

Public Prosecutor v Azman bin Ismail and Others  
[2002] SGHC 178

**Case Number** : CC 23/2002  
**Decision Date** : 12 August 2002  
**Tribunal/Court** : High Court  
**Coram** : Kan Ting Chiu J  
**Counsel Name(s)** : Wong Kok Weng, Amarjit Singh and Tan Kiat Pheng for the prosecution; Ahmad Nizam (Muzammil Nizam & Partners) and Ong Cheong Wei (Ong Cheong Wei & Company) for the first accused; James Masih (James Masih & Company) and Ramli Salehkon (Ramli & Co) for the second accused; Ram Goswami (Ram Goswami) and Ayaduray Jeyapalan (Ganesha & Partners) for the third accused  
**Parties** : Public Prosecutor — Azman bin Ismail; Ruzaini bin Ajis; Mohamed Isnin bin Saleh

## Judgment

### GROUNDS OF DECISION

1. The three accused persons were convicted on the charge that they

(On the 17<sup>th</sup> day of August 2001, at about 3.45 pm, at 732, Upper Changi Road East, #02-02, Singapore, in furtherance of the common intention of all of (them), did jointly traffic in a controlled drug specified in Class 'A' of the First Schedule of the Misuse of Drugs Act, Chapter 185, to wit, by having in (their) possession for the purpose of trafficking 43 packets, 1 sachet and 1 orange bowl of loose yellow granular substances and some loose yellow granular substances, containing not less than 112.91 grams of diamorphine, without any authorisation under the said Act or the Regulations made thereunder and, (they) have thereby committed offences under section 5(1)(a) read with section 5(2) of the Misuse of Drugs Act, Chapter 185 and section 34 of the Penal Code, Chapter 224, and punishable under section 33 of the Misuse of Drugs Act, Chapter 185.

2. The place of the offence is an apartment within a condominium known as the Cascadale at Upper Changi Road. The three accused persons were arrested by officers of the Central Narcotics Bureau ("CNB") in an operation directed at them.<sup>1</sup>

3. The first accused Azman bin Ismail ("Azman") who is also known as Jio and Man was kept under surveillance when he went to the apartment on the day of arrest, 17 August 2001 at about 1.50 pm. He left the apartment at about 2.05 pm and went by taxi to the Kranji MRT station. At about 2.40 pm a van drove up to the station. A person came out of the van with a travelling bag. They met, Azman handed something to him, and took over the bag. Azman then left the station in another taxi. At about 3.10 pm when the taxi was at the junction of Upper Changi Road East and Upper Changi Road North CNB officers intercepted it, arrested Azman and seized the bag. Azman was searched and the keys to the apartment and a sum of \$42,364.29 were recovered from him. The bag was found to contain 30 packets of heroin. Azman faced a separate charge for trafficking in these drugs, but this charge was stood down pending the disposal of the joint charge against him, Ruzaini and Isnin.

4. The second accused Ruzaini bin Ajis ("Ruzaini") who is also known as Kecik was the next person arrested. He was arrested at about 3.35 pm at the driveway of Cascadale condominium.

5. The third accused Mohamed Isnin bin Saleh ("Isnin") who is also known as Boy, Arab and Nin was arrested at about 3.43 pm in the master bedroom of the apartment after the CNB officers gained entry into the apartment using the keys recovered from Azman. Isnin also had the apartment keys with him.

6. Azman and Ruzaini were taken to the apartment after their arrests. When the CNB officers searched the apartment 23 packets of diamorphine were found concealed in the ceiling of the master bedroom toilet and another 20 packets of the same

drugs were hidden in the ceiling of the kitchen toilet. These 43 packets contained 112.23g of diamorphine, almost all the diamorphine found in the apartment. The rest of 0.68g of diamorphine was found in a plastic bowl, an unsealed sachet, and a loose pile on the floor of the master bedroom. It transpired that the investigation officer scooped and packed the loose pile of drugs into 25 sachets before any photograph was taken of it in their original state. That should have waited. The drugs should have been photographed in the state they were found when there was no danger of them being dispersed or lost. The packing should be done after photographs are taken.

*Azman's statements*

7. The first officer to question Azman was Inspector Herman bin Mohamed Hamli. Insp Herman recorded the exchange<sup>2</sup> -

Insp Herman : The stuff inside the Umbro bag [the travelling bag recovered from the taxi] belongs to who?

