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

[2024] SGHC 128

Criminal Case No 18 of 2024

Between

Public Prosecutor

And

M Krishnan

GROUNDS OF DECISION

[Criminal Procedure and Sentencing – Sentencing]

Public Prosecutor
v
M Krishnan

[2024] SGHC 128

General Division of the High Court — Criminal Case No 18 of 2024
Valerie Thean J
12, 22 April 2024

15 May 2024

Valerie Thean J:

1 The accused pleaded guilty to a charge of culpable homicide not amounting to murder, punishable under s 304(a) of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code").

2 The accused was 34 at the time of the offence and is at present 40 years of age. Between 11.29pm on 16 January 2019 and 1.33am on 17 January 2019, after drinking heavily, he repeatedly hit his live-in partner at their shared home. She died as a result. A psychiatric report concluded that the accused suffered from Intermittent Explosive Disorder ("IED"), which contributed to his offending behaviour. He was also intoxicated at the material time, and the report concluded that his intoxication had an "additive effect" on his IED. It was not disputed that these conditions did not sufficiently impair his mental responsibility to qualify him for the partial defence of diminished responsibility.

3 On 22 April 2024, I sentenced the accused to 20 years' imprisonment, with brief oral reasons. His term of imprisonment was backdated to the date of his arrest, 17 January 2019.

Facts

4 The accused admitted to the statement of facts ("SOF") without qualification. The accused and the deceased started a romantic relationship sometime in 2015.[1] The SOF recorded an admission that the accused had hit the deceased at least once in 2017 over a "trivial matter",[2] and after the accused's last release from prison, from 11 January 2019 onwards, the abuse against the deceased intensified when she confessed to the accused, at various points, that she had sexual relations with several men prior to and during his incarceration.[3]

5 After one such confession on 15 January 2019, the accused kicked and slapped the deceased in the face, punched her in the ribs, and kicked her in the thigh.[4] The pair had been drinking alcohol at home. As the deceased pleaded with him not to leave, the accused grabbed her by the neck and pushed her, causing her to fall and hit her head against a wardrobe. The deceased then stumbled to the kitchen and slumped in front of a cabinet. The accused told her to get up and pushed her forehead when she did not. This caused her to hit her head against the cabinet.

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1 SOF, at p 2, para 3.

2 SOF, at p 2, para 5.

3 SOF, at p 3, para 6.

4 SOF, at p 3, para 7.

6 The deceased sought medical treatment at Khoo Teck Puat Hospital the next day and was found to have suffered multiple abrasions on her face, hands, and forearms.[5] She also had bruises on her hips and a superficial wound on her left temporal region.[6] She left the hospital before the doctors were able to convey the results of the relevant tests to her.[7]

7 The fatal assault occurred on the same day that she returned from the hospital. The accused had been consuming alcohol throughout the day.[8] Later that evening, the accused and the deceased called the latter's sister to discuss the deceased's relationship with another man.[9] After the call ended at about 11.29pm, the accused assaulted the deceased again by grabbing her hair, slapping her face, punching, and kicking her. He continued to kick her even while she was on the ground.[10] Subsequently, the accused helped her to the bed and realised that she was neither responsive nor breathing.[11] He called the Singapore Civil Defence Force ("SCDF") for assistance at 1.37am, 17 January 2019.[12] The accused, having left the unit, called his nephew ("Simon") to inform him that he had hit the deceased, and asked Simon to go to his address to check on her. [13] On arrival, Simon saw the deceased lying on the bed with her eyes closed and her face badly swollen.[14] She was unresponsive and Simon

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5 SOF, at p 3, para 8.

6 SOF, at p 3, para 8.

7 SOF, Annex A.

8 SOF, at p 4, para 9.

9 SOF, at p 4, para 9.

10 SOF, at p 4, para 10.

11 SOF, at p 4, para 10.

12 SOF, at p 4, para 11.

13 SOF, at p 5, para 13.

felt no pulse. Simon called the accused to ask him what had happened, to which the accused replied that he had called for an ambulance. The deceased was pronounced dead by SCDF personnel on 17 January 2019 at about 1.47am.[15]

