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

[2025] SGHC 18

Magistrate's Appeal No 9173 of 2023/01

Between

Subhas Govin Prabhakar Nair

… *Appellant*

And

Public Prosecutor

… *Respondent*

JUDGMENT

[Criminal Law — Offences — Offences relating to race]

TABLE OF CONTENTS

Subhas Govin Prabhakar Nair
v
Public Prosecutor

[2025] SGHC 18

General Division of the High Court — Magistrate's Appeal No 9173 of 2023/01
Hoo Sheau Peng J
19, 22 August, 25 October 2024

5 February 2025 Judgment reserved.

Hoo Sheau Peng J:

Introduction

1 The appellant, Mr Subhas Govin Prabhakar Nair (the "Appellant"), claimed trial to four charges under s 298A(*a*) of the Penal Code (Cap 224, 2008 Rev Ed) (the "Penal Code") for knowingly attempting to promote feelings of ill-will between different racial and religious groups in Singapore. The District Judge (the "DJ") convicted the Appellant on all four charges and sentenced him to an aggregate of six weeks' imprisonment. The DJ's reasons are set out in *Public Prosecutor v Subhas Govin Prabhakar Nair* [2024] SGDC 74 (the "GD"). The Appellant has appealed against both his conviction and sentence.

2 Having considered the parties' written and oral submissions, I dismiss the appeal. These are my reasons.

Facts

3 The key facts are largely undisputed, and I summarise them in the paragraphs which follow.

The first charge

4 On 25 July 2020, the Appellant posted the following message on the social media network, Instagram (the "First Post"):[1]

> 讲 SERIOUS: If two Malay Muslims made a video promoting Islam and saying the kind of hateful things these Chinese Christians said, ISD would have been at the door before they even hit 'upload'.

5 The Appellant had posted this in response to a video uploaded on 22 July 2020 by the founder of City Revival Church, one Jaime Wong ("Wong"), and a social media influencer, one Joanna Theng ("Theng"). In this video, Wong and Theng made comments linking the gay pride movement to Satan.[2] The video did not make any reference to the Malay or Muslim communities in Singapore.[3] The video was removed on 25 July 2020, and the two speakers issued apologies on their own Instagram accounts.[4] The Appellant removed his post on 2 November 2020.[5]

---

1 Record of Proceedings ("ROP") at pp 17–18: Statement of Agreed Facts ("SOAF") at para 2.

2 ROP at p 18: SOAF at para 3.

3 ROP at p 19: SOAF at para 4.

4 ROP at p 19: SOAF at para 5; ROP at p 131: Notes of Evidence ("NE") dated 22 March 2023 at p 20 lines 17–31.

5 ROP at p 19: SOAF at para 6.

6 Arising from this, the Appellant was charged for knowingly attempting to promote on grounds of religion, feelings of ill-will between different racial and religious groups in Singapore, namely, the Malay-Muslims and the Chinese-Christians in Singapore.[6]

The second charge

7 On 15 October 2020, the media reported that a 12-month conditional warning had been issued to one Chan Jia Xing ("Chan"), an offender involved in a case where a victim had died from stab wounds at Orchard Towers. In a news article reporting on the matter, it was stated that Chan initially faced a murder charge, which was replaced with a charge of consorting with a co-accused who had in his possession a Kerambit knife. The article also stated that this charge was later withdrawn, and Chan was given a conditional warning. The article also enclosed a short video of Chan being interviewed by the press. In the video, the reporters asked Chan if he was having a baby soon and whether the baby was a boy or a girl.[7]

8 In response to this article, on the same day, the Appellant posted the following messages on Instagram (the "Second Post"):[8]

> Calling out racism and Chinese privilege = a two year conditional warning and smear campaign in the media.
>
> Actually conspiring to murder an Indian man = Half the sentence and "Youre [*sic*] having a baby soon right? Boy or girl?"
>
> Do you actually think a brown person would get asked these types of questions? This place is just not for us.

---

6 ROP at p 5.

7 ROP at p 19: SOAF at paras 7–8.

8 ROP at pp 19–20: SOAF at para 9.

9 According to the Appellant, the "two year conditional warning" refers to the conditional warning he had received due to a rap video he posted (and which forms the subject of the fourth charge), whilst the "smear campaign in the media" refers to the media reporting on his rap video.[9]

10 The Appellant removed this Second Post from his Instagram account on 2 November 2020.[10]

11 The Appellant was subsequently charged for knowingly attempting to promote on grounds of race, feelings of ill-will between different racial groups in Singapore, namely, the Chinese and the Indians in Singapore.[11]

The third charge

12 On 11 March 2021, the Appellant performed a stage play titled "Tabula Rasa – Album Exploration" at the Substation. During the performance, he displayed a hand-drawn/hand-written replica of the Second Post (the "Display").[12]

13 The Appellant was subsequently charged for knowingly attempting to promote on grounds of race, feelings of ill-will between different racial groups in Singapore, namely, the Chinese and the Indians in Singapore.[13]

---

9 ROP at pp 137–138: NE dated 22 March 2023 at p 26 line 27 to p 27 line 11.

10 ROP at p 20: SOAF at para 10.

11 ROP at p 7.

12 ROP at p 21: SOAF at para 11.

13 ROP at p 9.

14 According to the Appellant, he had attempted to obtain the approval of the Infocomm Media Development Authority (the "IMDA") before using the Display in his performance. As the IMDA was silent on whether he was permitted to do so, he was under the impression that it was permitted. However, after the first day of his performance, the IMDA objected to his use of the Display, and the Appellant removed it from his subsequent performances.[14]

The fourth charge

15 On 29 July 2019, a video titled "K. MUTHUSAMY - Preetipls & Subhas (F*ck It Up — Iggy Azalea & Kash Doll Remix)" was posted to a video sharing platform, YouTube, through an account belonging to the Appellant's sister (the "Rap Video"). The video was also posted on the Facebook pages of the Appellant and his sister. The video was of a song performed by the Appellant and his sister. The Appellant had come up with the idea of making the video and wrote the lyrics himself.[15] The agreed transcription of the relevant lyrics and their timestamps are as follows:[16]

Timestamp	Lyrics
00:00:16	F[xxx] it up, f[xxx] it up, f[xxx] it all the way up. Chinese people always out here f[xxx]ing it up.
00:00:41	OK last name Muthusamy and the 'K' stand for king, how come you so jealous of the colour of my skin?

14 ROP at p 94: NE dated 21 March 2023 at p 51 lines 11–20.

15 ROP at p 21: SOAF at paras 13–14.

16 ROP at pp 28–32: SOAF at Annex B.

	Wait actually it's accurate of the city we in, no matter who we choose, the Chinese man win.
00:01:02	Cos all they want is the brown dollar, you should have cast a makcik, you should have called her. It's not the first time they tryna' steal our shit everyday. C.M.I.O. means...
00:01:18	F[xxx] it up, f[xxx] it up, f[xxx] it all the way up. Chinese people always out here f[xxx]ing it up.
00:01:22	I am K. Muthusamy, never saying sorry, I be cooking curry, you can't pronounce colleague (*kerlick*)
00:01:28	K. Muthusamy, menace to society, you will never find me, you should never try me! Brown face, brown face, everybody wanna be our race, the new marketing strategy is outrage, if I see that shit in real life I might catch a case, we lost all our enclaves and our holy days!

16 On 14 August 2019, following police investigations, the Appellant was issued a 24-month conditional warning in lieu of prosecution for an offence under s 298A(*a*) of the Penal Code for the Rap Video.[17]

17 The Appellant was subsequently charged with knowingly attempting to promote on grounds of race, feelings of ill-will between different racial groups

[17] ROP at p 22: SOAF at para 15.

in Singapore, namely, the Chinese, the Indians and other racial groups in Singapore.[18]

18 The Appellant claimed that the Rap Video was made in response to a "brown face" incident in an online advertisement, where a Chinese actor had portrayed an Indian man by way of a digitally altered brown face (the "Advertisement").[19]

Decision below

Conviction

19 The DJ convicted the Appellant on all four charges. In relation to the *mens rea* of "knowingly promotes", the test was whether the irresistible inference from the Appellant's conduct was that he knew that his words would create feelings of ill-will between different racial or religious groups. As the charges were for attempts to promote feelings of ill-will, the Prosecution need not prove that ill-will was actually created (GD at [28]). The knowledge of the Appellant could be inferred from his objective conduct and the surrounding circumstances, from the perspective of a reasonable person in the Appellant's position (GD at [29]).

