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

[2021] SGHC 207

Criminal Case No 20 of 2021

Between

Public Prosecutor

And

CCG

GROUNDS OF DECISION

[Criminal Procedure and Sentencing] — [Sentencing]

Public Prosecutor
v
CCG

[2021] SGHC 207

General Division of the High Court — Criminal Case No 20 of 2021
Valerie Thean J
3 May, 28 June 2021

10 September 2021

Valerie Thean J:

Introduction

1 The accused was charged with 12 offences. Eleven of those offences took place from from August 2015 to December 2018 and involved two sisters, V1 and V2.[1] At the time of the offences against each of them, V1, the younger sister, was ten to 12 years old,[2] while V2 was 17 years old.[3] The accused pleaded guilty to, and was convicted of, the following three charges:[4]

(a) in respect of V1, two charges of sexual assault by penetration of a person below 14 years of age, an offence under ss 376(1)(*a*) and

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1 Statement of Facts dated 15 March 2021 ("SOF") at paras 2–3.

2 SOF at para 2.

3 SOF at para 3.

4 Transcript, 3 May 2021 at p 13 lines 6–7.

376(2)(*a*) of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code") punishable under s 376(4)(*b*) of the same (the "Sixth Charge" and the "Eighth Charge", collectively the "SAP Charges"); and

(b) in respect of V2, one charge of outrage of modesty, punishable under s 354(1) of the Penal Code (the "Tenth Charge").

2 The accused admitted to nine other charges and consented to having these charges taken into consideration for the purposes of sentencing (the "TIC Charges").[5] Seven of the TIC Charges involved V1:

(a) one charge of attempted rape of a person below 14 years of age under s 375(1)(*b*) and punishable under s 375(3)(*b*) read with s 511 of the Penal Code (the "Attempted Rape Charge");

(b) two further charges of sexual assault by penetration of a person below 14 years of age under s 376(2)(*a*) and punishable under s 376(4)(*b*) of the Penal Code (the "First and Fifth Charges");

(c) three charges of outrage of modesty of a person below 14 years of age under s 354(2) of the Penal Code (the "Second, Third and Fourth Charges"); and

(d) one charge of showing an obscene object, being a pornographic video, to a person below 21 years of age under s 293 of the Penal Code.

3 Of the remaining two TIC Charges, one was a further charge of outrage of modesty punishable under s 354(1) of the Penal Code involving V2 (the "Eleventh Charge"), and the other was an unrelated charge of causing

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5 Transcript, 3 May 2021 at p 13 lines 8–10.

annoyance to a public officer while drunk in a public place under s 14(2)(*b*)(i) of the Liquor Control (Supply and Consumption) Act 2015 (Act 5 of 2015).

4 The accused was 53 years old at the time he was sentenced.[6] After considering all the circumstances, I imposed the following sentences:

(a) for the Sixth Charge, 11 years' imprisonment and an additional three months' imprisonment in lieu of 12 strokes of the cane;

(b) for the Eighth Charge, 11 years' imprisonment and an additional three months' imprisonment in lieu of 12 strokes of the cane; and

(c) for the Tenth Charge, six months' imprisonment.

5 The terms of imprisonment for all three charges were ordered to run consecutively. The aggregate term of imprisonment was therefore 22 years and six months' imprisonment, with an additional six months' imprisonment in lieu of caning, with effect from the date of remand, 16 August 2019. The accused has appealed against his sentence and these are my grounds of decision.

Facts

6 At the commencement of the period of time over which the offences were committed, in 2015, the accused was 48 years old.[7] Since 2010, he had been in a romantic relationship with the victims' mother ("M") and provided for her financially.[8] The accused and M lived in a rented room of a shophouse (the

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6 SOF at para 1.

7 SOF at para 1.

8 SOF at paras 4 and 7–8.

"Shophouse") from 2015 to November 2016, and thereafter moved to a one-room rental flat (the "Flat").[9]

7 As M had no means of taking care of the victims, V2 had been placed in a children's home in 2008 and V1 had been placed in the same children's home in 2011.[10] They would stay with M and the accused whenever they were released from the children's home on home leave.[11] Both of them had grown up without a father figure in their lives[12] and they addressed the accused as "*Pachik* Joe", meaning "Uncle Joe" in Malay. V1 would also address him as "*babak*", meaning "father" in Malay.[13]

Circumstances involving V2

8 The two offences against V2 took place in the Shophouse between 5 August 2015 and 22 September 2015, when V2 was 17 years old.