Azman : I do not know. Sam asked me to go to Kranji and he told me later someone will give.

Insp Herman : Who is Sam?

Azman : Sam is my friend. I do not know his number.

Insp Herman : What is the stuff inside?

Azman : I do not know.

8. Azman was brought into the apartment, and he, Ruzaini and Isnin were questioned on the drugs found there. He said that he did not know who the drugs belonged to.<sup>3</sup>

9. Later on Insp Herman questioned Azman further<sup>4</sup> -

Insp Herman : The stuff inside the house belongs to who?

Azman : I do not know.

Insp Herman : How did the keys to this house is inside your bag?

Azman : This morning, Sam called my handphone. He asked me to come to this house. He hid the keys inside the plants in front of the house. I took the keys and went inside. I smoked heroin. Later, a man from Malaysia called my handphone. He asked me to go to Kranji to receive stuff.

Insp Herman : After you took the bag what happened?

Azman : I waited. Sam called me asking me to come here. I took a taxi to come here but I was arrested.

10. On 22 August 2001 Azman made a cautioned statement to a charge of trafficking the drugs recovered from the taxi, in which he said<sup>5</sup>

I do not admit to the charge. I was not aware that the thing I was carrying contain drugs. I received instructions from a friend to carry the bag. I was then told to send the bag to a Condominium in Upper Changi Road. Another person would then received the bag.

He also made another cautioned statement in response to a charge of trafficking the drugs in the apartment. In this cautioned

statement<sup>6</sup> he denied the charge.

11. Two investigations statements were recorded from him on 27 and 29 August.<sup>7</sup> In the first statement, he stated that on the day of the arrest he received a call from a friend he knows as Brother, who is a male Malaysian Malay. Brother told him that there would be work for him later, and instructed him to go to Cascadale condominium to collect the keys to unit #02-02 from the letter box. He was to go to the kitchen of the apartment, collect a black bag holding more than \$40,000 and go to Kranji MRT station where he was to meet a person and exchange the money for a bag. He went to the apartment as instructed. He found the bag of money, took a drink and left the apartment with the bag. He took a taxi to Kranji MRT station. On the way there he received a call from Brother that he was not to give the money to the person at the station. At the station, he met with a male Chinese who arrived in a van. That person placed the bag in front of him and left. He took the bag and boarded another taxi to go back to Upper Changi Road. While he was in the taxi Brother called again and told him that someone would collect the money and the bag from him at the lobby of Cascadale condominium. In the event he was arrested before reaching his destination.

12. In the second statement, Azman said that he had worked for Brother on a previous occasion. On that occasion Brother offered him a job collecting VCDs. He went to Kranji MRT station and collected two bags from a man and he delivered to Brother at Beach Road and was paid \$2000. Three days prior to his arrest, Brother asked if he could do a similar job for him, and he agreed.

#### *Ruzaini's statements*

13. Ruzaini made his first statement<sup>8</sup> to Station Inspector Ronnie See Su Khoon. He told S.I. See that he was waiting for his friend Azman as they had arranged to meet at the garden of Cascadale condominium and go to Orchard Road. He had not gone into the apartment and the drugs in the apartment did not belong to him, and he did not know anything about them.<sup>9</sup> He repeated to Insp. Herman that he did not know who the drugs belonged to<sup>10</sup> when the inspector questioned him.

14. On 22 August, in answer to a joint charge with his two co-accused for trafficking the drugs recovered in the apartment, he made a cautioned statement that

I was arrested at the car park and not in the house. I was not in possession of any drugs when I was arrested. I do not know anything about the drugs found in the house.<sup>11</sup>

#### *Isnin's statements*

15. When Isnin was questioned by Insp. Herman on the day of arrest he stated that he did not know who the drugs in the apartment belonged to.<sup>12</sup> On 18 August he gave a cautioned statement<sup>13</sup> that

I received instructions from my friend to pack drugs but he was not the one who was arrested together with me. I do not know anything about the 43 packets of heroin. I only found out about it when CNB found the heroin. That's all.

