

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

**[2017] SGHC 205**

Criminal Case No 23 of 2017

Between

Public Prosecutor

And

Chan Lie Sian

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**FOUNDATIONS OF DECISION**

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[Criminal Law] — [Offences] — [Murder]

## CONTENTS

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<b>INTRODUCTION</b> .....	<b>1</b>
<b>THE PROSECUTION’S CASE</b> .....	<b>1</b>
ACCOUNTS OF WITNESSES WHO KNEW THE ACCUSED .....	2
ACCOUNTS OF THE SCDF AND POLICE OFFICERS .....	5
EVIDENCE OF THE NEUROLOGIST.....	6
EVIDENCE OF THE FORENSIC PATHOLOGIST .....	7
THE ACCUSED’S STATEMENTS .....	8
MEDICAL EXAMINATIONS OF THE ACCUSED .....	13
OTHER SCIENTIFIC EVIDENCE .....	14
<b>THE DEFENCE’S CASE</b> .....	<b>16</b>
<b>THE PROSECUTION’S REBUTTAL WITNESS</b> .....	<b>20</b>
THE PROSECUTION’S APPLICATION TO CALL A PSYCHIATRIST AS A REBUTTAL WITNESS .....	20
DR GUPTA’S EVIDENCE .....	22
<b>THE LAW</b> .....	<b>23</b>
<b>CLOSING SUBMISSIONS</b> .....	<b>24</b>
<b>DECISION</b> .....	<b>25</b>
WHETHER THE ACCUSED CAUSED THE DEATH OF THE DECEASED .....	25
<i>The number of times the accused hit the deceased on the head</i> .....	26
<i>The amount of force used by the accused when hitting the deceased’s head</i> .....	28
<i>Whether bronchopneumonia broke the chain of causation</i> .....	29

WHETHER THE ACCUSED INTENDED TO CAUSE THE DEATH OF THE DECEASED	31
<i>Whether the accused was intoxicated at the material time</i> .....	34
WHETHER THE PARTIAL DEFENCE OF SUDDEN FIGHT APPLICABLE .....	35
CREDIBILITY OF THE ACCUSED AND CHUA .....	36
<b>CONCLUSION AND SENTENCE</b> .....	<b>37</b>

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**Public Prosecutor**

**v**

**Chan Lie Sian**

**[2017] SGHC 205**

High Court — Criminal Case No 23 of 2017  
Hoo Sheau Peng JC  
28 February, 1–3, 7–8, 14 March 2017; 31 May 2017

21 August 2017

**Hoo Sheau Peng JC:**

**Introduction**

1 The accused, Chan Lie Sian, claimed trial to a charge of murder within the meaning of s 300(a) and punishable under s 302(1) of the Penal Code (Cap 224, 2008 Rev Ed) (“PC”). The charge stated that on 14 January 2014, the accused caused the death of Tiah Hung Wai William (“the deceased”) by hitting him on his head with a metal dumbbell rod with the intention of causing his death. At the conclusion of the trial, I convicted the accused and passed the mandatory sentence of death. The accused has appealed against his conviction and sentence. I now provide the reasons for my decision.

**The Prosecution’s case**

2 There were 51 witnesses for the Prosecution, including a rebuttal witness. Each of them made a statement in accordance with s 264 of the

Criminal Procedure Code (Cap 68, 2012 Rev Ed) (“CPC”). By way of background, it was undisputed that at the material time, the accused was 50 years old. Also known as “Seow Benny”, he operated a lodging house at No 54 Lorong 18 Geylang (“the lodging house”) for the purposes of prostitution. The deceased, who was also known as “William Kia”, worked for him as a pimp. On 14 January 2014, at about 5am, the accused returned by taxi to the lodging house after gambling at the casino in Resorts World Sentosa the previous night. Later that morning, the accused allegedly committed the offence at the lodging house.

***Accounts of witnesses who knew the accused***

3 Various witnesses who knew the accused testified as to the events that morning. When the accused returned to the lodging house, Tan Keok Ling (“Tan”), who was employed as an inn-keeper, was manning the counter. According to Tan, the accused said that he had lost \$10,000 at the casino. Tan reported smelling alcohol on the accused’s breath. The deceased was also present at the lodging house at the time. The accused then entered his room in the lodging house (“the room”) and fell asleep on his bed. After Tan’s shift was over, he left the lodging house at about 6.35am.

4 According to Chua Thiam Hock (“Chua”), he was employed by the accused to clean the lodging house. That morning, he left the lodging house at about 5am to go home. When Chua returned to the room that he shared with the deceased, the deceased was already there. At about 11am, the accused called Chua, and said that his money had gone missing. The accused asked Chua who the last person to leave the lodging house that morning was. Chua replied that he thought Tan was still around when he left at about 5am.

5 After the call ended, Chua heard the deceased's mobile phone ring. He heard the deceased deny taking the accused's money. Thereafter, the deceased told Chua that the accused said that a sum of about \$6,000 had gone missing, and that the accused wanted the deceased to meet him at the lodging house. Although Chua warned the deceased against going over because the accused might resort to violence, the deceased replied that he did not steal from anyone, and that the accused would not harm him. The deceased then left for the lodging house.

6 About 15 minutes later, the accused telephoned Chua to ask Chua to meet him at the lodging house. The accused told Chua that the deceased had fallen down and needed help to return home. Once Chua arrived at the lodging house, the accused punched him in the face, causing his nose to bleed. Chua was accused of teaming up with the deceased to steal the accused's money. The accused then took a metal dumbbell rod ("the rod"), and attempted to hit Chua on the head. Chua's hands were hit twice when he used them to shield his head. The accused also beat Chua twice on the back with the rod.

7 The accused then told Chua to enter the room to see the consequences of stealing money from him. Chua saw the deceased lying on the bed. The deceased's mobile phone was also on the bed. When it started to ring, the accused picked it up and threw it onto the floor. The accused asked Chua if he had his mobile phone with him, and Chua replied that he did not bring it along. The accused warned him not to leave the room, and then left the room.

8 Chua squatted by the bed, and saw that the deceased was groaning and covered with blood. The deceased's right eye was swollen and bruised. There was also blood on the bed and on the walls of the room. Chua tried to wake the deceased up, but there was no response apart from faint groaning. About ten

minutes later, the accused returned to the room with the rod. He hurled vulgarities and insisted that the deceased had stolen his money. The accused proceeded to hit the deceased on his hands, arms and legs with the rod, while saying in Hokkien that he would “hit him until he is dead and if he did not die, he [would] break his hands and legs”. The accused also threatened to kill Chua if he were to interfere, saying that there would be no difference whether he killed one or two persons. After the beating, which lasted about five minutes, the accused locked Chua in the room with the deceased. I note that Chua’s account of the accused’s words was challenged during cross-examination, and I consider this at [57(e)] below.

