

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

[2026] SGDC 169

District Arrest Case No 909181 of 2023

Between

Public Prosecutor

... Prosecution

And

Muhammad Rajis bin Abdullah

... Accused

GROUNDINGS OF DECISION

[ROAD TRAFFIC — Offences — Failing to provide blood specimen when required by police officer to do so — Protection of hospital patients]

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Public Prosecutor
v
Muhammad Rajis bin Abdullah

[2026] SGDC 169

District Court — District Arrest Case No 909181 of 2023

Prem Raj Prabakaran DJ

7–10 January 2025, 14–17 April 2025, 27 October 2025, 26 January 2026

18 May 2026

Prem Raj Prabakaran DJ:

Introduction

1 The accused claimed trial to a charge of failing, without reasonable excuse, to provide to a registered medical practitioner at Changi General Hospital (“CGH”) a specimen of his blood for a laboratory test when required to do so by a police officer. The offence underlying this charge is punishable under s 70(4)(a), read with ss 67(1) and 67(2)(a), of the Road Traffic Act 1961 (the “RTA”). The charge against the accused read as follows:

...that you, on 08 October 2022 at or about 830 am, **being a person who had been arrested under Section 69(5)(a) [of the RTA]** under suspicion of drunk driving under Section 67(1)(b) of the [RTA] at the roadblock at Jalan Toa Payoh, did fail, without reasonable excuse, to provide to a registered medical practitioner, at Changi General Hospital, a specimen of your blood for a laboratory test, when required to do so by Senior Staff Sergeant Lim Kwang Yu, and, at the time of your arrest under Section 67(1)(b) of the RTA, you were driving the motorcar bearing vehicle number SJM 8852T, and by the

foregoing, you had thereby committed an offence punishable under Section 70(4)(a) read with Section 67(1) and Section 67(2)(a) of the RTA.

[emphasis added]

2 I acquitted the accused, delivering brief oral grounds in the process. While there was no appeal by the Prosecution against the acquittal, I now elaborate on my decision to acquit the accused – as this case appeared to be the first in which a local court had to consider the interaction among ss 69, 70, and 71 of the RTA as well as the protection afforded to hospital patients under s 71 of the RTA.

The applicable legislative scheme

3 As the charge against the accused engaged several provisions in the RTA, the legislative scheme applicable in this case must be appreciated. The relevant provisions are found primarily in ss 69, 70, and 71 of the RTA. The relevant aspects of these provisions (in this case) are set out for easy reference:

Preliminary breath tests

69.—(1) Where a police officer has reasonable cause to suspect that —

(a) a person driving or attempting to drive or in charge of a motor vehicle on a road or other public place has alcohol in his or her body or has committed a traffic offence while the vehicle was in motion;

(b) a person has been driving or attempting to drive or been in charge of a motor vehicle on a road or other public place with alcohol in his or her body and that he or she still has alcohol in his or her body;

(c) ...

(d) ...

...

the police officer may, subject to section 71, require that person to provide a specimen of his or her breath for a preliminary breath test.

(2) A person may be required under subsection (1) to provide a specimen of his or her breath either at or near the place where the requirement is made or, if the requirement is made under subsection (1)(d) and the police officer making the requirement thinks fit, at a police station specified by the police officer.

(3) A preliminary breath test required under subsection (1) must be conducted by a police officer.

(4) A person who, without reasonable excuse, fails to provide a specimen of his or her breath when required to do so pursuant to this section shall be guilty of an offence and shall be liable on conviction to a fine of not less than \$1,000 and not more than \$5,000 or to imprisonment for a term not exceeding 6 months...

(5) A police officer may arrest a person without warrant if —

(a) as a result of a preliminary breath test the police officer has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit;

(b) that person has failed to provide a specimen of his or her breath for a preliminary breath test when required to do so pursuant to this section and the police officer has reasonable cause to suspect that that person has alcohol in his or her body; or

(c) the police officer has reasonable cause to suspect that that person is under the influence of a drug or an intoxicating substance

(6) A person must not be arrested by virtue of subsection (5) when he or she is at a hospital as a patient.

Provision of specimen for analysis

70.—(1) In the course of an investigation whether a person arrested under section 69(5) has committed an offence under section 67 or 68, a police officer may, subject to the provisions of this section and section 71, require the person —

(a) to provide a specimen of his or her breath for a breath test under this section; or

(b) to provide to a registered medical practitioner, at any place that may be determined by the police officer, a specimen of his or her blood for a laboratory test,

even though he or she has been required to provide a specimen of his or her breath for a preliminary breath test.

(2) A breath test under this section must be conducted by a police officer and may be conducted either at or near the place where the arrest is made, or at a police station.

(3) A requirement under this section to provide a specimen of blood —

(a) must not be made unless —

(i) the police officer making the requirement has reasonable cause to believe that for medical reasons a specimen of breath cannot be provided or should not be required;

(ii) when the requirement is made, there is no breath analysing device of a type approved for a breath test under this section at the police station or at or near the place where the arrest was made, or it is for any other reason not practicable to conduct a breath test under this section; or

(iii) the police officer making the requirement has reasonable cause to suspect that the person required to provide the specimen is under the influence of a drug or an intoxicating substance; and

(b) may be made even though the person required to provide the specimen has already provided or been required to provide a specimen of his or her breath.

(4) A person who, without reasonable excuse, fails to provide a specimen when required to do so pursuant to this section shall be guilty of an offence and if it is shown that at the time of any accident mentioned in section 69(1)(d) or of his or her arrest under section 69(5) —

(a) he or she was driving or attempting to drive a motor vehicle on a road or any other public place, he or she shall be liable on conviction to be punished as if the offence charged were an offence under section 67...

(b) ...

(5) A police officer must, on requiring any person under this section to provide a specimen for a laboratory test, warn the person that failure to provide a specimen of blood may make the person liable to imprisonment, a fine and disqualification, and, if the police officer fails to do so, the court before which that person is charged with an offence under subsection (4) may dismiss the charge.

Protection of hospital patients

71.—(1) A person who is at a hospital as a patient must not be required to provide a specimen for a breath test or to provide a specimen for a laboratory test unless the registered medical practitioner in immediate charge of his or her case authorises it and the specimen is to be provided at the hospital.

(2) The registered medical practitioner mentioned in subsection (1) must not authorise a specimen to be taken where it would be prejudicial to the proper care and treatment of the patient.

4 Against this backdrop, I set out my understanding of the interaction among ss 69, 70, and 71 of the RTA (as applicable to the facts in this case).

