

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

[2026] SGHC 122

Criminal Case No 40 of 2019

Between

Public Prosecutor

And

- (1) BQG
- (2) CAT

FOUNDATIONS OF DECISION

[Criminal Law — Offences — Sexual offences]

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Public Prosecutor

v

BQG and another

[2026] SGHC 122

General Division of the High Court — Criminal Case No 40 of 2019

Pang Khang Chau J

30 November, 1, 3 December 2021, 30–31 January, 1–2, 6–9, 20–23, 27–29
February, 25–28 June, 1, 5–7, 19–23 August, 11, 13, 19, 23, 26 September, 4,
22 October 2024, 14 February, 28 March, 30 September 2025

8 June 2026

Pang Khang Chau J:

Introduction

1 The first accused, [BQG], provided *tuina* massages at various temples since the 1980s.¹ The second accused, [CAT], and her daughter, who was born on 5 March 2001 (the “Complainant”), received *tuina* massages from the first accused. While they initially visited the first accused’s massage clinic at a temple for his *tuina* services, at some point in time, the first accused started carrying out massages for them in the master bedroom of the flat that they resided in (the “Flat”). The central case of the Prosecution is that first accused sexually abused the Complainant in the course of the *tuina* sessions and certain ritual showers carried out in the Flat, and that the second accused conspired with

¹ Transcript (26 June 2024) at p 10:26–28.

the first accused in this regard. For ease of reference, I will refer to the first accused as the “First Accused” and to the second accused as the “Mother”.

2 The First Accused claimed trial to a total of 15 charges. They comprise (a) nine charges of sexual assault by penetration under s 376(2)(a) of the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code”) for digitally penetrating the Complainant’s vagina (the “SAP charges”); (b) three charges of sexual exploitation under s 7(b) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (“CYPA”) for asking the Complainant to massage his testicles (the “CYPA charges”); (c) two charges of outrage of modesty under s 354(1) of the Penal Code for licking the Complainant’s vagina and on a separate occasion, licking and sucking the Complainant’s breasts (the “outrage of modesty charges”); and (d) one charge under s 293 of the Penal Code for showing pornography to the Complainant (the “showing of pornography charge”).

3 The Mother claimed trial to 13 charges. They comprise (a) nine corresponding charges for conspiring with the First Accused on each of the SAP charges; (b) three corresponding charges for conspiring with the First Accused on each of the CYPA charges; and (c) one charge under s 293 of the Penal Code for showing the Complainant pornographic videos.

4 I acquitted both the First Accused and the Mother of all charges. The Prosecution has appealed against my decision.

Background to the charges

5 I begin by explaining the factual background to the charges, as alleged by the Prosecution.

The SAP charges

6 In relation to the nine SAP charges, six of them involved penetration in the course of the *tuina* massages (the “massage fingering offences”), while the remaining three pertained to penetration during the ritual showers that the First Accused conducted for the Complainant (the “shower fingering offences”).

7 The massage fingering offences were alleged to be carried out regularly between 5 March 2012 to November 2017, taking place at least once a year.² During the *tuina* sessions, the Complainant lay on her back on the massage bed with her feet placed flat on the bed and knees bent.³ This massage bed was gifted to the Mother by the First Accused. On the pretext of treating the Complainant’s irregular menstruation and discharge,⁴ the First Accused inserted his finger into the Complainant’s vagina.⁵ During the first time that the First Accused digitally penetrated the Complainant, the Complainant shouted in pain. The Mother, who witnessed the fingering, told her to keep quiet.⁶ The Mother was also present during all the other instances of digital penetration but did not say anything.⁷ At times, the Complainant kicked around to stop the First Accused from inserting his finger but the Mother held her legs down at the First Accused’s behest.⁸

² Prosecution’s Closing Submissions filed on 14 February 2025 (“PCS”) at paras 6(a) and 17.

³ PCS at para 16.

⁴ PCS at para 15.

⁵ PCS at para 17.

⁶ PCS at para 16.

⁷ PCS at para 17.

⁸ PCS at para 18.

8 The shower fingering offences were alleged to be carried out on at least three occasions between August 2017 and 23 November 2017.⁹ Each ritual shower was preceded by a prayer session involving chanting around a bowl of water and was carried out in the bathroom attached to the master bedroom.¹⁰ On the instructions of the First Accused and the Mother, the Complainant was naked during the ritual showers. The Mother would take the Complainant's clothes off if she did not do so herself.¹¹ The Complainant sat on a stool in front of the sink.¹² After transferring the water from the preceding prayers into a pail and adding more water, the First Accused would chant in Thai while using his right hand to scoop the water from the pail and pouring the water over the Complainant's head. He held a lime in his left hand which he brushed all over her body, including her breasts and vagina. The First Accused would then ask the Complainant to squat down so that he could bathe her to wash away the pulp from the lime. While the Complainant was in a squatting position, the First Accused inserted his finger into her vagina.¹³ The Mother was present during the ritual showers and in particular, when the First Accused digitally penetrated the Complainant.¹⁴

The outrage of modesty charges

9 As noted above, there were two outrage of modesty charges. The first outrage of modesty charge concerned the First Accused's alleged act of licking

⁹ PCS at para 6(c).

¹⁰ PCS at paras 29–30.

¹¹ PCS at para 30.

¹² PCS at para 31.

¹³ PCS at para 32.

¹⁴ PCS at para 30.

the Complainant's vagina sometime in 2015 while the Complainant was lying on the massage bed during one of the *tuina* sessions (the "licking of vagina offence").¹⁵ The First Accused suddenly went very close to her vagina on the pretext of checking her vaginal discharge and licked it.¹⁶ The second outrage of modesty charge alleged that, on an occasion between end-2016 and November 2017, the First Accused licked and sucked the Complainant's breasts (the "licking and sucking of breasts offence"). This act was brief, lasting only about a second.¹⁷

The CYPA charges

10 The three CYPA charges relate to the First Accused's alleged acts of soliciting massages on his testicles from the Complainant during her *tuina* sessions (the "*juagen* offences"). The charges alleged that the *juagen* offences took place at least once a year from 5 March 2015 to 5 March 2017.¹⁸ The Complainant initially refused the First Accused's request but eventually complied after the First Accused persisted.¹⁹ While the Complainant and the Mother took turns to massage the First Accused's private parts in the beginning, the Complainant was the only one doing so after two or three sessions (in the Mother's presence) because the First Accused complained that the Mother's hands were very coarse.²⁰ The Complainant initially complied and carried out the massages out of curiosity, but found it boring and frustrating by 2016.

¹⁵ PCS at paras 20–21.

¹⁶ PCS at para 21.

¹⁷ PCS at para 22.

¹⁸ PCS at paras 6(a) and 26.

¹⁹ PCS at para 25.

²⁰ PCS at para 26.

During one of the later *juagen* sessions, she asked the Mother to perform the *juagen* instead, but the Mother instructed her to do it. After the First Accused left the Flat, the Complainant asked the Mother why the latter could not perform the *juagen*, to which the Mother replied that the Complainant should massage the First Accused's private parts whenever he solicited it, as the First Accused visited the Flat frequently to perform massages for them.²¹ In addition, on one or two occasions, the First Accused asked the Complainant to masturbate him. There was once that the First Accused ejaculated.²²

The showing of pornography charge

11 The showing of pornography charge relates to the First Accused playing pornographic videos on his mobile phone and watching them with the Mother and the Complainant, sometime between 2015 and 2016. The purpose of this activity was to teach the Complainant how to have sex.²³

12 Separately, the Mother also faces a charge for showing pornography to the Complainant sometime in 2011 ("the Mother's showing of pornography charge"). The videos were played on a portable DVD player and they depicted men and women engaging in penile-vaginal sex and oral sex, some of which were censored.²⁴

Issues to be determined

13 This decision is organised as follows:

²¹ PCS at para 27.

²² PCS at para 28.

²³ PCS at para 23.

²⁴ PCS at para 24.

(a) First, I considered the charges faced by the First Accused in the following order: the SAP charges for the massage fingering offences and shower fingering offences, the outrage of modesty charges, the CYPA charges for the *juagen* offences, and the showing of pornography charge.

(b) Next, based on the conclusions that I reached in respect of the First Accused's charges, I considered the corresponding charges faced by the Mother, as well as the Mother's showing of pornography charge.

The massage fingering offences

14 I turn to consider the massage fingering offences, which were allegedly committed during the following periods:

- (a) between 5 March 2012 and 5 March 2013 (first charge);
- (b) between 5 March 2013 and 5 March 2014 (second charge);
- (c) between 5 March 2014 and 5 March 2015 (third charge);
- (d) between 5 March 2015 and 5 March 2016 (fourth charge);
- (e) between 5 March 2016 and 5 March 2017 (fifth charge); and
- (f) between 5 March 2017 and September 2017 (sixth charge).