9 Gan Soon Chai (“Gan”), another worker at the lodging house, reported for work at about 2.30pm. Gan gave evidence that the accused was angry and that the accused told Gan that he had beaten up the deceased badly for stealing \$6,000 from him. The accused also pointed out to Gan the rod which he had used to beat the deceased with. Gan watched the accused use a penknife to cut a rope which tied the doorknob of the room to the window grilles and which prevented the door from being opened from inside the room. Once they were in the room, Gan saw Chua squatting on the floor shivering, and the deceased lying motionlessly in bed. There was blood on the walls and the bed. The accused told Chua to get out of the room. Gan telephoned Tan to return to the lodging house.

10 Tan arrived at about 3.40pm. Tan gave evidence stating that the accused told Tan about how he had hit the deceased because the deceased had stolen about \$6,000 from him while he was asleep, and he showed Tan the rod that he had used.

11 Following the accused’s orders, Chua fetched a pail of water which the accused poured over the deceased. The accused told Gan to dispose of the rod

which was underneath the counter in the hall. Instead, Gan placed the rod behind a rack and covered it with a plastic tray. At this juncture, I should add that the rod was subsequently recovered by the police, and that it measured about 40cm in length and weighed about 1.46kg.

12 When Tan suggested calling an ambulance, the accused refused and threatened to beat Tan up if Tan were to do so. The accused also threatened to set fire to Chua's house if Chua were to report the incident to the police. At about 5pm, the accused ordered Chua and Tan to help him carry the deceased with a blanket out of the room and onto the front porch of the lodging house.

13 Other witnesses, namely Aw Teck Huat ("Aw") and Koh Tzer Jiiunn who were acquaintances of the accused, as well as Tan Teng Huat ("Huat") who was Aw's friend, gave evidence that the accused refused to allow a government ambulance to be called. Eventually, Huat called for a private ambulance. The accused instructed Huat to tell the private ambulance service that he had found the injured person by the roadside. When the private ambulance service arrived, its operator refused to send the deceased to the hospital as his injuries were too serious, and called for the police and a Singapore Civil Defence Force ("SCDF") ambulance instead.

***Accounts of the SCDF and police officers***

14 When the SCDF ambulance and the police arrived at about 6.34pm, they found the deceased lying on the front porch. The accused told the police and the paramedics that he had found the deceased lying by the roadside, and that he had brought the deceased to the front porch as he was afraid that the deceased would be hit by traffic.

15 A SCDF paramedic at the scene, Warrant Officer 2 Quek Zuoyi (“2WO Quek”), testified that he was briefed by the private ambulance officer about the injuries found on the deceased. 2WO Quek observed that the deceased was unresponsive, and noted multiple external injuries. Further, 2WO Quek noted that the deceased’s pupils were dilated to 4mm, which suggested that his brain was bleeding. The deceased exhibited decortication or flexion in his upper extremities, which was an involuntary response due to his injuries. His trousers were wet at the pelvis area, which suggested that he had lost control of his bladder due to a head and/or spinal injury. Based on all of these observations, 2WO Quek assessed the deceased to be in a critical condition, and rushed him to Tan Tock Seng Hospital (“TTSH”) with spinal immobilisation.

***Evidence of the neurologist***

16 The deceased was alive but comatose when he arrived at the Accident and Emergency Department of TTSH. Dr Vincent Ng Yew Poh (“Dr Ng”), a consultant neurologist with the National Neuroscience Institute, examined the deceased after he was admitted to TTSH.

17 The medical report by Dr Ng stated that the deceased was in a coma of three on the Glasgow Coma Scale (the lowest and most severe level) when he was admitted to the hospital. Right eye swelling and multiple scalp lacerations with bleeding were noted. The deceased’s computerised axial tomography brain scan (“CT scan”) showed a right acute subdural haemorrhage associated with a left temporal brain contusion. The CT scan also revealed multiple fractures in the deceased’s skull as follows:

- (a) a depressed comminuted right frontal bone fracture with bony fragments in the right frontal lobe;

- (b) comminuted fractures in the right anterior skull base, sphenoid body and collection in the sphenoid sinus;
- (c) a fracture in the right medial orbital wall and right ethmoidal sinus; and
- (d) a longitudinal fracture in the left petrous temporal bone with extension into the middle ear.

18 The deceased underwent a right decompressive craniectomy and evacuation of subdural hematoma. While in intensive care after surgery, he was reported to have persistent raised brain pressure from severe traumatic brain injury despite receiving maximum surgical and medical therapy. During this time, the deceased's brainstem reflexes were minimal. The deceased passed away a week later on 21 January 2014, a day short of his 36th birthday.

***Evidence of the forensic pathologist***

19 After the deceased passed away on 21 January 2014, Dr Wee Keng Poh ("Dr Wee"), a senior consultant forensic pathologist with the Forensic Medicine Division of the Health Sciences Authority ("HSA"), performed a post-mortem examination on 22 January 2014. Dr Wee's autopsy report set out the details of numerous injuries to the deceased's head and neck. I will consider the deceased's external head injuries in greater detail at [49] below. It was Dr Wee's view that substantial bleeding would have resulted from the head injuries. Further, Dr Wee reported extensive comminuted fractures of the superior frontal bone and skull base, among other skull fractures. The brain tissue was described as soft and necrotic. The deceased's external and internal injuries "were consistent with that sustained as a *result of multiple blows to the head by a hard and blunt object*" [emphasis added]. The certified cause of death was stated to be bronchopneumonia following multiple fractures of the skull. I also observe

from Dr Wee's report that apart from the head and brain injuries, the deceased also suffered abrasions and bruises to his chest, abdomen and all four limbs.

***The accused's statements***

20 On 16 January 2014, the accused surrendered himself after being contacted by the police for an interview the previous day, and was arrested. The Prosecution relied on seven statements which the accused gave to Assistant Superintendent Tan Lian Heng ("ASP Tan"), Inspector Muhammad Ghazali ("Insp Ghazali") and Inspector Ang Ghim Sing ("Insp Ang") in the course of investigations. The accused accepted that all seven statements were made voluntarily, without any threat, inducement or promise made to him before or during their recording. I will summarise the pertinent aspects of the seven statements.

21 Initially, the accused was charged on 17 January 2014 for the offence of voluntarily causing grievous hurt by dangerous weapons or means under s 326 of the PC. In his cautioned statement recorded by Insp Ghazali that day at 4.50pm pursuant to s 23 of the CPC, the accused said the following:

- (a) On the night before the incident, he purchased ten red sleeping tablets from the deceased. After consuming two tablets, he fell asleep.
- (b) When he woke up the next morning, he discovered that a sum of \$6,500 in his pockets was missing. He suspected that the deceased had taken his money, so he called the deceased to go over to the lodging house.
- (c) They ended up quarrelling and fighting bare-handed from the living room to the room. The accused punched the deceased, who fell on the bed in the room. The accused then hit the deceased on the body with

the rod several times, and locked him in the room before returning to hit him with the rod about two more times. The deceased used his hands to defend himself from the rod. Thereafter, the accused threw the rod on the floor and walked out of the room.