The requirement to provide a breath specimen for a preliminary breath test

5 Where a police officer has reasonable cause to suspect that a person:

- (a) driving a motor vehicle on a road has alcohol in his body (s 69(1)(a) of the RTA); or
- (b) has been driving a motor vehicle on a road with alcohol in his body and that he still has alcohol in his body (s 69(1)(b) of the RTA),

the police officer may, subject to s 71 of the RTA, require that person to provide a specimen of his breath for a preliminary breath test at or near the place where the requirement is made (s 69(2) of the RTA). This preliminary breath test must be conducted by a police officer (s 69(3) of the RTA). A person who fails, without reasonable excuse, to provide a specimen of his breath for a preliminary breath test when required to do so pursuant to s 69(1) of the RTA will be guilty of an offence under s 69(4) of the RTA.

Power of arrest with respect to preliminary breath tests

6 Where a police officer has, as a result of a preliminary breath test conducted on a person, reasonable cause to suspect that the proportion of alcohol in that person’s breath or blood exceeds the prescribed limit (as stated in s 72(1) of the RTA), the police officer may arrest that person without a warrant (s 69(5)(a) of the RTA) (the “arrested person”).

Provision of breath or blood specimen for analysis

7 To then investigate whether the arrested person has committed the offence of driving while under the influence of drink under s 67(1) of the RTA, s 70(1) of the RTA allows a police officer to require the arrested person:

- (a) to provide a specimen of his breath for a breath test (s 70(1)(a) of the RTA); or
- (b) to provide a specimen of his blood to a registered medical practitioner for a laboratory test. Where the arrested person is not at a hospital as a patient, the police officer may determine the location where the arrested person’s blood specimen is to be provided for a laboratory test (s 70(1)(b), read with s 71(1), of the RTA).

8 A police officer’s investigative power under s 70(1) of the RTA is, however, subject to the remaining provisions in s 70 of the RTA as well as s 71 of the RTA.

Restrictions on requiring an arrested person to provide a blood specimen

9 On this note, s 70(3)(a) of the RTA restricts when a *blood* specimen (as opposed to a *breath* specimen) may be required by a police officer from an arrested person. Specifically, the requirement by a police officer for an arrested

person to provide the arrested person's blood specimen to a registered medical practitioner for a laboratory test must not be made unless:

- (a) the police officer making that requirement has reasonable cause to believe that, for medical reasons, a breath specimen cannot be provided by the arrested person or should not be required from the arrested person (s 70(3)(a)(i) of the RTA);
- (b) when the requirement is made by the police officer for the arrested person to provide to a registered medical practitioner a specimen of the arrested person's blood for a laboratory test, there is no approved breath analysing device available at the police station or at/near the arrest location, or it is not practicable to conduct a breath test on the arrested person (s 70(3)(a)(ii) of the RTA); or
- (c) the police officer requiring the arrested person to provide a specimen of the arrested person's blood has reasonable cause to suspect that the arrested person is under the influence of a drug or an intoxicating substance (s 70(3)(a)(iii) of the RTA).

10 On requiring the arrested person to provide a specimen of his blood for a laboratory test, the police officer must warn the arrested person that failure to provide his blood specimen may make the arrested person liable to imprisonment, a fine, and disqualification. If the police officer fails to do so, the court before which the arrested person is charged under s 70(4) of the RTA may dismiss the charge (s 70(5) of the RTA).

Additional restrictions to protect hospital patients

11 Additional restrictions apply when the arrested person who is required to provide his blood specimen for a laboratory test (or his breath specimen for

a breath test) is at a hospital as a patient. These restrictions are set out in s 71 of the RTA, which is reproduced below for easy reference:

Protection of hospital patients

71.—(1) A person who is at a hospital as a patient **must not be required** to provide a specimen for a breath test or to provide a specimen for a laboratory test **unless** the registered medical practitioner in immediate charge of his or her case authorises it and the specimen is to be provided at the hospital.

(2) The registered medical practitioner mentioned in subsection (1) **must not** authorise a specimen to be taken where it would be prejudicial to the proper care and treatment of the patient.

[emphasis added]

12 In other words, where the arrested person is at a hospital as a patient, s 71(1) of the RTA imposes mandatory safeguards in relation to that person/patient:

(a) The person/patient can only be required by a police officer to provide his breath specimen for a breath test or his blood specimen for a laboratory test if the registered medical practitioner in immediate charge of that person's/patient's case authorises that requirement (for the person/patient to provide his breath specimen for a breath test or his blood specimen for a laboratory test).

(b) The person's/patient's breath or blood specimen must be provided at the hospital itself (and not elsewhere).

13 Under s 71(2) of the RTA, the registered medical practitioner must not authorise a breath or blood specimen to be taken from the person/patient if doing so would be prejudicial to the proper care and treatment of that person/patient.

14 The terms of s 71(1) of the RTA are mandatory, not merely good practice or advisory. This is evident from the use of the words “must not” and “unless” in s 71(1). Compliance with s 71(1) of the RTA is thus a condition precedent to the lawful exercise of a police officer’s power to require a breath or blood specimen from an arrested person who is at a hospital as a patient. To my mind, the purpose of s 71 of the RTA is the protection of patients and the avoidance of a collision between doctors trying to treat their patients and the police endeavouring to require a breath or blood specimen from such patients. The provision protects patients and ensures that medical care and treatment are not compromised by police investigatory demands. Indeed, this protective purpose is central to understanding what constitutes proper “authorisation” under s 71 of the RTA. As the Prosecution acknowledged in its submissions:¹

A plain reading of Section 71 of the RTA suggests that [it] is meant to protect suspects who have been hospitalised from being asked to provide their blood [specimens], if it would have a prejudicial effect on their [proper] care and treatment by the medical professionals at the hospital. Whether this would be the case is assessed by the registered medical practitioner [in immediate charge of the suspect’s case] ...

15 In other words, s 71 of the RTA creates a statutory medical-override safeguard that prioritises patient care and welfare over investigative or enforcement efforts. It ensures that a registered medical practitioner, and not a law enforcement officer, decides/assesses whether a breath or blood specimen should be provided by a hospital patient who is the subject of police investigations. Indeed, if authorisation is refused by the registered medical practitioner, a police officer cannot lawfully compel the arrested person who is at a hospital as a patient to provide a breath or blood specimen.

¹ [12] of the Prosecution’s Further Submissions.

16 In this way, s 71 of the RTA seeks to achieve at least the following:

- (a) balance law enforcement objectives with healthcare priorities;
- (b) avoid exacerbating illness or injury;
- (c) respect the clinical judgment of treating doctors; and
- (d) reduce legal and ethical conflicts in hospital environments.