The Prosecution's case

15 The Prosecution argues that the massage fingering offences are corroborated by the statements of the First Accused and the Mother.²⁵ Further,

²⁵ PCS at para 45.

while the First Accused's counsel put to the Complainant that the First Accused only cleaned her vaginal area but did not penetrate her vaginal opening, the Complainant had disagreed and could recall screaming in pain the first time the digital penetration occurred.²⁶ The First Accused's claim that there was no digital penetration was an afterthought and was inconsistent with the statements given by the First Accused and the Mother.²⁷ The Prosecution submits that the acts of digital penetration were carried out with a sexual intent and devoid of any treatment purposes. They had no basis in traditional Chinese medicine, and the First Accused never performed similar treatments on other female patients.²⁸

The First Accused's case

16 The First Accused's case is that he never digitally penetrated the Complainant's vaginal opening.

17 In relation to the massage fingering offences that occurred between 5 March 2012 and 5 March 2013 (the subject of the first charge) and between 5 March 2013 and 5 March 2014 (the subject of the second charge), the First Accused submitted that they could not possibly have taken place because the *tuina* sessions at the Flat commenced only after Chinese New Year in 2014 in about February/March 2014.²⁹ The First Accused elaborated that massage bed was only delivered to the Flat in September/October 2013, in anticipation of the impending renovations at the temple. (As the First Accused subsequently also

²⁶ PCS at para 128.

²⁷ PCS at paras 132–134.

²⁸ PCS at paras 127 and 135–142.

²⁹ First Accused's Closing Submissions filed on 14 February 2025 ("1DCS") at paras 223–255.

provide *tuina* services at another temple after the renovations at this temple commenced, I shall hereafter refer to this temple as “the First Temple” and to the other temple as “the Second Temple”.) The *tuina* sessions at the Flat only commenced around February/March 2014, as the First Accused was juggling various responsibilities before that. Further, the *tuina* sessions mainly started after the Flat was renovated and a new air-conditioner was installed in the master bedroom in 2014, although there were a few sessions before that.³⁰ Apart from the timing of the delivery of the massage bed and the installation of the new air-conditioner, the First Accused also relies on various other events to argue that no digital penetration could have occurred prior to 2014.³¹ The First Accused contends that Complainant’s testimony was not unusually convincing as she could not remember when the digital penetration first occurred³² and was unclear about the details of the incidents in the first and second charges.³³

18 As for the massage fingering offences that constitute the remaining four charges, the First Accused argues that he had only (a) cleaned the Complainant’s vaginal area by using his pinkie finger to dislodge hardened bits of toilet paper in the skin folds surrounding the vaginal opening, and used cotton pads and warm water to wipe the vaginal area; and (b) provided the Complainant a menses massage to alleviate her cramps by pulling on the veins next to the vaginal opening; both these acts did not involve any penetration of the vaginal opening.³⁴ In so far as the investigative statements of the First Accused and the

³⁰ 1DCS at paras 262–272.

³¹ 1DCS at paras 256–261 and 273–289.

³² 1DCS at paras 294–301.

³³ 1DCS at paras 302–307.

³⁴ 1DCS at paras 321–353.

Mother stated that the First Accused had inserted his finger into the Complainant's vagina, they were erroneously recorded because the investigator failed to draw a distinction between the vaginal area and the vaginal opening when translating between English and Mandarin.³⁵ Moreover, the First Accused argues that even if he had digitally penetrated the Complainant's vaginal opening, he did not do so for any sexual purpose. Instead, his intent was to help the Complainant prevent an infection and alleviate her menstrual discomfort.³⁶ The First Accused further contends that the Complainant's testimony was not unusually convincing as she was internally inconsistent,³⁷ unclear on the number of incidents of digital penetration,³⁸ and she provided illogical reasons for staying silent.³⁹

My decision

The applicable legal principles

19 For the massage fingering offences, the First Accused faces six charges under s 376(2)(a) of the Penal Code. The first three charges are punishable under s 376(4)(b) of the Penal Code as the Complainant was below 14 years of age when the alleged offences occurred. I reproduce these provisions here:

Sexual assault by penetration

376. ...

(2) Any person (A) who —

³⁵ 1DCS at paras 145–216.

³⁶ 1DCS at paras 354–372.

³⁷ 1DCS at paras 375–381.

³⁸ 1DCS at paras 382–390.

³⁹ 1DCS at paras 391–397.

- (a) sexually penetrates, with a part of A’s body (other than A’s penis) or anything else, the vagina or anus, as the case may be, of another person (B);

...

shall be guilty of an offence if B did not consent to the penetration.

(3) Subject to subsection (4), a person who is guilty of an offence under this section shall be punished with imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning.

(4) Whoever —

...

- (b) commits an offence under subsection (1) or (2) against a person (B) who is under 14 years of age,

shall be punished with imprisonment for a term of not less than 8 years and not more than 20 years and shall also be punished with caning with not less than 12 strokes.

20 On the question of whether penetration is sexual, Section 377C(d) provides as follows:

377C. In sections 375 to 377B —

...

(d) penetration, touching or other activity is “sexual” if

—

(i) because of its nature it is sexual, whatever its circumstances or any person’s purpose in relation to it may be; or

(ii) because of its nature it may be sexual and because of its circumstances or the purpose of any person in relation to it (or both) it is sexual;

...

21 The relevant provision in the present case was s 377C(d)(ii). This was clear from the Explanatory Statement to the Penal Code (Amendment) Bill (No 38 of 2007) which introduced s 377C. As explained in the Explanatory Statement:

The second limb (section 377C(d)(ii)) deals with the case where objectively the nature of an activity is simply capable of being (i.e. may or may not be) sexual. Examples of such a case would be inserting a finger into a woman's vagina or a person's anus or where someone removes another person's clothes, or where someone touches the genital organs of himself or another person, or kisses another person, or strokes another person's thigh (whether clad or not). The second limb states that the question is whether a reasonable person would consider that because of its nature the act may be sexual and because of the circumstances of the activity or any person's purpose in relation to it (not just the person who does the act, but also, for example, someone who encourages the act to be done), or both, the activity is sexual.

For example, a reasonable person would consider that touching of a woman's genitals may, because of its nature, be sexual, and would consider that such touching for sexual gratification is sexual in the light of the purpose with which the touching is done. On the other hand, a reasonable person would not consider that touching a woman's genitals is sexual if it is performed by a gynaecologist who is conducting a bona fide medical examination.

The two massage fingering offences from 5 March 2012 to 5 March 2014

22 In my judgment, the Prosecution has not proven beyond a reasonable doubt the massage fingering offences from 5 March 2012 to 5 March 2014, which form the subject of the first and second charges.

23 First, no massage session could have taken place prior to end-2013 because the massage bed was only delivered to the Flat then. The Prosecution does not dispute that the massage bed was present from the very first time that

the First Accused massaged the Complainant in the Flat.⁴⁰ The following evidence demonstrates that the massage bed was only delivered in end-2013:

(a) The witness 1DW3, who was an apprentice of the First Accused, testified that he delivered the massage bed to the Flat around end September or early October 2013.⁴¹ He recalled that the massage bed was delivered then because the First Temple celebrated the birthday of a deity around that time.⁴² During cross-examination, when the Prosecution suggested to 1DW3 that the delivery could have possibly taken place in 2012 or 2014 instead, 1DW3 rejected this possibility on the basis that “in mid-2013, we were already being informed that there will be renovations [to the First Temple] and ... [we had to] be prepared for the renovations”.⁴³ According to 1DW3, the renovations were slated to take place in 2014 and the First Accused’s massage clinic had to be closed by end-2013.⁴⁴ The Mother confirmed in her testimony that 1DW3 had delivered the massage bed to the Flat around October 2013,⁴⁵ when the First Temple “was about to be renovated”.⁴⁶

(b) 1DW3’s account is corroborated by another witness 1DW2, who was another apprentice of the First Accused. In his conditioned statement, 1DW2 explained that the First Accused gave the massage bed

⁴⁰ Transcript (26 September 2024) at p 7:20–24.

⁴¹ Transcript (20 August 2024) at pp 5:2–16 and 6:1–4; First Accused’s Bundle of Documents at pp 11–12; 1D13 at paras 6–9.

⁴² Transcript (20 August 2024) at p 15:10–13 and 17:19–28.

⁴³ Transcript (20 August 2024) at p 11:19–23.

⁴⁴ First Accused’s Bundle of Documents at p 11; 1D13 at para 5.

⁴⁵ Transcript (19 September 2024) at p 49:6–20.

⁴⁶ Transcript (23 August 2024) at p 12:17–23.

to the Mother around September or October 2013, around the time that the First Temple was celebrating a deity’s birthday. He was informed of this by the First Accused and witnessed the massage bed being loaded onto 1DW3’s lorry.⁴⁷ The First Accused had also informed him in mid-2013 that the First Accused was closing his massage clinic at the First Temple in end-2013 as the First Temple was going to undertake extensive renovations.⁴⁸ During cross-examination, 1DW2 testified that he remembered the incident relating to the gifting of the massage bed “clearly” and it was “etched in [his] memory” because as a *tuina* apprentice, the massage beds were of particular interest to him⁴⁹ and he was asked by the First Accused to help out at the First Temple “out of the blue” on that day.⁵⁰

(c) 1DW3’s account is also corroborated by 1DW4, the operations manager of the lion dance troupe at the First Temple. According to 1DW4, the First Accused told him in around September 2013 that the First Accused was giving a massage bed to the Mother.⁵¹ In around September or October 2013, he saw and overheard the First Accused instructing 1DW3 to deliver the massage bed to the Flat.⁵² On the stand, 1DW4 testified that the First Accused gave away the massage bed because the First Temple “was about to undergo renovation”.⁵³ Due to

⁴⁷ First Accused’s Bundle of Documents at pp 18–19: 1D12 at para 27.