20 In relation to the first charge, the DJ held that a reasonable person, being informed of the relevant facts, would conclude that feelings of ill-will between the Chinese-Christian and the Malay-Muslim communities would be created by the words in the First Post (GD at [30]). By asserting that if a Malay-Muslim had made the video and the same remarks, he or she would have been dealt with

---

18 ROP at p 11.

19 ROP at p 96: NE dated 21 March 2023 at p 53 lines 8–10; ROP at p 103: NE dated 21 March 2023 at p 60 lines 11–22.

differently by the Internal Security Department (the "ISD"), the aim was to portray the ISD as giving preferential treatment to the Chinese-Christian community. This would inexorably lead to feelings of ill-will being raised between the Chinese-Christian and the Malay-Muslim communities (GD at [31]).

21 For the second and third charges, the DJ held that a reasonable man, informed of all the relevant facts, would conclude that the post would promote ill-will between the Chinese and the Indians in Singapore (GD at [38]). In comparing the conditional warning which the Appellant received for producing the Rap Video with the conditional warning which Chan received for conspiring to murder an Indian man, the Appellant had not mentioned the factual differences between the two cases (GD at [37]). The Appellant wanted readers to conclude that it was worse for an Indian to criticise a Chinese than for a Chinese to murder an Indian (GD at [38]). Further, the Appellant chose to advance the false narrative that Chan had conspired to murder an Indian man, despite knowing that Chan had not done so (GD at [39]).

22 In relation to the third charge, the Appellant claimed that he had taken reasonable steps to ensure that he was allowed to use the Display in his stage performance (GD at [42]). The DJ rejected this explanation. When seeking approval, the Appellant had only included screenshots of the Second Post, and not the Display itself. Hence, it was disingenuous of the Appellant to say that since the IMDA had not said that he could not use the Display, he was entitled to use it (GD at [43]).

23 In relation to the fourth charge, the DJ held that, objectively construed, the Rap Video would create feelings of ill-will between the Chinese and other racial groups in Singapore. The lyrics in the Rap Video singled out the Chinese,

who were insulted and mocked with the repeated line of "Chinese people always out here f[xxx]ing it up" (GD at [45]). The Appellant claimed that his intention was to call out the incident of "brown face" in the Advertisement (GD at [46]). However, nothing in the lyrics addressed the Advertisement that the Appellant found offensive, or admonished those who were responsible for its production (GD at [47]).

24 Given the above, the DJ convicted the Appellant on all four charges.

Sentence

25 The DJ held that the dominant sentencing consideration was deterrence, and that the custodial threshold was crossed. The Appellant did not dispute this, as he did not attempt to make a submission for a fine to be imposed. Instead, the Appellant sought a short imprisonment term (GD at [67]).

26 In committing these offences, the Appellant repeatedly attempted to undermine Singapore's racial and religious harmony. Racial and religious harmony was integral to maintaining Singapore's social fabric and was quintessential to Singapore's survival as a country. The advent of the Internet and social media has increased the reach and impact of comments that discriminate against specific races and religions (GD at [68]). Specific deterrence was also necessary given the Appellant's flagrant disregard of the law. He had continued committing a further offence (*ie*, the third charge) while under investigation for the fourth charge (GD at [69]).

27 Furthermore, the Appellant had not pleaded guilty, and had not shown any remorse. Accordingly, the appropriate sentence for each charge was three weeks' imprisonment (GD at [71]). The sentences for the first two charges were

ordered to run consecutively, resulting in an aggregate sentence of six weeks' imprisonment (GD at [72]).

The parties' cases in relation to the conviction

28 Under s 298A(*a*) of the Penal Code, speech which promotes feelings of "enmity, hatred or ill-will" between different racial or religious groups is prohibited. A central point of dispute is the proper interpretation of these terms.

29 Preliminarily, I highlight that at the hearings before me, the Appellant made a significant shift in his case on how "enmity", "hatred" and "ill-will" should be interpreted. During the first hearing as well as in his first set of written submissions, the Appellant argued that the three terms should be interpreted as a collective whole, and that only speech which results in detestation or vilification is prohibited by s 298A(*a*). Such speech must have a tendency to incite violence and cause public disorder. This interpretation was premised on various Indian authorities.[20]

30 In response, the Prosecution pointed out that the Indian authorities relied on by the Appellant were distinguishable, as they related to a penal provision which did not contain the word "ill-will". Moreover, the Indian cases relied on by the Appellant related to the striking out of first information reports, with no further information provided on what the first information reports contained. In these circumstances, the Indian authorities had to be treated with caution.[21]

---

[20] Appellant's Written Submissions dated 19 August 2024 ("AWS") at p 6 and paras 11–27.

[21] Prosecution's Further Submissions dated 4 October 2024 ("PFS") at paras 38–44; Minute Sheet for the Hearing dated 19 August 2024 at p 4.

31 In response, the Appellant changed his position in his oral reply submissions during the second hearing and submitted that the terms "enmity", "hatred" and "ill-will" carry distinct meanings.[22]

32 Given the evident contradiction between the Appellant's oral reply submissions and his original position, I requested further submissions from the parties to finalise their positions. The Appellant has since conceded, in his further written submissions, that given the new authorities which were presented by the Prosecution,[23] the terms "enmity", "hatred" and "ill-will" should be accorded distinct meanings. In the alternative, the Appellant maintains that these three terms may be interpreted as a collective whole as requiring detestation or vilification.

33 Having given a broad sketch of the Appellant's submissions, I set out the parties' arguments proper.

The Appellant's case

34 The Appellant provides two alternative interpretations of "enmity, hatred, or ill-will" in s 298A(*a*) of the Penal Code.

35 First, the Appellant submits that the terms "enmity", "hatred" and "ill-will" carry distinct meanings. This is in line with the presumption that Parliament does not legislate in vain.[24] Adopting the definition provided by the *The Oxford English Dictionary* (John Simpson and Edmund Weiner eds) (Clarendon Press, 2nd Ed, 1989) ("Oxford English Dictionary"), each term

---

22 Minute Sheet for the Hearing dated 22 August 2024 at p 4.

23 Appellant's Further Submissions dated 13 September 2024 ("AFS") at paras 3–4.

24 AFS at para 12.

captures a unique aspect of inter-communal hostility. By according them distinct definitions, this avoids redundancy in the statute.[25] For "ill-will" specifically, there must be a desire for harm on another.[26] Further, adopting distinct definitions aligns with the legislative aim of s 298A, which is to curb speech which incites violence, public disorder and/or communal violence.[27]

36 Second and in the alternative, the Appellant argues that the terms "enmity", "hatred" and "ill-will" should be interpreted as a collective whole, such that only speech which exposes the target group to feelings of "detestation" and "vilification" is prohibited. Mere insult, provocation, offence, ridicule, or wounding of feelings is insufficient.[28] This interpretation is consistent with the plain language of the statute. The dictionary definitions of "enmity", "hatred" and "ill-will" are synonymous – they convey intense hostility exceeding mere dislike. This reinforces a unified definition for all three terms.[29] It is also consistent with Parliament's intent of combating speech of a high threat level and ensuring that the bar set for these offences to be committed is high.[30]

37 Flowing from the above, speech must have a tendency of creating public disorder or disturbance of law, or affecting public tranquility in order to be prohibited.[31] The effect of the words must be judged from the standards of reasonable, strong-minded, firm and courageous individuals, and not by the

---

25 AFS at paras 13–15.

26 AFS at para 17.

27 AFS at para 16.

28 AWS at para 27.

29 AWS at paras 18–20; AFS at para 20.

30 AFS at para 23.

31 AWS at paras 7–8.

standards of those who are weak-minded, vacillating, or overly sensitive to hostile views.[32] The law seeks to restrict speech that exposes groups to hatred, and not to curtail debate on contentious issues.[33]

38 As for the requisite *mens rea* to establish an offence under s 298A(*a*) of the Penal Code, the Appellant submits that a malicious intent to promote racial hostility is required. This is consistent with Indian case law, the statutory language of s 298A(*a*) and parliamentary debates.[34] In particular, it was clarified during the parliamentary debates that "knowingly promotes" in s 298A "mirrors the requirement of 'deliberate intention of wounding'" found in s 298 of the Penal Code.[35]