17 Against this backdrop, an arrested person who is subsequently at a hospital as a patient who then fails to provide to a registered medical practitioner his blood specimen for a laboratory test when required to do so by a police officer will only be guilty of an offence under s 70(4) of the RTA if there is evidence showing the following:

- (a) A police officer had arrested that person because:
 - (i) that officer had, as a result of a preliminary breath test conducted on a person, reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeded the prescribed limit; or
 - (ii) that officer had reasonable cause to suspect that that person is under the influence of a drug or an intoxicating substance.
- (b) The registered medical practitioner in immediate charge of the arrested person's case at the hospital had authorised the arrested person being required (by a police officer) to provide his blood specimen (which is to be provided at that hospital) for a laboratory test, having first determined that the taking of the arrested person's blood specimen

would not be prejudicial to the arrested person's proper care and treatment.

(c) The police officer's requirement to the arrested person to provide his blood specimen (as opposed to his breath specimen) for a laboratory test was made in one of the following situations:

(i) The police officer making the requirement had reasonable cause to believe that, for medical reasons, a breath specimen could not be provided by the arrested person or should not be required from the arrested person.

(ii) When the requirement was made by the police officer for the arrested person to provide to a registered medical practitioner a specimen of his blood for a laboratory test, it was not practicable to conduct a breath test on the arrested person.

(iii) The police officer making the requirement had reasonable cause to suspect that the arrested person was under the influence of a drug or an intoxicating substance.

(d) On requiring the arrested person to provide to a registered medical practitioner his blood specimen for a laboratory test, the police officer had warned the arrested person that failure to provide his blood specimen may make the arrested person liable to imprisonment, a fine, and disqualification (s 70(5) of the RTA).

(e) The arrested person then failed, without reasonable excuse, to provide to a registered medical practitioner his blood specimen (at the hospital) when required by the police officer to do so. With respect to the defence of "reasonable excuse", no excuse can be adjudged a

reasonable one unless the person from whom the specimen is required (*ie*, the arrested person) is physically or mentally unable to provide it or the provision of the specimen would entail a substantial risk to the arrested person's health (*Madiaalakan s/o Muthusamy v Public Prosecutor* [2001] 3 SLR(R) 580 (“*Madiaalakan*”) at [9]). The burden of proving a “reasonable excuse” falls on the arrested person and the applicable standard is that of a balance of probabilities (*Ma Wenjie v Public Prosecutor* [2018] 5 SLR 775 at [35]-[36] and [39]). Once the arrested person raises the defence of reasonable excuse, it is for the Prosecution to negative/disprove it (*Madiaalakan* at [12]).

(f) At the time of the arrested person's arrest under s 69(5) of the RTA, the arrested person was driving a motor vehicle on a road (s 70(4)(a) of the RTA).

18 Save for the defence of reasonable excuse (which the arrested person bears the burden of proving on a balance of probabilities), the Prosecution must lead evidence to prove all the other elements set out at [17] above beyond reasonable doubt. Only then can the arrested person be convicted of an offence under s 70(4) of the RTA.

Key issue to be determined

19 Against this backdrop, I now turn to the facts that were not disputed in this case. These facts set the context for the key issues that had to be determined in this case – namely:

(a) whether the registered medical practitioner in immediate charge of the accused's case at CGH had determined that the taking of the

accused’s blood specimen would not be prejudicial to the proper care and treatment of the accused; and

(b) having determined that the taking of the accused’s blood specimen would not be prejudicial to the proper care and treatment of the accused, whether the registered medical practitioner in immediate charge of the accused’s case at CGH had then authorised the accused being required by a police officer – Senior Staff Sergeant Lim Kwang Yu (“SSSgt Lim”), in this case – to provide a specimen of his blood (at CGH) for a laboratory test.

Facts about the events on 8 October 2022 that were not disputed

20 The accused admitted to consuming alcohol in the early hours of the morning on 8 October 2022, sometime before 4:31am.² He then drove the car bearing licence registration number SJM8852T (the “Car”) along Jalan Toa Payoh in the direction of Pan Island Expressway and Tuas. While driving the Car along Jalan Toa Payoh, the accused was stopped by Traffic Police officers at a roadblock (the “Roadblock”).³

21 At the Roadblock, Sergeant Muhd Safiy bin Mohd Suherman Shah (“Sgt Safiy”) conducted a preliminary breath test on the accused with a breathalyser a total of seven times.⁴ The breathalyser was “unable to capture a reading” on the first six occasions because the accused was not blowing into the straw of the breathalyser long/hard enough for the breathalyser to register a result.⁵ After

² Day 4, p 40, lines 11-24.

³ [4]-[5] of the Agreed Statement of Facts (“ASOF”).

⁴ [6] of the ASOF; and Day 1, p 19, lines 1-30 and p 30, lines 6-11.

⁵ Day 1, p 19, lines 23-30; and p 30, lines 24-27.

these six occasions, Sgt Safiy had wanted to bring the accused to Traffic Police Headquarters (“TPHQ”) “for failing to give a breath sample”. However, after consulting the Investigation Officer (“IO”), Senior Staff Sergeant Muhd Farhan bin Sairi, over the phone, Sgt Safiy was instructed by the IO “to try again” (*ie*, to conduct another preliminary breath test on the accused). Sgt Safiy thus conducted a preliminary breath test on the accused with the breathalyser for the seventh time.⁶ While Sgt Safiy testified that the breathalyser registered a “fail” result when the accused blew into the straw of the breathalyser on this seventh occasion (indicating that the proportion of alcohol in the accused’s breath exceeded the prescribed limit)⁷, it was the accused’s case that the breathalyser was “not able to get a reading” on this seventh occasion as well.⁸

22 While conducting the breathalyser tests on the accused, Sgt Safiy noted that the accused’s speech was “slurred”. The accused also “smelt strongly of alcohol” and had an “unsteady” gait.⁹

23 Sometime after Sgt Safiy had conducted the preliminary breath test on the accused on the seventh occasion, the accused was arrested at the Roadblock and brought to TPHQ by Sergeant Mohamad Heidir bin Kamsani (“Sgt Heidir”).¹⁰

24 Before arriving at the Roadblock, Sgt Heidir had been “patrolling the expressways” in a police car. He had then been instructed “to proceed down to

⁶ Day 1, p 34, line 13 to p 35, line 19.

⁷ Day 1, p 19, line 23 to p 20, line 17.

⁸ Day 1, p 34, line 13 to p 35, line 28.

⁹ Day 1, p 20, line 30 to p 21, line 2; p 32, lines 4-17; and p 37, lines 1-8.

¹⁰ [7] of the ASOF.