8 Subsequently, the accused surrendered to the police at the Police Cantonment Complex at around 1.00pm on 17 January 2019.[16] He was in due course evaluated by Dr Christopher Cheok Cheng Soon ("Dr Cheok"), whose two psychiatric reports formed part of the agreed SOF. Dr Cheok concluded that while the accused's IED had some contribution to the offence, the accused's intoxication had a "significant role", and the offence was "likely caused by the alcohol intoxication adding to [the accused's] IED."[17]

9 An autopsy of the deceased revealed extensive injuries.[18] The deceased had 112 bruises on her body and seven fractured ribs.[19] Subdural and subarachnoid haemorrhages were discovered upon an examination of her head.[20] The deceased's brain also showed a midline shift from the right to the left.[21] Her cause of death was listed as "Head Injury".[22]

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14 SOF, at p 5, para 13.

15 SOF, at p 4, para 12.

16 SOF, at p 5, para 14.

17 SOF, Annex E, at pp 6–7, paras 20 and 23c.

18 SOF, Annex C.

19 SOF, at p 5, para 16.

20 SOF, Annex C, at p 11, ln 492 to p 12, ln 507.

21 SOF, Annex C, at p 12, ln 512.

22 SOF, Annex C, at p 16, lns 704–706; SOF, at p 5, para 15.

Sentencing context and submissions on sentence

10 Section 304(a) of the Penal Code prescribes that:

> Whoever commits culpable homicide not amounting to murder shall —
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> (*a*) if the act by which death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death, be punished with —
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> (i) imprisonment for life, and shall also be liable to caning; or
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> (ii) imprisonment for a term which may extend to 20 years, and shall also be liable to fine or to caning; or

11 In the present case, the Prosecution and Defence agreed that caning was unnecessary in the light of the accused's IED diagnosis.[23]

12 Turning to the appropriate term of imprisonment, the Prosecution sought 15–18 years of imprisonment,[24] highlighting the following three aggravating factors:

(a) that the violence was perpetrated in a domestic setting;[25]

(b) the accused showed blatant disregard for the deceased's life;[26] and

(c) the accused was voluntarily intoxicated.[27]

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23 Prosecution's Further Submissions on Sentence (16 April 2024) ("PWS2"), at p 2, para 2.

24 Prosecution's Submissions on Sentence (8 April 2024) ("PWS1"), at p 1, para 4.

25 PWS1, at p 3, para 6.

26 PWS1, at pp 3–4, paras 7–9.

27 PWS1, at p 5, para 10.

13 Retribution was, in their submission, the primary sentencing consideration in this case. This was because the offence was "particularly serious" and the accused's IED did not seriously impair his capacity to appreciate the nature and gravity of his actions: *Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 ("*Lim Ghim Peow*") at [39].[28] Deterrence, both general and specific, was also emphasised.

14 In the light of the confluence of IED and intoxication, I asked the parties to submit on *Public Prosecutor v Soo Cheow Wee and another appeal* [2024] 3 SLR 972 ("*Soo Cheow Wee*"). The Prosecution's response was that an offender's mental condition ought not to be treated as a mitigating factor if the offender had insight into his mental condition and nonetheless knowingly embarked on a course of action that rendered him more susceptible to the symptoms of the condition surfacing.[29] In the present case, arising from a prior acknowledgment, the accused knew (or ought to have known) that alcohol would cause him to turn violent.[30]

15 The Defence, on the other hand, urged the court to impose a sentence of 12 years' imprisonment in its written submissions, and later contended at the hearing that 14 years' imprisonment was sufficient.[31] The argument was made, referencing a newspaper article, that this case was less serious than a recent unreported case, *Public Prosecutor v Mohamad Fazli Bin Selamat* HC/CC 11/2023 (15 February 2024) ("*Fazli*"). In that case, the accused caused

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28 PWS1, at p 7, para 14.

29 PWS2, at p 4, para 5.

30 PWS1, at p 5, para 8; p 6, para 12.

31 Defence's Plea in Mitigation (8 April 2024) ("DWS1"), at p 4, paras 20–21 and p 5, para 23.

the death of his step-daughter after having assaulted her with an exercise bar; he was sentenced to a total of 15 years and 11 months' imprisonment for multiple offences. From court records, I note that the accused in *Fazli* was sentenced to 14 years' imprisonment and 12 strokes of the cane for having committed an offence under s 304(a) of the Penal Code.

