

Public Prosecutor v Abdul Haleem bin Abdul Karim and another
[2013] SGHC 110

Case Number : Criminal Case No 4 of 2013
Decision Date : 20 May 2013
Tribunal/Court : High Court
Coram : Tay Yong Kwang J
Counsel Name(s) : Shahla Iqbal and Ruth Wong, DPPs (Attorney-General's Chambers) for the prosecution; Ramesh Tiwary (Ramesh Tiwary) and K Prasad (K Prasad & Co) for the first accused; Mohd Muzammil Bin Mohd (Muzammil & Co) and Lam Wai Sing (Lam W S & Co) for the second accused.
Parties : Public Prosecutor — Abdul Haleem bin Abdul Karim and another

Criminal Law – Statutory offences – Misuse of Drugs Act

20 May 2013

Tay Yong Kwang J:

1 The first accused, Abdul Haleem Bin Abdul Karim (“Abdul Haleem”), and the second accused, Muhammad Ridzuan Bin Md Ali (“Ridzuan”), were both tried and convicted on two charges of trafficking in diamorphine under s 5(1)(a) of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) (“MDA”) read with s 34 of the Penal Code (Cap 224, 2008 Rev Ed) (“Penal Code”). The two charges read as follows:

That you **ABDUL HALEEM BIN ABDUL KARIM/MUHAMMAD RIDZUAN BIN MD ALI**,

1st charge (“the First Charge”)

on 6 May 2010, at about 6.40 pm, at Block 22 Jalan Tenteram #03-555 Singapore 320022, together with one [**Muhammad Ridzuan Bin Md Ali, NRIC No. SXXXXXXXX-X** for the charge against Abdul Haleem/**Abdul Haleem Bin Abdul Karim, NRIC No. SXXXXXXXX-X** for the charge against Ridzuan], in furtherance of the common intention of both of you, did traffic in a controlled drug specified in Class “A” of the First Schedule to the Misuse of Drugs Act, Chapter 185, to wit, by having in your possession for the purpose of trafficking, 7 large packets of substances, that were analysed and found to contain not less than **72.50 grams of diamorphine**, without any authorisation under the said Act or the Regulations made thereunder and you have thereby committed an offence under section 5(1)(a) read with section 5(2) of the Misuse of Drugs Act read with section 34 of the Penal Code, Chapter 224, and punishable under section 33 read with the Second Schedule to the Misuse of Drugs Act, and further upon your conviction under section 5(1)(a) read with section 5(2) of the Misuse of Drugs Act read with section 34 of the Penal Code, you may alternatively be liable to be punished under section 33B of the Misuse of Drugs Act.

2nd charge (the “Second Charge”)

on 6 May 2010, at about 6.40 pm, at Block 22 Jalan Tenteram #03-555 Singapore 320022, together with one [**Muhammad Ridzuan Bin Md Ali, NRIC No. SXXXXXXXX-X** for the charge

against Abdul Haleem/**Abdul Haleem Bin Abdul Karim, NRIC No. SXXXXXXX-X** for the charge against Ridzuan], in furtherance of the common intention of both of you, did traffic in a controlled drug specified in Class "A" of the First Schedule to the Misuse of Drugs Act, Chapter 185, to wit, by having in your possession for the purpose of trafficking, 21 small packets and 1 large packet of substances, that were analysed and found to contain not more than **14.99 grams of diamorphine**, without any authorisation under the said Act or the Regulations made thereunder and you have thereby committed an offence under section 5(1)(a) read with section 5(2) of the Misuse of Drugs Act read with section 34 of the Penal Code, Chapter 224, and punishable under section 33 read with the Second Schedule to the Misuse of Drugs Act.

The First Charge involves capital punishment while the Second Charge does not. Six additional charges of various consumption and possession offences under the MDA were also preferred against Abdul Haleem and five additional charges under the MDA were preferred against Ridzuan. These charges were stood down and subsequently withdrawn following the conviction of Abdul Haleem and Ridzuan on the First and Second Charges.

2 At the commencement of the trial, I allowed the Prosecution's application under s 170(1) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) ("CPC") for the joinder of the First and Second Charges in a single trial as the two charges constituted "one series of acts so connected together as to form the same transaction". I also granted the Prosecution's application for Abdul Haleem and Ridzuan to be jointly tried under s 176 of the CPC on the ground that they both faced charges for the same offences committed in the same transaction. Counsel for Abdul Haleem, Mr Ramesh Tiwary ("Mr Tiwary"), and counsel for Ridzuan, Mr Muzammil Bin Mohd ("Mr Muzammil"), did not object to the Prosecution's applications.

3 After the respective charges were read to the accused persons, both Abdul Haleem and Ridzuan pleaded guilty to their respective First and Second Charges. However, as the First Charge involved capital punishment, I rejected the pleas of guilt and proceeded with the trial. As the trial proceeded, Ridzuan contested the Prosecution's evidence in material aspects.

4 I was satisfied beyond reasonable doubt that Abdul Haleem and Ridzuan were both guilty as charged and convicted them at the conclusion of the trial. Due to their different circumstances (which will be elaborated upon subsequently), Abdul Haleem did not receive the death sentence while Ridzuan was given the mandatory death sentence in respect of the First Charge. Ridzuan has appealed against his conviction and sentence and I now set out the grounds of my decision.

Background facts

5 Abdul Haleem is a 29-year old Singaporean. Ridzuan is a 27-year old Singaporean who was residing at Block 22 Jalan Tenteram #03-555, Singapore 320022 ("the Flat") at the time of arrest. They were previously employed as bouncers in the same night club and had known each other for about a year prior to the date of arrest.

6 The events that preceded the arrest of Abdul Haleem and Ridzuan were not in dispute. Indeed, much of the Prosecution's evidence was not challenged by the accused persons, particularly Abdul Haleem.

7 On 6 May 2010, officers from the Central Narcotics Bureau ("CNB") conducted an operation at Block 22 Jalan Tenteram ("Block 22"). The CNB officers were instructed to look out for a male Malay subject wearing a green top who was believed to be receiving a consignment of drugs. At about 5.50pm, a black car with a Malaysian licence plate turned into the public car park in the vicinity of

Block 22. Abdul Haleem got into the front passenger seat of the car and a number of CNB officers tailed the car to Balestier Road before losing sight of the car. The CNB officers drove back to Block 22 after receiving information that Abdul Haleem would return to the scene. An additional team of CNB officers was also dispatched to the scene.

8 At about 6.30pm, Ridzuan's relative, one Nuraihan Binte Kasman ("Nuraihan"), was seen approaching a taxi that had stopped along Jalan Bahagia, the main road adjacent to Block 22. Abdul Haleem, who was carrying a black sling bag, then alighted from the taxi. Abdul Haleem walked towards the staircase located at the right side of Block 22. He started running after spotting a number of CNB officers walking in his direction. The CNB officers gave chase and he ran into the bedroom of the Flat and locked the door.

