

IN THE COURT OF APPEAL OF THE REPUBLIC OF SINGAPORE

[2025] SGCA 45

Court of Appeal / Criminal Appeal No 11 of 2024

Between

DAN

... Appellant

And

Public Prosecutor

... Respondent

Court of Appeal / Criminal Appeal No 13 of 2024

Between

DAN

... Appellant

And

Public Prosecutor

... Respondent

In the matter of Criminal Case No 19 of 2023

Between

Public Prosecutor

... Prosecution

And

DAN

... Defendant

GROUNDS OF DECISION

[Criminal Procedure and Sentencing — Sentencing — Whether maximum sentence of life imprisonment justified — Whether worst type of cases of culpable homicide — Section 304(a) Penal Code (Cap 224, 2008 Rev Ed)]

[Criminal Procedure and Sentencing — Sentencing — Whether maximum sentence of four years' imprisonment justified — Whether worst type of cases of ill-treatment — Section 5 Children and Young Persons Act (Cap 38, 2001 Rev Ed)]

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DAN
v
Public Prosecutor and another appeal

[2025] SGCA 45

Court of Appeal — Criminal Appeal Nos 11 and 13 of 2024
Sundaresh Menon CJ, Steven Chong JCA, Judith Prakash SJ
11 July 2025

19 September 2025

Sundaresh Menon CJ (delivering the grounds of decision of the court):

1 A father brutally abused his two young children over the course of two years. On countless occasions, he kicked, punched and stamped on them. He confined the children in very cramped spaces for long periods that extended to several months. For much of this time, the children were naked and would only be let out for short periods so that they could be bathed or fed. And even then, they were fed so little that they were famished and resorted to eating their own faeces and even the stuffing of the mattress they were to sleep on. This prolonged nightmare of horrific abuse was put to a tragic end when one of his children, who was about five years old at the time, died after being subjected to severe and violent abuse.

2 Before a judge of the General Division of the High Court (the “Judge” and the “GDHC”), the father (the “appellant”) pleaded guilty to six charges and was sentenced to an aggregate term of 34 and a half years’ imprisonment with

a further six months' imprisonment in lieu of caning. This comprised the following individual sentences:

(a) For a single charge of culpable homicide, not amounting to murder, punishable under of s 304(a) of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code" and the "culpable homicide charge"), the appellant was sentenced to 15 years' imprisonment and 12 strokes of the cane.

(b) For each of four charges of ill-treatment of a child under s 5(1) of the Children and Young Persons Act (Cap 38, 2001 Rev Ed) (the "CYPA" and the "CYPA charges"), the appellant was sentenced to four years' imprisonment.

(c) For a single charge of causing the disappearance of evidence of the offence of culpable homicide in breach of s 201 of the Penal Code (the "disposal of evidence charge"), the appellant was sentenced to three and a half years' imprisonment.

The sentences imposed for each of these charges were ordered to run consecutively, giving rise to the aggregate sentence noted above. In addition, 20 other charges were taken into consideration ("TIC") for the purpose of sentencing.

3 The appellant filed two appeals. The principal appeal in CA/CCA 11/2024 ("CCA 11") was against the said aggregate sentence of 34 and a half years' imprisonment. The appellant subsequently also filed CA/CCA 13/2024 ("CCA 13") which was against the Judge's decision to impose an additional six months' imprisonment in lieu of caning for the

culpable homicide charge, when it emerged that the appellant was certified unfit to be caned.

4 Upon reviewing the papers in preparing for the hearing of the appeals, it appeared to us that the Judge may have erred in imposing a sentence of 15 years' imprisonment for the culpable homicide charge. In fairness to the Judge, this may have arisen because the Prosecution had only sought 12.5 to 14 years' imprisonment for the culpable homicide charge at the hearing before him (see *Public Prosecutor v DAN* [2024] SGHC 250 (the "GD") at [34(a)]). Although the Prosecution had not appealed the sentences imposed below, we nonetheless invited the parties to address us on whether the sentence for the culpable homicide charge should be enhanced to life imprisonment or to a term in excess of what had been imposed by the Judge. We also clarified that notwithstanding our question, we would, of course, consider the merits of the two appeals. Having heard the parties, we dismissed the appellant's appeals and enhanced his sentence for the culpable homicide charge to a term of life imprisonment. We left the sentences for the other offences undisturbed but ordered that they run concurrently. These are the reasons for our decision.

The factual background

5 The facts relevant to these appeals are set out in full at [5]–[32] of the GD. In this section, we set out only the background facts that were relevant to our decision. A list of all the charges proffered against the appellant is set out at Annex A below.

6 The appellant, a 45-year-old male Singaporean citizen, had previously worked as an auxiliary police officer for over ten years and was experienced in

various forms of martial arts. At the time of his offences, he was not suffering from any mental disorders.

7 Two children were born of the appellant's marriage to his first wife, whom we refer to as [A]. The first was a daughter, "Ayeesha", who was the victim of the culpable homicide offence. She was born in 2012. The second was a son, who we refer to as [R], and who too was subjected to prolonged and violent abuse at the hands of the appellant. He was born in 2013. At the time of Ayeesha's death, she was five years and five months old, while her brother [R] was just under four years of age.

8 The appellant's second marriage was to a lady whom we refer to as [W]. The appellant and [W] had three children together. It does not appear that those children were subjected to any abuse. Sometime after the appellant and [A] were divorced, Ayeesha and [R], who had been in foster care for some time, came to reside with the appellant and [W] at their flat (the "Flat"). This was sometime in the early part of 2015. The appellant was the children's primary caregiver, though [W] would sometimes feed and shower them when the appellant was at work. Save for a short two-month period in the first half of 2015, Ayeesha and [R] did not attend school and were mostly confined in the Flat.

The appellant's persistent and cruel ill-treatment of Ayeesha and [R]

9 The appellant and [W] started abusing Ayeesha and [R] sometime towards the later part of 2015, when they were three and two years old respectively. At about the same time, the appellant also reduced the number of times the children were fed from three to two times a day, ostensibly due to financial difficulties. The children started losing weight and became so hungry that they resorted to eating their own faeces and the stuffing from their mattress.

The physical abuse of Ayesha and [R]

10 When the appellant started confining the children to a specific cramped space in the Flat, he installed closed-circuit television (“CCTV”) cameras to enable him to monitor the children’s movements. As a result, two notable incidents of abuse were captured on video, and these formed the subject matter of two of the proceeded CYPA charges:

(a) On 27 March 2016, the appellant, upon discovering that Ayesha had smeared her faeces on the walls, assaulted her for 16 minutes, repeatedly slapping, punching, caning, and kicking her without restraint. He grabbed her by the hair, lifted her by the neck with her back against a wall while punching her body and even threatened her with a pair of scissors. After the assault, he was seen cleaning some blood from her face and the wall. This is the subject of the proceeded 12th Charge.

(b) On 27 August 2016, both children were caned by the appellant who also shouted at them. This occurred over the course of 24 minutes. It was triggered by their supposedly having made a mess at home. The caning of [R] is the subject of the proceeded 17th Charge.

There were six other occasions of physical abuse against the children, which, as noted above, gave rise to 12 other CYPA charges that were TIC for the purposes of sentencing, with the appellant’s consent.

The confinement of Ayesha and [R]

11 From February to October 2016, the children were confined to what was described as the “first naughty corner”. This was a space in the bedroom of the Flat, and it measured about 90cm by 90cm and was barricaded by a bookshelf and a wardrobe to prevent the children from escaping. The children were kept

there throughout the day wearing only diapers; they were only allowed out when they were being fed or bathed. As noted above, a CCTV camera was installed by the appellant to monitor them. This confinement continued for eight months and is the subject of two TIC charges (the 10th and 11th Charges).

12 The children's plight worsened from October 2016 to August 2017, when they were moved to a "second naughty corner" which was in the only toilet of the Flat. Here, they were confined naked, without even diapers, and were only allowed out during feeding times or when the appellant or [W] needed to use the toilet. Another CCTV camera was installed in the kitchen facing the toilet so as to monitor the children, but the appellant disposed of it after he realised he had killed Ayesha (see below at [16]). This confinement over a period of almost 10 months is the subject matter of the proceeded 19th and 20th Charges.