39 Applying the legal standards above, the Appellant argues that none of the charges have been made out. For the First Post, the words at most suggested a situation of unequal policing between the Chinese-Christians and the Malay-Muslims, and expressed discontent with the authorities.[36] They were an immediate, emotive response that was typical of social media interaction.[37] For the Second Post, the Appellant had not read the article before uploading his post.[38] Against this context, his words were a plea for equality on behalf of minority races and a call for justice, and not an attempt to promote hatred.[39] For the Display, the Appellant had only used the Display as a prop and the words

---

32 AWS at para 9.1.

33 AWS at para 10.2.

34 AWS at paras 33–50.

35 AFS at paras 25–28.

36 AWS at paras 53 and 55.

37 AWS at para 59.

38 AWS at paras 64–66.

39 AWS at paras 67–72.

had no substantive meaning.[40] For the Rap Video, the Appellant was reacting to a previous instance of racism. While offensive, his words did not expose the Chinese community to detestation or vilification, or incite disorder or violence.[41]

40 Consequently, the Appellant argues that none of the charges have been made out.

The Prosecution's case

41 The Prosecution disagrees with the Appellant's interpretation of s 298A(*a*) of the Penal Code. First, the ordinary meanings of "enmity", "hatred" and "ill-will" do not suggest that there must be actual or physical public disorder. Instead, the *actus reus* is satisfied at a much lower level, that of inciting feelings.[42] Applying the canon of *noscitur a sociis*, and bearing in mind that Parliament does not legislate in vain, the three words should be read as operating on a diminishing scale as to the intensity of the negative feeling.[43]

42 In relation to the Appellant's alternative argument, the Prosecution submits that the terms "enmity", "hatred" and "ill-will" should not be interpreted synonymously. The fact that Parliament saw fit to use three different words to describe the feelings that an accused person promotes must mean that Parliament intended for each word to bear a distinct meaning.[44] The Indian cases relied upon by the Appellant, which treat the words as a collective whole, should be treated with some degree of caution. That is because they rely on provisions

---

40 AWS at paras 76–77.

41 AWS at paras 85–87.

42 PFS at paras 17– 21.

43 PFS at paras 22–25.

44 PFS at paras 13–15.

which do not contain "ill-will", or mention "hatred" and "enmity" without making reference to "ill-will".[45]

43 Second, Parliament did not indicate that s 298A(*a*) was to be read so narrowly as to criminalise only speech which tends to incite desires to cause harm to another community, or which subjects another racial or religious group to detestation and vilification.[46] The specific purpose of s 298A(*a*) is to maintain religious and racial harmony in Singapore, which is not only disturbed by actual physical confrontation between groups. The lack of tolerance, moderation and sensitivity is sufficient to cause ill-will between different racial and religious groups and undermine such harmony.[47]

44 Third, to further the purpose of s 298A, the *actus reus* should be read broadly to cover a spectrum of negative emotions. This allows disharmony between racial and religious groups to be arrested at an early stage before such negative emotions fester. The Appellant's interpretation of "ill-will", which is only engaged where there is a potential of public disorder and communal violence, inadequately advances the interest of maintaining racial and religious harmony in Singapore.[48]

45 Turning to the *mens rea*, there is no requirement for proof of deliberate malicious intent to promote racial hostility. Section 298A(*a*) explicitly provides for the *mens rea* of "knowingly", which differs from the provision in the Indian Penal Code 1860 (Indian Act No 45 of 1860) (the "Indian Penal Code") relied

---

45 PFS at paras 38–45.

46 PFS at paras 26–28.

47 PFS at paras 29–30.

48 PFS at paras 34–37.

on by the Appellant.[49] In any case, the Indian Penal Code provision does not state that malicious intent must be proven.[50]

46 Applying the principles above, the Prosecution argues that the DJ did not err in finding that the Appellant was liable for all four charges.

Issues to be determined

47 Flowing from the parties' arguments, the following issues have arisen for my determination:

(a) first, what is the proper interpretation of the phrase "enmity, hatred or ill-will" within s 298A(*a*) of the Penal Code;

(b) second, whether the requirement of "knowingly promotes" within s 298A(*a*) of the Penal Code requires deliberate intention; and

(c) third, whether the conviction on the four charges should be upheld.

Issue 1: Proper interpretation of the phrase "enmity, hatred or ill-will" within s 298A(*a*) of the Penal Code

48 I begin with the first issue, which relates to the types of speech which fall within s 298A(*a*) of the Penal Code. Section 298A of the Penal Code states:

> **Promoting enmity between different groups on grounds of religion or race and doing acts prejudicial to maintenance of harmony**
>
> **298A.** Whoever —

49 PFS at para 47.

50 PFS at paras 50–56.

> (a) by words, either spoken or written, or by signs or by visible representations or otherwise, knowingly promotes or attempts to promote, on grounds of religion or race, disharmony or feelings of enmity, hatred or ill-will between different religious or racial groups; or
>
> (b) commits any act which he knows is prejudicial to the maintenance of harmony between different religious or racial groups and which disturbs or is likely to disturb the public tranquility,
>
> shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

49 Section 298A has since been amended to deal solely with speech which affects different racial groups. Pursuant to the Maintenance of Religious Harmony (Amendment) Act 2019 (Act 31 of 2019), religion related offences in the Penal Code were ported over to the Maintenance of Religious Harmony Act 1990 (2020 Rev Ed) (the "MRHA"), and these amendments came into force on 1 November 2022. The aim of these amendments was to make the MRHA a "comprehensive Act which provides for a full range of legislative levers to deal with the maintenance of religious harmony" (Singapore Parl Debates; Vol 94, Sitting No 112; 7 October 2019 (Mr K Shanmugam, Minister for Home Affairs)).

50 The primary issue is how the terms "enmity, hatred or ill-will" should be interpreted. It is not disputed that the purposive approach under s 9A of the Interpretation Act 1965 (2020 Rev Ed) (the "IA") applies. Following *Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 ("*Tan Cheng Bock*"), a provision should be interpreted in a way that gives effect to the intent and will of Parliament. The purposive approach is of particular relevance and assistance where there are two or more possible interpretations of a legislative provision. In such circumstances, the court must determine which interpretation promotes the purpose or object of the written law (*Tan Cheng Bock* at [35]–[36]). To that

end, the court undertakes an interpretive exercise comprising of three steps (*Tan Cheng Bock* at [37]):

> (a) First, the court should ascertain the possible interpretations of the provision, having regard to the text of the provision as well as the context of the provision within the written law as a whole.
>
> (b) Second, the court should ascertain the legislative purpose of the statute.
>
> (c) Third, the court should compare the possible interpretations of the text against the purpose of the statute. An interpretation which furthers the purpose of the written text is to be preferred to one which does not.

Possible interpretations of "enmity, hatred or ill-will"

51 I begin with the possible interpretations of the terms "enmity", "hatred" and "ill-will". Based on the parties' submissions, three different interpretations have emerged. As detailed above (see [35]–[37] and [41]–[44]), the Appellant's primary argument is that each term describes a unique aspect of inter-communal hostility, and that they are not of diminishing intensity. In the alternative, the Appellant argues that the three terms are synonyms, and should be read collectively as requiring detestation or vilification. In contrast, the Prosecution argues that the terms "enmity", "hatred" and "ill-will" are to be interpreted distinctly, and that they lie on a sliding scale of negative emotions in diminishing intensity.

52 As emphasised in *Tan Cheng Bock*, when determining the possible interpretations of a provision, the court can be aided by various canons of

statutory construction. One such canon is that Parliament shuns tautology and does not legislate in vain. The court should therefore endeavour to "give significance to every word in an enactment" (*Tan Cheng Bock* at [38]). In this case, the logical starting point is therefore that Parliament, in choosing three different words to scope the types of speech which fall within s 298A(*a*), arguably intended for them to bear distinct meanings, as opposed to being interpreted synonymously and as a collective whole.

53 Such an interpretation is consistent with the legislative history of s 298A(*a*). Section 298A(*a*) of the Penal Code is similar to s 153A(1)(*a*) of the Indian Penal Code which reads:

> **Promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.**
>
> **153A.** — (1) Whoever — (a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities …
>
> …
>
> shall be punished with imprisonment which may extend to three years, or with fine, or with both.