16 The Defence suggested that there were five mitigating factors in the present case:

(a) First, the accused had pleaded guilty as soon as the charge against him was amended from one of murder to culpable homicide.[32]

(b) Second, he had cooperated fully during investigations and readily admitted to all that he had done. He did not attempt to shirk his responsibility or deflect blame during the investigations.[33] He had also voluntarily surrendered himself to the police.[34]

(c) Third, the accused was not armed during the offence and the assault was not premeditated.[35]

(d) Fourth, the accused was "so consumed" by the revelation of the deceased's infidelity, which made him feel heartbroken and betrayed at the time of the offence.[36]

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32 DWS1, at p 3, para 14.

33 DWS1, at p 4, para 15.

34 DWS1, at p 4, para 16.

35 DWS1, at p 4, para 17.

36 DWS1 at p 4, para 17.

(e) Fifth, mitigatory weight should be accorded to the accused's IED as he did not know that alcohol affected him more potently than others at the time of the offence.[37] *Soo Cheow Wee* weighed in his favour as the accused was unaware that he suffered from IED until he received the diagnosis from another psychiatrist, Dr Ung Eng Khean ("Dr Ung"), after the offence.[38] While the accused knew prior to the offence that alcohol would affect his judgment, he was not aware that it would affect him more severely than others due to his IED. He only realised that he had difficulty controlling his temper while drunk upon some self-reflection during his period of remand.[39] The accused did not consume alcohol in order to commit the offence.[40]

Sentencing precedents

17 I deal first with the unreported case of *Fazli*. Our courts have stated on more than one occasion that sentences meted out in unreported decisions should not be relied upon when determining the appropriate sentence for subsequent cases: *Luong Thi Trang Hoang Kathleen v Public Prosecutor* [2010] 1 SLR 707 at [21]; *Abdul Mutalib bin Aziman v Public Prosecutor* [2021] 4 SLR 1220 at [99]. This is because unreported decisions lack critical details concerning the circumstances of the case, and the lack of detailed reasoning undermines the utility of such cases as relevant comparators: *Toh Suat Leng Jennifer v Public Prosecutor* [2022] 5 SLR 1075 at [51]. I did not take *Fazli* into account.

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37 Further Submissions on Sentence on Behalf of the Accused (17 April 2024) ("DWS2"), at p 3, para 9.

38 DWS2, at p 5, para 16.

39 DWS2, at p 3, para 10.

40 DWS2, at p 3, para 6.

18 Regarding the precedents tendered by the prosecution, three cases were particularly salient to the facts at hand:

(a) In *Lim Ghim Peow*, the 46-year-old offender pleaded guilty to an offence punishable under s 304(a) of the Penal Code. After his attempts at reconciliation were rebuffed, he prepared bottles of petrol and ambushed his ex-lover at her flat. There, he doused her with petrol and set her alight. The offender was suffering from major depressive disorder at the time of the offence and the partial defence of diminished responsibility applied. He was sentenced to 20 years' imprisonment and his appeal against sentence was dismissed.

(b) In *Dewi Sukowati v Public Prosecutor* [2017] 1 SLR 450 ("*Dewi*"), the 17-year-old offender pleaded guilty to an offence punishable under s 304(a) of the Penal Code. The offender, who was a domestic helper, caused her 69-year-old employer's death by grabbing the deceased's hair and swinging her against a wall. Thereafter, she drowned the deceased in the swimming pool to give the police the impression that the deceased had committed suicide. She was suffering from acute stress reaction at the material time and the partial defence of diminished responsibility applied. In sentencing the offender to 18 years' imprisonment, the High Court took into account mitigating factors such as the offender's mental condition; her youth; and the deceased's provocation. The offender's appeal was dismissed.

(c) In *Public Prosecutor v Vitria Depsi Wahyuni (alias Fitriah)* [2013] 1 SLR 699 ("*Vitria*"), the offender – who was a month away from turning 17 at the time of the offence – killed her 87-year-old employer by smothering and strangling her in her sleep. She did not

suffer from any mental illness or abnormality of mind at the material time. Rather, the medical evidence indicated that it was her "immaturity and low tolerance of frustration" that could have led her to kill the deceased (*Vitria* at [33]). She was sentenced to 20 years' imprisonment on appeal. Of relevance is the comparison the Court of Appeal made with the earlier case of *Purwanti Parji v Public Prosecutor* [2005] 2 SLR(R) 220, a previous Court of Appeal decision under the concerning the former s 304(a). The Court of Appeal considered the culpability of both offenders to be "similar" (*Vitria* at [35]). A sentence of life imprisonment was imposed on a domestic worker who had caused the death of her employer's 57-year- old mother- in- law. She had no mental impairment.

