

Public Prosecutor v Ravindran Annamalai
[2013] SGHC 77

Case Number : Criminal Case No 19 of 2011
Decision Date : 09 April 2013
Tribunal/Court : High Court
Coram : Chan Seng Onn J
Counsel Name(s) : Charlene Tay Chia and Sellakumaran Sellamuthoo (Attorney-General's Chambers) for the Public Prosecutor; Kanagavijayan Nadarajan (Kana & Co) and Rajan Supramaniam (Hilborne & Co) for the Accused.
Parties : Public Prosecutor — Ravindran Annamalai

Criminal Law – Offences – Rape

Criminal Law – Offences – Attempted murder

Criminal Law – Offences – Voluntarily causing hurt with dangerous weapon

Criminal Law – Offences – House-trespass with preparation to assault

Criminal Procedure and Sentencing – Sentencing

9 April 2013

Chan Seng Onn J:

1 The accused, Ravindran Annamalai, is a 44-year old male, and was residing with his mother at a flat at Serangoon Avenue 2. The victim, a 29-year old Indonesian female, was employed as a domestic helper in the neighbouring flat (“the Flat”). Her employer had a family comprising four persons, including two children.

2 The Public Prosecutor proceeded against the accused on the following five charges:

That you, RAVINDRAN ANNAMALAI,

1st CHARGE (“the First Charge”)

between 12.00pm and 2.32pm on the 9th day of September 2009 in the master bedroom of Block [XXX] Serangoon Avenue 2, #[xx-xx], Singapore, did commit rape on one [WS], female/26 years old, by penetrating the vagina of the said [WS] with your penis without her consent, and in order to commit rape on her, you voluntarily caused hurt to her in the master bedroom by dragging her by the hair and pushing her hard on the chest, and you have thereby committed an offence under section 375(1)(a) of the Penal Code (Chapter 224) and punishable under section 375(3)(a) ((i) of the said Code.

2nd CHARGE (“the Second Charge”)

between 12.00pm and 2.32pm on the 9th day of September 2009 in the children's bedroom of Block [XXX] Serangoon Avenue 2, #[xx-xx], Singapore, did commit rape on one [WS], female/26 years old, by penetrating the vagina of the said [WS] with your penis without her consent, and in order to commit rape on her, you voluntarily caused hurt to her in the children's bedroom by dragging her by her hair, and you have thereby committed an offence under section 375(1)(a) of the Penal Code (Chapter 224) and punishable under section 375(3)(a)(i) of the said Code.

3rd CHARGE ("the Third Charge")

between 12.00pm and 2.32pm on 9th day of September 2009 at Block [XXX] Serangoon Avenue 2, #[xx-xx], Singapore, did attempt to commit murder on one [WS], female/26 years old, and in the said attempt, you did certain acts towards the commission of the offence, to wit, you used your hands and a raffia string to strangle her on the neck, and thereafter threw her down from the kitchen window of the 2nd storey of the said block of flats, and you did such acts with the intention that if, by these acts you had caused her death, you would be guilty of murder, and you have thereby committed an offence under section 307(1) of the Penal Code (Chapter 224).

4th CHARGE ("the Fourth Charge")

between 12.00pm and 2.32pm on 9th day of September 2009 at Block [XXX] Serangoon Avenue 2, #[xx-xx], Singapore, did voluntarily cause hurt to one [WS], female/26 years old, to wit, by using a pair of scissors, which is an instrument for cutting, to poke her on the abdomen and to cut her under the chin, and you have thereby committed an offence punishable under section 324 of the Penal Code (Chapter 224).

5th CHARGE ("the Fifth Charge")

between 12.00pm and 2.32pm on 9th day of September 2009 at Block [XXX] Serangoon Avenue 2, #[xx-xx], Singapore, did commit house-trespass by entering into the said flat used as a human dwelling, having made preparation for assaulting one [WS], female/26 years , and you have thereby committed an offence under section 452 of the Penal Code (Chapter 224).

3 The five charges related to offences against the same victim and were committed in the same episode. The accused claimed trial to all five charges. I found the accused guilty and convicted him of all the charges, save that I amended the 3rd charge to read as follows:

Amended 3rd CHARGE ("the Amended Third Charge")

That you, RAVINDRAN ANNAMALAI,

between 12.00pm and 2.32pm on 9th day of September 2009 at Block [XXX] Serangoon Avenue 2, #[xx-xx], Singapore, did attempt to commit murder on one [WS], female/26 years old, and in the said attempt, you did certain acts towards the commission of the offence, to wit, you used your hands and a raffia string to strangle her on the neck, and you did such acts with the intention that if, by these acts you had caused her death, you would be guilty of murder, and you have thereby committed an offence under section 307(1) of the Penal Code (Chapter 224).

4 I sentenced the accused to 15 years' imprisonment and 12 strokes of the cane for each of the

First and Second Charges, 12 years' imprisonment and 6 strokes of the cane for the Amended Third Charge, 1.5 years' imprisonment for the Fourth Charge, and 1.5 years' imprisonment for the Fifth Charge. I ordered the terms of imprisonment of the First Charge and the Amended Third Charge to run consecutively. The other sentences were ordered to run concurrently. Accordingly, the aggregate sentence was 27 years' imprisonment and 24 strokes of the cane. I ordered the term of imprisonment to be backdated to the date of first arrest on 9 September 2009.

5 The accused has appealed against his conviction on the Amended Third Charge and against the sentence pronounced.

The Prosecution's case

6 In brief, the prosecution sought to show that the accused had barged into the Flat unwelcome, sexually assaulted the victim twice and then strangled her. Additionally, they sought to show that she became unconscious and was thereafter thrown down from the kitchen window by the accused. To establish their case, the prosecution relied on the statements of the victim and various witnesses and also on medical and forensic evidence. [\[note: 1\]](#)

7 The victim (PW 1) stated in her conditioned statement that she had been working for her (then) employers for about 8 to 9 months and was happy working for them. [\[note: 2\]](#) This was her first job overseas as a domestic helper. She knew the accused as "Aneh" but had seldom talked to him or members of his family. She had only greeted him at times when they happened to meet at their doorsteps. The accused's flat faced her unit.

8 On the day of the incident, 9 September 2009, the victim was cooking for her employer's family. Only her female employer and the youngest son were at home that day. Her employer told her that they were expecting Malaysian relatives. While she was cooking, the electricity tripped and the lights went out. She did not know what to do and followed her employer to the front door. The employer conversed with the accused and obtained his assistance in turning the electrical supply to the flat back on by resetting the circuit box outside the Flat.

9 The Malaysian relatives arrived for lunch at around noon, and everyone left the Flat sometime after 1.30pm, leaving only the victim behind. The door and the gate of the flat were closed. About 10 minutes later, the doorbell rang and the accused asked the victim if he could watch her having her lunch. The victim rejected this request and shut the Flat's door. About 15 minutes later, in the midst of doing her chores after lunch, the victim realised that the electricity supply to the Flat had tripped again. As she had encountered the same problem that same morning, the victim opened the door and gate of the flat to reset the circuit box. The accused approached her before she could even step out of the flat and asked what the problem was. She informed him that the Flat's electricity supply had tripped.

10 The accused then suddenly moved in front of the victim and pushed her hard against her chest into the flat and thereafter rushed in, shutting the main door behind him. She fell to the ground as a result of the push but immediately stood up and tried to escape by dashing towards the door. However, she was caught by the accused and prevented from doing so. She screamed, struggled and shouted for help several times but was silenced by the accused. The accused then dragged her by her hair and T-shirt into the master bedroom and pushed her onto the bed. He pressed a pillow onto her face and told her to keep silent. She heard him say the Malay words "*Saya mau kamu*" and "*Saya bunuh kamu*", which mean "I want you" and "I want to kill you" respectively. She kept struggling but was overpowered. The accused removed her shorts, leaving the victim naked from the waist down. The accused then raped her by inserting his penis into her vagina. After the rape, the victim

successfully broke free from the accused after a struggle and ran towards the main door to escape. However, she was overpowered yet again by the accused, who dragged her by her hair into another bedroom in the Flat ("the children's bedroom").