54 One clear difference is the absence of the term "knowingly" in s 153A(1)(*a*) of the Indian Penal Code, which I return to below (see [75]–[80]). For present purposes, what is important is that at its inception, s 153A(1)(*a*) was introduced to criminalise speech which aroused feelings of enmity and hatred, but not ill-will (Indian Penal Code Amendment Act 1898 (Indian Act No 4 of 1898)). The reference to "ill-will" was only added through the Indian Criminal and Election Laws Amendment Act 1969 (Indian Act No 35 of 1969) (the "1969 Amendments"). Notably, the purpose of this amendment was to amplify the

scope of s 153A, by allowing speech which promotes feelings of ill-will to "*also* [be] brought within the ambit of the law" [emphasis added] (Indian Parliamentary Debates on the Criminal and Election Laws Amendment Bill; Col 324; 23 July 1969 (Shrividya Charan Shukla, Minister of State in the Ministry of Home Affairs)).[51] This makes clear that "ill-will" bears a meaning that is distinct from "hatred" and "enmity", as it was introduced to broaden the scope of the provision.

55 I now turn to consider the ordinary meanings of "enmity", "hatred" and "ill-will". In his submissions, the Appellant relies on the Oxford English Dictionary, which defines the terms as such:[52]

(a) "Enmity" is defined as the "feelings characteristic of an enemy; ill-will, hatred" as well as "a state of mutual hostility".

(b) "Hatred" is defined as the "emotion or feeling of hate; active dislike, detestation; enmity, ill-will, malevolence".

(c) "Ill-will" is defined as an "[e]vil or hostile feeling or intention towards another; malevolence, malice, enmity, dislike".

56 In response, the Prosecution relies on the *Longman Dictionary of the English Language* (Longman Group UK Ltd, 2nd Ed, 1991), which defines the terms as follows:[53]

---

51 Respondent's Supplementary Bundle Of Authorities dated 19 August 2024 ("RSBOA1") at p 217.

52 Appellant's Supplementary Bundle Of Authorities dated 22 August 2024 ("ASBOA") at pp 8, 11 and 14.

53 Respondent's Supplementary Bundle Of Authorities dated 22 August 2024 ("RSBOA2") at pp 6–8.

(a) "Enmity" is defined as an active and typically mutual hatred or ill-will, such as between rivals.

(b) "Hate" is defined as intense hostility and aversion, or extreme dislike or antipathy. "Hatred", while closely related to "hate", typically applies as regards one's personal feelings.

(c) "Ill-will" is defined as an unfriendly feeling.

57 The Appellant draws a distinction between the three terms by arguing that "enmity" refers to adversarial feelings and is focused on "opposition between groups", "hatred" represents detestation and is directed at "people or intangible aspects of a community", and "ill-will" manifests as a desire for harm which "targets people and not intangibles".[54] I do not find these distinctions entirely helpful. While dictionary definitions may act as helpful guides for statutory interpretation, I agree with the Prosecution that the issue of statutory interpretation cannot be resolved merely by reference to them.[55] In this regard, I also emphasise that parties should avoid "rushing to dictionaries" in order to justify their desired reading of a particular provision (*Public Prosecutor v Lam Leng Hung and others* [2018] 1 SLR 659 ("*Lam Leng Hung*") at [75] and [150]). Instead, in determining the ordinary and natural meaning of a term, this depends on what comes to a reader most naturally by virtue of its regular or conventional usage in the English language, as well as the linguistic context in which that word or phrase is being used (*Lam Leng Hung* at [76]).

58 I am also guided by the remarks of Dickson CJ in *R v Keegstra (Attorney General of Canada and others intervening)* [1990] 3 SCR 697 at 777. This case

---

54 AFS at para 14.

55 PFS at para 17.

concerned s 319(2) of the Criminal Code, RSC 1985, c 46 (Can), which criminalises the wilful promotion of "hatred" against any identifiable group. In determining what "hatred" entailed, Dickson CJ observed that in this specific circumstance, dictionary definitions may be of limited aid to the exercise of statutory interpretation, for "by its nature a dictionary seeks to *offer a panoply of possible usages, rather than the correct meaning of a word as contemplated by Parliament*" [emphasis added]. This underscores that while the dictionary definitions provided by the parties may be a helpful guide, it is more important to focus on the wording of s 298A itself, as well as its statutory context, as emphasised in *Tan Cheng Bock*.

59 In my view, the dictionary definitions make clear that there is a noticeable overlap in the sphere of operation of "enmity", "hatred" and "ill-will", depending on the intensity of the feeling in question. For example, in most situations, intense ill-will could reasonably be accompanied by hatred. Likewise, hatred or ill-will between two individuals could also amount to "feelings characteristic of an enemy" if it reaches the threshold of "mutual hostility". Although I have found that these three terms are to be treated distinctly and not as a collective whole (see [52]–[54] above), I do not find it helpful to, as the Appellant seeks to do, cleanly delineate where one emotion ends and another begins.

60 Instead, I find that each of the three terms, while capable of encompassing different intensities of hostility or animosity, bears a similar *core* meaning. This is reflected by their dictionary definitions, which list them as potential synonyms of each other. These three terms, while retaining distinct meanings, were chosen precisely because they were *also* sufficiently similar, in order to capture the types of feelings promoted by speech which is prejudicial to inter-group harmony. Thus, while "enmity", "hatred" and "ill-will" each

embody distinct (but overlapping) aspects of feelings, *collectively*, they are used to prohibit speech which promotes or attempts to promote the spectrum of feelings which is prejudicial to the maintenance of harmony or which promotes disharmony between different racial and religious groups.

61 Given the above, I also do not agree with the Prosecution that the three terms lie on a sliding scale of decreasing intensity. I accept that the threshold to establish feelings of ill-will is lower than that of enmity and hatred. Indeed, the very aim of inserting "ill-will" into s 153A of the Indian Penal Code was to amplify the scope of the provision (see [54] above). However, it is not apparent that feelings of hatred would necessarily be less intense than feelings of enmity, given that "hatred" is defined as referring to emotions of an intense, active, or extreme nature (see [55]–[56] above). As an aside, I also observe that under various pieces of legislation, prohibitions have been placed on publications, public assemblies and other conduct which causes "enmity, hatred, ill-will or hostility" between different religious and/or racial groups in society (see s 4(1)(*b*) of the Undesirable Publications Act 1967 (2020 Rev Ed) and s 17F of the MRHA), and between different groups more generally (see s 7(2)(*e*) of the Public Order Act 2009 (2020 Rev Ed)). I do not think that feelings of hostility may seriously be said to be less intense than feelings of ill-will.

62 For completeness, I do not accept the Appellant's argument that feelings of "enmity, hatred and ill-will" should be read collectively to require detestation and vilification. This interpretation is unsupported by the plain text of s 298A(*a*). The Appellant relies on numerous Indian decisions which suggest that under s 153A of the Indian Penal Code, the words must have the tendency of creating public disorder or disturbance of law and order, or affecting public

tranquility.[56] However, as pointed out by the Prosecution, some of these decisions preceded the 1969 Amendments which inserted the phrase "ill-will" into s 153A of the Indian Penal Code (see [54] above). Even in the recent decision of *Patricia Mukhim v State of Meghalaya and Others* (2021) 2 MLJ (CRL) 360 (SC) ("*Patricia Mukhim*"), the Supreme Court of India had made reference to Canadian authorities interpreting the word "hatred", but not "ill-will" (at [12]). I agree with the Prosecution that the Indian authorities relied on by the Appellant are to be treated with caution, given the omission of the term "ill-will" which grounds the charges against the Appellant.

63 Taken in the round, I find that on an ordinary and plain reading, while "enmity", "hatred" and "ill-will" are to be interpreted distinctly, they collectively set out the spectrum of feelings promoted or attempted to be promoted by harmful speech which prejudices inter-group harmony. Depending on the gravity of the words in question, the feeling of "enmity", "hatred" or "ill-will" may be more suitably relied on.

Legislative purpose of the provision

64 I turn to consider the legislative purpose of s 298A(*a*). The Appellant argues that based on the legislative history of s 298A and the accompanying parliamentary debates, the aim of s 298A is to target speech which is of a "high threat level" and which incites violence and public disorder.[57] In his written reply submissions, however, the Appellant claims that there is no need for communal violence or public disorder to result. Instead, s 298A is satisfied so long as the speech causes the listener to "desire harm on another", even if the

---

56 AWS at paras 6–17.

57 AFS at para 16.

harm is not executed.[58] The Appellant's position therefore seems to be that when assessing if the speech in question causes one to desire harm on another, there must be a threat of or tendency to cause violence and public disorder, though such disorder need not eventualise.