Ayesha's death and the appellant's attempts to dispose of evidence

13 On 10 August 2017 at around 9.00pm, [W] found Ayesha and [R] sleeping on the toilet floor. [W] asked the children to stand up and move their legs as they had not been moving for the entire day. When Ayesha refused, [W] complained to the appellant who was in the living room. The appellant checked the CCTV livestream on [W]'s mobile phone and saw Ayesha squatting on the toilet floor. He then entered the toilet, pulled Ayesha up from the ground by her arm, and beat her some 15 or 20 times across her face (the "10 August Attack"). When the appellant eventually placed Ayesha back on the toilet floor, her head was tilted backwards in an awkward position. The appellant then left the toilet and went to bed.

14 Later that night, on 11 August 2017 at around 3.00am, [W] informed the appellant that the children were sleeping in what seemed to her to be unusual positions. The appellant entered the toilet again and punched Ayesha and [R] on their backs. He also kicked and stamped on Ayesha's buttocks and shoulder, turned her around and slapped her on the face three or four more times (the "11 August Attack"). The 10 August Attack and the 11 August Attack collectively formed the subject of the culpable homicide charge.

15 On 11 August 2017 between 6.00pm and 7.00pm, [W] noticed that Ayesha was lying face up on the toilet floor with her eyes closed. The children had not left the toilet since the previous day. When [W] noticed that Ayesha was unresponsive and that her body was cold, she shouted for the appellant to come to the toilet. When the appellant realised that Ayesha's body was stiff, he attempted to administer cardiopulmonary resuscitation but to no avail. The appellant and [W] then realised that Ayesha had died.

16 Later that evening, the appellant told [W] that he would "clean up the evidence" of Ayesha's passing. He devised a plan to shield [W] from any liability arising from Ayesha's death. Anticipating the onset of investigations, the appellant told [W] to maintain falsely that the children had been with him at his mother's home while [W] was at the Flat, and also to file a false police report against him for abusing and raping her. In the early hours of 12 August 2017, the appellant also removed various items from the Flat which would connect him to the killing and disposed of them in various rubbish bins at nearby housing blocks. This was captured by police camera footage, and gave rise to the disposal of evidence charge.

17 In the morning of 12 August 2017, the appellant took [R] and Ayesha's lifeless body to Singapore General Hospital. He lied to the hospital staff that

Ayeesha had been well the previous night and that he had only realised that Ayeesha was unresponsive at about 9.00am that morning. Doctors observed Ayeesha to be in cardiac arrest with no breathing or pulse. Ayeesha was pronounced dead at 10.49am on 12 August 2017 after failed attempts to resuscitate her.

18 An autopsy was conducted and in the report dated 14 August 2017 (the “Autopsy Report”), it was stated that Ayeesha’s death had been caused by a head injury consistent with blunt force trauma to both sides of her head and face. The Autopsy Report also stated that:

(a) Ayeesha’s height and weight were 99cm and 13.2kg respectively. Both figures were below the third percentile on the growth chart for girls of Ayeesha’s age; in short, she was severely undernourished.

(b) There were 16 external injuries to Ayeesha’s head including bruises and abrasions all around her scalp. An internal examination of Ayeesha’s head revealed subarachnoid haemorrhages and a focal subdural haemorrhage, accompanied by generalised swelling of Ayeesha’s brain. There were 29 other external injuries to Ayeesha’s trunk, upper limbs and lower limbs.

The appellant’s arrest and his further lies to the police

19 Shortly after Ayeesha was pronounced dead, the police questioned the appellant to discover the circumstances leading to her demise. The appellant lied that he had been having breakfast with Ayeesha and [R] that morning and that he brought Ayeesha to the hospital after observing that she was very weak. The appellant was arrested later that afternoon.

20 Between 12 and 17 August 2017, the appellant provided five false statements to the police which contained a fabricated account of events leading up to Ayesha's death. The appellant finally admitted that he was lying on 18 August 2017, when confronted with the police camera footage of him returning to the Flat in the wee hours of the morning of 12 August 2017. He also admitted to having hit Ayesha in the face repeatedly on the night of 10 August 2017 and finding her motionless body on 11 August 2017. The appellants' repeated lies formed the basis of five TIC charges under s 182 of the Penal Code for provision of false information to a public servant.

Decision below

21 The Judge held that the sentencing principles of central importance in this case were retribution and general deterrence: GD at [41]. Several aggravating factors applied to most, if not all, of the offences in question. First, the blatant abuse of trust and authority in a familial context was gravely aggravating because it meant that Ayesha and [R] were not able to escape their abuser while constantly being at the receiving end of his violence: GD at [43]–[46]. Second, Ayesha and [R] were particularly vulnerable victims: not only were they extremely young and defenceless, and dependent on their father, they were also weak and severely undernourished: GD at [43], [47]–[48]. Third, the abuse was sustained, occurring over a prolonged period of two years: GD at [43], [49]. Fourth, there were 20 other TIC charges, most of which were for equally serious offences: GD at [50].

22 The Judge also found no substantial mitigating factors. Although the appellant decided to plead guilty mid-trial, this did not displace the sentencing considerations of retribution and general deterrence, especially given the grave and heinous nature of the crimes committed. Ayesha had died at her father's

hands and in no sense could it sensibly be said that she had been spared the ordeal of testifying. Moreover, as it was likely that the Prosecution would have secured a successful conviction on the basis of the available evidence, and given the trial had already gotten under way, there was no significant saving of the State's resources resulting from appellant's guilty plea: GD at [51]–[52].

23 The Judge accordingly imposed the following sentences on the appellant:

- (a) For the culpable homicide charge, the appellant was sentenced to 15 years' imprisonment and 12 strokes of the cane. The appellant's culpability was aggravated by the viciousness of his attack, his abuse of position and the extreme vulnerability of the victim. This warranted a starting sentence of 16 and a half years' imprisonment: GD at [60]–[61] and [64]. The only mitigating factor was his plea of guilt. While the Sentencing Advisory Panel's Guidelines on Reduction in Sentences for Guilty Pleas (the "PG Guidelines") provided for a maximum 30% reduction in sentence, the effect of the appellant's guilty plea was much reduced in this case. A 10% sentencing discount was applied: GD at [63]–[64]. The Judge also imposed 12 strokes of the cane as a commensurate response to the appellant's culpability: GD at [65]. As the appellant was certified to be permanently unfit for caning on medical grounds, the Judge imposed an additional six months' imprisonment in lieu of caning. The Judge held that the considerable need for retribution and deterrence in this case outweighed the fact that the appellant's exemption from caning was unexpected and that the sentence imposed was already lengthy: GD at [109]–[112].

(b) For each of the four proceeded CYPAs charges, the Judge sentenced the appellant to the maximum of four years' imprisonment. The Judge considered the abuse to be "amongst the worst" of its kind, aggravated by the appellant's abuse of power and the vulnerability of the victims. The Judge also added that "[a]ny plea of guilt could not attract any material reduction" in sentence: GD at [81].

(c) For the disposal of evidence charge, the appellant was sentenced to imprisonment for three and a half years: GD at [87]. No appeal has been brought against this sentence.

24 The Judge ordered that all the individual sentences run consecutively: GD at [90]. He considered the appellant's various offences to be distinct: they occurred on separate occasions, involved two different victims, and protected different legal interests: GD at [98]–[102]. In the premises, the aggregate sentence ordered by the Judge was 34 and a half years' imprisonment with a further six months' imprisonment ordered in lieu of 12 strokes of the cane. The Judge concluded that the aggregate sentence imposed was not disproportionate; it was instead necessarily high to reflect the gravity of the appellant's offences: GD at [103].

The parties' cases on appeal

The appellant's submissions on appeal

CCA 11

25 On the adequacy of the sentence for the culpable homicide charge, the appellant did not dispute that an appellate court has the power to enhance a sentence even in the absence of an appeal by the Prosecution. However, he argued that the maximum punishment of life imprisonment was not appropriate

in this case because it neither satisfied the criteria set out by the English Court of Appeal in *R v Rowland Jack Forster Hodgson* (1967) 52 Cr App Rep 113 (“*Hodgson*”), nor could his offence fairly be characterised as one of the “worst types” of culpable homicide cases.

