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

[2025] SGHC 55

Criminal Case No 42 of 2024

Between

Public Prosecutor

And

Ong Eng Siew

ORAL JUDGMENT

[Criminal Law] — [Offences] — [Attempt to murder]
[Criminal Procedure and Sentencing] — [Sentencing] — [Principles]

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Public Prosecutor
v
Ong Eng Siew

[2025] SGHC 55

General Division of the High Court — Criminal Case No 42 of 2024
Mavis Chionh Sze Chyi J
23 January, 28 February 2025

28 March 2025 Judgment reserved.

Mavis Chionh Sze Chyi J:

The charges

1 The accused, Ong Eng Siew (the "Accused"), a 64-year-old male, pleaded guilty before me to one charge of attempted murder (the "attempted murder charge") under s 307(1) of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code") and one charge of voluntarily causing hurt ("VCH") under s 323 of the Penal Code. Both offences were committed by the Accused on 12 June 2021, sometime between 9.20pm and 9.35pm, at the void deck of Block 407 Choa Chu Kang Avenue 3, Singapore ("Block 407"). The attempted murder charge stated that the Accused used a knife with a 12cm blade on one Ku Teck Eng ("Ku") by slashing his left shoulder, stabbing his left chest, and slashing the left side of his stomach, with the intention of causing death and under such circumstances that if he, by that act, caused death to Ku, he would be guilty of murder. The injuries which the Accused caused to Ku consisted of a 2cm stab

wound adjacent to the left nipple, with a laceration on the left ventricle of the heart; a 4cm laceration over the mid abdomen, with serosa tears in the small bowel jejunal region; a 3cm laceration over the posterior left shoulder; and a superficial oblique 6cm laceration over the left anterior shin. As for the VCH charge, this stated that on the same date and at the same void deck, the Accused pushed one Berlin, causing her to fall into a drain, and also punched her at least twice on her left shoulder, with the intention of causing hurt to her. The injuries suffered by Berlin as a result comprised abrasions over her right knee and right posterior thigh, mild tenderness over her left shoulder, and left shoulder contusion.

2 Three other charges were taken into consideration ("TIC") with the Accused's concurrence. These consisted of a charge under s 204A(*b*) of the Penal Code, of doing an act that had a tendency to obstruct the course of justice, intending to obstruct the course of justice, namely, by disposing of the knife he had used to attack Ku; as well as two other charges of VCH to Berlin on 1 June 2021.

A summary of the facts

3 In pleading guilty, the Accused admitted to a statement of facts ("SOF") prepared by the Prosecution which detailed the events leading up to his attack on Ku and Berlin on 12 June 2021 and thereafter. In gist, Berlin was the Accused's former lover. She had informed him on 25 April 2021 that she wanted to end their relationship, but the Accused had not accepted her decision. Berlin subsequently started a relationship with Ku. From around 16 May 2021, the Accused had pestered Berlin with text messages and phone calls while drunk and had also looked for her on a few occasions. On 1 June 2021, when Berlin agreed to meet the Accused at his van at a carpark near Block 407, Berlin had

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told the Accused that she was in a new relationship, and the Accused became extremely upset. This led to his assaulting Berlin, causing her multiple injuries, and at one point pulling her back into the van when she jumped out to get away, pushing her back into the passenger seat and driving around in the van while assaulting her and asking her to call her boyfriend. These assaults formed the subject matter of the two TIC VCH charges.

4 Berlin later lodged a police report after consulting her godbrother Ter Soon Meng ("Ah Meng"), who called the Accused to scold him for his conduct towards Berlin. On 5 June 2021, the Accused sent Berlin a photograph of a knife with a message in Mandarin and English which (translated) read: "I will bring this knife with me. I do not know who you have asked to deal with me. The first person I want to stab is Ah Meng." Between 9 and 11 June 2021, the Accused also called Berlin to scold her for lodging a police report against him and said that he would look for her boyfriend and that he was prepared to go to prison for two to three years. He did not specify what he was going to do.

5 On 12 June 2021, after drinking beer from 12pm to 8pm, the Accused had gone to Block 407, where Berlin lived, carrying the knife with the 12cm blade and three cans of beer in a plastic bag. Berlin and Ku arrived at the void deck at about 9.25pm, and it was then that the Accused committed the offence of attempted murder against Ku following an exchange in which he had, *inter alia*, shouted at Berlin and Ku for allegedly lying, punched Ku in the stomach, and told Ku in Hokkien: "*lim pei ho le* si" (meaning, in English, "I will make sure you die"). The offence of VCH against Berlin was committed by the Accused when Berlin pulled at his shirt to try to stop him from slashing and stabbing Ku with his knife. Ku escaped to a nearby provision shop to seek help. When residents in the neighbouring block shouted at the Accused, he fled from the scene and disposed of the knife in a drain near Block 407, which conduct

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formed the subject matter of the TIC charge of obstructing justice under s 204A(*b*) of the Penal Code. The police were called by residents in the neighbouring block, and both Ku and Berlin were sent to hospital. Ku underwent surgery the same day and a second surgery two days later. The Accused was arrested by the police near his home, and the police also found the knife after searching for around an hour.

6 The report from the Health Sciences Authority ("HSA") stated that the stab wound on the left side of Ku's chest, which resulted in a laceration on his left ventricle, would have resulted in death but for emergency medical intervention, due to haemopericardium (blood in the pericardial sac of the heart) resulting in rapid deterioration. Further, the stab wound to Ku's abdomen caused evisceration of a loop of bowel (meaning, part of Ku's bowel protruded out of his abdomen) and serosal tears of the bowel: but for surgical intervention, these injuries would have predisposed Ku to an intra-abdominal infection which could possibly have also led to death.

7 The Accused was diagnosed with adjustment disorder ("AD") due to his relationship breakup and social problems around the time of the offences. The Prosecution and the Defence disagreed as to whether the Accused's AD had any contributory link to the offences, which disagreement I will address shortly.

The Prosecution's and Defence's sentencing positions

8 Both the Prosecution and the Defence have put in detailed written submissions. I will not repeat what they have said in their detailed written submissions, save to note that the Prosecution has submitted that the sentences on the two proceeded charges should run consecutively and that the aggregate sentence should be between 10 years and eight weeks' imprisonment to 12 years

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and 10 weeks' imprisonment, whereas the Defence has submitted for concurrent sentences and an aggregate sentence of between seven to eight years' imprisonment.

The charge of attempted murder of Ku

9 I address first the attempted murder charge. The Prosecution is not seeking a sentence of life imprisonment in this case, and the relevant Penal Code section is therefore s 307(1)(*b*), which provides for imprisonment which may extend up to 20 years and which also provides that an accused may be liable to a fine, or to caning or to both. In the present case, the Accused is not liable for caning due to his age, and the Prosecution is not seeking any additional imprisonment term in lieu of caning for the offence of attempted murder.

10 In respect of the offence of attempted murder under s 307 of the Penal Code, no sentencing framework has been established. As such, as the High Court in *Public Prosecutor v Shoo Ah San* [2021] SGHC 251 ("*Shoo Ah San*") pointed out (at [9]), "[t]he relevant sentencing factors are considered through the rubric of the harm caused by the offence and culpability of the accused, taking into account matters that are mitigatory and aggravating".