65 In contrast, the Prosecution submits that the clear object of s 298A(*a*) is the maintenance of religious and racial harmony in Singapore. As the disturbance of racial and religious harmony does not occur only upon actual physical confrontation between groups, there is no need for any group to desire harm on another. Ill-will may arise from the lack of tolerance, moderation and sensitivity between different racial and religious groups (see [43] above).

66 The nub of the issue is whether s 298A(*a*) aims to promote religious and racial harmony, as the Prosecution contends, or to address the narrower aim of preventing speech which has the tendency to incite public disorder in the form of violence, as seemingly suggested by the Appellant.

67 Both parties have relied heavily on the parliamentary debates in substantiating their submissions. However, in determining the object of a statutory provision, primacy is given to the text of the provision and its statutory context. The meaning and purpose of a provision should, as far as possible, be derived from the statute first, based on the provision in question read in the context of the statute as a whole. This includes the words of the legislative provision in question, as well as other relevant provisions within the statute (*Tan Cheng Bock* at [43]–[44]). It is only after the court has determined the ordinary meaning of the text from its statutory context, that it can evaluate whether recourse to the extraneous materials is warranted. This may be justified either

---

[58] Appellant's Reply Submissions dated 25 October 2024 at para 9.

to confirm the ordinary meaning of the provision, to ascertain the meaning of the text where it is ambiguous or obscure, or to ascertain the meaning of the text where the ordinary meaning is absurd or unreasonable (*Attorney-General v Ting Choon Meng and another appeal* [2017] 1 SLR 373 ("*Ting Choon Meng*") at [65]–[66]). The purposive approach does not allow the court to construe the provision in a manner that does violence to its express wording; instead, it should be used to construe the provision "in harmony" with the express wording (*Ting Choon Meng* at [58]).

*Whether s 298A(*a*) aims to ensure racial and religious harmony, or to prevent the threat of violence*

68 Beginning with a textual reading of s 298A(*a*), this provision targets words or representations which promote enmity, hatred and ill-will *between* different groups on the grounds of religion or race. This should be contrasted with s 298, which relates to words or gestures which wound the religious or racial feelings of *any person*. On a plain reading, s 298A(*a*) is therefore aimed at preventing disharmony *between* different groups of people in society, specifically on the grounds of race or religion. This shows that the harm targeted by s 298A is the disturbance of the harmonious *co-existence* of different groups in Singapore as part of its social order. Notably, nothing on the face of s 298A(*a*) requires there to be a threat of violence or public disorder in order for such co-existence to be threatened. This should be contrasted with s 267C of the Penal Code, which expressly prohibits communications "containing any incitement to violence", or which may result in a "breach of the peace".

69 Such an interpretation of s 298A(*a*) (*ie*, that there need not be a threat of violence) is consistent with the prevailing case law in relation to comparable provisions. In *Public Prosecutor v Ong Kian Cheong and Another* [2009]

SGDC 163 ("*Ong Kian Cheong*"), two accused persons were jointly charged for, amongst others, distributing seditious publications in violation of s 4(1)(*c*) read with s 3(1)(*e*) of the Sedition Act (Cap 290, 1985 Rev Ed) (the "Sedition Act"), as those publications had the tendency to promote feelings of ill-will and hostility between different races or classes of the population in Singapore. The accused persons had, among other things, promoted Christianity while denigrating Islam and other religions (at [10]–[11] and [61]–[65]). The accused persons argued that it had to be proven that either public order or the maintenance of government was endangered in order for s 3(1)(*e*) of the Sedition Act to be invoked (at [44]–[45]). The District Judge rejected the accused persons' argument that there must be an intention to incite violence or create public disorder. If Parliament had intended to include additional requirements, it would have expressly legislated to that effect (at [46]–[47]). Instead, the District Judge held that s 3(1)(*e*) should be given a plain and literal interpretation – all that needs to be proved is that the publication had a tendency to promote feelings of ill-will and hostility between different races or classes of the population in Singapore (at [47]).

70 In a similar vein, in *Public Prosecutor v Koh Song Huat Benjamin and Another Case* [2005] SGDC 272 ("*Benjamin Koh*"), two accused persons were convicted under s 4(1)(*a*) of the Sedition Act for posting anti-Malay and anti-Muslim remarks online which had the tendency to promote feelings of ill-will and hostility between different races and classes of the population of Singapore. While both parties had pleaded guilty to their charge, the court's remarks in the context of sentencing are useful in highlighting the context in which this provision operates (at [6]):

> 6. *The doing of an act which has a seditious tendency to promote feelings of ill-will and hostility between different races or classes of the population in Singapore, which is the section*

> *4(1)(a) offence, is serious. Racial and religious hostility feeds on itself.* This sentencing approach of general deterrence is because of three main reasons: the section 4(1)(*a*) offence is *mala per se*; *the especial sensitivity of racial and religious issues in our multi-cultural society, particularly given our history of the Maria Hertogh incident in the 1950s and the July and September 1964 race riots; and the current domestic and international security climate.* The Court will therefore be generally inclined towards a custodial sentence for such an offence. [emphasis added]

71 These remarks were approved and endorsed by the High Court in *Public Prosecutor v Yue Mun Yew Gary* [2013] 1 SLR 39 at [46]. Both *Ong Kian Cheong* and *Benjamin Koh* concerned offences committed before s 298A of the Penal Code came into force, and should be read in that context. As an aside, the Sedition Act has since been repealed due to, among other things, Parliament's observations that there exists a network of legislation (including s 298 and s 298A of the Penal Code) dealing with similar offences (Singapore Parl Debates; Vol 95, Sitting No 40; 5 October 2021 (Mr K Shanmugam, Minister for Home Affairs)).

72 Flowing from the above, I find that the requirement for there to be a threat of violence is not borne out by the text of s 298A, or by the case law interpreting similar provisions. Instead, the primary aim of s 298A(*a*) is to maintain racial and religious harmony by preventing inter-group hostility, even where it falls short of a threat of violence.

73 The above interpretation is also consistent with the parliamentary debates surrounding the introduction of s 298A. The then Senior Minister of State for Home Affairs, Assoc Prof Ho Peng Kee, explained that s 298A was introduced in light of the increased incidents of hateful religious and racial remarks in a globalised world, which could potentially erode the mutual tolerance and respect which Singapore had nurtured between its different

religious and racial groups (Singapore Parl Debates; Vol 83, Sitting No 14; Col 2175; 22 October 2007 (Assoc Prof Ho Peng Kee, Senior Minister of State for Home Affairs)):[59]

> Sir, the current security climate also necessitates a re-look at offences that aggravate religious and racial sentiments which are now more likely to yield graver consequences than before. The likelihood of extremists stirring up enmity or ill-will in a religious setting and fanning racist flames has increased tremendously. *We have seen examples in other countries where a particular race or religion has come under fire in the aftermath of a terrorist attack. The need to tend carefully to the expression of religious and racial sentiments has become crucial today, in the context of a globalised world facing the threat of terrorism driven by religious extremism. … All the more so, Sir, in multi-religious, multi-racial Singapore, maintaining religious and racial harmony is critical.* We will only be able to continue enjoying racial and religious harmony if we practise tolerance and moderation as well as sensitivity. *We should never take for granted the tolerance and mutual respect between the different religions and races which we have painstakingly nurtured over the past decades.*
>
> These amendments will strengthen our laws against those who promote enmity between different racial and religious groups on grounds of religion or race and doing acts prejudicial to the maintenance of harmony and those who utter words or gestures with deliberate intent to wound the racial or religious feelings of any person. …
>
> …
>
> … *[s 298A] plugs a gap as currently actions that are likely to cause racial or religious disharmony between different racial or religious groups are not criminalised under the Penal Code.* Section 298A therefore complements section 298. …
>
> Sir, whilst feedback received supported the need for these amendments, concerns were raised over the seemingly broad scope of the offences. To assuage these concerns, we have inserted the requirement of "knowingly promotes" in new section 298A that mirrors the requirement of "deliberate intention of wounding" in section 298. This is a clear signal that the bar set for these offences is a high one.
>
> [emphasis added]

---

59 ROP at pp 634–635.

74 I am mindful that when relying on parliamentary debates to ascertain the legislative purpose of a provision, the court should guard against the danger of finding itself construing and interpreting the statements made in Parliament, rather than the legislative provision itself. Statements made in Parliament must be clear and unequivocal to be of any real use (*Tan Cheng Bock* at [52]). In this case, I find that the parliamentary debates confirm the plain and ordinary meaning of s 298A (*ie*, that there need not be a threat of violence). Section 298A is broadly targeted at maintaining the climate of tolerance and harmony amongst different racial and religious groups in Singapore, and at proscribing any words or representations which would threaten such a climate of tolerance and harmony, in light of Singapore's unique multi-cultural context.