11 The victim was again pushed onto the bed and had her T-shirt and brassiere removed by the accused. She told the accused not to have sex on the bed but to do it on the floor instead to avoid messing up Hindu prayer items placed on the bed. The accused pulled her onto the floor and covered her face with a pillow and proceeded to rape her a second time by inserting his penis into her vagina.

12 After that, the accused dragged the victim into the kitchen by her hair and took a pair of scissors from a kitchen drawer and placed it against her neck. He then dragged her to the master bedroom by her hair and pushed her onto the bed again. He placed the scissors at her neck, which the victim said caused her pain. The accused then wound a raffia string around her neck and strangled her by pulling both its ends. Thinking that she was going to die, the victim uttered a Muslim prayer and lost consciousness. She subsequently found herself on a hospital bed after regaining full consciousness.

13 Between the time the victim lost consciousness in the master bedroom and her being conveyed to the Changi General Hospital ("CGH"), she was found at the ground floor of the block of flats covered with a piece of batik cloth. She had sustained injuries and was groaning in pain. The prosecution contended that the accused must have thrown the victim down from the flat's kitchen window as the victim was unconscious prior to that.

The Defence's case

14 The accused's defence could be summarised briefly as follows. As regards the First and Second rape charges, the accused did not deny having sex with the victim. However, he claimed that there was only one instance of sexual intercourse and that it was consensual and therefore not rape. In relation to the Third Charge of attempted murder, he denied strangling the victim with a raffia string and also denied throwing her down from the kitchen window of the Flat. At trial, the accused purportedly pleaded guilty to the Fourth and Fifth Charges. However, his plea of guilt was equivocal in both cases.

15 The two long statements recorded from the accused on 14 September 2009 [\[note: 3\]](#) and 15 September 2009 [\[note: 4\]](#) by the Investigation Officer in charge of this case, ASP Kwok Cham Kong, [\[note: 5\]](#) set out the details of the defence's case and provide a contrasting account of the incident.

16 According to the accused (DW 1), he had come to know the victim about 5 to 6 months before and he had spoken to her on previous occasions. He initiated all conversations with her, which usually occurred when she was sweeping the common corridor. The conversations involved her background and her work. He also requested for her friendship but said the victim told him she needed some time to decide on that.

17 The day before the incident, 8 September 2009, the accused spoke to the victim while she was sweeping the corridor outside the Flat. However, she said that she could only talk to him at 1.30 pm the next day, 9 September 2009, after her employers had left the Flat.

18 The following morning on 9 September 2009 at about 7.00am, the accused was watching the television and thinking about how to see the victim. He felt bored and went to the ground floor of the block to look for some string and boxes for packing his things to be brought to the Philippines. He said

that he had some friends staying there and that he planned to visit them. He found a cardboard box at a rubbish chute behind a coffee shop and a metre-long red nylon string. He placed the latter in his left front pocket of his blue pants before returning home.

19 The accused then thought of an idea of how to see the victim – he would cut the power supply to the Flat by pulling down the switch of the circuit box outside the victim's Flat and she would be forced to come out to reset the switch. He did so and returned to his flat to continue watching the television. A few minutes later, he heard the victim calling to him from the Flat, asking whether his flat had power supply. He replied that there was power. A few moments later, the victim's employer joined the victim and obtained his assistance in restoring the Flat's power supply.

20 Later in the afternoon at 1.25pm, the accused heard noises outside his flat. Through his door's peephole, he saw the victim's female employer and three others leaving. He then pressed the doorbell of the Flat. The victim answered the door and told him that she was having lunch. He returned to his flat. Thereafter, the accused decided to turn the circuit box switch off again, knowing that the victim would open her door and seek his help.

21 As he had expected, the victim called out to him soon after to seek his assistance. After the accused helped to restore the power supply, the victim stepped back into the Flat and moved to close the gate, but the accused requested that she step out to talk to him for awhile. He asked if he could enter the Flat. When she did not reply, he walked in. The victim told him to leave for fear of her employers' returning but he rejected her request and proceeded to kiss her. He said she returned the kiss but then quickly stopped and told him to leave. He did not do so but walked her instead towards the master bedroom. He pushed her on her shoulders and she fell backwards onto the bed. She immediately stood up and told him to "do it" in the children's bedroom instead.

22 They proceeded there and the victim told him "[i]f you want, I give you. But you don't harm me and kill me." He replied that he did not come to kill or harm her and proceeded to remove the victim's T-shirt. He hugged her and unhooked her bra. He claimed the victim did not struggle all this while. He also took off his T-shirt and asked the victim to lie on the bed. The victim told him to "just do on the floor" instead, saying that the bed would be "dirty" otherwise. The accused removed his pants and underwear and proceeded to remove the victim's shorts and panties as well. He claimed the victim told him to leave after he was done and not to tell anyone about this.

23 The accused said that he then lay on top of the victim and used his left hand to adjust his penis into her vagina. However, he could not fully penetrate, with only the head of his penis going in and failing to stay in. The victim then tried to insert his penis into her vagina a second time but failed. He said "enough" and moved away from the victim, at which point the accused saw semen over the victim's groin area and wiped it away using her shorts. Thereafter, while the accused was putting on his underwear and pants, the victim told him in Bahasa Indonesia that if he had not had enough, she would perform a "blow-job" on him. When he refused the offer, the victim ran out of the bedroom towards the main door and opened it to step out of the flat, but the accused caught hold of her left hand and pulled her hair to pull her back inside. The victim was holding onto the gate at that time and was shouting in Bahasa Indonesia "*Perompak, pembunuh*" which means "Thief, killer". The accused said he did not know why she had yelled these words. After a struggle, he managed to pull the victim into the Flat and shut the gate and door.

24 He covered the victim's mouth using his left hand and demanded to know why she was shouting. The victim did not respond. He continued to cover her mouth, pulled her back into the children's bedroom and pushed her onto the floor. He sat on her stomach and held down both her hands, demanding to know why she was shouting "*Perompak*" and "*Pembunuh*" despite him not having

forced her to have sex. The victim remained silent and kept shaking her head. The accused then placed both hands on her neck and squeezed. He claimed that this was done purely out of fear and desperation. The victim pleaded with him not to and he released his grip on her neck. The accused then took a pillow from the bed and attempted to cover the victim's face with it. However, she succeeded in pushing him off balance and ran out of the bedroom toward the kitchen window shouting "*Perompak, pembunuh*". The accused chased after her and grabbed hold of her hair midway to the kitchen window. He used his left hand to cover her mouth, took a pair of scissors from a kitchen drawer and pulled the victim into the master bedroom.

25 Upon reaching the master bedroom, the accused pushed the victim, who fell backwards onto the bed and slipped onto the floor. The accused tried to strangle her again but failed. He covered her mouth with his left hand and told her that this would not have happened if she had not shouted and ran out. He added that he could have easily killed her and would have done so earlier if such was his intention. Whilst saying this, he used the scissors and poked the victim on her right waist twice or thrice to instil fear in her, but claimed that no force was used.

26 He then stopped covering her mouth but proceeded to sit on top of her stomach. At this point, the accused noticed the nylon string which he had placed in his pants pocket. He wound it around the victim's neck but she struggled and pushed his hands away. He pinned her hands down with his legs and again wound the nylon string around her neck and pulled at both ends. He said he wanted to render the victim unconscious to facilitate his escape. The victim managed to free her hands and grabbed hold of the nylon string with both hands while pleading with the accused to let her go. The accused continued to pull both ends of the nylon string. He saw the victim's eyes opening and closing and heard her mutter some prayers. He released the tension upon hearing her prayers but the victim was not moving by then and appeared to be unconscious. The accused then took the scissors and left the master bedroom.