9 The CNB officers went into the Flat and forced open the bedroom door. They found Abdul Haleem and Ridzuan in the bedroom with three other men, Mohamad Fairus Bin Abdul Hamid, Shaffik Bin Nassar Bin Issa Bin Abdat and Faizal Bin Abdul Hamid. These three men were not implicated in the offences in question. Staff Sergeant Muhammad Faizal Bin Baharin ("SSgt Faizal") asked Abdul Haleem, "Where is the thing?" in Malay. Abdul Haleem replied that the black sling bag was on top of the cupboard in the bedroom. The sling bag was retrieved and found to contain eight bundles covered in black tape. When Ridzuan was asked whether he had any other drugs to surrender, he directed the CNB officers to the television bench in the bedroom. There they recovered a plastic bag containing 20 plastic sachets filled with a brown crystalline substance, a single semi-filled plastic sachet with a brown granular substance, two tablets believed to be Erimin-5, one tablet believed to be Ecstasy and one sachet of white crystalline substance which Abdul Haleem and Ridzuan later claimed to be 'Ice', together with various drug paraphernalia.

10 Assistant Superintendent Qamarul Zaman Bin Hussin ("ASP Qamarul") recorded two contemporaneous statements from Abdul Haleem and Ridzuan in Malay. The material portions of Abdul Haleem's translated contemporaneous statements are as follows: [\[note: 1\]](#)

Q1 There are 8 black bundles in front of you, what are all these?

A1 'Panas' heroin.

Q2 Who does these 8 bundles belong to?

A2 Mario. I only collected from 'Chinese budak' and send back to Mario.

...

There was no dispute that Mario referred to Ridzuan (also known as "Black"). In Ridzuan's contemporaneous statement given shortly thereafter, he denied any knowledge of the presence or contents of the eight bundles and claimed that Abdul Haleem had simply run into his bedroom with the sling bag which contained the eight bundles.

11 The eight bundles and 21 plastic sachets were analysed by the Health Sciences Authority. The results indicated that the eight bundles contained not less than 10.13 grams of diamorphine, not less than 11.75 grams of diamorphine, not less than 10.09 grams of diamorphine, not less than 10.59 grams of diamorphine, not less than 9.30 grams of diamorphine, not less than 9.50 grams of diamorphine, not less than 10.50 grams of diamorphine and not less than 9.94 grams of diamorphine. The brown crystalline substance found in the 21 plastic sachets were found to contain not less than 6.16 grams of diamorphine.

12 The diamorphine found in seven of the eight bundles formed the subject of the First Charge and the diamorphine found in the remaining bundle and the 21 plastic sachets formed the subject of the Second Charge. The Prosecution preferred two separate charges against Abdul Haleem and Ridzuan, each relating to discrete portions of the seized heroin, because they both admitted that they had purchased one of the eight bundles for their own purposes and had intended to sell that bundle of heroin. The 21 plastic sachets also formed part of the heroin that they had repackaged for sale. Abdul Haleem and Ridzuan contended that they had only agreed to receive the other seven bundles which would subsequently be collected by or delivered to other customers of their drug supplier. CNB officer Assistant Superintendent Stanley Seah Choon Keng ("ASP Seah") testified that investigations by the CNB had confirmed this account. [\[note: 21\]](#) Although the bundles were received as an undifferentiated whole, the Prosecution gave the two accused persons the benefit of the doubt and selected the bundle that contained the lowest amount of diamorphine, that is, the bundle that contained not less than 9.30 grams of diamorphine, as the bundle that the two accused persons claimed to have received for the purpose of sale by them.

The Prosecution's case

13 The following account is derived from the statements recorded from Abdul Haleem and Ridzuan, which were admitted in evidence, as well as their oral testimony at trial.

14 Sometime in February 2010, Ridzuan met one Rosli at a drinks stall in Johor Baru. Rosli asked him if he was interested in trafficking drugs. Rosli informed him that he could supply drugs and Ridzuan gave Rosli his telephone number. Ridzuan disputed the accuracy of his long statement recorded on 10 May 2010, where he was recorded to have said "I did not tell him that I was interested then". Ridzuan claimed that he had actually said in Malay that he told Rosli that he was not interested. This discrepancy was, in any case, inconsequential, as Ridzuan admitted that he later agreed to purchase heroin from one Afad – who identified himself as Rosli's friend – who subsequently contacted Ridzuan repeatedly and asked if he was interested in obtaining drugs. Afad told Ridzuan that he could purchase one 'ball' of heroin for \$7,000 which he could repack into about 40 smaller packets and sell for \$300 each, giving him a profit of about \$5,000.

15 Ridzuan asked Abdul Haleem if he was interested in selling heroin together as partners. They agreed to purchase one 'ball' of heroin to repack and sell. Neither of them had experience in selling heroin but Ridzuan approached Abdul Haleem as he thought that Abdul Haleem needed the additional income. The arrangement was that Ridzuan would deal with the supplier and provide the capital to purchase the heroin. Ridzuan had some savings as he had worked as a rigger for some ten months, earning about \$3,000 per month. Both of them would do the repacking together in the Flat and also look for customers. They would then split the profit equally. Evidence was adduced at trial from a number of CNB officers that in the drug trade, one 'ball' of heroin had a gross weight of around 450 g to 480 g [\[note: 31\]](#) and a street value of about \$4,000 to \$5,000. [\[note: 41\]](#) Ridzuan did not tell Abdul Haleem when they would obtain the supply of heroin and the source thereof.

16 On 4 May 2010, Afad called Ridzuan again to ask if he was interested in ordering heroin and Ridzuan agreed to purchase one 'ball' of heroin for \$7,000. Afad told Ridzuan to wait for a phone call from one Gemuk, who would tell him when he could collect the heroin from a jockey (*ie*, a courier). At about 2.00pm on 5 May 2010, Gemuk called Ridzuan from a private number and told him that a jockey would deliver half a 'ball' of heroin that day and the second half subsequently. Five to ten minutes later, the jockey called Ridzuan and agreed to Ridzuan's request for him to deliver the heroin to the car park in the vicinity of Block 22. Ridzuan passed Abdul Haleem \$7,000 in cash for the one 'ball' of heroin and instructed Abdul Haleem to collect half a 'ball' of heroin from the jockey who was waiting

at the roundabout in the car park.

17 After collecting one bundle of heroin from the jockey, who was a Chinese man driving a black car with a Malaysian licence plate, Abdul Haleem returned to the Flat. Abdul Haleem and Ridzuan then repacked the heroin into 20 small plastic sachets each containing about eight grams of heroin. There was a small amount of granular heroin left over and they kept that with the intention of packing it together with the next batch of heroin that they would be receiving. After repacking the heroin, they put the sachets into four envelopes, with each envelope containing five sachets. The four envelopes were then placed in a plastic bag and stored in the bedroom of the Flat as they had not found any customers yet. The bundle of heroin that Abdul Haleem collected also included two Erimin-5 tablets, which Ridzuan claimed were "samples" from Gemuk.

