

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

[2025] SGHC 260

Criminal Case No 63 of 2025

Between

Public Prosecutor

And

Gao Xiong

GROUND OF DECISION

[Criminal Law — Offences — Attempted rape]

[Criminal Law — Offences — Property — Criminal trespass]

[Criminal Procedure and Sentencing — Sentencing — Principles]

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Public Prosecutor

v

Gao Xiong

[2025] SGHC 260

General Division of the High Court — Criminal Case No 63 of 2025

Hoo Sheau Peng J

1 December 2025

23 December 2025

Hoo Sheau Peng J:

Introduction

1 Mr Gao Xiong (“Accused”) pleaded guilty to four out of seven charges brought against him by the Prosecution.

2 Out of the four proceeded charges, the most serious is that of attempted rape committed on 9 October 2023 against an ex-flatmate (“Victim”). This is an offence under s 375(1)(a) read with s 511(1) of the Penal Code 1871 (2020 Rev Ed) (“Penal Code”) (“attempted rape charge”). The three other charges are of criminal trespass committed on three occasions, *ie*, 9 October 2023, 10 May 2024 and 26 May 2024, being offences punishable under s 447 of the Penal Code (“first criminal trespass charge”, “second criminal trespass charge”, “third criminal trespass charge” respectively, and collectively, the “criminal trespass charges”).

3 Upon the Accused’s admission without qualification to the Statement of Facts, I convicted the Accused of the four proceeded charges. The remaining three charges were taken into consideration for the purpose of sentencing (“TIC charges”).

4 For the attempted rape charge, I sentenced the Accused to six years and six months of imprisonment with three strokes of the cane. I imposed two weeks, four weeks and six weeks of imprisonment for the first, second and third criminal trespass charges respectively. The sentences for the attempted rape charge and the third criminal trespass charge were ordered to run consecutively. The global sentence is six years, six months and six weeks of imprisonment with three strokes of the cane.

5 Dissatisfied with the sentence, the Accused has appealed against the decision. I now give my reasons for sentence.

The facts

6 I begin with the facts, as set out in the Statement of Facts. The Accused is a 31-year-old male from the People’s Republic of China (“PRC”). Also from the PRC, the Victim is a 22-year-old female.

7 At the material time, the Accused was completing his PhD studies in Singapore, while the Victim was pursuing her tertiary education in Singapore.

8 On 10 July 2023, the Victim moved into a condominium unit (“Unit”). The Accused was already living there. They occupied different rooms. Other tenants also lived in the Unit. Sometime at the end of August 2023, the Accused left the Unit.

9 In early October 2023, the Accused started to pursue the Victim romantically. He texted her, and he asked her to go out with him. Repeatedly, she rejected his advances. She also asked him to stop bothering her. The Accused continued to pester the Victim. On occasions, the Accused returned to the Unit to look for the Victim. As a result, the Victim went to stay with a friend for a few days.

10 On 8 October 2023, at about 7.00pm to 8.00pm, the Victim returned to the Unit. At about 9.00pm, the Accused went to the Unit to see the Victim. Prior to this, the tenancy agent through whom the Accused had previously rented a room in the Unit (“agent”) had told him not to go to the Unit.

11 The Accused went to the Victim’s room to speak to her. She spoke to him briefly, but she refused to engage with him further. She told him she would call for the police. Subsequently, she did so. The agent also called the police. When the police arrived, the Accused left the Unit.

12 Overnight, the Accused remained at the bus stop outside the condominium development. There, he continued to text the Victim, telling her that he would be waiting for her at the bus stop. He also tried to call her. Until the early hours of 9 October 2023, he persisted in his conduct. This formed the subject matter of one of the TIC charges, being an unlawful stalking charge pursuant to s 7(1) read with s 7(2) of the Protection from Harassment Act 2014 (2020 Rev Ed) (“unlawful stalking charge”).

The first criminal trespass charge

13 On 9 October 2023, the Victim took urgent leave from work, and she mainly stayed in her room in the Unit.

14 At about 9.00pm, the Accused returned to the Unit. After he rang the doorbell, a tenant let him in. The Accused entered the Unit despite having previously been told by the agent not to go there. He wanted to speak to the Victim about the night before, and to ask her to help him find his belongings.

15 By the above, the Accused committed an offence of criminal trespass, by entering the Unit without the consent of the agent, with intent to annoy the Victim.