Decision

The accused's mental condition

19 In determining the appropriate sentence, the starting consideration is that of the accused's mental condition. This is because the moral culpability of mentally disordered offenders lies on a spectrum and will depend on the nature and severity of the mental disorder in each case: see *Public Prosecutor v Kong Peng Yee* [2018] 2 SLR 295 ("*Kong Peng Yee*") at [60] and [65]. Deterrence should not be a dominant consideration where the mental disorder severely impaired the offender's ability to understand the nature and consequences of his acts; to make reasoned decisions; or to control his impulses: *Kong Peng Yee* at [66]. Conversely, mental afflictions can only ameliorate an offender's culpability to a limited extent in circumstances where the offender was able to understand and weigh the consequences of his actions; reason and think

logically and coherently; and ultimately remain rational at the material time, notwithstanding the mental disturbances: *Kong Peng Yee* at [65].

20 Two psychiatric reports by Dr Cheok were annexed to the SOF. The first report dated 12 February 2019 opined that, at the time of the offence, the accused suffered from adjustment disorder and a binge drinking habit not amounting to alcohol use disorder.[41] Dr Cheok also stated that there "[was] no contributory link between [the accused's] mental illness, his alcohol intoxication and his alleged offence."[42] A second report dated 15 July 2021 was issued in response to the Defence's psychiatric report prepared by Dr Ung dated 8 March 2021. Dr Ung's report was not exhibited in the SOF. Dr Cheok and Dr Ung agreed that the accused suffered from IED.[43] Both doctors had differing views on whether the accused also suffered from Attention Deficit Hyperactivity Disorder ("ADHD"). Dr Ung diagnosed the accused with ADHD. Dr Cheok, on the other hand, considered that, based on the accused's self-report, while the accused may have had ADHD when he was younger, his ADHD was in remission because the symptoms had improved with age and they no longer impaired the accused's functioning.[44] Dr Cheok's reports were the agreed basis for the SOF[45] and I proceeded on the basis of Dr Cheok's reports.

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41 SOF, Annex D at p 4, para 15a.

42 SOF, Annex D at p 4, para 15b.

43 SOF, Annex E at p 5, para 13.

44 SOF, Annex E at p 4, para 10.

45 SOF, at p 6, para 20

21 In relation to the offence at hand, although the accused's adjustment disorder and IED were abnormalities of the mind,[46] the adjustment disorder "would not have impaired his judgement and self-control"[47] and did not, therefore, contribute to the offence.[48] Only the IED "had some contribution" to the offence[49] because it would have impaired the accused's self-control, although "not to the extent of the violence inflicted on the deceased".[50] The accused's alcohol intoxication, on the other hand, had a significant role to play in the impairment of his judgment and self-control.[51] On the whole, it was Dr Cheok's view that the offence was "likely caused by the alcohol intoxication adding to [the accused's] IED."[52] The IED, acting by itself, would not have been sufficient to impair the accused's judgment and self-control to the extent required for the level of violence inflicted.[53] In other words, the fatal outcome would likely not have resulted but for the addition of alcohol.

22 This medical diagnosis sets the present case apart from *Lim Ghim Peow* or *Dewi*, where the offenders' mental conditions satisfied the requirements of the partial defence of diminished responsibility. There was no question in the present case that the IED did not impair the accused's ability to understand the nature or wrongfulness of his acts.[54] Absent the issue of

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46 SOF, Annex E at p 6, para 17.

47 SOF, Annex E at p 6, para 20.

48 SOF, Annex E at p 7, para 22.

49 SOF, Annex E at p 7, para 23c.

50 SOF, Annex E, at pp 6–7, paras 20, 22, and 23b.

51 SOF, Annex E, at pp 6–7, paras 19, 20, and 23b.

52 SOF, Annex E, at pp 6–7, paras 20 and 23c.

53 SOF, Annex E, at p 7, para 23b.

54 SOF, Annex E, at p 6, para 18.

intoxication, which I come to, the issue of whether his culpability is ameliorated in any way by his mental condition would not have even arisen.