27 He headed to the main door but could not open the gate with the keys in the flat. He tried to use the scissors he had with him to pry open the gate, but only ended up bending them in the process. When he took another pair of scissors from the kitchen, he saw the victim still lying on the floor inside the master bedroom. While the accused was prying open the gate with the second pair of scissors, he turned his head towards the kitchen and saw a shadow jumping through the kitchen window. He stopped and walked to the kitchen. The accused saw that the victim was no longer in the master bedroom. He looked out of the kitchen window and saw the victim lying on the ground below. He told himself, "Oh God, I die today." He then tried to open the gate again and was successful this time.

28 The accused returned to his flat, taking with him a padlock, three bunches of keys and both pairs of scissors. He said that he did so as he was afraid those items would have his fingerprints. He placed all these items into a plastic bag and placed them in his kitchen cabinet. The accused then washed up but did not change his clothes. He headed for the ground floor and saw the victim lying on the ground and talking to two females. He overheard the older female asking the victim if he was the perpetrator and saw the victim nodding her head in reply. He quickly turned away and walked to a nearby coffee shop to buy some coffee. After he was done, he lingered around the vicinity, knowing that he could not run away and that he would be arrested anytime. He bought a drink from a grocery store and was arrested by a Criminal Investigation Department ("CID") officer soon after and brought back to the CID.

The findings of this court

29 I found that the prosecution had proved beyond reasonable doubt all the five charges against

the accused. I rejected almost entirely the defence's version and explanation of events save for whether the victim had jumped out of the Flat's kitchen window or had been thrown out of it by the accused.

30 As noted above at [14], the accused purported to plead guilty during the course of the trial to (a) the Fourth Charge of voluntarily causing hurt by dangerous weapons or means; and (b) the Fifth Charge of house-trespass after preparation for assault had been made. However, because his plea was equivocal in both cases, I proceeded to consider whether these charges had been proved beyond a reasonable doubt on the evidence before me.

31 I now set out and explain my findings in relation to the five charges.

The First and Second Charges of rape

32 I found that there was indeed, as the Prosecution submitted, two separate occasions of rape as set out in the First and Second charges. I did not accept the accused's evidence that there had only been one instance of sexual intercourse and that it had been consensual. This finding of there being two separate occasions of rape was supported by objective evidence and also by the testimonies of various witnesses.

33 The background context did not provide support at all for the accused's contention that he and the victim shared a friendship which would have led to a likelihood of her later having consensual sexual intercourse with him. This was after all the victim's first job as a domestic helper in Singapore and she had only been working for her employer's family for 8 to 9 months. The victim testified that throughout this time she had only met the accused a mere three times. [\[note: 6\]](#) Her employer testified that the victim's character was a "timid" one and she would not exit the Flat when no one was around. [\[note: 7\]](#) The accused's own evidence was that their interactions were limited to conversations and that he *always* initiated such conversations, not the victim. [\[note: 8\]](#) This showed that the victim maintained a distance from the accused all this while, and there was no objective evidence of a subsisting close friendship between them which the accused had tried to present to the court.

34 Given the distance between them, the accused's description of the events on 8 September 2009 seemed implausible. According to the accused, the 8 September 2009 interaction involved him asking the victim if they could be friends and telling her that they could "enjoy themselves" once her employers had gone out the next day. He added that he then kissed her on her hand and that she reciprocated the act. However, as the prosecution rightly submitted, this evidence was likely to be a fabrication. If, as the accused claimed, the interaction lasted twenty minutes and involved his first physical contact with the victim, he would have considered the interaction an important one. I was of the view that he would have mentioned this incident to the police at the outset if it had indeed taken place. Instead, he allegedly only recalled the interaction six weeks later. Also, the victim herself flatly denied that there was such a conversation that day. [\[note: 9\]](#) She further denied any kissing had taken place and that there was such a custom for Indonesian Muslim adults of different sexes kissing each others' hands. [\[note: 10\]](#)

35 Further, the objective evidence did not suggest that this was a case of consensual sexual intercourse between the accused and the victim. The living room of the Flat had various items strewn all over, indicative of a violent struggle having taken place that day. Staff Sergeant Koh Chun Sian (PW5) testified that upon entering the Flat, he had found the living room to be in a mess with items like a decorative statue, a broken telephone unit and a battery strewn over the floor and the door of

the shoe cabinet damaged. [\[note: 11\]](#) There were also blood stains and strands of hair scattered on the floor of the master bedroom.

36 As to the actual events surrounding both occasions of rape, I found the victim's testimony to be credible and consistent with the medical and forensic evidence found at the scene. The fact of penetration by the accused and the intention to rape the victim was clear. The victim set out in her statement and also testified to details of how she had been raped once by the accused on the bed of the master bedroom and a second time on the floor of the children's bedroom. She stated in her testimony that for the first rape incident, she felt a sharp pain when the accused inserted his penis into her vagina and she felt him moving his penis in and out of her vagina for about 10 minutes thereafter, while she was forcibly restrained by the accused. [\[note: 12\]](#) As for the second rape incident, although the victim could not recall how long it lasted, she stated that she similarly felt pain when the accused inserted his penis into her vagina and that he had moved his penis in and out of her vagina. [\[note: 13\]](#)

37 I accepted her statement and testimony that rape had in fact taken place. This was clearly borne out by the available medical evidence. Dr Suzanna Sulaiman ("Dr Sulaiman") (PW 19), Associate Consultant at the Kangar Kerbau Women's and Children's Hospital Division of Obstetrics & Gynaecology, who had examined the victim and taken vaginal swabs from her, testified that the sperm of the accused had been found *high* up inside the vagina of the victim. [\[note: 14\]](#) She added that the fact that sperm of the accused was found there indicated that it had been propelled there, [\[note: 15\]](#) and she was of the opinion that this meant that there would have been very likely penetration of the accused's penis into the victim's vagina. She noted that the possibility of semen being carried to that location through pure capillary action alone was very low. Additionally she testified that the fact that the victim had no fresh hymenal tear on her did not indicate that no sexual intercourse had taken place. [\[note: 16\]](#) Dr Wee Keng Poh ("Dr Wee") (PW 26), Senior Consultant Forensic Pathologist attached to the Centre for Forensic medicine of the Health Sciences Authority ("HSA"), similarly testified that the sperm could only have reached their location in the victim's vagina through sexual intercourse. [\[note: 17\]](#) I therefore rejected entirely the accused's version of events, whether in his statement or in his testimony. In the former, he stated that he could not fully penetrate the victim, with only the head of his penis being inserted into the victim's vagina before coming out. In the latter, he resiled and claimed that he did not penetrate the victim's vagina but had instead ejaculated when the victim tried to put his penis into her vagina. [\[note: 18\]](#) These accounts flew in the face of the objective medical evidence set out above. I found that it was clear that there was penetration of the accused's penis into the victim's vagina and that he had subsequently ejaculated within her vagina.