Issue 2: Whether the requirement of "knowingly promotes" within s 298A(*a*) of the Penal Code requires deliberate intention

75 Next, I deal with the *mens rea* under s 298A(*a*). The Appellant argues that deliberate and malicious intent to promote racial hostility must be proved, while the Prosecution argues that based on a plain reading of s 298A, knowledge that the speech in question promotes feelings of enmity, hatred or ill-will suffices (see [38] and [45] above). The Appellant bases his submission on the ordinary meaning of s 298A(*a*), parliamentary debates, as well as Indian case law. I do not find that his position is supported by any of these grounds.

76 First, the Appellant submits that proof of malicious intent to promote racial hostility is consistent with the ordinary meaning of s 298A(*a*). This is because "promote" connotates a deliberate effort to advance a cause, akin to advocating for it and encouraging others to join. This implies an intentional effort rather than mere awareness.[60] I am not persuaded that malicious intent is

[60] AWS at paras 41–48.

required. According to the Oxford English Dictionary, to "promote" means to further the progress of, or to support actively the passing of.[61] Read together with the *mens rea* of knowledge, the requirement under s 298A(*a*) is to knowingly further the progress of an effect, which in this case, refers to causing feelings of enmity, hatred or ill-will between different racial or religious groups. There is thus no requirement of malicious intent. I also add that it is uncertain what the term "malicious" adds to the analysis, as the Appellant did not provide any definition of malice.

77 Second, the Appellant's reliance on Indian case law for the requirement of intention under s 153A of the Indian Penal Code[62] is not defensible. Section 153A is silent on the relevant *mens rea* required (see [53] above). Against this backdrop, the Indian courts have interpreted s 153A as requiring proof of intention (see *Patricia Mukhim* at [9]). However, the Singapore position differs. During the parliamentary debates on the introduction of s 298A, concerns were raised over the broad scope of s 298A(*a*), and Parliament explained that it had included the phrase "knowingly" to specifically address these concerns (see [73] above). Hence, the Singapore position differs from that in India.

78 Third, the Appellant relies on the parliamentary debates where the Minister had remarked that "knowingly promotes" in s 298A "mirrors the requirement of 'deliberate intention of wounding' in section 298" (see [73] above).[63] As cautioned by the Court of Appeal, extraneous material cannot be used "to give the statute a sense which is contrary to its express text", save in

---

61 ASBOA at p 16.

62 AWS at paras 36–40.

63 AFS at para 25.

the very limited circumstances identified in s 9A(2)(*b*)(ii) of the IA, where the ordinary meaning of the text is manifestly absurd or unreasonable (*Tan Cheng Bock* at [50]). Given that the ordinary meaning of s 298A(*a*) is not manifestly absurd or unreasonable, "knowingly promotes" cannot be read as requiring malicious intent solely on the remarks in the debate, especially given Parliament's deliberate decision to stipulate the *mens rea* of knowledge.

79 Moreover, Parliament's remarks must be seen in light of the fact that the requirements of knowledge and intention are closely linked. Under s 26D(2) of the Penal Code, whoever does an act with the awareness that an effect will either be caused, or is virtually certain to be caused, is said to do that act knowingly in respect of that effect. The latter situation – *ie*, doing an act with the awareness that the effect is virtually certain to be caused – amounts to intentionally causing an effect under s 26C(2) of the Penal Code. This makes clear that knowledge may encompass a subset of intention in certain circumstances, but that they remain distinct concepts.

80 Consequently, the requirement of "knowingly promotes", while specifically introduced to limit the scope of s 298A(*a*), cannot be read as requiring malicious intent to promote racial hostility.

Issue 3: Whether the convictions are to be upheld

81 Having dealt with the two issues above, I turn to the four charges against the Appellant.

82 It is trite that an appellate court should be slow to overturn a trial judge's findings of fact, especially where they hinge on the trial judge's assessment of the credibility and veracity of witnesses. Intervention would only be justified where the findings were clearly wrong, or the balance of evidence was against

the conclusion reached by the trial court. In contrast, in relation to drawing factual inferences, an appellate judge is as competent as any trial judge (*Jagatheesan s/o Krishnasamy v Public Prosecutor* [2006] 4 SLR(R) 45 at [34]–[38]).

The first charge

83 To recapitulate, on 25 July 2020, the Appellant posted a message on the social media platform, Instagram, with the caption as set out at [4] above. It is undisputed that this First Post was made in response to a video uploaded by the founder of City Revival Church, Wong, and a social media influencer, Theng, which linked the gay pride movement to Satan (see [5] above).

84 The Appellant submits that when read in this context, at most, his words suggest unequal policing of Chinese-Christians *vis-à-vis* Malay-Muslims. He was expressing discontent with the authorities, and not blaming Chinese-Christians for this unequal state of affairs.[64] As for the *mens rea* requirement, the Appellant argues that an intention to highlight unequal policing among different racial and religious communities does not equate to a malicious intent to promote racial hostility. Disapprobation of governmental inaction is not an attempt to incite hatred between different communities.[65] The Appellant was highlighting discrimination against minority Malay-Muslims, and making a plea for equality.[66]

85 I am not persuaded by the Appellant's arguments. I agree with the DJ that the Appellant was aiming to portray the ISD as affording preferential

---

64 AWS at para 53.

65 AWS at para 57.

66 AWS at para 58.

treatment to the Chinese-Christian community (GD at [31]). Indeed, the tenor of the Appellant's statement is that the Malay-Muslim community would have been given harsher treatment by the ISD than the Chinese-Christian community, and that the Malay-Muslim community was being unfairly prejudiced. Although the Appellant claims that his words simply suggested unequal policing of Chinese-Christians and Malay-Muslims, I find this to be a self-serving interpretation unsupported by the objective text of his post. Notably, the Appellant stated that "ISD would have been at the door *before they even hit 'upload'*" [emphasis added]. This does not simply suggest unequal policing, but that the ISD was *targeting* Malay-Muslims. The Appellant was essentially alleging – without any factual basis[67] – that Chinese-Christians were given favourable, lenient treatment by the state, while Malay-Muslims were being discriminated against.

86 While valid criticism against the government is permitted and, indeed, a core tenet of a democratic society, one cannot hide behind the veil of governmental criticism to mask their attempts at stirring hatred between different groups in society (see *Chee Siok Chin and others v Minister for Home Affairs and another* [2006] 1 SLR(R) 582 at [135]). Given the wording of the First Post, I am satisfied that the Appellant was fully aware that the effect of the First Post was to promote ill-will between the Chinese-Christian and the Malay-Muslim communities.

87 As for the Appellant's argument that his remarks were justified given that Theng and Wong were engaged in "quintessential hate speech",[68] I agree with the DJ that if the Appellant had intended to admonish Theng's and Wong's

---

67 ROP at pp 130–134: NE dated 22 March 2023 at p 19 line 29 to p 23 line 13.

68 AWS at para 53.2.

hate speech, there was no conceivable reason to identify the makers of the video by their race and religion (GD at [33]). I observe that the video which the Appellant was reacting to did not make *any* reference to the Malay and/or Muslim communities in Singapore, a fact which the Appellant accepts.[69] In light of this, the DJ did not err in finding that there was simply no cause for the Appellant to draw attention to the race and religion of Theng and Wong (GD at [33]). If the Appellant had truly intended to call out Theng and Wong for their offensive views, the Appellant's post would arguably have been focused on criticising their views as being harmful to the gay community, as opposed to bringing in the Malay-Muslim community, which had no discernible link to the video.