[the] roadblock location to escort the [accused] back to [TPHQ]”.¹¹ Sgt Heidir was hence unaware of what had transpired at the Roadblock before Sgt Heidir arrived at the Roadblock.¹² On arriving at the Roadblock, Sgt Heidir was “informed that the [accused had been] arrested for drink driving...had failed the breathalyser test at the...[Roadblock], and was to be escorted back to [TPHQ] for a further test”.¹³ The accused was thus “restrained and secured and then placed in”¹⁴ the police car driven by Sgt Heidir. Before entering the police car, the accused informed Sgt Heidir that “he was having some medical condition and that he require[d] medication”.¹⁵ Accompanied by his partner (who sat to the accused’s right in the back seat of the police car), Sgt Heidir drove the accused from the Roadblock to TPHQ.¹⁶

25 After parking the police car at the vehicle loading bay in TPHQ, Sgt Heidir walked over to the left rear side of the police car to bring the accused out from the car. Just as the accused exited the police car, the accused “suddenly...dropped [to] the floor”. According to Sgt Heidir, the accused’s knees had first bent before he “dropped, sat on the floor, and then [lay] on the floor”.¹⁷ When this happened, Sgt Heidir “informed the lock-up officers” to call for an ambulance, so that the accused could be “assessed for any injuries [and] whether he [was] fit to be placed in a lock-up”. When the ambulance arrived, the accused was “assessed and...referred to hospital for further follow-up, for

¹¹ Day 2, p 12, line 26 to p 13, line 5.

¹² Day 2, p 13, lines 6-8.

¹³ [7] of the ASOF and Day 2, p 2, lines 1-13.

¹⁴ Day 2, p 3, lines 26-31.

¹⁵ Day 2, p 4, lines 17-21; and p 13, line 25 to p 14, line 4.

¹⁶ Day 2, p 3, lines 26-32.

¹⁷ [9] of the ASOF and Day 2, p 4, lines 6-15; and p 14, lines 7-19.

further checks”.¹⁸ The accused was subsequently conveyed to CGH in the ambulance. The ambulance arrived at CGH at about 6:04am.¹⁹

26 At CGH, the accused was first placed in a wheelchair. However, while “waiting for his turn to be assessed, [the accused] kept on stumbling forward from the wheelchair”. Sgt Heidir thus requested for the accused to be “placed and secured on a bed [as this would be] safer for [the accused]”.²⁰

27 While he was with the accused at CGH, Sgt Heidir also received instructions from the IO to obtain the accused’s consent for his “blood [to be] drawn for the purpose of investigation for drink driving”.²¹ According to Sgt Heidir, obtaining the accused’s blood specimen (as opposed to his breath specimen) was the only means to determine the level of alcohol in the accused’s body because CGH did not have a breathalyser (which was only available in the lock-up at TPHQ).²²

28 Sgt Heidir was with the accused at CGH from about 6:04am until he handed over his duty to SSSgt Lim at about 8:00am.²³ Sometime between approximately 8:33:08am and approximately 8:37:46am, SSSgt Lim required the accused to provide a specimen of his blood for a laboratory test a total of three times. While doing so, SSSgt Lim also warned the accused (on all three occasions) that the accused’s failure to provide his blood specimen for a

¹⁸ Day 2, p 4, lines 16-29,

¹⁹ [10] of the ASOF.

²⁰ Day 2, p 4, line 27 to p 5, line 12.

²¹ Day 2, p 5, lines 21-25.

²² Day 2, p 6, line 23 to p 7, line 3.

²³ Day 2, p 25, line 30 to p 26, line 7; and p 29, lines 23-31.

laboratory test may make the accused liable to imprisonment, a fine, and disqualification.²⁴

Reasons for my decision

29 To make out the offence against the accused, the Prosecution had to first show that a police officer had arrested the accused because that police officer had, as a result of a preliminary breath test conducted on the accused, reasonable cause to suspect that the proportion of alcohol in the accused's breath or blood exceeded the prescribed limit (see [17(a)] above). This is the effect of s 69(5)(a) of the RTA – the provision the accused was allegedly arrested under (based on the charge preferred by the Prosecution: see [1] above). Section 69(5)(a) of the RTA is reproduced below for easy reference:

Preliminary breath tests

69.—(1) ...

...

(5) **A police officer** may arrest a person without warrant if —

(a) as a result of a preliminary breath test **the police officer** has reasonable cause to suspect that the proportion of alcohol in that person's breath or blood exceeds the prescribed limit;

...

[emphasis added]

The accused was validly arrested by Sgt Safiy under s 69(5)(a) of the RTA

30 I accepted Sgt Safiy's consistent testimony that the accused had failed the breathalyser test when Sgt Safiy administered the test on the accused on the seventh occasion.²⁵ Sgt Safiy's account was also consistent with the first

²⁴ Day 5, p 6, line 14 to p 7, line 22. See also Exhibit P5.

²⁵ Day 1, p 19, line 23 to p 20, line 17.

information report he had lodged at 4:33am on 8 October 2022²⁶, where he reported that the accused’s case involved drink driving. According to Sgt Safiy, he had lodged this report after the accused failed the breathalyser test.²⁷

31 In addition, Sgt Safiy’s testimony was consistent with the IO’s. On this note, the IO had testified that an officer at the Roadblock had called him at about 4:00am on 8 October 2022 to report that a “subject” at the Roadblock had “failed to give a proper [breath] sample” “after a few attempts” with the breathalyser. The IO had then directed this officer to advise the “subject” about the “proper procedure” with respect to the breathalyser test and to then “test [the subject] for another three times”. The IO also told this officer to “update [him] again [about] the result”. According to the IO, this officer had then called him back “[a] few minutes later” to inform him that the “subject” had failed the breathalyser test. While the IO could not remember the name of the officer he had communicated with that morning²⁸, it was Sgt Safiy’s unchallenged evidence that it was he (*ie*, Sgt Safiy) who had communicated with the IO that morning regarding the accused’s breathalyser tests – including the accused’s subsequent failure of this test.²⁹ It was also not disputed that the “subject” in question was the accused.

²⁶ Exhibit ASOF-A.

²⁷ Day 1, p 21, lines 5-32.

²⁸ Day 2, p 48, line 6 to p 49, line 26.

²⁹ Day 1, 20, lines 16-20 and p 34, line 13 to p 35, line 28.

32 Having personally:

(a) conducted the breathalyser test on the accused on all seven occasions; and

(b) seen the accused fail the breathalyser test on the seventh occasion it was administered,

Sgt Safiy was certainly in a position to have reasonable cause to suspect that the proportion of alcohol in the accused's breath exceeded the prescribed limit.