The attempted rape charge

16 When the Accused was at the Unit that same night, the Victim was in her room in the Unit, speaking to her parents on the phone.

17 The Accused knocked on her door. He called out to her. The Victim hung up the phone and opened the door. Upon seeing the Accused, she asked him what he was doing in the Unit. The Accused explained that he had left his bank card behind. He also wanted to apologise for his angry texts the night before.

18 The Victim rejected the Accused's apology and reiterated that the Accused was trespassing. She said that she would be calling for the police. As a result of the Victim's reaction, the Accused became frustrated and sensitive.

19 Subsequently, when the Victim tried to close the door, the Accused stopped her. He tugged on the door handle, preventing her from closing the door. Then, he forcibly entered the room and walked towards the Victim.

20 The Victim took a few steps back. As the Victim tried to push the Accused out of the room, he pushed against her. As a result, the Victim fell

backwards to the ground with her back against the side of her bed. The Accused pinned her down and spread her legs, and he knelt on the ground in between her legs.

21 In his anger, the Accused pulled at the Victim's dress. The Victim was not wearing a bra at the time, and the Accused grabbed at least one of her breasts over her dress. Thereafter, he removed her panties, and then he pulled down his pants to reveal his penis. He touched her vagina (without any penetration). The Accused admitted that he had done these actions because he wanted to have sex with the Victim, to humiliate her and also to "release a bit of anger". In the circumstances, the Accused had the intention to commit rape against the Victim.

22 The Victim struggled against the Accused and tried to push him back but to no avail. She also screamed as the Accused continued to touch her vagina with his hand (without penetration).

23 One of the tenants in the Unit, [Q], heard the Victim's screams. [Q] went to the Victim's room. He saw the Accused pinning the Victim to the ground while she struggled and screamed. He quickly approached and used both arms to drag the Accused away from the Victim and out of the room. The Victim then closed her room door immediately. Afraid of the Accused, [Q] also went back to his room and locked his door.

24 While in her room, the Victim began to cry and texted her two roommates and two friends for help. However, the Accused then began hitting the wall near the Victim's room door, which was heard by [Q]. The Victim then called for [Q], who came out of his room and asked the Accused what had happened. The Accused stopped hitting the wall. He informed [Q] that he was

feeling stressed, and asked if he could have some alcohol. [Q] obliged, and the Accused proceeded to drink approximately 10ml of Yomeishu alcohol.

25 After the Accused had calmed down, he continued to try and speak to the Victim from outside her room door. The Victim did not respond. Instead, the Victim got one of her roommates to call for the police. [Q] also texted one of the other tenants, [Z], about the incident. Subsequently, [Z] called the police.

26 By the above, the Accused attempted to rape the Victim, by pushing her to the ground, kneeling over her, touching her breasts over her clothes, forcing her legs apart, removing her panties, and pulling his pants down to expose his penis.

The second criminal trespass charge

27 On 10 May 2024 at about 2.30pm, a pre-trial conference (“PTC”) was held in the State Courts in relation to the charges faced by the Accused, including the attempted rape charge. The PTC was held over the Zoom platform. The Accused attended the PTC with his defence counsel from Room 8-32 of the State Courts.

28 In the course of the PTC, the Accused wanted to speak to the District Judge (“DJ”). However, his defence counsel advised him that he should only communicate with the DJ through defence counsel. The Accused tried to snatch the laptop from his defence counsel before running out of the room.

29 Then, the Accused ran towards Chamber 8-40, where he saw a sign stating “No Entry” on a pole. Ignoring the sign, the Accused entered Chamber 8-40, intending to speak to the DJ. In Chamber 8-40, the Accused was met by a

staff member. He was asked to leave. His father also attempted to drag him out of the room. However, the Accused did not budge. The Accused eventually left when the staff member went to get help. At some point, the panic alarm was activated.

30 By the above, the Accused committed an offence of criminal trespass, by entering Chamber 8-40 with the intention of annoying the staff of the State Courts and without the consent of any authorised staff member of the State Courts. The Accused was on bail at the material time.

The third criminal trespass charge

31 One of the Accused's bail conditions was that he was not to contact the Victim. However, on 3 May 2024, the Accused sought the agent's permission to return to the Unit. He was informed that it would be best not to do so. Despite this, the Accused still decided to return to the Unit several times with the intention of meeting his ex-flatmates to find something to "lighten his charge" and to obtain the Victim's contact details.