The Tenth Charge – outrage of modesty of V2

9 Between 5 August 2015 and 22 September 2015, V2 was residing with M and the accused at the Shophouse while on the run from the children's home.[14] M was in the kitchen cooking a meal, while the accused and V2 stood near the accused's bedroom some distance away from the kitchen.[15]

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9 SOF at para 11.

10 SOF at paras 7 and 9.

11 SOF at para 9.

12 SOF at para 5.

13 SOF at para 12.

14 SOF at para 31.

15 SOF at para 32.

10 As the accused walked past V2, he used his hand to squeeze V2's breast once. He did so as he was sexually aroused and feeling "horny". He told her not to tell M about the incident, and V2 complied as she feared that if she told M what he had done to her, she would have to return to the children's home. The accused knew this fact.[16]

Circumstances involving V1

11 The nine offences against V1 took place in a subsequent period, and in the Flat, between 30 June 2017 and December 2018. V1 was between ten and 12 years old.

The Sixth Charge – sexual assault by digital penetration of V1's vagina

12 The Sixth Charge concerned a Friday afternoon sometime between 30 June 2017 and December 2018, when V1 was on home leave from the children's home for the weekend, M accompanied her home to the Flat.[17] When they reached home, M received a telephone call. She told the accused that she needed to go out and that she wanted to bring V1 along with her, but the accused assured her that he could take care of V1 in her absence. He was then left alone in the Flat with V1.[18]

13 Shortly after M left the Flat, the accused went to the kitchen window to ascertain whether she had left the vicinity. When he saw that M had crossed a nearby road in the direction away from their block of flats, he told V1 to go into

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16 SOF at para 33.

17 SOF at para 14.

18 SOF at para 15.

his bedroom. V1 initially refused to do so but the accused persisted. Fearful that he would become angry, V1 entered the accused's bedroom with him.[19]

14 In the bedroom, the accused told V1 to remove her shorts and panties and to lie down on the mattress on the floor. After V1 did so, he touched her breasts and licked her vagina, and also touched and rubbed her vagina with his finger. He played with V1's vagina until she expressed that she felt pain and asked him to stop.[20] Thereafter, the accused asked her if he could penetrate her vagina with his finger. Even though she told him "don't want, don't want" and that she felt pain whenever he tried to digitally penetrate her vagina, he inserted one finger into her vagina after several attempts. The accused told V1 that he was "stim", which according to him meant sexually aroused. V1 asked him to stop digitally penetrating her, but he refused.[21] After an unsuccessful attempt to insert his penis into V1's vagina (the subject of the Attempted Rape Charge later taken into consideration) without using a condom, he then rubbed his erect penis against V1's vagina, and digitally penetrated her vagina with his finger once more.[22]

15 In retrospect, two distinct offences of sexual assault by penetration were committed on this occasion prior to and after the attempted rape. The Prosecution could have framed two charges instead of the single Sixth Charge. However, even if there was any irregularity, ss 127 and 423 of the CPC are applicable. The Statement of Facts was clear about the specific allegations and the accused was not prejudiced or misled in any way.

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19 SOF at para 16.

20 SOF at para 17.

21 SOF at para 18.

22 SOF at paras 19–20.

The Eighth Charge – sexual assault by penile penetration of V1's mouth

16 On another occasion between 30 June 2017 and December 2018, while V1 was on home leave, the accused was alone with V1 in the Flat again. After consuming some alcoholic beverages, he instructed her to go into his bedroom with him.[23] He told her to remove her clothes and to lie down on the mattress on the floor. V1 complied with these instructions.[24]

17 After touching V1's chest and vagina,[25] the accused removed his pants and underwear, exposing his penis. He asked V1 if she knew how to suck his penis and whether she could fellate him. Fearful that he might become angry if she did not do his bidding, V1 complied by opening her mouth. The accused then penetrated V1's mouth with his partially erect penis, without a condom, in an in-and-out motion. The fellatio lasted for about ten seconds.[26]

Discovery of the offences

18 After each sexual encounter, the accused told V1 not to reveal his sexual acts to anyone.[27] The offences against V1 came to light subsequently in May 2019 when V1 mentioned to a researcher in her school that the accused had touched her breasts. The school and officers from the Ministry of Social and Family Development were then alerted.[28] In the course of the subsequent

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23 SOF at para 23.