26 As for the CYPA charges, the two key arguments the appellant advanced were: (a) that the maximum sentence of four years’ imprisonment imposed for each CYPA charge was manifestly excessive when compared to the precedents; and (b) that the Judge failed to reduce the sentences despite his plea of guilt which did save the State some time and resources.

CCA 13

27 There were three key planks to the appellant’s appeal in CCA 13. First, that the Judge erred in failing to consider that the appellant’s medical condition which rendered him unfit for caning, was unexpected. As the appellant could not have known that he would be exempt from caning, any additional imprisonment term could not meaningfully be seen to replace the intended deterrent effect of caning. Second, there would be no real deterrent effect that would be achieved by ordering a term of imprisonment in lieu of caning for a culpable homicide offence, given that the offence was already being met with a long sentence of imprisonment. Third, the appellant had already started taking steps towards rehabilitation by the time he was convicted and sentenced .

The Prosecution’s submissions on appeal

28 The Prosecution did not file a cross-appeal against the Judge’s sentence on the culpable homicide charge. Nor did they submit for a sentence of life imprisonment in the proceedings below. Nevertheless, in line with our request for additional submissions on this issue (see [4] above), the Prosecution made

several helpful points to assist us in our deliberations. The Prosecution highlighted some key features of the present case: (a) there was a prolonged period of abuse and neglect of Ayesha and the final fatal incident was “the culmination of a very long period of ill-treatment”; (b) the manner in which the culpable homicide was carried out was heinous as it was unprovoked and persistent; and (c) the appellant was Ayesha’s father. On these grounds, it was submitted that a sentence at the high end of the sentencing range would be entirely warranted and appropriate.

29 In relation to the CYPA charges, the Prosecution maintained that these were amongst the worst types of such offences, having regard to: (a) the atrocious nature of the ill-treatment giving rise to the severe harm inflicted (both physical and psychological); (b) the deeply abhorrent fact that a father had violently and relentlessly abused his two young children; and (c) the related TIC charges which demonstrated the overall scale of suffering that the two children had to endure.

Issues to be determined on appeal

30 The primary issue for us to decide was whether the appellant’s sentence for the culpable homicide charge ought to be enhanced to life imprisonment. If it were to be so enhanced, the sentences for each of the other remaining charges would become moot since a sentence of life imprisonment must run *concurrently* with all other imprisonment sentences: s 307(2) of the Criminal Procedure Code 2010 (2020 Rev Ed) (the “CPC”). As alluded to earlier (see [4] above), and as we will explain, we were of the view that the appellant’s sentence for the culpable homicide charge ought to be enhanced to life imprisonment.

31 Nonetheless, for completeness and precedential clarity, we also address the following issues: (a) in CCA 11, whether the maximum term of four years' imprisonment was warranted for each of the four CYPAs charges; and (b) in CCA 13, whether a term of imprisonment should have been ordered in lieu of caning in the present circumstances.

The sentence for the culpable homicide charge should be enhanced to a term of life imprisonment

32 We begin by explaining the reasons for our decision to enhance the sentence for the culpable homicide charge to a term of life imprisonment.

The appellate court's power to correct decisions made by the trial court

33 Preliminarily, we recognise that there was no cross-appeal by the Prosecution against the sentence imposed for the culpable homicide charge. As recently observed by the GDHC in *Koh Lian Kok v Public Prosecutor* [2024] 4 SLR 1526 ("*Koh Lian Kok*") at [106], the appellate court must "be careful not to stifle a litigant's right to bring an appeal in good faith". We also recognise that appellants do not generally come to the court expecting that their sentence will be increased.

34 However, as was also noted in *Koh Lian Kok*, an offender's expectation on appeal is ultimately *irrelevant* to the determination of the proper sentence to be imposed (at [108]). It is well-established that an appellate court retains the power to enhance an offender's sentence, even in the absence of an appeal against sentence by the Prosecution: *Koh Lian Kok* at [101]; *Wong Tian Jun De Beers v Public Prosecutor* [2022] 4 SLR 805 at [3]; *Goh Ngak Eng v Public Prosecutor* [2023] 4 SLR 1385 ("*Goh Ngak Eng*") at [127]; *The Criminal Procedure Code of Singapore: Annotations and Commentary* (Jennifer Marie

& Mohamed Faizal Mohamed Abdul Kadir eds) (Academy Publishing, 2012) at para 20.099.

35 This power may be found in s 390(1)(c) of the CPC, which states:

390.—(1) At the hearing of the appeal, the appellate court may, if it considers there is no sufficient ground for interfering dismiss the appeal, or may —

...

(c) in an appeal as to sentence, reduce or enhance the sentence, or alter the nature of the sentence ...

It may be exercised where the “interests of justice call for such a course”, in particular, where: (a) the sentence is manifestly inadequate; (b) the trial judge had made the wrong decision as to the proper factual matrix before him; (c) the trial judge had erred in appreciating the material before him; or (d) the sentence was wrong in principle: *Koh Lian Kok* at [102], [106]; s 394 of the CPC; see also *Goh Ngak Eng* at [127]. The fact that the Prosecution has not filed an appeal does not constrain the court from exercising its power to enhance a sentence, so long as any of the foregoing grounds are satisfied. That fact should also not be accorded any weight in the appellate court’s assessment of the appropriate sentence that it should mete out: *Koh Lian Kok* at [108].

36 Indeed, the appellant did not dispute that the court has the power to enhance a sentence in the absence of an appeal from the Prosecution. Instead, his arguments were centred on why the court should not exercise this power on the facts. The central issue before us was therefore whether, on the facts of this case, the sentence imposed by the Judge for the culpable homicide charge was manifestly inadequate, and whether an enhancement of the sentence was called for in the interests of justice. This is the crucial inquiry that we turn to address.

Principles to apply when assessing the suitability of a life sentence*Two categories of culpable homicide offences*

37 A sentence of life imprisonment is the maximum punishment for the offence of culpable homicide not amounting to murder under s 299 of the Penal Code: s 304(a)(i) of the Penal Code. It may be useful to start by distinguishing between two broad categories of cases in which an offender will face a charge for the lesser offence of culpable homicide, as opposed to one for murder under s 300 of the Penal Code. In our judgment, this distinction is important because the approach to sentencing may differ depending on which of the two categories the case falls into:

(a) The first of these is where the offender would ordinarily have been charged with murder, but where the charge is lowered either by the Prosecution or by the court because one of the partial defences to a charge of murder under s 300 is engaged. One example is where the offender is suffering from an abnormality of mind that contributed substantially to his or her offence (see, for instance, *Public Prosecutor v Gaiyathiri d/o Murugayan* [2022] 4 SLR 560 at [32]).

(b) The second category of such cases is where none of the partial defences are established, but where the Prosecution nevertheless prefers a charge for culpable homicide. This may be for a number of reasons: (i) it may be that in the Prosecution's view, the evidence supports only the mental element specified in s 299 of the Penal Code (for a detailed discussion on the subtle differences in the mental elements between ss 299 and 300 of the Penal Code, see *Public Prosecutor v Sutherson, Sujay Solomon* [2016] 1 SLR 632 ("*Sutherson*") at [42]–[48] and *Public Prosecutor v P Mageswaran and another appeal* [2019] 1 SLR 1253

(“*Mageswaran*”) at [32]–[37]); (ii) it may be that the Prosecution, in its exercise of prosecutorial discretion, comes to the view that the death penalty is not warranted in a particular case; or (iii) it may be that the charge was lowered to one of culpable homicide in order to facilitate a plea agreement with the accused person: *Mageswaran* at [34]–[37]; *Sutherson* at [45]; Stanley Yeo, Neil Morgan & Chan Wing Cheong, *Criminal Law in Singapore* (LexisNexis, 4th Ed, 2022) at paras 8.64–8.65.

38 In the former category of cases set out at [37(a)], given that one or more of the partial defences will have been established, it will typically not be the case that the offence constitutes one of the worst types of culpable homicide such that a term of life imprisonment would be warranted. Of course, there may be exceptions. But the partial defences are themselves subject to a fairly high threshold, and a case which falls within the worst types of the offence will generally be “*devoid* of any mitigating circumstances” [emphasis in original]: *Public Prosecutor v Azlin bte Arujunah and other appeals* [2022] 2 SLR 825 (“*Azlin*”) at [200(d)], citing *Mageswaran* at [49].