33 I pause to note that the phrasing of s 69(5)(a) of the RTA suggests that the police officer who arrests an alleged perpetrator must be the *same* police officer who had, as a result of a preliminary breath test conducted on the perpetrator, reasonable cause to suspect that the proportion of alcohol in that perpetrator's breath or blood exceeded the prescribed limit. However, s 69(5)(a) of the RTA does not mandate that this police officer (who arrests the alleged perpetrator) must also be the *same* officer who had personally conducted the preliminary breath test on the perpetrator. To my mind, s 69(5)(a) of the RTA does not prohibit a situation where Officer B proceeds to arrest an alleged perpetrator (without a warrant) after seeing the perpetrator fail a preliminary breath test administered by Officer A.

34 Be that as it may, it was the unchallenged evidence of Sgt Safiy (the officer who had administered the preliminary breath tests on the accused) that the police officers at the Roadblock (including Sgt Safiy) had "detain[ed]" the accused after his failed breathalyser test. According to Sgt Safiy, he had

remained in the accused's vicinity at the Roadblock "to make sure that [the accused did not] go away from [them]".³⁰

35 Against this backdrop, I was satisfied that the weight of the evidence showed that Sgt Safiy had indeed arrested the accused – validly – pursuant to s 69(5)(a) of the RTA.

The registered medical practitioner in immediate charge of the accused's case had not authorised the taking of a blood specimen from the accused

36 The Prosecution accepted that "the accused was a hospital patient under Section 71 of the RTA at the time of the [alleged] offence".³¹ This meant that s 71 of the RTA applied in this case. The Prosecution was thus obliged to prove that the registered medical practitioner in immediate charge of the accused's case had authorised the accused being required to provide a specimen of his blood contemporaneously with the requirement made by SSSgt Lim. Indeed, the Prosecution accepted that it "must", in these circumstances, "show that the registered medical practitioner in immediate charge of the accused's case had authorised the police requiring the accused to provide a blood specimen for a laboratory test".³²

37 The identity of the "registered medical practitioner in immediate charge of [the accused's] case" at the material time (the "Doctor") was not disputed.³³ On this note, it was the Doctor's evidence that the accused had been "handed over" to him by the "previous [medical] team" sometime between 8:00am and

³⁰ Day 1, p 22, lines 1-10.

³¹ [5] of the Prosecution's Further Submissions.

³² [5] of the Prosecution's Further Submissions.

³³ [3], [6], and [23] of the Prosecution's Further Submissions and [9]-[11] of the Prosecution's Further Submissions.

8:10am on 8 October 2022 “to await [the accused’s] decision to investigate...his medical issues³⁴ that he [had] presented [with earlier] that day”. According to the Doctor, the accused had presented with “some headache, some fainting spells and some bloodlessness” and the medical team wanted to “do some blood investigations for the [accused’s] fainting spells to...find out if there [were] any issues with the [accused’s] ECGs and electrolytes”.³⁵ The Doctor described the nature of these “blood investigations” in the following terms:³⁶

Q: So, can you explain what kind of blood investigations you wanted to do and how you communicated this to [the accused]?

A: So, we...were requested to do a full blood count, renal panel which will include the electrolytes that is necessary and the cardiac causes...we call it as a troponin test to see if there’s any...damage to the heart. And also...we would have ordered some investigations like CT scan to make sure it’s not related to his brain issues as well...

38 The Prosecution submitted that the word “authorises” in s 71 of the RTA should be given a “broad meaning”.³⁷ As a matter of general statutory construction, I accept that an “authorisation” under s 71 of the RTA need not always be delivered *via* explicit verbal or written command. Exceptional circumstances may arise where authorisation is communicated non-verbally through a medical practitioner’s active and unequivocal conduct. To satisfy this threshold, however, I would think that the medical practitioner’s overt physical actions must demonstrate a positive, unambiguous sanctioning of the police requiring the arrested person to provide his blood specimen. For example, a

³⁴ According to the Doctor, the accused had presented with “some headache, some fainting spells and some bloodlessness”: Day 3, p 6, lines 1-4.

³⁵ Day 3, p 6, lines 1-11.

³⁶ Day 3, p 7, line 29 to p 8, line 7.

³⁷ [3] and [19] of the Prosecution’s Further Submissions.

valid non-verbal authorisation may be found where the medical practitioner, having clinically assessed the arrested person, actively prepares the arrested person's arm for extracting the blood specimen or directly hands the blood specimen collection kit to an attending nurse while remaining present to supervise the procedure.

39 Conversely, authorisation requires a conscious, affirmative deployment of the medical practitioner's professional gatekeeping authority, specifically rooted in an evaluation of the patient's clinical welfare. Consequently, valid "authorisation" cannot be established through a medical practitioner's passive silence or mere failure to object. Because s 71 of the RTA creates a strict statutory medical veto designed to prioritise patient care over law enforcement objectives, the court cannot infer a doctor's authorisation from an absence of opposition. To hold otherwise would fundamentally undermine the protective, patient-centric function that s 71 of the RTA is designed to serve.

40 Section 71 of the RTA was one of a number of provisions that was introduced into the Road Traffic Act (Cap 276, 1994 Rev Ed) in 1996 (the "1996 RTA") by the Road Traffic (Amendment) Act 1996 (No 11 of 1996) (the "Amendment Act"). The bill preceding this Amendment Act was the Road Traffic (Amendment) Bill (No 3 of 1996) (the "Amendment Bill"). Clause 12 in the Amendment Bill (which corresponded to s 12 in the Amendment Act) was the relevant clause that related to s 71 of the RTA. During the second reading of the Amendment Bill, the Minister for Home Affairs described Clause 12 in the following terms (*Singapore Parliamentary Debates, Official Report* 27 February 1996) vol 65 at cols 722-723 (Wong Kan Seng):

Streamline procedures for drink driving

Presently, under section 70 of the [Road Traffic Act (Cap 276, 1994 Rev Ed), a person is presumed incapable of having proper

control of his vehicle if he has alcohol content in his blood in excess of 80mg of alcohol in 100ml of blood. To ascertain this, police has to escort the motorist to the hospital for a blood test and the result will only be known after two weeks. The current procedure is therefore inefficient and manpower intensive. We thus propose using a device called [the] Breath Evidential Analyser (BEA) to assess the alcohol level. This device measures the alcohol level in a motorist's breath and produces a printout of the result immediately. The printout can also be tendered in court as evidence. As the test can be performed by police officers at any police station, there is therefore no need to bring the motorist to the hospital for a blood test. The use of the Breath Evidence Analyser is expected to save police about 1,500-man hours per year. The breathalyser technique has been successfully used in UK, Sweden, Norway and the United States.

Clause 12 of the [Amendment Bill] seeks to repeal and re-enact sections 69, 70, 71, 71A, 71B, 71C to deal with drink driving. Essentially, the new sections are a re-enactment of existing sections but with suitable modifications to give effect to the new regime of [the] Breathalyser test to provide for its results to be admissible in court.