⁴⁸ First Accused’s Bundle of Documents at p 18: 1D12 at para 26.

⁴⁹ Transcript (19 August 2024) at pp 51:16–52:4.

⁵⁰ Transcript (19 August 2024) at pp 52:23–53:4.

⁵¹ 1D17A at para 17.

⁵² 1D17A at para 18; Transcript (22 October 2024) at p 73:3–4 and 73:14–16.

⁵³ Transcript (22 October 2024) at p 72:1–4.

these renovation works, the First Accused closed his massage clinic at the First Temple in end 2013 or early 2014.⁵⁴

(d) As early as 1 December 2017, when the first investigative statement was recorded from the First Accused (“P12”), the First Accused stated the following:⁵⁵

Sometime in 2013, I stopped practicing at [the First Temple] as the place was under major renovation and the management decided to close down the [massage] clinic. It was at the time, I had given a massage bed to [the Mother] for free as she had requested for it and I had asked one of my disciple to transport [the] massage bed to her house. ...

(e) According to the witness 1DW9, who was the chairman of the martial arts and lion dance school that was affiliated to and part of the First Temple,⁵⁶ the First Temple closed for renovations in end-2013.⁵⁷

(f) The Complainant stated in her conditioned statement that she and the Mother “stopped visiting the temple and [the First Accused] started coming to [their] house” to provide massages.⁵⁸ At the trial, when asked why she stopped visiting the First Temple and the location of the massage sessions changed, the Complainant testified that it was because the First Temple had closed and the First Accused no longer worked there.⁵⁹

⁵⁴ Transcript (22 October 2024) at p 66:11–20.

⁵⁵ P12 at para 9.

⁵⁶ First Accused’s Bundle of Documents at p 34: 1D15 at paras 3–4.

⁵⁷ First Accused’s Bundle of Documents at pp 35–36: 1D15 at paras 7, 9 and 12.

⁵⁸ Agreed Bundle at p 1: PS6 at para 4.

⁵⁹ Transcript (2 February 2024) at p 13:19–21; Transcript (31 January 2024) at p 28:17–21.

(g) The Complainant's third elder brother (PW10) deposed in his conditioned statement that "[his] family stopped going to the temple as *[the First Accused] no longer worked there*", and it was "[a]round the same time" that the First Accused gave the Mother the massage bed.⁶⁰

(h) The Complainant's eldest brother (PW14) deposed in his conditioned statement that "[his] family stopped going to the temple as *[the First Accused] no longer provided massage services there*" and it was "[a]round that time" that the First Accused gifted the Mother the massage bed.⁶¹

24 The Prosecution argues that the First Accused could have given the massage bed to the Mother much earlier, independent of the closure of the First Temple. In this regard, the Prosecution pointed to evidence that the First Accused had previously given away a massage bed in 2009 to another person as well as evidence that at least two massage beds had been given to members of the public because they were "extras" that were not in use.⁶² While I accept that there is evidence of the First Accused giving away other massage beds on earlier occasions for reasons unconnected to the impending closure of the First Temple for renovation, I do not think that this is necessarily inconsistent with the overwhelming evidence given by various witnesses that the massage bed in question in the case was delivered to the Flat in September/October 2013. In fact, 1DW3, whose evidence the Prosecution relies on to argue that massage beds had been given away because they were extra beds that were not used,⁶³

⁶⁰ Agreed Bundle at p 8: PS9 at para 4.

⁶¹ Agreed Bundle at p 10: PS12 at para 4.

⁶² PCS at para 123.

⁶³ PCS at para 123(a)(i).

also testified that the First Accused had no use for the massage bed in question anymore *because they were “moving” and the First Temple “was undergoing renovations soon”*.⁶⁴ In the circumstances, I find that the massage bed was only delivered to the Flat in around September/October 2013. Prior to this, no massage fingering offences could have taken place.

25 Second, based on the Complainant’s conditioned statement, the alleged digital penetration did not occur immediately upon the commencement of the *tuina* sessions at the Flat. Instead, her evidence was that the alleged digital penetration only began in the year *following* the commenced of the *tuina* sessions at the Flat:⁶⁵

4. Sometime in 2011 when I was in Primary 4, we stopped visiting the temple and [the First Accused] started coming to our house. He would provide free massages to my whole family.

...

5. Initially, I had my clothes on during the massage sessions. ***A few months later when I was still in Primary 4, [the First Accused] started to put his hand into my bra and massage my breasts. He would also put his hand into my panty to touch and rub my vagina area. ...***

6. ***When I was in Primary 5, I remember that this was the first time [the First Accused] inserted his finger into my vagina. I cannot recall if he asked me to remove my clothes and I did, or he did it for me. When I was totally naked, “Shi Gong” massaged my breasts. He then massaged my vaginal area and inserted his finger into my vagina. ...***

[emphasis added in italics and bold italics]

⁶⁴ Transcript (20 August 2024) at p 14:12–26.

⁶⁵ Agreed Bundle at pp 1–2: PS6 at paras 4–6.

The Complainant affirmed during cross-examination that the First Accused started to massage her breasts a few months after he commenced the *tuina* sessions at the Flat:⁶⁶

Q Okay. ... [I]n your conditioned statement at paragraph 5. You state that *a few months after* [the First Accused] started coming over to your home to give massage, he started to put his hand into your bra and massage your breasts. Correct?

A Correct.

...

Q Understand. However, this is your first recollection of the---your first memory of something that he did *a few months later after he came to your house---to your home for massage*.

A Yes. Correct.

[emphasis added]

Since I have found as a fact that the massage bed was delivered to the Flat in September/October 2013 and that this was the earliest point in which the *tuina* sessions at the Flat could have commenced, it follows that the Complainant's evidence would suggest that the first instance of digital penetration could not have occurred prior to 2014. I acknowledge that in the above extracts from the Complainant's conditioned statement, the Complainant states that she was in Primary 4 when the massages started and in Primary 5 during the first instance of digital penetration, which would refer to the years 2011 and 2012 respectively. However, as I will explain below (at [30]), the Complainant was clearly unsure of the year that the massages began taking place in the Flat. She was also "not too sure" if the massages in the Flat took place when she was

⁶⁶ Transcript (21 February 2024) at pp 8:28–9:9.

already in Secondary 1 or before that.⁶⁷ Thus, rather than focusing on the exact dates provided by the Complainant in her conditioned statement, I find it more helpful to focus on the relative chronology of the various events mentioned by her in trying to reconstruct what had transpired.

26 That the first instance of alleged digital penetration could not have happened prior to 2014 is reinforced by the following evidence that the Complainant provided during re-examination:⁶⁸

Q Okay. So if you first started getting your menses in Primary 4 or Primary 5 which is 2011 or 2012, do you know roughly when the first Tuina massage involving the pulling of a vein near your vaginal opening, when did it happen? Which year?

A 2012 or 2013.

Q Right. And how soon after these Tuina massages where Shi Gong pulled the vein near your vaginal opening did Shi Gong start inserting his finger into the orifice of your vagina?

A If I'm not wrong, it should be between a few months and a year.

Q Okay. So could you help us? Was it 2012? 2013? 2014?

A I don't know. I'm not able to remember.

Again, in the light of my finding that the massage bed was delivered in September/October 2013, the Complainant's reference to "a few months [to] a year" meant that the alleged digital penetration could not have occurred prior to 2014.

⁶⁷ Transcript (2 February 2024) at p 13:16–18.

⁶⁸ Transcript (22 February 2024) at p 10:11–19.

27 Third, I am not persuaded by the Prosecution’s reliance on the investigative statements of the First Accused and the Mother to show that the massages in the Flat took place in end-2012 (*ie*, when the Complainant was in Primary 5). The Prosecution first relies⁶⁹ on the following answer given by the First Accused in his investigative statement recorded on 3 December 2017 (“P13”):

Q3: When did you start going to [the Mother’s] house to provide free massage for [the Mother] and [the Complainant]?

Ans 3: I cannot remember when but it was when she was attending Primary 5 or Primary 6 when she started having irregular menstruation cycle. At the time, I had also given one massage bed to [the Mother] after the clinic in the First Temple wound down. [The Mother] had requested me to treat [the Complainant’s] menstruation problems and I agreed. ...

On the stand, the First Accused explained that he had erroneously stated “Primary 5 or Primary 6” because he was being “sued ... for 2011”; “when [he] was being sued ... [he] was told it was ... 2011 and at that time [the Complainant] was in Primary 5 or Primary 6”, and so he “kept thinking [that it] was Primary 5 or Primary 6”.⁷⁰ The First Accused then clarified that by “sued” he meant “charged”.⁷¹ In this regard, it is common ground that this charge which the First Accused referred to was the holding charge served on him on 28 November 2017, the date of his arrest, which referred to a single offence occurring “sometime in 2011”.⁷² First, I found the First Accused’s explanation – that he was confused when he stated that the massage sessions at the Flat

⁶⁹ PCS at para 120.

⁷⁰ Transcript (28 June 2024) at pp 7:24–8:6.

⁷¹ Transcript (28 June 2024) at pp 8:31–9:1.