38 The scientific evidence further showed that the rape had been carried out in not one but two locations, that is, the master bedroom and the children's bedroom. It was stated in the Statement of Agreed Facts that Ms Ang Hwee Chen ("Ms Ang") (PW 27), Senior Forensic Scientist at the Forensic Biology Laboratory of the HSA, had tested certain parts of the master bedroom's comforter which was laid out on the master bedroom bed to be positive for semenogelin, and had also found both the victim's and accused's DNA profiles in various proportions on five different parts of the comforter. Evidence of semen found on the comforter was telling as to the likely event of ejaculation by the accused having occurred also in the master bedroom. This directly contradicted the accused's version of events that any sexual intercourse, if at all, took place only in the children's bedroom. I did not think it was likely that there was accidental transfer of semen via stained clothing from the children's bedroom to five different parts of the comforter in the master bedroom. Such evidence was, I would add, more consistent with the victim's insistence that she had been raped by the accused in the

master bedroom. As the prosecution pointed out in submissions, there was no suggestion that the victim had, after conclusion of sexual intercourse in the children's bedroom according to the accused, put on the pair of semen stained shorts and gone to the master bedroom to sit on the bed whilst wearing the stained shorts. As for evidence supporting the second occasion of rape, Ms Ang found that the bedsheet in the children's bedroom tested positive for seminal fluids. Additionally, she found both the accused and the victim's DNA profile on that bedsheet. [\[note: 19\]](#)

39 I would also add that the victim's testimony of events surrounding the two rape incidents was also consistent with what she had told Dr Sulaiman and Assistant Investigation Officer Juraimi Bin Saine (PW 16) ("Officer Juraimi"), [\[note: 20\]](#) who was attached to the General Investigation Squad of Ang Mo Kio Police Division. Although Dr Sulaiman had recorded in her medical report [\[note: 21\]](#) that the accused had attempted to rape the victim, [\[note: 22\]](#) the victim clarified in her testimony that she had in fact used the words "had already raped [her]" and not simply "attempted". Also, Officer Juraimi who interviewed the victim after she was admitted to the hospital testified that the victim had told him that she had been raped by the accused [\[note: 23\]](#) and that he later reported this to Senior Investigation Officer Toh Yong Sian Alfred (PW 14) ("Officer Toh") who was also attached to the General Investigation Squad of the Ang Mo Kio Police Division.

40 I agreed with the prosecution that the victim did not consent to the sexual intercourse. In the accused's long statement, he stated that the victim had told him prior to sexual intercourse that, "[i]f you want, I give you. But you don't harm me and kill me". [\[note: 24\]](#) The prosecution rightly submitted that a plain reading of this statement, in which the victim pleaded with him not to harm her, demonstrated a lack of free submission and willingness on her part to engage in sexual intercourse with the accused. Furthermore, the victim had been restrained during the course of the rape by the accused with him using a pillow to cover her face and pinning her legs down such that she could not escape, despite struggling hard to do so. [\[note: 25\]](#) According to the accused's description of events, the victim offered to perform a "blow-job" on him after they had sexual intercourse and, upon his refusal, ran out of the bedroom towards the main door and opened it to step out of the Flat without first putting on her clothes. This description of events clearly flew in the face of his claim that consensual sexual intercourse had taken place prior to this. If such were the case, the victim would have had little reason to run away from him and would likely not be in such a hurry to escape. I therefore preferred the victim's evidence that she had struggled free from the accused after the first rape and had run to the main door in an attempt to run out of the Flat. Such a strong and unequivocal reaction on the victim's part was plainly incongruent with the accused's claim that she had consented to the acts of sexual intercourse with him.

41 I found, as the prosecution submitted, that the accused had in this case clearly plotted to enter the Flat while the victim was alone and had deliberately turned off the switch in the circuit box in order to lure her out and to cause her to open the Flat's main door and gate. [\[note: 26\]](#) This facilitated his entry into the Flat and allowed him to carry out his intention of raping the victim. In the result, I found that the First and Second Charges had been made out by the prosecution, and I convicted the accused accordingly.

The Third Charge of attempted murder

42 I found the offence of attempted murder of the victim to be established as well. However, while the actions set out in the charge involved the accused first using his hands and a raffia string to strangle the victim and thereafter throwing her down from the kitchen window of the Flat, I was of the view that only the former was established..

43 I will address the event of strangulation by the accused first. I found that two occasions of strangulation had in fact taken place as set out in the Third Charge, one being manual strangulation and the other being ligature strangulation. The long statement by the accused described both such types of strangulation. [\[note: 27\]](#) More importantly, Dr Wee similarly concluded that there was a combination of ligature and manual strangulation in his medical report (P 132) [\[note: 28\]](#) after he examined the victim's injuries. He explained in his testimony that the bruises present on the front of the victim's neck were caused by ligature strangulation and the scratch abrasions [\[note: 29\]](#) found around the victim's neck were caused by fingernail impressions on the victim's skin. [\[note: 30\]](#) Additional evidence of strangulation of the victim took the form of a haemorrhage in the sclera of the right eye and medial congestion of the left eye of the victim as stated in Dr Wee's medical report. [\[note: 31\]](#) In his testimony, he explained that strangulation would cause constriction of the neck and block the return of the blood flow to a person's chest, and, depending on the force used, would result in congestion of the face. He said such congestion could lead to haemorrhage in the eyes, which was what the victim here sustained.

44 The victim stated under cross-examination that there was manual strangulation by the accused in the master bedroom. [\[note: 32\]](#) As for the ligature strangulation, the victim had detailed this in her statement. She stated that the accused wound and tightened a raffia string around her neck. When she could not breathe as a result, she thought that she was going to die. She eventually passed out. [\[note: 33\]](#) She gave a similar account in court. [\[note: 34\]](#)

45 Tellingly, the raffia string was seen around the victim's neck when she was found by her neighbours lying at the bottom of the block of flats. Both the conditioned statements of Nur Jannah Bte Suhaimi (PW 7) and Renny Izzatie Bte Abd Rahman (PW 9), neighbours of the victim and who had first spotted her lying on the ground, stated that they noticed a raffia string around her neck when they went to render assistance. [\[note: 35\]](#) Similarly, a paramedic with the Singapore Civil Defence Force, Hanafiah Bin Hasan (PW 3) ("Paramedic Hanafiah"), who arrived at the scene soon after to attend to the victim, stated in his conditioned statement that he noticed a raffia string on the victim's right shoulder near to her neck when he was examining her for injuries in the ambulance *en route* to the hospital. When asked about its purpose, the victim told him that the accused had used it to strangle her. [\[note: 36\]](#)

46 I did not accept the accused's description of the circumstances of the strangulation. He first testified that the victim was the one who pulled the raffia string very tightly. But he quickly changed his position soon after and agreed instead that the victim, with her hands underneath the string, had pushed the string forward and away from her. [\[note: 37\]](#) The accused also testified that he had only wound the raffia string in a single loop around the victim's neck. Yet he did not disagree that the string tightened around the victim's neck. If, as the accused said, the raffia string was wound only once around the victim's neck and the victim had pushed the string forward and away with her hands, the raffia string could not have tightened around her neck to suffocate her and lead to her strangulation, which was supported by the objective evidence. I therefore wholly rejected the accused's testimony as to how the ligature strangulation had occurred.

47 In his long statement, the accused described himself as having "squeezed" and "grip[ped]" the victim's neck with his hands. [\[note: 38\]](#) The accused also accepted during cross-examination that the raffia string had "tightened" around the neck of the victim. [\[note: 39\]](#) Contrary to his denials as to any use of force, [\[note: 40\]](#) I agreed with the prosecution that these words ordinarily used and understood,

were associated with an application of some force to the victim's neck. Dr Wee also testified that upon the examination of the external injuries found on the victim, he concluded that the force used by the accused to strangle the victim was mild to moderate. [\[note: 41\]](#) I formed the view that at least moderate force was used and applied for some time in the ligature strangulation given that the victim was eventually rendered unconscious. This was clear from her testimony and the statement recorded from her. The accused himself in his long statement stated that the victim "was not moving" and that she "appeared unconscious" to him. [\[note: 42\]](#) This was echoed in his cross-examination where he said that he saw her eyes blinking feebly and alternately, her fingers moving slightly, and her body also only moving slightly. [\[note: 43\]](#) Crucially, a pool of the victim's urine was found on the master bedroom floor, this being consistent with the evidence of strangulation of the victim to the extent of unconsciousness. Dr Mohan Tiruchittampalam ("Dr Mohan") (PW 23), chief and senior consultant in CGH's Accident and Emergency ("A&E") Department, explained that strangulation would cause the brain to be starved of oxygen and that this could trigger seizures which might result in urinary incontinence. [\[note: 44\]](#)

48 The accused testified that he intended to scare the victim by strangling her. He said he wanted to render her unconscious so that he could escape from the scene and so that she would be prevented from identifying him as the perpetrator of the crime. [\[note: 45\]](#) However, I found that the accused, in strangling the victim both manually and with the raffia string with such force till she was subsequently rendered unconscious, possessed such intention to kill such that if he had caused the victim's death as a result of the strangulation he would be guilty of murder. It was plain to me that the accused intended to silence the victim permanently so that he would not be identified as the perpetrator of the crime.