24 SOF at para 24.

25 SOF at para 24.

26 SOF at para 25.

27 SOF at para 26.

28 SOF at para 28.

investigations against the accused, the offences against V2 were also discovered.[29] The accused was arrested on 15 August 2019.[30]

The Prosecution's position and the accused's mitigation plea

19 The Prosecution sought an aggregate sentence of at least 22 years and nine months' imprisonment with an additional 12 months' imprisonment in lieu of 24 strokes of the cane. This comprised the following minimum terms, which the Prosecution submitted should run consecutively:[31]

(a) for the Sixth Charge, 11 years' imprisonment with an additional six months' imprisonment in lieu of 12 strokes of the cane,

(b) for the Eighth Charge, 11 years' imprisonment with an additional six months' imprisonment in lieu of 12 strokes of the cane; and

(c) for the Tenth Charge, nine months' imprisonment.

20 The accused was unrepresented. He had submitted a written mitigation plea in Malay at a previous mention before another judge, which was translated into English. In his oral mitigation plea before me at the sentencing hearing, he retracted any elements of his previous written mitigation that would qualify his plea, pleaded orally for leniency and asked for his sentences to run concurrently. He said was remorseful for his actions and highlighted familial needs. He was

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29 SOF at para 31.

30 SOF at para 36.

31 Prosecution's Sentencing Submissions dated 15 March 2021 ("PSS") at paras 5–6 and 60; Prosecution's Supplementary Sentencing Submissions dated 31 May 2021 ("PSS (Supplementary)") at para 48.

the sole breadwinner of the family with three children, including two who were still school-going, and six grandchildren, whose parents were in prison.[32]

My decision on sentence

The SAP Charges

21 The SAP Charges were the more serious of the proceeded charges. I applied the two-step framework set out in *Pram Nair v Public Prosecutor* [2017] 2 SLR 1015 ("*Pram Nair*"), as adapted from *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 ("*Terence Ng*") at [39], and extended by the Court of Appeal to all forms of sexual assault by penetration under s 376 of the Penal Code in *BPH v Public Prosecutor and another appeal* [2019] 2 SLR 764 ("*BPH*") at [55].

22 At the first step of the framework, the court should identify which sentencing band the offence in question falls within, having regard to the offence-specific factors. These factors relate to the manner and mode by which the offence was committed as well as the harm caused to the victim. The court should identify precisely where within that sentencing band the offence falls to derive an indicative starting point which reflects the intrinsic seriousness of the offending act: *Terence Ng* at [39(a)].

23 In the present case, as V1 was under 14 years old, a mandatory minimum sentence of eight years' imprisonment and 12 strokes of the cane applied to the Sixth and Eighth Charges under s 376(4)(*b*) of the Penal Code. This statutory aggravating factor meant that the case "should fall within Band 2 (or even Band

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[32] Mitigation Plea dated 1 March 2021 (translated on 23 March 2021) ("Written Mitigation Plea"); Transcript, 28 June 2021 at p 6 lines 3–5.

3 if there are additional aggravating factors)": *Pram Nair* at [160]. The fact that V1 was materially younger than the age ceiling stipulated in s 376(4)(*b*), having been between ten and 12 years old at the time of the offences, contributed to the intensity of this aggravating factor.

24 Several other factors added to the gravity of the offences at the first step of the framework. V1 was found to function within a very low range of intelligence, with a full-scale Intelligence Quotient score of 76.[33] The accused would have been aware of her low intelligence from their frequent interaction. The accused was entrusted by M with responsibility over V1. On the occasion giving rise to the Sixth Charge, he had assured M that he could take care of V1 while she was away; and at the time of both the Sixth Charge and the Eighth Charge, he had been left alone with V1 in the Flat. This was because of his quasi-paternal relationship with V1, who addressed him as "*babak*" (meaning "father" in Malay). These circumstances of severe abuse of trust also revealed some degree of premeditation and a deliberate design on the part of the accused to exploit his special access to V1. In particular, on the occasion giving rise to the Sixth Charge, he had deliberately waited until M had left the vicinity of the Flat before committing the offence. At the same time, in misusing his position, he did not take any precautions to protect V1 from the risk of sexually transmitted diseases. Further, in submission to his authority, V1 obeyed the accused's instruction not to reveal his sexual acts to anyone and the offences against her only came to light in May 2019, some four to 23 months after the offences against her took place. The Child Guidance Clinic at the Institute of Mental Health subsequently found that V1 engaged in acts of self-harm to relieve her stress when she recalled the various acts the accused did to her.[34]

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33 SOF at para 41 and Annex C at p 1; PSS (Supplementary) at para 4.