Harm: the extremely serious injuries caused to Ku

11 This is a case where the harm caused by the attempted murder was severe and significant. I say this for the following reasons. First, the injuries inflicted by the Accused on Ku were extremely serious. I have already alluded to the list of injuries annexed to the charge and also to the HSA report. In this connection, I note that the Defence has submitted that Ku does not appear to have suffered long-term injuries following the knife attack. Even if this were true, however, it does not change the fact that the injuries he did suffer were of

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an extremely serious – indeed, horrific – nature. The fact that the stab wound to Ku's chest resulted in a laceration to the left ventricle of Ku's heart shows just how deep and forceful the stab must have been. Indeed, the HSA report stated that the stab wound to Ku's chest caused Ku's condition to "deteriorate rapidly at the Accident [and] Emergency Department". The HSA report also described how the stab wound to Ku's abdomen resulted, *inter alia,* in an evisceration of a loop of Ku's bowel, and stated that if surgery had not been available, the exposed loop of bowel "would have predisposed [Ku] to an intra-abdominal infection possibly leading to death". This is also evidence of the force with which the Accused stabbed and slashed at Ku. The seriousness of Ku's injuries is further underlined by the fact that he had to undergo two surgeries within a matter of days and was hospitalised for nine days.

Harm: the offence was committed in a public place

12 Second, the offence of attempted murder was committed at the void deck of the HDB block, which is a public place. As the Prosecution has pointed out, this caused public alarm and fear. The SOF recounts, for example, how residents from the neighbouring block shouted at the Accused and called for the police. The commission of an offence, particularly a violence-related offence, in a public place, will be considered an aggravating factor if it causes public fear and alarm. Both *Shoo Ah San* and *Public Prosecutor v BPK* [2018] 5 SLR 755 ("*BPK*"), for example, were cases where the accused persons violently attacked their victims in public places – in *Shoo Ah San*, the attack was committed along a street, while in *BPK*, the attack was committed at a HDB void deck. In each case, the court considered it an aggravating factor that the accused committed violence in a public place and thereby caused public alarm and fear.

13 As the court in *Shoo Ah San* observed (at [13]):

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> All our citizens are entitled to expect to walk our streets in peace, at any time of day or night. While not downplaying attacks in other contexts, that interest has to be protected by a heavy measure of deterrence to drive home the message to those who might otherwise allow their passions or unhappiness about a dispute to get the better of them and attempt murder or violence on our streets or other public spaces. Those who in fact breach the peace and security and attempt to kill in the open can only expect to be dealt with severely.

Culpability: aggravating factors

14 Next, having taken into account the relevant aggravating and mitigating factors, I consider that the Accused's culpability is high. My reasons are as follows.

Aggravating factor: the Accused persisted in attacking Ku after Ku fell on the ground

15 In my view, the following aggravating factors are present in this case. First, as the Prosecution has highlighted, the fact that the Accused persisted in violently attacking Ku after Ku had already tripped and fallen backwards onto the ground constitutes an aggravating factor. In *Janardana Jayasankarr v Public Prosecutor* [2016] 4 SLR 1288 ("*Janardana*"), for example, where the accused had continued to kick the victim even after she had fallen to the ground after his initial assault, Menon CJ held (at [16(b)] that the act of repeatedly kicking the victim while she was on the ground constituted an aggravating factor: *inter alia,* as Menon CJ pointed out, the victim would have less ability to defend or shield herself from further injuries once she had fallen. In the present case, it should be noted that Ku's most serious injuries were inflicted by the Accused with his knife after Ku had already fallen backwards and was lying on the grass, essentially defenceless.

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16 I note that in their submissions, the Defence seeks to place some weight on the statement in the SOF that the Accused and Ku "scuffled". The Accused claimed that the "scuffle" "resulted in [his] shirt being badly torn" and that he sustained some minor injuries. It is unclear to me whether the Defence is trying to suggest that this reference to a "scuffle" in some way reduces the Accused's culpability for the attempted murder charge. If so, I find the suggestion entirely without merit. It is plain from the SOF that this so-called "scuffle" took place after the Accused had already punched Ku in the stomach and used his knife to slash Ku on the back of his left shoulder, causing the latter to bleed. It was not at all surprising, therefore, that Ku should have "scuffled" with the Accused.

17 Indeed, if the Accused is seeking to suggest that Ku had, in some way, also displayed aggression towards him "in the lead up to the s 307(1) offence" and that this therefore reduces his own culpability, this suggestion is entirely without merit and quite perverse. In the SOF, in the very next sentence following upon the reference to a "scuffle", it was clearly stated that Ku "backed away from the accused but the accused advanced towards him"; Ku then "tripped over a curb and fell backwards onto the grass patch"; the Accused continued to attack him, first by punching him multiple times in the stomach and then by using the knife to stab his left chest and slashed the left side of his stomach as he was lying on the grass. In short, from the SOF, it was clear that the Accused was the aggressor throughout the violent incident. His attack on Ku was vicious and unrelenting. Any attempt to insinuate that Ku contributed in some way to the violence by displaying some sort of aggression towards the Accused would be to engage in the sort of victim-blaming which the courts have consistently viewed with disapprobation (see *eg*, *Public Prosecutor v Ong Chee Heng* [2017] 5 SLR 876 at [49]).

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Aggravating factor: the TIC charge of obstructing justice

18 Second, the TIC charge of obstruction of justice involving the Accused's disposal of the knife which he had used to harm Ku constitutes an aggravating factor in respect of the charge of attempted murder. In *Public Prosecutor v UI* [2008] 4 SLR(R) 500 at [38], the Court of Appeal held that while s 178(1) of the Criminal Procedure Code (Cap 68, 1985 Rev Ed) does not mandate that the court must increase the normal sentence for an offence on account of the presence of TIC offences, if there are TIC offences to be taken into account, the effect, in general, would be that the sentence which the court would otherwise have imposed for the proceeded offences would be increased. As the Court of Appeal pointed out, this was commonsensical, given that the offender, by agreeing to have the TIC offences taken into consideration for sentencing, has in substance admitted to committing those offences. It is of course ultimately the court's discretion whether to consider the TIC offences in sentencing.

19 In the present case, I am of the view that the TIC charge of obstructing justice under s 204A(*b*) of the Penal Code should be taken into account and that its effect should be to enhance the sentence for the attempted murder charge. Such offences "strike at the very fundamental ability of the legal system to produce order and justice" (see *Parthiban a/l Kanapathy v Public Prosecutor* [2021] 2 SLR 847 at [27(a)]). It is evident from the SOF that as a direct result of the Accused's actions, the police had to expend resources to search for the knife. I add that the fact that the Accused intended to evade and impede detection and investigation by the police is further borne out by his behaviour in fleeing the scene and subsequently sending voice messages to Berlin, asking her not to call the police and saying that Ku should settle the matter with him without informing the police.

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Aggravating factor: the Accused's self-induced intoxication

20 Third, the Accused was indisputably intoxicated at the material time, having drunk beer from 12pm to 8pm on the day of the offences. The Accused himself informed the psychiatric witnesses that he had drunk around 10 to 15 cans of 330ml beer that day. Both psychiatrists agreed that the Accused's alcohol intoxication played some contributory role in the commission of the offences. Both psychiatrists also agreed that although alcohol intoxication was not a *significant* contributory factor in the present offences, it did nevertheless constitute a disinhibiting factor. Dr Rajesh, for example, opined that the consumption of alcohol could have made "[the Accused] more impulsive and more irritable, and … it can lead to disinhibition". It is well established that self-induced intoxication is an aggravating factor (*Wong Hoi Len v Public Prosecutor* [2009] 1 SLR(R) 115 at [44]; *Public Prosecutor v Kho Jabing* [2014] 1 SLR 973 at [20]); and given the evidence before me, I certainly consider it as such in the present case.

