

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

[2026] SGHC 212

Criminal Case No 28 of 2026

Between

Public Prosecutor

And

Muhamad Adil bin Saidin

JUDGMENT

[Criminal Law – Offences – Sexual Offences – Whether complainant’s
testimony unusually convincing]

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Public Prosecutor
v
Muhamad Adil bin Saidin

[2026] SGHC 212

General Division of the High Court — Criminal Case No 28 of 2026
Kwek Mean Luck J
14–17, 21–22, 28 July 2026, 14 September 2026

9 October 2026

Judgment reserved.

Kwek Mean Luck J:

Introduction

1 The accused, Muhamad Adil bin Saidin (“A”), claimed trial to two charges. The first charge is for sexual assault involving penetration of a vulnerable person under s 376(2)(b) punishable under s 376(3) read with s 74A(2) of the Penal Code 1871 (2020 Rev Ed) (“PC”) for causing the complainant’s penis to penetrate his mouth. The second charge is for outrage of modesty of a vulnerable person punishable under s 354(1) read with s 74A(2) of the PC, for squeezing the complainant’s penis. The offences are alleged to have taken place on 30 October 2024, sometime between 10.24pm and 10.31pm at level 19 of Block 14 [M] Road (“Block 14”).

Background Facts

2 The complainant (“C”) is 23 years old. He was around 21 years old at the time of the alleged offence.¹ During his pre-school years, he was assessed at the KK Women’s and Children’s Hospital (“KKH”) to be extremely weak in verbal skills but relatively better in non-verbal skills and processing speed. He was diagnosed as “having Autism Spectrum Disorder [(“ASD”)], exhibiting significant difference between his verbal and non-verbal performance on cognitive testing”.² He was educated at a school which serves students with autism and intellectual impairment until he was 18. He then underwent vocational training and is presently working in a job that his vocational institute linked him up with.³

3 A is 27 years old. He was around 25 years old at the time of the alleged offence.⁴ A and C did not know each other prior to 30 October 2024.⁵

4 On 30 October 2024, at about 10.15pm, A saw C walking and pushing a bicycle within the [M] Estate. A approached C and they spoke.⁶ They sat down at a bench in the vicinity and continued their conversation.⁷

¹ Agreed Bundle of Documents dated 7 July 2026 (“ABD”) at p 3 (at [2]).

² ABD at p 25.

³ ABD at pp 27–28 (at [9]–[10]).

⁴ ABD at p 3 (at [1]).

⁵ ABD at p 3 (at [4]).

⁶ ABD at p 3 (at [5]).

⁷ Prosecution’s Closing Submissions dated 11 August 2026 (“PCS”) at [12]; Defence’s Closing Submissions dated 13 August 2026 (“DCS”) at [4(e)].

5 After a while, they left the bench and walked between Block 14 and Block 15 [M] Road to reach Block 14.⁸ At around 10.23pm, they took a lift together from the ground floor to level 19 of Block 14.⁹ They sat on the steps of the level 19 staircase.¹⁰

6 At around 10.31pm, they took a lift back to the ground floor of Block 14. They then went their separate ways.¹¹

7 The dispute concerns what happened at the staircase of level 19 of Block 14.

Prosecution's Case

8 According to C's oral testimony during his examination-in-chief, on 30 October 2024, he saw a bicycle with a punctured tyre at the carpark. He pushed the bicycle as he wanted to throw it at a dustbin at [M] Road.¹² A then asked him for the time.¹³ After C said that his phone battery was weak, A asked him to sit at a bench to talk.¹⁴ At the bench, A asked him several questions, including whether he had "*sunat*" (*ie*, whether he was circumcised).¹⁵

⁸ PCS at [12]; DCS at [4(f)].

⁹ ABD at p 3 (at [6]).

¹⁰ Notes of Evidence dated 15 July 2026 ("NE 15 July") at p 24 line 30 to p 25 line 31; Notes of Evidence dated 21 July 2026 ("NE 21 July") at p 43 lines 3–9.

¹¹ ABD at p 3 (at [7]).

¹² NE 15 July at p 12 lines 4–30.

¹³ NE 15 July at p 13 lines 25–26.

¹⁴ NE 15 July at p 14 lines 4–12.

¹⁵ NE 15 July at p 14 lines 25–32 and p 15 lines 7–11.

9 Then, A asked him to get up from the bench.¹⁶ C followed A to Block 14 because he always says yes and was scared that A would do something bad.¹⁷ They went to a staircase on level 19. There, A asked him “Have you *sunat*” for a second time and asked to see his private part. C said yes and pulled down his jeans, pants, long pants and underwear by himself.¹⁸

10 A then squeezed C’s penis and then sucked C’s penis using his mouth.¹⁹ C did not agree for A to squeeze and suck his penis.²⁰

11 Two Prosecution witnesses (PW4 and PW6), who lived in the [M] area, testified that C disclosed the sexual offences to them shortly after the incident on 2 or 3 November 2024.²¹ Another Prosecution witness, PW5, also lived in the [M] area. According to her statement to the police on 6 February 2026, she first learnt of C’s complaint through PW6, and then from C on 3 November 2024 at PW4’s house.²² In court, she testified that PW6 told her about C’s complaint²³ but could not recall speaking to C at PW4’s house.²⁴ Hence, there is some ambiguity as to whether C personally disclosed the offences to her at PW4’s house. PW4 worked at a social services organisation.²⁵ PW5 was a

¹⁶ NE 15 July at p 19 lines 6–18.

¹⁷ NE 15 July at p 20 lines 8–17.

¹⁸ NE 15 July at p 26 lines 13–25.

¹⁹ NE 15 July at p 27 lines 18–21; p 28 lines 6–13.

²⁰ NE 15 July at p 28 line 28 to p 29 line 7.

²¹ Notes of Evidence dated 17 July 2026 (“NE 17 July”) at p 6 line 6 to p 8 line 15; p 15 line 29 to p 17 line 21; NE 21 July at p 8 lines 3–26.

²² Exhibit D6 at [6] and [8].

²³ NE 17 July at p 34 lines 11–24.

²⁴ NE 17 July at p 36 lines 1–3; p 43 line 18 to p 44 line 5.

²⁵ NE 17 July at p 2 line 15.

community volunteer at this organisation.²⁶ PW6 was the son of PW5. PW6 knew C through his younger brother, who often hung out with C.²⁷

Defence's Case

12 The sole witness for the Defence was A himself. A's defence is a complete denial of the commission of the offences. He denies squeezing or sucking C's penis.²⁸ He claims that at no point during their conversation at level 19 or Block 14 did C's pants come down.²⁹

13 A claims that he was walking home from the bus stop when he saw C pushing a bicycle that was similar to one owned by his relatives.³⁰ A asked C where he was bringing the bicycle, given that the tyres of the bicycle were flat.³¹ C said that he wanted to bring the bicycle home.³² A then asked how he was going to bring the bicycle home³³ and where C stayed.³⁴

14 A denies asking C whether he had *sunat*, or asking to see or check C's penis, when they were at the bench.³⁵ He said that at the bench, C told him that he had autism and that he was being bullied in [M].³⁶ C also told him that many

²⁶ NE 17 July at p 29 lines 27–29.

²⁷ NE 21 July at p 3 lines 1–9.

²⁸ NE 21 July at p 43 lines 26–27; p 43 line 32 to p 44 line 1.

²⁹ NE 21 July at p 44 lines 2–4.

³⁰ NE 21 July at p 31 lines 17–22.

³¹ NE 21 July at p 31 line 24.

³² NE 21 July at p 31 lines 27–29.

³³ NE 21 July at p 31 line 31.

³⁴ NE 21 July at p 32 line 3.

³⁵ NE 21 July at p 33 lines 7–12.

³⁶ NE 21 July at p 32 lines 24–32.

people looked down on him because of his autism, his family no longer loved or cared for him and he was scared to tell his family about the bullying.³⁷

15 Eventually, A left the bench because he noticed that a police car was nearby³⁸ and he was afraid that he would be fined as he had a vape in his hands and had been fined for smoking previously.³⁹ C followed him even though he did not ask C to do so.⁴⁰

16 A walked between Blocks 14 and 15 of [M] Road as it was the direction furthest away from the police car.⁴¹ When he entered the lift at Block 14, he did not know which floor he wanted to go to. He pressed the button for level 19 without looking.⁴²

17 At the staircase on level 19, he listened as C revealed more details about the bullying he faced, his family and how people looked down on him.⁴³ He was smoking and vaping as C talked to him.⁴⁴ They sat for no more than five to ten minutes before A said he wanted to head down, and so they went down.⁴⁵ A denies asking C whether he had *sunat* or asking C to see his private parts at the staircase on level 19.⁴⁶

³⁷ NE 21 July at p 33 lines 13–25.

³⁸ NE 21 July at p 33 line 32 to p 34 line 3.

³⁹ NE 21 July at p 34 lines 21–22.

⁴⁰ NE 21 July at p 36 lines 11–15.

⁴¹ NE 21 July at p 36 lines 16–21.

⁴² NE 21 July at p 36 lines 28–32.

⁴³ NE 21 July at p 43 lines 12–13.

⁴⁴ NE 21 July at p 43 lines 14–15.

⁴⁵ NE 21 July at p 45 lines 12–18.

⁴⁶ NE 21 July at p 43 lines 19–23.

Applicable Law

18 To establish the two charges, the Prosecution needs to prove beyond reasonable doubt the *actus reus* of the charges (*ie*, the squeezing and sucking of the penis) and the *mens rea* of the charges.

19 In a case where no other evidence is available, a complainant’s testimony alone can constitute proof beyond reasonable doubt, but only when it is “so ‘unusually convincing’ as to overcome any doubts that might arise from the lack of corroboration”: *AOF v Public Prosecutor* [2012] 3 SLR 34 (“*AOF*”) at [111]; see also *Public Prosecutor v GCK* [2020] 1 SLR 486 (“*GCK*”) at [88]–[90]. A trial judge evaluates whether this standard is met by weighing the demeanour of the complainant alongside both the internal and external consistencies found in the complainant’s testimony: *Kunasekaran s/o Kalimuthu Somasundara v Public Prosecutor* [2018] 4 SLR 580 at [26]. The “unusually convincing” standard does not apply where there exists other, independent, evidence which corroborates the complainant’s testimony: see *Toh Lam Seng v Public Prosecutor* [2025] SGHC 116 at [35].

20 The “unusually convincing” standard is not a “test”, but a heuristic tool and merely serves as a cautionary reminder to the court of the high threshold that the Prosecution must meet to secure a conviction: *GCK* at [91]. The requirement that the evidence ought to be “unusually convincing” does nothing to change the ultimate rule that the Prosecution must prove its case beyond a reasonable doubt: *AOF* at [113], citing *XP v Public Prosecutor* [2008] 4 SLR(R) 686 at [31]. A reasonable doubt is one for which a reason can be given, as long as the reason given is logically connected to the evidence: *GCK* at [131]. A reasonable doubt can arise from within the case mounted by the Prosecution or

on the totality of evidence (*ie*, a holistic assessment of both the Prosecution's and the Defence's cases): *GCK* at [134]–[135].

How C's testimony should be assessed in light of his ASD

21 A preliminary issue is how C's ASD factors into the court's assessment of his evidence. As there is a lack of case law regarding witnesses with ASD in particular, both the Prosecution and Defence have relied on cases regarding the testimonies of minor children, even though C is not a minor.⁴⁷

22 The Prosecution submits that the court must take into account C's ASD when assessing his testimony.⁴⁸ Specifically, the Prosecution submits that:

(a) C showed a limited ability to understand complex questions with abstract logical operators and multiple variables in a sentence.⁴⁹ Therefore, the court should take note of whether the answers given by C were an articulation of events in concrete terms, or whether they involved mere assent or dissent to questions with abstract concepts or complex logical operators.⁵⁰

(b) C was susceptible to suggestion and had weak social resistance skills.⁵¹ As such, it is open to this court, as the trier of fact, to find that the inconsistencies between C's detailed factual recount and his unelaborated admissions to leading questions in cross-examination are

⁴⁷ PCS at [28]; DCS at [18]–[20].

⁴⁸ PCS at [32]–[35].

⁴⁹ PCS at [40]–[43].

⁵⁰ PCS at [44].

⁵¹ PCS at [45]–[49].

attributable to C's susceptibility to suggestion and should not affect C's credibility.⁵²

(c) The court ought to take into account C's ASD when assessing his conduct, citing the observations by the High Court in *Public Prosecutor v Yue Roger Jr* [2019] 3 SLR 749 ("*Yue Roger Jr*") at [31]–[32] that children or juveniles should not be measured by adult standards on how an average adult may be expected to react.⁵³

23 The Defence argues that even if C's testimony is to be treated as coming from the equivalent of a minor, the testimony of a minor should be treated no differently from that of an adult complainant and the test remains the same, namely that the court can only convict A on the uncorroborated testimony of C if C's evidence is so reliable or unusually compelling: *B v Public Prosecutor* [2003] 1 SLR(R) 400 ("*B v PP*") at [25].⁵⁴ When it comes to child witnesses, the High Court in *Chen Jian Wei v Public Prosecutor* [2002] 1 SLR(R) 620 ("*Chen Jian Wei*") at [33] held that the traditional concerns regarding testimony from a young witness, of whether he had attained sufficient maturity not to be swayed by personal interests and fantasy and understood the importance of stating the truth on oath, applied. The court in *Chen Jian Wei* at [33] cited the observations in *Lee Kwang Peng v Public Prosecutor* [1997] 2 SLR(R) 569 at [64] that the danger in convicting without corroboration is diminished when it comes to evidence given by older children. On this basis, the Defence argues that instead of granting concessions, the court should consider if C has

⁵² PCS at [50]–[51].

⁵³ PCS at [27]–[29].

⁵⁴ DCS at [18].