22 Subsequently, the charge against the accused was amended to the present charge of murder punishable under s 302 of the PC. In his cautioned statement recorded by ASP Tan on 22 January 2014 at 4.08pm pursuant to s 23 of the CPC, the accused related the following events:

- (a) On the night before the incident, he consumed *six* sleeping tablets before falling asleep.
- (b) During his bare-handed fight with the deceased in the living room the next day, the deceased punched him on the left of his mouth and loosened one of his teeth.
- (c) Once the fight adjourned to the room, he used the rod to hit the deceased's "hand and leg". He secured the door of the room, and returned to "hit [the deceased] again on his *head, hand and leg* while [the deceased] was lying on the bed" [emphasis added]. The accused stopped hitting the deceased once he saw that the deceased's head had started to bleed.
- (d) Chua, who was also present, gave the deceased some first aid and wiped the deceased's head with a piece of cloth, before the accused splashed water on the deceased.
- (e) After the SCDF ambulance took the deceased away, the accused and Chua stayed back to clean up the bloodstains because the lodging house needed to be used for business again.

23 In the statement recorded by Insp Ang on 24 January 2014 at 11.10am pursuant to s 22 of the CPC, the accused provided more details to the narrative in his earlier statements:

(a) Before he fell asleep the night before the incident, he saw the deceased in the room and gave the deceased his four remaining sleeping tablets to dispose of them because he was afraid that he would be caught with the drugs in a police raid.

(b) During the fist fight from the living room to the room, he managed to push the deceased onto the bed. By then, he “could tell that [the deceased] was already weakened” from his punches. He then went to the front porch, where he saw the rod and picked it up. He returned to the room and used it to hit the deceased who was still lying on the bed. He hit the deceased once on the left thigh and once on the left arm. The deceased struggled this time by trying to snatch the rod, and the accused cut his left elbow in the struggle. He then hit the deceased on the *forehead* with the rod.

(c) Subsequently, he called Chua to find out whether Chua knew anything about his missing money. When Chua arrived at the lodging house, he confronted Chua about having conspired with the deceased to steal his money. When Chua denied this allegation, the accused hit Chua several times on the hands. He told Chua to go into the room to see the deceased’s condition, as a warning to Chua about the consequences of stealing from him.

(d) When Chua was in the room, the accused took the rod and hit the deceased once on the left arm, and *once on the left side of the head above the left ear*. The deceased yelled and covered his head with his hands.

(e) The accused left Chua in the room with the deceased. At about 2.30pm, Gan reported for work at the lodging house. Shortly afterwards, the accused went back into the room and heard the deceased mumble something that he could not make out. He then told Chua to call Tan to come to the lodging house.

(f) After Tan arrived, the accused told Chua and Tan to fetch a pail of water to wipe the blood off the deceased's face, and they did. While Chua and Tan were cleaning up, the accused tied the outside doorknob of the room's door to the window grille with rope, locking them in the room with the deceased. He admitted that he did so because he "was afraid they would call the police and get [him] into trouble".

(g) Ten minutes later, he cut the rope and let them out. He saw that Chua and/or Tan had used plasters and gauze on the deceased's forehead. He splashed the deceased with a pail of water with the intention of waking the deceased up. However, there was no reaction. After leaving the room, he handed the rod to either Chua or Tan and told them to "keep it away".

(h) He received a call from Aw who said that arrangements had been made for a private ambulance to come. Around 5pm, Huat drove to the lodging house and told him that a private ambulance was on its way. After Huat left, the accused took a brown blanket and used it as a stretcher to cart the deceased out of the room and onto the front porch.

(i) The police and the SCDF ambulance came. The accused admitted to having "lied to them that [he] chanced upon [the deceased] lying along the road and [that he] brought [the deceased] into [his] compound".

(j) After the police and the SCDF ambulance had left the premises, he told Chua and Gan to help him clean up the room. They cleaned the bloodstains off the wall and wiped the floor dry. They also changed the bed sheets. But as the police were still in the vicinity, the accused waited until around 9pm after they had left before disposing of the blood-stained bed sheet.

24 The accused gave a further statement to the police on 27 January 2014 at 5.30pm pursuant to s 22 of the CPC. This was recorded by Insp Ang.

(a) He said that he threatened to set fire to Chua's house if Chua were to make a police report.

(b) When questioned by the police, the accused said that he did not use much strength when hitting the deceased and Chua, and that he did not expect the rod to cause them serious injuries. He claimed that his intention was to teach the deceased and Chua a lesson and find out where they had kept his money.

(c) The accused was then asked to explain the traces of blood near the wall in the living room. He said that after he had hit the deceased once on the left thigh with the rod, the deceased suddenly squatted down in pain, causing him to *accidentally* hit the deceased on the forehead.

(d) When asked to explain the presence of blood on the walls in the room, the accused said that after the deceased had fallen onto the bed, he hit the deceased on the arms with the rod. At one point, the deceased tried to sit up, and the accused *accidentally* hit him again on the head.

25 During his further statement on 28 January 2014 at 4.45pm pursuant to s 22 of the CPC and recorded by Insp Ang, the accused was asked why he had hit the deceased with the rod even when the deceased was already lying on the bed. He responded:

I do not know why. I am usually not like that especially I have known William Kia for almost 8 years. I think it must [have been] the effects of the drug, the '5' [*ie*, "Erimin 5", the sleeping tablets] I had consumed the previous night. Until now, I kept blaming myself for causing his death.

26 The accused's statement on 29 January 2014, recorded by Insp Ang under s 22 of the CPC, related to his background and prior brushes with the law.

27 On 11 June 2015, the accused was further charged with voluntarily causing grievous hurt to Chua with a dangerous weapon under s 326 of the PC. In his cautioned statement recorded by Insp Ang at 2.15pm pursuant to s 23 of the CPC, the accused provided some details on how he had hit Chua. According to him, Chua had squatted down and held onto the rod. In the midst of the struggle, the accused *accidentally* hit Chua's hands. He reiterated that he had no intention to hurt Chua. I note that the Prosecution stood down this charge on the first day of the trial, and the charge was subsequently withdrawn at the conclusion of the trial.

### ***Medical examinations of the accused***

28 While he was in the police lock-up, the accused underwent three medical examinations. A medical report prepared by Dr Kang Jun Hui Larry indicated that a 10cm bruise over the accused's upper back and a 1cm bruise over his left elbow were the only injuries observed during the accused's medical examination on 17 January 2014. The accused underwent two further medical examinations on 22 January 2014 before and after the cautioned statement

recorded under s 23 of the CPC by ASP Tan. The medical report for the examination conducted prior to the recording of the cautioned statement reported the accused's claim that he had been punched in the face, and that he had complained of a loose left upper molar and pain on his left cheek. The medical report for the post-cautioned statement examination similarly set out the accused's claim of having been punched on the left side of the face during a fight.