18 On 6 May 2010, Abdul Haleem went to the Flat to play video games. At about 5.00pm, Ridzuan received a call from Gemuk who told him to "standby" to collect the remaining half 'ball' of heroin. According to Ridzuan's long statement recorded on 11 May 2010, Gemuk told Ridzuan that he would also be passing "some more bundles of heroin" [\[note: 5\]](#) to Ridzuan and that Ridzuan could just take one bundle that was his. Ridzuan testified that he actually mentioned the Malay word "dadah" (drugs) and not "heroin" as recorded. Gemuk asked Ridzuan to keep the bundles first and said that people would call him to make arrangements to collect the bundles. Gemuk did not say how many bundles there would be or how many persons would be collecting those bundles. Ridzuan then told Abdul Haleem that the jockey would be delivering "a few more 'balls' of heroin" [\[note: 6\]](#) but only half a 'ball' was for them and the remaining 'balls' of heroin would be collected from them by the other customers of the drug supplier. Shortly after, the jockey called Ridzuan and agreed to deliver the heroin to Block 22. The jockey called again about half an hour later to tell Ridzuan that he had arrived at the agreed destination.

19 Abdul Haleem then went downstairs to the car park to collect the heroin and saw the same jockey seated in the black car waiting at the roundabout. Abdul Haleem testified that although Ridzuan had not asked him to collect the heroin, he had volunteered to do so as Ridzuan had paid for the heroin. [\[note: 7\]](#) The jockey told him that they should drive out first as there was "quite a lot of heroin". [\[note: 8\]](#) The jockey then drove to the car park at Novena Square where he passed Abdul Haleem eight bundles of heroin wrapped in black tape. Abdul Haleem took a taxi back to Block 22 but as he had forgotten to bring his wallet, he called Ridzuan to meet him to pay the taxi fare. Ridzuan asked Nuraihan, who was sitting in the living room, to meet Abdul Haleem to pass him the money for the taxi fare. Nuraihan waited for Abdul Haleem along the road near Block 22 and passed him \$20. After Abdul Haleem alighted from the taxi, he noticed the CNB officers at the car park and therefore ran up to the Flat, where he was subsequently arrested.

20 The Prosecution's case against Abdul Haleem for both the First and Second Charges was straightforward. For the First Charge, the Prosecution submitted that Abdul Haleem had physical possession of the seven bundles of heroin found in the black sling bag that he was carrying and that Abdul Haleem had made numerous incriminating admissions that he had actual knowledge that the seven bundles contained heroin. Abdul Haleem also admitted that he had intended to deliver the bundles to Ridzuan and/or was prepared to deliver them to Gemuk's other customers; he was thus in possession of the heroin for the purpose of trafficking. With respect to the Second Charge, Abdul Haleem had admitted that he had entered into an agreement with Ridzuan to sell heroin and thereby had a common intention to traffic in the heroin forming the subject of the Second Charge, *ie*, the 21 plastic sachets and one of the eight bundles.

21 The Prosecution's case against Ridzuan in relation to the First Charge was that Ridzuan was in

joint possession of the seven bundles with Abdul Haleem as:

- (a) Gemuk had informed Ridzuan that he would be passing him additional bundles and had told him to keep the bundles first before handing them to persons who would contact him later;
- (b) Ridzuan agreed to this arrangement and informed Abdul Haleem that the jockey would be passing them additional bundles; and
- (c) Abdul Haleem collected and was in possession of the seven additional bundles pursuant to this arrangement.

The Prosecution submitted that Ridzuan had impliedly admitted in his long statements that he had actual knowledge that the additional bundles contained heroin and that this was corroborated by Abdul Haleem's evidence. In the alternative, the Prosecution argued that Ridzuan had not rebutted the presumption of knowledge of the nature of the controlled drug under s 18(2) of the MDA. All the elements of the First Charge under s 5(1)(a) were therefore satisfied. With respect to the Second Charge, Ridzuan did not deny that he had agreed with Abdul Haleem to sell the heroin found in the 21 plastic sachets and one of the eight bundles and was in possession of the heroin for this purpose.

Abdul Haleem's case

22 Abdul Haleem admitted fully to the Prosecution's account of the events that took place on 6 May 2010 and did not challenge the admissibility or accuracy of his contemporaneous statement recorded by ASP Qamurul on 6 May 2010, two cautioned statements recorded on 7 May 2010 and 2 December 2010 under s 122(6) of the CPC for the Second Charge and First Charge respectively and three long statements recorded on 11 May 2010, 12 May 2010 and 13 May 2010. All the statements were admitted in evidence.

23 For both the First and the Second Charges, Mr Tiwary did not dispute that Abdul Haleem was in physical possession of heroin for the purpose of trafficking as defined in s 2 of the MDA and that Abdul Haleem had actual knowledge of the nature of the drugs in his possession. Mr Tiwary therefore only made submissions on the applicability of s 33B(2) of the MDA and argued that in relation to the First Charge, Abdul Haleem was only involved in "transporting, sending or delivering" the seven bundles of heroin that formed the subject of the First Charge. Mr Tiwary submitted that there was uncontroverted evidence that Abdul Haleem's only intention was to collect the seven additional bundles from the jockey and hand them to Ridzuan. He was therefore playing the role of a courier only.

Ridzuan's case

24 Ridzuan's account of his agreement with Abdul Haleem to sell heroin and the events that occurred on 5 May 2010 and 6 May 2010 was largely consistent with Abdul Haleem's. He did not dispute the admissibility or accuracy of the contemporaneous statement recorded by ASP Qamurul on 6 May 2010, the two cautioned statements recorded on 7 May 2010 and 2 December 2010 under s 122(6) of the CPC for the Second Charge and First Charge respectively and the long statement recorded on 12 May 2010. However, Ridzuan alleged that several portions of his long statements recorded on 10 May 2010 and 11 May 2010 had been inaccurately translated by the interpreter, Ms Marriana ("Marriana"), who was not a certified Malay language interpreter but was a native speaker of Bahasa Indonesia.

25 In particular, Ridzuan vehemently disputed the accuracy of the following portion of his long

statement recorded on 11 May 2010: [\[note: 9\]](#)

At about 5 pm, Gemuk called me to standby to receive the other half “ball” that I was supposed to receive. He also told me that he will also be passing *some more bundles of heroin* to me and told me to just take one bundle that was mine. [emphasis added]

Ridzuan alleged that Marriana had interpreted his words inaccurately because he used the Malay word “dadah” to refer to generic drugs and did not say that Gemuk told him that he would be receiving some more bundles of *heroin*. [\[note: 10\]](#) This was the only material dispute in relation to the accuracy of the long statements.