“sufficient maturity not to be swayed by personal interests and fantasy and understood the importance of stating the truth on oath” [emphasis in original].⁵⁵

24 In my view, regardless of the personal characteristics of C, where C’s testimony is the sole basis for conviction, C’s testimony has to be “unusually convincing” (see [19] above). However, this does not detract from the fact that the court is entitled to take into account all the circumstances of the case in assessing the reliability and weight of C’s evidence, including his diagnosis of ASD. The evidential reliability of eyewitnesses depends on *all the circumstances of the case*, including the subjective characteristics of the witness concerned: *GCK* at [108] and [110].

25 This is consistent with the court’s treatment of the testimonies of young witnesses. There is a general recognition that unlike adults, they may not be sufficiently mature. In *GCK*, the Court of Appeal at [97] cited the observations of the Supreme Court of Canada in *R v W(R)* [*RW*] [1992] 2 SCR 122 that “[e]ach child witness, regardless of his or her age, should have his or her credibility and evidence assessed by reference to criteria appropriate to his or her mental development, understanding, and ability to communicate”. In *B v PP*, the court held that the court should treat the evidence of a child witness no different from that accorded to the evidence of an adult witness in that the court can only convict the accused on the uncorroborated testimony of the child complainant, if the court is satisfied that the child’s evidence is so reliable or unusually compelling: at [25]. However, it went on to state that in determining the reliability of the evidence in question and the corresponding weight to be accorded to it, the court should always assess the evidence in light of all the circumstances of the case as well as accumulated knowledge of human

⁵⁵ DCS at [20].

behaviour and common sense: at [26]. It is prudent for the court to be mindful that children, depending on their level of intellectual maturity, may occasionally confuse fantasy with reality: at [26].

26 That being said, this is not a blank cheque for the court to dismiss *all inconsistencies* and attribute them to C’s ASD. Ultimately, this is a fact-sensitive inquiry. While there were some instances where C appeared to be confused by more complicated questions (see [22(a)] above), C did not present himself as being wholly unable to understand issues.

27 C also did not come across as wholly obliging as a person (see [22(b)] above). At trial, I observed that C was able to answer questions directly and coherently. He was able to disagree with counsel for the Defence over several matters. I go through some of these examples.

28 During cross-examination, he was able to disagree with the Defence counsel’s suggestion that he deliberately did not mention the fact that he went to get the bicycle after the incident in his police statement on 4 November 2024 and police report on 3 November 2024:⁵⁶

Q: [C], I suggest to you that in this police statement on 4th November 2024, and in the police report made on 3rd November 2024, you did not mention, you deliberately did not mention that you went to get the bicycle because you wanted the police to think that you were very scared after what happened on the 19th floor. Do you agree or disagree?

[C]: I don’t agree.

⁵⁶ Notes of Evidence dated 16 July 2026 (“NE 16 July”) at p 85 lines 12–17.

29 Similarly, when the Defence counsel put forth a theory as to why C told PW1, the investigating officer, that he ran to the bus stop without taking the bicycle in his police statement on 26 November 2024, C was able to disagree:⁵⁷

Q: [C], I suggest to you that you were clearly trying to hide from [PW1] that you had taken the bicycle because you wanted to give the impression that you were so scared about what happened on the 19th floor that you wanted to run home immediately. Agree or disagree?

[C]: Disagree.

Q: This was a clear and deliberate lie by you to [PW1]. Agree or disagree?

[C]: Disagree.

Q: You lied because you did not care to tell the police the truth. Agree or disagree?

[C]: Disagree.

30 Another example is where Defence counsel asked C whether A had asked him if he could see his private part on level 19. It appears that C misunderstood A's question and said "No ... He asked me upstairs". Nevertheless, this exchange shows that C could disagree with Defence counsel:⁵⁸

Q: But this time, unlike downstairs, he asked you after that, "Can I see your final part?"

[C]: No.

Q: Oh, he didn't ask you?

[C]: He asked me upstairs.

Q: Yes, yes, so---sorry that's what I meant.

[C]: Sorry.

⁵⁷ NE 16 July at p 92 lines 3–11.

⁵⁸ NE 15 July at p 62 lines 22–28.

31 C was also able to tell the Defence counsel that he had not told PW5 that A had squeezed his “balls”, and that A had not squeezed his “balls”:⁵⁹

Q: At [PW4]’s house, did you tell [PW5] that at the 19th floor, the man had also squeezed your balls?

[C]: No.

Q: Ok. Did the man ever squeeze your balls?

[C]: No.

32 Further, I observe that C was able to tell Defence counsel when he could not remember an answer to a question, rather than blindly acceding to the Defence’s question, for example, when Defence counsel asked C how A held onto his penis:⁶⁰

Q: Okay. Now, when he sucked your penis, right, was he still using his two hands to hold on to your penis? So I’m trying to understand: Did he let go with his hands? Or he’s holding on to it and he’s sucking the end of your penis?

[C]: That one, I cannot remember.

33 While I agree that some of C’s inconsistencies could be attributed to his confusion (as I will explain later), there were material inconsistencies in C’s evidence that could not be attributed to the characteristics alleged by the Prosecution.

Whether there is corroborative evidence such that C’s testimony need not be “unusually convincing”

34 Evidence may be corroborative in two ways: (a) it may be independent evidence implicating the accused in a particular matter (*ie*, *Baskerville* corroboration, as derived from *R v Baskerville* [1916] 2 KB 658); or (b) it may,

⁵⁹ NE 16 July at p 6 lines 5–9.

⁶⁰ NE 15 July at p 66 lines 20–23.

upon considering its substance and relevance, be supportive or confirmative of the weak evidence which it is meant to corroborate (“liberal corroboration”): *Public Prosecutor v CAX* [2024] SGHC 75 (“*CAX*”) at [34], citing *GCK* at [96] and *Public Prosecutor v Mohammed Liton Mohammed Syeed Mallik* [2008] 1 SLR(R) 601 (“*Liton*”) at [43].

35 The Prosecution submits that C’s testimony is not subject to the “unusually convincing” standard, as it is independently corroborated by four pieces of evidence.⁶¹

- (a) Video footage from the lift of C’s reaction immediately following A’s alleged sexual assault, namely rushing into the lift, pressing the “door close” button and holding down the button even as A reached the lift, can be used as independent evidence to assess the veracity of C’s testimony.
- (b) The CCTV footage shows observable changes to C’s clothing before and after going to level 19, A and C’s movements before going up to level 19 and the walking path C took immediately after leaving Block 14, which are consistent with C’s account.
- (c) A told a *Lucas* lie that he saw a police car while at Block 14, which can serve as independent corroboration of C’s testimony.
- (d) C told PW4, PW5 and PW6 about the sexual assault within days of the alleged assault, in addition to filing a police report, which serves as corroborative evidence.

⁶¹ PCS at [21].

Whether the video footage amounts to corroborative evidence

36 The Prosecution relies on *Ng Kum Weng v Public Prosecutor* [2021] SGHC 100 (“*Ng Kum Weng*”). There, the offender claimed trial and was convicted to four charges which occurred in the early hours of the same day, three for the offence of outrage of modesty and the last for insulting the modesty of a woman. He pursued an appeal against the conviction in respect of all four charges. On appeal, the General Division of the High Court held that the “unusually convincing” standard did not apply: at [44]. While the CCTV footage did not clearly capture the physical contact between the offender and the victims which formed the basis of the first, second and fourth charges, it sufficiently corroborated the accounts of the victims: at [5]. The footage was independent evidence that was relevant to the charges as it allowed the court to assess the veracity of the testimonies of the offender and the victims by weighing their conduct at the material time as captured by the footage against their testimonies: at [44].

37 However, whether evidence is corroborative is a fact-sensitive inquiry. In *Ng Kum Weng*, the footage contradicted the offender’s version of events and was consistent with the victims’ version of events. For example, with respect to the first charge, the footage showed that the offender spilled the drink on himself, contrary to his account that the victim bumped into him. It also did not suggest that the offender showed any sign of irritation, contrary to his suggestion that he was annoyed as a result of being bumped by the victim: at [46]–[47].

38 In contrast, here, I do not find that the video evidence necessarily supports C’s version of events, as will be made clear in my analysis below.

Whether A told a Lucas lie

39 A lie can amount to corroboration of evidence of guilt if it is a “*Lucas lie*”, ie, it fulfils the four requirements in *R v Lucas (Ruth)* [1981] QB 720 at 724: (a) the lie told out of court is deliberate; (b) relates to a material issue; (c) the motive for the lie is a realisation of guilt and a fear of the truth; and (d) the statement is clearly shown to be a lie by independent evidence: *Mohamed Affandi bin Rosli v Public Prosecutor* [2019] 1 SLR 440 at [162]; *Public Prosecutor v Ilechukwu Uchechukwu Chukwudi* [2015] SGCA 33 at [60].

40 The Prosecution submits that A told a *Lucas lie* when he said in his police report on 3 November 2024 that he saw a police car while at Block 14 with C and this lie was repeated in his testimony in court.⁶² The independent CCTV footage from camera P04A, which captured footage along [M] Road where a police car would have had to pass, showed that no police car drove past [M] Road and no police car was observed when A was talking to C.⁶³

41 While A’s evidence is that he left the bench because he saw a police car and was scared of being caught with a vape (see [15] above), the objective evidence shows that there was no such police car. PW1 testified that based on the video evidence, there was only one police car that entered the [M] estate at about 9.59pm.⁶⁴ The police car was parked at the loading and unloading bay behind Block 16 [M] Road⁶⁵ and did not leave the place that it was parked from 10.00pm to 10.36pm.⁶⁶ Besides this police car, there were no other police cars

⁶² PCS at [21(d)] and [117]–[121].

⁶³ PCS at [121].

⁶⁴ Notes of Evidence dated 14 July 2026 (“NE 14 July”) at p 14 lines 1–8.

⁶⁵ NE 14 July at p 14 lines 10–11.

⁶⁶ NE 14 July at p 24 lines 21–23.

seen in the vicinity of [M] Road or Blocks 13 to 16 of [M] estate between 10.00pm and 10.45pm.⁶⁷

42 However, I do not find that this indicates that A lied deliberately. During cross-examination, when asked why he thought that the car he saw was a police car, A testified that “[the car he saw] was a white car”, he had a vape in his hands, it was unexpected, so he took a “glance”, thought it was a police car and left.⁶⁸ He also said that he could not confirm whether what he saw was actually a police car because he was scared as he was holding a vape in his hands.⁶⁹

43 It is not PW1’s evidence or the Prosecution’s case that there was no white car that had passed along [M] Road at the material time. During his examination-in-chief,⁷⁰ and again in re-examination,⁷¹ C testified that A was smoking a cigarette at the bench. However, during cross-examination, C agreed with Defence counsel’s suggestion that A was smoking a vape when A wanted to leave the bench.⁷² Given C’s differing accounts, I cannot exclude the reasonable possibility that A was vaping at the bench, as he said. It is also plausible that A was scared, as he had previously been fined for smoking, he had a low income of about \$2,000 a month and was the sole breadwinner for his family.⁷³ Thus, it is plausible that A could have mistaken the car he saw as a police car, as he merely took a quick glance before leaving the bench. Further,

⁶⁷ NE 14 July at p 25 lines 3–12.

⁶⁸ Notes of Evidence dated 22 July 2026 (“NE 22 July”) at p 16 lines 4–9.

⁶⁹ NE 22 July at p 16 lines 12–14.

⁷⁰ NE 15 July at p 18 line 23.

⁷¹ NE 16 July at p 112 lines 16–18.

⁷² NE 15 July at p 60 lines 3–15.

⁷³ DCS at [109(e)].

this took place at night where a person's vision would naturally be poorer, with part of the view obstructed.⁷⁴

44 The Prosecution submits that A used unequivocal language that he *saw* a police car in his testimony in court and in his police report, and such language is inconsistent with the Defence's case that A could have mistaken a private car for a police car.⁷⁵ I do not find that A's use of the phrases that "[he] saw a police car patrolling" or "what I saw it was a police car" prove that A lied. They can also be understood to be him referring to what he thinks he saw.

45 A's explanation in court is also reasonably consistent with PW4's account of what he told her when she first confronted him about this incident on 3 November 2024. According to PW4's oral testimony, at her house, PW4 asked A why he brought C to level 19 and what they did there. A told her that he was "vaping up there".⁷⁶ When she asked why they could not vape downstairs, he responded that it was illegal.⁷⁷ C's testimony during cross-examination also lends some support to A's account. C said that "they" or "someone" said to him "this was the police car at the downstairs. Someone said that they mentioned that say illegal". C could not remember who was the "someone" who said this to him.⁷⁸

46 Thus, I do not find that this was a lie that was deliberately told, that could amount to independent corroborative evidence of A's guilt. This conclusion

⁷⁴ Defence's Reply Submissions dated 25 August 2026 ("DRS") at [55].

⁷⁵ Prosecution's Reply Submissions dated 25 August 2026 ("PRS") at [31].

⁷⁶ NE 17 July at p 10 lines 17–19.

⁷⁷ NE 17 July at p 10 line 20.

⁷⁸ NE 16 July at p 87 lines 10–14.

goes only to whether A's account amounts to a *Lucas* lie capable of corroborating C's evidence. A's credibility is considered further below.

Whether C's subsequent complaints amount to corroborative evidence

47 Former statements of a complainant may be corroborative evidence of their testimony in court under s 159 of the Evidence Act 1893 (2020 Rev Ed). For such statements to amount to liberal corroboration, they must be: (a) made at or about the time when the fact took place; (b) relate to the facts which form the basis of the charges proceeded upon by the Prosecution; and (c) should not be inconsistent with the evidence that it seeks to support: *CAX* at [46], [49] and [54]. Ultimately, when assessing if the statements amount to liberal corroboration, the court will focus on the substance and relevance of the evidence, and whether it is supportive or confirmative of the weak evidence which it is meant to corroborate: *AOF* at [173], citing *Liton* at [43].