Not an aggravating factor: the threats made to Berlin

21 I note that the Prosecution has also submitted that there is an additional aggravating factor in this case in that "[the Accused] had threatened Berlin with hurt numerous times and threatened to hurt Ku." I do not agree with this submission. In so far as the Accused had made threats to Berlin to the effect that he would "take a knife and stab [her]" and that he would push [her] down and then … jump", these threats – being targeted at Berlin – are not relevant to the charge of attempted murder of Ku – though they may be relevant in relation to the charge of VCH to Berlin. Similarly, the threat to "stab … Ah Meng" is also not relevant to the charge of attempted murder of Ku. In so far as the Prosecution contends that the Accused also made threats against

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Ku by telling Berlin he would look for her boyfriend and was prepared to go to prison for two to three years, these were statements made to Berlin: there is no evidence that Ku was cognisant of the threats made by the Accused – much less that Ku felt any kind of distress or fear as a result of such threats. This is unlike the situation in *Public Prosecutor v Wang Jian Bin* [2011] SGHC 212 ("*Wang Jian Bin*"), for example, where the court held (at [40]) that an aggravating factor in that case was the accused's conduct in "harassing and threatening the young victim over a period of several weeks". A psychiatric examination of the victim revealed that she had indeed been fearful of the accused, and that this fear was the reason why she had allowed him into her bedroom.

No aggravating factor of premeditation and planning

22 I have also considered whether the threats to harm Ku which the Accused uttered to Berlin could be said to demonstrate any premeditation or planning by the Accused in respect of the attempted murder charge. Based on the evidence before me, I agree with the Defence that the aggravating factor of premeditation and planning was not present in this case. *Inter alia,* it appears from the SOF that while the Accused was told by Berlin that she was in a new relationship, he did not know of Ku's actual identity prior to the events of 12 June 2021. There was also no evidence that he had expected to see Berlin together with her new boyfriend at the void deck of Block 407 on that night.

23 In this connection, the case of *Shoo Ah San* is helpful. In *Shoo Ah San*, the Prosecution argued that the accused's conduct in bringing a knife with him from Malacca to Singapore showed premeditation *vis-à-vis* the subsequent attempted murder of his daughter with the knife. However, the court rejected this argument, holding that for premeditation to be invoked as an aggravating factor, there must be more than mere rumination, involving some aspect of

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planning, to facilitate or lay the groundwork for the commission of the act (at [18]). The court found that the mere bringing of the knife from Malacca to Singapore was insufficient to evince premeditation or planning that would otherwise materially affect sentencing (at [19]). In the present case, I find that the Accused's vague threats to Berlin about looking for her boyfriend and being prepared to go to prison; and his act of bringing a knife with him to Block 407 are insufficient to amount to evidence of premeditation and planning of attempted murder.

24 For the avoidance of doubt, I should make it clear that the absence of premeditation and planning is not in itself a mitigating factor; it is only a neutral factor (see *eg*, *Public Prosecutor v Lim Chee Yin Jordan* [2018] 4 SLR 1294 at [55]).

Culpability: mitigating factors

25 I next address the mitigating factors in this case.

Mitigating factor: the Accused's AD

26 I first consider the Accused's AD and the mitigating weight (if any) to be accorded to it. This was a source of considerable contention between the Prosecution and the Defence. Both sides have presented detailed arguments in their second set of written submissions, which I will not repeat or reproduce here.

27 In gist, the Prosecution submits that no mitigating weight should be accorded to the Accused's AD, because the AD did not impair the Accused's capacity to exercise self-control and restraint, and did not diminish his ability to appreciate the nature and legal or moral wrongfulness of his conduct. The

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Prosecution has urged me to reject the evidence of the Defence's psychiatric expert, Dr Jacob Rajesh ("Dr Rajesh"), and to accept instead the evidence of the Prosecution's psychiatric expert, Dr Christopher Cheok ("Dr Cheok"). Further, the Prosecution submits that given the severity of the attempted murder offence, even if I find that the AD did affect the Accused's ability to exercise self-control, little or no mitigating weight should be given to it, and instead, full weight should be given to the need for general deterrence. The Defence, on the other hand, submits that the AD was a major contributory factor to the Accused's offending conduct, in that the AD reduced the Accused's threshold for anger and predisposed him to conduct issues such as aggression and violence, and, in particular, affected his ability to control his impulses when he saw Ku with Berlin. The Defence submits that no weight should be given either to Dr Cheok's original position, that there was no contributory link between the AD and the offences, or his revised opinion (as stated during the *Newton* hearing), that there was no *substantial* contributory link between the AD and the offences. According to the Defence, as the Accused's AD was a "major" contributory factor in his offending conduct, it should be accorded substantial mitigating weight, thereby reducing his culpability. Further, according to the Defence, since both psychiatrists agreed that the Accused was at low risk of re-offending, this militated against the Prosecution's argument that deterrence be treated as a significant sentencing consideration.

28 It is not disputed that an offender's mental condition is generally relevant to sentencing where it lessens his culpability (*Public Prosecutor v Chia Kee Chen* [2018] 2 SLR 249 at [112]). The extent of this relevance is dependent on factors such as the nature and severity of the mental condition and the impact of the offender's mental disorder on the commission of the offence. Assessing the extent and nature of an alleged contributory link between an offender's

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mental condition and the commission of the offences invariably requires that the court consider the expert opinion of a psychiatrist; and where there is a conflict of opinion between two psychiatrists, it falls to the court to decide which opinion best accords with the factual circumstances, and is consistent with common sense, objective experience, and an understanding of the human condition (*Ho Mei Xia Hannah v Public Prosecutor* [2019] 5 SLR 978 ("*Hannah Ho*") at [39] citing *Chong Yee Ka v Public Prosecutor* [2017] 4 SLR 309 at [52]). The legal significance of any contributory link identified by the psychiatrists is a question to be decided by the sentencing court; and it has been consistently accepted that the following types of impairment would be relevant in determining the weight that should be accorded to deterrence and in assessing the offender's culpability: where the mental disorder affects the offender's capacity to exercise self-control and restraint; and where the mental condition diminishes the offender's ability to appreciate the nature and wrongfulness of his conduct (*Hannah Ho* at [40]).

29 I make three points about the Accused's AD at the outset. First, as to the nature of AD, both psychiatrists opined that individuals with AD would have emotional and or behavioural symptoms in response to stressor(s), and these symptoms are usually out of proportion to the severity and intensity of the stressor(s). AD may also cause impairment in social and occupational functioning. In particular, both psychiatrists agreed that AD is characterised by the presence of depressive and anxiety symptoms, irritability, a lower threshold for anger, and a predisposition to conduct issues such as aggression and violence. Second, as to severity, both psychiatrists also agreed that AD is a milder form of psychiatric disorder. For example, as Dr Rajesh opined, AD is less severe as compared to other mental conditions like psychosis or bipolar disorders. Third, the Defence accepted that the Accused's ability to appreciate

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the nature and wrongfulness of his conduct was *not* diminished by his AD. In Dr Rajesh's first report of 8 February 2023, Dr Rajesh stated (at [35] of the report) that the Accused was "not of unsound mind at the material time of the alleged offences as he was aware of his actions and knew that they were wrong and against the law". In the circumstances, the key issue in contention was whether the Accused's AD was a "major" contributory factor in his offending conduct (as Dr Rajesh opined) or whether it was either not a contributory factor at all, or at most a weak one (as Dr Cheok opined), in terms of affecting the Accused's self-control.

