

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

[2021] SGHC 242

Criminal Case No 22 of 2021

Between

Public Prosecutor

And

Ramendra Krishnan

JUDGMENT

[Criminal Law] — [Offences] — [Statutory offences] — [Misuse of Drugs Act (Cap 185, 2008 Rev Ed)]

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Public Prosecutor
v
Ramendra Krishnan

[2021] SGHC 242

General Division of the High Court — Criminal Case No 22 of 2021
Ang Cheng Hock J
9, 13–16 April, 29 June, 11 October 2021

25 October 2021

Judgment reserved.

Ang Cheng Hock J:

1 The accused person is one Ramendra Krishnan (“Ramendra”), a male Singaporean, who was 53 years of age at the time of his arrest on 28 March 2017. He was tried before me on the following charge under s 5(1)(a) read with s 5(2) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (the “MDA”):

That you, RAMENDRA KRISHNAN,

on 28 March 2017, at about 6.55pm, in Singapore, did traffic in a Class A controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (‘MDA’), *to wit*, by having in your possession for the purpose of trafficking, inside a taxi bearing registration number SHC 3220B, five blocks containing not less than 3105g of vegetable matter which was analysed and found to be cannabis, without authorisation under the MDA or the Regulations made thereunder, and you have thereby committed an offence under section 5(1)(a) read with section 5(2) of the MDA, punishable under section 33(1) of the MDA.

Circumstances leading to the arrest and charge

2 At the time of his arrest, Ramendra was living with his girlfriend, one Sherryl Versoza Dela Cruz (“Sherryl”), at her flat in Ang Mo Kio.¹ He was not working then, having lost his job as a taxi driver about six months prior to this time.² He claimed that he was a habitual consumer of cannabis, smoking up to two to three “joints” daily.³

3 In the late morning of 28 March 2017, Ramendra received a call from his cannabis supplier, whom he referred to as “Joe”, who informed him that he had some good “books” coming into Singapore.⁴ It is not disputed that “books” referred to rectangular blocks of packaged vegetable matter containing cannabis, with each “book” having a gross weight of approximately 1kg in vegetable matter.⁵ Ramendra told Joe that he would take one “book”.⁶

4 On the instructions of Joe, Ramendra went to various locations in Tuas and Woodlands from 1pm to 4pm that day, to pick up the drugs from someone that Joe had sent.⁷ This turned out to be a wasted effort: a series of unexpected complications meant that he did not manage to collect the drugs.⁸ Ramendra then returned to Sherryl’s flat in Ang Mo Kio.⁹

¹ Transcript, 15 April 2021, p 35 line 25 to p 36 line 8.

² Transcript, 15 April 2021, p 36 line 26 to p 37 line 9.

³ Transcript, 16 April 2021, p 6 lines 12–17.

⁴ Transcript, 15 April 2021, p 38 line 4 to p 39 line 7.

⁵ Agreed Bundle at pp 230–233; exhibits “P3” and “P5”; Prosecution’s closing submissions at para 15; Accused’s closing submissions at paras 3 and 13–14.

⁶ Transcript, 15 April 2021, p 39 lines 7–8.

⁷ Transcript, 15 April 2021, p 42 line 7 to p 43 line 32.

⁸ Transcript, 15 April 2021, p 42 line 7 to p 43 line 32.

⁹ Transcript, 15 April 2021, p 44 lines 4–11.

5 Shortly before 6 pm, Joe called Ramendra again and told him to pick up the “book” from a person who would be at the bus stop at Marsiling MRT station.¹⁰ Ramendra took his backpack and left the flat.¹¹ This time, Sherryl accompanied him, and the two of them took a taxi to Marsiling MRT station.¹²

6 When they arrived at Marsiling MRT station, Ramendra approached a person matching the description given by Joe.¹³ This was one Lavinder Shanmuganathan (“Lavinder”), who confirmed that he was the person sent by Joe.¹⁴ The three of them then got into another taxi.¹⁵

7 In the taxi, it turned out that Lavinder had not one, but five “books” for Ramendra.¹⁶ These “books” were placed into Ramendra’s backpack.¹⁷ On Ramendra’s instructions, the taxi driver dropped Lavinder off at Woodlands Avenue 3.¹⁸ Ramendra then directed the taxi driver to drive towards the Seletar area.¹⁹

¹⁰ Transcript, 15 April 2021, p 44 line 30 to p 45 line 27.