48 I accept that C made complaints in his police report and to PW4 and PW6 very shortly after the alleged offences and that these complaints may constitute corroborative former statements. There is some ambiguity as to whether C made complaints personally to PW5, who could not recall speaking to C at PW4's house (see [11] above). I also accept that PW4 and PW6 were truthful witnesses with no prior relationship with A and had no motive to falsely implicate A.⁷⁹

49 However, complaints made subsequent to the alleged incident will not be given much weight by the court due to their non-independent and self-serving

⁷⁹ PCS at [105].

nature, even if they constitute liberal corroboration, and will not dispense with the requirement for unusually convincing testimony: *CAX* at [55]; *AOF* at [177].

Summary

50 In summary, I am unable to agree with the Prosecution that C’s testimony is independently corroborated by the four pieces of evidence. His testimony would still be subject to the “unusually convincing” standard as a heuristic tool. I add that in doing so, I assess C’s evidence as a whole, including his complaints to PW4 and PW6 within days of the alleged incident and which were consistent with C’s account of the squeezing and sucking of his penis. However, his complaints to PW4 and PW6 do not resolve the inconsistencies in C’s evidence that I identify below.

Assessment of C’s evidence

51 With the above principles in mind, I assess C’s evidence, in terms of four main events:

- (a) why C followed A to level 19 of Block 14;
- (b) what happened on level 19 of Block 14;
- (c) what happened in the lift on the way down; and
- (d) what happened after they left the lift.

Why C followed A to level 19 of Block 14

52 C testified that when A and C were talking at the bench near Block 14, A asked him “to go up to the Block 14 [M] Road”.⁸⁰ A did not “drag” C, but “forced me talking to go upstairs”.⁸¹ According to C, A did not tell him why, but C nevertheless followed A. He said that he followed A “because I always listen to everyone”, that “I always say ‘Yes’, I never say ‘No’” and “[b]ecause I scared the man do something to me bad”.⁸² Prior to being asked to follow him, A had asked C at the bench “Have you *sunat*?”⁸³

The internal inconsistencies in C’s evidence that do not detract from C’s credibility

53 The Defence alleges that there are various inconsistencies in C’s account, namely that:

- (a) C had varying accounts of whether A asked him the “*sunat*” question at the bench;⁸⁴
- (b) C had a different account as to whether A forced him to go to level 19 or whether he went up voluntarily;⁸⁵ and
- (c) C had different accounts as to the reason why A wanted to leave the bench.⁸⁶

⁸⁰ NE 15 July at p 18 line 25.

⁸¹ NE 15 July at p 18 line 27; p 19 line 1.

⁸² NE 15 July at p 20 lines 8–13.

⁸³ NE 15 July at p 14 line 32.

⁸⁴ DCS at [26]–[29].

⁸⁵ DCS at [30]–[31].

⁸⁶ DCS at [32].

For the reasons below, I find that none of these inconsistencies, in and of themselves, cast doubt on the credibility of C.

(1) Whether A asked “Have you *sunat*” at the bench

54 C did not state that A had asked him at the bench “Have you *sunat*?”, when he made his police report on 3 November 2024 or when he recorded his statement to the police on 4 November 2024. In fact, in his police report on 3 November 2024, he stated that he “could not remember what the questions were”.⁸⁷ At trial, C confirmed that this line referred to what happened downstairs before he went up to level 19.⁸⁸

55 When asked at trial why he could now recall the questions A had asked when he previously could not, C said that “Because I just recall ... that he asked me, ‘Have you *sunat*’, at downstairs first”.⁸⁹ However, he also testified that it was clear in his mind that A had asked him “Have you *sunat*” while they were at the bench even when he was making his police report on 3 November 2024.⁹⁰ Similarly, when asked why he did not mention this question in his police statement on 4 November 2024, C said “Because I just recall that the bad man asked me [the question] at the bench”.⁹¹

56 The “*sunat*” question at the bench is also not contained in Dr Charles Mak’s (“Dr Mak”) account of the alleged offence in his 10 December 2024 medical report. Dr Mak testified that the account was based on what C had told

⁸⁷ Exhibit D4 at p 2.

⁸⁸ NE 16 July at p 75 lines 19–26.

⁸⁹ NE 16 July at p 75 lines 27–31.

⁹⁰ NE 16 July at p 76 lines 13–20.

⁹¹ NE 16 July at p 81 lines 2–7.

him.⁹² During cross-examination, C testified that he did not tell Dr Mak that A had asked him the “*sunat*” question at the bench because he forgot to do so.⁹³

57 C’s explanation for his omission in the various accounts is not very clear. It is not apparent whether his explanation is that he did not remember that A had asked him “Have you *sunat*” at the time of making the police statement and report, which would contradict his answer that he remembered that A had asked him if he had *sunat* when making the police report on 3 November 2024, or that he forgot to mention this question in his report.

58 In any event, I do not find that the fact that C omitted this detail impacts his credibility. It is unrealistic to expect victims of sexual offences to provide a completely similar and full account each time they disclose the offence: *Public Prosecutor v Mohd Ariffan bin Mohd Hassan* [2019] 2 SLR 490 at [80].

59 Further, this is not a case where C only mentioned for the first time at trial that A had asked him whether he had “*sunat*” at the bench. C stated that A had asked him that question at the bench in his police statements recorded on 26 November 2024⁹⁴ and 9 February 2026.⁹⁵ According to the testimonies of PW5 and PW4, C told PW4 and PW6 that A had asked him whether he had “*sunat*” before they went up to level 19. PW4’s testimony is that C told her, on 3 November 2024, the following: “... he keep on asking me a lot of question and bring me to a bench at the playground. So he say he sit down with me over there and asked me a lot of question. Then he asked me whether I *sunat* already.

⁹² NE 14 July at p 54 lines 10–12.

⁹³ NE 16 July at p 102 lines 17–27.

⁹⁴ Exhibit D2A at A10.

⁹⁵ Exhibit D3 at [3].

Yah, then he asked me to follow him to go at level 19, at Block 14”.⁹⁶ PW5’s testimony is that PW6 informed her that: “... [C] said [A] asked for timing then asked whether have – he had *sunat*. Yah, then after that, he say [A] bring [C] to Block 14.”⁹⁷ This is also reflected in PW5’s police statement dated 6 February 2026 where she states that: “[PW6] told [her] that [C] told him [that A] had asked [C] for the time and asked if [C] has ‘*sunnat*’. [A] wanted to see [C]’s penis and asked [C] to follow him to Block 14.”⁹⁸

(2) Whether C followed A of his own accord

60 The Defence alleges that C’s testimony during cross-examination, that A did not ask C to leave the bench, contradicted C’s earlier testimony and accounts in his statements to the police that A asked him to follow A.⁹⁹ The exchange the Defence relies on from C’s cross-examination is reproduced here:¹⁰⁰

Q: Now, the man, at the time that he got up and wanted to go, he was smoking a vape, right?

[C]: Yes.

Q: Okay. Now, when the man wanted to leave, right, he did not ask you to go with him correct? He just left.

[C]: Yes, he just left.

Q: But you decided you wanted to follow him?

[C]: Yes, because he asked me to follow him.

Q: You just---I thought you just told me he didn’t ask you to follow him. Alright.

⁹⁶ NE 17 July at p 8 lines 3–9.

⁹⁷ NE 17 July at p 34 lines 15–18.

⁹⁸ Exhibit D6 at [6].

⁹⁹ DCS at [30]–[31].

¹⁰⁰ NE 15 July at p 60 lines 13–21.

61 I do not see this as an inconsistency. It seems that C was confused when posed with a question containing two limbs – whether A left and whether A asked him to go with him. His true response came when counsel directly asked him, “But you decided you wanted to follow him?” and C replied clearly “Yes, because he asked me to follow him”. Read as a whole, C’s evidence was that A had asked C to follow him. While C again agreed later in cross-examination that A did not ask him to follow, he said on several other occasions that A had asked him to go up to Block 14.

62 This is especially because C has consistently stated in his police report on 3 November 2024¹⁰¹ and his police statements on 4 November 2024,¹⁰² 26 November 2024¹⁰³ and 9 February 2026¹⁰⁴ that A coaxed him or asked him to follow him.

(3) Why A wanted to leave the bench

63 The Defence alleges that C had different accounts of why A wanted to leave the bench.¹⁰⁵ In C’s police statement on 4 November 2024, he said that A wanted to go smoke.¹⁰⁶ However, in C’s examination-in-chief, C testified that he did not know why A asked him to follow him:¹⁰⁷

Q: At the bench, you said he said, “Let’s go up”.

[C]: Yes.

¹⁰¹ Exhibit D4 at p 2.

¹⁰² Exhibit D1 at A2.

¹⁰³ Exhibit D2A at A14.

¹⁰⁴ Exhibit D3 at [4].

¹⁰⁵ DCS at [32].

¹⁰⁶ Exhibit D1 at A2.

¹⁰⁷ NE 15 July at p 19 lines 17–20.

Q: So what did he want you to do?

[C]: He---I don't know what he want to do to me, Mr James.

64 The question posed here to C, is what did A want C to do. This is different from C knowing why A left the bench. At some level, there may be an inconsistency, in so far as C's response here suggests that C was not informed at all of why A left the bench. However, in my view, even if there is a discrepancy in such manner, this relates to a minor detail, which could be attributed to human fallibility in recollection with the passage of time. Adequate allowance must be accorded to human fallibility in retention and recollection with the passage of time: *Tay Wee Kiat v Public Prosecutor* [2018] 4 SLR 1315 at [31], citing *Public Prosecutor v Singh Kalpanath* [1995] 3 SLR(R) 158 at [54] and [60].

C's explanation on why he followed A was unconvincing

65 While the above inconsistencies are not material, I do have difficulty accepting C's reasons for following A. C testified that he chose to follow A (a) "because I always listen to everyone" and "I always say "Yes", I never say "No"; and (b) "[b]ecause I scared the man do something to me bad" (see [9] and [52] above).

66 With regard to C's first explanation, the medical reports from KKH or Dr Mak do not indicate that C is so compliant in nature, that he would always simply follow the instructions of someone else, simply because they said so. Dr Mak's medical report reflects that "[C] would have had an impaired ability to refuse requests made of him by [A]".¹⁰⁸ His explanation in court was that if "someone tried to persuade [C] strongly" and "repeatedly or forcefully try to

¹⁰⁸ ABD at p 31 (at [5(b)]).

impose upon him, he would have difficulties in terms of resisting this ... by virtue ... of his intellectual disability, whereby he has social communication-related skills, he does not have the ability to resist effectively. In other words, he would be gullible and suggestible”.¹⁰⁹ However, there is no evidence that A “repeatedly or forcefully” tried to impose on C to get him to follow him to level 19 of Block 14. C also did not appear to be so compliant in nature, that he would *always* choose to listen to everyone. He was able to disagree with Defence counsel on several occasions during the trial (see [28]–[32] above).

67 With regard to C’s second explanation, at the point when A asked C if he had “*sunat*” and later asked C to follow him, C was at a bench near Block 14. There is no allegation that A forcibly dragged him, or that A threatened him in any way. Besides the “*sunat*” question that A asked at the bench, there was no other indication of what would have occurred that caused C to fear A. The question also arises, if C was scared, why he did not choose to stay at the bench or run away, considering that they were then in an open public area.

68 Dr Mak had testified that C “was terrified at the point of time. And that was why he did not resist vehemently”. I accept that it is possible that fear causes some people to act in less than rational ways. Thus, I am prepared to accept that C’s decision to follow A to level 19 of Block 14 does not in itself indicate that C was not scared at this point.

¹⁰⁹ NE 14 July at p 63 line 31 to p 64 line 6.

69 However, C does not look scared, in the videos showing C walking with A towards the lift lobby of Block 14¹¹⁰ and in the lift on the way up to level 19 of Block 14.¹¹¹ There are no tell-tale signs from what could be observed in the videos, that suggest that C was scared at this point. While a person could be scared but not show physical signs of it, the fact remains that the footage does not corroborate C's account that he was scared.

C's account is not corroborated by A and C's conversation in the lift

70 A video of both C and A in the lift, on the way up to level 19 of Block 14, contains audio and captured parts of their conversation.¹¹² In the transcript of the conversation provided by the police (translated), A tells C "But, if, now you know me then if next time you see me just [unclear] each other" and "No need, no need to say hi also".¹¹³ A also tells C towards the end of their conversation in the lift, that "We like, pretend to like not know ah" and "If no people then you can approach me, if got people don't approach".¹¹⁴

71 When the video was played for A during the trial, he testified that one of the lines not captured on the transcript, is "If people can – if bully you, then I can do something".¹¹⁵ At trial, A explained that before they entered the lift, they were talking about bullying, so he was telling C that he could help him do

¹¹⁰ Exhibit P2-2, file "POL270014GHM_TW04_Device_CameraID139563_30102024_220000_224000" ("Video of path to Block 14 Lift Lobby") at 22:21:48–22:22:05.

¹¹¹ Exhibit P3, file "14-up-l-b_14-up-l-b_c2_20241030222000_20241030223000_20241118171554" ("Video Block 14 Lift Going Up 1") at 22:23:57–22:24:39.

¹¹² Video Block 14 Lift Going Up 1.

¹¹³ ABD at p 35.

¹¹⁴ ABD at p 36.

¹¹⁵ NE 21 July at p 38 lines 3–4 and 26–28.

something about it.¹¹⁶ A also explained that if C approached him, he would not be able to tell who was bullying him because “that person will know that I know [C]”.¹¹⁷

72 I accept A’s account of what he said in the video, which was played in court. It can be picked up from the audio, that shortly after A said “No need, no need to say hi also”, A said “So if people bully you ... then I can do something ...”.¹¹⁸ This supports A’s explanation that at that point, he told C to ignore him, so that he could then see who was bullying C.

73 I also do not agree with the Prosecution’s submission that A’s account of their conversation in the lift was implausible, for reasons that I will explain later when going through the Defence’s case (see [156]–[158] below).