30 Having examined the evidence given by both psychiatrists in their written reports and at the *Newton* hearing, I prefer Dr Rajesh's evidence. Contrary to the Prosecution's contention, Dr Rajesh did *not* base his opinion on the fallacious assumption that since the Accused had AD at the time of the offences, *ergo* the AD must have contributed to these offences. Instead, Dr Rajesh relied on the relevant diagnostic criteria (including the Diagnostic and Statistical Manual of Mental Disorders (American Psychiatric Publishing, 5th Ed, 2013)) and applied these to the symptoms and signs exhibited by the Accused, before concluding that the AD had a contributory link to the offences. Dr Rajesh explained that there were four parameters which he considered in coming to his conclusion. The first was that AD "is a short-lived disorder" that "occurs in responses to stressors and once the stressors are removed, the disorder usually resolves in most cases". The second was the Accused's forensic history: in addition to noting that the Accused did not have a previous record of violent offences, Dr Rajesh interviewed the Accused's wife for corroborative history and noted her evidence that the Accused had never been violent towards her in their 26 years of marriage. The third parameter concerned the nature of the offence, whether it was premeditated or impulsive. In this case, Dr Rajesh

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opined that the Accused's stabbing and slashing of Ku was impulsive and not premeditated: *inter alia,* it appeared that he had not expected Ku to be present at the scene. The fourth parameter was the Accused's mental state at the time of the offence, which Dr Rajesh described in his report as one of anger and upset on seeing Berlin with "the unknown male stranger", as well as emotional distress due to her having called off their relationship. As an aside, it should be remembered that both psychiatrists agreed that the Accused's alcohol consumption in this case was not a significant contributory factor in his offending conduct but also that it did play a disinhibiting role. It was after considering these parameters that Dr Rajesh concluded that the Accused's AD – which he diagnosed as AD with a sub-type of mixed disturbances of emotion and conduct – was a major contributory factor in his commission of the s 307(1) of the Penal Code offence.

31 For the reasons explained above, therefore, I find Dr Rajesh's evidence to be lucid, logical and evidence-based. I also do not agree with the Prosecution's submission that Dr Rajesh's opinion should be rejected on the basis of an erroneous reliance on inaccurate facts. The Prosecution submits that it is not true that at the time of the offences, the Accused was unsure if Berlin had a boyfriend. However, this minor inaccuracy is irrelevant: from the SOF, it is apparent – as Dr Rajesh highlighted – that the Accused did not know of Ku's identity before seeing him with Berlin (as he approached Ku to ask if he was Berlin's boyfriend); and there is no evidence that the Accused expected to see Ku with Berlin at the void deck. As to the Prosecution's submission that it is similarly untrue that Ku spoke rudely to the Accused and or that Ku pushed him, again these allegations are irrelevant to Dr Rajesh's opinion that the AD had reduced the Accused's self-control and thereby contributed to his acting in a

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disproportionate manner in response to stressors including the breakup of his relationship with Berlin.

32 As for Dr Cheok's evidence, I found it regrettably confused. When first asked to explain the basis for his opinion that the Accused's AD had no contributory link to his offences, Dr Cheok said it was because the Accused "wasn't in a state of delirium or his cognition wasn't so impaired", in that he was able to bring himself to the void deck; he was able to bring the knife with him; he was able to identify Berlin; he had the knife behind his back when he approached Berlin and Ku as he was "trying to conceal it"; and he "wasn't … flinging the knife in a random fashion in the air". In fact, however, none of these matters were disputed by the Defence, since the Accused was not claiming to have suffered either from a state of delirium or impaired *cognition* at the time of the offences. Rather, the Defence's position was that the Accused's violent acts against Ku were a completely disproportionate response to the stressors associated *inter alia* with the breakup of his relationship, and that the AD was a major contributory factor in this disproportionate response as it impacted his self-control by lowering his threshold for anger and predisposed him to conduct issues such as violence.

33 When this was explained, Dr Cheok then said that he attributed the Accused's behaviour to "the jealousy and rage and anger that the accused had" and not to his AD. When I asked Dr Cheok to explain this statement, he informed me that it was his understanding that he was required to find that there had been a "*substantial impairment* of [the Accused's] self-control" *before* he could opine that the AD had been a contributory factor in the offences. When asked to explain the basis for this threshold requirement of "substantial impairment", Dr Cheok cited *Hannah Ho*. However, the High Court in *Hannah Ho* did not rule that a psychiatrist would only be permitted to conclude that an

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offender's mental condition has a contributory link to his offences if the psychiatrist first finds that there was "a substantial impairment of his self-control". Instead, as I have noted, what the High Court said was that the court would consider the psychiatrists' expert opinion on the *extent* and *nature* of an alleged contributory link between an offender's mental condition and the commission of the offences before deciding on the legal significance of any contributory link identified by the psychiatrists; further, that in determining the offender's culpability and the weight to be accorded to deterrence, the court would consider whether the mental disorder affected his self-control and or whether it diminished his ability to appreciate the nature and wrongfulness of his conduct (*Hannah Ho* at [38] and [40]).

34 When this was clarified to him, Dr Cheok stated that he wished to restate his position. He then opined that there *was* a contributory link between the Accused's AD and his offences, but that it was not a significant contributory link because "the impairment of his self-control was not significant". Asked to explain the basis for his opinion that "the impairment of [the Accused's] self-control was not significant", Dr Cheok stated that he relied on the matters which he had mentioned in relation to the Accused not being in a "state of delirium" (*ie* that he had been able to bring himself to the void deck, had recognised Berlin, and so on).

35 With respect, Dr Cheok's revised opinion appeared to be similarly based on erroneous assumptions. The matters which he relied on for his conclusion that the impairment of the Accused's self-control was not significant (*ie* that the Accused had been able to bring himself to the void deck, had recognised Berlin, and so on) were matters which related to whether the accused was able to appreciate the nature of his conduct – to put it simply, whether he knew what he was doing. That the Accused knew what he was doing, and moreover, that

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he knew what he was doing was wrong, was never disputed by the Defence, and indeed, was expressly stated by Dr Rajesh in his first report.

36 With respect, Dr Cheok's assertion that the Accused must have acted out of "jealousy and rage and anger" and not because of his AD, appeared to me to miss the point. Most people may feel "jealousy and rage and anger" at seeing their former lover with a new partner, but common sense, objective experience, and an understanding of the human condition tell us that most people do not act on such jealousy and anger by violently stabbing and slashing the new partner. The question to be asked in relation to this Accused, therefore, is what factor(s) contributed to his disproportionate actions. As I noted earlier, both sides agreed that while the Accused's alcohol consumption would have played a disinhibiting role, it did not have a significant contributory link to his offences. It was also not disputed that the Accused had no history of violence, as attested to by the absence of any previous convictions for violent offences as well as the wife's corroborative evidence: in other words, there was no evidence that the Accused was a person prone to violence to begin with. Given all the circumstances, it appeared to me that Dr Cheok was unable to explain his objections to Dr Rajesh's opinion that the Accused's AD bore a major contributory link to his offences.