16. Subsequently a series of investigation statements were recorded from him. In a statement recorded on 23 August,<sup>14</sup> Isnin said that in the morning of the day of arrest he received a telephone call from Ruzaini. Ruzaini said he needed his help, which he understood to be to pack drugs. That afternoon Azman also called him. Azman asked if he was going to "the place" and said Ruzaini would be there, but he did not name the place. Isnin decided to check with a friend he called Brother who had instructed him to send food and provisions to the apartment as well as to pack drugs there on earlier occasions. When he telephoned Brother, he was told to buy some drinks to the apartment and to pack drugs. (In a subsequent statement he added that Brother did not inform him of the amount of the drugs or their whereabouts.<sup>15</sup>) He carried out Brother's instructions. He bought some drinks and went to Cascadale condominium. He took the keys to the apartment from the letter box and entered the apartment at about 2.45 pm. There was no one there. He went to the master bedroom and saw some heroin on the floor and a

bowl of heroin. He settled down and started to pack the heroin. About half an hour later, he heard some noise outside the apartment's main door and saw some men outside. He placed a chair against the door to prevent it from being opened, and tried to dispose of the sachets of heroin into the toilet bowl. His efforts were futile because the officers entered the apartment, and arrested him. He only knew about the drugs in the master bedroom, and did not know of the other drugs recovered in the apartment. The drugs did not belong to him, and he did not know if they belonged to Azman or Ruzaini.

17. In a statement made on 27 August<sup>16</sup> Isnin explained that he had been to the apartment on other occasions prior to his arrest. On the first occasion, about two weeks earlier, he brought provisions and a mini-compo sound system there on Brother's instructions. When he arrived at the apartment Ruzaini and his girlfriend (whose name is Rohaizan or Rose) were at the apartment. He deposited the things he brought, and left without packing any drugs. Two or three days later he went to the apartment again on the instructions of Brother who had told him to pack drugs. On this occasion he gained entry with keys taken from the letter box. There was no one else there. He packed 50 sachets of heroin in the master bedroom and left. On 16 August, the day before his arrest, Brother instructed him to pack drugs in the apartment again. On this occasion, Ruzaini let him in. Azman was also there, and the three of them packed drugs together.

18. In a further statement dated 29 August,<sup>17</sup> he stated that he had gone to the apartment three times to pack drugs. When he was there alone in the apartment to pack drugs on the first occasion he checked some areas of the apartment, in the course of which he touched the ceiling of the kitchen, the kitchen toilet and the master bedroom toilet for drugs, but he did not find any drugs.<sup>18</sup>

19. In his next investigation statement of 5 September,<sup>19</sup> Isnin described Brother as an Indian Muslim and his mobile phone number is 90223824. When he was shown the photograph of Ismadi bin Kasban (the subscriber of telephone 90223824), he responded that he did not know that person or his name.<sup>20</sup>

#### *Other evidence*

20. There was other evidence adduced by the prosecution which formed part of the whole case.

21. *Fingerprints.* Fingerprints were found on the false ceiling boards of the master bedroom toilet and the kitchen toilet false ceiling where the 23 and 20 packets of heroin were concealed. When the prints were examined the fingerprint on the false ceiling board of the master bedroom toilet was ascertained to be Isnin's, and that on the false ceiling board of the kitchen toilet was Azman's.

22. *Rohaizan binte Buang's evidence.* She is the girlfriend of Ruzaini and is also known as Rose. In her statement admitted in evidence,<sup>21</sup> she stated that in late July 2001 Ruzaini had asked her to rent an apartment for him to stay with his friends. She saw an advertisement of the apartment, and on 24 July<sup>22</sup> they went to view it. She took up the tenancy and paid the deposit and rental with money provided by Ruzaini. When she received the apartment keys she handed them to Ruzaini. A few days later she went to the apartment. Ruzaini who was there alone told her that his friend was staying in the master bedroom. When she visited him next, Azman was in the living room, and Ruzaini informed her that Azman was staying there.

23. Azman's counsel did not dispute her assertion that Azman was at the apartment with Ruzaini. Ruzaini's counsel did not dispute her evidence that Ruzaini had told her that he wanted to rent the apartment for him and his friends to stay in or put to her that Ruzaini told her that he was renting the apartment on behalf of a friend.

24. *Identity of Brother.* The investigation officer ascertained that the telephone number 90223824 which Azman and Isnin stated to be Brother's telephone number was subscribed by someone by the name of Ismadi bin Kasban. He obtained this person's photograph from the national registration authorities and showed it to all three accused persons. Each of them said that it was not the photograph of Brother.<sup>23</sup> Brother was described differently by each of them. Azman described the Brother he knew as a Malaysian Malay, whereas the Brother Isnin dealt with is an Indian Muslim, and according to Ruzaini, Brother is a Malaysian Chinese Muslim.