¹¹ Transcript, 15 April 2021, p 45 line 29.

¹² Transcript, 15 April 2021, p 45 line 29 to p 46 line 21.

¹³ Transcript, 15 April 2021, p 47 lines 1–16.

¹⁴ Transcript, 15 April 2021, p 48 lines 23–24.

¹⁵ Transcript, 15 April 2021, p 48 line 29 to p 49 line 27.

¹⁶ Transcript, 15 April 2021, p 52 lines 21–31.

¹⁷ Transcript, 15 April 2021, p 51 lines 19–22.

¹⁸ Transcript, 15 April 2021, p 53 lines 17–23; Agreed Statement of Facts at para 4.

¹⁹ Transcript, 15 April 2021, p 54 line 18 to p 55 line 29.

8 By this time, the taxi was being followed by CNB officers in their vehicles.²⁰ Ramendra and Sherryl both became aware of this.²¹ At Upper Neram Road in Seletar Hills Estate, Ramendra asked the taxi driver to stop.²² He quickly alighted from the taxi with his backpack and started running along a pathway adjacent to a canal.²³ The CNB officers who were following Ramendra then pursued him on foot.²⁴ When the CNB officers were closing in on him, Ramendra threw the backpack into the canal.²⁵ The CNB officers then arrested Ramendra and retrieved the backpack from the canal; the officers conducted a search of the backpack in Ramendra’s presence, and it was found to contain the five “books”.²⁶

9 The five “books” were subsequently given exhibit labels and analysed. In total, they were found to contain not less than 3,105g of cannabis, with the following breakdown:²⁷

Exhibit Label	Analysis
“A1A1A”	Not less than 750.9g of vegetable matter which was analysed and found to be cannabis.
“A1B1A”	Not less than 710.2g of vegetable matter which was analysed and found to be cannabis.

²⁰ Agreed Bundle at p 157, paras 5–6.

²¹ Transcript, 15 April 2021, p 53 lines 11–15, p 54 lines 14–16.

²² Transcript, 15 April 2021, p 56 lines 9–19.

²³ Transcript, 15 April 2021, p 56 line 20 to p 58 line 4; exhibits “P30” to “P35”.

²⁴ Agreed Bundle at p 157, para 8.

²⁵ Agreed Bundle at p 157, para 8; Transcript, 15 April 2021, p 58 lines 15–26.

²⁶ Agreed Bundle at pp 153–154, paras 8–12.

²⁷ Agreed Bundle at pp 85–89.

“A1C1A”	Not less than 599.0g of vegetable matter which was analysed and found to be cannabis.
“A1D1A”	Not less than 487.3g of vegetable matter which was analysed and found to be cannabis.
“A1E1A”	Not less than 557.6g of vegetable matter which was analysed and found to be cannabis.

10 These five “books” of cannabis, containing not less than 3,105g of cannabis, were the subject of the charge on which Ramendra was tried before the court.

The trial

11 As already mentioned, the trial before me proceeded on the basis of the charge referred to in [1]. The Prosecution led evidence from a total of 45 witnesses, including Sherryl and Lavinder. The Defence did not dispute the chain of custody in relation to the five “books” of cannabis or the analysis of the drugs.²⁸ Ramendra also did not dispute the voluntariness and admissibility of his various statements to the CNB officers.²⁹

12 At the close of the Prosecution’s case, I called for Ramendra to give his defence.³⁰ Ramendra elected to give evidence.³¹ In his testimony, Ramendra explained that, when he was in the taxi with Lavinder and Sherryl, he was

²⁸ Agreed Statement of Facts at para 22.