49 Accordingly, I found that there was sufficient evidence proving beyond reasonable doubt that the accused had committed the offence of attempted murder based on the strangulation alone.

50 I turn now to consider the second fact set out in the attempted murder charge that the accused had thrown the victim out of the kitchen window of the Flat. The prosecution's case was that the accused intended to kill the victim so as to prevent her from identifying him. As such, the prosecution submitted that the accused strangled the victim after raping her and thereafter, threw her down from the kitchen window of the Flat, intending that she die from these actions. In contrast, the defence's case was that the accused did not throw her down from the kitchen window. Rather, the victim had jumped out of the kitchen window and fallen down to the ground floor of the block of flats. I accepted the defence's case in this regard and found that the prosecution had not established its case in this respect beyond reasonable doubt.

51 The prosecution's case theory was supported by Dr Wee, who testified that it was unlikely that the victim could have jumped out of the kitchen window of the Flat, citing her already weakened state as a consequence of her having been rendered unconscious due to strangulation, [\[note: 46\]](#) the height of the kitchen wall relative to the victim posing some difficulty for her to scale it unaided, [\[note: 47\]](#) and the lack of a table or chairs near the window to aid her in scaling the kitchen wall. [\[note: 48\]](#) However, Dr Wee did acknowledge the possibility of the victim using the window ledge as an aid to haul herself up and over the window sill [\[note: 49\]](#) and, additionally, he conceded that it was not possible to distinguish between the scenario of the victim being thrown over the window as contrasted to her jumping out of the window simply based on the injuries sustained by her. [\[note: 50\]](#) Separately it should also be noted that Dr Mohan testified that the victim appeared to be fairly robust [\[note: 51\]](#) and therefore it was not inconceivable that she could have scaled the kitchen wall and

jumped over the window to escape.

52 I turn to consider the investigation diaries of the police officers involved. The typewritten investigation diary extract (Exhibit D2) of Amos Tang Lai Hee (PW 17) ("Officer Tang"), a police inspector attached to the Criminal Investigation Department's Serious Sexual Crime Branch, gave some detail. The relevant portion read as follows: "In the midst of the sexual assault, the victim managed to break free and ran to the kitchen. Feeling desperate, she climbed up the window ledge and jump[ed] down to the 1st floor. While falling, she also hit against some bamboo stick[s] which landed on the ground floor." Officer Tang clarified in his testimony before the court that he had only recorded Exhibit D2 about 2 days after the rape incident, and that Exhibit D2 contained information not only found in a previous investigation diary extract (Exhibit D3) which recorded this incident, but also further information which he had received about that incident by that time. [\[note: 52\]](#) Exhibit D3 was a handwritten investigation diary extract recorded by Officer Tang on the day of the rape incident itself and it contained relatively less detail than Exhibit D2. The relevant portion in Exhibit D3 read: "After the [rape] incident, [the victim] tried to escape and landed on the ground floor". [\[note: 53\]](#)

53 Officer Tang testified that he had received information in Exhibit D2 from Officer Toh (PW 14) who had investigated the incident. [\[note: 54\]](#) Similarly, Officer Toh stated in his testimony that he had provided Officer Tang with the information which the latter later recorded in the form of Exhibit D2. [\[note: 55\]](#) Officer Toh in turn said that he had received this information from police officers escorting the victim to the hospital or from Officer Juraimi (PW 16). [\[note: 56\]](#) Officer Juraimi was sent to interview the victim on the day of the incident after she had just been admitted to hospital. However, during Officer Juraimi's testimony, he firmly denied giving information to Officer Toh to the effect that the victim had broken free, ran to the kitchen and in desperation climbed up the kitchen window ledge and jumped down to the ground floor. [\[note: 57\]](#) Officer Juraimi stated that he had only conveyed to Officer Toh the following information: that the victim had been forced into the house and raped twice in the master and the children's bedrooms, and that she could not remember how she landed up on the ground floor of the block of flats as she had lost consciousness in the master bedroom earlier. [\[note: 58\]](#) He explained in his testimony that during the interview of the victim, he did specifically ask her how she ended up lying on the ground floor of the block of flats but her response appeared equivocal. While the victim at first said that she had been pushed over, when questioned again, she instead said that she could not remember as she had lost consciousness prior to that and the next thing she could recall was lying on the ground floor. Upon further probing by Officer Juraimi, the victim said that she could not remember and had just assumed that she had been pushed over, the basis of the assumption being that she had lost consciousness and so could not have pushed herself over the window. [\[note: 59\]](#) I noted that an extract from Officer Toh's investigation diary (Exhibit P 122) (which he testified was recorded only the day after the rape incident) stated: "[the victim] does not know how she landed at the ground floor of the block". [\[note: 60\]](#) This would appear to accord with Officer Juraimi's explanation of the events. Officer Toh explained in his testimony that he had been receiving continuous updates about the incident before recording Exhibit P 122. [\[note: 61\]](#)

54 From the foregoing context, it would appear difficult to gain a conclusive picture as to what had actually happened on that day of the incident itself simply from the recorded police statements and interviews. While it seemed that Officer Juraimi was the original source of the information and this information was later reflected in Officer Toh's investigation diary extract Exhibit P 122 recorded a day after the incident, it did not fully explain why Exhibit D3, Officer Tang's investigation diary extract recorded two days after the incident after further information had been received, stated in yet

greater detail how the victim had escaped by running to the kitchen, scaling the window, jumping from it and falling to the ground floor. In light of this, I was of the view that little weight could be placed on these investigation diary extracts. Further, while Officer Juraimi's testimony seemed to suggest on balance that the scenario of the victim being thrown out of the kitchen window by the accused was what had likely happened, this was not unequivocal. As noted above, the victim had merely *assumed* that she had been thrown over the kitchen window in what she thought was a logical explanation given her prior unconscious state.

55 When Ms Kee Koh Kheng (PW 14) ("Ms Kee"), an analyst with the Forensic Science Division of the HSA conducted tapelifting of the interior tiled wall of the kitchen beneath the window, she failed to find fibres similar to that of the accused's clothing. [\[note: 62\]](#) While this might appear to point to the scenario proffered by the defence that the accused had not thrown the victim over the kitchen window, Ms Kee cautioned in her testimony that there were many factors affecting fibre retention such as the characteristics of the wall and the fibres themselves. As such, absence of such retention was inconclusive. Therefore, I did not place too much weight on this.

56 The defence's case theory that the victim herself had jumped out of the kitchen window falling to the ground floor below, was however, on balance, supported by the testimony of various witnesses and the objective evidence.