25. The investigation officer did not contact Ismadi bin Kasban or arrange for his statement to be taken. He felt that this was not necessary because he was not identified by the three accused and because their descriptions of Brother differed. He could have done more. Ismadi bin Kasban could have shed light on the shadowy Brother. He could confirm if he was known as Brother, and if he knew any of the accused. If he was in possession of the mobile phone, he could explain the calls with the accused. If he was not in possession of the phone, he may identify the person who did. The investigation officer was right in concluding that the three accuseds' descriptions of Brother and their failure to identify Ismadi bin Kasban's photograph were unsatisfactory. That was cause for further investigations.

26. There was evidence adduced on the newspaper used to wrap the packets of drugs, the call tracing records of the accuseds' telephones. However this evidence did not really add to the case for the prosecution or the defence.

#### *Close of the prosecution case*

27. The evidence against Azman was that he was at the apartment before going to Kranji MRT station. He had the keys to the apartment, and by s.18(1) of the Misuse of Drugs Act he was presumed to be in possession of the drugs in the apartment. His fingerprint was on the ceiling board of the kitchen toilet. There was also Isnin's statement that he was packing drugs at the apartment on the day before (16 August).

28. For Ruzaini, the evidence was that he rented the apartment through Rohaizan, and had received the apartment keys. There was Isnin's statement that he was in the apartment after the keys were delivered to him, and that he was there on 16 August packing drugs. Isnin had also stated that Ruzaini telephoned him on 17 August and asked for help, which he understood to mean help to pack drugs. Azman had stated that he was going to Cascadale condominium to deliver the bag he collected from Kranji MRT station to someone waiting for him there and Ruzaini had stated in his statement that he was waiting for Azman when he was arrested.

29. Lastly, for Isnin, he had the keys to the apartment, his fingerprint was on the false ceiling board on the master bedroom toilet where 23 packets of heroin were concealed, and he admitted to packing drugs in the apartment before and on the day of his arrest.

30. I found that a reasonable inference can be drawn that the three of them were in possession of the drugs in the apartment for the purpose of trafficking. That was sufficient to establish a *prima facie* case for the accused to be called on to enter their defences – see *Tan Chuan Ten v PP* [1997] 2 SLR 348 at para 25.

#### *Azman's defence*

31. On 17 August he received a call from his friend Brother who is a Malaysian Malay.<sup>24</sup> Brother wanted him to collect VCDs for him from Kranji. Brother's instructions were that he was to go to Cascadale condominium first to collect the money for the VCDs from apartment #02-02. He did not know where Cascadale condominium and the apartment were and Brother gave him the directions.<sup>25</sup> He went to Cascadale condominium, collected the keys to the apartment from the letter box and gained access to the apartment. He went to a bedroom and took the money which was about \$40,000. After taking the money, he went to the kitchen and had a drink and then to the kitchen toilet to urinate. While he was there he noticed the false ceiling opening was slightly open, and he raised himself on the toilet bowl and closed it. He went to the living room, smoked some heroin, then left the apartment for Kranji MRT station by taxi. On the way there Brother called. Brother instructed him not to pay the money to the person delivering the VCDs. He was to return to Cascadale condominium after collecting the VCDs and someone will be waiting for him, and he was to hand the money, keys and bag of VCDs to this person. He went to Kranji MRT station, received a bag from a man there and proceeded to bring it back to Cascadale condominium. He presumed the contents to be VCDs because in a similar transaction two weeks earlier, they were VCDs.<sup>26</sup> His trip was disrupted by the CNB officers who arrested him. He added by way of clarification that when he told Insp. Herman about Sam, he was referring to Brother as he knew him by both names.<sup>27</sup>

32. Azman admitted that he knew Ruzaini and Isnin and was in regular contact with them over the telephone when they would talk about football.

33. Under cross-examination Azman said that he had not been to the apartment prior to the date of arrest. He confirmed that Brother had given him his telephone numbers, 90223824<sup>28</sup> and 97865007.<sup>29</sup> He denied Isnin's counsel's assertion that he and Ruzaini were there on 16 August packing drugs.