37 I make two final points about the Prosecution's position on the issue of the Accused's AD. First, there appeared to be some attempt by Dr Cheok in his evidence, as well as by the Prosecution in their further written submissions, to suggest that the Accused held the Knife behind his back when approaching Ku *because he wanted to conceal the knife*. However, the SOF itself merely states that the Accused "walked towards Ku holding the knife behind his lower back". I do not think it would be reasonable or fair to infer from this bare statement that the Accused was making a deliberate or calculated attempt to conceal the

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knife and thereby somehow catch Ku off guard. If it was the Prosecution's position that there was such a deliberate attempt on the Accused's part, this could and should have been expressly stated in the SOF.

38 For the avoidance of doubt, I should emphasise that while a deliberate attempt to lull Ku into a false sense of security by concealing the knife might have constituted an aggravating factor, the absence of concealment in itself is not a mitigating factor.

39 Second, I note that in addition to the points raised by Dr Cheok in explaining why he believed that the Accused's self-control was not significantly impaired, the Prosecution has submitted that the following evidence also demonstrated the Accused's unimpaired ability to exercise self-control: the accused's statement to Ku in Hokkien: "*lim pei ho le si*" (meaning, in English, "I will make sure you die"); his actions in pushing Berlin away and punching her when she tried to stop him from harming Ku; his actions in fleeing the scene when residents in the neighbouring block shouted at him; his disposal of the knife; and the voice messages he sent Berlin asking her and Ku not to call the police. According to the Prosecution, these actions showed that the Accused was in control of himself because he was able to articulate his intention to kill Ku, was aware of the consequences of his actions, and wanted to avoid facing up to these consequences.

40 I reject the Prosecution's arguments. Both psychiatrists agreed that the nature of AD is such that the individual's threshold for anger is lowered, and he acts out of proportion to a stressor. None of the additional matters cited by the Prosecution went towards refuting the Defence's case that, in the present case, the Accused's AD had lowered his threshold for anger and led to his acting out of proportion to certain stressors. For example, I do not see how the Accused's

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declaration of an intention to "make sure" Ku died – which was uttered in reply to Ku's question about what the Accused wanted – can be regarded as evidence of his ability to exercise self-control: if anything, such a declaration appears to be an out-of-proportion response to stressors which included Berlin ending their relationship and taking up with Ku. As for the Accused's actions in fleeing the scene and disposing of the knife post commission of the attempted murder offence, I also do not see how they constitute evidence of his ability to exercise self-control at the time of committing the offence. Instead, they appear to show that the Accused was aware of his actions and of the consequences of those actions – but as I have already pointed out, this was something the Defence never disputed.

41 In sum, for the reasons I have explained, I find Dr Rajesh's analysis to be much more persuasive and cogent as compared to Dr Cheok's. I accept, therefore, that there was a major contributory link between the Accused's AD and the attempted murder offence.

42 At the same time, it must be borne in mind that the existence of a contributory link – even a major contributory link – between an offender's mental condition and his offence does not automatically translate into heavy or substantial mitigating weight being accorded to that mental condition. As the Court of Appeal highlighted in *Public Prosecutor v Kong Peng Yee* [2018] 2 SLR 295 ("*Kong Peng Yee*") at [65], the moral culpability of mentally disordered offenders lies on a spectrum. Thus, there are, on the one hand, offenders who have temporary and situational mental disorders who retain their understanding of their actions and can reason and weigh the consequences, and who may "evince the ability to think logically and coherently, borne out by a sophisticated degree of planning and premeditation". For such offenders, as the Court of Appeal noted, the factual basis for their actions is invariably a true and

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rational one: for example, severe depression caused by intense jealousy and anger over an unfaithful spouse who is in fact unfaithful. In such cases, as the Court of Appeal in *Kong Peng Yee* noted (at [65]):

> …the underlying reason for the offender's subsequent criminal conduct is founded on fact, not fantasy or fiction … the mental disorder invariably dissipates or disappears altogether once the underlying situation is removed (for instance by killing the unfaithful spouse or the third party…)

Because the offender's mind is still rational in such cases, "[*t*]*he mental disorder… can only ameliorate to a limited extent the criminal conduct*" [emphasis added]. In such cases, "*deterrence and retribution should still feature* because depression, even if severe, cannot be a licence to kill or to harm others" [emphasis added] (*Kong Peng Yee* at [65]). On the other hand, there are offenders whose mental disorders "impair severely their ability to understand the nature and consequences of their acts, to make reasoned decisions or to control their impulses" (*Kong Peng Yee* at [66]). An example of the latter category of offenders would be the respondent in *Kong Peng Yee*, who killed his wife with a knife and a chopper during a brief psychotic episode involving psychotic delusions. As the Court of Appeal observed (at [66]), the actions of this respondent were "not merely a maladaptive response to a difficult or depressive true situation, such as a temporary loss of self-control": "[w]hatever seemingly rational decisions that he made were premised on totally unreal facts and completely irrational thoughts".

43 The present Accused clearly fell into the former category of offenders described by the Court of Appeal in *Kong Peng Yee*. While he might not have displayed a sophisticated degree of premeditation and planning, his AD was indisputably a temporary and situational mental disorder. He retained his understanding of his actions and was able to weigh the consequences. To adopt

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the terminology employed by the Court of Appeal in *Kong Peng Yee,* the Accused's acts of violence against Ku were a maladaptive response to genuine stressors which included Berlin ending their relationship and taking up with Ku. In such a case, the AD can only ameliorate to a limited extent the Accused's criminal conduct because his mind was still rational. Deterrence and retribution should still feature as important sentencing considerations because the AD – even if a major contributory factor in his offending – cannot be a licence to harm others.

44 In this connection, as mentioned earlier, both psychiatrists agree that the Accused is at low risk of re-offending, having regard, *inter alia,* to the short-lived nature of his AD and other good prognostic factors. There is, moreover, no evidence of any real premeditation and planning in this case. Accordingly, specific deterrence – which is usually appropriate in cases of premeditated crime (*Public Prosecutor v Law Aik Meng* [2007] 2 SLR 814 ("*Law Aik Meng*") at [22]) – may not be of such great significance in this case. This being said, it is incorrect of the Defence to suggest that considerations of deterrence should not assume primacy in the sentencing of this Accused. Even if specific deterrence may not be of great significance here, there is still the element of general deterrence. In *Law Aik Meng*, the High Court explained (at [24] and [27]) that general deterrence is derived from the overarching concept of "public interest": it aims to educate and deter other like-minded members of the general public by making an example of a particular offender. Public interest in sentencing is tantamount to the court's view of how public security can be enhanced by imposing an appropriate sentence.