²⁹ Agreed Statement of Facts at para 28.

³⁰ Transcript, 15 April 2021, p 30 lines 4–20.

³¹ Transcript, 15 April 2021, p 30 line 21.

surprised to see that Sherryl was transferring five “books” from Lavinder’s backpack into his (Ramendra’s) backpack.³²

13 Ramendra then called Joe to ask him why he was being passed more than one “book”.³³ He had only agreed to purchase one “book” for \$2,000.³⁴ Joe then asked Ramendra for a favour, which was to help deliver four “books” to a person at Jalan Kayu.³⁵ He would give Ramendra the details of where exactly to go at Jalan Kayu later.³⁶

14 Ramendra thought of returning the four “books” to Lavinder.³⁷ However, he ultimately asked the taxi driver to head towards the Seletar area, which was in line with Joe’s instructions.³⁸ Although Ramendra initially attributed his directions to the taxi driver to sheer confusion and a desire to run away,³⁹ he admitted under cross-examination that, if he had not been arrested that day, he would have proceeded to Seletar Mall to wait for instructions from Joe as to where to deliver the four “books”.⁴⁰ Indeed, Ramendra agreed that notwithstanding his emotions at that point in time, he had decided that he would actually deliver the four “books”.⁴¹

³² Transcript, 15 April 2021, p 50 line 22 to p 51 line 9; 16 April 2021, p 14 lines 17–22.

³³ Transcript, 15 April 2021, p 51 lines 24–25.

³⁴ Transcript, 15 April 2021, p 41 line 26 to p 42 line 4; p 63 lines 8–23.

³⁵ Transcript, 15 April 2021, p 51 lines 25–26.

³⁶ Transcript, 15 April 2021, p 51 lines 26–27.

³⁷ Transcript, 15 April 2021, p 53 line 19.

³⁸ Transcript, 15 April 2021, p 54 lines 22–31.

³⁹ Transcript, 15 April 2021, p 54 line 17 to p 55 line 1.

⁴⁰ Transcript, 16 April 2021, p 16 lines 23–28.

⁴¹ Transcript, 16 April 2021, p 16 lines 16–18.

15 As for the one “book” that he intended to keep for himself, Ramendra testified that he would consume about 20% of that “book”, and sell the remaining 80% to his friends after repacking that portion of the “book” into small bundles.⁴²

16 Ramendra’s testimony at trial was materially consistent with his recorded statements. In these, he had admitted that he was aware that the five “books” contained cannabis, and that they were in his backpack, which he had thrown into the canal while being pursued by the CNB officers.⁴³ Ramendra had also taken the position in these statements that he only intended to keep one of the “books” for himself, and that he had been asked by Joe to deliver four “books” to someone else.⁴⁴

17 A discrepancy emerged in Ramendra’s sixth statement recorded on 17 March 2018 and his seventh statement recorded on 7 January 2020, both under s 22 of the CPC. In those statements, Ramendra provided a different account of events: he claimed that it was Sherryl who was collecting the five “books” from Joe, and Ramendra was only accompanying her in the taxi. However, in his oral testimony, Ramendra unequivocally recanted these two statements.⁴⁵ He explained that he had made them because he was “angry with the whole situation” that he was in.⁴⁶ Put simply, the two statements contained untrue assertions. Both the Prosecution and the Defence are taking the position

⁴² Transcript, 16 April 2021, p 3 line 11 to p 5 line 24.

⁴³ Agreed Bundle at pp 175 and 230–233 (paras 6–10).

⁴⁴ Agreed Bundle at pp 177 (A9), 209.

⁴⁵ Transcript, 15 April 2021, p 68 line 8 to p 74 line 32.

⁴⁶ Transcript, 15 April 2021, p 74 lines 9–14.

that the court should disregard those two statements.⁴⁷ As such, I say no more about them.