### ***Other scientific evidence***

29 In the course of investigations, the police photographed the lodging house, including the living room, the room and the corridor leading to the room ("the scene photographs"). On 26 January 2017, Ms Wong Miao'En Grace ("Ms Wong"), a Forensic Scientist with the Forensic Chemistry and Physics Laboratory of the HSA, visited the lodging house to take measurements of some of the objects and bloodstains seen in the scene photographs. It should be noted that Ms Wong did not visit the scene when the bloodstains were present. Thereafter, based on the scene photographs and the measurements taken, Ms Wong proceeded to conduct a bloodstain pattern analysis. While recognising the limitations of the exercise undertaken, Ms Wong was able to make the following observations:

- (a) *Bloodstains high on the wall and on the ceiling of the living room.* On the wall of the living room above a dining table chair, there was an elliptical spatter stain with an approximately vertically upward directionality. On the ceiling, there were a few approximately circular spatter stains. The location, size, shape and distribution of these spatter stains suggested that force was applied to a source of liquid blood, and that such force could have been the result of (i) the impact of an object with a source of liquid blood; (ii) "swing cast-off" (where blood drops

were released from an object due to its motion); and/or (iii) “cessation cast-off” (where blood drops were released from an object due to its rapid deceleration).

(b) *Bloodstains in the dining room.* On the surface and along the left edge of the dining table in the living room, there were small, approximately circular and slightly elliptical spatter stains. Against the wall of the living room was a two-tiered rack with a cutlery holder attached to its side. Numerous blood stains were observed on the surface and edges of the rack, on the cutlery holder, as well as on the back of one of the spoons in the cutlery holder. These stains again suggested that force was applied to a source of liquid blood, and that such force could have been the result of the impact of an object on a source of liquid blood; cessation cast-off; or expiration from the nose, the mouth or a wound.

(c) *Bloodstains in the room.* On the wall of the room near a drawer and a dustbin, there was a cluster of spatter stains. This suggested that force was applied to a source of liquid blood in front of the wall at a relatively low height about that of the drawer and dustbin. Such force could have been the result of the impact of an object on a source of liquid blood; cessation cast-off; and/or expiration from the nose, the mouth or a wound.

30 A large number of exhibits and swabs were also taken from the lodging house and sent to the HSA for analysis. Blood swabs were taken from the bloodstains mentioned at [29] above, the floor in the living room, the doorframe of the room, as well as the rod. The DNA profiles obtained from these blood swabs were found by the HSA to match that of the deceased.

**The Defence's case**

31 At the close of the Prosecution's case, I found that there was sufficient evidence against the accused for the defence to be called. The accused elected to testify in his own defence. As the accused provided an account which was mostly consistent with the contents of his seven statements to the police as summarised above at [21] to [27], I shall only summarise the aspects of the accused's testimony at trial that added to or conflicted with his statements to the police:

(a) Around 11pm on the night before the incident, the accused consumed two sleeping tablets and some cough syrup. He then left for the casino. He won \$700 at first, but felt giddy at the time. He continued gambling and proceeded to lose more than \$3,000 in total. He only returned by taxi to the lodging house at around 4am the next day. Because he could not fall asleep, he consumed more sleeping tablets and cough syrup. Although he knew that he had spoken to Tan who had passed him \$420 in room rental fees collected by the deceased, he did not know what he was talking to Tan about at the time as he felt giddy. Later, the deceased came into the room and the accused gave four sleeping tablets to him. The accused then fell asleep.

(b) While the accused was on the stand, he gave several versions regarding the amount of drugs he had consumed:

(i) He initially stated during his examination-in-chief that he had consumed two sleeping tablets and a *quarter* bottle of cough syrup at 11pm before leaving for the casino, and *two* more sleeping tablets and *half a bottle of cough syrup* when he was back in the room.

(ii) Later, he testified during cross-examination that he had taken two sleeping tablets and *three-quarters* of a bottle of cough

syrup before leaving for the casino. When he returned to the lodging house, he consumed another *four* sleeping tablets. When asked by the Prosecution to confirm how many sleeping tablets that he had taken prior to sleeping, the accused replied that he had taken six tablets in total – two before he left for the casino, and four after he returned to the lodging house.

(iii) Near the end of his cross-examination, he said that he had consumed *six* sleeping tablets within a ten to 15 minutes span after returning to the lodging house from the casino. These tablets were taken two at a time, at intervals of about five minutes.

(c) When he woke up on the morning of the incident, he was angry when he found that money was missing from his pockets.

(d) The incident with the deceased started with a fight. The accused first slapped the deceased for using vulgarities involving the accused's mother. He did not prepare to hurt the deceased with the rod – he only picked up the rod because he was angry, confused and giddy from the drugs. He clarified that his statement recorded by Insp Ang on 24 January 2014 (see [23(b)] above) was incorrect in stating that he went out to the front porch to retrieve the rod while the deceased was in the room. Rather, the deceased was in the hall when the accused picked up the rod from the front porch.

(e) He reiterated that he did not intend to hit the accused on the head.

(i) During the scuffle with the deceased in the living room, he only wanted to hit the deceased's leg with the rod. While the deceased was trying to snatch the rod away from him, the deceased suddenly squatted down. As a result, he accidentally hit the deceased's head instead. Although the deceased's head was bleeding and the deceased had squatted down, the accused did not stop the fight as the deceased was still trying to snatch the rod away from him.

- (ii) When the fight continued into the room, he pushed the deceased onto the bed and hit the deceased on the leg with the rod. The deceased continued to try to snatch the rod away from him, and the scuffle continued at the foot of the bed. When the accused was aiming for the deceased's arm, the deceased squatted down and he accidentally hit the deceased on the head again.
  - (iii) During cross-examination, he confirmed that he had delivered two blows to the deceased's head – once in the living room, and once in the room. When asked again during re-examination, he said that he had hit the deceased on the head “two to three times”.
  - (iv) He also agreed during cross-examination that hitting the deceased's head with the rod would kill him. However, he did not intend to hit the deceased on the head at all.
- (f) When the accused left the room to call Chua on the phone, the deceased was still hurling vulgarities while lying on the bed.
- (g) The accused disputed several aspects of Chua's testimony:
- (i) First, he did not target Chua's head when hitting him with the rod. It was during a scuffle in which Chua was trying to snatch the rod away that the accused hit Chua on his hands several times with the rod.
  - (ii) He did not hit Chua on the back with the rod.
  - (iii) Chua was also incorrect in stating that the deceased was unresponsive and unconscious when he arrived. The deceased was fully conscious and talking when the accused beat the deceased up in Chua's presence.
  - (iv) He did not tell Chua that he would kill Chua for interfering as there would be no difference whether he killed one or two persons. He only told Chua that he would break his arm and neck if Chua had stolen his money.
  - (v) He did not threaten to burn Chua's house down if Chua were to report the matter to the police. He also disputed his statement recorded by Insp Ang on 27 January 2014 in this regard (see [24(a)] above).