The accused's alcohol intoxication

23 It was the accused's voluntary intoxication that bridged the causal gap between his mental illness and the commission of the offence. Taken on its own, voluntary intoxication would ordinarily be considered an aggravating factor: *Wong Hoi Len v Public Prosecutor* [2009] 1 SLR(R) 115 at [44]. The deleterious effects of alcohol are well-known, and so those who offend in consequence of their inebriation cannot later be heard to blame the alcohol for their wrongdoing: see *Public Prosecutor v Aw Teck Hock* [2003] 1 SLR (R) 167 at [23]. The present case was one where the offending conduct arose from the interaction of the accused's mental condition and the intoxication.

24 In such cases, where intoxication complicates an existing mental condition, guidance may be taken from *Soo Cheow Wee* ([14] *supra*) (at [64]–[66]), where Sundaresh Menon CJ held that if a person's mental conditions were brought about or exacerbated by his own actions and choices – including the voluntary consumption of alcohol – then the court ought to consider the extent to which the offender was aware of the likely consequences of those actions and choices. The court also referred (at [64] of *Soo Cheow Wee*) to *Regina v PS* [2020] 4 WLR 13, where the English Court of Appeal stated (at [8]) that the sentencer should consider "whether the offender's conduct was wilful or arose, for example, from a lack of insight into his condition". In *Soo Cheow Wee,* the court concluded (at [65]) that:

> Where an offender who is sufficiently aware of the mental conditions he suffers from and their effects, but nonetheless knowingly embarks on a course of action that renders him more susceptible to the symptoms of his conditions surfacing, then this may more readily be analogised with the line of cases

> that concern offenders who voluntarily get intoxicated and therefore lose control.

25 The facts of *Soo Cheow Wee* illustrate the application of the principles I have just set out. *Soo Cheow Wee* was a case involving the abuse of narcotics. At the first instance, the District Judge convicted and sentenced the offender for four violent offences on the basis that his psychosis had been voluntarily induced by his drug consumption and was, therefore, of no mitigating value. In partly allowing the offender's appeal against sentence, the the court held that the judge below had erred in according no weight to the offender's mental disorder. There was insufficient evidence to establish that the accused knew that his drug consumption would trigger his psychosis and, in turn, predispose him to violence:

> (a) Such awareness could not have been imputed on the basis of the accused's antecedents because the instant offence was his first violent offence in approximately 10 years. Given that the offender had been abusing illicit substances for most of his adult life, it could not be said with certainty that he must have known, in the light of his antecedents, that drug consumption would precipitate into violent behaviour: *Soo Cheow Wee* at [90];
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> (b) There was also some uncertainty as to whether the accused even had the capacity to appreciate the link between his drug habit and psychosis, given the other medical conditions he suffered from, such as schizophrenia: *Soo Cheow Wee* at [90]; and
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> (c) There was evidence suggesting that the accused also experienced psychotic episodes in prison, where he could not possibly have had access to intoxicating substances. This suggested that the

> accused's psychosis could have occurred independently of any drug consumption. This was another factor that militated against finding that the offender knew of or appreciated the connection between his drug consumption, psychosis, and his resulting propensity for violence: *Soo Cheow Wee* at [78] and [91].

26 In the present case, the accused's IED was only diagnosed as a medical condition after the commission of the offence. Nevertheless, and in contrast to *Soo Cheow Wee*, as a practical matter, the accused knew that he was susceptible to losing his temper in socially and legally unacceptable ways, which is in effect how IED is diagnosed. The accused's antecedents, many of which were for disorderly and violent offences, reflect multiple similar incidents that would have given him insight into the day-to-day outworking of his behavioural condition. In addition, Dr Cheok's second report of 15 July 2021 cites, as the basis of the diagnosis of IED, the accused's account of many other admitted instances of violence beyond those reflected in his criminal record.[55]

27 Before turning to consider the significance of the accused's alcohol intoxication, it is pertinent to note as a preliminary matter that IED is not a condition that fosters alcohol dependence; nor was the accused dependent on alcohol in any event.[56] Dr Cheok's first report indicates that the accused maintained control over when he imbibed alcohol. He noted that the accused only drank whenever his work permitted, but he did not drink when he was at

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55 SOF, Annex E, at p 4, para 11.