32 On 5 May 2024 at about 8.00am, the Accused went to the Unit and spoke to [Z] and another tenant, [Y]. He told them that he was there to see the Victim. He was informed that she had moved out. [Z] also told him not to return. The Accused then left the Unit. This was the subject of one of the TIC charges – also of criminal trespass ("5 May criminal trespass TIC charge").

33 On 26 May 2024, sometime around 6.30pm, the Accused went to the Unit again. He pushed [Q]'s door open slightly, but [Q] pushed it back to close the door. The Accused then asked [Q] for the Victim's contact number as he

wanted to seek forgiveness from her. [Q] informed him that he was not in contact with the Victim. The Accused then left.

34 The Accused entered the Unit with the intention of committing an offence of obstruction of justice under s 204A of the Penal Code. He wanted to obtain the contact details of the Victim in order to persuade her to withdraw the allegations she made against him. The Accused thereby committed an offence of criminal trespass punishable under s 447 of the Penal Code. The Accused was on bail at the material time.

Sentencing

35 As alluded to at [3] above, upon being convicted of the four proceeded charges, the Accused admitted to the TIC charges, and consented to have them be taken into consideration for the purpose of sentencing.

36 These TIC charges are:

- (a) The unlawful stalking charge committed over 8 and 9 October 2023 (see [12] above).
- (b) The 5 May criminal trespass TIC charge (see [32] above).
- (c) The third was another criminal trespass charge, committed on 20 June 2024, when once again, the Accused entered the Unit to obtain the contact details of the Victim from [Q] (“20 June criminal trespass TIC charge”).

37 Apart from the charges in the present case, the Accused has no antecedents.

The attempted rape charge

38 For the attempted rape charge, the punishment prescribed under s 375(2) read with ss 512(2) and 512(3) of the Penal Code is that of imprisonment for a term which may extend to 20 years, and liability to fine or to caning.

39 The Prosecution submitted that in sentencing for this charge, the approach to be adopted should be that set out in *Public Prosecutor v Andrew Kumaravel* (HC/CC 51/2024) (“*Andrew Kumaravel*”), which modified the applicable framework for rape offences in *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 (“*Terence Ng*”). Adopting this approach, the Prosecution submitted for a sentence of seven to eight years’ imprisonment and three strokes of the cane for the offence.

40 The Accused, however, applied the approach set out in *Public Prosecutor v Khor Khai Gin Davis* [2024] 4 SLR 1012 (“*Davis Khor*”), which preceded *Andrew Kumaravel*, but which also adapted the *Terence Ng* framework. After doing so, the Accused arrived at a sentence of five years’ imprisonment and three strokes of the cane for the charge. The Accused pointed out that there is no published decision in *Andrew Kumaravel*. While the Prosecution has furnished the notes of evidence in *Andrew Kumaravel* to the Accused, the Accused did not make further submissions on the case.

41 Having considered the matter, I adopted the approach I took in *Andrew Kumaravel*. These are my reasons. In sentencing for rape offences, the *Terence Ng* framework applies. Prior to 1 January 2020, the longest term of imprisonment that may be imposed for an attempt to commit an offence shall not exceed one-half of the longest period provided for the completed offence. In *Public Prosecutor v Ridhaudin bin Bakri* [2020] 4 SLR 790, Woo Bih Li J

(as he then was) decided that in sentencing for attempted rape offences, the *Terence Ng* framework should be adapted, by halving the sentencing ranges for each of the three sentencing bands to take into account the fact that the offences are not completed (at [100]–[103]).

42 With effect from 1 January 2020, however, statutory amendments were made to the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code 2008 Rev Ed”). In particular, s 511 of the Penal Code 2008 Rev Ed was repealed and substituted with the present ss 511 and 512 of the Penal Code. Since then, the maximum imprisonment term that may be imposed for an attempt to commit rape is the same as that for a completed rape offence. In *Davis Khor*, Pang Khang Chau J considered the applicable sentencing approach in light of this development. Accepting the Prosecution’s position, Pang J determined that there should be a two-stage approach. First, the court should apply the *Terence Ng* framework towards determining the sentence for a *notional* completed offence. Second, the court may then apply a discount, in recognition of the fact that the offence had not been completed (see *Davis Khor* at [45]).