(h) Turning to the rod, he denied that he asked Gan to throw it away. Instead, he claimed that he had asked Chua to place the rod at the rear of the lodging house. At the same time, however, he was somehow under the impression that it had been thrown into the Kallang River. He thus told police officers that he had “thrown it into the sea”, and during scene investigations, he brought the police officers to a site at the Kallang River.

(i) Several questions were put to the accused by the Prosecution during cross-examination. He agreed with the following:

(i) “that [he was] determined to beat [the deceased] into confessing and had no intention of stopping the assault until he confessed even if [he] killed [the deceased]”;

(ii) “that [the deceased] was weakened by [his] assault by the time [the deceased] fled into [the] room”;

(iii) “that [he] overpowered [the deceased] and pushed [the deceased] onto the bed”; and

(iv) “that the ferocity of [his] attack caused blood to splatter onto the walls and bed of [the] room”, but that this was an accident.

32 In short, the accused did not dispute that he had used the rod to hit the deceased on the head, arms and legs. However, he maintained that the incident had resulted from a fight between him and the deceased, and that he had not intended to hit the deceased’s head. Further, he was confused and giddy during the fight because of the drugs that he had consumed.

33 The accused was the only witness for the Defence. Earlier on during the proceedings, the Defence had expressed an intention to call Dr Tommy Tan (“Dr Tan”) as an expert witness in support of the accused’s defence of intoxication.

However, at the close of its case, the Defence informed the court that it would not be calling Dr Tan to give evidence.

### **The Prosecution's rebuttal witness**

#### ***The Prosecution's application to call a psychiatrist as a rebuttal witness***

34 Upon the close of the Defence's case, the Prosecution made an application to call Dr Subhash Gupta ("Dr Gupta"), the forensic psychiatrist who had examined the accused at the time of his arrest, as a rebuttal witness. The Prosecution stated that as Dr Gupta had to fly in from the United Kingdom to testify, the Prosecution had decided to call him as a rebuttal witness rather than as part of the Prosecution case. This was on the basis of the Defence's representations that it would be calling Dr Tan as a witness. Although Dr Tan had not been called as a witness, the Prosecution submitted that because the accused had raised the issue of intoxication, the Prosecution now had the right under s 230(1)(t) of the CPC to call Dr Gupta, whose evidence was in direct answer to the accused's evidence on his purported intoxication.

35 In response, the Defence countered that it was not raising the defence of intoxication under s 85(2) of the PC, as the accused was not intoxicated to such an extent as to qualify under that provision. Instead, the Defence was relying on the defence that the accused had no intention to kill the deceased, and the accused's consumption of the drugs was merely a fact relevant to the issue of whether the accused had possessed the requisite intention for the offence to be made out. The Prosecution was not misled or taken by surprise, and it could have called Dr Gupta before the close of its case but simply chose not to. The Defence argued that the Prosecution would be having a second bite at the cherry if Dr Gupta were allowed to testify.

36 The law on the calling of rebuttal witnesses was not disputed by the parties. Section 230(1)(t) of the CPC provides that the Prosecution has the right to call rebuttal witnesses at the close of the Defence's case. While s 230(1)(t) was only introduced by way of the amendments to the CPC in 2010, it was intended to statutorily enshrine the prevailing practice: *The Criminal Procedure Code of Singapore – Annotations and Commentary* (Jennifer Marie & Mohamed Faizal Mohamed Abdul Kadir eds) (Academy Publishing, 2012) at para 12.060. Therefore, case law prior to the 2010 CPC amendments is still highly relevant to the interpretation of this statutory provision. In *Public Prosecutor v Bridges Christopher* [1997] 3 SLR(R) 467 (“*Bridges Christopher*”), the Court of Appeal held (at [51] and [59]) that the Prosecution should be allowed to call rebuttal evidence only in the case of a matter which it “could not reasonably have foreseen” – or in other words, either when it “has been misled or taken by surprise”, or when it is answering to the Defence's evidence in support of an issue in respect of which the Defence has the burden of proof.

37 It was the clear position of both parties, which was made known to the court, that Dr Gupta would be called as a rebuttal witness after Dr Tan. Where expert witnesses are concerned, this is not an unusual arrangement in the interests of expedience, especially in this case given that Dr Gupta was overseas and had to be flown in to testify. In reliance on the Defence's representations, the Prosecution decided to call Dr Gupta as a rebuttal witness. While the Defence had every right to not call Dr Tan, this was not something which the Prosecution could have reasonably foreseen, in that it was indeed “taken by surprise” by the change of position. This satisfied the first limb of the *Bridges Christopher*, and it would have been sufficient for me to grant the Prosecution's application on this basis alone. In any event, I found that the second limb of the *Bridges Christopher* test was also satisfied, as Dr Gupta's evidence was in direct

answer to the factual issue of the accused's consumption of drugs and state of intoxication during the commission of the offence. This was a fact which the Defence sought to establish, and therefore one over which the Defence had the burden of proof.

***Dr Gupta's evidence***

38 Dr Gupta, who examined the accused on three occasions in February 2014, prepared a psychiatric report dated 19 February 2014. During the interview, the accused related the facts surrounding the alleged offence to Dr Gupta. It suffices for me to note a few pertinent points in Dr Gupta's report:

- (a) The accused told Dr Gupta that he had not consumed any of the sleeping tablets that he purchased from the deceased, nor any alcohol, until the night before the incident. Upon returning to the lodging house by taxi that night, he consumed six sleeping tablets over a period of about 30 to 60 minutes, and then half a bottle of cough syrup, before falling asleep.
- (b) According to the accused, he did not feel intoxicated after he woke up the next morning. He was alert and said that he did not have slurred speech or unsteady gait, and did not experience any abnormal thoughts, perceptions or experiences. Dr Gupta's view was that the accused's account of the alleged offence was corroborative of this.
- (c) The accused said that he did not intend to kill the deceased who was his good friend. He only got angry when he found that his money was missing and when the deceased hit him on the mouth causing him to bleed. He only just happened to find the rod.

39 Dr Gupta also prepared a clarification report dated 26 January 2016. In this report, Dr Gupta’s opinion was that the accused’s detailed account of the incident suggested that the accused was not suffering from a memory impairment around the time of the offence, which would have been a prominent feature of sedative, hypnotic or anxiolytic intoxication. Also, the accused said that there was no abnormality with his speech or gait at the time. Abnormality in these aspects would have been signs of intoxication. On the basis of the accused’s actions of cleaning and wrapping the deceased and moving him to the front porch to make up a story to the police, Dr Gupta further opined that the accused’s judgment was not impaired around the time of the offence such that he was unable to control his behaviour. Although intoxication from the “Erimin 5” sleeping tablets could have exacerbated aggressive and violent behaviour in the accused, this seemed “unlikely in the absence of other signs and symptoms of intoxication”.