⁷² 1D4; PCS at para 120(b); First Accused’s Reply Submissions filed on 28 March 2025 (“1DCS”) at para 153.

commenced when the Complainant was in Primary 5 or 6 because his mind may have anchored to the date “2011” in the holding charge – to be reasonable. Second, in P12 (which was recorded on 1 December 2017, shortly after the First Accused was charged), the First Accused had stated that “[a]fter the massage bed was transported to [the Flat], [he] would often go to [the Flat] to provide free face and body massage for [the Mother] and [the Complainant] *who was then attending Secondary 1 or Secondary 2*” [emphasis added].⁷³ As the recording of P12 preceded P13, it was not the case that the First Accused had stated as an afterthought that the Complainant was in secondary school when the massages in the Flat commenced. Third, within the extract of P13 reproduced above, the First Accused stated that he had commenced massages in the Flat as he had “given one massage bed to [the Mother] *after the clinic in the First Temple wound down*” [emphasis added]. It is therefore clear that the First Accused could not have intended to refer to the period preceding end-2013 in relation to the commencement of the massages at the Flat.

28 Next, the Prosecution relies on the Mother’s investigative statement recorded on 23 April 2018 (“P28”), where she stated that the Complainant was around ten to 11 years old when she started having menstruation and that her menstruation cycle was irregular.⁷⁴ The Prosecution argues that this should be read with the First Accused’s account in P13 to indicate that the First Accused commenced massage sessions at the Flat when the Complainant was in Primary 4 or Primary 5, which is consistent with the Complainant’s account in her conditioned statement.⁷⁵ However, I have rejected the Prosecution’s

⁷³ P12 at para 9.

⁷⁴ P28 at Q3A3.

⁷⁵ PCS at para 121.

argument in relation to P13 and the Mother’s response in P28, as a standalone piece of evidence that is neither here nor there. In fact, in the first investigative statement recorded from the Mother on 29 November 2017 (“P18”), the Mother’s evidence – which is consistent with the evidence of the First Accused in P12 – was that it was “around the time [the Complainant] was in Secondary 1 that [the First Accused] starting coming to [the Flat] to help her massage her backbone” (*ie*, the massage sessions in the Flat commenced in around 2014).⁷⁶

29 Fourth, given that the Complainant’s allegation as to when the massage fingering offences commenced is uncorroborated, the “unusually convincing” standard applies: see *Public Prosecutor v GCK* [2020] 1 SLR 486 (“*GCK*”) at [89]. The “unusually convincing” standard is a heuristic tool that serves as a cautionary reminder to the court to exercise anxious scrutiny in assessing the sufficiency of the Complainant’s testimony alone in proving the Prosecution’s case beyond a reasonable doubt: *GCK* at [90]–[91]. In my judgment, the Complainant’s testimony was not unusually convincing. While she stated in her conditioned statement that the *tuina* massages at the Flat commenced in 2011, her consistent position during cross-examination was that she “can’t recall”, “[c]an’t remember when”, had “no idea” and “[did not] know exactly specifically which year” this commenced.⁷⁷ She also testified that she “[did not] even know exactly when the massage bed was delivered to [her] house” and “had no impression” in this regard.⁷⁸ More importantly, the Complainant’s testimony did not merely consist of a failure to recall when the massages at the

⁷⁶ P18 at para 4.

⁷⁷ Transcript (2 February 2024) at pp 13:12–15 and 16:14–16; Transcript (21 February 2024) at p 8:23–27.

⁷⁸ Transcript (7 February 2024) at p 37:23–30.

Flat began; she gave evidence that *directly contradicted* her account in the conditioned statement that the massages at the Flat commenced in “[s]ometime in 2011”. The Complainant testified that these massages only began after her grandmother’s passing,⁷⁹ and it is undisputed that the Complainant’s grandmother passed away on 13 January 2012.⁸⁰ Given the unreliable nature of the Complainant’s evidence regarding the precise year that the *tuina* massages in the Flat commenced, the most reliable temporal indicator before me is the delivery of the massage bed in end-2013 in anticipation of the closure of the First Temple for renovations. Thereafter, based on the Complainant’s evidence as to chronology (see [25]–[26] above), the first instance of digital penetration would have taken place, at the earliest, a “few months [to] a year” after the commencement of the *tuina* massages in the Flat.

30 For the foregoing reasons, it is, in my judgment, unsafe to convict the First Accused on the first and second charges, which pertain to massage fingering offences from 5 March 2012 to 5 March 2013 and 5 March 2013 to 5 March 2014 respectively. I acquit him on these charges.

The remaining four massage fingering offences

31 I turn to the remaining four massage fingering offences.

32 I begin by dealing with the Prosecution’s submission that the First Accused had, in P12 and P13, admitted to digitally penetrating the Complainant’s vagina.⁸¹ While it is undisputed that there were several places in

⁷⁹ Transcript (21 February 2024) at p 10:5–14.

⁸⁰ Mother’s Bundle of Documents at p 3.

⁸¹ PCS at para 46.

P12 and P13 where the First Accused was recorded by Assistant Superintendent of Police Tai Yian Peng Christine (“ASP Christine”) *in English* as saying that he had “inserted” his pinky finger into the Complainant’s vagina, the First Accused submitted that there could have been some miscommunication in the statement-taking process as ASP Christine had questioned him in Mandarin and he gave his answers in Mandarin.⁸² Essentially, the First Accused’s testimony was that he did not tell ASP Christine that he had inserted his finger into the Complainant’s vaginal canal (or, to adopt the term used in the First Accused’s submissions the Complainant’s “vaginal opening/orifice”). The First Accused’s explanation was that what he tried to convey to ASP Christine was that he used his finger to clean away discharge and blood clot around the vagina and, on one occasion, removed dried up tissue paper stuck to the Complainant’s vagina.

33 In this regard, I note that if there had indeed been a difference in nuance between what ASP Christine wrote down in English and what the First Accused actually meant to convey in Mandarin, this would not be a difference which the First Accused would be able to detect when ASP Christine read his statement back to him in Mandarin. For example, if in the reading-back process, ASP Christine had simply used back the same Mandarin expressions which the First Accused had originally used when giving his statement, there would be no way the First Accused could have known that the statement that was written down in English might mean something slightly different.

34 Having examined P12 and P13 as a whole together with the First Accused’s cautioned statement to the holding charge at 1D4, I found the First

⁸² 1DCS at para 153 to 154.

Accused's explanation to be credible. From the very beginning, in 1D4, the First Accused had already explained that:

... [The Complainant] complained that she had whitish discharge from the vaginal [sic]. I told her mother to use water and cloth to clean the area. I has also sought her permission to dig out the whitish discharge by using my fingers and she agreed.

35 I therefore considered this to be a case whether there are reasonable doubts as to what the First Accused was supposed to have actually confessed to. Consequently, I decided to the give First Accused the benefit of doubt regarding what he had meant in P12 and P13. In so far as the Prosecution sought to rely on similar statements made by the Mother in P18, I had similar doubts and concerns. Accordingly, I held that these statements by the First Accused and the Mother did not constitute corroboration of the Complainant's evidence.

36 As for the Complainant's evidence, she testified that when the alleged penetration occurred, she was lying down and facing the ceiling.⁸³ In other words, she did not visually observe the penetration. When asked what it felt like, she said it was "similar to the feeling of digging".⁸⁴ This appears consistent with the First Accused's testimony that he was using his finger to "dig out dirty substances".⁸⁵ When the Complainant was asked how long each alleged penetration lasted, she said it was around five seconds.⁸⁶ In my view, this short duration is less consistent with digital penetration for the purpose of sexual

⁸³ Transcript (9 February 2024) at p 19.

⁸⁴ Transcript (21 February 2024) at p 13:4.

⁸⁵ Transcript (28 June 2024) at p 4:29.

⁸⁶ Transcript (9 February 2024) at p 21.

gratification and more consistent with perceived contact arising from the act of cleaning.

37 In addition, I agree with the Defence that the First Accused's response in the cautioned statement in 1D4, where he sought to explain the purpose for touching the Complainant's vagina instead of giving a complete denial, tends towards bolstering the credibility of the First Accused's explanation.⁸⁷

38 For the reasons given above, I concluded that there are reasonable doubts as to whether digital penetration in fact occurred. In any event, there are reasonable doubts as to whether any penetration that might have occurred was sexual in nature.

39 There are three more points I should refer to. First, according to the first to sixth charges, the alleged sexual penetration occurred over a period of about 5.5 years from 2012 to 2017. By 2017, the Complainant was already 16 years old. By then, she had already been exposed to sex education in various forms, and would have been able to recognise whether any touching or penetration was of a sexual nature.⁸⁸ The Complainant further admitted that she had always been free to stop the *tuina* massage sessions at any time.⁸⁹ In my view, the fact that no complaint concerning sexual assault was made by the Complainant until November 2017 lent credence to the Defence's case that there was no digital penetration or that any penetration that might have occurred was not sexual in nature.

⁸⁷ 1DCS at para158.

⁸⁸ 1DCS at para 392(a).

⁸⁹ Transcript (1 February 2024) at p 41:4-9; Transcript (7 February 2024) at p 13:14-17.