[emphasis added]

41 Before the 1996 RTA was amended to introduce the equivalent to s 71 of the RTA, s 69 in the pre-amendment 1996 RTA (the "Old RTA") had set out the circumstances in which a person may be required by a police officer to provide at a hospital a specimen of his blood for a laboratory test. The relevant aspects in s 69 in the Old RTA read as follows:

Breath tests

69.—(1) A person who has been arrested under section 67, 68 or 71 may be required by a police officer to provide at a hospital a specimen of his blood or urine, or both, for a laboratory test if the police officer has reasonable cause to suspect such person of having alcohol or a drug in his body; **but a person shall not be required to provide a specimen of his blood for a laboratory test under this subsection if a medical practitioner in immediate charge of his case is not first notified of the proposal to make the requirement or objects to the provision of the specimen on the ground that its provision would be prejudicial to the proper care or treatment of the patient.**

...

(3) For the purposes of any proceedings for an offence under section 67 or 68...a certificate purporting to be signed by a medical practitioner that he took a specimen of blood or urine from a person with his consent shall be evidence of the matters so certified and of the qualifications of the medical practitioner:

Provided that the certificate shall not be accepted as evidence for the prosecution unless a copy thereof had been served on the accused not less than 7 days before the hearing.

[emphasis added]

42 Section 71 of the RTA is reproduced below for easy comparison:

Protection of hospital patients

71.—(1) A person who is at a hospital as a patient must not be required to provide a specimen for a breath test or to provide a specimen for a laboratory test unless the registered medical practitioner in immediate charge of his or her case authorises it and the specimen is to be provided at the hospital.

(2) The registered medical practitioner mentioned in subsection (1) **must not authorise a specimen to be taken where it would be prejudicial to the proper care and treatment of the patient.**

[emphasis added]

43 To my mind, s 69 in the Old RTA and s 71 in the RTA were similar in at least the following aspects:

(a) Both provisions establish that medical care and treatment of a person who is at a hospital as a patient takes absolute priority over criminal investigations. Under both provisions, law enforcement cannot compromise a patient's health or interfere with emergency medical treatment just to secure a blood specimen.

(b) The threshold for when a blood specimen can be taken is identical. Both provisions use the same test: whether taking the blood

specimen would be “prejudicial to the proper care of treatment of the patient”.

(c) Both provisions apply strictly to a person who is at a hospital as a patient.

(d) Under both provisions, the actual procedure of requiring or taking of the blood specimen must take place at the hospital.

44 Section 69 in the Old RTA and s 71 in the RTA however differed in at least the following aspects:

(a) Under s 69 in the Old RTA, the police officer could require a person who had been arrested under ss 67, 68, or 71 of the Old RTA to provide at a hospital a specimen of his blood: (i) unless the police officer fails to notify the medical practitioner in immediate charge of that person’s/patient’s case of the proposal to require the person/patient to provide a specimen of his blood; or (ii) unless the medical practitioner in immediate charge of that person’s/patient’s case objects to the provision of that specimen on the ground that its provision would be prejudicial to the proper care or treatment of that person/patient. The default state under s 69 of the Old RTA thus allowed a police officer to require a person who had been arrested under ss 67, 68, or 71 of the Old RTA to provide at a hospital a specimen of his blood provided the medical practitioner in immediate charge of that person’s/patient’s case was notified and did not object. In other words, the burden was on the medical practitioner in immediate charge of that person’s/patient’s case to speak up and actively object to the person/patient providing a specimen of his blood (on the ground that its provision would be prejudicial to the proper care or treatment of that person/patient) after

being notified of the police's proposal to require the person/patient to provide a specimen of his blood. If the medical practitioner in immediate charge of that person's/patient's case remains silent or indifferent, the police can legally demand the person/patient to provide his blood specimen.

(b) Under s 71 of the RTA, a police officer is barred from requiring an arrested person who is at a hospital as a patient to provide a specimen of his blood unless the medical practitioner in immediate charge of the arrested person's case had actively authorised a blood specimen being taken from the arrested person. The default state under s 71 of the RTA is thus a prohibition, requiring an active, affirmative green light ("authorises it") from the medical practitioner in immediate charge of the arrested person's case before the police officer can require the arrested person to provide a specimen of his blood. In other words, the burden is on the police to secure authorisation from the medical practitioner in immediate charge of the arrested person's case before the police can require the arrested person to provide a specimen of his blood. If the medical practitioner in immediate charge of that person's/patient's case remains silent or indifferent, the police cannot proceed to demand the arrested person to provide his blood specimen. On a side note, while s 71 of the RTA does not expressly refer to the need for the medical practitioner in immediate charge of that person's/patient's case to be notified of the police's proposal to require the arrested person to provide a specimen of his blood (and goes straight to requiring authorisation), the medical practitioner must naturally be first notified of this proposal to authorise the proposal.

45 Section 71 of the RTA therefore offers a higher level of protection for the arrested person who is at a hospital as a patient. Seen in this way, s 71 of the RTA must almost certainly require the medical practitioner in immediate charge of the arrested person’s case to provide express authorisation – that is explicitly, clearly, and directly stated, either in writing (such as by signing a form or updating an electronic medical record) or verbally. There are at least two reasons why s 71 of the RTA likely requires express authorisation by the medical practitioner in immediate charge of the arrested person’s case:

- (a) Section 71 of the RTA states that the medical practitioner “shall not” authorise a blood specimen to be taken from the arrested person where it would be prejudicial to the arrested person’s proper care and treatment. For the medical practitioner to fulfil this duty, the medical practitioner must actively evaluate the arrested person’s condition and make a conscious, deliberate decision. A deliberate decision would, in the ordinary course, require a clear, express statement of approval.
- (b) A police officer needs to know with certainty that he has the legal authority to require the arrested person to provide a specimen of his blood. If the police officer proceeds without a clear “yes” (or clear authorisation), the officer risks making an unlawful demand, which could render the blood specimen inadmissible in court or even expose the officer or hospital to legal liability.

46 It was the Prosecution’s position that the Doctor had implicitly “authorised” the accused being required to provide a blood specimen for a laboratory test because the Doctor:³⁸

- (a) was “physically present when [SSSgt Lim] clearly and loudly required a specimen of the accused’s blood from the accused”; and
- (b) “did not raise any objections to [SSSgt Lim] making this requirement”.