### **The law**

40 I now turn to the applicable law, which was not disputed by the parties. Section 300(a) of the PC, the offence for which the accused was charged, provides that culpable homicide is murder “if the act by which the death is caused is done with the intention of causing death”. The offence under s 300(a) is made out if the Prosecution can show beyond a reasonable doubt that the accused did an act which caused the death of the deceased, and that he did the act with the intention of causing death.

41 It is settled law that the intention to cause death under s 300(a) of the PC can be formed in the spur of the moment, just before the actual killing takes place, and does not have to be pre-planned or premeditated: *Iskandar bin Rahmat v Public Prosecutor and other matters* [2017] 1 SLR 505 (“*Iskandar*

*bin Rahmat*”) at [34]. In determining whether the accused had the requisite intention at the time of the offence, the court will have regard to all relevant and admissible evidence, including the surrounding circumstances: *Public Prosecutor v Oh Laye Koh* [1994] 2 SLR(R) 120 at [24]; Stanley Yeo, Neil Morgan & Chan Wing Cheong, *Criminal Law in Malaysia and Singapore* (LexisNexis, 2nd Rev Ed, 2015) (“*Yeo, Morgan & Chan*”) at paras 9.28 to 9.29. The accused’s intention at the material time may be inferred from the severity and number of wounds inflicted on the deceased: *Yeo, Morgan & Chan* at para 9.30; *Iskandar bin Rahmat* at [45]. Also, under s 86(2) of the PC, intoxication shall be taken into account in determining whether the accused had formed the requisite intention for the offence.

42 Section 300 of the PC sets out a list of exceptions under which culpable homicide would not constitute murder. The only exception of potential relevance here was Exception 4, which applies where the act causing death “is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel, and without the offender having taken undue advantage or acted in a cruel or unusual manner”. The sudden fight exception operates as a partial defence, in that the accused will only be found guilty of culpable homicide not amounting to murder if no other defence is proven.

### **Closing submissions**

43 In its closing submissions, the Prosecution argued that the medical and autopsy evidence made clear that the accused hit the deceased on the head with the rod at least ten times, and that the consequential injuries caused the death of the deceased. The accused’s intention to cause death could be inferred from the brutal nature of the attack, which had started in the living room and continued into the room, the severity of the deceased’s injuries and the other circumstances

surrounding the incident such as his conduct after the attack. The accused's account of inflicting one or two *accidental* blows on the deceased should be rejected. The accused's claim of intoxication was inconsistent and against the weight of the evidence. Finally, the accused was unable to avail himself of the partial defence of sudden fight as he had taken undue advantage of the deceased and acted in a cruel and unusual manner.

44 As for the Defence, it was argued that the accused did not cause the deceased's death. The accused did not inflict any fatal blow on the deceased, and the supervening cause of the deceased's death was bronchopneumonia. This was sufficient to break the chain of causation. The Defence also submitted that the accused did not have the intention to kill the deceased at any point in time, and had only intended to teach him a lesson. According to the accused, a sudden fight broke out while he was still intoxicated from the drugs that he had consumed the night before. During the fight, he struck two blows with moderate force to the deceased's head purely out of accident. Had the accused truly intended to kill the deceased, he would have used severe force or targeted his head instead of his hands and legs. The Defence therefore submitted that the Prosecution had failed to prove its case against the accused beyond a reasonable doubt.

45 I now turn to my analysis.

## **Decision**

### ***Whether the accused caused the death of the deceased***

46 The *actus reus* of the offence is the doing of any act which causes death. It was not disputed that the accused hit the deceased on the head. However, there was a dispute as to the number of times that the accused had hit the deceased on

the head, and the force used by the accused in doing so. Also, as mentioned above at [44], the Defence contended that the deceased's bronchopneumonia broke the chain of causation, such that it could not be said that the accused caused the deceased's death.

*The number of times the accused hit the deceased on the head*

47 From the objective evidence of the injuries sustained by the deceased, and the bloodstains at the scene, I found that the accused had hit the deceased's head at least nine times with the rod.

48 The medical evidence clearly showed that the deceased had multiple skull fractures, significant brain injuries and several lacerations on his head. Dr Wee stated that the appearance of the deceased's external head injuries was consistent with that caused by blunt force trauma from a hard and blunt object such as the rod. The jagged and bruised edges of the deceased's head lacerations also indicated that they were caused by an instrument with rough surfaces such as the rod.

49 My decision on the number of times that the accused had hit the deceased's head was informed by Dr Wee's clear findings with regard to each of the deceased's external head injuries. They can be summarised as follows:

- (a) *Injury 1 of the autopsy report.* An oblique laceration just above the medial aspect of the right eyebrow was caused by a blow of moderate force. The instrument was held horizontally and swung in a downwards direction from left to right. The deceased would have been in a sitting position or at a lower level relative to his assailant.

(b) *Injury 2 of the autopsy report.* A laceration over the lateral part of the right eyebrow, with an underlying depressed comminuted fracture of the superior frontal bone, was caused by a blow of moderate force. The direction of the blow was “right straight across”. The deceased would have been either in a standing position or a lower position relative to his assailant.

(c) *Injury 4 of the autopsy report.* A laceration on the left temporal region was caused by a blow of moderate force. The blow was dealt in a “slightly downwards” motion to the left side of the skull, when the deceased was in an upright position.

(d) *Injury 5 of the autopsy report.* A laceration of the left parieto-occipital region, with no underlying fracture, would have been caused by a blow of moderate force. Like (c), the blow was dealt in a “slightly downwards” motion to the left side of the skull, when the deceased was in an upright position. While in the same region, this could not have been caused by the same blow as (c).

(e) *Injury 6 of the autopsy report.* A group of four lacerations – a “T”-shaped one on the left parieto-occipital region, two on the occipital scalp, and three on the occipito-mastoid scalp – with no underlying fractures. These lacerations were caused by at least four blows of moderate force. The deceased was either in a standing or a prone position when the blows were inflicted in a top-down motion to the top of the skull.

(f) *Injury 7 of the autopsy report.* A laceration of the right occipital scalp, with no underlying fractures, was caused by a single blow of mild to moderate force. The direction of the blow was horizontal, from the

deceased's back to his front. The deceased was likely facing away from his assailant.

(g) *Injury 3 of the autopsy report.* There was also an abrasion on the superior aspect of the left ear which Dr Wee said was either caused by a blow of moderate force, or resulted from a fall and from running against a hard and rough surface.