45 In *Lim Ghim Peow v Public Prosecutor* [2014] 4 SLR 1287 ("*Lim Ghim Peow*"), the Court of Appeal held that there is no blanket rule that the court will give less weight to the element of general deterrence on the basis that the

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offender was suffering from a mental disorder at the time of the offence. As the Court of Appeal reiterated in *Lim Ghim Peow* (at [35]):

> …[T]he existence of a mental disorder on the part of the offender does not automatically reduce the importance of the principle of general deterrence in sentencing. Much depends on the circumstances of each individual case. *If the nature of the mental disorder is such that it does not affect the offender's capacity to appreciate the gravity and significance of his criminal conduct, the application of the sentencing principle of general deterrence may not be greatly affected.*
>
> [emphasis added]

46 The present Accused's capacity to appreciate the gravity and significance of his criminal conduct was indisputably unaffected by his AD. Contrary to the Defence's argument, therefore, general deterrence continues to be of prime importance in this case, having regard to the viciousness of the Accused's attack on Ku and the public alarm caused by the commission of such violence in a public place.

47 Given that the Accused's capacity to appreciate the gravity and significance of his criminal conduct was unaffected by his AD, retribution should also feature alongside general deterrence as an important sentencing consideration in this case. This is made clear by the Court of Appeal in *Lim Ghim Peow* (at [39]), where the Court of Appeal held that "[t]he principle of retribution will be particularly relevant if the offender's mental disorder did not seriously impair his capacity to appreciate the nature and gravity of his actions". In so holding, the Court cited with approval the commentary in Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2009) at para 18.125 that "the retributive principle features prominently in the sentencing of mentally disordered or intellectually challenged offenders where the offence is particularly serious or heinous". The present offence of attempted murder of Ku certainly qualifies as a particularly serious offence.

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48 I add that having regard to the present Accused's ability to know the nature and wrongfulness of his actions, the Defence's reliance on the case of *Public Prosecutor v Soo Cheow Wee and another* [2024] 3 SLR 972 ("*Soo Cheow Wee*") is misconceived. In *Soo Cheow Wee*, the court explained that considerations of deterrence were of limited significance in that case because general deterrence was premised on the cognitive normalcy of both the offender in question and the potential offenders sought to be deterred (at [99]). Such cognitive normalcy could not be said to be present in the offender in *Soo Cheow Wee*, who suffered from three serious mental conditions (schizophrenia, polysubstance dependence, and substance-induced psychosis) which had caused him, *inter alia,* to experience hallucinations and delusions. There is no question of the present Accused having suffered from a lack of cognitive normalcy: the Defence's own expert acknowledged as much.

49 For the reasons I have explained, therefore, while I accept Dr Rajesh's evidence that the Accused's AD had a major contributory link to his offending, having regard to the facts of this case, the weight which I give to it as a mitigating factor is fairly limited.

Other mitigating factors

50 In so far as other mitigating factors are concerned, while the Accused's first-offender status is a neutral factor (see *eg*, *Public Prosecutor v GED & another* [2023] 3 SLR 1221), I do take into consideration the fact that the Accused is at low risk of re-offending, not just because of the short-lived nature of his AD, but also because of promising prognostic factors which include good family support and the absence of any history of violent behaviour. He has also shown remorse through the voluntary compensation of $2,000 made to Ku.

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51 In so far as the Defence has highlighted in its written submissions the passing of the Accused's brother and his break-up with Berlin in 2021, it is well established that personal circumstances are no excuse for criminal conduct, and the law has "consistently considered the vicissitudes of life, however traumatic and stressful, as non-mitigating save, perhaps, events that are of a truly exceptional nature" (*Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 at [106]). I do not understand the Defence to be saying that these were exceptional events which constituted separate mitigating factors. In so far as these events constituted stressors *vis-à-vis* the Accused's AD, they were duly considered by both psychiatrists.

Culpability: summary

52 In sum, I find the harm caused by the attempted murder offence to be severe. As for the Accused's culpability, I find that there are multiple aggravating factors present. I have also alluded to the mitigating factors present, although for the reasons explained, I find that only fairly limited mitigating weight can be given to his AD. I have also explained why general deterrence and retribution are the important sentencing considerations in this case. In the premises, having weighed the various factors, I find the Accused's culpability to be still quite high. I am of the view that an indicative starting sentence of 17 years' imprisonment – on a claim-trial basis – is appropriate on the facts of this case.

Application of the Guidelines on Reduction in Sentences for Guilty Pleas ("PG Guidelines")

53 In considering the mitigating factors in relation to the attempted murder charge, I have not mentioned the Accused's plea of guilt. I have also arrived at the indicative starting sentence by determining the sentence that I would have

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imposed if the Accused had been convicted after trial. I have done so as I accept the Prosecution's submission that the PG Guidelines should be applied so as to determine the reduction in sentence to be accorded in respect of the Accused's plea of guilt. I also accept the Prosecution's submission that the present case falls within Stage 2 of the PG Guidelines, as Stage 1 had elapsed by the time the Accused elected to plead guilty.

54 The Defence has argued that the PG Guidelines came into effect on 1 October 2023, which was after the Accused had elected to plead guilty, and that as such, these guidelines "cannot apply in retrospect" to the Accused because he "would not have had the benefit of the [PG Guidelines] in 2022, and it would be unfair to interpret his actions in retrospect as if he *did* have the guidance and context the [PG Guidelines] provide" [emphasis in original]. I reject the Defence's argument. My reasons are as follows.

55 The Prosecution has informed me that all charges were served on the Accused in March 2022, and the Prosecution had indicated that they were ready for the plea to be taken. Stage 1 of the PG Guidelines, as defined in Part III of the guidelines, would have elapsed in June 2022 (12 weeks after the hearing when the Prosecution informs the court and the accused person that the case is ready for the plea to be taken). In October 2023, the Accused indicated that he would be pleading guilty, but after changing counsel in February 2024, he indicated that he no longer intended to plead guilty. Subsequently, in April 2024, he confirmed that he would be pleading guilty. The precise ground for the Defence's argument of "unfairness" has not been clearly explained in their written submissions, but I surmise that what they are saying is this: at the time the 12 weeks post the Prosecution's indication of its readiness to take a plea expired (June 2022), the PG Guidelines had not yet come into effect. The Accused would not have known between March 2022 and June 2022 that he

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would only get the maximum 30% sentence reduction if he pleaded guilty by June 2022; or to put it another way, this was not a case where the Accused knew of the sentence reductions recommended in the PG Guidelines and chose anyway to delay his guilty plea. The court should therefore not "penalise" the Accused by depriving him of the maximum 30% sentence reduction.

56 I say that I surmise the above is what the Defence is saying because their written submissions are unclear on this point, and I cannot think of any other explanation for their argument of "unfairness". If this is their reasoning, it is – with respect – misconceived. Nothing in the PG Guidelines suggests that the sentencing court must inquire into the specific date on which an accused acquired knowledge of the sentence reductions recommended in the guidelines *before* it may apply these guidelines in sentencing the accused. Indeed, premising the application of the PG Guidelines on the date an accused first knew about the differing sentencing ranges recommended in the guidelines would potentially lead to some anomalous or inconsistent results, since it may be entirely fortuitous when individual accused persons come to know of these guidelines.