43 In *Andrew Kumaravel*, I had occasion to consider the issue. While I agreed with Pang J that the *Terence Ng* framework should be modified, I departed from his approach in two aspects. As I explained in the brief reasons contained in the notes of evidence in *Andrew Kumaravel*, in *Davis Khor*, to arrive at the sentence for a *notional* completed offence, Pang J applied the *Terence Ng* framework in full, *ie*, *Stages 1 and 2*. However, he then added a further stage, *ie*, *Stage 3*. At Stage 3, Pang J considered whether an adjustment downwards is to be made in light of the incomplete nature of the attempted rape offence (“incomplete offence discount”).

44 To elaborate, in *Davis Khor*, the 47-year-old offender attempted to penetrate the vagina of a 13-year-old victim, after luring her to his residence with promise of a cash payment. Pang J determined that based on the offence-specific factors, the offence fell within Band 2 of the *Terence Ng* framework, attracting an indicative starting point of 14 years' imprisonment and 12 strokes of the cane (see *Davis Khor* at [49]–[50]). This is Stage 1 of the *Terence Ng* framework. Turning to the offender-specific factors, the offender was found to be a serial offender, preying on at least four young victims. There was also a similar charge taken into consideration, committed against the same victim. That said, the accused pleaded guilty early. Based on these factors, Pang J reduced the sentence to 12 years' imprisonment and ten strokes of the cane (see *Davis Khor* at [51]). This is Stage 2 of the *Terence Ng* framework. Finally, Pang J accorded an incomplete offence discount of three years' imprisonment and four strokes of the cane to account for the fact that the offence had not been completed to arrive at nine years' imprisonment and six strokes of the cane for the attempted rape offence (see *Davis Khor* at [52]). This is the third stage, which is grafted onto the *Terence Ng* framework.

45 However, and with due respect to Pang J, as I observed in *Andrew Kumaravel*, in determining whether the incomplete offence discount should be given, and what the incomplete offence discount should be, the court's focus would be on harm and culpability considerations, arising from the uncompleted nature of the attempted offence. For instance, the court would be mindful of the resulting harm, given that the attempt did not proceed to completion. The court would also consider the extent to which the attempt had progressed towards completion before it was stopped or called off, and the reasons why the attempt did not proceed to completion. In my view, such considerations, about the degree of harm caused and/or the level of culpability on the part of the offender,

are offence-specific ones. Therefore, it would be more principled that any such adjustment for the incomplete nature of the offence be made at or after Stage 1 of the *Terence Ng* framework (which deals with offence-specific factors). It would be artificial to return to consider such factors in the additional stage of *Davis Khor*, after the offender-specific factors have been considered at Stage 2 of the *Terence Ng* framework.

46 As I further observed in *Andrew Kumaravel*, any discount for an offender’s plea of guilt (“guilty plea discount”) should be applied after, and not before, the incomplete offence discount. The plea of guilt by an offender is an offender-specific mitigating factor. Within the *Terence Ng* framework, this factor is given weight *after* the offence-specific considerations are dealt with in Stage 1. Thus, interposing the incomplete offence discount between Stages 1 and 2 of the *Terence Ng* framework would be appropriate.

47 This approach would also, in my view, be more aligned with the position set out in the Sentencing Advisory Panel’s Guidelines on Reduction in Sentences for Guilty Pleas (“PG Guidelines”). As I noted in *Andrew Kumaravel*, the PG Guidelines, which became effective from 1 October 2023, pre-dated the hearings in *Davis Khor*, and were not discussed in *Davis Khor*.

48 To expand on this point, the PG Guidelines recognise that the court should first determine “the sentence that it would have imposed if the accused person had been convicted after trial”, before applying the appropriate reduction to the sentence based on the stage at which the offender pleads guilty to the charge. In relation to an attempted offence, the sentence to be imposed if the offender had been convicted after trial should rightfully encompass the incomplete offence discount. Upon deriving that sentence, the guilty plea

discount would be applied. Therefore, the guilty plea discount should be accorded after the incomplete offence discount.

49 To summarise, in *Andrew Kumaravel*, I adapted the *Terence Ng* framework to the offence of attempted rape as follows:

(a) Step 1: Apply Stage 1 of the *Terence Ng* framework. This involves a consideration of the offence-specific factors so as to determine within which sentencing band, *ie*, *Band 1*, *Band 2* or *Band 3*, the offence falls, and then determine the specific indicative starting sentence within the identified band.