39 However, in cases involving mentally disordered offenders, the *Hodgson* criteria, which featured in the appellant’s submissions, remain instructive. The criteria are that: (a) the offences are grave enough to require a very long sentence; (b) it appears from the nature of the offences or from the defendant’s history that he is a person of unstable character likely to commit such offences in the future; and (c) where such future offences are committed, the consequences on others may be especially injurious. Where the three *Hodgson* criteria are cumulatively satisfied, the sentencing policy of protecting the public will come to the fore. In such circumstances, even if the offender was suffering from a mental disorder which might have contributed to his offence,

and which would otherwise be a materially mitigating consideration, a sentence of life imprisonment would nonetheless be appropriate because such offenders are likely to “pose a serious danger to the public for an indeterminate time”: *CNK v Public Prosecutor* [2024] 2 SLR 450 at [83]–[87]; *Sutherson* at [59]–[60].

40 On the other hand, in the latter category of cases mentioned at [37(b)] above, where no partial defence is engaged, there is *no basis presumptively to exclude the sentence of life imprisonment*. In short, it should not be the default position that a term of life imprisonment will be excluded unless there is a danger of recurrence, upon applying the *Hodgson* criteria. As we made clear in *Mageswaran*, the *Hodgson* criteria applies as an *alternative justification* for the imposition of a life sentence (at [49]). In a case where the *Hodgson* criteria are not relevant, the inquiry is simply whether the offence is among the worst types of culpable homicide, such that a term of life imprisonment is warranted. It is to this inquiry that we now turn.

The “worst type of culpable homicide” threshold

41 As a starting point, it is well-established that the “*worst type* of culpable homicide” is not equivalent to the *worst case* of culpable homicide that may be imaginable: *Sim Gek Yong v Public Prosecutor* [1995] 1 SLR(R) 185 (“*Sim Gek Yong*”) at [11]–[13]; *Mageswaran* at [45]; *Azlin* at [200(a)]. As observed by Yong Pung How CJ (as he then was) in *Sim Gek Yong*, to adopt such a threshold would “only invite an endless permutation of hypotheses” (at [13]). In light of the wide and varied range of circumstances in which culpable homicide may be committed, it is unhelpful and unrealistic to expect a sentencing court to engage in a fine-grained exercise to scrutinise the details of a range of more or less comparable cases in an effort to arrive at a conclusion as to which was more

egregious: *Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 at [55]; *Public Prosecutor v CNK* [2023] SGHC 358 at [20].

42 Instead, the sentencing court should identify a “range of conduct” which characterises the most serious instances of the offence in question, with reference to the “nature of the crime and the circumstances of the criminal”: *Sim Gek Yong* at [13]; *Azlin* at [200(a)]; *Mageswaran* at [45]. As was held in *Public Prosecutor v Aniza bte Essa* [2008] 3 SLR(R) 832, it will also be relevant to consider whether there is a need to mete out the maximum punishment to “register society’s *sheer abhorrence* of what the offender has done” [emphasis added]: at [47]. How should such a test apply in practice? In our judgment, the sentencing court should venture to identify a set of ***defining characteristics*** or ***fundamental elements*** of the case at hand that distinguish it or cause it to stand out from the typical run of such cases, and in the light of these, to consider whether the offence was so egregious that it calls for the imposition of the maximum permissible sentence.

The defining elements of the present offence

43 We begin with the observation that when sentencing an offender for multiple offences, this will proceed in two sequential steps (*Gan Chai Bee Anne v Public Prosecutor* [2019] 4 SLR 838 (“*Anne Gan*”) at [18]–[23]):

(a) First, the court should reach a provisional view of the *individual sentence* for each offence. In so doing, the court should keep in mind the relevant aggravating and mitigating factors that bear upon the sentence for each charge: *Anne Gan* at [18], [22]; *Azlin* at [199(a)].

(b) Second, the court will determine the overall sentence to be imposed, having regard to the *totality of the accused’s offending*

conduct. At this stage, the court is not only concerned with how the sentences ought to be run (meaning either consecutively or concurrently), but also whether the totality of the offender's conduct justifies an adjustment, whether upwards or downwards, to the individual sentences decided at the first step so as to arrive at an aggregate sentence that is proportionate and condign to the overall criminality that is before the court: *Anne Gan* at [20]–[22]; *Azlin* at [199(b)]–[199(c)].

44 In this case, we consider that there are five key defining characteristics of the offence, which we detail below, and having regard to their totality we are satisfied that this would be one of the worst types of culpable homicide. But even if we were to assume for the sake of argument that the culpable homicide charge in question here might not warrant the maximum sentence of life imprisonment at the first stage of the *Anne Gan* framework, when this is viewed in the totality of the criminal behaviour at the second stage of the *Anne Gan* framework, there can be no doubt at all that this was one of the worst types of culpable homicide.

Cruelty and viciousness of the attack

45 First, we considered that the 10 and 11 August Attacks were perpetrated in a particularly cruel and inhumane manner. Among other considerations, the degree of cruelty inherent in an offence may be inferred from (a) the manner in which the attacks were carried out; (b) the frequency and recurrence of the attacks; and (c) the length of time over which they are carried out: *Public Prosecutor v BDB* [2018] 1 SLR 127 (“*BDB*”) at [64]; *Azlin* at [211]. Moreover, it may also be aggravating if the offender continues to inflict violence on the victim after he or she has fallen to the floor or is otherwise in a vulnerable

position. To illustrate this point, we discuss two cases which highlight cruelty as a defining consideration in assessing the relevant offence.

(a) In *Public Prosecutor v Firdaus bin Abdullah* [2010] 3 SLR 225 (“*Firdaus*”), a guardian attacked a three-year old child by slapping him repeatedly. However, as the child would not stop crying, the offender continued to attack the child relentlessly by punching him; slamming him into a wall; hitting his back, and grabbing and biting his genitals, stomach and nose. The child died as a result of these attacks; with the autopsy report revealing a total of 31 injuries to the child. The court found that this fell within the worst category of cases of causing grievous hurt and imposed the maximum permissible sentence under the version of the Penal Code that was in force at the material time. The offence was found to be particularly vicious given the nature of the injuries caused to the child, and the fact that the attacks occurred repeatedly: at [20]–[22], [38]; see also the discussion of *Firdaus* in *BDB* at [64].

(b) In *Public Prosecutor v AFR* [2011] 3 SLR 833 (“*AFR*”), a father repeatedly hit his daughter to the point that her inferior vena cava ruptured and eventually caused her death. For context, it may be noted that this was an injury more commonly observed in high-speed collisions. The judge below sentenced the father to six years’ imprisonment for his offence under s 304(b) of the Penal Code. On appeal, we found that the judge had failed to accord sufficient aggravating weight to the brutal manner in which the offence was committed and the extreme violence and force that was inflicted on the child: at [19], [23]. The father had battered the child like a lifeless doll even after she fell into a kneeling position and was unable to defend herself from the attacks: at [23], [32]. In light of the horrendous violence

inflicted on the child, this court enhanced the father's sentence to the maximum ten-year imprisonment term that was permissible at the material time with ten strokes of the cane: at [57].

As may be observed, our courts have not hesitated to impose sentences near or around the maximum, in respect of offences featuring a high degree of brutality against young victims.

46 In the present case, the true viciousness of the 10 and 11 August Attacks can only be appreciated by reference to the full range of circumstances under which they were perpetrated:

(a) In the 10 August Attack, Ayesha was squatting on the floor when the appellant pulled her by her arm and slapped her across the face about 15 or 20 times. At this juncture, he already noticed that Ayesha's head was tilted backwards in an "awkward position". Yet, he chose to ignore this and headed to bed.

(b) A few hours later, [W] complained to the appellant that Ayesha was in a strange position. Rather than showing concern for her wellbeing, the appellant proceeded to inflict further acts of cruel violence against Ayesha in the 11 August Attack – he entered the toilet, punched her on her back and stamped on her buttocks and shoulder. He also turned her around to slap her across the face three to four more times.

(c) It was also not until about 6.00 or 7.00pm on 11 August, *about 15 hours after the 11 August Attack*, that the appellant became aware of Ayesha's death. This was in spite of the fact that he had been resting at

home for the most of that day; and even then, it was [W], not the appellant, who realised that Ayeesha was not responsive.