34. The prosecutor asked him why he had stated in his statement of 29 August<sup>30</sup> that he did not have the contact number of Brother. His explanation was that he could not remember the number as he had entered them into his mobile phone.<sup>31</sup> He claimed that he had told several CNB officers including Insp. Herman, that Brother's contact number was in the mobile phone.<sup>32</sup> (This was not put to any of the officers, none of whom had mentioned this in his evidence.)

35. On further cross-examination by the prosecutor, Azman admitted that he stated in his investigation statement dated 12 September that Brother had instructed him on 17 August that after collecting the bag, he was to telephone someone called Boy and to deliver the bag to him.<sup>33</sup> Azman also admitted that Boy was Ruzaini.<sup>34</sup> When asked why he did not say that in court, Azman explained that he had made that up because he suspected Ruzaini as they had intended to go out together that day, and he was confused after his arrest.<sup>35</sup>

36. Azman also agreed with the prosecution that when he was arrested, he knew that the officers were CNB officers.<sup>36</sup> He was asked why he told them he did not know what was in the bag, when he thought he was collecting VCDs, his answer was he was in shock.<sup>37</sup>

37. Lastly, Azman admitted when he was asked about the fingerprint on the false ceiling of the kitchen toilet, he denied that he touched it.<sup>38</sup> His explanation for this was that he was in shock when he said that on 30 August.<sup>39</sup>

38. The prosecutor confronted him with another part of that statement<sup>40</sup> where he said he did not call Isnin on 17 August between 1-2 pm, contrary to his evidence in court that he had called Isnin.<sup>41</sup> His explanation was that he lied because he did not know if Isnin was involved with the drugs and did not want to commit himself either way.<sup>42</sup>

#### *Ruzaini's defence*

39. Ruzaini explained his involvement with the apartment. The apartment was rented for a Malaysian Chinese Muslim friend Brother, who wanted his help to rent an apartment. He in turn told Rohaizan that Brother needed his help to rent an apartment.<sup>43</sup> (This did not come out in Rohaizan's evidence, and was not put to her by Ruzaini's counsel.) When the apartment was secured, Rohaizan handed the apartment keys to him<sup>44</sup> and he delivered them to Brother's girlfriend about a week later. During that week only Rohaizan had visited him at the apartment.<sup>45</sup>

40. On 17 August he received a call that his adopted mother was warded at the National University Hospital ("NUH"). He took a shower and went directly to the hospital and reached there sometime after 11 am.<sup>46</sup>

41. At 9.45 am he telephoned Isnin and told him that he needed his help.<sup>47</sup> He received a call from Azman at 2.49 pm.<sup>48</sup> They agreed to go to Orchard Road together, and arranged to meet at Cascadale condominium first. Sometime after 3 pm, he took a taxi from Tampines Mall to Cascadale condominium. Azman was not there and did not answer his calls. About 5 minutes later the CNB officers came and arrested him. They took him to the apartment. He did not have the keys to the apartment on him and had no knowledge of or anything to do with the drugs found in the apartment.

42. In answer to his counsel's question, Ruzaini said that he had called Isnin on the telephone that morning and asked Isnin for his help with transport. (It was not put to Isnin that he was asked to help with transport). He needed Isnin's help to bring a

few items of clothings to his adopted mother. He denied that he was at the apartment with Isnin and Azman on 16 August. He claimed that Isnin made those allegations against him because Isnin suspected that he was a CNB informer.

43. In cross-examination by Azman's counsel, Ruzaini confirmed that he did not meet Azman on 16 August, that Azman had never visited him at the apartment, and that he did not tell Rohaizan that Azman stayed at the apartment.

44. In response to questions by counsel for Isnin, Ruzaini said that Isnin had told him that he thought Ruzaini was a CNB informer while they were at the Subordinate Courts lockup. (This was denied by Isnin.)

45. The prosecutor referred him to his investigation statements where he said that he did not know Azman and Isnin. He agreed this was untrue.<sup>49</sup> The prosecutor also asked him to explain why Rohaizan did not say that he told her that the apartment was rented for Brother, and why it was not put to her in cross-examination. His response was "I have nothing to say."<sup>50</sup>

46. The prosecutor also referred him to other parts of his statements. In a statement dated 4 September<sup>51</sup> he said that Azman was not the person who arranged to meet him at Cascadale condominium to go to Orchard Road together. This was in direct contradiction with his evidence in court that they had arranged to meet. Ruzaini's explanation was that his evidence was correct and he made the untrue statement because he was in shock and was confused,<sup>52</sup> more than two weeks after he was arrested.