34 SOF at paras 38–39 and Annex B at pp 1 and 3.

25 As an indicative starting point after the first step, the SAP Charges fell within the middle to upper end of Band 2 of the *Pram Nair* framework,[35] which provided for ten to 15 years' imprisonment with the statutory mandatory minimum of 12 strokes of the cane.

26 At the second step of the framework, I considered the offender-specific aggravating and mitigating factors to ascertain whether there ought to have been any adjustment to the indicative starting point. Here the TIC Charges involving V1 were relevant and very aggravating. The Attempted Rape Charge, the facts of which arose during the course of the Sixth Charge, was grave. The other six charges taken into consideration arose out of separate incidents, two of which involved sexual assault by penetration (the First and Fifth Charges), and three of which involved outrage of modesty (the Second, Third and Fourth Charges). The accused's early plea of guilt was, however, a mitigating factor, as it obviated the need for the victims to relive and recount their trauma.

27 The Prosecution's suggestion of at least 11 years' imprisonment for each of the SAP Charges[36] was appropriate. Of relevance was the Court of Appeal's guidance in *BPH* that the ten-year sentences imposed in two separate High Court cases were lenient; I deal with this pair of cases at [40]–[42] below.

28 The Prosecution's suggestion of an additional six months' imprisonment in lieu of the statutory mandatory minimum of 12 strokes of the cane was also apt. Pursuant to s 325(1)(*b*) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (the "CPC"), the accused could not be caned as he was over 50 years old at the time of sentencing. However, an additional term of imprisonment in

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35 PSS at paras 18 and 23.

36 PSS at para 24.

lieu of caning was warranted in view of the need to compensate for the deterrent and retributive effects of caning that were lost by reason of the accused's exemption from caning, applying the principles set out in *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 ("*Amin*") at [59]. The aggravating factors present in this case indicated the need for a high level of general and specific deterrence, and retribution was also a key sentencing consideration given the serious nature of the accused's offending in relation to the SAP Charges. In view of the totality principle, I adjusted these sentences: see [44] below.

The Tenth Charge

29 I turn now to the Tenth Charge. The two-step sentencing framework set out by the Court of Appeal in *Terence Ng* for rape was transposed to the offence of aggravated outrage of modesty under s 354(2) of the Penal Code in *GBR v Public Prosecutor and another appeal* [2018] 3 SLR 1048 ("*GBR*"). This framework is similarly applicable to the offence of outrage of modesty *simpliciter* under s 354(1), save that the sentencing bands of imprisonment in *GBR* should be scaled down linearly to cater to the statutory maximum punishment of two years' imprisonment for the s 354(1) offence: *Kunasekaran s/o Kalimuthu Somasundara v Public Prosecutor* [2018] 4 SLR 580 ("*Kunasekaran*") at [48]–[49].

30 The present case fell within Band 2 of the framework, because of the high degree of sexual exploitation involved. The accused had squeezed V2's breast, thereby intruding into her private parts; and while the accused's act of squeezing was done over the clothes of V2, it was not merely a fleeting touch. Further, the aggravating factor of the accused's abuse of his position of responsibility and trust applied equally to V2, who addressed him as "Uncle Joe" and viewed him as a father figure. The accused also took advantage of the

fact that V2 would not tell M about the incident because she feared that she would have to return to the children's home, which she had run away from, if she did so. However, the case fell within the lower end of the spectrum within Band 2 as there was no skin-to-skin touching of V2's private parts or sexual organs. Applying the principles set out in *Amin*, the need to compensate for the deterrent and retributive effects of caning was not as significant. I therefore did not impose an additional term of imprisonment in lieu of caning. Thus, the appropriate sentencing range was five to ten months' imprisonment at the first step. At the second step, the accused's plea of guilt was mitigating. I took into account the Eleventh Charge, which was a further charge of outrage of modesty against V2 on a separate occasion where the accused had touched the area between V2's breasts and her stomach over her clothes.

31 In *Kunasekaran*, the accused claimed trial to one charge of outrage of modesty against a 14-year-old girl. He had touched her groin area from outside her school skirt while she was on the bus to school. The High Court Judge found that the sentence of eight months' imprisonment imposed by the District Judge was not manifestly excessive and dismissed the accused's appeal against his sentence. The present case was more serious than *Kunasekaran* because, while the victim in *Kunasekaran* was several years younger, the accused in *Kunasekaran* had not been placed in any position of trust or responsibility.