40 Second, in mid-2017, the Complainant had a new boyfriend, PW9, whom the Mother did not approve of.⁹⁰ This caused tension in the relationship between the Complainant and the Mother. This included an occasion when the Complainant and the Mother fought because the Mother discovered love bites on the Complainant. The Complainant admitted to her brother, PW14, that she decided to have sex with PW9 as an act of defiance.⁹¹ The Complainant testified that she started having sex with PW9 in August 2017.⁹² At some point, the Mother suspected that the Complainant's defiant behaviour could be the result of PW9 casting black magic on the Complainant. This led the Mother to request the First Accused's assistance to conduct ritual showers to counter the suspected black magic. The Defence submitted that the eventual making of the police report by the Complainant and PW9 together could be motivated by the desire to stop the Mother and the First Accused's interference in their relationship, and that this raises reasonable doubt in the Prosecution's case.⁹³

41 Third, the Defence also submitted that it was telling that both the Complainant's father, 1DW7, and the Complainant's brother, PW14, had their own doubts about the Complainant's allegations.⁹⁴

42 In the light of what is discussed above, I concluded that it is unsafe to convict the First Accused on the third to sixth charges.

⁹⁰ Transcript (21 February 2024) at p 31.

⁹¹ Transcript (29 February 2024) at p 28:21–32.

⁹² Transcript (1 February 2024) a p 37.

⁹³ 2DCS at para 41.

⁹⁴ 2DCS at para 40; Transcript (22 August 2024) at p 39:23; Transcript (29 February 2024) at p 34:29.

The shower fingering offences

43 Having dealt with the six SAP charges relating to the massage fingering offences, I turn to the remaining three SAP charges in respect of the shower fingering offences. The shower fingering offences are alleged to have occurred:

- (a) on two occasions between September 2017 and November 2017 (seventh and eighth charge); and
- (b) on 23 November 2017 (ninth charge).

The Prosecution's case

44 The Prosecution argues that the ritual showers, which were purportedly performed for the purpose of washing away the Complainant's bad luck, were in fact conducted to enable the First Accused to sexually abuse the Complainant. This can be inferred from the following: (a) while persons whom the First Accused previously conducted ritual showers on were wearing their own clothes or a sarong, the Complainant had to be naked during the ritual showers; and (b) the Complainant was the only person whose naked body would be rubbed with lime and flowers by the First Accused.⁹⁵ The First Accused's claim at the trial that there was no space for him to bend down to digitally penetrate the Complainant's vaginal opening is inconsistent with the accounts given in the investigative statements of the First Accused and the Mother.⁹⁶

⁹⁵ PCS at paras 172–175.

⁹⁶ PCS at paras 176–179.

The First Accused's case

45 The First Accused argues that the ritual showers were performed to wash away bad luck.⁹⁷ He could not have digitally penetrated the Complainant because (a) he was a religious Buddhist and “would not possibly have done such a thing while praying to the Gods”;⁹⁸ (b) the bathroom was cramped, making it impossible for the First Accused to digitally penetrate the Complainant while she was squatting on the floor;⁹⁹ (c) the bathroom was an “inconvenient” location for digital penetration as opposed to the massage bed;¹⁰⁰ and (d) the Mother was in close proximity and would have easily noticed any digital penetration.¹⁰¹ The First Accused also submits that the Complainant’s reaction to the alleged acts of digital penetration was a “massive underreaction”.¹⁰²

My decision

46 Consistent with my finding that there were reasonable doubts over the first to sixth charges, I also found that there were reasonable doubts about the shower fingering offences.

47 Having examined the photographs of the bathroom where the ritual shower occurred, I found the First Accused’s explanation about the cramped conditions of the bathroom to be credible. The First Accused candidly admitted that, in the course of the ritual shower, his hand could have unavoidably touched

⁹⁷ 1DCS at para 429.

⁹⁸ 1DCS at paras 456 and 457(b).

⁹⁹ 1DCS at para 457(c).

¹⁰⁰ 1DCS at para 457(d).

¹⁰¹ 1DCS at para 457(e).

¹⁰² 1DCS at paras 458–471.

the Complainant's vagina.¹⁰³ But that is not the same as saying that there was sufficient space for the First Accused to engage in digital penetration of sexual nature. As the Defence puts it, why would the First Accused seek to engage in sexual penetration in such inconvenient and cramped conditions when, according to the Prosecution, the First Accused had the opportunity to do it on the massage bed?

48 I also found it significant that, in relation to the first to sixth charges, the Complainant had testified that she would not have consented to the First Accused inserting his finger into her vagina during the *tuina* massage sessions if she knew that it was not for the purpose of treatment.¹⁰⁴ However, unlike the first to sixth charges where the evidence was that the First Accused had explained to the Complainant that he needed to clean away discharge and blood clots from the Complainant's vagina, there was no evidence that the First Accused had said to the Complainant that he needed to touch or penetrate her vagina during the ritual showers for the purpose of treatment. In the circumstances, I found the lack of objection or complaint by the Complainant to the alleged digital penetration during the ritual showers to be inconsistent with her own testimony that she would not have agreed to the First Accused inserting his finger into her vagina if it was not for treatment.

49 I also note that the Complainant's account concerning the number of ritual showers she went through to be inconsistent. In her statement recorded on 28 November 2017 ("1D7"), she suggested that there were five ritual showers.¹⁰⁵

¹⁰³ P13 at Q15A15.

¹⁰⁴ Transcript (1 February 2024) at p 3:21–24.

¹⁰⁵ 1D7 at para 10.

During cross-examination, her evidence was that there were only three.¹⁰⁶ However, during re-examination when she was shown 1D7, she responded that she could not really recall how many ritual showers there were.¹⁰⁷ While the Complainant's inability to recall whether there were three or five ritual showers could be a result of passage of time, this nevertheless demonstrates the unreliability of her recollection, thus casting doubt on whether her evidence may be described as unusually convincing.

50 In the light of the matters discussed above, I am not persuaded that the Prosecution has proved the seventh to ninth charges beyond reasonable doubt.

The outrage of modesty charges

51 I next consider the outrage of modesty charges. The tenth charge concerns the licking of vagina offence, which allegedly took place sometime in 2015. The 11th charge concerns the licking and sucking of breasts offence, which allegedly took place sometime between end 2016 and November 2017.

The Prosecution's case

52 The Prosecution submits that the Complainant was able provide a textured account in relation to the licking of vagina offence.¹⁰⁸ As for the licking and sucking of breasts offence, while the Prosecution acknowledges that the Complainant had forgotten many details, it submits that this does not diminish her credibility as the offence did not occur on a routine basis.¹⁰⁹

¹⁰⁶ Transcript (8 February 2024) at pp 42–43.

¹⁰⁷ Transcript (22 February 2024) at p 12:13–26.

¹⁰⁸ PCS at para 168.

¹⁰⁹ PCS at para 169.

The First Accused's case

53 In relation to the licking of vagina offence, the First Accused submits that the Complainant was mistaken. She was unable to see the First Accused licking her vagina, as she was lying down in a supine position on the massage bed with her glasses removed.¹¹⁰ The Complainant was only relying on a “fleeting ‘feeling’”. It was possible that the First Accused had instead touched her vaginal area with a cotton pad soaked in warm water.¹¹¹ The Complainant was also unable to recall details relating to the licking of vagina offence, such as what the First Accused claimed to be checking when he went close to her vagina.¹¹²

54 The First Accused also argues that the Complainant's credibility is significantly undermined because she gave inconsistent evidence as to whether her knees were bent during the licking of vagina offence.¹¹³

55 Moreover, the First Accused relies on the fact the Complainant did not report the licking of vagina offence to her family members after it occurred.¹¹⁴

56 As for the licking and sucking of breasts offence, the First Accused similarly argues that the Complainant was unable to recall details relating to it and that the Complainant could not explain why she did not react by shouting

¹¹⁰ 1DCS at paras 474–480.

¹¹¹ 1DCS at paras 481–485.

¹¹² 1DCS at paras 490–493.

¹¹³ 1DCS at paras 486–489.

¹¹⁴ 1DCS at para 503.

or informing her eldest brother about it.¹¹⁵ Additionally, the First Accused argues that because he was “‘polite’ and ‘gentlemanly’ enough to ask” her to have sex with him and to give him a fellatio, it “[did] not align with [his] conduct and behaviour” to lick or suck the Complainant’s breasts without her consent.¹¹⁶

My decision

The applicable legal principles

57 The outrage of modesty charges are brought under s 354(1) of the Penal Code. Section 354(1) provides:

Assault or use of criminal force to a person with intent to outrage modesty

354.—(1) Whoever assaults or uses criminal force to any person, intending to outrage or knowing it to be likely that he will thereby outrage the modesty of that person, shall be punished with imprisonment for a term which may extend to 2 years, or with fine, or with caning, or with any combination of such punishments.

58 As the Prosecution framed both of the outrage of modesty charges under the “intending to outrage” limb, the two elements that the Prosecution has to establish are (see *Public Prosecutor v Mohd Taufik bin Abu Bakar* [2019] SGHC 90 at [33]):

- (a) for the *actus reus*, the First Accused used criminal force on the Complainant; and
- (b) for the *mens rea*, the First Accused had the intention to outrage the modesty of the Complainant.

¹¹⁵ 1DCS at paras 507–512 and 517.

¹¹⁶ 1DCS at paras 513–516.

59 Criminal force is defined under s 350 of the Penal Code as the use of intentional force on a person without that person’s consent: see *Sivakumar s/o Selvarajah v Public Prosecutor* [2014] 2 SLR 1142 at [36].