47. He had also said in the statement that he had known Azman for about 2 weeks whereas his evidence was that they first met much earlier, in a drug rehabilitation centre, and then renewed their acquaintance in May/June 2001. Again, he explained that the statement was wrong and was made while he was in shock and confused.<sup>53</sup>

48. In the same statement<sup>54</sup> he stated that he had not seen Isnin before although his evidence in court was that they had known one another since 2000. Initially Ruzaini offered the same explanation – that the statement was wrong because he was in shock and was confused when he made it, then he admitted that he did not want to be involved with Isnin.<sup>55</sup>

49. In a later statement of 10 September,<sup>56</sup> he stated that he did not know someone called Man. In court he admitted that Man was Azman. In another part of the statement<sup>57</sup> he denied that he was known as Kecik when in fact Isnin called him by that name<sup>58</sup> and he said that he had not heard of Nin, when he knew Isnin by that name. The same reason were given for these discrepancies, that he was in a state of shock.<sup>59</sup> In re-examination, he said that "At that time I was in a state of shock. That's why I lied."<sup>60</sup>

#### *Istin's defence*

50. He knew Azman and Ruzaini before their arrest. He knew Brother, an Indian Muslim because they were from the same kampong. One month before their arrest, they renewed their friendship. He agreed to help Brother by delivering drinks, biscuits and other edibles to the apartment. Subsequently Brother telephoned him, and gave him the address and told him that there was someone at the apartment. He did as was instructed and took the items to the apartment. Ruzaini and Rohaizan were there. He left the items at the apartment and left. Two or three days later, Brother instructed him to take more food and a mini-compo sound system to the apartment. He went to the apartment with those items, and again he met Ruzaini and Rohaizan at the apartment.

51. He went to the apartment on a third occasion in the beginning of August, for a different purpose. On this occasion, Brother asked for his help to pack "a few packets" of drugs.<sup>61</sup> He did not elaborate on the number or size of packets. Brother told him to collect the keys to the apartment from the letter box and to get to pack the drugs in the master bedroom.

52. He went to the apartment and he checked through the apartment. He gave two reasons for doing that. The first was that when he saw the drugs in the master bedroom, and became frightened because he had not seen such a large quantity of drugs

before. This led him to check the whole apartment to ascertain if there were more drugs.<sup>62</sup> The second reason was that Brother had asked him to check the apartment for breakage and damage.<sup>63</sup> (It was not made clear why Brother wanted him to check for breakage and damage on this visit and not the earlier visits.) So he went through the apartment, including the false ceiling of the kitchen toilet, where he removed the ceiling board to look at the concealed pipes, then he went to the master bedroom and saw the drugs.<sup>64</sup>

53. There was an inconsistency in the two accounts i.e., whether the search was done before or after he saw the drugs in the master bedroom. In cross-examination he went on to say that he checked the kitchen and kitchen toilet twice, before and after he saw the drugs.<sup>65</sup> In any event he did not find any more drugs. But he was sufficiently concerned by what he saw that he called Brother, who told him to continue packing. He packed the drugs into more than 50 sachets<sup>66</sup> and left.

54. His next visit was on 16 August. Brother called him to go to the apartment and pack drugs again. On this occasion Ruzaini and Azman were there before him, and they packed drugs into 80-150 sachets.<sup>67</sup>

55. On 17 August (the day of arrest) Ruzaini called him at about 9.45 am. Ruzaini told him that his mother was at NUH, and that he needed his help. He understood that to mean that Ruzaini wanted his help to pack drugs. It was not put to him that Ruzaini told him he needed help with transport.<sup>68</sup> In the afternoon Azman also called to tell him that he and Ruzaini would be going to "that place" and asked if he was going. Azman called him again later in the day and told him that Brother wanted him to go to "that place". He called Brother and was told to bring drinks and nibbles to the apartment, get the keys from the letter box to gain entry and pack drugs.<sup>69</sup>

56. He did as he was told. While he was packing drugs, the CNB officers raided the apartment. He tried to flush the drugs down the toilet bowl, but was arrested before he completed that. He did not suspect that Ruzaini was a CNB informer<sup>70</sup> and had not accused him of being that,<sup>71</sup> and had told the truth in his investigation statements.