26 Ridzuan claimed that Gemuk did not tell him how many additional bundles the jockey would pass to him or how many persons would be collecting the bundles from him. He gave evidence that he had been expecting only one to two extra bundles and that he had thought that he would only have to hold the bundles for one or two hours [\[note: 11\]](#). He claimed that he would have thrown away the bundles if no one collected them after one or two hours as he did not want to risk his life. [\[note: 12\]](#) Ridzuan also explained that he denied knowledge of the presence of the eight bundles found in the black sling bag when questioned by ASP Qamarul as he did not know that the jockey would pass Abdul Haleem so many extra bundles. [\[note: 13\]](#)

27 With respect to the First Charge, Mr Muzammil submitted that Ridzuan did not know the additional number of bundles or the quantity of heroin that the jockey would pass to him and did not have actual knowledge that the additional bundles contained heroin. In essence, Ridzuan’s defence was one of denial of knowledge. Ridzuan did not have the common intention to traffic in the seven bundles of heroin as he did not know the number of additional bundles or the nature of the drugs contained in those bundles. Ridzuan admitted to all the facts pertaining to the Prosecution’s case for the Second Charge.

The decision of the court

The applicable law

28 It is established law that the required elements for a charge of trafficking under s 5(1) of the MDA are (see *Raman Selvam s/o Renganathan v PP* [2004] 1 SLR(R) 550 at [35]):

- (a) possession of a controlled drug (which may be proved or presumed under s 18(1) of the MDA);
- (b) knowledge of the nature of the drug (which may be proved or presumed under s 18(2) of the MDA); and
- (c) proof that the possession of the drug was for the purpose of trafficking which was not authorised.

“Trafficking” is defined in s 2 of the MDA:

“traffic” means —

- (a) to sell, give, administer, transport, send, deliver or distribute; or

(b) to offer to do anything mentioned in paragraph (a),

otherwise than under the authority of this Act, and “trafficking” has a corresponding meaning.

The charges against Abdul Haleem

29 I was satisfied that the Prosecution had proved its case beyond reasonable doubt against Abdul Haleem on both his First and Second Charges and convicted him accordingly.

30 In relation to the Second Charge, Abdul Haleem admitted that he had entered into an agreement with Ridzuan to purchase one ‘ball’ of heroin and to repack the heroin into smaller sachets for sale and they had in fact obtained one ‘ball’ of heroin for this purpose. Both the *actus reus* and *mens rea* of the Second Charge under s 5(1)(a) of the MDA read with s 34 of the Penal Code were thus made out.

31 Turning to the First Charge, it was not disputed that Abdul Haleem was in physical possession of the seven bundles forming the subject matter of the First Charge. He carried the seven bundles in his black sling bag after he collected them from the jockey. Abdul Haleem also made a number of express admissions – both in his long statements and in his oral testimony – that when he collected the seven bundles from the jockey on 6 May 2010, he was aware that all the bundles contained heroin and he had intended to deliver the heroin to Ridzuan [\[note: 14\]](#) or possibly to other customers of the drug supplier. [\[note: 15\]](#) All the elements of the First Charge under s 5(1)(a) of the MDA read with s 34 of the Penal Code were satisfied. Abdul Haleem was (a) in possession of the seven bundles of heroin with (b) actual knowledge that the seven bundles contained heroin for (c) the purpose of transporting, sending or delivering the bundles to another person, *ie*, Ridzuan or the drug supplier’s customers.

The charges against Ridzuan

32 I also found Ridzuan guilty in respect of both his First and Second Charges and convicted him accordingly.

33 Ridzuan accepted in full the Prosecution’s account of all the facts establishing the elements of the Second Charge. He did not dispute that he was in possession of the heroin forming the subject matter of the Second Charge and that he had kept the heroin in his bedroom. He also admitted that he was fully aware of the nature and quantity of the heroin. He was involved in packing the 21 sachets of heroin for sale to others and had asked Abdul Haleem to collect the remaining half ‘ball’ of heroin. Ridzuan also gave evidence that he bought the heroin pursuant to an agreement with Abdul Haleem to sell the heroin. The Second Charge was therefore proved beyond reasonable doubt.

34 I now consider the disputed First Charge. The only controversy of fact between Ridzuan and the Prosecution was whether Ridzuan was aware, when he informed Abdul Haleem that the jockey would be delivering the remaining half ‘ball’ of heroin as well as additional bundles that were meant for Gemuk’s other customers, that the additional bundles would contain heroin. Abdul Haleem’s and Ridzuan’s accounts of the events also essentially diverged only on this particular issue. Abdul Haleem claimed that, to the best of his recollection, Ridzuan had specifically told him that the jockey would be passing them additional bundles of *heroin* [\[note: 16\]](#). Ridzuan denied this [\[note: 17\]](#). Only element (b) (as set out above at [28]) was in controversy but I will briefly discuss elements (a) and (c) for completeness.

35 The Prosecution submitted that in furtherance of the common intention to traffic in heroin, Ridzuan was in joint possession of the seven bundles of heroin found in the black sling bag as Ridzuan knew that Abdul Haleem would be collecting additional bundles of controlled drugs – putting aside for present purposes the question of Ridzuan’s knowledge of the specific nature of the drugs – from the jockey. I accepted that there was sufficient evidence to find that Ridzuan was in joint possession of the seven bundles. Section 18(4) of the MDA states:

Where one of 2 or more persons with the knowledge and consent of the rest has any controlled drug in his possession, it shall be deemed to be in the possession of each and all of them.

Ridzuan claimed in his long statement and testified in court that he knew that Abdul Haleem would be collecting additional bundles of drugs from the jockey. Ridzuan was at all times the only person communicating with Gemuk and the jockey *via* telephone and Abdul Haleem had collected the bundles with Ridzuan’s consent and on his directions. Ridzuan did not deny Abdul Haleem’s evidence that Abdul Haleem’s immediate intended purpose in relation to the seven bundles was to pass them to Ridzuan. Section 18(4) therefore clearly applied to the facts in the present case. In the alternative, under s 18(1)(c) of the MDA, Ridzuan was presumed to have been in possession of the seven bundles of heroin as he admitted to having in his possession or custody “the keys of any place or premises or any part thereof in which a controlled drug is found”, *ie*, the Flat. [\[note: 18\]](#) No evidence was adduced to rebut this presumption.

36 On Ridzuan’s own account, I also found that Ridzuan and Abdul Haleem had the common intention to traffic drugs as they had both received the seven additional bundles of heroin for the purpose of transporting, sending or delivering the bundles to other customers of Gemuk. Ridzuan’s claim that he had only intended to hold the bundles for a short period of one or two hours was irrelevant as the purpose of trafficking crystallised when Abdul Haleem and Ridzuan agreed to receive the additional bundles from the jockey. In any event, his evidence that he would hold the bundles for only one or two hours was not believable as no time limit was mentioned by Gemuk. It also defied belief that he would dare to get rid of the bundles if there was no further information or instruction on their intended recipients after that period of time.