50 Based on Dr Wee's evidence that the injuries described at [49(a)] to [49(f)] above were caused by distinct blows, I found that the accused had hit the deceased at least *nine* times on the head with the rod to cause the injuries. In support of the accused's version that he had hit the deceased *twice* on the head only, the Defence sought to rely on Dr Ng's evidence that the frontal skull fractures could have been caused by a *single* blow. However, it is clear to me that Dr Ng's evidence was based on what he had observed in relation to the skull fractures only. In contrast, Dr Wee's evidence was premised not just on the skull fractures, but the external head injuries. Thus, I did not accept the accused's account that he had hit the deceased's head only *twice* with the rod. On the other hand, it was not proved beyond a reasonable doubt that the abrasion described at [49(f)] above was caused by a blow from the rod. Accordingly, I also did not accept the Prosecution's submission that the accused had delivered at least *ten* blows to the deceased's head with the rod.

*The amount of force used by the accused when hitting the deceased's head*

51 Another factual issue of dispute was the amount of force which was used by the accused when hitting the deceased's head with the rod. While Dr Wee described most of the individual blows as being of moderate force ([49] above), he also testified that "moderate to severe" force was exerted to cause the

extensive comminuted fractures at the base of the skull. The Defence sought to characterise this as a contradiction.

52 In this regard, I noted Dr Wee's evidence that the blow described at [49(b)] to inflict *injury 2 of the autopsy report* would *alone* have been sufficient to immobilise the deceased. According to Dr Ng, the epicentre of the skull fractures was the depressed comminuted right frontal bone fracture (corresponding to the depressed fracture beneath *injury 2 of the autopsy report* as described in [49(b)]), and that a *significant* traumatic force would have been applied. Therefore, I see no real contradiction in Dr Wee's evidence. It was clear to me that the blow which caused *injury 2 of the autopsy report* was a very serious one. Taking all of Dr Wee's evidence into account, I accepted that the blows to the deceased's head were generally delivered with moderate force.

*Whether bronchopneumonia broke the chain of causation*

53 It was undisputed that the deceased only passed away in the hospital one week after the attack. Dr Wee's autopsy report stated that the certified cause of death was bronchopneumonia *following* multiple fractures of the skull. The Defence relied on this fact to argue that the deceased's bronchopneumonia was the supervening cause of death, rather than the injuries sustained by the deceased during the attack. In other words, the accused could not be said to have caused the deceased's death when the chain of causation was broken.

54 Evidence from Dr Ng and the SCDF paramedic 2WO Quek was consistent as to the fact that the deceased was in a critical condition when he was sent to the hospital. The CT scan indicated to Dr Ng that it was most likely that the deceased would not survive. Dr Wee testified that the deceased would have succumbed to his head injuries even if he had not contracted bronchopneumonia, as the multiple fractures of the skull were sufficient in the

ordinary course of nature to cause death. When asked about the likelihood of the deceased surviving his head injuries, Dr Wee's response was "zero percent". The post-mortem examination revealed that the deceased's brain tissue was excessively soft and necrotic, which indicated that the deceased was brain dead. Dr Wee explained that brain death is a well-known complication of head injuries, and is not usually caused by pneumonia. In summary, Dr Ng and Dr Wee both agreed that it was the deceased's severe brain injuries which had led to his eventual demise.

55 After considering the objective medical evidence, I disagreed with the Defence's argument on causation. The present facts were easily distinguishable from those in the case of *Venkatachalam Chetty v Unknown* [1941] 2 MLJ 661 ("*Venkatachalam Chetty*") which was relied upon by the Defence. In *Venkatachalam Chetty*, the deceased was poisoned and left in a field overnight, after which he died of pneumonia. There was no evidence that the pneumonia was a foreseeable consequence of the deceased's exposure, and the court found (at [3]–[4]) that the pneumonia was not a probable event which broke the causal connection between the accused's acts and the deceased's death. To the contrary, I found the bronchopneumonia to be a foreseeable consequence of the deceased's injuries here. Dr Ng and Dr Wee both stated that it was not uncommon for patients to contract pneumonia and other infections during prolonged post-surgery intensive care. Accordingly, bronchopneumonia was not a supervening cause which broke the chain of causation.

56 In the light of the above reasons, I found that the accused's acts of hitting the deceased on the head with the rod at least nine times with moderate force caused the death of the deceased. This constituted the *actus reus* of the offence. While my findings of fact as to the number and nature of the blows delivered by the accused to the deceased's head related to the accused's acts, they were

also relevant to my findings on the *mens rea* or mental element of the offence, which I now turn to.

***Whether the accused intended to cause the death of the deceased***

57 The Defence maintained its position that the accused never intended to hit the deceased on the head, and had only done so by accident once or twice. I disagreed. I found it extremely difficult to believe that this “accident” could have occurred *nine* times. Even though the attack might not have been premeditated or pre-planned, I found that the deceased clearly possessed the intention to kill the deceased when he carried out the attack. In reaching this conclusion, there were five main aspects of the facts which I drew upon:

(a) First, the nature of the attack was vicious. As I found earlier at [50]-[51] above, the accused delivered at least nine blows to the deceased’s head with the rod, generally with moderate force. The head is a vulnerable part of the body, yet the accused used a hard metal dumbbell rod to strike the deceased on the head. The blows against the deceased caused blood to splatter onto the ceiling, the walls and the bed. Severe skull fractures were caused, and it was undeniable that the deceased’s head and brain injuries were extensive. The cruel nature of the attack was strong indication that the accused had intended to cause the deceased’s death.

(b) Second, the attack was one-sided in nature. The deceased was considerably smaller in build than the accused was. The accused was 174cm tall and weighed 77kg at the time of the incident, whereas the deceased was 166cm tall and weighed only 50kg. The deceased’s nickname “William Kia”, which means “small” or “child” when translated literally in Hokkien, was in reference to his small stature. The

accused agreed during cross-examination that he had “overpowered” him: see [31(i)(iii)] above. Not only that, the deceased was also unarmed throughout the incident. Yet, the accused armed himself with the rod, a lethal weapon, which he took from the front porch, to attack the deceased on the head. In contrast to the severe injuries suffered by the deceased, the accused only suffered minor injuries: see [28] above.

(c) Despite the one-sided nature of the attack, the accused persisted in hitting the deceased. The altercation started in the living room, and the accused picked up the rod to hit the deceased. Based on the bloodstain patterns observed in the living and dining room as described at [29(a)]–[29(b)], and the fact that substantial bleeding would have been caused by the head injuries, the deceased was bleeding from the head while in the living room. Even after having inflicted at least a blow against the deceased and rendering him bleeding from the head, the accused nonetheless pursued him into the room and continued his attack there. By then, as the accused conceded, the deceased had already been weakened by the attack. Yet the accused pushed the deceased onto the bed and to the foot of the bed, and hit him further. Even after Chua arrived and saw the deceased groaning on the bed and covered in blood, the accused resumed beating the deceased with the rod. The prolonged and persistent nature of the attack was yet another factor which contributed to my finding that the accused possessed the requisite intention for the offence. I should add that it is telling that during cross-examination, the accused admitted that he was determined to beat the deceased until the deceased confessed, and that he had no intention of stopping even if he had killed the deceased: see [31(i)(i)] above.