60 In this case, the First Accused only disputes the *actus reus*, ie, that he had used criminal force on the Complainant, whether by licking her vagina or by licking and sucking her breasts. As regards *mens rea*, the First Accused acknowledges – rightly in my view – that these acts (if committed) would be “pure[ly] sexual”.¹¹⁷

The licking of vagina offence

61 I first consider the licking of vagina offence. There is an absence of corroborative evidence in this regard. In his investigative statement and testimony, the First Accused denied that the offence took place.¹¹⁸ The Mother’s account was that she had never seen the First Accused lick the Complainant’s vagina.¹¹⁹ Accordingly, the issue for my determination is whether the Complainant’s evidence in relation to the licking of vagina offence was unusually convincing.

62 I found that the Complainant’s evidence was not unusually convincing. She was not able to give proper evidence concerning the context surrounding the offence. At trial, she initially said that the licking incident occurred while she was in primary school.¹²⁰ Subsequently, she changed her evidence to say

¹¹⁷ IDCS at paras 503 and 512.

¹¹⁸ P13 at Q11A11; Transcript (1 August 2024) at p 9:4–6; Transcript (6 August 2024) at p 42:23–26.

¹¹⁹ P18 at Q10A10.

¹²⁰ Transcript (9 February 2024) at p 7:30–8:1.

that the incident occurred while she was in secondary school.¹²¹ She also could not remember what the First Accused was doing when the alleged incident occurred.¹²²

63 As the Complainant had admitted that she was unable to see the First Accused licking her vagina because she was lying face-up on the massage bed, the Defence suggested the Complainant that could have mistaken some other form of touching, such as cleaning with a cotton pad or towel, for licking.¹²³ When this point was put to the Complainant during cross-examination, she said that knew that he had licked her vagina because there was a “feeling of warmth” and that the feeling was “new to [her]”.¹²⁴ Taken on its own, this would have been a reasonable explanation for why the Complainant was not mistaken. But the credibility and reliability of this explanation has to be evaluated against the other relevant evidence, including the Complainant’s inability to remember the context surrounding the offence, as explained in the preceding paragraph and also including my earlier findings in relation to the first to ninth charges concerning whether the Complainant’s evidence was unusually convincing.

64 In the light of the foregoing, I am persuaded that there are reasonable doubts as to whether the First Accused has committed this offence. I therefore consider that it would be unsafe to convict the First Accused on the tenth charge.

¹²¹ Transcript (9 February 2024) at p 8:8–12.

¹²² 1DCS at para 490; Transcript (9 February 2024) at p 7:12–22.

¹²³ Transcript (9 February 2024) at p 18:27–30.

¹²⁴ Transcript (9 February 2024) at pp 7:6–26.

The licking and sucking of breasts offence

65 I next consider the licking and sucking of breasts offence. As there is no evidence to corroborate this allegation, I am to assess whether the Complainant’s testimony is unusually convincing. In my judgment, having regard to the “overall backdrop of the available facts and circumstances” (*Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 at [39]), the Complainant’s testimony in relation to the licking and sucking of breasts offence does not meet this standard.

66 First, the Complainant did not inform SI Kumar of the licking and sucking of breasts offence when she lodged the police report on 27 November 2017.¹²⁵ I note, however, the brief nature of the Complainant’s interview with SI Kumar (about 15 minutes).¹²⁶ This omission thus does not carry much weight by itself. However, taken together with the reasons explained below, it demonstrates that the Complainant’s evidence was not unusually convincing.

67 Second, after the interview with SI Kumar, another interview was conducted by the Duty Officer of the Major Crime Division Leong Wee Tiang Agnes (“DO MCD Agnes”), around midnight on 27 November 2017.¹²⁷ The notes prepared by DO MCD Agnes after the interview are referred to as the “DO MCD returns”.¹²⁸ The DO MCD returns recorded that the First Accused would

¹²⁵ Agreed Bundle at p 15: PS4 at para 3; 1DCS at para 733.

¹²⁶ Agreed Bundle at p 15: PS4 at paras 3–4.

¹²⁷ 1D5; Transcript (30 January 2024) at p 7:12–15.

¹²⁸ Transcript (30 January 2024) at p 8:8–16.

“suckle on [the Complainant’s] breasts” during the ritual showers,¹²⁹ but this is inconsistent with the Complainant’s account in her conditioned statement that the licking and sucking of breasts offence took place “during one of the massage sessions”.¹³⁰ During cross-examination, the Complainant denied telling DO MCD Agnes that the First Accused suckled on her breasts during the ritual showers,¹³¹ and explained that DO MCD Agnes “pieced [the information] together” after the Complainant related the sexual abuse to her “part by part”.¹³² However, the Complainant also testified that she had forgotten what she had told DO MCD Agnes:¹³³

Q ... “During the bath which is held in the master bedroom toilet, [the First Accused] would continue to insert his finger into your vagina, suckle on your breast and also ask [you] to masturbate for him.”

Is that what you told, Agnes Leong?

A I don’t think so.

Q What did you tell Agnes then if you didn’t tell her this?

A I forgot ...

Leaving aside the Complainant’s confusing testimony, what remains clear is that the DO MCD returns do not particularise the licking and sucking of breasts offence that the Complainant referred to in her conditioned statement.

¹²⁹ 1D5.

¹³⁰ Agreed Bundle at p 3: PS6 at para 9.

¹³¹ Transcript (20 February 2024) at p 26:16–23.

¹³² Transcript (20 February 2024) at p 24:26–27.

¹³³ Transcript (20 February 2024) at p 24:13–19.

68 Third, the licking and sucking of breasts offence was also absent from the statement recorded by ASP Christine on 28 November 2017.¹³⁴ This statement was recorded over almost five hours, beginning at 9.30am and concluding at 2.20pm. There was therefore ample opportunity for the Complainant to surface the licking and sucking of breasts offence. Her failure to do so casts further doubt on the veracity of this claim.

69 Fourth, the Complainant did not raise the licking and sucking of breasts offence to Dr Chuah. As I have noted above (at [95]), the account provided by the Complainant to Dr Chuah was understandably not a comprehensive one given that the medical examination only lasted for 30 minutes. However, the Complainant's consistent failure to mention the licking and sucking of breasts offence since the filing of the police report raises doubts about the veracity of this allegation.

70 Fifth, the licking and sucking of breasts offence was also absent from the report prepared by Dr Pathy. Dr Pathy included the following in the report:¹³⁵

[The Complainant] stated that on more than one occasion, [the First Accused] *tried* to suck her nipples. [emphasis added]

The above statement implies an *unsuccessful* attempt by the First Accused at sucking the Complainant's breasts, as opposed to the actual commission of the licking and sucking of breasts offence (as alleged in the Complainant's conditioned statement). Dr Pathy accepted this during cross-examination.¹³⁶

¹³⁴ 1D7.

¹³⁵ Agreed Bundle at p 60; P26 at p 2.

¹³⁶ Transcript (28 February 2024) at p 30:17–19.

Q What I'm trying to say is this: If he really sucked her nipples, you won't say "tried", right? You would say, "[the First Accused] sucked her nipples."

A Yeah.

71 Sixth, at the trial, the Complainant could not provide basic details on the context surrounding the licking and sucking of breasts offence. She was unable to recall whether the First Accused did so during one of the massage sessions or on a separate occasion.¹³⁷

72 In the circumstances, it would be unsafe to convict the First Accused on the 11th charge. I acquit him accordingly.

73 To be clear, in arriving at the above conclusion, I placed no weight on the First Accused's argument that it was uncharacteristic of him to lick or suck the Complainant's breasts without her consent because he was "'polite' and 'gentlemanly' enough to ask" her to have sex with him and to give him a fellatio. To provide some context, the Complainant alleges the following:¹³⁸

(a) The Mother told her that the First Accused had asked the Mother whether he could have sex with her (the Complainant) and that the Mother said no. During cross-examination, the Mother confirmed that there was an occasion where the Mother rejected the First Accused's request to have sex with the Complainant, although she recalled that the Complainant was also in the room when the request was made.¹³⁹

¹³⁷ Transcript (20 February 2024) at p 43:19–21.

¹³⁸ Agreed Bundle at p 4: PS6 at para 11.

¹³⁹ Transcript (23 September 2024) at pp 45:31–46:3.

(b) Subsequently, during a *tuina* session, the First Accused asked the Mother in the Complainant's presence whether he could have sex with the Complainant; he then *made this request to the Complainant directly* on the Mother's directions. During cross-examination, the Mother confirmed this incident.¹⁴⁰

(c) There was one occasion where the First Accused asked the Complainant to fellate him but she refused. The Mother corroborated this allegation in P18.¹⁴¹ The First Accused does not deny this,¹⁴² but claims that he was only joking.¹⁴³

74 If anything, these incidents demonstrate that the First Accused bore sexual intentions towards the Complainant despite claiming to be "a religious Buddhist who treated [the Complainant] like a granddaughter".¹⁴⁴ They certainly do not assist the First Accused in his case against the licking and sucking of breasts offence.

The *juagen* offences

75 Next, the 12th to 14th charges relate to the *juagen* offences, which were alleged to have taken place:

(a) between 5 March 2015 and 5 March 2016 (12th charge), *ie*, when the Complainant was 14 years old; and

¹⁴⁰ Transcript (23 September 2024) at p 46:4–14.

¹⁴¹ P18 at Q2A2.

¹⁴² Transcript (19 August 2024) at p 32:1–3.