74 Thus, A and C’s conversation in the lift appeared friendly. In the video of C and A in the lift on the way up to level 19, C also did not appear scared. “People react in different ways to sexual abuse and may compartmentalise or rationalise their actions.”: *Yue Roger Jr* at [34]. The fact that C does not outwardly appear to be distraught does not, in and of itself, contradict his account that he was scared. However, the video footage does not corroborate C’s account of why he followed A.

What happened on level 19

75 In his statements to the police and in his oral testimony in court, C consistently stated that A had, at the staircase on level 19, squeezed and then

¹¹⁶ NE 21 July at p 39 lines 5–8.

¹¹⁷ NE 21 July at p 39 lines 9–11.

¹¹⁸ Video Block 14 Lift Going Up 1 at 22:24:18.

sucked his penis. However, I find that C's account of how this took place is externally inconsistent with objective evidence and internally inconsistent.

It is implausible for A to have sucked C's penis in the positions described

76 C testified during cross-examination that when A sucked and squeezed his penis, A was sitting down while C was standing up:¹¹⁹

Q: Okay. So when [A] grabbed your penis with his hands and squeezed for a few minutes initially---

[C]: Yes.

Q: ---at that time, he was sitting down?

[C]: Yes, he was sitting down.

...

Q: And when he sucked your penis, he was also sitting down?

...

[C]: Yes.

Q: He was also sitting down?

[C]: He sitting down, I stand up.

[emphasis added]

77 According to C, he was standing up, about one or two steps above where A was seated:¹²⁰

Q: Now, just try to recall now. When [A] was sitting down and squeezing your penis first and then sucking your penis, were your feet on the step above where he sat or two steps above where he sat?

[C]: Sorry, I cannot remember about that.

Q: But it would not be on the same step where he's sitting, right?

[C]: No, right.

¹¹⁹ NE 15 July at p 68 lines 17–32.

¹²⁰ NE 16 July at p 108 line 30 to p 109 line 7.

Q: Because you were already sitting two steps above him.

[C]: Yes.

Q: So it's either one step or two steps above where he's sitting.

[C]: Yes.

78 The Prosecution and the Defence agreed to the admission of exhibit D14, which contained measurements of C, A and the steps at which the alleged incident took place on level 19. Measurements were taken of the distance from A's bottom to below his nose (as a proxy for the height of his mouth) while in a seated position. This distance was: (a) 77cm if A was sitting up straight with his head level; and (b) 81cm with A's neck craned upwards.¹²¹ Measurements were also taken of the distance from the ground to the tip of C's penis.¹²² This distance was (a) 81cm without shoes; and (b) 82cm with shoes.¹²³ The shoes are not the exact shoes that C wore on the day of the alleged incident. Each step was measured to be about 16cm.

79 The Defence submits that it is physically impossible for the alleged incident to have taken place. Assuming that C was wearing shoes and taking C's case at its highest, that C was only standing one step above A and A was craning his neck upwards, there would be a distance of about 17cm between the level below A's nose and C's groin.¹²⁴

80 The Prosecution submits that C's evidence does not clearly establish what the Defence makes it out to be. The Defence's case is premised on C standing one or two steps above the step that A was sitting on. However, a

¹²¹ Exhibit D14 at [4].

¹²² Notes of Evidence dated 28 July 2026 ("NE 28 July") at p 1 lines 9–11.

¹²³ NE 28 July at p 1 lines 9–11.

¹²⁴ DCS at [75].

proper reading of C's evidence would show that his feet would have been at the same step or lower than where A was seated.¹²⁵ Thus, a preliminary question is what C's evidence at trial was.

81 On the second day of trial, C marked an 'X' on photograph five of Exhibit P6 to mark out the place where A sat on the level 19 staircase initially.¹²⁶ He also marked out with a circle (which I will refer to as 'O') where he was seated on the level 19 staircase initially.¹²⁷ During cross-examination, the Defence counsel asked him whether 'O' marked out where he was standing when he pulled down his jeans and underwear. C confirmed that he was standing at 'O' when he pulled down his jeans and underwear.¹²⁸

Q: Alright. So looking at photograph 5 in P6, this circle marks where you were sitting, right?

[C]: Right.

Q: Okay. Now, so when you said you pulled down your jeans and underwear---

[C]: Yes.

Q: ---that was also where you were standing?

[C]: Yes.

Q: When you did that?

[C]: Yes, I did that.

82 On the third day of trial, the Defence referred C to the markings 'X' and 'O' on Exhibit P6. The following exchange took place:¹²⁹

¹²⁵ PCS at [175].

¹²⁶ NE 15 July at p 24 line 30 to p 25 line 12.

¹²⁷ NE 15 July at p 67 lines 10–27.

¹²⁸ NE 15 July at p 68 lines 8–16.

¹²⁹ NE 16 July at p 108 line 15 to p 109 line 7.

Q: Now, can you just confirm, you---were you sitting one step above where the man was sitting or two steps above?

[C]: I think two step above.

Q: Okay. So you were sitting two steps above.

[C]: Yes.

Q: And you told us that you---so when you stood up to pull down your pants, right---

[C]: Right.

Q: ---you were---your feet were two steps above where the man was sitting?

[C]: Sorry, I cannot remember which steps I---which steps of---of---which I stand on the staircase.

Q: You can't remember which step you were standing on?

[C]: I cannot remember which staircase, but I remember I was standing there.

...

Q: Now, just try to recall now. When the man was sitting down and squeezing your penis first and then sucking your penis, were your feet on the step above where he sat or steps above where he sat?

[C]: Sorry, I cannot remember about that.

Q: But it would not be on the same step where he's sitting, right?

[C]: No, right.

Q: Because you were already sitting two steps above him.

[C]: Yes.

Q: So it's either one step or two steps above where he's sitting.

[C]: Yes.

83 The Prosecution submits that there is ambiguity when C made markings in the picture to denote where he and A were "seated" – it can refer to the step

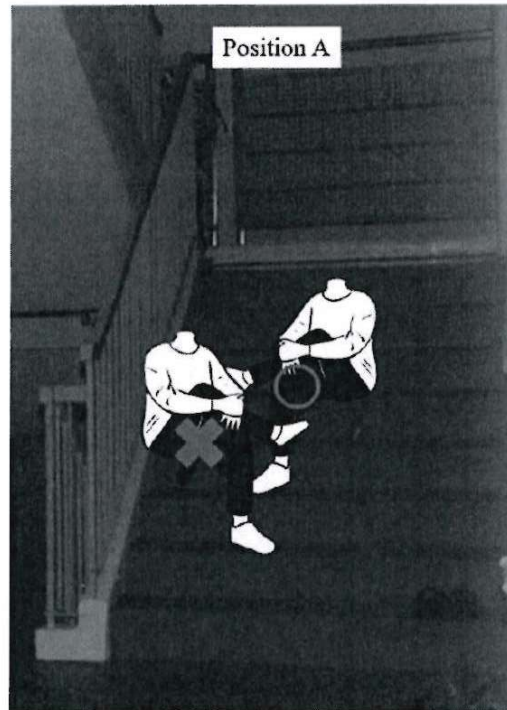
on which their buttocks were placed or the step on which their feet were rested.¹³⁰ This gives rise to three possible positions based on C's description:¹³¹

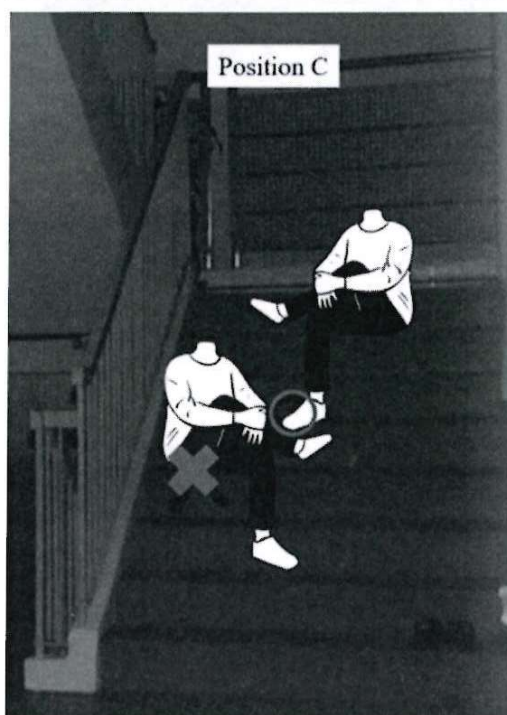
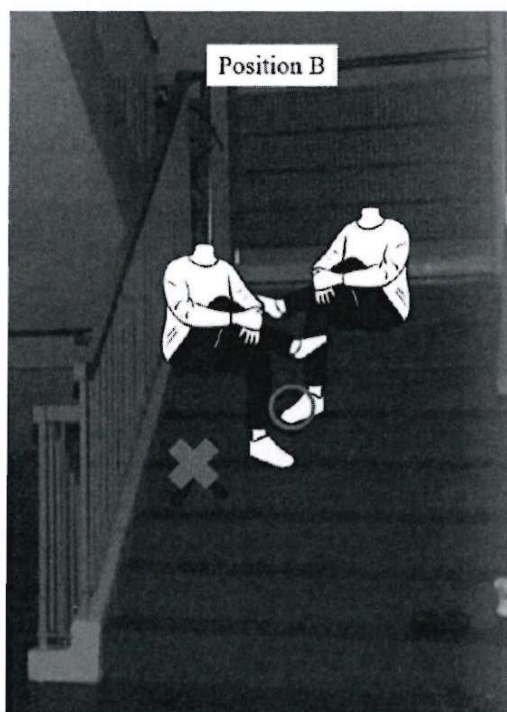
- (a) Position A: C had identified the places where he and A had placed their buttocks on the marked steps. Thus, the 'X' and 'O' on the picture mark out the locations where their buttocks were placed.
- (b) Position B: C had identified the steps on which their feet were rested. Thus, the 'X' and 'O' on the picture mark out the locations where their feet were placed.
- (c) Position C: C had marked out 'X' to mark out where A's buttocks were placed on the step, while marking out 'O' to mark out where C's feet were placed on the step.

¹³⁰ PCS at [180].

¹³¹ PCS at [180]–[181].

Illustrations of the three positions are attached below.





84 The Prosecution also argues that C's confirmation that he was standing one or two steps above A was only elicited after C had already made clear that he could not remember which step he was standing on and was C's answer to a misleading question by the Defence.¹³² The Prosecution argues that the Defence's question was misleading as it was based on Position C which assumes an inconsistent interpretation of markings – that 'X' marks out where A's buttocks were placed, while 'O' marks out where C's feet were placed.¹³³ The Prosecution submits that this is entirely implausible and an unsustainable interpretation of the evidence.¹³⁴ Instead, if 'X' and 'O' are both interpreted consistently to refer to the locations where their buttocks were placed (*ie*, Positions A or B), this would mean that C's feet would have been on the same step or lower than the accused's buttocks.¹³⁵

85 From my observation of this exchange in court, this was not a case where C seemed to have difficulty understanding the Defence counsel's questions. While C said that he could not remember the step he was standing on, he was able to testify that his feet were not on the same step as where A was sitting, and that he was standing either one or two steps above where A was sitting (see [77], [81] and [82] above). Neither was the Defence's question misleading. It did not assume a fact that was not in evidence. C had himself just said that he thought that he was sitting two steps above A. The questions posed were simply whether C was standing on the same step as where A sat, and whether it was one or two step above where A sat. Thus, while Positions A, B and C are certainly plausible interpretations of what C meant when he marked out 'X' and

¹³² PCS at [183].

¹³³ PCS at [181] and [183].

¹³⁴ PCS at [182].

¹³⁵ PCS at [182] and [185].

‘O’ in the picture, given C’s evidence, there is no basis to guess if C was referring to another version of events besides what he testified to in court. I also note that while C said that he was sitting two steps above A, his marking on photograph five of Exhibit P6 shows a difference of one step. I have therefore taken C’s case at its highest, which is a one-step difference (see [87] below).

86 Additionally, the Prosecution submits that there is insufficient evidence to assert factual impossibility, as it was not clarified with C whether A was sitting on the same step that he initially sat at when he started to squeeze and suck C’s penis, or whether C had moved up or down steps over the course of the incident.¹³⁶ However, regardless of whether A was sitting on the same step that he sat on initially when he started to squeeze and suck C’s penis, or whether C moved, it is C’s evidence that there was a one or two step difference between where A was sitting and where C was standing, when the alleged incident took place.

87 All things considered, C testified clearly that C was standing and A sitting during the alleged incident and that there was one or two step difference between where C stood and A sat. Taking C’s case at its highest, if there was only a one-step difference and A had his neck craned, there is a 16cm gap between A’s mouth and C’s penis if C was not wearing shoes and a 17cm gap if C was wearing shoes. In my judgment, in the positions that C described, it is difficult to see how A could have sucked C’s penis in either situation. This is a material external inconsistency in the Prosecution’s case that A had sucked C’s penis.

¹³⁶ PCS at [189].

88 I have also considered the Prosecution's points that the gap could have been closed if C leaned towards A or bent his knees,¹³⁷ or if A was not seated throughout and raised himself from the step.¹³⁸ There is no evidence of any of these. C's evidence was that he was standing and A was sitting. He did not describe either of them changing their position. When the Prosecution asked C in re-examination if A could reach his penis with his mouth, and C agreed,¹³⁹ C did not explain how A could do so, such as describing any change in his or A's posture that would close the gap, and the Prosecution did not ask him. There is no evidence from C of any postures that could reconcile his account in re-examination with the measurements. I have also considered that the measurements in D14 were taken after C had testified and the gap was not put to him. However, when D14 was admitted, the Prosecution confirmed that there were no further evidential issues to address.¹⁴⁰ The Prosecution bears the burden of proof and it has not adduced evidence that resolves the difficulty highlighted. On the whole, while I do not find that the evidence goes so far as to show that the alleged act was "physically impossible" as the Defence submits, it suggests that the alleged act was implausible in the positions described. The difficulty of reconciling C's account as he gave it, with A sucking C's penis, goes towards whether there is a reasonable doubt, which I consider together with the matters set out at [122] below.