57 The first two medical personnel to treat, examine and speak to the victim, Paramedic Hanafiah and Dr Mohan, recorded that such a jump took place. Dr Mohan, the doctor who attended to the victim when she was first admitted to CGH's A&E Department, testified that it was always his practice to obtain an independent history from patients and to record this in his clinical notes (Exhibit P 200) before the ambulance records were conveyed to him. This was similarly done in the victim's case. He testified that the relevant portion of his clinical notes stated that "[the victim] had jumped two storeys to escape and landed on her right foot and she was not complaining of back pain" [\[note: 63\]](#). Dr Mohan answered firmly in the positive when questioned whether the victim had in fact used the words "jumped to escape". [\[note: 64\]](#) This was consistent with Paramedic Hanafiah's ambulance record (Exhibit D1), the relevant portion of which stated that the victim had "[j]umped out of [the Flat] trying to escape sexual assault". [\[note: 65\]](#) He stated that he had simply written out whatever he thought the victim was trying to tell him when he spoke to her *en route* to CGH. [\[note: 66\]](#)

58 Further, the victim appeared to be conscious at that material time after she jumped out of the window to escape. The relevant section of Paramedic Hanafiah's ambulance record (Exhibit D1) stated "Pt No LOC" which meant that the victim, the patient, had no loss of consciousness. [\[note: 67\]](#) He stated in his testimony that the victim could answer his interview questions and was not unconscious. [\[note: 68\]](#) Also in the same ambulance record, the Glasgow Coma scale ("GCS") figure was filled in with the maximum score [\[note: 69\]](#) of 15. According to Paramedic Hanafiah, this reflected that the victim was alert and oriented. [\[note: 70\]](#) Dr Mohan agreed with this interpretation of the GCS figure [\[note: 71\]](#) which was also reflected in Dr Tong's medical report. [\[note: 72\]](#) The first three injuries listed by Dr Tong in her medical report, viz, a commuted fracture of the right calcaneum, bilateral sacral alar fractures involving foramina and a mild compression fracture of the superior end-plate of T11 with less than 10% loss of height, were stated by Dr Mohan in his testimony to be consistent with that of the victim falling and landing on her right foot. [\[note: 73\]](#) Dr Mohan opined that this most probably meant that the victim was conscious at the point of falling. He explained that this was a probable inference because he was of the view that persons conscious while falling would try to protect their heads from injury and thus would try to align themselves in a position to break their fall and a natural instinct or a

semi-reflex mechanism would be for them to stretch their legs forward to try and land on them. [\[note: 74\]](#) While Dr Wee disagreed that there was such a reflex action or that how a person landed could indicate whether he or she was conscious, [\[note: 75\]](#) I was of the view that Dr Mohan's analysis on this point did not appear far-fetched. It should be noted that the victim did not sustain any head or back injuries [\[note: 76\]](#) which would be likely to be sustained if she, whilst in an unconscious state, had been thrown down from the kitchen window instead. As such, I found Dr Mohan's analysis to accord better with Paramedic Hanafiah's evidence and the injuries sustained by the victim.

59 The objective evidence of the two small drops of blood found on the kitchen window frame and the evidence given by another witness, Rokhiyah (PW 6), also suggested the same conclusion. Rokhiyah was a domestic maid working in a unit located in the same block and on the same level as the Flat. According to her conditioned statement, while she was doing chores at the kitchen area of her unit in the afternoon on the day of the incident, she heard the sound of a female voice shouting "Argh!" loudly and the sound of window grilles being opened loudly. Thereafter she heard the sound of bamboo poles falling. When she peered out of her unit's window, she saw the victim lying at the bottom of the block of flats. [\[note: 77\]](#) She testified that the shout "Argh!" sounded as though it was produced by someone who was in pain. [\[note: 78\]](#) I found this to be consistent with the scenario where the victim was conscious as it was logical that only conscious persons would be able to shout and at such a loud volume. At that time, the victim was the only female person in the Flat who could have shouted out in that manner. Dr Wee agreed in his testimony that if the victim was unconscious, she would not have been capable of shouting. [\[note: 79\]](#)

60 It therefore appeared that the victim had scaled the kitchen wall or hauled herself over it in preparation for her jump down from the Flat in order to escape. This would account for the presence of the two small drops of blood found at the kitchen window frame which were tested by Ms Ang and found to be the victim's blood. [\[note: 80\]](#) A logical explanation for this would be that the victim had leaned her head over the kitchen window while climbing over the kitchen wall. This process, undoubtedly requiring some time, would have given sufficient time for not one, but two drops of blood from the victim's chin laceration to drip onto that kitchen window frame. If she had been thrown out of the window, then it was far more unlikely for there to be sufficient time for the two drops of blood, probably from the lacerated wound on her chin, to be deposited on the kitchen window frame.

61 Furthermore, Dr Mohan testified that the victim having survived a fall of two storeys with the serious injuries she sustained had recovered relatively quickly from them. This indicated that she was a fairly robust person (see [51] above). [\[note: 81\]](#) He also raised the possibility of the victim's acts of climbing and jumping being fuelled by an adrenaline rush. [\[note: 82\]](#) This therefore suggested that it was not implausible for her to have scaled the kitchen wall, climbed over the kitchen window and jumped out of it, eventually landing on the ground floor below. I would add that the flat was on the second floor of the block and to a desperate person in the victim's circumstances, it was plausible that she thought it was a viable route of escape being of such a height that she could jump down and escape relatively unscathed. Escape using the front door was not possible for the victim as the accused was, according to him, at the entrance to the Flat at that point of time.

62 This version of events was more or less in line with what the accused described had happened. In his long statement, he stated that he saw a shadow jump over the kitchen window when he had turned his head to look in that direction while he was trying to pry open the gate. [\[note: 83\]](#) He testified that he had heard the sound "bomp" [\[note: 84\]](#) when that happened. He could not find the victim in the master bedroom where he had left her. And when he peered out of the kitchen window

of the Flat and saw the victim lying on the ground floor below, he became fearful and nervous of the possible adverse implications of the situation, causing him to mutter to himself "Oh God, I die today". Therefore, even though I did not find his narration of the other events such as the two rapes and the strangulation to be convincing or credible, I was of the view that, only in relation to this point, his narration was consistent with the available objective evidence and the testimonies of some of the other witnesses. Separately, I would reiterate that while the victim had insisted that she had been pushed or thrown out of the kitchen window, it would appear that this was based on an assumption on her part. She did not know for a fact whether she had been thrown out of the window. [\[note: 85\]](#) She had only reasoned that this had to be so given that she was found at the bottom of the block of flats [\[note: 86\]](#) and she remembered losing consciousness in the master bedroom and regaining consciousness only in hospital. I therefore discounted her evidence that she was thrown out of the kitchen window by the accused.

63 As for the apparent disconnect where she was apparently lucid when Parademic Hanafiah and Dr Mohan had attended to her, but yet was unable to recall certain aspects of the events of that day in court, such as whether she had been thrown out of the window or if she had jumped out on her own, Dr Tang Hui Kheng (PW 50), consultant at CGH's Department of Psychological Medicine, testified that this was not unusual and could present itself in patients who had undergone some sort of trauma. [\[note: 87\]](#)

64 From the foregoing then, I found that the prosecution had not proven beyond reasonable doubt that the accused had thrown the victim down from the kitchen window of the Flat which was located on the second floor. I found instead that it was more likely that the victim had climbed over the kitchen window frame and jumped down, landing on her right foot on the ground floor. That said, as I have mentioned above at [49], there was no need to rely on this fact to find the accused guilty of the offence of attempted murder, although this fact, if proved, would have been relevant to the question of sentence. I therefore amended the Third Charge by deleting the words "and thereafter threw her down from the kitchen window of the 2nd storey of the said block of flats".

65 Before I delivered judgment, the Amended Third Charge, as set out at [3] above, was read to the accused and he was called on to take the plea on it and to indicate if he was ready to be tried on this amended charge. He pleaded not guilty to the Amended Third Charge. The Prosecution and the Defence were accordingly asked if they had any intention to call any other witnesses to testify in relation to the Amended Third Charge. Both indicated in the negative. As the Amended Third Charge simply saw the deletion of the fact of the accused throwing the victim down from the Flat's kitchen window, I was of the view that no prejudice would be caused to the accused if the evidence already adduced at the trial stood. I therefore found the accused guilty of the Amended Third Charge for the reasons set out above and convicted him of this amended charge accordingly.