Amendment of the charge post-trial

18 Slightly over two months after the trial was completed, and just before the written closing submissions were due, the Prosecution wrote to the court to state their intention to seek an amendment of the charge and to frame two new charges against Ramendra.⁴⁸ I fixed a further hearing to deal with this issue.

19 At the hearing, the Prosecution informed the court that they were exercising their discretion to ask the court to amend the charge under s 128(1) of the Criminal Procedure Code and to frame two additional new charges against Ramendra, as follows:

1st charge (amended)

You, Ramendra Krishnan ... are charged that you, on 28 March 2017, at about 6.55pm, in Singapore, did traffic in a Class A controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ('MDA'), *to wit*, by having in your possession for the purpose of trafficking, inside a taxi bearing registration number SHC 3220B, four blocks containing not less than 2,617.7 g of vegetable matter which was analysed and found to be cannabis, without authorisation under the MDA or the Regulations made thereunder, and you have thereby committed an offence under section 5(1)(a) read with section 5(2) of the MDA, punishable under section 33(1) of the MDA.

2nd charge

You, Ramendra Krishnan ... are charged that you, on 28 March 2017, at about 6.55pm, in Singapore, did traffic in a Class A controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ('MDA'), *to wit*, by having in

⁴⁷ Prosecution's closing statement at para 31; Accused's closing statement at paras 47–49.

⁴⁸ Letter from the Prosecution to the Court dated 18 June 2021.

your possession for the purpose of trafficking, inside a taxi bearing registration number SHC 3220B, a portion of one block containing not less than 389.84 g of vegetable matter which was analysed and found to be cannabis, without authorisation under the MDA or the Regulations made thereunder, and you have thereby committed an offence under section 5(1)(a) read with section 5(2) of the MDA, punishable under section 33(1) of the MDA.

3rd charge

You, Ramendra Krishnan ... are charged that you, on 28 March 2017, at about 6.55pm, in Singapore, did have in your possession, inside a taxi bearing registration number SHC 3220B, a Class A controlled drug listed in the First Schedule to the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ('MDA'), *to wit*, a portion of one block containing not less than 97.46 g of vegetable matter which was analysed and found to be cannabis, without authorisation under the MDA or the Regulations made thereunder, and you have thereby committed an offence under section 8(a) of the MDA, punishable under section 33(1) of the MDA.

20 The proposed amended first charge was to deal with exhibits A1A1A, A1B1A, A1C1A and A1E1A.⁴⁹ The proposed new second and third charges dealt with A1D1A.⁵⁰ In this regard, the Prosecution was proceeding on the assumption that Ramendra would have kept A1D1A for himself, and would have delivered the other four “books” as instructed by Joe.⁵¹

21 The Defence had no objections to this course of action.⁵² The Prosecution and the Defence informed me that that neither of them intended to lead any fresh evidence, or to seek to recall any witnesses for further examination in respect of the amendment of the existing charge and the new

⁴⁹ Transcript, 29 June 2021, p 2 lines 5–11.

⁵⁰ Transcript, 29 June 2021, p 2 lines 5–11.

⁵¹ Transcript, 29 June 2021, p 2 line 26 to p 3 line 11.

⁵² Letter from the Prosecution to the Court dated 18 June 2021 at para 4.

charges.⁵³ They were both content to rely on the evidence that had been adduced at the trial.⁵⁴