(b) Step 2: Apply the incomplete offence discount, if appropriate, to the indicative starting sentence in recognition of the fact that the offence was not completed. I shall say more of this at [56] below.

(c) Step 3: Apply Stage 2 of the *Terence Ng* framework. This involves calibrating the sentence in light of the offender-specific factors. In particular, the guilty plea discount is to be applied at the end of this stage.

50 Therefore, to reiterate, in *Andrew Kumaravel*, I departed from *Davis Khor* on two aspects – by according the incomplete offence discount after Stage 1 (instead of Stage 2) of the *Terence Ng* framework, and by according the incomplete offence discount before (instead of after) the guilty plea discount. For the same reasons set out in *Andrew Kumaravel*, and expanded on above, I applied the three steps set out above at [49] to the present facts.

51 At Step 1, I considered the offence-specific factors, and I placed the attempted rape charge within Band 1 of the *Terence Ng* framework (*ie*, 10 to 13

years' imprisonment with six strokes of the cane). I pegged the indicative starting point at 11 years' imprisonment with six strokes of the cane.

52 To explain, Band 1 is the appropriate category where there are no offence-specific aggravating factors, or where the offence-specific aggravating factors are only present to a very limited extent. According to the Prosecution, the one offence-specific aggravating factor in this case is that of the violence and hurt inflicted upon the Victim. In particular, the Accused had pried open the Victim's legs, causing bruises and scratch marks on both her legs. These injuries were noted in a medical report prepared by Dr C Samyuktha dated 10 October 2023. As a result of her injuries, the Victim was given three days of medical leave from 10 to 12 October 2023. Therefore, the Prosecution pressed for an indicative starting point of 12 years' imprisonment and six strokes of the cane.

53 In response, the Accused contended that his case fell within the lowest end of Band 1, with an appropriate indicative starting sentence of 10 years' imprisonment. Based on the medical report, the Victim only suffered minor injuries. There is no evidence she suffered physical, emotional or psychological scars.

54 I acknowledge that there was some violence inflicted on the Victim, resulting in the injuries noted in the medical report, but these injuries did not rise to the level to constitute an aggravating factor. It is well recognised that offences of rape, and attempted rape, are inherently violent in nature. That said, I found the conduct of the Accused, especially after the *act* to be aggravating. After [Q] prevented the Accused's attempt at raping the Victim, the Accused was not repentant. He continued to harass not only the Victim, but also [Q], by remaining in the Unit. He had the audacity to ask for alcohol from [Q], and to

drink in the Unit. Throughout this time, the Victim remained fearful. She locked herself in her room, until the police arrived. The ordeal to the Victim was a prolonged one, which lasted beyond the attack. In these circumstances, I saw it fit to peg the indicative starting point at 11 years' imprisonment and six strokes of the cane.

55 At Step 2, and turning to the incomplete offence discount, based on *Davis Khor* and *Andrew Kumaravel*, the Prosecution submitted that an appropriate reduction would be two to three years of imprisonment. In applying the *Davis Khor* approach, the Accused contended that the reduction should be three and a half years of imprisonment. Parties were agreed that caning should be reduced by three strokes.

56 As pointed out in *Davis Khor* at [52], the precise discount to be accorded to an offender is a matter of judicial discretion. I agree. Importantly, as alluded to at [45] above, two factors are key. First, the incomplete offence discount is to recognise that less harm is caused to the victim, as compared to a case where the offence is completed. There would be a reduced risk of any sexually transmitted disease or pregnancy. Without penetration, there is also less violation of the person of the victim. Based on these matters, as a starting point, an incomplete offence discount should be granted. Second, the incomplete offence discount should reflect the culpability of the offender in attempting to carry out the offence. Care should be taken that there is no overlap with any facts and circumstances considered in the earlier stage of the sentencing process. In particular, it is important not to double count such facts and circumstances against the offender. The focus should be on how far the offender progressed in his attempt, and the reason why the outcome did not materialise. Should an

offender voluntarily desist in his actions, it seems to me that a larger reduction would be warranted.