32 I was of the view that nine months' imprisonment for this charge would be sufficient and appropriate, but that in view of the totality principle this sentence should be adjusted downwards: see [44] below.

The aggregate sentence

33 In the present case where there were multiple charges, an aggregate sentence that well reflected proportionality and the overall criminality of the accused was the essential issue. The Prosecution sought for the three sentences to run consecutively, with an aggregate sentence of at least 22 years and nine months' imprisonment with an additional 12 months' imprisonment in lieu of 24 strokes of the cane.[37]

34 Two aspects of this particular case were pertinent. First, there were various public interest elements involved. General deterrence arose from a need to "send an unequivocal and uncompromising message to all would-be sex offenders that abusing a relationship or a position of authority in order to gratify sexual impulse will inevitably be met with the harshest penal consequences": see *Public Prosecutor v NF* [2006] 4 SLR(R) 849 at [42]. Specific deterrence was necessary in the case of this accused, in light of his first targeting V2 and then moving on to V1 with deliberation: see *Public Prosecutor v Law Aik Meng* [2007] 2 SLR(R) 814 ("*Law Aik Meng*") at [22]. The retributive imperative was furthermore engaged. The sentence imposed had to reflect the abhorrence which right-minded members of the public would have towards the offences committed, and encapsulate an appropriate degree of public aversion: see *Public Prosecutor v Kwong Kok Hing* [2008] 2 SLR(R) 684 at [17].

35 Secondly, sentences for unrelated offences which do not form part of a single transaction should generally run consecutively: see *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 ("*Raveen Balakrishnan*") at [41]. In the present case, the two proceeded charges against V1 arose out of separate and

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37 PSS at para 5.

distinct occasions. The Tenth Charge concerned another victim altogether in a separate time period. All three proceeded charges could be ordered to run consecutively, and more so in view of the public interests involved. The only limitation was the totality principle.

36 The first limb of the totality principle requires the court to examine whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed: *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Mohamed Shouffee*") at [54]; *Raveen Balakrishnan* at [73]. In *Law Aik Meng* at [58], the court held that a sentence two years in excess of the relevant ten-year upper limit could not be considered excessive. This first limb was not to be applied rigidly, but as a guideline to ensure that the total sentence remains "proportionate to the gravity of the context" (*Law Aik Meng* at [58]).

37 The second aspect of the totality principle is to ensure that the effect of the aggregate sentence on an offender is not "crushing" but rather, "in keeping with his past record and his future prospects". It may, for these reasons, be necessary to re-calibrate the individual sentences imposed so as to arrive at an appropriate aggregate sentence: *Mohamed Shouffee* at [57] and [59]; *Raveen Balakrishnan* at [73].

38 In considering these two facets of proportionality, like cases are relevant. The Prosecution relied upon *Public Prosecutor v BMU* [2020] SGHC 231 ("*BMU*") and *Public Prosecutor v BQW* [2018] SGHC 136 ("*BQW*"). In *BMU*, the accused was convicted of three charges of aggravated sexual assault by digital-vaginal penetration. Twenty-one other charges were taken into consideration, comprising four further charges of sexual assault by penetration and 17 charges of aggravated outrage of modesty under s 354(2) of

the Penal Code. The victim was nine to ten years old at the material time and was the daughter of the accused's girlfriend, and the offences had taken place over a period of 14 months. The accused was sentenced to 11 years' imprisonment and 12 strokes of the cane for each charge, with two sentences running consecutively, amounting to an aggregate sentence of 22 years' imprisonment and 24 strokes of the cane. Although there was only one victim in *BMU*, there were 24 charges in total, of which seven were aggravated sexual assault by penetration charges committed over seven occasions.

39 In *BQW*, the accused, a delivery driver who was over 50 years old at the time of the offences, committed multiple sexual offences against the granddaughter of his employer. The offences began when the victim was seven years old. The accused pleaded guilty to three charges of aggravated sexual assault by digital-vaginal penetration. He was sentenced to ten years' imprisonment for each sexual assault by penetration charge, with the two sentences running consecutively, amounting to an aggregate sentence of 20 years' imprisonment. No additional term of imprisonment was imposed in lieu of caning. The present case was more serious in view of the fact that there were two victims, and with whom the accused had a quasi-familial relationship. *BQW* was also decided prior to *BPH*.