(d) Next, the accused knew at all times that hitting a person on the rod would kill a person: see [31(e)(iv)] above. Having admitted that he knew full well that hitting the deceased's head with the rod would kill the deceased, the necessary conclusion was that the accused had intended to cause the deceased's death at the material time when he deliberately attacked him on the head.

(e) Finally, the subsequent remarks and conduct of the accused reflected his intention to kill. After the initial attack, the accused continued to beat the unconscious deceased in Chua's presence, remarking that even "if [the deceased] did not die, he [would] break [the deceased's] hands and legs": see [8] above. Chua also gave evidence that the accused said, after hitting Chua, that it made no difference to him whether he killed one or two persons: see [8] above. At this juncture, I noted that the Defence contested several aspects of Chua's testimony, including his account of the deceased's state of consciousness and the words reportedly uttered by the accused. Most notably, the Defence pointed out that Chua did not testify in cross-examination about having heard the accused say that he would "hit [the deceased] until he is dead". Thus, the Defence argued that there should not be reliance on Chua's evidence as to what was uttered. As I shall elaborate below at [65], I found Chua to be a reliable witness. Even leaving aside the portion of Chua's evidence that the accused said that he would "hit [the deceased] until he is dead", the accused's threat that "even if [the deceased] did not die, he [would] break [the deceased's] hands and legs" supported a finding of the accused's intention to kill the deceased.

58 The Defence cited *Tan Chee Hwee and another v Public Prosecutor* [1993] 2 SLR(R) 493 ("*Tan Chee Hwee*"), a case in which the court found no

intention to cause death. In that case, the first accused used the cord of an electrical iron to tie up the deceased. The fact that the first accused did not hit the deceased with the iron to silence her suggested to the court that her death by strangulation was accidental: *Tan Chee Hwee* at [46]. However, the facts of the present case are starkly different. There was no question to me that the blows dealt to the deceased's head were not accidental but intentional. In fact, the acts committed by the accused here were more similar to the court's hypothetical in *Tan Chee Hwee* about hitting with deceased with the iron, an act which the court suggested would have been indicative of the accused's intention to "silence [the deceased] forever": at [46]. In my view, the objective medical and scientific evidence, as well as the accused's conduct during and after the attack, clearly established that the accused had intended to cause the deceased's death.

*Whether the accused was intoxicated at the material time*

59 I shall now deal with the points raised by the Defence regarding the accused being giddy and confused from the drugs he had consumed. While the Defence did not expressly advance any argument based on intoxication in their closing submissions, this was raised during its submissions to resist the Prosecution's application to call Dr Gupta as a rebuttal witness. As s 86(2) of the PC provides, intoxication shall be taken into account in determining whether the accused had formed the intention required to constitute the offence. The Court of Appeal in *Tan Chor Jin v Public Prosecutor* [2008] 4 SLR(R) 306 at [27] identified two requirements before s 86(2) can successfully be invoked. First, there must be credible evidence of intoxication, and objective evidence of the accused's level of intoxication is crucial in this regard. Second, the surrounding facts must show that the accused was so intoxicated that he could not form the requisite intention for the offence.

60 On a balance of probabilities, I found that the accused did not prove that he was intoxicated at the material time. Throughout his various statements to the police and his testimony during trial, the accused presented several inconsistent accounts about the number of sleeping tablets and amounts of cough syrup that he had consumed prior to the incident. This made his story incapable of belief. Further, having regard to the surrounding facts, there were numerous facts which indicated his lucidity during the incident, such as:

- (a) telling Chua that the deceased had fallen down in order to lure Chua to the lodging house;
- (b) constructing a makeshift rope mechanism to lock the door of the room from the outside; and
- (c) instructing that the rod be disposed of, wrapping the deceased up and moving him onto the front porch, concocting a story for the police that the deceased was found by the side of the road, and cleaning up the room immediately after the police had left the lodging house to re-open it for business.

These facts accorded with Dr Gupta's observations that the accused was alert and unlikely to have been intoxicated when he woke up on the day of the incident. As there was no credible evidence of intoxication, this issue therefore had no impact on my findings on *mens rea*.

***Whether the partial defence of sudden fight applicable***

61 Although the Defence did not expressly raise the defence of sudden fight under Exception 4 to s 300 of the PC, its written submissions described the incident as arising from a "sudden fight" between the accused and the deceased. For completeness, I shall deal with this issue. Exception 4 provides that culpable

homicide is not murder if it is committed without premeditation in a sudden fight. However, even if a sudden fight had broken out, from my findings above at [57], it was clear that the accused had taken undue advantage of the deceased, and had acted in a cruel and unusual manner. Accordingly, the accused was unable to rely on this partial defence.

### ***Credibility of the accused and Chua***

62 At this juncture, I make some observations on the credibility of the accused, and will also deal briefly with Chua's credibility. First, from the discussion above, it is clear that the accused's version of the *accidental* blows on the deceased's head was flatly contradicted by the objective evidence. Indeed, the objective evidence of the injuries sustained by the deceased, the injuries sustained by the accused and the analysis of the bloodstain patterns revealed a brutal, persistent and one-sided attack on the head of the deceased.

63 Secondly, over the course of the investigations, the accused had lied to the police about finding the deceased injured by the roadside and about the disposal of the rod into the Kallang River.

64 Thirdly, throughout the course of the investigations and in court, the accused had clearly sought to downplay the extent of his attack on the deceased. In his statements, he gave slightly different accounts of the attack. While initially admitting to hitting the deceased's head, he then explained that the blows were accidental only in the further statement to the police on 27 January 2014: see [24] above. In court, apart from claiming there were only two accidental blows, he also claimed that the deceased was not in as critical a condition after the attack as the other witnesses had made out to be. In fact, he claimed that the deceased continued to hurl vulgarities while lying injured on the bed.

65 Fourth, on various aspects, the accused's evidence was contradicted by the accounts of the other witnesses, especially Chua. In this regard, I found Chua to be a reliable eyewitness because his account of the facts, including the critical state that he found the deceased in, was generally supported by those of the other witnesses such as Tan and Gan, as well as the medical and scientific evidence. I should add that the accused's credibility was further called into question when he said that he also did not target Chua's head with the rod, whereas Chua testified to the contrary. On this aspect, again, I found Chua's evidence cogent. In view of these and other matters, I found that the accused was not a credible witness.

#### **Conclusion and sentence**

66 Having found the elements of the offence constituted, and that no viable defence applied, I held that the Prosecution had proved the charge against the accused beyond a reasonable doubt. Accordingly, I convicted the accused of the charge. Section 302(1) provides for the punishment of death for an offence of murder within the meaning of s 300(a) of the PC. Therefore, I imposed the mandatory punishment of death on the accused.

Hoo Sheau Peng  
Judicial Commissioner

April Phang, Low Chun Yee and Jason Nim (Attorney-General's  
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