88 The Appellant also claims that his words were composed as a tweet and as an immediate emotive response to the video, and that such careless words are not the subject of s 298A.[70] However, I observe that the First Post is a reproduction (in the form of a screenshot) of the Appellant's statement on another social media platform, Twitter. The Appellant had first uploaded his views onto Twitter, and then proceeded to screenshot and re-upload his views onto Instagram. The Appellant had therefore made the deliberate decision to reproduce his comments onto another social media site, which would have required conscious effort on his part. This shows that the First Post was not just an "immediate emotive response" to Theng and Wong's video.

89 Given the above, I agree with the DJ that the first charge is made out, in that the Appellant knowingly attempted to promote ill-will between the Malay-Muslim community and the Chinese-Christian community.

---

69 ROP at p 19: SOAF at para 4.

70 AWS at para 59.

The second charge

90 By way of context for the second charge, the Second Post (see [8] above) was made in relation to a news article on how Chan's charge of consorting with a co-accused who had in his possession a Kerambit knife was withdrawn, with Chan being given a conditional warning instead. The article also enclosed a short video of Chan being interviewed by the press (see [7] above). In this regard, the "two year conditional warning" in the Second Post refers to the conditional warning the Appellant had received due to the Rap Video he posted, whilst the "smear campaign in the media" refers to the media reporting on the Rap Video.[71]

91 The Appellant argues that he had never read the news article and hence, did not knowingly advance the false narrative that Chan had murdered an Indian man. He points to the fact that the article was not attached to the Second Post, and that if he had read the article, he would have attached it to his post.[72]

92 The DJ found that the Appellant had admitted during cross-examination that before he made the Second Post, he had read the news article about Chan. The news article made clear that Chan was given a warning for consorting with a co-accused who had in his possession a foldable Kerambit knife, and not for conspiring to murder an Indian man (GD at [39]). Although the Appellant tried to recant this admission after the lunch break at trial, the DJ rejected this recantation. This was because, when the Appellant was questioned on the contents of the news article prior to the lunch break, the Appellant had insisted that conspiring and consorting, to a layperson such as himself, meant working

---

71 ROP at pp 137–138: NE dated 22 March 2023 at p 26 line 27 to p 27 line 11.

72 AWS at paras 64–66.

together in tandem. The Appellant also claimed that he did not know the legal definition of consorting. At one stage, the Appellant had even been given time to read the article. At no time during this process did the Appellant indicate that he might not have read the article before making the Second Post. In these circumstances, the DJ was satisfied that the Appellant had read the article before making his post (GD at [39]).

93 As stated above (at [82]), an appellate court should be slow to overturn a trial judge's findings of fact, save where the findings were clearly wrong. In this case, I find that the DJ did not err in concluding that the Appellant had read the news article. To begin, it is an accepted fact that the Second Post was made "[i]n response to the article" detailing Chan's conditional warning.[73] Moreover, as observed by the DJ, at no time during the Appellant's testimony about the contents of the article did he raise the possibility that he had not read the article (GD at [39]). If the Appellant had indeed not read the article, he would have immediately said so when questioned on the contents of the article. In this case, however, the Appellant had expressly confirmed that he had read the article:[74]

> Q Would it be safe to say that you didn't bother reading the article?
>
> A No, I did read the article, Your Honour.

In these circumstances, I agree with the DJ that the Appellant had read the article before making the Second Post.

94 The Appellant argues that even if he had read the article, it was understandable for a layperson such as himself to conclude that Chan had

---

73 ROP at p 19: SOAF at para 9.

74 ROP at p 156: NE dated 22 March 2023 at p 45 lines 11–12.

conspired to murder.[75] I am unable to accept this argument. The news article informed its readers that Chan had been charged for consorting with a co-accused who had in his possession a Kerambit knife. Having read this, the Appellant would, objectively, be aware that Chan had not been said to have murdered anyone. The Appellant therefore knew that he was advancing a false narrative by claiming that Chan had "conspir[ed] to murder an Indian man".

95 The Appellant further suggests that his words were a plea for equality on behalf of minority races and a call for justice, and not an attempt to promote hatred between different communities. His discontent was directed towards the state, and there was no dehumanising or degrading language targeted at the Chinese community.[76] There was also no intent to promote racial hostility, as the Appellant merely sought to highlight unequal treatment of racial minorities. The Appellant was struck by the disparity in how the media portrayed the victim, an Indian man, as compared to Chan, a Chinese man.[77]

96 I am not persuaded by the Appellant's argument. The tenor of the Appellant's post is that he, an Indian man, received a two-year conditional warning when he was acting for social equality by calling out racism. In comparison, a Chinese man who had conspired to murder an Indian man received half his punishment. This was a grievous statement to make, as the Appellant was essentially implying that the Chinese community was being unfairly favoured at the expense of Indian lives, and that the Indian community was being discriminated against. Having agreed with the DJ's finding that the Appellant read the article, I further agree that the Appellant had knowingly

---

75 AWS at para 67.6.

76 AWS at paras 67–68.

77 AWS at paras 71–72.

advanced this false narrative. In these circumstances, it cannot be doubted that feelings of ill-will between the Chinese and the Indian communities would tend to arise from the Second Post. In fact, it would not be inconceivable for the Indian community, upon hearing these untrue statements, to feel immense indignation and hatred towards the Chinese community. The Appellant's claims that he was calling out injustice and seeking equality are disingenuous attempts to explain his conduct. Given the gravity of his statements, I agree with the DJ that the Appellant knowingly attempted to promote feelings of ill-will.

The third charge

97 Turning to the third charge, this relates to a stage play by the Appellant titled "Tabula Rasa – Album Exploration" at the Substation, where the Appellant displayed a hand-drawn replica of the Second Post. This was a three-day performance from 11 to 13 March 2021.[78]

98 The Appellant argues that the Display was a prop in his play, and not the focus or message of the visual representation. He claims that it had no inherent meaning and was merely illustrative. Hence, it could not have generated ill-will.[79] In my view, the mere fact that the Display was used as a prop of an artistic performance does not mean that it automatically loses its inherent meaning. Taken to its logical conclusion, the Appellant's argument suggests that words and representations, no matter how denigrating, may be employed so long as they are used as an artistic tool. That cannot be the case.

99 More importantly, the Appellant's claim that the Display was not the focus of his play is directly contradicted by his testimony that the performance

---

78 ROP at p 94: NE dated 21 March 2023 at p 51 lines 8–10.

79 AWS at para 77.

was intended to show off his "significant life events or milestones".[80] If anything, this would mean that attention would have been drawn to the Display, as it was part of a carefully curated series of exhibits which were being unveiled as part of his performance. The words of the Display do not lose their effect simply because the medium in which they are expressed has changed. Consequently, the reasoning in relation to the Second Post applies with equal force to the Display.

100 As to the requisite *mens rea*, the Appellant argues that because he had only intended the Display to represent a significant life event or milestone, he had not intended to promote any ill-will. However, as pointed out by the Prosecution, there is no requirement for the promotion of ill-will to be the Appellant's dominant intention.[81] While the intention to use the Display as a prop might have been one of the Appellant's primary intentions, the more important fact is that the Appellant knew the effects of using the Display.

101 It bears noting that at the time, the Appellant was already under investigation for the Second Post,[82] and was aware that the Second Post was problematic. Indeed, in his examination-in-chief, the Appellant explained that he had tried to obtain approval from the Substation to use the Display. He e-mailed the script for his play, as well as the original screenshots of the Second Post to the Substation, for approval by the IMDA. He also informed the Substation that he was not intending to use the screenshots of the Second Post as the post was part of an ongoing police investigation. Instead, he would be making illustrations of the screenshots – *ie*, the Display. The Substation spoke

---

80 ROP at p 94: NE dated 21 March 2023 at p 51 lines 21–32.

81 Minute Sheet for the Hearing dated 22 August 2024 at p 3.

82 ROP at p 76: NE dated 21 March 2023 at p 33 lines 19–22; ROP at pp 313–314.

to the IMDA, before informing the Appellant that he was not allowed to use the original screenshots of the Second Post. As for the Display, the Substation communicated to the Appellant that the IMDA had been silent on it. The Appellant took this as a "green light" to proceed with using the Display in place of the original screenshots.[83] During cross-examination, the Appellant clarified, more specifically, that "the [S]ubstation told [the Appellant] that the IMDA did not say [he could not] use the [Display]".[84]

102 The Prosecution pointed out that because the Display and the original screenshots were identical, the IMDA would clearly object to the use of the Display as well. It would have therefore been logical for the Appellant to expressly check if the Display was permitted, and to wait for the IMDA's confirmation. The Appellant maintained that he had double-checked with the Substation on whether he could go ahead with using the Display, to which the Substation repeated that the IMDA had been silent on this.[85] It transpired that the IMDA did in fact have an issue with the Display. After the first day of the performance, the IMDA voiced its objection to the use of the Display, and the Appellant removed it from his subsequent performances.[86]

103 While the breach of the IMDA's regulations is not the subject of his charges, whether the Appellant had obtained approval from the IMDA is relevant as it goes towards his state of mind when he included the Display as part of his performance. In particular, if he had proceeded to use the Display

---

83 ROP at pp 92–94: NE dated 21 March 2023 at p 49 line 21 to p 51 line 3; ROP at p 315.

84 ROP at p 183: NE dated 22 March 2023 at p 72 lines 30–32.

85 ROP at pp 183–184: NE dated 22 March 2023 at p 72 line 1 to p 73 line 29.

86 ROP at p 94: NE dated 21 March 2023 at p 51 lines 11–20.

despite the IMDA's objections, this would point towards his knowledge and his deliberate attempt to promote ill-will.