40 The remarks made by the Court of Appeal in *BPH*, in considering two sentencing appeals in respect of BPH and BVZ, are of particular relevance.

41 BPH was convicted of two sexual offences against his grandson: one charge of aggravated sexual assault by digital-anal penetration, and one charge of aggravated outrage of modesty for fondling his grandson's penis. The trial judge had imposed an aggregate sentence of 12 years' imprisonment, comprising ten years' imprisonment for the sexual assault by penetration charge

and two years' imprisonment for the outrage of modesty charge, with no caning as the accused was above 50 years old. BVZ, who was described as a "serial sexual predator" (*BPH* at [91]), was convicted of four offences, being two charges of sexual assault by penile-oral penetration, one charge of outrage of modesty, and one charge of causing hurt by means of poison. Six other charges were taken into consideration. These offences concerned four 14-year old victims. The trial judge had imposed an aggregate sentence of 20 years' imprisonment and 16 strokes of the cane, comprising individual sentences of ten years' imprisonment and eight strokes of the cane for each of the two sexual assault by penetration offences, three years' imprisonment for the hurt offence, and ten months' imprisonment for the outrage of modesty offence, with the sentences for the two sexual assault by penetration offences to run consecutively.

42 The Court of Appeal upheld the sentences imposed on both BPH and BVZ, and remarked that they were "lenient" towards the accused persons in all the circumstances: *BPH* at [75] and [90]. In respect of BVZ, the Court of Appeal stated that each of the two sexual assault by penetration charges fell at least within the middle or the upper half of Band 2 of the *Pram Nair* framework and would have attracted a sentence of 12 to 14 years' imprisonment, and that if the proper individual sentences had been ordered instead, the aggregate sentence would have exceeded 24 years' imprisonment : *BPH* at [96] and [99].

43 I draw a distinction with *Public Prosecutor v BOX* [2021] SGHC 147 ("*BOX*"), a case I decided earlier this year. BOX pleaded guilty to two charges of sexual assault by penetration and two charges of aggravated outrage of modesty with another five charges taken into consideration. The Prosecution sought an aggregate sentence of at least 17 years' imprisonment and 24 strokes of the cane. I imposed an aggregate sentence of 17 years' imprisonment and 24

strokes of the cane, ordering that two terms of two and a half years' imprisonment each for the outrage of modesty offences be consecutive to a 12-year term of imprisonment for one of the sexual assault by penetration offences: *BOX* at [55] and [57]–[58]. While the two sisters in *BOX* were aged 10–14 and 8–11 at the material time, the overall seriousness of the offending was lower. For BOX, two of the nine charges involving aggravated sexual assault by penetration, whereas in the present case four of the 12 charges involved aggravated sexual assault by penetration where on each occasion the penetration was more prolonged. Moreover in this case a charge for attempted rape is amongst the charges taken into consideration. Further, caning was available for BOX, and the imposition of 24 strokes of the cane served as a strong signal of deterrence and retribution. While it is not appropriate to impose a longer term of imprisonment for an individual offence on account of the unavailability of caning (which is dealt with instead by a term imposed in lieu of caning), in the aggregation of the sentences for a series of offences where deterrence and retribution are in play, attention should be paid to the combination of punishments. This is relevant in the context of considering the proportionality of the overall sentence to the accused's overall criminality. Such consideration must include, as a practical matter, an assessment of the quality and tone of the specific component constituents of the sentence in contributing to its overall impact on the offender and the public at large.

44 In my judgment, imposing three consecutive terms of imprisonment while adjusting the respective terms best met the needs of both limbs of the totality principle in the present case. I reduced the terms of imprisonment imposed in lieu of caning for the SAP Charges and the sentence for the Tenth Charge by three months each. The sentence for each charge was therefore as follows:

(a) for the Sixth Charge, 11 years' imprisonment and an additional three months' imprisonment in lieu of 12 strokes of the cane;

(b) for the Eighth Charge, 11 years' imprisonment and an additional three months' imprisonment in lieu of 12 strokes of the cane; and

(c) for the Tenth Charge, six months' imprisonment.

Conclusion

45 The aggregate sentence imposed on the accused was therefore 22 years and six months' imprisonment, with an additional six months' imprisonment in lieu of 24 strokes of the cane, backdated to 16 August 2019.

Valerie Thean
Judge of the High Court

Nicholas Lai and Andre Ong (Attorney-General's Chambers) for the Prosecution;
The accused in person.