47 It was not disputed that SSSgt Lim had required the accused to provide his blood specimen for a laboratory test a total of three times between approximately 8:33:08am and approximately 8:37:46am on 8 October 2022. SSSgt Lim had also warned the accused on all three occasions that his failure to provide his blood specimen for a laboratory test may make him liable to imprisonment, a fine, and disqualification.³⁹ It bears highlighting, however, that:

- (a) the Doctor was not physically present on the *third* occasion that SSSgt Lim had required the accused to provide his blood specimen (between approximately 8:35:17am and approximately 8:37:46am) as the Doctor had walked away at about 8:35:08am.
- (b) while the Doctor was seen walking towards the vicinity of SSSgt Lim and the accused at about 8:33:10am, he had then walked away only to return to the vicinity of SSSgt Lim and the accused at about 8:33:29am. In other words, the Doctor was not physically present during the entirety of the *first* occasion that SSSgt Lim had required the accused

³⁸ [24]-[25] of the Prosecution’s Further Submissions.

³⁹ Exhibit P5.

to provide his blood specimen for a laboratory test (between 8:33:08am and 8:33:55am).

48 I noted that the Doctor was indeed physically present in the vicinity of SSSgt Lim and the accused between approximately 8:33:29am and 8:35:08am. This period included the entire *second* occasion that SSSgt Lim had required the accused to provide his blood specimen for a laboratory test. But the Doctor’s mere physical presence alone, without more, was, to my mind, insufficient to objectively support the finding or inference that the Doctor had implicitly authorised the accused being required to provide a blood specimen for a laboratory test.

49 I was conscious that the Prosecution was not relying merely on the Doctor’s physical presence in its submission that there was “sufficient [implicit] authorisation for the requirement by [SSSgt Lim] for a specimen of the accused’s blood”.⁴⁰ The Prosecution was also relying on the Doctor “not rais[ing] any objections to [SSSgt Lim] making this requirement”.⁴¹ But this submission assumed that the Doctor was aware that:

- (a) SSSgt Lim (or the police in general) could not have required the accused to provide a blood specimen for a laboratory test unless he (*ie*, the Doctor) authorises it; and
- (b) he was in a position to not authorise a blood specimen to be taken from the accused for the purpose of police investigations where this would be prejudicial to the accused’s proper care and treatment.

⁴⁰ [25] of the Prosecution’s Further Submissions.

⁴¹ [24(b)] of the Prosecution’s Further Submissions.

50 However, these assumptions raised a fundamental principle that was central to this case. Simply put, a person can only object to a particular course of action if that person is aware that that course of action is open to objection. The corollary is equally true: a person can only be said to authorise something if he knows that he has the independent power to refuse it. This was especially significant in the present statutory context. Section 71 of the RTA interposes the registered medical practitioner as a gatekeeper between law enforcement and a hospitalised patient. That protective function cannot be meaningfully discharged – and authorisation cannot sensibly be implied – if the medical practitioner does not appreciate that he possesses a power of control.

51 The significance of the Doctor's (lack of) understanding of his statutory role was apparent during his testimony. In the medical context, this is particularly important given that doctors may assume that the police have independent authority to make such requirements and may not realise their statutory gatekeeping role. Indeed, this appeared to be the Doctor's (mis)understanding, as the following extract from his testimony showed:⁴²

Q: Now, just to clarify...if you want to take---draw blood...to read the alcohol level, okay, how do you do that?

A: For---particularly, if they are asking to do a blood alcohol level, the police officer will get a consent before we do the blood alcohol levels.

Q: Yes.

A: So, **[if] the patient doesn't give consent, then we don't do blood alcohol levels.**

Q: Okay. So, it's the job of the police to get the consent.

A: That's correct.

Q: And it doesn't...need a doctor to seek his permission---for consent to draw blood?

⁴² Day 3, p 19, lines 7-20.

A: So, we will confirm the consent again before drawing the blood.

[emphasis added in bold]

52 The Doctor's testimony revealed that he believed that police consent-gathering, rather than his own statutory authorisation, was the primary requirement for obtaining a blood specimen from the accused to determine the proportion of alcohol in that specimen. In other words, the Doctor appeared to have operated under the mistaken impression that the police held an absolute, independent prerogative to compel a forensic blood sample, provided the accused consented to the police's demands.

53 In these circumstances, in the absence of evidence that the Doctor was aware of his statutory gatekeeping role or appreciated/knew that he was in a position to not authorise a blood specimen to be taken from the accused, the most that could be said about the Doctor's conduct in this case was that he had remained silent when SSSgt Lim made the requirement for the accused to provide his blood specimen for a laboratory test. This fell well short of what is required to constitute authorisation. To equate the Doctor's silence, in these circumstances, with authorisation would dilute the statutory safeguard into a mere formality. The mere fact that one remains silent in the face of another's conduct, does not, without more, justify the inference that one has agreed to it, endorsed it, or even authorised it.

54 In any event, it was difficult to understand how the Doctor could have concluded – at the time that SSSgt Lim had required the accused to provide his blood specimen for a laboratory test – that it would not be prejudicial to the accused's proper care and treatment if the accused was required to provide a blood specimen at that point and so authorise that requirement. This was because the Doctor's evidence suggested that he had personally clinically

engaged, examined, and reviewed the accused only sometime *after* SSSgt Lim had required the accused to provide his blood specimen for a laboratory test:⁴³

Q: So, [Doctor], the video that I just showed you...took place between 8.32am and 8.37am thereabouts. Okay, you earlier said that you assessed the [accused] as a 15 on the Glasgow Coma [Scale] at around 8.30 to 8.40AM. Are you able to say whether your assessment of the [accused] was conducted before, during or after the events in this video?

A: ...[I]t happened very long ago. So, I couldn't remember exactly, but it could have happened between 8.40 to 9 o'clock **after the video** has, you know, like---**after---after this video.**

Q: Okay. And just referring to the video that we just watched which was at around 8.32 to 8.37 AM, are you able to comment on the [accused's] ability to understand what was being said to him at this time?

A: GCS examinations cannot be done by looking at the video alone. [W]e should personally examine the patient to comment on the GCS.

...

Q: Yes. So, I just have one more question for you regarding this video. You said that it was likely that you conducted the assessment probably between 8.45 to 9 o'clock – the GCS assessment on that day.

A: **I think so, yes.**

...

Court: I thought he said he could not remember.

...

[Doctor]: Okay, I could not remember, but **maybe it should have happened between this timing [of 8.45 to 9 o'clock]** because my documentation was about 9 o'clock and then the [timing of the] video was...between...8.30 to 8.40. So, like, **after the video**, I...vaguely remember that **it could have happened between this timing [of**

⁴³ Day 3, p 10, line 26 to p 12, line 6. See also Day 5, p 4, lines 30-32, where it was put to the accused by the Prosecution that the Doctor had asked the accused for his blood to conduct further investigations between 8.37am and 9.02am (*ie*, after SSSgt Lim had required the accused to provide his blood specimen).