22 In an application to amend charges under s 128(1) of the CPC, a key consideration is whether prejudice may be occasioned to the accused (*Public Prosecutor v Soh Chee Wen and another* [2021] 3 SLR 641 at [55]). Such prejudice arises from the accused person’s lack of a sufficient opportunity to meet and to rebut the amended charges against him (*Goh Chin Soon v Public Prosecutor* [2021] 4 SLR 401 at [79]). In the present case, the Prosecution’s application to amend the existing charge and to frame new charges came relatively late in the day, only after the close of the accused’s defence. However, the substance of the proposed charges was substantially similar to the original charge, save that two separate charges of trafficking, and one for possession, were being framed now in respect of the “books” of cannabis, instead of just a single charge of trafficking all five “books”. This was in line with the evidence Ramendra had given on the stand in relation to what he would do with the five “books” he received from Lavinder. Further, the Defence was extended the opportunity to supplement its case to meet the proposed charges through fresh evidence or the recalling of witnesses, though this was not taken up. As such, I was satisfied that no prejudice would be occasioned to the accused, and I exercised my powers under s 128(1) of the CPC to alter the existing charge and to frame the additional two charges.

23 Ramendra’s plea was taken in relation the amended first charge, the second charge, and the third charge. He pleaded not guilty to all three charges.⁵⁵

⁵³ Transcript, 29 June 2021, p 3 lines 17–31.

⁵⁴ Transcript, 29 June 2021, p 3 lines 17–31.

⁵⁵ Transcript, 29 June 2021, p 4 line 19 to p 5 line 28.

The law

24 The elements necessary to make out a charge under s 5(1)(a) of the MDA are (*Muhammad Ridzuan bin Md Ali v Public Prosecutor and other matters* [2014] 3 SLR 721 at [59]):

- (a) possession of a controlled drug;
- (b) knowledge of the nature of the drug; and
- (c) proof that possession of the drug was for the purpose of trafficking which was not authorised.

25 In a similar vein, the elements necessary to make out a charge under s 8(a) of the MDA are (see *Adili Chibuike Ejike v Public Prosecutor* [2019] 2 SLR 254 at [35]–[40]):

- (a) possession of a controlled drug;
- (b) knowledge of the nature of the drug; and
- (c) the accused’s possession of the drug was not authorised.

26 For both sections, proving the element of possession of a controlled drug encompasses not only the fact of physical possession but also an element of knowledge, in that the accused knew that the drug was in fact in his possession, custody or control (*Adili* at [34]–[35]). This is often referred to as “knowing possession”.

The Prosecution’s case

27 The Prosecution argues that the elements of the charges under s 5(1)(a) and s 8(a) of the MDA have been established.

28 Ramendra was found in possession of the five “books” of cannabis, which are the subject of the charges. They were in his backpack, which he threw into the canal. Cannabis is a controlled drug listed in the First Schedule to the MDA. Ramendra has admitted in his statements and his testimony in court that he knew that all five “books” were in his backpack, and that they were packaged blocks of cannabis. This satisfies the elements of knowing possession and knowledge of the nature of the drug for each of the three charges.⁵⁶

29 For the amended first charge relating to exhibits A1A1A, A1B1A, A1C1A and A1E1A, Ramendra admitted that he intended to deliver four “books” to someone in Jalan Kayu, on the instructions of Joe. On the basis that these four exhibits were the four “books” that would have been delivered by Ramendra, the Prosecution submits that the offence of trafficking has been made out, and as such, Ramendra should be convicted of the amended first charge.⁵⁷

30 For the second charge relating to trafficking in 389.84g of cannabis (80% of 487.3g, which is the amount of cannabis in exhibit A1D1A), Ramendra admitted that he intended to keep one of the five “books” for himself, and that he would sell 80% of that “book” to his friends by repackaging the cannabis into smaller packets or bundles. Proceeding on the basis that exhibit A1D1A would have been the “book” kept by Ramendra, the Prosecution submits that it has shown that Ramendra was in possession of 389.84g of cannabis for the purposes of trafficking. Hence, the Prosecution submits that Ramendra should be convicted of the second charge.⁵⁸

⁵⁶ Prosecution’s closing submissions at paras 15–19.

⁵⁷ Prosecution’s closing submissions at paras 20–23.

⁵⁸ Prosecution’s closing submissions at paras 24–26.