37 I preface my discussion of the crucial *mens rea* element with the observation that illustration (b) of s 116 of the Evidence Act (Cap 97, 1997 Rev Ed) provides that a court may presume “that an accomplice is unworthy of credit and his evidence needs to be treated with caution”. This presumption is, however, permissive and not mandatory. As observed by the Court of Appeal in *Chai Chien Wei Kelvin v PP* [1998] 3 SLR(R) 619 (“*Chai Chien Wei Kelvin*”), whether the accomplice’s evidence should be treated with scepticism or reservation must depend on the circumstances of the case and other relevant objective evidence. At [61], the Court of Appeal said:

... where the court did not discern any attempt by the accomplice materially to minimise his own involvement or exaggerate that of the accused and his evidence was found to be consistent as a whole and reliable on a review of the whole evidence, there was no reason why the evidence should be treated as unreliable. ...

38 On the evidence before me, I was satisfied that Ridzuan had actual knowledge that the additional seven bundles that the jockey passed to Abdul Haleem contained heroin. If it were not so, Gemuk would not have told him to take any one of the bundles but would have marked or otherwise identified the other half “ball” of heroin meant for Ridzuan. In any case, Ridzuan had not rebutted the presumption of knowledge under s 18(2) of the MDA which provides:

Any person who is proved or presumed to have had a controlled drug in his possession shall, until

the contrary is proved, be presumed to have known the nature of that drug.

39 I did not accept Ridzuan's contention that Marriana had incorrectly translated his statement where he said he had told Abdul Haleem that the jockey would also be passing them additional bundles of "drugs" instead of "heroin". While Marriana was unable to specifically recall the details of what happened when Ridzuan's long statement was recorded over two years ago, she testified that when the generic term "drug" was used by an accused, she would translate this literally and then clarify by asking the accused what the specific drug was. [\[note: 19\]](#) She also stated that when she read a completed statement back to the accused for confirmation, she would read the statement word by word to the accused. [\[note: 20\]](#) ASP Seah, who recorded Ridzuan's long statements, also gave evidence that Ridzuan gave his statements in a mixture of Malay and English and recalled that there were instances where Ridzuan had clarified answers that Marriana had interpreted into English. [\[note: 21\]](#)

40 I was of the view that there was no merit to Ridzuan's belated objections to what was purportedly an erroneous interpretation of a very specific word. If Marianna had interpreted the word "heroin" incorrectly, it was unlikely that Ridzuan would have failed to correct her. Although Ridzuan could have chosen to give his statements in Malay as he was more fluent in that language, he was educated up to the O Level standard in English. I was satisfied that he had a sufficiently good command of the English language and would have realised it if Marianna had misinterpreted what was undoubtedly a critical part of his evidence. As ASP Seah indicated, Ridzuan had clarified his answers on other occasions and it was unlikely that he neglected to do so when Marriana interpreted "dadah" as heroin. [\[note: 22\]](#) Further, while Ridzuan specifically challenged the use of the word "heroin" in this particular sentence, he did not take issue with the collective description of the half 'ball' and the additional bundles as "heroin" in other parts of his long statement. For instance, Ridzuan stated in the same paragraph that he told Abdul Haleem that "the heroin is coming and there may be more than one bundle". [\[note: 23\]](#) Ridzuan's explanation that he understood this sentence to mean one bundle of heroin and a few more bundles of drugs was contrived. If Ridzuan had been so cautious as to stress that Gemuk only informed him that the bundles contained drugs generally and not heroin specifically, it would seem rather contradictory for Ridzuan to then immediately lapse into referring to the bundles as an undifferentiated whole.

41 I also accepted the veracity of Abdul Haleem's evidence that Ridzuan told him that the jockey would be passing them additional bundles of heroin. This corroborated my finding that Ridzuan's long statement was an accurate reflection of his state of mind at the material time and that Ridzuan had actual knowledge that the bundles would contain heroin. Following the test in *Chai Chien Wei Kelvin*, I did not think that there was anything in Abdul Haleem's evidence that was calculated to deliberately incriminate Ridzuan so as to exonerate himself or to paint an exaggerated picture that Ridzuan was the ringleader so as to minimise his own involvement. On the contrary, Ridzuan had already admitted that he was at all times the only person who was in contact with Gemuk and that Abdul Haleem was only following his directions when Abdul Haleem collected the bundles of heroin. Abdul Haleem also did not argue that he had been in any way pressurised by Ridzuan to collect the bundles from the jockey but instead stated that he had done so on his own volition. I found Abdul Haleem a candid and forthright witness who did not attempt to downplay his responsibility and there was no reason for me not to give due weight to Abdul Haleem's evidence that Ridzuan had referred to the additional bundles as bundles of heroin.

42 Ridzuan could not persuade me that I should not give any weight to certain portions of his long statement on the basis that they were inaccurately recorded. I found that the inculpatory portions of Ridzuan's long statements sufficed to establish actual knowledge on Ridzuan's part that the additional

bundles contained heroin.

43 Even if Ridzuan did not have actual knowledge of the nature of the controlled drugs found in the seven bundles, he failed to adduce credible evidence to rebut the presumption of knowledge under s 18(2) of the MDA. Section 18 provides as follows:

Presumption of possession and knowledge of controlled drugs

18.—(1) Any person who is proved to have had in his possession or custody or under his control —

- (a) anything containing a controlled drug;
- (b) the keys of anything containing a controlled drug;
- (c) the keys of any place or premises or any part thereof in which a controlled drug is found; or
- (d) a document of title relating to a controlled drug or any other document intended for the delivery of a controlled drug,

shall, until the contrary is proved, be presumed to have had that drug in his possession.

(2) Any person who is proved or presumed to have had a controlled drug in his possession shall, until the contrary is proved, be presumed to have known the nature of that drug.

(3) The presumptions provided for in this section shall not be rebutted by proof that the accused never had physical possession of the controlled drug.

(4) Where one of 2 or more persons with the knowledge and consent of the rest has any controlled drug in his possession, it shall be deemed to be in the possession of each and all of them.

44 During oral submissions, Mr Muzammil advanced the argument that the presumption of knowledge under s 18(2) could not be invoked where the accused was not in actual physical possession of the drug. He pointed out that the two cases relied on by the Prosecution, *Nagaenthran a/l K Dharmalingam v PP* [2011] 4 SLR 1156 ("*Nagaenthran*") and *Dinesh Pillai a/l K Raja Retnam v PP* [2012] 2 SLR 903 ("*Dinesh Pillai*"), were cases where the accused was found in physical possession of the drugs. Mr Muzammil did not cite any authority for this proposition. The Prosecution submitted that s 18(3) of the MDA summarily disposed of this argument. It was true that in *Nagaenthran* and *Dinesh Pillai*, the accused person in question had actual physical control of or was in physical proximity to the drugs. In *Nagaenthran*, the drugs were contained in a bundle secured to the accused's thigh with tape and in *Dinesh Pillai*, the drugs were contained in a brown packet that the accused was carrying in a compartment under his motorcycle seat. Neither case, however, purported to limit the s 18(2) presumption to cases where the accused had physical control of the drug.