47 In other words, despite the fact that Ayeesha was already in a vulnerable position, squatting on the floor prior to the 10 August Attack and lying on the floor prior to the 11 August Attack, the appellant proceeded to grab her to attack her violently. These Attacks were repeated and relentless; the multiple blows to Ayeesha’s head and face were so severe that they resulted in her death. In our judgment, the degree of cruelty exhibited by the appellant was comparable to, if not more severe than in, *Firdaus* and *AFR*.

Prolonged period of escalating abuse

48 Second, there was a prolonged period of escalating abuse that eventually resulted in the fatal attack against Ayeesha. It was not disputed that the 10 and 11 August Attacks were the culmination of a two-year long period of abuse and neglect, where the appellant confined Ayeesha to cramped corners of the Flat; denied her sufficient food and care; and punched, caned and stamped on her body on several occasions. As we observed in *Azlin* at [207]–[210] and *BDB* at [120], the presence of a sustained period of cruelty which culminates in the victim’s death will almost invariably be considered as a defining element of the offence. We turn to consider the facts of these cases in some detail.

49 In *Azlin*, a mother (“Azlin”) and father (“Ridzuan”) repeatedly abused their young son for three months, including by hitting him, locking him in a cat cage and pouring hot water on him (the “scalding incidents”). There were a total of four scalding incidents, the last of which precipitated the victim’s unfortunate death. For the fourth scalding incident, Ridzuan faced an eventual charge under s 326 of the Penal Code for voluntarily causing grievous hurt by means of a

heated substance. In proceedings below, Ridzuan was sentenced to 14 years' imprisonment with 12 strokes of the cane for the s 326 charge, and to an aggregate sentence of 27 years' imprisonment with 24 strokes of the cane. On appeal, we did not accept the Prosecution's submission that the fourth scalding incident alone could be viewed as one of the worst types of s 326 cases that would warrant a sentence of life imprisonment. However, in light of the totality of Ridzuan's criminal wrongdoing, including the abuse charges that preceded the fourth scalding incident, we enhanced the sentence for the s 326 charge to one of life imprisonment: at [204], [206]. We observed, in this regard, that the splashing of hot water during the fourth scalding incident was "particularly cruel because it was done not for the first time on unblemished skin, but on skin that had *already been repeatedly and brutally injured over three previous scalding incidents*" [emphasis in original]: at [212].

50 Next, in *BDB*, we enhanced the seven-year custodial sentence that was originally imposed in respect of a charge of voluntarily causing grievous hurt under s 325 of the Penal Code to an imprisonment term of nine years and six months, six months shy of the maximum ten-year sentence. The offender in *BDB* was a mother who repeatedly abused her four-year-old son over a period of two years. In the final fatal incident, the mother pushed her child to the floor, stepped on his knees and choked his neck multiple times because he was unable to correctly recite a set of numbers. We held that the first instance court had failed to accord aggravating weight to the fact that the mother's pattern of sustained abuse as a whole, pointed to cruelty towards a defenceless child: at [120].

51 Drawing an analogy to our observation in *Azlin* at [212], the 10 and 11 August Attacks were not perpetrated against a victim who was otherwise free from injury and well cared for. Not only was Ayesha young and defenceless

against her father's brutal attacks, but she had already been abused in many and varied ways as reflected in the fact that she was severely undernourished at the time of her death, with her height and weight being below the third percentile on the growth chart for girls in her age range. There were also numerous other injuries on her body (see [18] above). This was all the result of the appellant's own conduct. In other words, and as was the case in *Azlin*, the severity of the 10 and 11 August Attacks was *compounded* by the appellant's own earlier acts of abuse and neglect.

Especial vulnerability of the victim

52 Closely allied to our observations at [51] above, another defining feature of this case was that Ayesha was a *particularly* vulnerable victim. As has been emphasised in our sentencing precedents, there will almost always be a gross physical disparity at play between an adult offender and a child victim that renders the child completely defenceless against the offender: *BDB* at [37]; *Firdaus* at [38]; *Public Prosecutor v DAM* [2023] SGHC 265 at [12]; *Public Prosecutor v Sarle Steepan s/o Kolundu* [2009] 4 SLR(R) 1143 at [31]. This element featured all the more prominently in the present case since, as noted above, Ayesha was severely undernourished and had multiple existing injuries on her body.

Abuse of trust and repudiation of parental duty

53 Next, we considered the fact that the appellant was Ayesha's biological father and primary caregiver. The appellant divorced [A] when Ayesha was about a year old. Thereafter, from the time that Ayesha was three years' old until the time of her tragic demise, she was placed in the appellant's care and custody. It was undisputed that the appellant was "mainly responsible" for Ayesha and that [W] would only step in "at times when [the appellant] was

working and not at home”. In this manner, Ayeesha was almost completely reliant on the appellant’s care.

54 As we noted in *Public Prosecutor v UI* [2008] 4 SLR(R) 500 (“*UP*”) in the context of a rape offence, it is a “matter of common sense” that an offender who stands in a position of trust and authority in relation to a child victim should receive a harsher punishment for the offence committed against the child: at [32]. Indeed, the relationship between a parent and his or her child has been heralded as the “ultimate relationship of trust and authority”: *UI* at [33]. Where a parent breaches the highest level of trust that is reposed in him or her and abuses and causes the death of his or her child, that parent stands at the highest end of the spectrum of guilt and must be dealt with by the most severe condemnation of the law: *UI* at [33]; *Firdaus* at [19].

55 We would also add that since a parent stands in this position of authority, instances of child abuse will often be difficult to detect or prevent. At times, this may result in abuse that is cruel and sustained, resulting in an accumulation of grievous injuries. That was precisely what had occurred in this case.

The case was devoid of any mitigating factors

56 Fifth and finally, as we noted at [38] above, a case which falls within the worst types of culpable homicides will generally be devoid of any mitigating circumstances. That was squarely the case here. The offence was the result of a fully intentional set of actions and there was nothing to suggest that the appellant was not in control of his faculties throughout this period. We also disagreed with the Judge that the appellant’s plea of guilt warranted *any* sentencing discount (GD at [63]). This was for two reasons. First, we did not think that the plea of guilt was indicative of any remorse on the appellant’s part. Indeed, after the

offence was committed, the appellant attempted to dispose of the relevant evidence and lied to the police about the events leading to Ayeesha's death. It was only when confronted with video evidence from the police cameras and after the murder charge was lowered to one of culpable homicide, that the appellant pleaded guilty. Second and in any event, para 13(b) of the PG Guidelines contains what is known as the "public interest exception", which states that where the court is of the view that it would be contrary to public interest for those guidelines to be applied, the court may decline to apply any reduction to the sentence. In *Iskandar bin Jinan v Public Prosecutor* [2024] 2 SLR 673, we clarified at [114]–[115] that the public interest exception may be invoked in a case involving egregious facts. This case clearly warranted the invocation of the public interest exception, for the reasons canvassed in the preceding paragraphs.

Conclusion on the appropriate sentence for the culpable homicide charge

57 In these circumstances, considering the five fundamental features of the appellant's offence canvassed above, we were satisfied that this was one of the worst types of cases of culpable homicide. The 15-year term of imprisonment that was imposed by the Judge was manifestly inadequate and did not reflect the appellant's high level of culpability. We therefore enhanced the sentence for the culpable homicide charge to life imprisonment.

58 Regarding the 12 strokes of the cane that were ordered, we declined to set this aside. We agreed with the Judge's view that this was appropriate in the circumstances (GD at [65]).

The sentences for the other CYPA charges should not be disturbed

59 By reason of s 307(2) of the CPC, the sentences for the other charges, including the CYPA charges, were to run concurrently with the term of life imprisonment that we meted out in respect of the culpable homicide charge: *Azlin* at [226]. Accordingly, our decision to enhance the sentence for the culpable homicide charge to life imprisonment was sufficient to dispose of the appeals. Nonetheless, since arguments were raised in respect of the sentences imposed for the other offences, we explain why we saw no reason to disturb the sentences for the CYPA charges imposed by the Judge in any event.