104 The DJ held that because the IMDA was not given copies or images of the Display itself, but only screenshots of the Second Post, the IMDA effectively had no knowledge of the Display. In these circumstances, it was disingenuous of the Appellant to say that he was entitled to use them given that the IMDA did not say that he could not use them (GD at [43]). I agree with the DJ. Given that the Second Post was already part of police investigations at the time, it would have been evident to the Appellant that he could not circulate the remarks found in the Second Post. Indeed, he himself recognised this by informing the Substation that he would not be using the original screenshots of the Second Post given the police investigations. Yet, the Appellant was somehow under the impression that making an *exact replica* of the Second Post, *ie*, the Display, would change this. This was simply not a reasonable assumption to make.

105 While I appreciate that the communications between the Appellant and the Substation were not the clearest, the bigger issue is that there was no basis for the Appellant's belief that using an exact replica of the Second Post in his performance was acceptable, in light of his cognisance that the original screenshots of the Second Post could not be circulated. Indeed, if the Appellant wanted to justify this belief, approval by the IMDA would have been crucial, for it would have shown some basis for his belief that his harmful speech was permitted through a different medium. However, by his own admission, the Appellant did not receive express consent from the IMDA, likely because the IMDA did not have sight of the Display to begin with.

106 By the above, I therefore agree with the DJ that the Appellant knowingly attempted to promote ill-will through the Display.

The fourth charge

107 Turning finally to the Rap Video, as noted above (see [15]), the Appellant had stated in the Rap Video, among other things, the words "F[xxx] it up, f[xxx] it up, f[xxx] it all the way up. Chinese people always out here f[xxx]ing it up."

108 During his examination-in-chief, the Appellant claimed that the Rap Video was made in response to a "brown face" incident in an online advertisement. In the Advertisement, a Chinese actor had portrayed an Indian man by way of a digitally altered brown face. The Appellant claims that his intent in making the Rap Video was to call the Advertisement out and to end "brown face" in Singapore.[87] The Appellant argues that his lyrics were clearly targeted at the Advertisement, as in his music video, the Appellant dressed like the Chinese actor in the Advertisement and stood in front of the Advertisement.[88] The Appellant also points out that the Prosecution accepts that the Advertisement had been offensive.[89] Against this backdrop, although the Appellant's words were insulting and offensive to Chinese persons, they were not unjustified, and were a response to pervasive racism. They were uploaded onto a comedy channel and intended to be satire.[90]

---

87 ROP at p 96: NE dated 21 March 2023 at p 53 lines 8–10; ROP at p 103: NE dated 21 March 2023 at p 60 lines 11–22.

88 AWS at para 85.

89 AWS at para 86.1.

90 AWS at paras 86 and 87.

109 While the Appellant was entitled – and justifiably so – to be angry at the "brown face" advertisement, and to voice his anger online, this was not *carte blanche* to say anything he wanted. As pointed out by the Prosecution,[91] the Appellant had not only repeatedly said that "Chinese people always out here f[xxx]ing it up", but had also employed various racial stereotypes.

110 While various aspects of the lyrics in the Rap Video related to the "brown face" incident, the lyrics as a whole were targeted at the entire Chinese community. References to the "Chinese man", about how the Appellant's community had "lost all our enclaves and our holy days", and how Chinese people "can't pronounce colleague", had nothing to do with the "brown face" advertisement. In this regard, I agree with the DJ that the Rap Video was effectively a tirade against the Chinese community (GD at [48]). In particular, the Appellant's claims that "no matter who we choose, the Chinese man win", and that the Chinese were "tryna' steal our shit everyday", were words which conveyed that Indians were effectively second-class citizens. Paired with the Appellant's repetition that Chinese people were "always out here f[xxx]ing it up", this would reasonably stoke feelings of ill-will between the Chinese and the Indian communities. As the Appellant had personally written these lyrics (see [15] above), I agree with the DJ that he had knowingly attempted to promote ill-will between the Indian and the Chinese communities.

Sentence

111 Turning next to the appropriate sentence, it is trite that an appellate court will not ordinarily disturb the sentence imposed by the trial court, save where (*ADF v Public Prosecutor and another appeal* [2010] 1 SLR 874 at [17]):

---

91 Prosecution's Written Submissions dated 8 August 2024 at para 74.

(a) the trial judge erred with respect to the proper factual basis for sentencing;

(b) the trial judge failed to appreciate the materials placed before him;

(c) the sentence was wrong in principle; or

(d) the sentence was manifestly excessive or manifestly inadequate.

112 The Appellant submits that the custodial threshold has not been crossed. His submissions in this regard are brief and premised entirely on his characterisation of the four charges. He claims that the First Post was an immediate response to hate speech against gay pride, the Second Post sought to highlight unequal treatment by the media, the Display was a mere prop in his performance, and the Rap Video was a response to an offensive "brown face" advertisement. Flowing from this, a fine of not more than $5,600 should be imposed.[92] If the court finds that a jail term is warranted, the Appellant submits that an imprisonment term not exceeding five days, as well as a fine, should be imposed.[93] No further submission has been provided.

113 As I have found that the DJ did not err in his treatment of the facts in convicting the Appellant on the charges, the Appellant has effectively raised no real issue with the DJ's reasoning in imposing the appropriate sentences.

114 In any case, I agree with the approach of the DJ. For cases falling under s 298A of the Penal Code, the dominant sentencing consideration would be deterrence. As observed in *Benjamin Koh* at [6], the need for deterrence stems

92 AWS at paras 95–96.

93 AWS at para 97.

from the "especial sensitivity of racial and religious issues in our multi-cultural society", as well as the current domestic and international security climate.

115 Although *Benjamin Koh* was decided almost two decades ago, the principles therein apply with equal force and, to my mind, even more so in today's climate. It would not be an exaggeration to say that social media has fundamentally reshaped how societies communicate. The instantaneous, widespread and, for the most part, unregulated nature of social media, has allowed any and all individuals to freely express and communicate their views online. However, this has simultaneously provided a platform for irresponsible, false, and as this case demonstrates, denigrating speech. The speed and scale in which one's views may be promulgated online makes social media a powerful and virulent means of communication. While social media may be helpful in fostering social connection by improving accessibility and lowering barriers of communication, it also enables harmful speech to be propagated instantaneously to countless individuals on a worldwide scale. In light of the magnitude of potential harm which may result, the dominant consideration of deterrence applies with even more force today, especially given the delicate nature of religious and racial issues.

116 Moreover, I agree with the DJ that the Appellant has shown a clear disregard for the law. On 14 August 2019, the Appellant had been given a conditional warning for the Rap Video (see [16] above). Yet, this did not stop him from making the First Post and the Second Post in 2020, and from using the Display in 2021. In these circumstances, a sentence of three weeks' imprisonment for each of the charges is not manifestly excessive. A global sentence of six weeks' imprisonment is also not disproportionate or crushing.

Conclusion

117 For the reasons above, I dismiss the Appellant's appeal against his conviction and sentence.

Hoo Sheau Peng
Judge of the High Court

Too Xing Ji (Too Xing Ji LLC) for the appellant;
Vincent Leow and Jordon Li (Attorney-General's Chambers) for the respondent.