31 For the third charge relating to possession of 97.46g of cannabis (20% of 487.3g, which is the total amount of cannabis in exhibit A1D1A), Ramendra admitted that he planned to consume 20% of the “book” that he would retain for himself. Again, on the basis that exhibit A1D1A would have been the book retained, the Prosecution submits that it has shown that Ramendra was in possession of that amount of cannabis, and he should thus be convicted of the third charge.⁵⁹

The defence

32 The Defence accepts that Ramendra was in knowing possession of the cannabis at the time of his arrest and that he had actual knowledge that the “books” contained cannabis.⁶⁰ The Defence accepts that Ramendra intended to deliver four of the five “books” to someone in the Jalan Kayu area on Joe’s instructions, and to consume 20% of the last “book” and sell the remainder to his friends.⁶¹ The Defence also accepts the position taken by the Prosecution that of the five “books”, Ramendra would have retained the “book” marked as exhibit A1D1A for his own consumption and for selling to his friends.⁶² In other words, the Defence accepts the Prosecution’s case in relation to each of the elements of all three charges.

33 What the Defence has sought to do is to submit that, pursuant to s 33B(1)(a) read with s 33B(2) of the MDA, Ramendra “is now able to avail himself of the courier exception in relation to [the amended first charge]” that

⁵⁹ Prosecution’s closing submissions at paras 24–26.

⁶⁰ Accused’s closing submissions at para 15; hearing of 11 October 2011.

⁶¹ Accused’s closing submissions at para 54; hearing of 11 October 2011.

⁶² Hearing of 11 October 2011.

deals with exhibits A1A1A, A1B1A, A1C1A and A1E1A.⁶³ During the oral submissions, the Prosecution accepted Ramendra's evidence that his involvement in respect of these four "books" was to transport, send and/or deliver them to a person in Jalan Kayu, at the direction of Joe – *ie* that his role was that of a courier.⁶⁴ In fact, it was pointed out by the deputy public prosecutor that there was no evidence to suggest that Ramendra's role was anything but this.⁶⁵ The Prosecution therefore did not dispute that Ramendra's function was that of a courier in relation to the four "books" that are the subject of the amended first charge. Nonetheless, I should add that, strictly speaking, the fact that Ramendra was a courier is not a defence to liability under the amended first charge, but a submission that may go towards sentencing. It therefore has no bearing on my analysis as to whether Ramendra should be convicted of the amended first charge.

My findings

34 In light of Ramendra's unequivocal testimony, and the submissions by both the Prosecution and the Defence, I find that the elements of all three charges have been established beyond any reasonable doubt.

35 For the first charge, I find that Ramendra did knowingly possess four of the "books" (*ie* exhibits A1A1A, A1B1A, A1C1A and A1E1A) for the purpose of trafficking, in that he intended to deliver the drugs to someone in Jalan Kayu, on the instructions of Joe. As such, the offence under s 5(1)(a) read with s 5(2) of the MDA has been made out.

⁶³ Accused's closing submissions at paras 56–71; hearing of 11 October 2011.

⁶⁴ Hearing of 11 October 2021.

⁶⁵ Hearing of 11 October 2021.

36 For the second charge, I find that Ramendra did knowingly possess 389.84g of cannabis for the purpose of trafficking, in that he intended to sell that amount of cannabis to his friends after repacking them into smaller bundles. As such, the offence under s 5(1)(a) read with s 5(2) of the MDA has been made out.

37 For the third charge, I find that Ramendra did possess 97.46g of cannabis, in that he intended to keep that amount for his own consumption. As such, the offence under s 8(a) of the MDA has been made out.

38 I therefore find Ramendra guilty of all three charges and convict him accordingly.

39 I will deal with the question of sentencing separately.

Ang Cheng Hock
Judge of the High Court

Mark Jayaratnam and Benedict Chan Wei Qi (Attorney-General's
Chambers) for the Prosecution;
Peter Keith Fernando and Kavita Pandey (Leo Fernando LLC), Subir
Singh Grewal (Aequitas Law LLP) for the accused.