60 As a preliminary point, we note that the maximum sentences under s 5(5)(b) of the CYPA were doubled in 2020 by operation of the Criminal Law Reform Act 2019 (No 15 of 2019). The maximum punishment was then increased from a fine of \$4,000 and/or four years' imprisonment, to a fine of \$8,000 and/or eight years' imprisonment: see s 6(6)(b) of the Children and Young Persons Act 1993 (2020 Rev Ed). As the appellant's offences predated the 2020 amendments, the previous sentencing regime applied in this case.

Sentencing principles for the ill-treatment offences under s 5 of the CYPA*The relevant factors*

61 We have hitherto not developed a sentencing framework for ill-treatment offences under s 5 of the CYPA, in part because of the myriad ways in which such offences may manifest. We therefore observed in *BDB* at [79] that s 5 of the CYPA is:

... an all-encompassing section targeted at all forms of ill-treatment of children and young persons. It covers the entire spectrum of child abuse ranging from neglect or emotional abuse to physical and sexual abuse, with the relevant harm

ranging from physical or emotional injury to injury to the child's health or development...

62 However, the court may nonetheless take account of the following list of non-exhaustive factors in determining the appropriate sentence for such an offence (*BDB* at [85] read with [62]):

- (a) the extent of deliberation or premeditation;
- (b) the manner and duration of the ill-treatment;
- (c) the victim's vulnerability;
- (d) the use of a weapon;
- (e) whether the attack was undertaken by a group;
- (f) any relevant antecedents on the offender's part; and
- (g) any prior intervention by the authorities.

63 With this in mind, we briefly consider how these factors have been applied in previous cases involving such offences.

The sentencing precedents

64 We begin with *Azlin* and *BDB*. The appellant relied heavily on these cases because the CYPA charges there attracted relatively lighter sentences, with terms of imprisonment ranging from six months to one year. However, as we will demonstrate, the sentences imposed for the CYPA charges in those cases are of limited precedential value because our analysis there focused primarily on the more egregious charges, with minimal (if any) consideration given to the appropriate sentences for the CYPA charges.

(1) *Azlin*

65 In *Azlin*, Azlin and Ridzuan each faced a murder charge under s 300(c) of the Penal Code arising from the four scalding incidents. The trial judge acquitted them of murder, finding insufficient evidence to establish the requisite mental element for the offence. Instead, the trial judge amended the charges to voluntarily causing grievous hurt (“VCGH”) by means of a heated substance under s 326 of the Penal Code. Apart from the murder charges, Azlin and Ridzuan, between them, also faced nine ill-treatment charges punishable under s 5(5)(b) of the CYPA. The appellant sought to rely on the sentences imposed by the trial judge for these CYPA charges, which we summarise in the following table:

Accused person	Charge	Nature of assault	Sentence
Azlin	C2	In August 2016, Azlin saw biscuits scattered on the kitchen floor and believed that the victim was responsible for this. When the victim denied that he had anything to do with it and blamed the cat instead, Azlin took a broom and started hitting the victim on his body, back and both his legs. The victim started limping after this and Azlin noticed that his kneecap was misaligned.	Six months’ imprisonment
	C3	Later in August 2016, Azlin was angry at the victim for a reason she could not remember. She pushed him so hard that he fell and hit his head on the edge of a pillar inside a room, which resulted in bleeding from his head.	Six months’ imprisonment

Accused person	Charge	Nature of assault	Sentence
	C5A	Around the time of the second scalding incident on 18–19 October 2016, both Azlin and Ridzuan became upset with the victim when he did not answer a question posed by Azlin. Azlin pushed the victim, causing him to hit his head against the wall, which resulted in blood flowing from his head.	One year's imprisonment
	C6	Azlin and Ridzuan locked the victim up in a small cat cage from around 7pm to 10pm on 21 October 2016, and from around 4am to 12pm on 22 October 2016. They explained in their statements that they did this so the victim would not get into any more trouble and they would not have to cause him any more hurt.	One year's imprisonment
Ridzuan	D2	In July 2016, Ridzuan used pliers to pinch the victim's buttocks a few times causing the skin to bruise and turn blue-black.	Six months' imprisonment
	D3	A few days after the incident in D2, Ridzuan again used pliers to pinch the back of the victim's thighs until it bruised.	Six months' imprisonment
	D6	In October 2016, Ridzuan flicked ash from a lighted cigarette on the victim, and hit him on his palm with a hanger.	Nine months' imprisonment

Accused person	Charge	Nature of assault	Sentence
	D7A	This charge took place shortly after the events in C5 above. After Azlin pushed the victim, Ridzuan then punched him on his face so hard that his nasal bone was fractured.	One year's imprisonment
	D9	This charge mirrored C6 above, where the victim was locked in a small cat cage.	One year's imprisonment

66 On appeal, our analysis in *Azlin* centred on the murder charges, which were reduced by the trial judge to VCGH charges. After detailed consideration, we reinstated the murder charge against Azlin, convicted her and sentenced her to life imprisonment: *Azlin* at [184]; *Public Prosecutor v Azlin bte Arujunah and another appeal* [2022] 2 SLR 1410 at [51]. As for Ridzuan, we maintained the VCGH charge under s 326 of the Penal Code but enhanced his sentence to life imprisonment. Given that both offenders received life sentences, the sentences for the other charges became academic since these would run concurrently with the respective life imprisonment terms meted out to each of the accused persons pursuant to s 307(2) of the CPC: *Azlin* at [226]. It was therefore not necessary for us to examine the appropriateness of the sentences imposed for the CYPA charges. In our judgment, the CYPA sentences imposed by the trial judge in *Azlin* were therefore of no precedential value in the present case.

67 As the court observed in *Public Prosecutor v Zheng Jia* [2025] 3 SLR 1290 at [39], “sentencing judges must remain sensitive to the myriad considerations accounted for in a sentencing precedent ... and how that might affect the relevance or applicability of that precedent to the case at hand”.

Hence, “where the focus of the sentencing court is on a particular offence ..., that may diminish the weight of its observations in respect of other offences” (at [38]).

(2) *BDB*

68 Similarly, we did not engage in depth with the sentences for the CYPA charges in *BDB*. The Prosecution in *BDB* proceeded with a total of four charges: two of VCGH under s 325 of the Penal Code, and two of ill-treatment under s 5 of the CYPA. In *BDB*, we first articulated some general principles when sentencing offenders involved in child abuse (see [50] above). We then discussed in some detail, our reasons for enhancing the sentences for the two VCGH charges from seven and two years, to nine and a half and four years’ imprisonment respectively (*BDB* at [88]–[130]). However, our treatment of the CYPA charges was much more limited. We did not disturb the original sentences of six months’ imprisonment (for the third charge) and one year’s imprisonment (for the fourth charge) because the agreed statement of facts did not allow us to draw any conclusion as to the precise nature and seriousness of the injuries inflicted on the victim in relation to the CYPA charges: *BDB* at [132]. In short, much like the sentences imposed for the CYPA charges in *Azlin*, we found these sentences in *BDB* to be of limited precedential value.

(3) *Firdaus*

69 Next, is the case of *Firdaus*. This is the only reported case where the maximum term of four years’ imprisonment under s 5(5)(b) of the CYPA was imposed. It involved the abuse of a three-year-old child by his mother’s boyfriend (who was effectively the child’s stepfather pending the mother’s divorce from the child’s father). The offender faced three charges, arising from the following three incidents which took place over two days:

- (a) First CYPA charge: On 12 January 2008, the offender punched the child on the back of his head in a fit of anger over the child's persistent crying. For this first charge, Chan Sek Keong CJ (as he then was) upheld the District Court's sentence of one year imprisonment observing that it was a "one-off instance of abuse as compared to the series of acts comprising the ill-treatment seen in [other cases]" (at [24]).
- (b) VCGH charge: Two days later, the offender's violence escalated when he found himself unable to placate the crying child. Enraged, he started slapping and shouting at the child. When the crying continued, the offender punched the child in the face several times before slamming his head into the wall. The respondent continued to hit the child on the back until he eventually stopped crying. This assault formed the basis of the VCGH charge, for which Chan CJ imposed the maximum sentence (at [22]). In characterising this as falling within the worst category of VCGH cases, Chan CJ emphasised that the offender had assumed the role of stepfather and guardian in the absence of the child's mother and biological father. Instead of fulfilling his duties as a caregiver, he had subjected the three-year-old to sustained violence culminating in the head injury. The absence of any mitigating factors further justified the maximum sentence (at [21]).
- (c) Second CYPA charge: Immediately after the VCGH incident, the offender took the child to a bedroom where he shook, grabbed and bit the child's penis and scrotum. Chan CJ held that this offence "exhibited an extreme degree of perverted violence", noting that a child's genital area is particularly vulnerable. This act of abuse was characterised by Chan CJ as one of the worst types of this offence and

accordingly imposed the maximum sentence of four years' imprisonment (at [25]).