57 Moreover, as the Minister for Law noted when speaking in Parliament about the introduction of the PG Guidelines on 19 September 2023, these guidelines do not fundamentally change existing sentencing practice. What the guidelines do is to build on and provide greater structure to existing practice, by setting out clearly the ranges of sentence reductions that a court *may* consider giving, depending on when an accused pleads guilty (see *Singapore Parliamentary Debates*, *Official Report* (19 September 2023) vol 95 (K Shanmugam, Minister for Home Affairs and Law)). That the mitigating value to be accorded to a plea of guilt (and thus the size of the sentence reduction to be given) depends, *inter alia,* on the amount of judicial resources saved is a

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principle well established by numerous authorities, long before June 2022. In *Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449, for example, the Court of Appeal held (at [73(c)]) that "[t]he mitigating value of a plea of guilt should be assessed in terms of (i) the extent to which it is a signal of remorse; (ii) *the savings in judicial resources;* and (iii) the extent to which it spared the victim the ordeal of testifying" [emphasis added]. All other things being equal, applying this principle would generally mean a greater reduction in sentence for an accused who pleads guilty early in the criminal process, compared to one who delays his plea of guilt. This is not something new: it was already the position before June 2022. There is no "unfairness", therefore, in applying the PG Guidelines in the Accused's case such that the size of the sentence reduction he receives reduces according to the length of time he takes to plead guilty.

58 Applying the PG Guidelines, this case would fall within Stage 2, for which a maximum 20% sentence reduction applies. The Prosecution has argued that although the Accused pleaded guilty within Stage 2, he should be given at most a 15% reduction in sentence because of the egregious nature of his offence. I do not accept this argument. As the Defence has pointed out, this would amount to double-counting the same sentencing considerations (such as the serious harm caused by the offence) which have already been factored into my calibration of the indicative starting sentence.

59 Applying the maximum 20% reduction to the indicative starting sentence of 17 years' imprisonment would result in a sentence of slightly over 13 years and seven months, which I round down to 13 years and seven months. For the avoidance of doubt, I add that even if I were to refrain from applying the PG Guidelines and to consider instead the Accused's guilty plea at the stage of assessing his culpability, the mitigating value of his guilty plea would still be

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tempered by the length of time it took him to enter that plea; and weighing in the balance the harm and culpability present in this case, I would still arrive at much the same sentence for the attempted murder offence.

60 I add that having regard to the level of harm and culpability present in this case, while factoring in the Accused's plea of guilt and also taking into account the mitigating factors mentioned earlier, both the Prosecution's suggested sentence of 10 to 12 years' imprisonment for the attempted murder charge and the Defence's suggested sentence of seven to eight years' imprisonment are, in my view, far too low.

Sentencing precedents

61 Having reviewed the relevant sentencing precedents, I am of the view that a sentence of 13 years and seven months' imprisonment is not inconsistent with these precedents.

62 In *Shoo Ah San*, for example, the 65-year-old offender was charged with attempted murder under s 307(1)(*b*) of the Penal Code. He had attacked his daughter with a knife while she was walking to a bus-stop after becoming unhappy with her over a property dispute. The attack was described as a vicious one, where the offender had gone away after the first attack but returned to renew the attack, ignoring pleas by a passerby to stop. The daughter suffered substantial injuries which included 17 stab wounds all over her upper body, collapsed lungs, the abnormal presence of air in the chest, and possible blood in the heart sac. Although nothing permanently debilitating followed, she did require emergency and follow-up surgery as well as post-surgery therapy. Aside from her serious physical injuries, she also remained scared when leaving for the bus-stop. In arriving at the appropriate sentence, the court took into account,

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inter alia, the viciousness of the attacks – given that the offender had returned to renew the attack in the presence and full view of the passerby. As with the present case, in *Shoo Ah San* too, the aggravating factor of premeditation and planning was not found to be present. Unlike the present case, though, the offender in *Shoo Ah San* did not appear to have suffered from any mental disorder which contributed to his offending conduct. The court held that the harm and culpability present called for a sentence of 17 years' imprisonment, which it calibrated downwards to 15 years after taking into account the plea of guilt.

63 In *Public Prosecutor v Chong Shiong Hui* [2024] SGHC 316, the offender pleaded guilty to one charge of attempted murder under s 307(1) of the Penal Code. The offender had brought, *inter alia*, a chopper concealed in a shoe bag and a fruit knife to the victim's home. In the course of arguing with the victim, the offender continuously and persistently slashed her with the chopper several times. The offender then took a kitchen knife and attempted to slash the victim. Subsequently, the offender dropped the knife and switched to a saw. Even as the victim tried to get away, the offender slashed her on the back with the chopper, before chasing her through the streets which made her fall. The court found that there was significant harm caused: the victim suffered multiple injuries, scarring, and substantial psychological impact; and there was public disquiet caused. The offender's blameworthiness was found to be high: he had planned the attack on the victim, lured her to the scene, and carried out a vicious, continuous, and persistent attack. The only real mitigatory factor in his favour was his plea of guilt. The court held that a substantial sentence of 16 years' imprisonment and five strokes of the cane was warranted.

64 In *Shoo Ah San*, the court had regard to the decision in *BPK*, where the offender was convicted after trial of an attempted murder charge under s 307(1)

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of the Penal Code. He had stabbed the female victim with a knife in the back when he met her at the HDB void deck and continued to attack her even after she fell to the ground. She suffered extensive injuries on her head, neck, chest, abdomen, and upper and lower limbs, which left permanent scars; and it was found that the bleeding caused by these stab wounds could have led to death. The trial court also found that the offender had the intention to kill at the material time and had "to some extent pre-planned the assault on the Victim" – for example, by hiding his knife in his sock before proceeding to look for the victim. The offender was sentenced to 14 years' imprisonment and six strokes of the cane. The court in *Shoo Ah San* declined to follow *BPK* in assessing the appropriate sentence, as it was of the view that "given the factors in play [in *BPK*], the sentence [of 14 years] imposed after trial was perhaps…too low" (at [39]). With respect, in calibrating the appropriate sentence in this case, I would also decline to follow *BPK* for the same reason.

The charge of VCH to Berlin

65 I next address the sentence for the charge involving VCH to Berlin on the same date (12 June 2021). The applicable sentencing framework for VCH offences, as set out in *Low Song Chye v Public Prosecutor* [2019] 5 SLR 526 ("*Low Song Chye*"), was modified in *Niranjan s/o Muthupalani v Public Prosecutor* [2024] 3 SLR 834 ("*Niranjan*") in relation to claim-trial cases. For the reasons explained earlier, I accept the Prosecution's submission that the PG Guidelines should apply in the present case. I therefore adopt the revised sentencing framework for claim-trial cases set out in *Niranjan* in order to first derive the indicative starting sentence on a claim-trial basis.

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First stage: the VCH charge falls within sentencing band one

66 Both the Prosecution and the Defence agree that the harm caused to Berlin on 12 June 2021 was relatively low: her injuries comprised abrasions over her right knee and thigh, as well as mild tenderness over the left shoulder and left shoulder contusion. Accordingly, at the first stage of applying the *Niranjan* sentencing framework, I accept that this case falls somewhere nearer the lower end of sentencing band one of the *Niranjan* sentencing framework. In my view, an indicative starting sentence of three weeks' imprisonment would be appropriate.

Second stage: adjusting the indicative starting sentence based on the Accused's culpability and the relevant aggravating and mitigating factors

67 At the second stage of applying the *Niranjan* sentencing framework, I find the Accused's culpability for this VCH charge to be moderate. There were a number of aggravating factors present. First, the manner and duration of the attack: after the Accused pushed Berlin and caused her to fall into the drain, he persisted in assaulting her by punching her at least twice on her shoulder. The fact that he persisted in assaulting her, even after she fell into the drain and was in a vulnerable position, is an aggravating factor (see *eg*, *Janardana* at [16(b)]).