57 With these points in mind, I observe that in *Davis Khor*, in calibrating the incomplete offence discount, Pang J considered that the offender had removed his pants, attempted to push his penis into the victim's vagina, and attempted to do so for a while. He was also not wearing a condom at the material time. He failed to complete the offence because he could not achieve an erection (see *Davis Khor* at [52]). An incomplete offence discount of three years' imprisonment and four strokes of the cane was granted. Compared to the offender in *Davis Khor*, the Accused did not proceed as far to have his way with the Victim (and therefore his culpability in carrying out the attempted rape was lower). It would seem to indicate that a larger reduction would be warranted for the Accused. However, for reasons explained below at [60], I was cautious about relying on this case to do so.

58 In *Andrew Kumaravel*, the offender broke into the victim's house in the early hours of the morning, pinned the victim down while she was asleep, climbed on top of her and restrained her legs. He had removed his shorts and underwear, and managed to partially pull down her shorts and underwear. When the victim woke up and put up a struggle, the offender did not stop. He only stopped when the victim's mother heard the commotion and asked why there was so much noise. Then, he escaped as he feared being discovered. There, I placed the offence within the lowest end of Band 2, with an indicative starting sentence of 13 years' imprisonment and 12 strokes of the cane. A discount of two years' imprisonment and three strokes of the cane was granted, to arrive at 11 years' imprisonment and nine strokes of the cane. The sentence was then calibrated upwards to 12 years' imprisonment and nine strokes of the cane in

light of the offender-specific aggravating factors in that case. A guilty plea discount of 30% was accorded, to arrive at a sentence of eight years' imprisonment and six strokes of the cane.

59 In my judgment, the facts of the present offence were less serious than those in *Andrew Kumaravel*. Like the offender in *Andrew Kumaravel*, the Accused did not attempt to push his penis into the Victim's vagina. He had progressed to remove the Victim's panties and to expose his penis, and he did not voluntarily desist. That said, I was mindful that unlike the offender in *Andrew Kumaravel*, the Accused did not take these steps in the early hours of the morning, nor did he attack the Victim while she was asleep to get as far as he did. Overall, I found the Accused's culpability while carrying out the attempted rape to be lower than the offender in *Andrew Kumaravel*. In that light, I was prepared to grant a reduction, larger than that in *Andrew Kumaravel*.

60 While the Accused appeared to rely on *Davis Khor* to seek an incomplete offence discount of three and a half years' imprisonment and three strokes of the cane, I was unable to accept this submission. In my view, and with respect, the decision in *Davis Khor* did not give sufficient weight to the culpability of the offender and the extent to which the offender progressed in his attempted rape of the victim. Thus, the incomplete offence discount accorded in that case (*ie*, a discount of three years' imprisonment and four strokes of the cane) appears to be on the generous side. Instead, I compared the Accused's culpability to the offender in *Andrew Kumaravel*, and I accorded the Accused a discount of three years' imprisonment and three strokes of the cane. With that, I arrived at a term of eight years' imprisonment with three strokes of the cane.

61 At Step 3, I turn to the offender-specific factors. I note that the Accused has a clean record. This, however, was a neutral factor.

62 Defence counsel highlighted that the Accused's academic results are outstanding. His efforts thus far in life, including his pursuit of a PhD, have gone down the drain. He would have to restart his life in China, and he would probably have to do so in a place where he may not be able to call his home. These matters, however, carry little mitigating weight. Unless there are exceptional circumstances, the personal hardship of an offender is of no mitigating effect.

63 That said, the Accused has pleaded guilty. Through defence counsel, the Accused had also indicated that he wished to apologise to the Victim, and to enquire about her well-being. The parties were agreed that based on the PG Guidelines, and given the stage in which he pleaded guilty, the Accused should be entitled to a 20% discount. Applying this, and rounding up slightly, I arrived at six years and six months of imprisonment with three strokes of the cane for the charge.

64 For completeness, the Accused submitted that an uplift of six months' imprisonment was warranted on account of the TIC charges. However, given that two of the TIC charges were criminal trespass charges, and one involved unlawful stalking, I did not consider them to be specifically aggravating for the purpose of the attempted rape charge. I did not accord any uplift. With that, I turn to the criminal trespass charges.

The criminal trespass charges

65 Under s 447 of the Penal Code, the punishment prescribed for each of the criminal trespass charges is imprisonment for a term which may extend to three months, or with fine which may extend to \$1,500, or with both.

