okay right".[76] In his oral testimony, the appellant explained that he "interpreted this to indicate that we had sex …".[77]

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75 Appellant's AEIC, at para 9 (III(B) RA 238).

76 V(A) RA 133 (14/10/15, 09:44:02).

77 NE, 5 February 2025, at 122:13–27 (III(F) RA 240).

128 With respect to 31 January 2016, the respondent and the appellant exchanged the following messages:[78]

Time	Sender	Test message
15:39:37	Respondent	Sorry about last night. I'm not entirely sorry cos I do miss you but it's complicated
		…
15:55:59	Appellant	I'm sorry too, I woke up feeling really shitty and guilty because I've alr promised to be a better person and not do this when we're drunk
15:56:21	Appellant	But I'm also not entirely sorry because I also miss you
15:56:27	Appellant	It's difficult
		…
16:00:55	Respondent	This is another reason why it's complicated
16:01:07	Respondent	You and working tgt
16:01:48	Respondent	I wanna cut you loose
16:02:12	Respondent	So I'm sorry for what I did and for saying all this

In his oral testimony, the appellant explained that he interpreted these messages to mean that he had sexual intercourse with the respondent that night.[79]

78 V(A) RA 154–155.

79 NE, 5 February 2025 at 130:20–131:8 (III(F) RA 248).

129 The appellant therefore did not purport to "recall" that he had sexual relations with the respondent on 14 October 2015 and 31 January 2016. He merely interpreted the messages on 14 October 2015 and 31 January 2016 to mean that he did have sexual relations with the respondent. The DJ thus erred in finding that the appellant's inability to recall the events of 10 July 2016 was not credible based on his ability to "recall" the events of 14 October 2015 and 31 January 2016.

130 In any event, in the final analysis, the appellant's inability to recall the events of 10 July 2016 is immaterial in the light of my finding that the respondent's evidence does not prove the alleged sexual assault.

Conclusion

131 For the above reasons, I find that the respondent has not proved the alleged sexual assault on a balance of probabilities. I allow the appeal with costs to be paid by the respondent. The DJ's orders are set aside. The respondent's claim is dismissed with costs.

132 Parties are to file written submissions (maximum of five pages, excluding the cover pages) on costs, here and below, within 14 days. The

respondent is to pay disbursements, here and below, to be fixed by me if not agreed.

133 The usual consequential orders follow.

Chua Lee Ming
Judge of the High Court

Narayanan Sreenivasan SC, Kyle G Peters, Tan Si Xin Adorabelle (Sreenivasan Chambers LLC) for the appellant;
Yeo Kee Teng Mark, Lee Wan Lin Amelia, Mark Chow (Fortress Law Corporation) for the respondent.