70 *Firdaus* is instructive in identifying what may constitute the worst category of child abuse cases. The maximum sentences for the VCGH and second CYP A charges were justified by the combination of: (a) the victim's young and extremely vulnerable state, in that he was just three years old; (b) the offender's abuse of trust as the guardian charged with the victim's care; (c) the repeated and wholly excessive nature of the attacks; (d) the deliberate targeting of a vulnerable body part; and (e) the absence of real mitigating circumstances.

(4) *Kusrini*

71 *Public Prosecutor v Kusrini Bt Caslan Arja* [2017] SGHC 94 ("*Kusrini*") provides a useful contrast to *Firdaus*. Instead of a stepfather who had wilfully ill-treated his own child, *Kusrini* involved a domestic helper who had acted unreasonably in taking care of a four-year-old child with special needs arising from muscular atrophy. The child was bedridden and required caregivers to periodically use a suction cap attached to the tube of a suction machine to suck out mucus and phlegm from his trachea. The helper had been instructed to place the suction cap *only* on the outside of the nose and lips of the child. However, she failed to adhere to these instructions and was charged with one count of ill-treatment punishable under s 5(5)(b) of the CYP A for the following three acts:

- (a) inserting the suction cap into the child's mouth, which then dropped into the child's throat;

- (b) inserting her fingers and then her right hand into the child's mouth and throat forcefully and repeatedly over about eight minutes to try to retrieve the suction cap; and
- (c) leaving the suction cap inside the child's mouth for about 12 hours without informing anyone.

72 The domestic helper pleaded guilty to the charge and the District Court sentenced the domestic helper to four months' imprisonment. On appeal by the Prosecution, Tay Yong Kwang JA enhanced the domestic helper's sentence to eight months' imprisonment. In arriving at this sentence, he rejected the Prosecution's submission that this case was "as grave as the cited precedents where adult offenders wilfully or intentionally inflicted pain and suffering on child victims, often out of anger or annoyance, and in some instances, for a sustained period" (at [7]). We therefore noted in *BDB* at [86] that *Kusrini* was fundamentally a case of *unreasonable* conduct in carrying out caregiving duties, rather than *wilful* ill-treatment.

73 A further distinguishing factor in *Kusrini*, was the offender's status as a *domestic helper* who was subject to her employer's oversight. Indeed, it was the child's parents who had discovered the incident upon returning home and promptly rushed him to the hospital. Had a parent been the offender, such ill-treatment might have continued undetected, as there would have been no independent oversight of the child's care. This underscores why offences committed by parents typically would warrant more severe sentences, which echoes our earlier observation (at [54]–[55] above) as to the heightened need for deterrence against parental abuse given the inherent difficulties in its detection and prevention.

Step one: the individual starting sentences for each CYPA charge

74 With the relevant sentencing principles in mind, we turn to step one of the *Anne Gan* framework to determine the individual starting sentence for each of the four proceeded CYPA charges. Save for the 17th charge (involving the physical abuse of [R]), we found that each of the other three CYPA charges warranted a provisional sentence of the maximum four years' imprisonment.

The 12th charge: physical abuse of Ayesha

75 The 12th charge was the most egregious of the four CYPA charges. The incident took place on 27 March 2016 in the first naughty corner, with the entire ordeal captured on the CCTV camera which the appellant had set up to monitor the children's activities. The footage began with the appellant changing Ayesha's diaper when he noticed that she had smeared her faeces on the wall. What followed was an enraged outburst which featured an unrelenting 16-minute barrage of violence upon the four-year-old child. The footage documented the appellant striking Ayesha all over her head and body at least 80 times.

76 All of these violent attacks were executed with force and brutality. In these attacks, the appellant drew back his limbs to the full extent before unleashing them at full force onto her small frame. As she was cornered against the wall, he then stomped on her fragile body and delivered kicks that smashed her head into the corner of the walls. When Ayesha lay motionless for about 90 seconds, the appellant caned her and threatened her with a pair of scissors to stand. When she failed to stand up, the appellant pulled her up by her hair and punched her abdomen. He then lifted her entire body weight by her neck, pressing her against the wall in a chokehold. When he released his grip on her neck, he twisted his hips to deliver a powerful punch to her abdomen while she

was falling down. The assault culminated in a seven-second chokehold as he pushed her neck into a corner. After this gruesome assault, Ayeesha was seen bleeding from her mouth.

77 This was not a “one-off” punch such as the one in *Firdaus* which resulted in a one-year imprisonment term (see [69(a)] above). Indeed, it was far more egregious than the second attack in *Firdaus*, involving the grabbing, shaking, and biting of a three-year old child’s penis, which resulted in the imposition of the maximum four-year imprisonment term in *Firdaus* (see [69(c)] above). This was a cruel and sustained assault on Ayeesha – during which the appellant inflicted numerous blows on a defenceless four-year-old child with full force.

78 In our judgment, the Judge correctly imposed the maximum sentence of four years’ imprisonment as a starting point for the 12th Charge. The scale and brutality of this abuse placed it squarely among the worst types of such cases.

The 19th and 20th charges: confinement of Ayeesha and [R]

79 The 19th and 20th charges similarly warranted a maximum provisional sentence of four-years’ imprisonment. These two charges concerned the confinement of both Ayeesha and [R] to a small and unsanitary toilet for a period of nearly ten months. The toilet was often stained with faeces and the children were kept there naked, without any diapers. They were only let out for feeding or when the appellant or his wife wanted to use the toilet. Prior to this, the children had been confined to the first naughty corner for about eight months (which formed the subject of the 10th and 11th charges). In total, the children were confined for approximately 18 months.

80 In an attempt to downplay his culpability, the appellant drew parallels to the case of *Azlin*, where a father was sentenced by the trial judge to a one-year imprisonment term for confining his five-year-old child in a cat cage so small that the victim could neither stand upright nor lie stretched out. However, as we pointed out earlier, this sentence is of limited precedential value because we did not consider it in detail, given the life imprisonment which we imposed on both Azlin and Ridzuan (see [66] above). In any case, the prolonged confinement in the present case was much more egregious than in *Azlin*. There, the child was confined in the cat cage *periodically*, from around 7.00pm to 10.00pm at night and again from 4.00am to 12.00pm the next day: *Azlin* at [23]. By contrast, the present case involved ten months of continuous confinement in unliveable conditions, and which caused the children to suffer severe physical and psychological repercussions. Ayesha suffered many wounds and abrasions including scald-like marks between and around her toes. [R] developed skin infections and was so severely malnourished that he required more than three months of hospitalisation. As a result of the prolonged confinement, [R] also suffered from global developmental delay due to social deprivation.

81 In the light of the prolonged period of confinement and the severe physical and psychological harm which it caused to the children, the Judge was right to have considered this case to be amongst the worst types of this offence. We therefore agreed that the four-year imprisonment term imposed by the Judge for both the 19th and 20th charges was a suitable starting point.

The 17th charge: physical abuse of [R]

82 We turn finally to the 17th charge which concerned the appellant caning [R] (who was then two years old) on 27 August 2016. This too was captured on the CCTV camera set up by the appellant to monitor the children. The recording

showed the appellant scolding Ayeesha and [R] for about 24 minutes for being ungrateful, playing with their faeces and upsetting him. In the course of this tirade, he caned [R]’s legs twice, and the top of his head once. He also repeatedly tapped [R]’s head with the cane while telling the child to listen carefully to what he was saying.

83 Taken in isolation, this charge might not have warranted the maximum sentence of four years’ imprisonment. Instead, we might have approached this charge with a provisional starting sentence of about one and a half years’ imprisonment given [R]’s extreme vulnerability due to his young age, coupled with the degree of force that was used by the appellant when caning him. However, when we consider the application of the totality principle, as we will shortly explain, we are satisfied that the maximum permitted term of four years’ imprisonment was appropriate.