66 For the criminal trespass charges, the Accused did not disagree that short custodial sentences are warranted. The Prosecution left the appropriate length of the imprisonment term for the first criminal trespass charge to the court, but pressed for three to four weeks' imprisonment for the second criminal trespass charge, and five to seven weeks' imprisonment for the third criminal trespass charge. The Accused asked for one week, two weeks and three weeks of imprisonment to be imposed for the first to the third criminal trespass charges respectively.

67 Drawing from *Public Prosecutor v Tai Li Hui Matthew* [2022] SGDC 39 at [40], these are some relevant considerations in the sentencing of criminal trespass cases:

- (a) The purpose of the trespass. Whether it is to intimidate, insult or annoy any person, or to commit an offence (and if so, what type of offence). The more serious the type of offence intended to be committed, the more serious the offence of criminal trespass.
- (b) The actual or threatened harm or damage caused. Needless to say, the greater the actual or threatened harm caused, the more serious the offence of criminal trespass.

(c) The property trespassed upon. If it is property that the public generally has no access to or government property, the offence is likely to be viewed to be more serious.

(d) The time of commission of the offence. Criminal trespass committed at night or in the early hours of the morning (being less likely to be detected) is likely to be viewed to be more serious.

(e) Duration of the trespass. The longer the period of being on the property, the more serious the offence.

68 In the first criminal trespass charge, while the intention was to annoy the Victim, this eventually led to the opportunity to carry out the attempted rape charge. As for the second criminal trespass charge, while the intention was to annoy the court staff, it was significant that the property trespassed was part of court premises. The third criminal trespass charge involved the Accused trying to commit a serious offence of obstruction of justice, when he well knew that he was not supposed to contact the Victim. For these distinct reasons in respect of each of the charges, I agreed with the parties that the custodial threshold is crossed.

69 Further, I also agreed with the parties that the criminal trespass charges were of increasing severity. For the second and third criminal trespass charges, the Accused was on bail at the material time of the acts. His bail related to, amongst others, the first criminal trespass charge. Therefore, he well knew about the illegality of such acts. I was also mindful that the TIC charges, particularly the 5 May criminal trespass TIC charge and the 20 June criminal trespass TIC charge, were of a similar nature, and should warrant an uplift to the sentences to be imposed.

70 Based on the above, on a claim trial basis, the sentence for the third criminal trespass charge – the most serious of the three charges – should be pegged at around eight weeks’ imprisonment. For the first and second criminal trespass charges, I considered sentences of around three weeks’ and six weeks’ imprisonment to be appropriate. The Accused was entitled to a 20% reduction for pleading guilty. As explained above at [61]–[62], there were no other mitigating factors. Accordingly, applying around a 20% guilty plea discount, I reduced the indicative sentences to two weeks, four weeks and six weeks of imprisonment for the first, second and third criminal trespass charges respectively.

71 For completeness, I did not rely on *Public Prosecutor v Kevin Teo Kok Leong alias Muhammad Ridwan Teo* [2010] SGDC 364, which was cited by the Prosecution. There, the offender pleaded guilty to, amongst others, two charges of house trespass under s 448 of the Penal Code 2008 Rev Ed, which carried a heavier penalty of imprisonment of up to a year, or a fine of \$3,000, or with both. I did not find the case, therefore, to be particularly useful.

The global sentence

72 Pursuant to s 307(1) of the Criminal Procedure Code 2010 (2020 Rev Ed), the sentences for at least two of the charges are to run consecutively. I agreed with the parties that the sentences for the attempted rape charge and the third criminal trespass charge (being the most serious of the criminal trespass charges) should be ordered to run consecutively. The other sentences are to run concurrently. Therefore, the total sentence is six years, six months and six weeks of imprisonment with three strokes of the cane. The global sentence is necessary to serve as deterrence and retribution to the Accused. No further adjustment is required.

Conclusion

73 To conclude, the total sentence of six years, six months and six weeks of imprisonment with three strokes of the cane would be appropriate for the Accused. While the Accused was in remand at the time of the hearing, he was on bail for periods of time. Therefore, I also ordered the imprisonment term to be backdated to 9 October 2023 when he was first arrested and placed in remand, excluding any periods that the Accused was subsequently on bail.

Hoo Sheau Peng
Judge of the High Court

Tay Jia En and Nicole Teo (Attorney-General's Chambers) for the
Prosecution;
Tan Jun Hao, Don (Chen Junhao) and Teai Shoon Jiat (Chia S Arul
LLC) for the accused.