8.45 to 9 o'clock], but...I'm not very sure about the...exact...timing that the GCS examination ha[d] been conducted.

Q: But are you able to say whether it was before or after 9.02am, which is when you documented your findings?

A: [I]t will be definitely before 9.02, not after 9.02.

[emphasis added in bold]

55 Without prior clinical engagement, examination, or review of the accused, it was difficult to see how the Doctor could have made the conscious professional assessment to authorise SSSgt Lim requiring the accused, at the material time, to provide a blood specimen for a laboratory test.

56 I noted that the Prosecution had queried the Doctor if he had any concerns “about taking blood” from the accused “between 8.32am and 8.37am” (*ie*, the period during which SSSgt Lim had required the accused to provide his blood specimen for a laboratory test). The Prosecution submitted that the Doctor’s response in this regard showed that “the only concern that [the Doctor] had about blood being taken from the accused was that the accused had not consented to providing his blood for investigations”.⁴⁴ I set out the Doctor’s testimony in this regard:⁴⁵

Q: So, at this point in time, again between 8.32am and 8.37am, what concerns did you have, if any, about taking blood from [the accused]?

A: So...**for doing any blood investigations for medical purposes**, we need to get consent from the patient about his willingness to proceed and investigate for the issues. Unfortunately, he was not willing for it, so that’s why we couldn’t perform any blood investigations---another test.

[emphasis added in bold]

⁴⁴ [26] of the Prosecution’s Further Submissions.

⁴⁵ Day 3, p 11, lines 12-19.

57 There were at least three flaws with this submission.

(a) First, the Doctor’s response related exclusively to the “taking [of] blood” from the accused for “investigations for medical purposes”. It was not in relation to the taking of blood from the accused for a laboratory test to determine the proportion of alcohol or of any drug or intoxicating substance in the accused’s blood specimen.

(b) Second, given that the Doctor had yet to personally clinically engage, examine, and review the accused, it was unclear if the Doctor was in a position to articulate all of his concerns “about taking blood” from the accused at this point – and, even if he was so, why he was in such a position. No evidence on these aspects was adduced.

(c) Third, and most importantly, this submission ignored the fundamental point that before the accused could be required to provide a blood specimen for a laboratory test, there had to be evidence that the Doctor had consciously authorised that requirement (*ie*, that the accused provide a blood specimen for a laboratory test). Evidence that the Doctor’s supposedly “only concern...about blood being taken from the accused was that the accused had not consented to providing his blood for investigations [for medical purposes]” was not sufficient. Crucially, the Doctor did not testify that he had authorised the accused being required to provide a blood specimen for a laboratory test (to determine the proportion of alcohol or of any drug or intoxicating substance in the accused’s blood specimen)

58 The Prosecution further submitted that the Doctor had “confirmed that *had* the accused consented to his blood being taken for the purposes of checking his blood alcohol level, he *would have* processed by doing blood investigations

for the accused's blood alcohol level".⁴⁶ In support of this submission, the Prosecution referred to the following aspects of the Doctor's testimony:⁴⁷

Q: And could I have you look at [Exhibit P3 – *ie*, the Medical Form for Complaint of Violence/Spousal, Maid Abuse/Others Pre/Post Statements Drug/Alcohol/Inhalant Abuse/Drink Driving with respect to the accused] in front of you? It's a landscape document.

...

A: Okay, yep.

Q: Okay, so, do you recognise this form?

A: Yep.

Q: Can you tell me what this form is?

A: This form is usually brought by the police for the medical doctors to fill in. So, yep.

Q: Okay. There is a section at the left hand side, nearer to the bottom that says: Consent to provide blood specimen". Do you see that portion?

A: Yep.

Q: Okay, Generally, who obtains the patient's consent to fill in this portion of the form?

A: So, before the---like, you know, police officers or patient approach us, usually this is taken by the police officers.

Q: Okay. And what would you be able to do once the consent has been provided under this section?

A: **Particularly, for this patient, the police want to check blood alcohol level. So, *if this patient has consent[ed], then we would have---we would have processed by doing blood investigations for blood alcohol level.***

[emphasis added]

⁴⁶ [28] of the Prosecution's Further Submissions.

⁴⁷ Day 3, p 12, lines 14-30.

59 It was not disputed that the Doctor had not seen Exhibit P3 until the day he testified in Court.⁴⁸

60 The Prosecution’s submissions misunderstood the nature of the evidence required under s 71 of the RTA. The Doctor’s evidence was that he *would have* done “blood investigations [in relation to the accused] for blood alcohol level” *if* the accused had consented to these investigations. Such evidence reflected a hypothetical, post hoc scenario and was not evidence that the Doctor had, on the morning of 8 October 2022, in fact authorised SSSgt Lim’s requirement for the accused to provide a blood specimen before it was made. The distinction between what a doctor might do in hypothetical circumstances and whether authorisation was *in fact* given is fundamental to the protective scheme of s 71 of the RTA.

61 The Prosecution additionally submitted that the Doctor had “confirmed that his assessment was that it “won’t worse[n] the [accused’s]...medical condition” if [the Doctor] took blood from the accused at the time that his blood glucose level was between 15 [and] 20.1”.⁴⁹ According to the Prosecution, this showed that “taking blood from the accused at the material time *would not have* been prejudicial to [the accused’s] care or treatment”.⁵⁰ This, however, constituted a hypothetical, retrospective assessment that cannot substitute for evidence of contemporaneous authorisation (*ie*, at the time the specimen was required). Under s 71 of the RTA, authorisation must be conscious, deliberate, and contemporaneous, and any later assessment of risk does not satisfy this requirement.

⁴⁸ Day 3, p 20, lines 1-13.

⁴⁹ Day 3, p 30, lines 26-31.

⁵⁰ [26] of the Prosecution’s Further Submissions.

Conclusion

62 Given the above analysis, I found that the Prosecution has failed to prove beyond reasonable doubt that the Doctor had, on the morning of 8 October 2022, authorised the accused being required by SSSgt Lim (or indeed any other police officer) to provide a blood specimen for a laboratory test as required under s 71 of the RTA. Reliance on a hypothetical, *post hoc* scenario or *post hoc* medical risk assessment is legally insufficient. Without such authorisation, the statutory condition precedent was not met, and SSSgt Lim could not lawfully require the accused to provide a specimen of his blood. The accused, accordingly, could not be convicted under s 70(4) of the RTA for failing to provide his blood specimen. I therefore acquitted the accused of the charge.

Prem Raj Prabakaran
District Judge

June Ngian (Attorney-General's Chambers) for the Prosecution;
K Jayakumar Naidu (Jay Law Corporation) for the Accused.