Step two: enhancement of the 17th charge in light of the totality principle

84 As we have noted, one facet of the totality principle involves calibrating the individual sentences (upwards or downwards) to ensure that the overall sentence is commensurate with the totality of the offending conduct: *Anne Gan* at [20]–[22]; *Azlin* at [199(b)]–[199(c)]; *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 at [58], [63]; *Haliffie bin Mamat v Public Prosecutor and other appeals* [2016] 5 SLR 636 at [79].

85 In this case, if we had not enhanced the appellant’s sentence for the culpable homicide charge to life imprisonment, there were two key factors that would have led us to nonetheless increase the individual sentences of the other charges, including the 17th Charge. First, the period of abuse continued for more than two years. This was an extremely long period under any circumstances, but

from the perspective of young children aged between two and five during the period of the offences, this would have been unbearably long. Second, there were 20 charges to be taken into consideration when deciding on the sentences for the proceeded charges.

86 These two factors revealed a pattern of abusive conduct which would not have been accurately captured at the individual sentencing stage of each charge – especially the 17th charge. This was not just a child who was caned three times; this was a child who was caned against the backdrop of prolonged verbal, physical, and psychological abuse that he had to endure from his own father over the course of more than two years. Against this backdrop of sustained abuse, the impact and gravity of the caning would have been far more severe than the three strokes of the cane might appear when considered in isolation. In these circumstances, we would not have hesitated to enhance the sentence for the 17th charge to the maximum four years’ imprisonment to reflect the totality of the appellant’s offending conduct.

No reduction in sentence for the appellant’s plea of guilt

87 We also considered that the Judge was correct in choosing not to reduce the sentences for the CYPA charges on account of his guilty plea. We repeat what we have said at [56] above: given the particularly egregious nature of the abuse and the lack of remorse, the Judge was justified in declining to reduce the sentences on account of the guilty plea: GD at [81].

The appeal against the term of imprisonment ordered in lieu of caning

88 Finally, we dismissed CCA 13, which was against the Judge’s decision to impose a sentence of six months’ imprisonment in lieu of the caning he had ordered for the culpable homicide charge. Again, in the light of our decision to

enhance the sentence for the culpable homicide charge to life imprisonment, CCA 13 was effectively moot.

89 Had it been relevant, we would have affirmed the Judge's decision applying the guidance of the court in *Amin bin Abdullah v Public Prosecutor* [2017] 5 SLR 904 at [87]. The emphasis on deterrence and retribution, and the fact that the offences were committed against vulnerable victims, would have led us to this conclusion.

Conclusion

90 For the foregoing reasons, we dismissed the appeals and exercised our discretion to enhance the sentence for the culpable homicide charge to a term of life imprisonment. In the event, we affirmed the terms of imprisonment imposed for all the other offences, but pursuant to s 307(2) of the CPC, these were to run concurrently.

Sundaresh Menon
Chief Justice

Steven Chong
Justice of the Court of Appeal

Judith Prakash
Senior Judge

Cheong Jun Ming Mervyn and Lim Yi Zheng (Advocatus Law LLP)
for the appellant in both appeals;
James Chew and Maximilian Chew (Attorney General's Chambers)
for the respondent in both appeals.

Annex A: List of Charges

S/N	Offence	Brief Details	Position
1	Culpable homicide not amounting to murder: s 299 p/u 304(a) of the Penal Code	Between around 9am on 10 August 2017 and the early hours of 11 August 2017, the appellant caused the death of Ayeesha (then five years old) by hitting both sides of her face about 15 to 20 times, with the intention of causing such bodily injury as was likely to cause death.	Proceeded
2	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	In December 2015, the appellant punched and hit [R] (then two years old) on his face and limbs. [R] suffered a cut on his inner lip and abrasions on his limbs.	TIC
3	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	In December 2015, the appellant punched and hit Ayeesha (then three years old) on her face and limbs. Ayeesha sustained a bruise on her cheek and abrasions on her limbs.	TIC
4	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	In February 2016, the appellant kicked [R] (then two years old) and repeatedly slapped his face. He only stopped when [R] started bleeding from his lips.	TIC

5	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	In February 2016, the appellant repeatedly slapped Ayesha (then three years old) on her face.	TIC
6	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	In February 2016, the appellant forcefully slapped [R]’s face and caused his head to hit Ayesha’s head.	TIC
7	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	In February 2016, the appellant forcefully slapped Ayesha’s face and caused her head to hit [R]’s head.	TIC
8	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	Sometime between February and March 2016, the appellant grabbed [R] (then two years old), threw him onto a mattress and then slapped his face.	TIC
9	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	Sometime between February 2016 and March 2016, the appellant slapped the face of Ayesha (then three years old) and then threw her onto a mattress.	TIC
10	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	From February to October 2016, the appellant and his wife confined [R] (then two to three years old) in the corner of a room. The confined space measured around 90cm by 90cm with limited space for movement.	TIC

11	Ill-treatment: <i>s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA</i>	From February to October 2016, the appellant and his wife confined Ayesha (then three to four years old) in the corner of a room. The confined space measured around 90cm by 90cm with limited space for movement.	TIC
12	Ill-treatment: <i>s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA</i>	On 27 March 2016, the appellant repeatedly slapped, punched, caned, kicked, and grabbed Ayesha by her hair, lifted her up against a wall by her neck while punching her body, and pointed a pair of scissors at her to threaten her. Ayesha was then four years old.	Proceeded
13	Ill-treatment: <i>s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA</i>	Sometime between March and April 2016, the appellant repeatedly punched and kicked [R] (then two years old).	TIC
14	Ill-treatment: <i>s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA</i>	Sometime between March and April 2016, the appellant repeatedly punched and kicked Ayesha (then four years old).	TIC
15	Ill-treatment: <i>s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA</i>	Sometime between May and June 2016, the appellant threw [R] (then two years old) onto a mattress, hit his face and caused his head to hit a drawer. The son sustained bruises on his head as a result.	TIC

16	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	Sometime between May and June 2016, the appellant threw Ayeesha (then four years old) onto a mattress, hit her face and caused her head to hit a drawer. Ayeesha sustained bruises on her head as a result.	TIC
17	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	On 27 August 2016, the appellant repeatedly caned [R] (then three years old).	Proceeded
18	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	On 27 August 2016, the appellant repeatedly caned Ayeesha (then four years old).	TIC
19	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	From October 2016 to 11 August 2017 (nearly ten months), the appellant and his wife confined [R] (then three years old) naked in the toilet.	Proceeded
20	Ill-treatment: s 5(1) of the CYPA p/u s 5(5)(b) of the CYPA	From October 2016 to 11 August 2017 (nearly ten months), the appellant and his wife confined Ayeesha (then five years old) naked in the toilet.	Proceeded
21	Provision of false information to a public servant: s 182 of the Penal Code	On 12 August 2017, the appellant provided false information to Station Inspector Erulandy Guruthevan, claiming that Ayeesha passed away because she hit her head on a slide on 11 August 2017.	TIC

22	Provision of false information to a public servant: s 182 of the Penal Code	On 13 August 2017, the appellant gave false information to Assistant Superintendent (“ASP”) Violet Toh Mei Sze, claiming that Ayesha passed away because she hit her head on a slide on 11 August 2017.	TIC
23	Provision of false information to a public servant: s 182 of the Penal Code	On 15 August 2017, the appellant gave false information to ASP Zhang Yiwen, claiming that Ayesha passed away because she hit her head on a slide on 11 August 2017.	TIC
24	Provision of false information to a public servant: s 182 of the Penal Code	On 16 August 2017, the appellant gave false information to ASP Zhang Yiwen, claiming that he spent the whole night away from his house with Ayesha and [R] on 11 August 2017.	TIC
25	Provision of false information to a public servant: s 182 of the Penal Code	On 17 August 2017, the appellant gave false information to ASP Zhang Yiwen, claiming that he spent the whole night away from his house with Ayesha and [R] on 11 August 2017.	TIC
26	Disposal of evidence: s 201 of the Penal Code	On 12 August 2017, the appellant disposed of a camera, a mobile phone, a pair of scissors, a cane, a rubber hose, bath towels, and a child safety	Proceeded

		gate, all of which were evidence relevant to the offence of culpable homicide not amounting to murder under s 304(a) of the Penal Code.	
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