56 SOF, Annex D, at p 4, para 15a.

work on board ships.[57] He also did not crave alcohol, nor did he suffer from alcohol withdrawal or cravings.[58]

28 Moving then to the issue of the accused's insight regarding his use of alcohol, the accused knew from experience that drinking made it even harder for him to control his temper. The accused himself acknowledged to Dr Cheok that he had difficulty controlling his temper "especially when drunk".[59] The Defence submitted that this was an acknowledgement made only with the benefit of introspection *after* the offence had been committed.[60] The Prosecution, for its part, adduced further evidence of a letter written by the accused on 23 October 2018 when he pleaded guilty to, amongst other things, hurling vulgarities at and spitting in the face of a police officer. By this letter, the accused himself had explicitly acknowledged – less than a year prior to the instant offence – the pernicious effect that alcohol had on him:[61]

> I was heavily under the influence of alcohol at the time. Although I know it is no excuse but it severely clouded my judgment and fuelled my behaviour that night.

29 In the circumstances, I was satisfied that the accused was sufficiently aware that: first, even without the influence of alcohol, he was prone to losing his temper in legally and socially unacceptable ways; and second, his behaviour would worsen when he did drink alcohol. While the accused may not have been able to diagnose himself with IED or explain in clinical terms the interaction between his IED and alcohol consumption, he plainly

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57 SOF, Annex E, at p 6, para 19.

58 SOF, Annex D, at p 2, para 9.

59 SOF, Annex E, at p 4, para 11.

60 PWS2 at p 3, paras 9–10.

61 Prosecution's Further Bundle of Authorities (16 April 2024), Tab C, at p 58.

understood as a matter of practical experience how the combination of alcohol and his temperament was apt to play out. The accused also knew from his own work and life experience that he should exercise caution with – or even abstain from – alcohol. In the premises, I was satisfied that the accused's voluntary intoxication was an aggravating factor.

Other aggravating features

30 The Prosecution highlighted two other aggravating factors.

31 First, the accused had displayed a blatant disregard for the deceased's life. This was reflected in the level of violence acted upon the deceased during the course of the assault. Our courts have recognised that excessive violence is an aggravating factor, especially where the method of killing is "particularly cruel and vicious": *Lim Ghim Peow* ([13] *supra*) at [63].

32 In the present case, the assault on the deceased was particularly brutal and prolonged. Over the course of two hours, the accused slapped, punched, and kicked the deceased. An autopsy of the deceased showed that she had seven fractured ribs and haemorrhages in the head. The head injuries, listed as the deceased's cause of death, were not reflected in the deceased's medical examination the day before. The head injuries indicated that the accused targeted a vulnerable part of the deceased's body: *Saw Beng Chong v Public Prosecutor* [2023] 3 SLR 424 at [34]. Further, at the time of the fatal assault, the deceased had already been injured by his assault of the day before.

33 Second, the offence was aggravated by the fact that it was perpetrated in a domestic setting. Beyond its physical repercussions for victims, domestic violence constitutes an abuse of the bonds of trust and interdependency that exist between the victim and the assailant: *Public Prosecutor v Luan Yuanxin*

[2002] 1 SLR(R) 613 at [17]. In the present case, it was undisputed that the accused and deceased were romantic partners who were living together in their shared home at the material time. The offence was made more egregious by the fact that it was not the only instance of domestic violence on the part of the accused. The accused admitted to Dr Cheok that he had physically hurt his wife and the deceased "many times" prior to the offence.[62] The accused's wife had obtained a Personal Protection Order against him following an incident of domestic violence in November 2015.[63] The accused had also been counselled for domestic violence at the Institute of Mental Health ("IMH") from December 2015 to September 2016. The present case appeared to be the culmination of many years of unchecked violence by the accused; first against his wife, and later, the deceased. Society, through the courts, must show its abhorrence to such conduct.

Mitigating factors raised

34 I deal briefly with the mitigating factors raised by the Defence. These were the following: (a) the lack of premeditation on the accused's part; (b) the fact that the accused was not armed during the offence; (c) the deceased's infidelity; and (d) the accused's plea of guilt, voluntary surrender, and cooperation with the authorities.