89 While this external inconsistency does not prove that it is implausible for A to have nonetheless squeezed C's penis since no measurements were taken of A's arm length, C's evidence is that A squeezed C's penis before sucking it.

¹³⁷ PCS at [186].

¹³⁸ NE 17 July at p 27 line 31 to p 28 line 7.

¹³⁹ NE 16 July at p 113 lines 13–26.

¹⁴⁰ NE 28 July at p 7 lines 27–29.

The external inconsistency casts doubt on C's credibility, which also undermines the Prosecution's case that A squeezed C's penis.

There is a major internal inconsistency in C's evidence

90 In addition, there is a major internal inconsistency as to whether C pulled down his pants and underwear himself, or A forcefully pulled down his pants. C testified in court that he pulled down his pants and underwear himself.¹⁴¹ During cross-examination, C said that he pulled down his pants and underwear himself because he was scared.¹⁴² However, he had previously said that A pulled down his pants and/or underwear, in his police report and/or statements on 3 November 2024,¹⁴³ 4 November 2024,¹⁴⁴ 26 November 2024¹⁴⁵ and 9 February 2026.¹⁴⁶ It is also in Dr Mak's account of the incident in his medical report.¹⁴⁷ This was also the account C gave PW4 on 3 November 2024.¹⁴⁸

91 When asked in court why he told the police that it was A that forced his pants down in his report on 3 November 2024, C only said that "Because I recall, like what just now I said today".¹⁴⁹ He gave similar explanations when asked why he told the police that it was A who pulled his pants down in his other

¹⁴¹ NE 15 July at p 26 lines 24–25.

¹⁴² NE 15 July at p 63 lines 5–19.

¹⁴³ Exhibit D4 at p 2.

¹⁴⁴ Exhibit D1 at A2.

¹⁴⁵ Exhibit D2A at A23 and A24.

¹⁴⁶ Exhibit D3 at [5].

¹⁴⁷ ABD at p 28 (at [19]).

¹⁴⁸ NE 17 July at p 8 lines 9–10.

¹⁴⁹ NE 16 July at p 77 lines 22–23.

statements.¹⁵⁰ I have also considered that C explained in court that he had told Dr Mak that A forcefully lowered his pants because A was “forcing [him] using the words, not ... action”.¹⁵¹ However, this reasoning did not feature in C’s explanations in court for why he told the police on four occasions that A had pulled his pants down, nor does such reasoning explain why C told the police that A lowered his pants.

92 Whether A pulled down C’s pants and underwear, or whether C did so himself, is not a minor detail. While the Prosecution submits that this is of less importance compared to the sexual acts themselves,¹⁵² it is not the case that *all* other details that do not directly relate to the squeezing and sucking of C’s penis are peripheral. It would be far more intrusive to C if A was the party that pulled his pants and underwear down. While accounting for human fallibility, this does not seem like a fact that would be easily misremembered. Moreover, C’s memory of the incident would have been fresher in November 2024, and he had consistently given the very same account up to 9 February 2026, about five months before the trial. I have also considered C’s ASD when assessing this inconsistency. However, C’s earlier account on this point was not vague or confused. He gave the same specific account to the police on four occasions and to Dr Mak, and changed it only at trial.

93 The Prosecution submits that C’s evidence here must be seen in light of scientific literature attesting that freezing up during sexual assault may affect a

¹⁵⁰ NE 16 July at p 82 lines 13–18 (police statement on 4 November 2024); p 88 lines 23–29 (police statement on 26 November 2024); p 98 lines 17–24 (police statement on 9 February 2026).

¹⁵¹ NE 16 July at p 105 lines 1–3.

¹⁵² PRS at [19(d)].

victim's memory.¹⁵³ However, the Prosecution did not submit any such scientific literature as evidence of this, or which explains how such "freezing up" operates. On the face of what the Prosecution has claimed of such scientific literature, it is also unclear if such freezing up would cause C to have a consistently different account to the police that is more damaging to A, even up to five months before trial. Neither Dr Mak nor Dr Daisy Chan from KKH gave evidence on this.

94 The Prosecution also argues that the fact that C gave a different account on the stand, instead of maintaining his previous version of events, showed that he was a truthful witness. It would have been easy and convenient for him to stick to the same story.¹⁵⁴ However, this does not change the fact that C had a different version of a fact that does not seem easy to forget. I will regard this as a material internal inconsistency.

95 For completeness, I am of the view that the other inconsistencies in C's evidence with regard to the events on level 19 are minor and do not impact his credibility.

(a) According to C's testimony, A was seated at the staircase on level 19 and smoking. He then asked C, "Have you *sunat*?" This is mentioned in C's account in his police report on 3 November 2024¹⁵⁵ and police statement on 4 November 2024.¹⁵⁶ It is also recorded in Dr Mak's account in his medical report.¹⁵⁷ However, C did not mention this

¹⁵³ PCS at [96(b)].

¹⁵⁴ PRS at [19(a)].

¹⁵⁵ Exhibit D4 at p 2.

¹⁵⁶ Exhibit D1 at A2.

¹⁵⁷ ABD at p 28 (at [19]).

in his police statement on 26 November 2024 or 9 February 2026. When asked why he did not mention the question in his account on 9 February 2026, he said that he forgot to as he was in a rush to make his report to the police.¹⁵⁸ It is possible that he forgot to mention the question, and I do not regard the omission of this fact in the other two occasions to be a matter of material inconsistency.

(b) C testified that A asked him, “Can I see your private part?” During his examination-in-chief, he said that he replied “yes”.¹⁵⁹ On the other hand, in his police statements on 26 November 2024¹⁶⁰ and 9 February 2026,¹⁶¹ C said that he replied “no” when A said he wanted to check his penis. During his cross-examination, C said he did not give a verbal response to A’s question.¹⁶² When asked why he said that he said “no” in his police statement on 26 November 2024, C answered that he could not remember what he said in reply to A.¹⁶³ These inconsistencies are not material to his case. Regardless of whether he said “yes” or “no” or was silent, there is no suggestion from his evidence that he consented to the sexual acts allegedly performed by A. Nor do I regard these inconsistencies, in and of themselves, to undermine C’s credibility as a witness, given that it is possible that these arose due to human fallibility in memory. He was also consistent in testifying that A asked him if he could see his private part/penis.

¹⁵⁸ NE 16 July at p 95 line 29 to p 96 line 9.

¹⁵⁹ NE 15 July at p 26 lines 20–22.

¹⁶⁰ Exhibit D2A at A23.

¹⁶¹ Exhibit D3 at [5].

¹⁶² NE 16 July at p 87 lines 21–26.

¹⁶³ NE 16 July at p 87 lines 27–32.

(c) During cross-examination, C said that it was not painful but “tickling” when A sucked his penis.¹⁶⁴ This is consistent with his police statement on 26 November 2024 where, in response to a question on how long A had sucked his penis, C said “[a] few minutes, it felt hot because he was smoking. But it was not painful, only when he was pressing my penis that it was painful”.¹⁶⁵ This is also consistent with his account in his police statement on 9 February 2026 where he said that A had squeezed his penis for a few minutes and “[i]t felt hot because he was smoking, but it was not painful”.¹⁶⁶ The Defence alleges that this account is inconsistent with his previous account to other witnesses that he felt pain when his penis was sucked,¹⁶⁷ seemingly because C told PW4 and PW6 that it was painful when A sucked his penis.¹⁶⁸ In my view, it is not clear from PW4’s testimony whether C told her that A’s sucking of his penis was painful, or the squeezing was painful. PW4 testified that C told her that A had *squeezed and sucked* his penis, another person then interrupted to ask C how he felt and C said “[he] feel[s] hot” and he “feels pain”.¹⁶⁹ In contrast, PW6’s testimony seems to suggest more clearly that C told him that it was painful when A sucked his penis. PW6 testified that C told him that A had brought him to level 19, sucked his penis and that C said he did not like it and said that “it was pain and hot”.¹⁷⁰ However, I am mindful that this is PW6’s account of what C told

¹⁶⁴ NE 15 July at p 28 lines 14–21.

¹⁶⁵ Exhibit D2A at A27.

¹⁶⁶ Exhibit D3 at [5].

¹⁶⁷ DCS at [35].

¹⁶⁸ DCS at [84], [96(b)] and [99].

¹⁶⁹ NE 17 July at p 8 lines 9–13.

¹⁷⁰ NE 21 July at p 8 lines 22–24.

him. A period of time has also lapsed since the events in question. I do not think that there is a material inconsistency that should cast doubts on C's credibility.

(d) C's oral testimony was that A squeezed his penis with two hands.¹⁷¹ In his police report on 3 November 2024, C said that A used "his hand" to squeeze his penis.¹⁷² I do not consider this to be a material inconsistency for the purposes of assessing C's credibility, as the discrepancy only arose in one prior occasion amongst the many that C gave statements to the police.

(e) C did not mention A squeezing his balls in his police statements on 3 November 2024, 26 November 2024 or 9 February 2026. During cross-examination, his testimony was that A had never squeezed his balls.¹⁷³ However, in his police statement recorded on 4 November 2024, C stated that A had squeezed his balls before he squeezed and sucked his penis.¹⁷⁴ PW6 also testified that C told him that A had squeezed his balls.¹⁷⁵ PW5's testimony corroborates PW6's account as she testified that when PW6 went back home, PW6 informed her that C told him that, amongst other things, A had pulled down C's pants, sucked his penis and touched his balls.¹⁷⁶ Nevertheless, I find that this is not a material inconsistency. C explained that he stated that A had squeezed his balls in his police statement recorded on 4 November 2024 "[b]ecause I recall

¹⁷¹ NE 15 July at p 64 lines 8–11, 25–27; NE 16 July at p 78 lines 1–5.

¹⁷² Exhibit D4 at p 2.

¹⁷³ NE 16 July at p 6 lines 8–9.

¹⁷⁴ Exhibit D1 at A2.

¹⁷⁵ NE 21 July at p 16 lines 10–16.

¹⁷⁶ NE 17 July at p 34 lines 12–24.

that he squeezed my penis”,¹⁷⁷ seemingly having conflated the “penis” and the “balls”. The Defence argues that no evidence was led to show that C could not differentiate between the “balls” and “penis” and this line by C is merely his testimony that A squeezed his penis, and not that he conflated the two body parts.¹⁷⁸ However, this line was the explanation C gave directly after being asked about A squeezing his balls. Besides his initial account to PW6 on 2 November 2024 and to the police on 4 November 2024, he has not stated that A squeezed his balls in all other accounts. I am prepared to accept that he might have earlier stated that A squeezed his balls because he was confused.

(f) The Defence argues that C could not identify exactly where A had squeezed C’s penis.¹⁷⁹ In his police statement on 26 November 2024, C said that A had “press[ed] my penis at the *top*” [emphasis added].¹⁸⁰ The Defence argues that when asked to demonstrate the squeezing action by using the microphone to represent his penis, C squeezed “somewhere in the middle”.¹⁸¹ I do not think that there is an inconsistency in C’s evidence. When asked to demonstrate the squeezing action, C used his thumb and index finger to hold somewhere “about an inch below the top of the microphone”, with the top of the microphone representing “[the area of the penis] where the urine comes out”.¹⁸² While C later agreed with the Defence counsel’s characterisation

¹⁷⁷ NE 16 July at p 82 lines 21–28.

¹⁷⁸ DRS at [35]–[36].

¹⁷⁹ DCS at [38].

¹⁸⁰ Exhibit D2A at A25.

¹⁸¹ DCS at [38].

¹⁸² NE 15 July at p 63 line 30–p 64 line 21.

that this was “somewhere in the middle”,¹⁸³ this could be an instance where C’s agreement is properly attributed to his susceptibility to suggestion. I accept that an area *one inch* below the area of the penis where the urine comes out can be described as the “top” of the penis. The fact that C testified in court that he understood the “top of the penis...[to be t]he part where the urine comes out”¹⁸⁴ does not mean that this is the *only* area that can be described as the top of the penis.

(g) C testified in court that he felt scared when A sucked his penis and just waited for him to stop.¹⁸⁵

(i) C’s oral testimony, at first blush, appears different from his account in his police report on 3 November 2024, where he said “I kept on telling him that I wanted to leave”. However, C explained on the stand that this line in the police report was his description of how he kept on telling the man that he wanted to leave only *after the man stopped sucking on his penis*.¹⁸⁶ There is no reason to doubt his explanation.

(ii) C’s oral testimony is also inconsistent with his police statement on 4 November 2024, where he said that when A sucked on his penis, “I told him to stop”.¹⁸⁷ C explained that this is because he said stop in his heart.¹⁸⁸ While C’s explanation may not be very convincing, C’s account in court is consistent with

¹⁸³ NE 15 July at p 64 lines 25–27.

¹⁸⁴ NE 16 July at p 74 lines 8–12.

¹⁸⁵ NE 15 July at p 69 lines 8–19.

¹⁸⁶ NE 16 July at p 78 lines 28–31.

¹⁸⁷ Exhibit D1 at A2.

¹⁸⁸ NE 16 July at p 83 lines 18–26.

what he told the police in his statement on 26 November 2024, where he said “I did not tell him to stop but I pull up my pants as I wanted him to stop but I never tell”. As there was a previous occasion where C gave the same evidence, I accept that it is possible that C did not literally mean that he verbally told A to stop in his account on 4 November 2024. I do not consider this inconsistency to be material in affecting C’s credibility as a witness.

(h) C testified for the first time in court that on the level 19 staircase, A told him that his penis was dry and he wanted to make it wet before sucking his penis.¹⁸⁹ C explained that he did not mention this in his police report or police statements or in his account to Dr Mak because he had forgotten to add that part.¹⁹⁰ In my view, this is a peripheral detail and its omission is not material.