45 Possession encompasses both a physical and mental element. Under s 18(2), a presumption of knowledge of the nature of the drug arises once an accused "is proved or *presumed* to have had a controlled drug in his possession". The words of s 18(2) therefore expressly contemplate that a presumption of possession of the drug itself without any implicit requirement of physical custody or control – eg, by application of the presumptions of possession in s 18(1) – can trigger the

presumption of knowledge: see *Nagaenthran* at [26]. Likewise, under s 18(3), a presumption of knowledge cannot be rebutted by the mere fact that the accused did not have physical possession of the drug. This section was read in a literal manner by the Court of Appeal in *Osman bin Din v PP* [1995] 1 SLR(R) 419 at [36]. If the s 18(2) presumption cannot be rebutted solely by lack of physical possession, then it follows that it cannot be disapplied by the same.

46 As I found that Ridzuan was deemed to be in possession of the seven bundles of heroin under s 18(4) or presumed to be in possession of the heroin under s 18(1)(c), the burden was on him to rebut the presumption of knowledge under s 18(2) as to the nature of the heroin. In *Nagaenthran*, the Court of Appeal clarified the approach to be followed where the accused sought to rebut the presumption of knowledge under s 18(2) of the MDA. It said at [23] and [27]:

23 In our view, while there may be a conceptual distinction between the broad view (that the knowledge in s 18(2) of the MDA refers to knowledge that the drug is a controlled drug) and the narrow view (that the knowledge in s 18(2) of the MDA refers to knowledge that the drug is a specific controlled drug, *eg*, heroin or "ice"), the distinction has no practical significance for the purposes of rebutting the presumption of knowledge of the nature of the controlled drug. **To rebut the presumption of knowledge, all the accused has to do is to prove, on a balance of probabilities, that he did not know the nature of the controlled drug referred to in the charge. The material issue in s 18(2) of the MDA is not the existence of the accused's knowledge of the controlled drug, but the non-existence of such knowledge on his part.**

...

27 How can an accused rebut the presumption of knowledge of the nature of the controlled drug found in his possession (*eg*, in a bag he is carrying or on his person)? **He can do so by proving, on a balance of probabilities, that he genuinely believed that what was in his possession was something innocuous (*eg*, washing powder, when it was in fact heroin (see *Warner v Metropolitan Police Commissioner* [1969] 2 AC 256)), or that he thought it was a controlled drug other than the one actually found in his possession (*eg*, where he genuinely believed he was carrying "ice", rather than heroin (see *Khor Soon Lee v PP* [2011] 3 SLR 201)).**

[emphasis in original in italics; emphasis added in bold]

47 In my judgment, Ridzuan failed to rebut the presumption of knowledge on a balance of probabilities. Ridzuan only made the bare assertion that he did not know that the jockey would pass them more than one or two bundles of additional drugs or that the bundles would contain heroin. He did not proffer any convincing explanation as to why he would have thought that the additional bundles contained other types of controlled drugs apart from heroin. I accepted that it was not implausible that Ridzuan could have inferred that Gemuk was also involved in the distribution of other types of drugs as Gemuk had given them samples of Erimin-5 tablets together with the half 'ball' of heroin that Abdul Haleem had collected the previous day. However, Ridzuan did not give any reason why he would have assumed that the additional bundles contained drugs other than heroin when he knew that the jockey was delivering heroin to them at the same time. Ridzuan did not ask Gemuk how many bundles would be passed to him, what these bundles contained or who would collect these bundles from him thereafter. [\[note: 24\]](#) Indeed, during cross-examination, Ridzuan conceded that he would have accepted the bundles even if he had known that they contained heroin: [\[note: 25\]](#)

Q Gemuk did not specify what drugs these were?

A He did not.

Q You also did not ask him?

A I did not.

Q So you were prepared to receive any type of drug from him?

A Yes.

Q Including additional bundles of heroin?

A Yes.

Although Ridzuan immediately qualified this answer by saying that he would not have accepted the additional bundles of heroin if he had known that the jockey intended to pass him so many bundles, he also conceded that he did not tell Gemuk that he was willing to accept only a limited number of bundles. He also did not instruct Abdul Haleem not to accept more than a few bundles. [\[note: 26\]](#)

48 The circumstantial evidence and Ridzuan's own admissions at trial as to his state of mind gave rise to the ineluctable inference that even if Ridzuan did not know as a matter of fact that the additional bundles contained heroin, he turned a blind eye or simply did not care what type of drugs the additional bundles contained. Ridzuan testified that Gemuk told him that he could take one of the bundles that was meant for him, without specifying which of the unmarked bundles contained the half 'ball' of heroin that Ridzuan had purchased [\[note: 27\]](#). It followed therefore that the other bundles also contained heroin. Ridzuan claimed that he did not receive any benefit from doing this favour for Gemuk [\[note: 28\]](#). If Ridzuan had truly been adamant that he was only willing to accept a limited amount of heroin as he did not want to risk his life, he could easily have clarified with Gemuk whether the extra bundles also contained heroin or refused to hold more than a specified number of bundles on Gemuk's behalf. He did neither. By failing to do so despite his awareness that Gemuk was involved in the supply of heroin and that the jockey was delivering heroin to him on the very same occasion, I found that Ridzuan's conduct amounted to wilful blindness that went beyond mere carelessness or negligence. There was nothing in either Ridzuan's testimony or the objective evidence to persuade me as to the truth of Ridzuan's assertion that he did not know that the additional bundles contained heroin. I was therefore satisfied that the s 18(2) presumption was not rebutted.

49 Based on the above findings, all the elements of the First Charge were made out.

Sentence

The applicability of s 33B of the MDA

50 Under s 33B, the court is given the discretion in two narrowly circumscribed situations not to impose the sentence of death where a person is convicted of an offence that is otherwise punishable by death under s 33 read with the Second Schedule to the MDA. Section 33B of the MDA provides as follows:

Discretion of court not to impose sentence of death in certain circumstances

33B.—(1) Where a person commits or attempts to commit an offence under section 5(1) or 7, being an offence punishable with death under the sixth column of the Second Schedule, and he is

convicted thereof, the court —

(a) may, if the person satisfies the requirements of subsection (2), instead of imposing the death penalty, sentence the person to imprisonment for life and, if the person is sentenced to life imprisonment, he shall also be sentenced to caning of not less than 15 strokes; or

...

(2) The requirements referred to in subsection (1)(a) are as follows:

(a) the person convicted proves, on a balance of probabilities, that his involvement in the offence under section 5(1) or 7 was restricted —

(i) to transporting, sending or delivering a controlled drug;

(ii) to offering to transport, send or deliver a controlled drug;

(iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or

(iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and

(b) the Public Prosecutor certifies to any court that, in his determination, the person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore.