#### *Evaluation of the evidence*

57. When Azman was arrested, he had the keys to the apartment on him. He had collected the bag containing 30 packets of heroin, and was going to deliver it to someone at Cascadale condominium. Inside the apartment his fingerprint was found on the kitchen ceiling where 20 packets of heroin were hidden. There was Isnin's evidence that he was at the apartment on 16 August packing drugs, and that he gave instructions to Isnin which the latter understood were for him to go and pack drugs there on 17 August.

58. He claimed that he did not know anything about the drugs he collected, or those found in the house. However his conduct after his arrest and his account of the events raised serious questions over his credibility. He admitted that he told many falsehoods in his investigation statements in the weeks after his arrest because he was in shock and that he lied to distance himself from Ruzaini and Isnin.

59. His evidence was that he believed the bag he collected contained VCDs, but when he was questioned, he did not say that they were VCDs, but claimed ignorance instead.

60. When he was questioned about the apartment, he said that Sam had asked him to collect them, and that he had taken the apartment keys from inside the plants in front of the house.<sup>72</sup> There were no plants hiding the keys and that was changed to the letter box. In his defence, the instructions came from Brother, who is the same person he had earlier referred to only as Sam.

61. I did not accept his explanation for his fingerprint on the kitchen toilet false ceiling. During the investigations, he specifically denied touching it.<sup>73</sup> I did not accept his explanation that he put his hand on the ceiling board to put it in its proper position. He was at the apartment to collect the money to pay for the bag he was to collect at Kranji, not to do housekeeping. If he had adjusted the ceiling board out of a sense of orderliness, there was no reason why he should not mention it when he was



asked about it during the investigation.

62. There was evidence which showed that Azman had been to the apartment on previous occasions. Rohaizan said she saw him with Ruzaini when she visited the apartment, and she was not challenged. Isnin testified that Azman was at the apartment on 16 August 2001 packing drugs.

63. I rejected Azman's defence that he had no knowledge of the drugs in the flat, and had nothing to do with them. His evidence, exemplified by his changing positions on the retrieval of the apartment keys, the instructions from Sam, the false ceiling, whether he had been to the apartment before the day of arrest was unsatisfactory and cannot be believed.

64. Ruzaini used Rohaizan to rent the apartment and received the apartment keys from her. She saw him with Azman when she visited the flat. Isnin had also stated that Ruzaini and Rohaizan were in the apartment when he brought food and drinks there, and that Ruzaini and Azman were there with him on 16 August 2001 when they packed drugs together. Isnin had also said that Ruzaini telephoned him on 17 August 2001 for his help, which he understood to be help to pack drugs in the apartment. Ruzaini's evidence was that he needed help to carry some clothes to his adopted mother. He said that he had asked Isnin for help with transport, but that was not put to Isnin. It was also not put to Isnin that he was wrong to think that the request was for help to pack drugs when help was specifically sought for transport. When Isnin went to the apartment and found the drugs, that confirmed his understanding that Ruzaini wanted his help to pack drugs.

65. His explanation for renting the apartment did not stand up to examination. He said that he rented it for Brother, and had told Rohaizan that when they looked for the apartment. Rohaizan's evidence was that he told her he wanted an apartment for him to stay in with his friends. Her evidence was not disputed, and it was not put to her that she was told that the apartment was rented for his friend. Rohaizan's unchallenged evidence that she had gone to the apartment to meet Ruzaini on several occasions showed that he had more to do with the apartment than being Brother's proxy for renting it.

66. His defence that he was waiting for Azman when he was arrested. He said they arranged to meet at Cascadale condominium to go to Orchard Road. This ran counter to Isnin's evidence that Ruzaini had called him to help pack drugs, and Azman told him that Azman and Ruzaini would be there.

67. Isnin was arrested in the apartment while he was packing drugs. By his own admission he had packed drugs there on two previous occasions, once alone and once with Azman and Ruzaini. He had the keys to the apartment, and his fingerprint was on the master bedroom false ceiling where 23 packets of heroin were hidden.

68. He knew that there was a lot of drugs in the premises, enough to cause him to search the apartment and call Brother. His account of the search was varied. Did he search because Brother told him to check for damage, or because he saw the drugs, and did he search before he saw the drugs, or after, or both before and after?