¹⁴³ Transcript (19 August 2024) at pp 10:18–11:2.

¹⁴⁴ 1DCS at para 639(c).

- (b) on two occasions between 5 March 2016 and 5 March 2017 (13th and 14th charge), *ie*, when the Complainant was 15 years old.

76 It is undisputed that the First Accused taught the Complainant how to pull and massage the veins of his testicles, which the First Accused refers to as the act of *juagen*.¹⁴⁵ What is disputed is when these incidents took place and the intention behind these lessons.

The Prosecution’s case

77 The Prosecution submits that the *juagen* incidents took place over 2015 and 2016.¹⁴⁶ This is supported by the First Accused’s account in P14¹⁴⁷ and the Mother’s account in P18.¹⁴⁸ The *juagen* sessions were for a sexual rather than educational purpose. This is evident from the erection of the First Accused’s penis and his request for the Complainant to masturbate him, which resulted in him ejaculating on at least one occasion.¹⁴⁹

The First Accused’s case

78 The First Accused argues that the *juagen* incidents took place after the Complainant turned 16 years old (*ie*, after 5 March 2017), such that she was not a “young person” within the ambit of the CYPA, and that the Complainant voluntarily consented to carrying out the acts of *juagen* out of curiosity and for

¹⁴⁵ PCS at para 153.

¹⁴⁶ PCS at para 154.

¹⁴⁷ PCS at paras 155–156.

¹⁴⁸ PCS at paras 157–159.

¹⁴⁹ PCS at para 167.

fun.¹⁵⁰ The First Accused taught the Complainant the technique of *juagen* without any sexual intent; it was instead an “educational exercise”.¹⁵¹ The First Accused denies that there was any masturbation involved.¹⁵²

My decision

79 Section 7(b) of the CYPA states:

Sexual exploitation of child or young person

7. Any person who, in public or private —

...

(b) procures or attempts to procure the commission of any obscene or indecent act by any child or young person,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both and, in the case of a second or subsequent conviction, to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 7 years or to both.

80 Pursuant to s 2(1) of the CYPA, a “child” is defined as a person below 14 years of age and a “young person” is defined as a person who is 14 years of age or above and below the age of 16 years. In other words, the *juagen* offences would only fall within the ambit of the CYPA if they occurred before the Complainant reached the age of 16 years, *ie*, before 5 March 2017.

81 In my judgment, there is reasonable doubt as to whether the *juagen* incidents took place prior to 5 March 2017.

¹⁵⁰ 1DCS at paras 535–536, 538 and 588.

¹⁵¹ 1DCS at para 537.

¹⁵² 1DCS at para 589.

82 First, I am not persuaded by the Prosecution’s reliance on P14 and P18, which are investigative statements taken from the First Accused and the Mother respectively. The relevant extracts from P14 are as follows:

Q31: Have [the Complainant] ever touch your private parts?

Ans 31: Yes. *It happened around two years ago when [the Mother] was interested to learn the techniques of massaging male private parts. At the time, I had completed massaging them and I was requested by [the Mother] to teach her the techniques of massaging male private parts. I used drawings and some objects to illustrate the male private parts and explained the techniques to her verbally.* I also told her to watch videos from youtube in relation to such massaging techniques and she acknowledged.

Sometime later, [the Mother] insisted on trying the techniques on me and I agreed. I did not remove my pants and she just briefly pulled the veins around testicles. [The Complainant] who was also in the master bedroom witnessed what happened. *She was curious about it and she touched my private parts by pulling the veins around my testicles outside my pants. In the course of doing so, she had also touched my testicles. ...*

[emphasis added in italics and bold italics]

83 P14 was recorded on 4 December 2017. The Prosecution relies on the above extracts to argue that the Complainant touched the First Accused’s private parts “around two years” prior to P14, *ie*, around December 2015.¹⁵³ However, there is ambiguity as to whether this interpretation is accurate. This is because the plain wording of the above extracts indicates that the Mother expressed her interest in learning the *juagen* technique “around two years ago”. The First Accused initially taught her verbally, and it was only “[s]ometime later” that the Mother tried the *juagen* techniques on the First Accused’s testicles, at which point the Complainant also did the same because she was “curious”.

¹⁵³ PCS at para 156.

84 At the trial, the First Accused provided an account consistent with the plain wording of P14. He explained that he “initially ... used an object or something” to teach the Mother *juagen*, but the Mother said that there was “no feeling” and “thereafter ... *in 2017*” [emphasis added] the Mother asked to practice *juagen* on the First Accused and the Complainant joined in.¹⁵⁴

85 Given the ambiguity surrounding the relevant extracts in P14, I do not consider them to be corroborative of the Prosecution’s case that the *juagen* incidents took place prior to 5 March 2017.

86 Second, the Prosecution’s reliance on the Mother’s testimony in P18, which was recorded on 29 November 2017, is even more tenuous. The Prosecution relies on the following parts of P18:

13. Last year, on one of ten of the occasions that [the First Accused] came for massage he saw that I looked unwell ... He then asked if I wanted him to help to clear my vagina. As it was painful for me when he used his finger, he suggested that he used his penis instead ... I agreed to let him try if it would be less painful. When we were chatting, he was only dressed in boxe[r]s when I pulled his penis and testicles until I felt his penis harden. I then lay on the massage bed. I removed only my bottoms and still had my panty, top and bra on. He then pulled aside the crotch area of my panty and inserted his penis into my vagina. ... *In all, [the First Accused] did this treatment on me on about three or four occasions in 2016. Only on one of the occasions, [the Complainant] was around as well and she saw the whole procedure ... The other times, she had already left the room.*

...

Q15: You mentioned that you had pulled at [the First Accused’s] penis and testicles before to give him an erection. Have you seen [the Complainant] do anything similar?

A15: [The First Accused] told [the Complainant] before that she needed to learn how to do this for her husband next time.

¹⁵⁴ Transcript (1 August 2024) at p 50:18–31; Transcript (5 August 2024) at p 15:10–15.

[The Complainant] therefore tried it on him ... *I think these happened on about five to six occasions.*

Q16: Did [the First Accused] ejaculate when [the Complainant] pulled at his penis and testicles?

A16: No. ... *I did this for [the First Accused] also on about five to six occasions. We were both learning together.*

[emphasis added]

87 According to the Prosecution, the above passages suggest that the Complainant was exposed to *juagen* by 2016 “when she observed [the Mother] performing the act on [the First Accused] before [the First Accused] penetrated [the Mother’s] vagina with his penis”.¹⁵⁵ I do not accept this. It is clear that paragraph 13, on the one hand, and Q15A15 and Q16A16, on the other hand, refer to distinct acts. The pulling of the First Accused’s penis and testicles mentioned in paragraph 13, read in its proper context, was merely arousal to facilitate sexual intercourse between the Mother and the First Accused. The Mother was not describing an act of *juagen*. This is made even more apparent when one contrasts the Mother’s claim that there were “*three or four occasions*” that the “treatment” described in paragraph 13 took place and *the Complainant was only present during one of them*, with the Mother’s responses in A15 and A16 that the *juagen* lessons that the Mother and the Complainant attended together took place “*on about five to six occasions*”.

88 In fact, the Mother was directly asked about when the *juagen* sessions involving the Complainant began in P28, which was recorded on 23 April 2018. Her response was that they “started last year” (*ie*, in 2017).

¹⁵⁵ PCS at para 159.

89 In the circumstances, I find the Prosecution’s reliance on the statements from the First Accused and the Mother to be misplaced. In the absence of corroborative evidence, I turn to consider whether the testimony of the Complainant was unusually convincing. I find in the negative.

90 While the Complainant testified during her examination-in-chief that, consistent with her conditioned statement,¹⁵⁶ the *juagen* sessions took place at least once in 2015,¹⁵⁷ once in 2016¹⁵⁸ and once in 2017,¹⁵⁹ this account did not withstand cross-examination. The Complainant first stated that she did not know when the first *juagen* lesson was,¹⁶⁰ and subsequently agreed with the Mother’s counsel that the Mother took two or three *juagen* lessons together with the Complainant, all of which occurred in 2017. When the Mother’s counsel then asked the Complainant whether she still stood by her account in her conditioned statement that the *juagen* incidents took place in 2015, 2016 and 2017, the Complainant stated that she “honestly ... [had] no idea”. She could only remember that the *juagen* incidents occurred when she was in secondary school (the Complainant attended secondary school from 2014 to 2017), but not when they started.¹⁶¹ The Complainant also could not remember when the First Accused asked her to masturbate him.¹⁶² During re-examination, the Complainant initially maintained that she could not confirm when the *juagen*

¹⁵⁶ Agreed Bundle at pp 3–4; PS6 at para 10.

¹⁵⁷ Transcript (31 January 2024) at p 39:21–27.

¹⁵⁸ Transcript (31 January 2024) at p 40:14–16.

¹⁵⁹ Transcript (31 January 2024) at p 40:26–30.

¹⁶⁰ Transcript (21 February 2024) at pp 23:3–5 and 26:2–8.

¹⁶¹ Transcript (21 February 2024) at pp 29:23–30:10, 30:19–21 and 36:8–14.