...

(4) The determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.

The requirements under s 33B(2)(a) are defined with some specificity and intended to apply only to a person who plays the role of a courier and is not involved in any other role within the drug syndicate: see the speech of the Minister for Home Affairs, Mr Teo Chee Hean, during the second reading of the Misuse of Drugs Amendment Bill 2012 ("the Bill") at *Singapore Parliamentary Debates, Official Report* (12 November 2012) vol 89.

51 Section 33B was introduced by the Misuse of Drugs (Amendment) Act 2012 (No 30 of 2012). During the passage of the Bill in Parliament, a number of Members of Parliament expressed concern that the list in s 33B(2)(a) may be too narrow to encompass other acts that are arguably of a similar level of culpability. One Member of Parliament queried whether certain types of acts would also fall within the scope of s 33B(2)(a) (see *Singapore Parliamentary Debates, Official Report* (14 November 2012) vol 89):

Mrs Lina Chiam (Non-Constituency Member): Thank you, Mr Speaker. I would like the Minister to clarify the point I made yesterday about one section – that is, *whether section 33B(2)(a) of the Bill covers offenders who are found to have participated in acts such as packing, storing or safekeeping drugs*, as their culpability may be similar to those who are involved in transporting, sending or delivering the drugs and should not be excluded for consideration for discretionary

sentencing. Can I get his clarification?

Mr Teo Chee Hean: *They are not couriers, so they are not covered by the exception that is provided, unless Mrs Chiam thinks that they are couriers.*

Mrs Lina Chiam: No, they are not couriers.

[emphasis added in italics]

The Bill was subsequently passed without amendment and Parliament's intent in this respect must be that the exception in s 33B(2)(a) is confined solely to those who are typically referred to as "drug mules" and whose involvement is limited to delivering or conveying drugs from point A to point B.

52 Section 33B(2)(a)(ii) covers acts of "offering to transport, send or deliver a controlled drug". The use of the word "offering" mirrors the definition of trafficking in s 2, which also includes acts of "offering" to "sell, give, administer, transport, send, deliver or distribute". The Prosecution took the position that Abdul Haleem and Ridzuan had satisfied the requirements of s 33B(2)(a)(iii), *ie.* "doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug". Deputy Public Prosecutor Ms Shahla Iqbal ("Ms Iqbal") explained that she had confined her submissions to s 33B(2)(a)(iii) as it was wider than s 33B(2)(a)(ii). Abdul Haleem and Ridzuan were instructed to transport, send or deliver the seven bundles but had not technically made an offer to Gemuk to do so. When I asked the parties what their understanding of the scope of the word "offering" was, Ms Iqbal, Mr Tiwary and Mr Muzammil were all in agreement that "offering" should not be construed narrowly as a legal term of art in the contractual offer and acceptance sense. I agreed with them. In my view, s 33B(2)(a)(ii) and (iii) would cover a factual scenario where the accused acceded to a request by someone to do the act in question. The word "offering" should not be restricted to situations where the request to do the act emanates from the accused. Otherwise, we would have an absurd situation where an accused who "offers" to do any of the said acts is covered by the provisions but not an accused who agrees to or "accepts" an offer from someone for the accused to do those acts. This interpretation logically applies to s 33B(3)(a)(ii) and (iii) as well as the same words are used there although those provisions have no application in the present case.

53 I now address the question of whether Abdul Haleem and Ridzuan satisfied the requirements under s 33B(2)(a). It was Abdul Haleem's and Ridzuan's uncontroverted evidence that they had only planned to sell one 'ball' of heroin, *ie.* the subject of the Second Charge. Abdul Haleem's purpose in relation to the additional bundles was to collect them from the jockey and deliver them to Ridzuan, although he was also prepared to deliver the bundles to other customers of Gemuk. [\[note: 29\]](#) Abdul Haleem also stated that he only knew that someone would collect or make arrangements to collect the seven bundles [\[note: 30\]](#) and that he was not told by Ridzuan how many additional bundles the jockeys would pass to him or how long they would have to keep them. He further testified that their plan was simply to keep the additional bundles in the Flat in the meantime [\[note: 31\]](#) and possibly for an indefinite period of time. [\[note: 32\]](#) It was also an uncontroverted fact that Ridzuan accepted the seven bundles of heroin from the jockey only for the purpose of subsequently handing them over to other customers of Gemuk. Ridzuan claimed in his long statement that Gemuk told him that he should just "keep [the bundles] first" and "just leave the bundles at a place and tell these people to collect from that place" [\[note: 33\]](#). He gave oral evidence that he thought that he would only have to hold on to the bundles for one or two hours [\[note: 34\]](#), although he also intended to keep the bundles in the Flat "for a while". [\[note: 35\]](#)

54 The Prosecution adopted the position that while the debates in Parliament indicated that the legislative intent was to keep the conditions in s 33B(2)(a) strictly defined such that they would not apply to those who were involved in storing or packing drugs, both Abdul Haleem and Ridzuan had not ordered the drugs contained in the additional bundles from Gemuk and were not working in the roles of either store-keepers or safe-keepers of the drugs in return for any monetary benefit. Abdul Haleem and Ridzuan also did not have the opportunity to keep the seven bundles for even a short period of time, as they were arrested almost immediately after Abdul Haleem returned to the Flat.

55 I agreed with the Prosecution and also accepted Mr Tiwary's submission that the purposes underlying the First and Second Charges can and should be separated. It was common ground that Abdul Haleem's and Ridzuan's only purpose in relation to the seven bundles was to pass them to Gemuk's customers, *ie*, they had either offered to send a controlled drug by agreeing to Gemuk's request (satisfying s 33B(2)(a)(ii)) or had taken preparatory steps to send the controlled drug by collecting the bundles from Gemuk (satisfying s 33B(2)(a)(iii)). I did not think that Abdul Haleem or Ridzuan were excluded from the scope of s 33B(2)(a) merely because they additionally conceded that they had intended to keep the bundles of drugs for at least a short period of time before delivering or sending the bundles to Gemuk's other customers. While s 33B(2)(a) applies strictly only to an accused person acting in the narrow role of a courier, it should not be construed pedantically such that an incidental act of storage or safe-keeping by the accused person in the course of transporting, sending or delivering the drugs would mean that he is also playing the role of storing or safekeeping drugs within the drug syndicate. Such incidental acts would arguably fall within s 33B(2)(a)(iii) as well. There was no dispute in any case that both accused persons satisfied the requirements in s33B(2)(a).

56 I therefore found that Abdul Haleem and Ridzuan had proved on a balance of probabilities that they were only involved in either "offering to transport, send or deliver a controlled drug" under s 33B(2)(a)(ii) or "doing or offering to do any act preparatory to or for the purpose of...transporting, sending or delivering a controlled drug" under s 33B(2)(a)(iii).