The Fourth Charge of voluntarily causing hurt by dangerous weapons or means

66 The instrument used to cause hurt to the victim in this case was the pair of scissors with the red and black handles (Exhibit P 181) which was retrieved by the accused from a kitchen drawer. The two areas on the victim's body subjected to hurt as set out in the charge were her abdomen and chin. The accused did not deny that he had poked the victim with the pair of scissors in the first area. In his long statement, he stated that he had poked the victim's right waist using a pair of scissors and did this twice or thrice. [\[note: 88\]](#) I did not think that the specific area of the victim's body which he referred to was of material consequence given that he admitted to poking her in the abdomen during re-examination. [\[note: 89\]](#)

67 The latter injury is of more interest because the accused denied outright his infliction of any injury on the victim by cutting her chin with the scissors. However, it was clear that the victim's statement and testimony and, more importantly, the objective evidence showed otherwise. The victim testified that when they were in the master bedroom, the accused placed the scissors on the part of the neck immediately below her chin, or, her lower chin. [\[note: 90\]](#) She stated similarly in her statement that she had felt pain when he placed the scissors on her neck. As for the objective evidence, Ms Ang testified that she had found the victim's blood on the blade of that pair of scissors. [\[note: 91\]](#) Also, Dr Tong Pei Yein ("Dr Tong") (PW 18), the medical officer in CGH's Orthopaedic Surgery who had examined the victim, found amongst other injuries, that the victim had sustained a chin laceration which was sutured in the ward. This was supported by the testimony of Dr Mohan who had examined the victim in the A&E Department when she was brought to the hospital. He testified that the chin laceration would have been inflicted by a cut or a blow from a very sharp object, [\[note: 92\]](#) and not from a blunt force which would be a consequence of a fall. Taken together, the necessary inference was that the accused had in fact inflicted a cut to the victim's chin with that pair of scissors, causing her to bleed. I rejected the suggestion made by the defence that the cut on the victim's chin was a consequence of an impact with the edge of the kitchen window frame as there was no evidence presented to demonstrate that this site was a sharp edged one.

68 The accused stated in his long statement that he had used the scissors to poke the victim's abdomen simply to scare her. However, I was of the view that he had used the scissors to poke the victim's abdomen and cut her chin with the intention of causing hurt and with the knowledge that bodily hurt would be caused to the victim.

69 Therefore, I found the Fourth Charge of voluntarily causing hurt by dangerous weapons or means made out on these facts and convicted the accused accordingly.

The Fifth Charge of house-trespass with preparation to assault

70 I found that the offence of house-trespass with preparation made to assault the victim also established on the facts. It was not disputed by the defence that the accused had entered into the Flat, which was a dwelling house for the victim's employers and the victim. I accepted the description of events by the victim as to what had happened at that particular point in time when the accused trespassed into the Flat (see [10] above). Her account was reflected in the conditioned statement of Sergeant Norhafizah Kamaludin (PW 4), a police officer attached to Serangoon Neighbourhood Police Centre, Ang Mo Kio Police Division, who was present at the scene to render assistance to the victim. She stated there that the victim informed her that the accused from the unit opposite had "forced himself" into the Flat. [\[note: 93\]](#) This suggested that the victim did not give any indication whether by words or action to invite the accused into the Flat. Also, as the prosecution rightly submitted, the accused's own version of facts suggested that he did trespass on the Flat. [\[note: 94\]](#) According to the accused in his long statement, the victim had told him to "faster go" [\[note: 95\]](#) when he had just stepped into the flat, and the accused said that he understood this to mean that the victim was asking him to leave the house. This clearly signalled that he was unwelcome to the Flat, but despite this he still chose not to leave the premises.

71 The victim testified that she had shouted "*tolong tolong*" in a call for help when the accused pushed her into the Flat. [\[note: 96\]](#) This was because she genuinely feared for her own safety. The victim was also consistent in denying that any conversation had taken place between her and the accused before he unilaterally barged into the Flat. [\[note: 97\]](#) The accused had immediately shut the main door after him upon entry into the flat. I agreed with the prosecution's submissions that all these

taken together generated in the victim a very real fear that she would suffer physical hurt or violence at the hands of the accused. For an assault to be said to have occurred, no actual application of force is needed. Rather, it sufficed that the accused had made a physical gesture which was intended or likely to cause apprehension by the victim of some immediate physical force: Koh Kheng Lian, Christopher MV Clarkson & NA Morgan, *Criminal Law in Singapore and Malaysia, Text and Materials* (Malayan Law Journal, 1989).

72 I also observed that the accused already harboured the intention of raping the victim before he entered the flat. He had, as the prosecution submitted, [\[note: 98\]](#) brought along the raffia string to subdue the victim if need be. Taken together, this was also inconsistent with the accused's claim that the victim consented to the acts of sexual intercourse. Further, as I had found earlier (see [32]–[41] above), the accused had indeed raped the victim in the Flat. In the circumstances, I convicted the accused of this Fifth Charge.

Sentence

73 In respect of the First and Second Charges of rape, the prosecution sought a sentence of upwards of 15 years' imprisonment in addition to 12 strokes of the cane for each charge. The First and Second Charges for the offence under 375(1)(a) of the Penal Code were, under s 375(1)(i), punishable with a term of imprisonment of not less than 8 years and not more than 20 years and with caning with not less than 12 strokes. The prosecution referred me to the case of *Public Prosecutor v Robiul Bhoreshuddin Mondal* [2010] SGHC 10. There, the accused had broken into a house at night and raped an Indonesian maid four times. The High Court sentenced him to 15 years' imprisonment and 12 strokes of the cane in respect of each of the aggravated rape charges he was convicted of. In contrast, the defence submitted that the lack of aggravating factors in this case meant that the imposition of a draconian sentence ordinarily imposed on offenders who posed more than an ordinary danger to society was not appropriate.

74 I was of the view that the appropriate sentence for the First and Second Charges was 15 years' imprisonment and 12 strokes of the cane for each charge. Although there was no abuse of a familial relationship, position of trust or authority in the present case, the accused was not a stranger to the victim, and that in part allowed him to carry out his scheme as he did. The offences were pre-meditated. The accused had taken elaborate steps to lure the victim out of the Flat to give him an opportunity to attack her. I also considered that the victim was raped at what could be described as her home in Singapore, and in doing so, the accused violated what should have been a place of safety and security for her. Lastly, I could not give the accused any discount on the sentence given that he had claimed trial and put the victim through the ordeal of testifying and being cross-examined in court on the events she suffered at his hands.

75 For the purposes of the present case, s 307(1) of the Penal Code provides that where hurt is caused in the commission of the offence of attempted murder, the offender shall be liable either to imprisonment for life, or to imprisonment for a term which may extend to 20 years, and shall also be liable to caning or a fine or both. In light of my finding that the prosecution had not proven a reasonable doubt that the accused had thrown the victim from the second floor unit and the Third Charge was accordingly amended to take this into account, the defence submitted that the appropriate sentence was one at the lower spectrum of 20 years' imprisonment and not a sentence of life imprisonment. The prosecution submitted that the facts of the present case were of such a nature that the accused was deserving of not less than 15 years' imprisonment and 6 strokes of the cane for the amended Third Charge. I took into account the fact that the accused had brought the raffia string with him and had used it to strangle her until she was unconscious and to such a degree of oxygen deprivation that she suffered urinary incontinence. He had intended to kill her by

strangulation to prevent her from identifying him as the perpetrator of the rape, and fortunately for the accused, she survived. If it were otherwise, he would be facing the death penalty. In the circumstances, I sentenced the accused to 12 years' imprisonment and 6 strokes of the cane in respect of the Amended Third Charge.