69. I accepted Isnin's evidence that he, Azman and Ruzaini were packing drugs in the apartment on 16 August as well as his evidence that Ruzaini and Azman called him and spoke to him about going to the "place" on 17 August. He had already disclosed this in his investigation statements. Isnin was not seeking any advantage for himself by making these admissions. He was not trying to shift blame to Azman and Ruzaini or extricate himself, and was implicating himself instead.

70. The evidence before me was that after Ruzaini obtained the keys to the apartment on 24 July, he was at the apartment, and Azman and Isnin were also there. It was not innocuous presence. They were there together on 16 August to pack heroin, and 80-120 sachets of that were packed, obviously for the purpose of trafficking. Azman and Isnin also left their fingerprints where the heroin was hidden.

71. Their involvement with the apartment and the drugs there did not cease on 16 August. The packing of drugs was not completed. There was more heroin to be packed. On 17 August each of them still had something to do with the apartment. Azman was there before he went to collect the bag of 30 packets of heroin from Kranji MRT station, and he was returning to the condominium with the bag. Ruzaini was at the driveway of the condominium waiting for Azman. Isnin went to the apartment

after receiving calls from Ruzaini and Azman about going to the apartment, and was at the apartment packing drugs when he was arrested.

72. When they were arrested the three of them were still involved with packing drugs in the apartment. They were in possession of the drugs in the apartment for the common intention of trafficking. I therefore found them guilty and convicted them.

Sgd:

Kan Ting Chiu

Judge

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<sup>1</sup> Their photographs were issued to the officers before they were arrested.  
PS48 para 2, Notes of Evidence page 184, P312

<sup>2</sup> P126A

<sup>3</sup> P126B

<sup>4</sup> P126C

<sup>5</sup> P130

<sup>6</sup> P191

<sup>7</sup> P131 and P132

<sup>8</sup> P127A

<sup>9</sup> P127B

<sup>10</sup> P126B

<sup>11</sup> P190

<sup>12</sup> P126B

<sup>13</sup> P189

<sup>14</sup> P243

<sup>15</sup> P244

<sup>16</sup> P244

- 17 P245
- 18 P245 para 30
- 19 P246
- 20 P247
- 21 PS19
- 22 See PS20
- 23 Notes of Evidence pages 410-1, 434
- 24 Notes of Evidence pages 524, 573
- 25 Notes of Evidence pages 524, 528, 574-5
- 26 Notes of Evidence pages 542
- 27 Notes of Evidence pages 551
- 28 Notes of Evidence pages 571
- 29 notes of Evidence pages 567
- 30 P132 para 9
- 31 Notes of Evidence pages 583, 595
- 32 Notes of Evidence pages 597
- 33 P316 para 51
- 34 Notes of Evidence page 605
- 35 Notes of Evidence pages 610-1, 655
- 36 Notes of Evidence page 615
- 37 Notes of Evidence page 615
- 38 P317 para 30
- 39 Notes of Evidence page 652

- 40 P317 para 25
- 41 Notes of Evidence page 621, P243 para 4
- 42 Notes of Evidence pages 654-5
- 43 Notes of Evidence pages 667 & 740
- 44 Notes of Evidence page 670
- 45 Notes of Evidence page 676
- 46 Notes of Evidence pages 681 & 763
- 47 Notes of Evidence pages 682, 710
- 48 Notes of Evidence page 729
- 49 Notes of Evidence page 730
- 50 Notes of Evidence page 740
- 51 P318 paras 7 & 12
- 52 Notes of Evidence page 780
- 53 Notes of Evidence page 782
- 54 P318 para 13
- 55 Notes of Evidence page 784
- 56 P319 para 42
- 57 P319 para 43
- 58 P319 para 55
- 59 Notes of Evidence pages 787-8
- 60 Notes of Evidence page 796
- 61 Notes of Evidence page 824
- 62 Notes of Evidence pages 826-7
- 63 Notes of Evidence page 828

<sup>64</sup> Notes of Evidence page 831

<sup>65</sup> Notes of Evidence pages 981-2

<sup>66</sup> Notes of Evidence page 997

<sup>67</sup> Notes of Evidence pages 911 and 1002

<sup>68</sup> Notes of Evidence page 914

<sup>69</sup> Notes of Evidence page 849

<sup>70</sup> Notes of Evidence page 865

<sup>71</sup> Notes of Evidence page 888

<sup>72</sup> P126

<sup>73</sup> P 317 para 30

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