It was not implausibly audacious for A to have sucked and squeezed C’s penis on the staircase at level 19

96 The Defence submits that C’s version of events would have been implausibly audacious. It would have been ridiculous for A to have committed the offences as alleged on level 19 when C could have cried for help to alert any of the occupants residing in the flats in close proximity to the staircase at level 19 and anyone who stepped out of the lifts or units at level 19 could see what was happening.¹⁹¹ A’s back would have been facing the lift lobby and he would

¹⁸⁹ NE 16 July at p 97 lines 3–5; p 98 lines 4–12.

¹⁹⁰ NE 16 July at p 98 lines 13–16.

¹⁹¹ DCS at [62]–[63].

have been unable to see if anyone came out of the lifts if he was squeezing and sucking C's penis in the position that C described.¹⁹²

97 The Prosecution submits that there is nothing inherently implausible about a sexual assault taking place at a Housing and Development Board ("HDB") staircase, citing other cases where offences have taken place at HDB staircases.¹⁹³ Further, the fact that A chose to commit the offence at level 19 is readily explicable as it was one of the only accessible places available to A.¹⁹⁴

98 Sexual offences have taken place at public locations and the fact that a sexual offence takes place at a location that was within the potential sight of others is not, on its own, a reason to disbelieve a complainant's testimony: *Yue Roger Jr* at [42]. This proposition should not be interpreted as a blanket rule that the court can *never* take into account possible detection of an offence by others in assessing the plausibility of a complainant's account. Ultimately, much would depend on the specific facts of each case. For example, in *Public Prosecutor v Wee Teong Boo* [2020] 2 SLR 533 ("*Wee Teong Boo*"), the Court of Appeal at [60] had doubts that the offender, a doctor, would have attempted penile penetration of the complainant, his patient, at the examination room of the clinic when clinic assistants and some other patients were waiting in the clinic at the material time. The sliding door leading to the examination room could not be locked, and it would have been the easiest thing for the complainant to have screamed for help. The Court of Appeal observed at [60] that:

... To overcome the implausibility of the Prosecution's case and find that [the offender] had raped [the complainant] in these audacious circumstances, he must have believed that he could

¹⁹² DCS at [63].

¹⁹³ PRS at [35].

¹⁹⁴ PRS at [34].

get away with it because [the complainant] would not even know that she was being raped and would remain completely silent throughout ordeal. But, this was an improbable scenario to begin with for the reasons we have outlined at [55]–[59] above, and further, the Prosecution never put this to [the offender] or explored this line of inquiry at the trial.

99 The cases that the Prosecution cited involve different factual matrixes. From the facts available of these cases, there were factors indicating that the victims would not scream for help, even though the sexual offences were committed at a public HDB staircase or lift landing, either because the: (a) offender threatened the victim or previously threatened the victim; or (b) the underaged victim “consented” to the acts in question.

(a) In *Chang Kar Meng v Public Prosecutor* [2017] 2 SLR 68, the court summarised the facts of an unreported case of *Public Prosecutor v Sivakumar s/o Magendran* Criminal Case No 23 of 2012: at [63]–[64]. The victim in that unreported case looked tipsy. The offender approached the victim from behind, grabbed her neck, dragged her into the lift with an arm around her neck and exited with her at the fifth floor. He then *threatened* to kill her if she did not comply with his demands before raping the victim at the HDB lift landing.

(b) In *Public Prosecutor v Koh Rong Guang* [2018] SGHC 117, the court found that the offender had raped the victim at the staircase of a HDB block sometime between end 2013 and early 2014: at [4] and [67]. It appeared that no arguments were raised regarding the plausibility of the victim’s account given that the offence was committed at the HDB staircase. However, if such an argument had been brought up, I observe that this was not the first sexual offence committed against the victim. The offender had also committed sexual offences against the victim that were the subject of the 2nd, 3rd, 4th and 5th charges during a previous

occasion: at [54]. The offender had taken out a spanner, hit the wall near the victim's face, scolded vulgarities at her and threatened her into performing oral sex on him before proceeding to rape her: at [41], [42], [47] and [54]. He also took a photograph of the victim's naked body without her consent: at [13] and [54]. The court observed that the victim did not attempt to escape when they were at the staircase alone during the previous occasion, but this was not "surprising or unusual" as he threatened her and hurled vulgarities to frighten her and it was obvious that the offender was the stronger party: at [53]. Given that the offender had sufficiently instilled fear in the victim on the previous occasion and even had a photograph of the victim's naked body in his possession, it appeared that the offender was not concerned that the victim would call for help at the HDB staircase.

(c) In *GCM v Public Prosecutor* [2021] 4 SLR 1086, the court at [77] cited the unreported case of *Public Prosecutor v Tan Li De* DAC 945219/2016 (1 March 2017). There, the offender committed a sexual offence against the 12-year-old victim at the HDB staircase landing: at [77]. The offence was committed after they had been acquainted for about a year and after the parties had entered a "relationship". There was no indication that the victim would scream.

(d) In *Public Prosecutor v Pok Raymond* [2003] SGHC 18, the offender pleaded guilty to, amongst others, an offence under s 140(1)(i) of the Women's Charter (Cap 353, 1997 Rev Ed) for having carnal connection with any girl below the age of 16 years except by way of marriage. This offence was committed at the staircase of a block of HDB flats: at [6]. However, there, the offender and the victim, who was 14, made a plan to engage in petting: at [5]. The parties had started kissing

and petting first before they became aroused and engaged in sexual intercourse: at [6]. It was the defence's position that all their sexual encounters were "consensual": at [33]. While the court did not endorse this submission from the defence, there was no suggestion or indication that the victim would scream for help.

(c) In *AQW v Public Prosecutor* [2015] 4 SLR 150 at [30], the court cited an unreported case of *Public Prosecutor v Suhaimi bin Shamsudin* DAC 38971/2013. There, the offender met the 14-year-old minor on a dating app. They met on two separate occasions at HDB staircase landings to engage in sexual activity. On both occasions they hugged and kissed and engaged in mutual masturbation before fellating each other. Again, there was no indication that the minor would scream.

100 The Prosecution submits that there was also indication that C would not scream in the present case. A would have known that C had some degree of autism and would have observed some degree of compliance in C. The Prosecution's case is that A allegedly asked C to follow him and C complied. While I do not find that there is objective evidence indicating that C was as compliant as alleged by the Prosecution, I accept that it is possible that A's perception was that C would not scream. Thus, the fact that the offence took place in a public area, with possible detection by others, did not render it implausible.

What happened in the lift going down

101 I next consider C's version of events of what happened in the lift going down. While A has a different version of events, I will assess that below when analysing the Defence's case.

102 C testified that after the sexual assault occurred, he said that he needed to go home, and pulled up his pants, jeans and underwear by himself.¹⁹⁵ A told him to “wait first” but he walked fast to the lift.¹⁹⁶ He entered the lift and pressed the level one lift button.¹⁹⁷ He was trying to run away from A as he was scared of A.¹⁹⁸ A pressed the button, the lift opened and A entered the lift.¹⁹⁹

103 There are two videos of C and A in the lift, going down to level one.²⁰⁰ In both videos, C is seen walking quickly into the lift and pressing the “door close” button, without waiting for A. The lift doors closed slightly before opening again. A then enters the lift, holding an unlit cigarette in his left hand, and presses a lift button. A is seen making a quick swiping motion with his right hand, palm down and fingers open. This is followed by C holding his right hand up with five fingers, followed by him putting up a thumbs-up sign, and then A initiating a fist-bump with C. C is seen holding his right hand up with five fingers again, and making a waving action. A taps C on the shoulder. C initiates a handshake with A, shortly before they exit the lift.

104 The Prosecution submits that the CCTV footage, showing C hurrying into the lift and pressing the “door close” button, is strongly corroborative of C’s testimony that he was terrified of A and wanted to run away from A.²⁰¹ The

¹⁹⁵ NE 15 July at p 29 lines 14–17.

¹⁹⁶ NE 15 July at p 29 lines 18–32.

¹⁹⁷ NE 15 July at p 30 line 9.

¹⁹⁸ NE 15 July at p 31 lines 4–9.

¹⁹⁹ NE 15 July at p 30 lines 10–11 and 18–30.

²⁰⁰ Exhibit P3, file “14-up-l-a_14-up-l-a_c1_20241030222500_20241030223500_20241118153739” at 22:31:41–22:32:30 and file “14-up-l-a_14-up-l-a_c2_20241030222500_20241030223500_20241118155023” at 22:31:41–22:32:30.

²⁰¹ PCS at [21(a)] and [59]–[61].

Prosecution also submits that the fact that C's shirt is seen half wedged in on his right side, when going down in the lift, as compared to it being fully untucked when in the lift on the way up to level 19, corroborates C's account of the sexual assault.²⁰²

105 I do not find that much weight can be placed on the change in the appearance of C's shirt, as there could be a variety of reasons why C's shirt is half wedged in when he is in the lift on the way down, which have not been ruled out by Prosecution. For example, it is plausible that the shirt is wedged in as such because of how C sat down and moved up when leaving the stairs.

106 The fact that C is seen hurrying into the lift before A and pressing the "door close" button seems consistent with C's version of events. A agreed that there was no reason for C to hurriedly press the "door close" button, to keep holding it as A approached, or to want to leave A suddenly.²⁰³ However, I am unable to place much weight on this "door close" incident, as the rest of C's behaviour from the videos, seconds after the alleged offence, does not corroborate his version of events. It does not appear that C looked scared or traumatised in the lift. He is seen having a conversation with A. C does not shrink away when A reaches out to tap him on the shoulder. Soon after, C puts out his hand to shake hands with A. C has an explanation for why he shook hands with A, which I address below. I bear in mind that C has an intellectual disability and also that persons may react to such events in different ways. Thus, the absence of visible fear is not, in itself, determinative. However, the fact remains that the CCTV footage does not corroborate his version of events.

²⁰² PCS at [21(b)(i)] and [67]–[69].

²⁰³ NE 22 July at p 37 lines 6–20.

107 According to C, A told him while they were in the lift down, “Please do not tell anyone”.²⁰⁴ C said that he did not know what A was saying or why A said that.²⁰⁵ According to C, the thumbs-up and fist-bump that A gave him was about the “Don’t tell anyone”.²⁰⁶ At the point where C is seen waving his hand with his five fingers open, he said that it was him saying “Okay, I won’t tell anyone”.²⁰⁷ Before they exited the lift, C shook hands with A. C said he shook A’s hand because he always shook hands with a Muslim person when he leave and that it is called a religious *salam* (*ie*, a religious greeting or “shake hand”).²⁰⁸

108 Even taking C’s testimony at its highest, that he always shakes hands with a Muslim person when leaving, it is questionable whether he would do so when he was scared of that person. C also did not appear scared or traumatised when he reached out, on his own initiative, to shake A’s hands. The video does not support C’s version of events. In fact, C agreed with Defence counsel’s suggestion that he shook hands with A because he “viewed [A] as someone who was friendly, and whom he had just shared “some of [the] things in [his] heart with”.²⁰⁹ This contradicts C’s account that he feared A.

109 Further, there is a crease in C’s evidence about what transpired in the lift. C stated on earlier occasions that A made him do a pinky promise with his finger (*ie*, intertwining A’s and C’s pinky fingers) while they were in the lift, to promise him not to tell anyone. This is in his police statement on 4 November

²⁰⁴ NE 15 July at p 32 lines 25–27.

²⁰⁵ NE 15 July at p 32 line 28 to p 33 line 2.

²⁰⁶ NE 15 July at p 33 lines 14–20.

²⁰⁷ NE 15 July at p 33 line 26 to p 34 line 3.

²⁰⁸ NE 15 July at p 34 lines 10–26.

²⁰⁹ NE 15 July at p 73 lines 8–13.

2024²¹⁰ and 26 November 2024.²¹¹ It is also in Dr Mak’s account of the incident in his medical report.²¹² It was not a case of him mis-recalling on one occasion.

110 However, the video does not show such a pinky promise taking place in the lift. C testified in court that the pinky promise took place after they left the lift on level 1.²¹³ This testimony was given after C had the opportunity to view the video footage from the lift of A and C going down from level 19.²¹⁴ C’s earlier evidence that they made a pinky promise in the lift is not borne out by the video and there is no evidence that a pinky promise took place outside the lift.

111 Nevertheless, in so far as C’s credibility is concerned, I am prepared to consider this as a possible discrepancy on a minor detail as to *where* the “pinky promise” occurred. It is possible that it was due to fallibility in human recollection. I do not regard this, in and of itself, as a basis to cast doubt on C’s credibility.

What happened after C and A left the lift

112 There is a video of both A and C after they exit the lift at Block 14.²¹⁵ A is seen walking away to the right of the video while C is seen walking in the direction towards the top of the video. At one point, C can be seen turning to

²¹⁰ Exhibit D1 at A2.

²¹¹ Exhibit D2A at A32.

²¹² ABD at p 28 (at [21]).

²¹³ NE 15 July at p 35 lines 10–19.

²¹⁴ NE 15 July at p 32 lines 18–21.

²¹⁵ Video of path to Block 14 Lift Lobby at 22:32:34–22:32:55 and 22:33:12–22:33:17.

the right to look behind him, and waving his right hand. After a while, he returns and heads in the same direction as A.

113 C explained in court that he waved bye-bye to A so that A would not follow him.²¹⁶ He said that he initially walked in a different direction as he wanted A to go home first.²¹⁷ He returned because he wanted to take the bicycle that he left at the grass patch behind the bench.²¹⁸ He wanted to throw the bicycle at the correct dustbin.²¹⁹

114 The Prosecution submits that the path that C took corroborates his account that he was fearful of A after the sexual assault on level 19 of Block 14.²²⁰ The Prosecution argues that there would be no reason for C to wait for A to walk off first and intentionally distance himself from A before walking back in the same direction.

115 However, I agree with the Defence that there are other plausible explanations for C's movements. For example, he could have walked in one direction towards the bus stop to take a bus home but then remembered that he had left the bicycle at the grass patch and walked back to retrieve it.²²¹ In fact, C had the presence of mind to remember the bicycle that he had left behind at the bench. It is odd that he would still bother to walk around and then pick up the bicycle if he was so scared. I do not think the video of C's path after exiting the lift supports C's narrative that he was then feeling scared.