68 Second, the Accused made multiple threats against Berlin prior to the VCH offence on 12 June 2021. For example, he told Berlin on 28 May 2021 that he would take a knife and stab her; and on 1 June 2021, he told her that he wanted to die with her and that he would push her down from the highest block. The making of threats to a victim may be considered an aggravating factor (see *eg, Wang Jian Bin* at [40]).

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69 Third, the Accused has two TIC charges which constitute a relevant aggravating factor in the context of the present VCH charge. Both TIC charges involve the Accused causing hurt to Berlin – *inter alia*, by slamming her head against his van and punching her stomach.

70 As for the mitigating factors relevant to the present VCH charge, I take into account the Accused's AD, which also contributed to the VCH offence, and the psychiatrists' assessment that he is at low risk of re-offending. However, the lack of premeditation or planning and the fact that this was not a "prolonged" attack are only neutral factors.

71 Considering that the Accused's culpability for the VCH offence is of a moderate level, I would apply an uplift to the indicative starting sentence of three weeks' imprisonment to bring the sentence to five weeks' imprisonment. I then apply the maximum 20% reduction recommended in the PG Guidelines for pleas of guilt entered at Stage 2. This brings the final sentence to four weeks' (one month) imprisonment. On the whole, I find that this sentence is not inconsistent with the sentences imposed in other cases of VCH, taking into account the factual differences.

Both sentences should run consecutively

72 I next consider whether the sentence of 13 years and seven months' imprisonment for the attempted murder charge and the sentence of one month's imprisonment for the VCH charge should run consecutively, as the Prosecution has urged – or whether they should be concurrent, as submitted by the Defence. I am of the view that the two imprisonment sentences should run consecutively. My reasons are as follows.

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73 The Defence's first argument is that both offences "were proximate in time and location, and arose out of the same transaction and purpose, *viz* [the Accused's] assault of [Ku]". As explained in *Mohamed Shouffee bin Adam v Public Prosecutor* [2014] 2 SLR 998 ("*Shouffee*"), the one-transaction rule requires that where two or more offences are committed in the course of a single transaction, all sentences in respect of those offences should be concurrent rather than consecutive (*Shouffee* at [27], citing *Public Prosecutor v Law Aik Meng* at [52]). At the same time, the court in *Shouffee* emphasised that "where multiple offences are found to be proximate as a matter of fact but violate different legally protected interests, then they would not, at least as a general rule, be regarded as forming a single transaction" (at [31]). In the present case, although the attempted murder and VCH offences were proximate in time and place, the offences were committed against two different victims – Ku and Berlin. There was thus a violation of two distinct legally protected interests, which warrants separate punishment for each charge.

74 In the alternative, the Defence submits that the two sentences should run concurrently in light of the totality principle. I do not agree. The Defence has not shown that running both sentences consecutively would result in an aggregate sentence substantially above the normal level of sentences for the most serious of the individual offences committed. Nor do I find that the effect of running both sentences consecutively would be crushing on the Accused and or not in keeping with his past record and future prospects.

75 With respect, I find that both the Prosecution's suggested aggregate sentence of between 10 years and eight weeks to 12 years and 10 weeks' imprisonment, as well as the Defence's suggested aggregate sentence of seven to eight years' imprisonment, would be wholly inadequate to reflect the overall criminality of the Accused's conduct. I am satisfied that an aggregate sentence

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of 13 years and eight months' imprisonment reflects the criminality of the Accused's conduct and is also in keeping with his past record and future prospects.

76 As I noted earlier, the Accused cannot be caned for the attempted murder offence by virtue of his age; and the Prosecution is not seeking any additional imprisonment term in lieu of caning. I agree with the Prosecution that given the length of the imprisonment sentence already imposed for the attempted murder offence, no additional term of imprisonment is needed to compensate for the deterrent effect of caning that has been lost by reason of the exemption (*Cheang Geok Lin v Public Prosecutor* [2018] 4 SLR 548 at [14]).

Conclusion regarding sentence

77 To sum up, the Accused is sentenced to imprisonment of 13 years and seven months for the s 307(1) of the Penal Code charge involving the attempted murder of Ku; and he is sentenced to imprisonment of one month for the s 323 of the Penal Code charge involving VCH to Berlin. The sentence for the VCH charge is to run consecutively to the sentence for the attempted murder charge, such that the aggregate sentence is 13 years and eight months' imprisonment. This is backdated to the Accused's date of arrest on 12 June 2021.

No compensation order

78 Finally, I note that the Prosecution has asked for a compensation order to be made against the Accused *vis-à-vis* Ku's medical expenses. Ku incurred medical bills amounting to $11,222.90. Out of this sum, $210.25 was paid by Ku personally; $2,130.38 by MediSave; and $8,882.27 by his MediShield Life plan. The Prosecution submits that after taking into account the $2,000 voluntarily paid by the Accused to Ku as compensation, I should make a

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compensation order for $9,222.90, which represents the balance amount ($11,222.90 minus $2,000). The Prosecution submits that Ku is required by law to reimburse this sum to his Medisave account and to his MediShield Life plan. The Defence objects to the making of a compensation order; alternatively, that a compensation order of not more than $340.65 be made to cover the Medisave shortfall, after taking into account the $2,000 voluntarily paid earlier.

79 Having considered both sides' submissions, I decline to make the compensation order sought by the Prosecution. As the three-judge High Court in *Tay Wee Kiat & another v Public Prosecutor* [2018] 5 SLR 438 ("*Tay Wee Kiat*") highlighted, the purpose of compensation is *to allow a victim, especially an impecunious victim, to recover compensation where a civil suit is an inadequate or impractical remedy*. A compensation order under s 359 of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) is thus a shortcut to the remedy that the victim can obtain in a civil suit against the offender (*Tay Wee Kiat* at [7] citing *Soh Meiyun v Public Prosecutor* [2014] 3 SLR 299 at [56]).

80 In this case, it is not alleged that Ku is impecunious; and there is no evidence that a civil suit "is an inadequate or impractical remedy". Ku's out-of-pocket medical expenses effectively amount to $210.25. I note that the Prosecution appears to be submitting that a compensation order should be made for the sum of $9,222.90 because "Ku is required by law to reimburse this sum [$9,222.90] to his Medisave account and to his MediShield Life plan". I do not agree with this submission. Both reg 23 of the Central Provident Fund (MediSave Account Withdrawals) Regulations and reg 15 of the MediShield Life Scheme Regulations 2015 only take effect when another person (*ie*, the Accused) is under an obligation to pay or reimburse the CPF member (*ie*, Ku). In other words, both regulations have effect only if the court makes a compensation order such that Ku receives compensation from the Accused in

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respect of the sums paid from his MediShield Life plan and his Medisave account.

81 For the reasons I have explained, no compensation order is made in this case. For the avoidance of doubt, my decision not to make the compensation order sought by the Prosecution has no bearing on any civil remedy which Ku may choose to pursue against the Accused.

Mavis Chionh Sze Chyi
Judge of the High Court

Terence Chua and Kathy Chu (Attorney-General's Chambers) for the Prosecution;
Eugene Singarajah Thuraisingam and Ng Yuan Siang (Eugene Thuraisingam LLP), and Chooi Jing Yen (Chooi Jing Yen LLC) for the Accused.

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