¹⁶² Transcript (6 February 2024) at p 62:1–4; Transcript (7 February 2024) at p 23:14–18.

lessons commenced, except that it was during her secondary school years.¹⁶³ It was only when she was referred to 1D7 that she claimed that she was unsure whether the first *juagen* incident occurred when she was in Secondary 2 or Secondary 3.¹⁶⁴ For context, it was stated in 1D7 that the First Accused started to lick the Complainant’s vagina when she was in Secondary 2 and it was “around the same time” that the First Accused asked the Complainant to massage his private parts.¹⁶⁵ Given the numerous shifts in the Complainant’s evidence, I find that her testimony was not “unusually convincing”.

91 In the circumstances, I acquit the First Accused on the 12th to 14th charges.

The showing of pornography charge

92 The final charge that the First Accused faces is the showing of pornography charge, for exhibiting to the Complainant pornographic videos sometime between 2015 and 2016, when the Complainant was under 21 years of age.

The Prosecution’s case

93 The Prosecution submits that the Complainant’s account that the First Accused would play pornographic videos on his mobile phone and that the First Accused and the Mother would watch it together with the Complainant, should

¹⁶³ Transcript (21 February 2024) at p 47:2–5.

¹⁶⁴ Transcript (21 February 2024) at pp 47:18–49:6.

¹⁶⁵ 1D7 at para 8.

be believed as it was corroborated by the Mother.¹⁶⁶ The Mother had no reason to falsely implicate the First Accused.¹⁶⁷

The First Accused's case

94 The First Accused denies exhibiting pornographic videos to the Complainant and argues that it was the Complainant who accessed the videos herself on his mobile phone.¹⁶⁸ The First Accused also relies on the Mother's testimony that she did not know the content of the videos that the First Accused showed to the Complainant.¹⁶⁹

My decision

95 The showing of pornography charge is brought under s 293 of the Penal Code, which provides:

Sale, etc., of obscene objects to young person

293. Whoever sells, lets to hire, distributes, exhibits or circulates to any person under the age of 21 years any such obscene object as is referred to in section 292, or offers or attempts to do so, shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

96 Section 292 of the Penal Code, which is referred to in s 293, considers the following as obscene objects: "any obscene book, pamphlet, paper, drawing, painting, representation or figure, or any other obscene object whatsoever".

¹⁶⁶ PCS at para 92.

¹⁶⁷ PCS at para 93.

¹⁶⁸ 1DCS at paras 591–596.

¹⁶⁹ 1DCS at paras 597–598.

97 The Complainant testified during cross-examination that the First Accused showed her pornographic videos when she was in secondary school.¹⁷⁰ Subsequently, she decided to opt out of sexual education classes because she found them boring, given that they “[talked] about the same thing” as the pornographic videos.¹⁷¹ The Complainant also accepted during cross-examination that there were occasions where she saw pornographic videos when she took the First Accused’s mobile phone and scrolled through the gallery, and that the First Accused either took the phone away or shut it off.¹⁷² During re-examination, the Complainant clarified that there were both situations where the Complainant herself played the videos on his phone and where the First Accused showed her pornographic videos on his phone.¹⁷³

98 The First Accused denied the charge in P13:

Q20: Did you ever play pornography on your phone and show it to [the Complainant]?

Ans 20: No. She had the habit to play with phone after the massage and on one occasion, she accidentally saw a pornography and reacted. I immediately snatched the phone from her and stopped the video. It was a short video and someone had sent to me randomly.

He maintained the above account during the trial.¹⁷⁴

99 Given the conflict of evidence between the Complainant and the First Accused, I assessed that there is no clear basis for me to prefer the

¹⁷⁰ Transcript (21 February 2024) at p 40:17–18 and 40:27–28.

¹⁷¹ Transcript (21 February 2024) at pp 40:29–41:6.

¹⁷² Transcript (7 February 2024) at p 52:20–28.

¹⁷³ Transcript (22 February 2024) at p 12:7–12.

¹⁷⁴ Transcript (1 August 2024) at p 43:13–24; Transcript (5 August 2024) at p 61:12–19.

Complainant's evidence over the First Accused's, especially having regard to the view I had taken of the credibility and reliability Complainant's evidence in relation to the other charges faced by the First Accused.

100 I appreciate that the Mother has made the following statement in P18:

Q14: Has [the First Accused] ever shown you and [the Complainant] any pornographic film using his mobile phone?

A14: Yes, once or twice in my room. When he showed it to [the Complainant], he was explaining to [her] that if a guy did a certain act to her, it means it was not good, and that she could get infected by toxins. He treated her like his daughter and was trying to educate her.

When the Mother's attention was drawn to the foregoing passage at trial, she clarified what she actually meant by the answer she gave in P18. Her explanation was that she did not actually see the contents of what the First Accused was showing the Complainant and so she could not say whether it was pornographic.¹⁷⁵

101 In my judgment, there remains reasonable doubt as to the First Accused's guilt. I therefore conclude that it is unsafe to convict the First Accused of the 15th charge.

The Mother's role in the SAP and CYPA charges

102 The Mother faced 13 charges. The first to ninth charges alleged that she conspired with the First Accused to commit the SAP charges while the tenth to 12th charges alleged that she conspired with the First Accused to commit the CYPA charges. In the light of my decision to acquit the First Accused of all the

¹⁷⁵ Transcript (23 September 2024) at p 29:1–3; 30:19–31.

SAP and CYPA charges, it follows that the first to 12th charges against the Mother are not made out.

The Mother's showing of pornography charge

103 Finally, I consider the 13th charge that the Mother faces, which arises from the allegation that the Mother had shown pornographic videos to the Complainant sometime in 2011, *ie*, when the Complainant was in Primary 4.

The Prosecution's case

104 The Prosecution submits that the Complainant's evidence in relation to the Mother's showing of pornography charge should be preferred to the Mother's version of events as the latter was shifting and inconsistent.¹⁷⁶ The Prosecution further contends that the Mother showed the Complainant pornography for the purpose of desensitising her to viewing and experiencing sexual acts.¹⁷⁷

The Mother's case

105 The Mother did not deny that she had shown pornographic video to the Complainant at some stage. Her case was that this occurred only when the Complainant was in Secondary 2 (and not in 2011 as alleged in the charge) and that this was done for educational purposes.¹⁷⁸

¹⁷⁶ PCS at paras 86–87.

¹⁷⁷ PCS at paras 89–90.

¹⁷⁸ 2DCS at paras 95 and 100.

My decision

106 In the Mother’s Case for the Defence, she stated that she had shown the Complainant a scene from a pornographic film when the Complainant was in Primary 5. The Mother explained there that *the Complainant had undergone a sexual education class in school and was curious about what had been taught*, which led the Mother to show her a pornographic video for sexual education.¹⁷⁹ At trial, the Mother’s evidence was that she had shown the Complainant a pornographic video when the latter was in Secondary 2, because *she did not want to attend sexual education classes in school* and her teacher had told the Mother to “teach [the Complainant] at home”.¹⁸⁰

107 When the Complainant was asked when it was that the Mother showed her sexual videos, she replied that “I think it was during primary school”.¹⁸¹ When asked which part of primary school this would have been, she reply “I think it was after Primary 4, after my first period came”.¹⁸² The Complainant was then asked to confirm if “this happened after Primary 4”, to which she answer “yes, after my first period”.¹⁸³ When asked why she recalled that it was after her first period specifically, the Complainant replied “No idea, yeah, no idea”.¹⁸⁴

¹⁷⁹ 1D20 at paras 14 and 68.

¹⁸⁰ Transcript (23 August 2024) at pp 40:30–41:24; Transcript (13 September 2024) at pp 15:12–16:20; 2DCS at paras 95 and 97.

¹⁸¹ Transcript (21 February 2024) at p 36:28.

¹⁸² Transcript (21 February 2024) at p 36:30.

¹⁸³ Transcript (21 February 2024) at p 37:12–13.

¹⁸⁴ Transcript (21 February 2024) at p 38:3–4.

108 I have two observations about the foregoing evidence of the Complainant. First, her evidence was that the incident occurred “after” Primary 4 and not “during” Primary 4. Since the Complainant was in Primary 4 during the year 2011, her evidence that the incident occurred after Primary 4 would place the time of the incident in 2012 or even later. My second observation is that the Complainant had used her first period as a time marker. The Complainant’s own evidence is that her period started “at about Primary 4 or Primary 5”.¹⁸⁵ In other words, the Complainant did not give an exact year or month for when the period started but gave it as a date range which straddled the years 2011 and 2012. What this means is that it cannot be concluded beyond reasonable doubt that the Complainant’s first period actually occurred in 2011 as opposed to 2012.

109 Therefore, based on the Complainant’s testimony, it is not proven beyond reasonable doubt that the events alleged in the 13th charge had occurred in 2011 (as opposed to 2012 or some later year). Accordingly, I held that the 13th charge has not been made out.

¹⁸⁵ Transcript (21 February 2024) at p 10:20-22.

Conclusion

110 For the reasons given above, I acquit both the First Accused and the Mother of all charges brought against them in this case.

Pang Khang Chau
Judge of the High Court

Kumaresan Gohulabalan, Tay Jia En and Tin Shu Min (Attorney-
General's Chambers) for the Prosecution;
Charles Ng and Lee Peng Khoon Edwin (Eldan Law LLP) for the
first accused;
Oei Su-Ying Renee Nicollette and Stephanie Looi (Constellation
Law Chambers LLC) for the second accused.