Abdul Haleem's sentence

57 After I gave my finding on s 33B(2)(a) above, the Prosecution tendered a certificate by the Public Prosecutor under s 33B(2)(b) that Abdul Haleem had "substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore". For the First Charge, I decided to exercise my discretion under s 33B(1)(a) to sentence Abdul Haleem to life imprisonment with effect from the date of his arrest on 6 May 2010 and to receive the minimum 15 strokes of the cane.

58 Although Abdul Haleem had two previous convictions under the MDA, namely, one conviction for trafficking in diamorphine under s 5(1)(a) and one conviction for consuming morphine, a specified drug, under s 8(b)(ii), his involvement in the trafficking of the seven bundles here was really quite incidental and unplanned. It was not disputed that Abdul Haleem never had direct contact with Gemuk and that he was merely following Ridzuan's directions to collect the bundles from the jockey. He was not motivated by any monetary benefit to run the risk of trafficking in those seven bundles. There was no evidence to show that any degree of sophistication or planning went into the offence – he simply collected the additional bundles as instructed without giving any thought to what he was doing other than deciding to bring the black sling bag along. The quantity of heroin, while much more than enough to attract a capital charge under s 5(1)(a) of the MDA, had to be weighed against his minor involvement for only a very short period of time. He cooperated fully with the CNB from the start and told only the truth to the investigators and in court. He has a 5 year old child. He committed the present offences at the relatively young age of 27 and turned 30 in February this year. Together with

the minimum 15 strokes to be imposed for the Second Charge, he will have to undergo the total maximum 24 strokes of the cane allowed by law. This, coupled with life imprisonment for a 30 year old man who can only hope for parole at age 50, should be sufficient punishment for him in the circumstances of this case and act as a deterrence to others.

59 With respect to the Second Charge, I sentenced Abdul Haleem to the mandatory minimum sentence of 20 years' imprisonment with effect from the date of arrest, 6 May 2010, and to receive 15 strokes of the cane. For both charges, the maximum number of strokes of the cane that he is to undergo is limited to 24.

Ridzuan's sentence

60 In relation to the First Charge, as mentioned above, Ridzuan satisfied the requirements of s 33B(2)(a). In his case, however, the Public Prosecutor did not certify under s 33B(2)(b) that he had "substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore". The alternative sentencing option in s 33B(1)(a) could not therefore be considered. This certification is given by the Public Prosecutor in his sole discretion (s 33B(4)). As the conjunctive requirements in ss 33B(2)(a) and 33B(2)(b) were not met, I was duty bound to sentence Ridzuan to the mandatory death sentence for the First Charge as prescribed by s 33 read with the Second Schedule of the MDA.

61 For the Second Charge, I sentenced Ridzuan to the mandatory minimum sentence of 20 years' imprisonment with effect from 6 May 2010 and 15 strokes of the cane. I further ordered that Ridzuan was not to undergo any caning as long as the conviction and sentence for the First Charge stood.

62 Upon the conviction of the two accused persons in respect of both their charges, the Prosecution withdrew all outstanding charges against both of them. I therefore granted them a discharge amounting to an acquittal in respect of those outstanding charges. I also ordered a disposal inquiry to be held for the two sums of money seized from the accused persons – \$618.80 from Abdul Haleem and \$11,487.00 from Ridzuan.

[\[note: 1\]](#) Contemporaneous statement recorded by ASP Qamarul Zaman Bin Hussin dated 6 May 2010.

[\[note: 2\]](#) NE, XXN of Stanley Seah Choon Keng, 27 February 2013, page 29 lines 18-31.

[\[note: 3\]](#) NE, XXN of Muhammad Faizal bin Baharin, 25 February 2013, page 16 lines 9-14; NE, XXN of Tan Siew Fong, 25 February 2013, page 25 lines 14-19; NE, XN of Qamarul Zaman bin Hussin, 25 February 2013, page 31 lines 9-12.

[\[note: 4\]](#) NE, XXN of Tan Siew Fong, 25 February 2013, page 25 lines 22-24.

[\[note: 5\]](#) Long statement of Muhammad Ridzuan Bin Md Ali recorded on 11 May 2010 at [44].

[\[note: 6\]](#) Long statement of Abdul Haleem Bin Abdul Karim recorded on 12 May 2010 at [41].

[\[note: 7\]](#) NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 25 lines 12-19.

[\[note: 8\]](#) Long statement of Abdul Haleem Bin Abdul Karim recorded on 12 May 2010 at [44].

[\[note: 9\]](#) Long statement of Muhammad Ridzuan Bin Md Ali recorded on 11 May 2010 at [44].

[\[note: 10\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 26 lines 2-18.

[\[note: 11\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 26 lines 11-22.

[\[note: 12\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 26 lines 27-30.

[\[note: 13\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 57 lines 4-6.

[\[note: 14\]](#) NE, XN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 7 lines 7-32.

[\[note: 15\]](#) NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 30 lines 23-25.

[\[note: 16\]](#) NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 15 lines 1-6; NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 28 lines 17-21;

[\[note: 17\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 35 lines 21-27.

[\[note: 18\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 36 lines 10-13.

[\[note: 19\]](#) NE, XN of Marriana, 27 February 2013, page 72 lines 28-32.

[\[note: 20\]](#) NE, XN of Marriana, 27 February 2013, page 76 lines 2-7.

[\[note: 21\]](#) NE, RXN of Stanley Seah Choon Keng, 27 February 2013, page 52 lines 10-25.

[\[note: 22\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 52 lines 17-21.

[\[note: 23\]](#) Long statement of Muhammad Ridzuan Bin Md Ali recorded on 11 May 2010 at [44].

[\[note: 24\]](#) NE, XN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 17 lines 8-32; page 18 lines 1-3.

[\[note: 25\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 43 lines 20-32.

[\[note: 26\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 43 lines 20-32.

[\[note: 27\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 45 lines 6-17, page 45 lines 22-31.

[\[note: 28\]](#) NE, XXN of Muhammad Ridzuan Bin Md Ali, 6 March 2013, page 42 lines 13-16.

[\[note: 29\]](#) NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 30 lines 23-25.

[\[note: 30\]](#) NE, XN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 7 lines 26-32.

[\[note: 31\]](#) NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 28 lines 26-32, page 29 lines 1-7.

[\[note: 32\]](#) NE, XXN of Abdul Haleem Bin Abdul Karim, 5 March 2013, page 30 lines 26-30.

[\[note: 33\]](#) Long statement of Muhammad Ridzuan Bin Md Ali recorded on 11 May 2010 at [44].

[\[note: 34\]](#) NE, XXN of Muhammad Ridzuan bin Md Ali, 6 March 2013, page 26 lines 11-22.

[\[note: 35\]](#) NE, XXN of Muhammad Ridzuan bin Md Ali, 6 March 2013, page 34 lines 27-29.

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