²¹⁶ NE 15 July at p 36 line 24 to p 37 line 7.

²¹⁷ NE 15 July at p 38 lines 6–12.

²¹⁸ NE 15 July at p 37 lines 19–32.

²¹⁹ NE 15 July at p 38 lines 1–5.

²²⁰ PCS at [74]–[76].

²²¹ DRS at [16(c)].

116 C's earlier accounts to the police would be more consistent with a narrative that he was scared after A sucked and squeezed his penis at level 19 of Block 14. He told the police in three separate accounts that he ran home immediately, in his police report on 3 November 2024 ("I then immediately ran to the bus to go home"), police statement on 4 November 2024 ("Once the lift come down, I run to the bus and go home") and police statement on 26 November 2024 ("And then I ran to the bus stop at top speed as I was scared that he will follow me home").²²² He specifically denied going back to take the bicycle when he was asked, in his 26 November 2024 statement.²²³ Given the consistency of C's earlier accounts to the police, it could not be said that this omission was part of human fallibility.

117 With the CCTV footage showing C wheeling away the bicycle, it is clear that C was lying to the police in his earlier statements. C's explanation was, in essence, that he forgot to mention that he went back for the bicycle.²²⁴ That may explain an omission, but not his express denial when the police asked him. Regardless of his reasons for doing so, his earlier testimony reinforced the impression to the police that he was scared after what happened on level 19 of Block 14.

118 The Prosecution submits that whether C went straight back home or returned for the bicycle is immaterial. It was understandable that he omitted to mention the bicycle in his police report, as the disposing of the bicycle is a

²²² Exhibit D4 at p 2; Exhibit D1 at A2; Exhibit D2A at A32.

²²³ Exhibit D2A at A34.

²²⁴ NE 16 July at p 79 lines 16–18, 25–26 (police report on 3 November 2024); p 85 lines 6–11 (police statement on 4 November 2024); p 91 lines 3–11 (police statement on 26 November 2024).

peripheral detail that was overshadowed by other traumatic events.²²⁵ However, while I agree that an omission itself may not be as significant, C even specifically denied going back to take the bicycle in his 26 November 2024 police statement when he was asked. It calls into question why C lied and casts some doubt about C's account that he was scared after what occurred at level 19 of Block 14.

119 The disparity in C's account of whether he ran home immediately is a material internal inconsistency in C's evidence.

120 While C and PW5 testified that C texted PW5 when he reached home that he felt sad, C also testified that he felt sad, not just because of the incident, but because "the random friend bully me".²²⁶ While C testified that he had not been bullied that day, he could have felt sad because of the bullying that took place earlier. There is hence no basis for the Prosecution's submission that C's sadness mainly arose from the alleged incident.²²⁷

121 Lastly, while PW4, PW5 and PW6 observed that C was fearful when he went to PW4's house on 3 November 2024, I am unable to place much weight on this, as corroborative evidence in support of C's account. C's fear on seeing A again may suggest that there was something that occurred on 30 October 2024 that made him afraid, but that does not show that the specific acts in the charges took place. In addition, as the Defence points out, the confrontation at PW4's house on 3 November 2024 could be said to be a highly stressful situation that

²²⁵ PCS at [96(c)]; PRS at [22(b)].

²²⁶ NE 15 July at p 40 lines 25–31.

²²⁷ PCS at [79].

might have caused C to be upset.²²⁸ It does not resolve the inconsistencies in C's account that are identified above.

Reasonable doubt arises from the Prosecution's case and C is not an unusually convincing witness

122 In summary, I find that C is not an unusually convincing witness and reasonable doubt arises from the Prosecution's case, for the following reasons, considered cumulatively:

(a) The distance between A's mouth (with A seated and his neck craned) and the tip of C's penis (with C standing one step above), is about 16cm (if C was not wearing shoes) or 17cm (if C was wearing shoes). In the positions C described, it is difficult to see how A could have sucked C's penis. This is a material external inconsistency.

(b) C's evidence in court, that he pulled his pants and underwear down himself at level 19, is internally inconsistent with what he has said previously on numerous occasions, in his police report on 3 November 2024 and his statements to the police on 4 November 2024, 26 November 2024 and 9 February 2026. It also appears that he recounted the same to Dr Mak. This would likely have been a key aspect of the incident, since A pulling C's pants down would have been much more intrusive. C's memory of the incident would have been fresher in November 2024, and he had consistently given the same account up to 9 February 2026, about five months before the trial.

(c) C's account that he followed A because he was scared is not corroborated by the videos of them at the lift lobby and in the lift up to

²²⁸

DCS at [117].

level 19. C did not appear scared in the videos. Their conversation did not indicate that A was forcing C to go up to level 19. While the absence of visible fear is not determinative, as complainants may react to sexual offences in different ways, it means that the videos do not lend support to C's account.

(d) The video footage in the lift on the way down from level 19 does not corroborate C's version of events. C did not appear scared in the lift. He did not shy away from A when A tapped him on the shoulder and C himself reached out to shake A's hands when they exited the lift. Again, this is not determinative, but the footage does not assist C.

(e) The video of C's path after exiting the lift does not support his narrative. When they exited the lift, C had the presence of mind to pick up the bicycle from the bench before going home. This is also internally inconsistent with what he told the police on three separate occasions, that he ran home immediately. He had also denied going back to take the bicycle when asked by the police.

Defence's case

123 In contrast, I do not find material inconsistencies in the Defence's case.

124 The Prosecution submits that:²²⁹

- (a) A told a *Lucas* lie when he said he saw a police car;
- (b) A was an evasive witness who was willing to give blatantly contradictory answers;

²²⁹ PCS at [114].

- (c) The CCTV footage contradicts A's account;
- (d) A's account was internally inconsistent; and
- (e) A's account was inherently implausible as his actions and words were inconsistent with his claimed intentions.

125 As explained above, I do not think A was telling a *Lucas* lie when he said that he saw a police car (see [39]–[46] above). I will address the remaining points below.

Whether A is an evasive witness who gave blatantly contradictory answers

126 The Prosecution argues that A gave blatantly contradictory answers as he first “disagree[d] that...he knew whether [the bicycle C was pushing] belonged to his relative”, and then “disagree[d] that he did not know who the bicycle belonged to”.²³⁰ The Prosecution relies on the following exchange:²³¹

Q: And is it your position that you didn't need to see what the bicycle looked like because you knew at that point whether it belonged to your relative?

A: I disagree.

Q: So you---at this point, you didn't know who the bicycle belonged to, is that right?

A: I disagree because I've once seen the bicycle being played by my relative's child.

Q: Ok, so you've given two inconsistent answers. Let me just ask you. At this point, 10.16 and 17 seconds, did you know or not whether the bicycle was your relative's?

A: It looks similar, so I wasn't very sure.

²³⁰ PCS at [166(a)].

²³¹ NE 22 July at p 10 lines 2–12.

127 I do not see these answers by A as being blatantly contradictory. A's evidence was consistent in stating that he suspected that the bicycle he saw C was pushing belonged to his relative, but he was not sure. As will be evident from the analysis below, I find that in general, there were few contradictory answers from A.

128 The Prosecution argues that A was an evasive witness because he refused to answer the question as to whether he had inspected the bicycle. The Prosecution relies on the following exchange:²³²

Q: Now, in your evidence-in-chief, yesterday, you said after [C] told you he was going to bring the bicycle home by bus, you, and I quote, you started to ask where he stayed. You remember this?

A: I agree.

Q: And at this point, you hadn't inspected the bicycle. Correct?

A: I could see that it had a flat tyre and I---and he found the bicycle downstairs.

Q: But you still won't sure, correct? You just said that in Court.

A: If the bicycle had a flat tyre and it was placed downstairs, does it belong to anyone?

The Prosecution relies on the last line of the exchange, arguing that this rhetorical question was not only evasive, but contradictory to his earlier account.²³³

129 The Prosecution also argues that A refused to give a straight answer to the question of whether he intended to vape while he was on the ground floor.²³⁴

²³² NE 22 July at p 11 lines 23–31.

²³³ PCS at [166(b)].

²³⁴ PCS at [166(b)]; NE 22 July at p 15 lines 15–24.

130 In my view, while A could have been more direct in answering these questions that the Prosecution identified, this did not render him to be an evasive witness. His answers during cross-examination to the material aspects were direct. I also do not see how A's answer is contradictory to his earlier account that the Prosecution relies on, which I reproduce below:²³⁵

Q: And is it your position that you didn't need to see what the bicycle looked like because you knew at that point whether it belonged to your relative?

A: I disagree.

Whether A's account is consistent with the CCTV footage

131 The Prosecution submits that:

- (a) CCTV footage of A's actions when meeting C are incompatible with his purported reason for approaching C;²³⁶
- (b) CCTV footage of A's walk to Block 14 is inconsistent with his account of why he left the bench;²³⁷
- (c) CCTV footage does not show that he had a vape in his hands, which is inconsistent with A's claim that he had a vape in his hands;²³⁸ and

²³⁵ PCS at [166(b)]; NE 22 July at p 10 lines 2–4.

²³⁶ PCS at [125]–[126].

²³⁷ PCS at [127]–[130].

²³⁸ PCS at [131]–[135].

(d) footage from the lift showing C rushing into the lift to leave, observable changes to C's clothing and A holding an only half-finished cigarette contradicts A's account of what happened at level 19.²³⁹

Whether A's account of approaching C is inconsistent with the CCTV footage

132 A's testimony in court is that he thought the bicycle that C was pushing belonged to one of his relatives, that C told him about his personal problems, that he rushed to take the lift up because he saw a police car patrolling as he was in possession of a vape, that it was C who insisted to follow him up to level 19 and that they only talked about C's personal problems at level 19 (see [13]–[17] above). This is consistent with the police report A filed on 3 November 2024.²⁴⁰

133 The Prosecution submits that A's account of what happened when he first met C is unbelievable because A is not seen in the CCTV footage to examine the bike that C was pushing, nor did he ascertain who it belonged to.²⁴¹

134 A's evidence is that he did not need to look at the bicycle right in front of him, and he did not need to look at it closely.²⁴² He also testified that he thought that it looked similar to his relative's bicycle but he still "wasn't very sure".²⁴³ Given that CCTV footage shows that A is fairly close to the bicycle, I accept A's evidence that he could see the bicycle which was in front of him. The Prosecution submits that regardless of the distance, since A was still unsure as to who the bicycle really belonged to, he would have checked the bicycle if

²³⁹ PCS at [136]–[139].

²⁴⁰ Exhibit P12 at p 2.

²⁴¹ PCS at [6(d)] and [126].

²⁴² NE 22 July at p 9 line 28 to p 10 line 1.

²⁴³ NE 22 July at p 10 lines 9–12.

the only reason he had approached C was because he suspected C had taken his relative's bicycle.²⁴⁴ In my view, given his evidence that he still was not very sure, it is reasonable for A to adopt a cautious approach not to do a closer examination or pursue the question of who the bicycle belonged to.

135 On a related note, the Prosecution also submits that the CCTV footage shows that after some initial conversation, C walks away from A, after which A walks in the direction of C. This is away from the direction that A would take to go home and corroborates the fact that it was A who was interested in continuing the conversation.²⁴⁵ However, the CCTV footage only shows C disappearing from the view of the camera at some point. It is not clear whether C stepped away and remained in that area or whether he walked away.

Whether A's account of why he left the bench is inconsistent with the CCTV footage

136 The Prosecution submits that contrary to A's account that he was rushing to avoid the police, A does not rush but is seen leisurely strolling towards Block 14 in the CCTV footage. He took a longer route by walking in between Blocks 14 and 15 instead of a shorter route that was available and even waited for an additional two minutes at the Block 14 void deck.²⁴⁶ Additionally, A is only captured smoking but not vaping.²⁴⁷

137 The objective facts are as follows:

²⁴⁴ PCS at [126].

²⁴⁵ PCS at [55].

²⁴⁶ PCS at [127]–[129].

²⁴⁷ PCS at [131]–[135].

(a) The video footage does not show that A was rushing to Block 14, a fact that A himself conceded.²⁴⁸

(b) A did not take the shortest route to Block 14, a fact that he has also conceded.²⁴⁹

(c) The video footage from camera TW04 showing the Block 14 void deck shows that A took a right turn at the Block 14 void deck before the lift lobby.²⁵⁰ A could not provide any reason why he turned right when approaching Block 14 instead of going directly to the lift.²⁵¹ C's explanation was that someone else was waiting for the lift at the lift lobby and A wanted to wait for them to go up first.²⁵²

(d) The CCTV footage at Block 14 did not show A holding vape in his hands.²⁵³ It only shows A smoking a cigarette but not vaping, a fact that A admits.²⁵⁴

138 However, these do not render A's account improbable, implausible or impossible.

(a) A's account in his police report, was that he "rushed [himself] to take the lift at Block 14".²⁵⁵ This was to avoid the police. In the first

²⁴⁸ NE 22 July at p 22 lines 18–20.

²⁴⁹ NE 22 July at p 22 lines 21–23.

²⁵⁰ Video of path to Block 14 Lift Lobby at 22:22:00–22:22:05.

²⁵¹ NE 22 July at p 23 lines 27–32.

²⁵² NE 15 July at p 23 lines 12–26.

²⁵³ Video of path to Block 14 Lift Lobby at 22:21:47–22:22:05.

²⁵⁴ NE 22 July at p 25 lines 14–21.

²⁵⁵ Exhibit P12 at p 2.

place, there is nothing disputing A's evidence that he left the bench immediately after he saw the police car and that he "rushed" off at that point towards the lift. The word "rushed" in his police report may refer to a quickened pace at which he walked towards the lift, but could also refer to the immediacy of his exit from the bench. In this respect, there is no CCTV footage that contradicts A's account that he rushed off from the bench to avoid the police.