35 There was no merit to the Defence's reliance on the first two factors. It is settled law that the absence of premeditation is only a neutral factor in the sentencing exercise: *Public Prosecutor v Lim Chee Yin Jordon* [2018] 4 SLR 1294 at [55]. It is also settled that the absence of an aggravating factor – in this

62 SOF, Annex E, at p 4, para 11.

63 SOF, at p 2, para 4.

case, the bearing of arms – cannot *ipso facto* constitute a mitigating factor; were it otherwise, "an offender could conceivably compile a list of *negatives* (what he *did not do*) in order to gain a discount in sentence": *Public Prosecutor v AOM* [2011] 2 SLR 1057 at [37].

36 There was likewise no merit to the submission that the deceased's infidelity – mentioned by the Defence at several points in its submissions – somehow attenuated the accused's culpability or justified his conduct in any way. "'[D]ifficult personal circumstances' (such as personal financial or social problems) faced by an offender at the time of the offence 'will rarely, if ever, have mitigating value'": *Public Prosecutor v GED and other appeals* [2023] 3 SLR 1221 at [176], citing *Public Prosecutor v BDB* [2018] 1 SLR 127 at [75].

37 Finally, I did not think that significant credit could be given for the accused's plea of guilt, voluntary surrender, or cooperation with the authorities. The mitigatory weight of such conduct is greatly diminished in circumstances where the evidence against the accused was so overwhelming that the Prosecution would not have had any difficulty in proving its case against him: *Wong Kai Chuen Philip v Public Prosecutor* [1990] 2 SLR(R) 361 at [14], endorsed in *Public Prosecutor v Lim Cheng Ji Alvin* [2017] 5 SLR 671 at [25]–[26].

The appropriate sentence

38 I come to the issue of the appropriate sentence. Comparisons with the sentences imposed in other cases were of limited utility, given the range of circumstances in which offences of culpable homicide are committed: *Lim Ghim Peow* ([13] *supra*) at [55]. Bearing this in mind, I explain the sentence imposed referencing the three cases highlighted at [18] above.

39 As mentioned at [22], the accused was more culpable than the offenders in *Lim Ghim Peow* and *Dewi* ([18(b)] *supra*). The partial defence of diminished responsibility applied in both cases. The facts also reflect that the accused was not in any way impaired. Shortly before the fatal assault, the accused was collected enough to speak with the deceased's sister on the telephone. After the attack, he was able to remember his actions during the offence; instruct Simon to check on the deceased; seek help from the SCDF; call for permission to sleep in his friend's flat in Toa Payoh; retrieve the key to the flat from his friend's home in Bedok; and then make his way to Toa Payoh as planned,[64] surrendering himself to the police only the following afternoon. The accused was able to appreciate the nature and gravity of his actions and had the presence of mind to respond to the situation in order to temporarily evade arrest.

40 The Prosecution submitted that a downward calibration from the 20 years imposed in *Vitria* ([18(c)] *supra*) could be considered here because, unlike the offender in *Vitria,* the accused laboured under a mental abnormality, premeditation was not involved, and he took no steps to conceal his offence. I disagreed. The offender in *Vitria* was untraced and only 16 years and 11 months' old at the time of the offence. The Court of Appeal accepted her youth to be a mitigating factor (*Vitria* at [31]). At the same time, the present case featured different, yet equally aggravating, features from *Vitria*. Here the accused had a history of abuse with two different partners, and had been counselled at IMH for domestic violence. He drank heavily despite being aware, at least from 2018, that he ought to exercise caution in respect of his alcohol intake. His doing so, and his conduct over 15 and 16 January 2019,

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64 SOF, Annex D, at p 3 at para 11.

exhibited a deep disregard for his live-in partner's life. A sentence that sufficiently reflected the need for general and specific deterrence, retribution, and the protection of the public was required in this case.

Conclusion

41 For these reasons, I sentenced the accused to 20 years' imprisonment, backdated to the date of his arrest.

Valerie Thean
Judge of the High Court

Timotheus Koh, Delicia Tan and Joelle Loy (Attorney-General's Chambers) for the Prosecution;
Ramesh Chandr Tiwary (Ramesh Tiwary Advocates & Solicitors) for the accused.