76 For the Fourth Charge of voluntarily causing hurt by a dangerous weapon, the Prosecution submitted that the sentences ordinarily meted out by the courts ranged from 4 weeks' imprisonment to 3 years' imprisonment. I did not accept the prosecution's reliance on *Public Prosecutor v Iryan bin Abdul Karim and others* [2010] 2 SLR 15, which involved the offence of causing hurt by means of a substance deleterious for the human body to swallow and where the offenders were sentenced to 4 years' imprisonment and 4 strokes of the cane. Given that the accused had cut the victim under the chin with a pair of scissors and the wound inflicted was not too serious, I decided that the appropriate sentence was 1.5 years' imprisonment.

77 Finally, I sentenced the accused to 1.5 years' imprisonment for the offence of house-trespass after preparation had been made for causing hurt.

78 In the light of the requirement under s 307(1) Criminal Procedure Code (Cap 68, 2012 Rev Ed) that if a person is convicted and sentenced to imprisonment for at least three distinct offences, the court must order the sentences for at least two of those offences to run consecutively, the defence urged me not to order any two of the sentences for the first three charges to run consecutively because that would offend the totality principle as it would impose a "crushing sentence" on the accused. For this, the defence relied on *Kanagasuntharam v Public Prosecutor* [1991] 2 SLR(R) 874. I did not agree with the defence's submission. I ordered that the sentences for the First Charge and the Amended Third Charge to run consecutively. I considered the serious nature of the various offences and the circumstances under which they were committed. The accused had satisfied his lust after raping the victim twice. Thereafter, he decided to strangle the victim with the intention of killing her so that she would not be able to report him to the police for having raped her and in doing so, he committed another serious offence of attempted murder, which was also a completely unrelated offence. As the accused was known to the victim, I was not surprised that the accused wanted to silence her permanently by strangulation. I did not think that ordering the sentences for the First Charge and the Amended Third Charge to run consecutively (and with the other sentences to run concurrently) offended the totality principle because it was a "crushing sentence". The overall criminality of the acts of the accused fully justified the individual sentences and the overall sentence imposed.

Conclusion

79 To conclude, for the foregoing reasons, I convicted the accused of the First, Second, Amended Third, Fourth and Fifth Charges. The aggregate sentence was 27 years' imprisonment and 24 strokes of the cane.

[\[note: 1\]](#) Prosecution's Opening Address dated 20 February 2012, labeled ("B").

[\[note: 2\]](#) Agreed Bundle ("AB") at p10–14.

[\[note: 3\]](#) AB at p 246–254.

[\[note: 4\]](#) AB at p 255–258.

[\[note: 5\]](#) AB at p 218.

[\[note: 6\]](#) NE at 1:14.

[\[note: 7\]](#) NE at 2:82.

[\[note: 8\]](#) NE at 8:36.

[\[note: 9\]](#) NE at 1:74.

[\[note: 10\]](#) NE at 1:74.

[\[note: 11\]](#) NE at 3:28–29.

[\[note: 12\]](#) NE at 1:88–89.

[\[note: 13\]](#) NE at 2:8.

[\[note: 14\]](#) NE at 3:82–84, and 4:92–93.

[\[note: 15\]](#) NE at 4:84.

[\[note: 16\]](#) NE at 4:78.

[\[note: 17\]](#) NE at 5:91.

[\[note: 18\]](#) Prosecution’s Closing Submissions at para 30(vi) and (vii).

[\[note: 19\]](#) Statement of Agreed facts marked as “C” at para 24.

[\[note: 20\]](#) NE at 3:151.

[\[note: 21\]](#) Marked P 139.

[\[note: 22\]](#) NE at 2:35.

[\[note: 23\]](#) NE at 4:9.

[\[note: 24\]](#) AB at p 250.

[\[note: 25\]](#) NE at 1:87.

[\[note: 26\]](#) Prosecution’s Closing Submissions at para 37.

[\[note: 27\]](#) AB at p 251–252.

[\[note: 28\]](#) AB at p 116.

[\[note: 29\]](#) Photograph P 102.

[\[note: 30\]](#) NE at 5:100.

[\[note: 31\]](#) NE at 5:99.

[\[note: 32\]](#) NE at 2:47.

[\[note: 33\]](#) AB at p 14.

[\[note: 34\]](#) NE at 1:43.

[\[note: 35\]](#) AB at p 22 and AB at p 25.

[\[note: 36\]](#) AB at p 32.

[\[note: 37\]](#) NE at 8:86.

[\[note: 38\]](#) AB at p 251.

[\[note: 39\]](#) NE at 8:86.

[\[note: 40\]](#) NE at 8:81.

[\[note: 41\]](#) NE at 5:103.

[\[note: 42\]](#) AB at p 253.

[\[note: 43\]](#) NE at 8:91.

[\[note: 44\]](#) NE at 5:59.

[\[note: 45\]](#) NE at 8:92.

[\[note: 46\]](#) NE at 5:110.

[\[note: 47\]](#) NE at 5:112.

[\[note: 48\]](#) NE at 5:117.

[\[note: 49\]](#) NE at 5:114.

[\[note: 50\]](#) NE at 5:119.

[\[note: 51\]](#) NE at 5:65.

[\[note: 52\]](#) NE at 4:53.

[\[note: 53\]](#) Last line of D3 and see also NE at 4:52.

[\[note: 54\]](#) NE at 4:52.

[\[note: 55\]](#) NE at 3:151.

[\[note: 56\]](#) NE at 3:151.

[\[note: 57\]](#) NE at 4:15.

[\[note: 58\]](#) NE at 4:12.

[\[note: 59\]](#) NE at 4:11–4:12.

[\[note: 60\]](#) Last line of item 12 of exhibit P 122.

[\[note: 61\]](#) NE at 3:144.

[\[note: 62\]](#) NE at 3:108.

[\[note: 63\]](#) NE at 5:24.

[\[note: 64\]](#) NE at 5:31.

[\[note: 65\]](#) Exhibit D1; see also NE at 2:109.

[\[note: 66\]](#) NE at 2:110.

[\[note: 67\]](#) NE at 2:109.

[\[note: 68\]](#) NE at 2:106.

[\[note: 69\]](#) NE at 5:54.

[\[note: 70\]](#) NE at 2:111–2:112.

[\[note: 71\]](#) NE at 5:54.

[\[note: 72\]](#) AB at p 192.

[\[note: 73\]](#) NE at 5:55.

[\[note: 74\]](#) NE at 5:30 and 5:49.

[\[note: 75\]](#) NE at 5:188–5:120.

[\[note: 76\]](#) NE at 5:55.

[\[note: 77\]](#) AB at p 20.

[\[note: 78\]](#) NE at 3:51.

[\[note: 79\]](#) NE at 5:121.

[\[note: 80\]](#) Statement of Agreed Facts marked as (“C”) at para 19.

[\[note: 81\]](#) NE at 5:65–5:66.

[\[note: 82\]](#) NE at 5:62.

[\[note: 83\]](#) AB at p 253.

[\[note: 84\]](#) NE at 8:114.

[\[note: 85\]](#) NE at 2:39 and 2:18.

[\[note: 86\]](#) NE at 2:19.

[\[note: 87\]](#) NE at 6:97.

[\[note: 88\]](#) AB at p 252.

[\[note: 89\]](#) NE at 8:111.

[\[note: 90\]](#) NE at 1:40 and 2:9.

[\[note: 91\]](#) NE at 6:47.

[\[note: 92\]](#) NE at 5:53.

[\[note: 93\]](#) NE at 3:24 and AB at p 34.

[\[note: 94\]](#) Prosecution’s Closing Submissions at para 43–46.

[\[note: 95\]](#) AB at p 249.

[\[note: 96\]](#) NE at 1:75.

[\[note: 97\]](#) NE at 1:76.

[\[note: 98\]](#) Prosecution's Closing Submissions at para 37.

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