(b) Nor could it be said that A's behaviour is inconsistent with his stated desire to avoid the police. A explained that he decided to take the path between Blocks 14 and 15 as that was the only path where any car entering could not see.²⁵⁶ According to A, he spotted the police car in the distance. There was no need for him to run or rush after he left the bench. It is not inconsistent for him to simply move away from where he thought the police would be. The only video footage of A and C around then, is when they were entering Block 14 from the southern side of Block 14.²⁵⁷ A would be blocked then, from the potential line of sight of a police car, even if it had turned into [M] estate. There would be less impetus to rush at that point.

(c) C agreed that A was vaping when he was at the bench (see [43] above). Given that A was trying to avoid being caught by the police for vaping, the fact that he is not seen holding the vape on camera at that point or would wait to avoid the public at the lift lobby (taking C's account at its highest) is also consistent with A's narrative.

²⁵⁶ NE 22 July at p 56 lines 26–29.

²⁵⁷ Assuming a North-South axis of the map at p 21 of the Prosecution's Aide Memoire.

Whether A's account is inconsistent with footage from the lift on the way down

139 A testified that he was then smoking and wanted to put out his cigarette before he entered the lift on the way down. The video shows him entering the lift with an unlit cigarette in his left hand. While the Prosecution submits that the half-finished cigarette contradicts A's evidence that he decided to go down to the ground floor *after* he smoked,²⁵⁸ I accept A's evidence that he meant that he decided to go down to the ground floor after he was satisfied from smoking and that he could be satisfied from smoking, without having to finish smoking the entire cigarette.²⁵⁹

140 According to A, in the lift, they were talking about praying.²⁶⁰ C asked A if he prayed and A replied "[s]ometimes". A asked C if he prayed. C said "[f]ive times a day".²⁶¹ C held his hands out with five fingers, to show that he prayed five times a day, followed by a thumbs-up to mean good.²⁶² They then fist-bumped, like friends.²⁶³ A said that C told him that people looked down on him. A then told him not to care about what others said and tapped him on the shoulder.²⁶⁴

141 During cross-examination, A was asked about the swiping motion that he did with his right palm facing downwards, prior to C holding up his hands

²⁵⁸ PCS at [66] and [138].

²⁵⁹ NE 22 July at p 63 line 31 to p 64 line 4.

²⁶⁰ NE 21 July at p 46 lines 15–19.

²⁶¹ NE 21 July at p 46 lines 20–23.

²⁶² NE 21 July at p 46 line 30 to p 47 line 5.

²⁶³ NE 21 July at p 47 lines 6–7.

²⁶⁴ NE 21 July at p 47 lines 8–12.

with five fingers. A testified that he did it this way to mean five, the same thing as what C meant when he raised his palm to indicate five.²⁶⁵

142 The Prosecution submits that this swiping gesture is inconsistent with any reference to prayer and is more consistent with C's account that A was telling him not to tell anyone.²⁶⁶ While A's swiping of his right hand, palm open and facing down, does not appear to be the most natural way to indicate five times a day, it is not implausible. Moreover, during cross-examination, C agreed that when he held up his right hand to signify five and then a thumbs up, he had just asked A if he prayed and he replied sometimes. A then asked C if he prayed and he said he prayed five times a day and showed him his hand with five at the same time.²⁶⁷ C's testimony supports A's account that they discussed the topic of prayer in the lift on the way down.

143 The Prosecution argues that C only agreed to the assertion that he made the gesture in response to Defence counsel's question of whether he prayed only because he was susceptible to suggestion.²⁶⁸ However, in this case, after watching the video, C was asked twice whether he had indicated the sign in response to the man's prayer question and he said "yes" twice. The relevant exchange is reproduced here:²⁶⁹

Q: Okay. So my instructions are that just before this, you had asked the man if he prayed, and he said sometimes. The man then asked you if you prayed, and then you said you prayed five times a day and showed him the hand, five, at the same time.

[C]: Yes

²⁶⁵ NE 22 July at p 39 lines 24–25.

²⁶⁶ PCS at [72].

²⁶⁷ NE 15 July at p 72 lines 8–14.

²⁶⁸ PCS at [73].

²⁶⁹ NE 15 July at p 72 lines 8–14.

Q: Okay. Do you agree that that's what happened?

[C]: Yes, agree what has happened.

Q: Okay.

There is no basis to attribute C's answer to his susceptibility to suggestion.

144 The video capturing the conversation between C and A on the lift up to level 19 Block 14 also supports A's account, which is that he told C not to approach him in future, because he can then see who is bullying C (see [70]–[72] above).

Internal inconsistencies in A's evidence

145 The Prosecution relies on four main internal inconsistencies in A's evidence. I find that these are either not inconsistencies or not material inconsistencies.

What A did with the bicycle

146 The Prosecution submits that A's account that he approached C because C was pushing a bicycle that resembled his relative's bicycle is inconsistent with his evidence. A never mentioned attempting to look at the bicycle to check who it belonged to. Further, he asked C questions (such as where C stayed) that were irrelevant for A's purpose of ascertaining who the bicycle belonged to.²⁷⁰

147 However, these cannot amount to inconsistencies. There is no account where A positively states that he approached C for another purpose irrelevant to the bicycle. Further, while the question of where C stayed might at first glance seem irrelevant, it makes sense in the context that A described. According to A,

²⁷⁰ PCS at [157]–[160].

he asked C what he was doing with the bicycle that had a flat tyre and when C said he was going to bring it home, A then asked how he was going to bring it home and where was C's home (see [13] above).

Where A first met C

148 The Prosecution submits that A testified orally that on 3 November 2024, he told PW4 that he first met C at a walkway next to the Block 13A car park,²⁷¹ but he stated in the police report he filed on 3 November 2024 that he was sitting under the void deck at Block 14 when he first saw C.²⁷²

149 In my view, whether or not the encounter took place at the walkway or the void deck is not a material inconsistency. A's explanation, that he had made an error and it was "not impossible for me to forget as I am a normal human",²⁷³ is believable. He pointed out that he made another mistake in the same police report as he stated that he met C on 28 October 2024, when he had actually met him on 30 October 2024.²⁷⁴

Whether A and C made a joint decision or A made a unilateral decision to take the lift down from level 19

150 The Prosecution submits that another inconsistency is the fact that A said in court that they made a joint decision to take the lift down,²⁷⁵ but in his police report, he stated that he unilaterally told C that he had to go home.²⁷⁶

²⁷¹ NE 22 July at p 4 lines 1–10.

²⁷² PCS at [161].

²⁷³ NE 22 July at p 6 lines 17–18.

²⁷⁴ NE 22 July at p 6 lines 16–17.

²⁷⁵ NE 22 July at p 35 lines 16–23.

²⁷⁶ PCS at [165].

151 I do not think that this is an inconsistency. All A said in his police report was that “Through out the conversation [at level 19] we were only talking about the issues that he is facing. After the long conversation I started to feel tired so I told [C] that I have to go home”.²⁷⁷ While A might have been the first to suggest going home, they may nonetheless have made a joint decision to go down.

At what point did C follow A

152 Lastly, A said that C had followed him to Block 14 from the bench in court,²⁷⁸ but in his police report, he stated that he rushed himself to take the lift and it was only when he was “about to take the lift” that C insisted to follow him.²⁷⁹

153 I do not think that this is a material inconsistency. This is a discrepancy over a minor detail that does not detract from the pivotal point in A’s evidence, that C followed A on his own volition when A did not ask him to follow him.

Whether A’s account is inherently implausible

154 The Prosecution argues that A’s account is implausible because:²⁸⁰

- (a) There was no reason for A to enter an extended conversation with C when A had just had a long tiring day at work.²⁸¹

²⁷⁷ Exhibit P12 at p 2.

²⁷⁸ NE 21 July at p 36 lines 11–15.

²⁷⁹ PCS at [164].

²⁸⁰ PCS at [142]–[156]; PRS at [26].

²⁸¹ PCS at [142]–[143].

(b) There was no reason for C to spontaneously share personal details with A unless A had asked C questions first.²⁸²

(c) It was not logical for A to be holding a vape while at the bench (a public, exposed area) if he was afraid of being caught by the police with a vape.²⁸³ There was no reason for A to tell C where he was going or allow C to follow him if he was indeed going to vape.²⁸⁴

(d) There was no basis for A's belief that he saw a police car passing by.²⁸⁵

(e) There was no reason for C to spontaneously follow A to Block 14 and the only logical reason for C to have done so is because A asked him to follow him.²⁸⁶

(f) A's account of the conversation in the lift going to level 19 is inherently incredible.²⁸⁷

155 However, none of these reasons render A's account so inherently implausible.

(a) While a person might have made different choices from A and would not have engaged C in an extended conversation, A's account is not so inherently implausible.

²⁸² PCS at [144]–[146].

²⁸³ PCS at [147].

²⁸⁴ PCS at [151]–[152].

²⁸⁵ PCS at [148]–[149].

²⁸⁶ PCS at [150].

²⁸⁷ PCS at [153]–[156].

(b) Regardless of whether A asked questions first or C took the initiative to share about his problems, the fact remains that they had a conversation at the bench.

(c) It is plausible that A would dare to vape in public and was afraid of getting caught only when he perceived police presence. It is also plausible for A to have allowed C to follow him. During cross-examination, A accepted that he told C that he was going upstairs and that it would make no sense to tell a stranger where he was going to vape.²⁸⁸ However, during re-examination, A explained that it did not cross his mind that C might report him to the authorities for vaping.²⁸⁹

(d) Given A's previous fine for smoking, I do not think that A's account that he thought he saw a police car, his desire to avoid the police and his fear of getting into trouble, was so incredible.

(e) While it might be puzzling why C would choose to follow A (a man he had just met), it does not render A's account so inherently improbable. On A's account of events, they just had a conversation at the bench where C confided in A about the problems he faced. It does not seem implausible for C to have chosen to follow A.

156 With regard to the last point, A's account of their conversation in the lift is that he wished to help C who was being bullied (see [71] above). He suspected that the person who bullied C was a child of one of his relatives who stayed in

²⁸⁸ NE 22 July at p 18 line 24 to p 19 line 10.

²⁸⁹ NE 22 July at p 59 lines 19–21.

the [M] area, and he wished to help C by telling his relative if the child bullied him again.²⁹⁰

157 The Prosecution submits that this explanation makes little sense as:

(a) A would not need to secretly observe who was bullying C. He could have directly asked C who was bullying him but he did not bother to ask C to describe the bully.²⁹¹ If A really suspected that his relative's child was bullying C and since A said that he was not afraid to let his relative know that he was standing up for C, there was no need to tell C not to approach him in public.²⁹²

(b) A told C not to approach him in front of *any other people*, and not just if the bully was there.²⁹³

(c) A did not make an effort to contact C or to be contactable, which he would have done if he genuinely wanted to help C with the bullies.²⁹⁴

158 While I accept that A's plan may not have been the perfect plan, this did not render his plan illogical and impossible. First, A explained during cross-examination that he wanted to see the bully in action himself.²⁹⁵ It is plausible that he would not want to just take C's description of his bully, but would want to see the bully in action. If so, there was no specific need to ask C to describe his bully. He would also want to see the bully in action even if he suspected that

²⁹⁰ NE 22 July at p 27 lines 1–12.

²⁹¹ PCS at [155(a)]; NE 22 July at p 27 lines 27–28.

²⁹² PCS at [155(b)].

²⁹³ PCS at [155(c)].

²⁹⁴ PCS at [6(e)] and [155(d)].

²⁹⁵ NE 22 July at p 28 lines 1–3.

the bully might be the child of his relative. During re-examination, he explained that if he was with C when the bully approached, he thought that the bully will pretend to be good, but if he was nowhere to be seen, the bully would hit C or ask C for money.²⁹⁶ Second, I accept A's explanation that he was referring to the bully when he generally told C not to approach him in front of other people. Third, given that A and C had just met, the fact that A did not provide means for follow up, does not render his account implausible.

C's motive for lying

159 While the Prosecution submits that the Defence has provided no explanation as to why C would fabricate lies,²⁹⁷ the burden of proof is nevertheless on the Prosecution to prove its case. In *Yue Roger Jr*, the court held that:

(a) Where the Defence raises sufficient evidence of a motive to fabricate, the Prosecution has the burden of proving the absence of motive to fabricate: at [48(c)].

(b) While the presence of motive to fabricate may raise reasonable doubt as to the guilt of the accused person, the absence of motive to fabricate is not sufficient for the case against the accused to be proved beyond reasonable doubt. The fact that “there was no evidence of any motive or reason for the [v]ictim to mount fabrications against the [a]ccused ... was not sufficient on its own to render the [v]ictim's testimony unusually convincing and correspondingly sufficient to prove the case against the [a]ccused beyond reasonable doubt”: at [50].

²⁹⁶ NE 22 July at p 62 lines 16–21.

²⁹⁷ PCS at [26] and [99].

160 Indeed, as set out in *Khoo Kwoon Hain v Public Prosecutor* [1995] 2 SLR(R) 591 at [71], “[i]t is not for the defendant to prove that the complainant had some reason to falsely accuse him. This is a fact that would be wholly within the complainant’s knowledge and nobody else’s”. The Prosecution accepts that on the basis of these authorities, there is no burden on the Defence to prove the absence of motive. The Prosecution submits that nevertheless, the absence of a discernible motive lends some support to the credibility of C as a witness.

161 I agree with the Prosecution that there does not appear to be any apparent reason why C would be motivated to falsely implicate A, since A and C did not know each other prior to 30 October 2024.²⁹⁸ It is also not part of the Defence’s case that there was a particular motive on the part of C. However, the absence of motive is not sufficient for the case against A to be proved beyond reasonable doubt (see [159(b)] above).

²⁹⁸ PCS at [100]; PRS at [11].

Conclusion

162 For the reasons given above, I find that the Prosecution has not proved, beyond a reasonable doubt, that A squeezed C's penis or sucked C's penis, at level 19 of Block 14. Accordingly, I acquit A on the two charges.


Kwek Mean Luck
Judge of the High Court



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