

Public Prosecutor v Shawn Tan Jia Jun
[2021] SGMC 87

Case Number : Magistrate Court Notice No. 900295 of 2021, Magistrate Appeals No. 9245-2021-01

Decision Date : 26 November 2021

Tribunal/Court : Magistrates Court

Coram : Wong Li Tein

Counsel Name(s) : Tan Pei Wei (Attorney-General's Chambers) for the Public Prosecutor; Terence Yeo (TSMP Law Corporation) for the Accused.

Parties : Public Prosecutor — Shawn Tan Jia Jun

Offences – Hurt – Sentencing

[LawNet Editorial Note: An appeal to this decision has been filed in MA 9245/2021/01.]

26 November 2021

District Judge Wong Li Tein:

1 The Accused, Shawn Tan Jia Jun, was a 24 year-old male Singaporean charged for one count under s 323 of the Penal Code (Cap 224, 2008 Rev Ed) "Penal Code") for punching his 24-year-old girlfriend ("the victim") on her face, and punching and kicking her abdominal area when she was 9 weeks pregnant.

2 He pleaded guilty to the charge, and after carefully considering the facts of the case and submissions by both the Prosecution and the Defence, I sentenced the Accused to a fine of \$3500.00, in default 2 weeks' imprisonment.

3 I set out below the reasons for my decision.

The Charge

4 The charge for which the Accused pleaded guilty to read as follows:

You, SHAWN TAN JIA JUN, are charged that you, on 15 July 2020, at or about 12.00pm, at [address redacted], Singapore, did voluntarily cause hurt to one Leong Miu Kheng Seraphina, to wit, by punching and kicking her abdominal area when she was 9 weeks pregnant and punching her face, intending to cause hurt to her, and thereby causing her to sustain the following injuries:

- right and left-sided redness over her face associated with right-sided inferior
- orbital and maxillary bone tenderness on palpation;
- anterior chest redness;
- mild tenderness over her midline of the thoracic (upper) spine;
- grab marks over her right arm with dark red bruises seen over the dorsum of the right hand; and
- similar multiple dark red bruises seen over the left arm, dorsum of the left hand, bilateral knees and bilateral shins,

and you have thereby committed an offence punishable under Section 323 of the Penal Code (Cap 224, 2008 Rev Ed).

Facts

5 The detailed facts of this case were found in the Statement of Facts which the Accused had admitted to without qualifications. For purposes of explaining my decision, I set out briefly the pertinent facts.

Statement of Facts

6 The Accused and the victim found themselves nine weeks' pregnant on 10 July 2020 and was given a week to decide whether to keep or abort the foetus before it became too late to perform the latter safely. On 14 July 2020, the victim visited and stayed overnight at the Accused's home. They got into a heated argument the next day at around noon whilst discussing the next steps pertaining to the pregnancy and started shouting at each other. In the midst of the dispute, the Accused pushed her onto the bed, punched and kicked her abdominal area and punched her face multiple times. The Accused's mother, who was at home at that time, stopped the incident.

7 The victim called her friend, who fetched her from the Accused's home. She subsequently sought medical treatment at NUH. The following injuries were found on her, which were stated in the charge:

- (a) Right- and left-sided redness over the face associated with right-sided inferior orbital and maxillary bony tenderness on palpitation;

- (b) Anterior chest redness with no significant bruising or deformity;
- (c) Mild tenderness over the midline of the thoracic (upper) spine;
- (d) Grab marks over the right arm with dark red bruises seen over the dorsum of the right hand;
- (e) Multiple red bruises seen over the left arm, dorsum of the left hand, bilateral knees and bilateral skins.

8 She declined to take an x-ray for her facial injuries due to possible risk of radiation to the foetus, which was visualized with an active heartbeat.

Prosecution's Sentencing Position

Low Song Chye Sentencing Framework

9 The Prosecution sought a custodial term of at least 2 weeks' imprisonment against the Accused on the basis of general deterrence in accordance with the sentencing framework set out in *PP v Low Song Chye [2019] SGHC 140* ("*Low Song Chye*") as set out below:

Band	Harm caused	Indicative sentencing range
1	Low harm: no visible injury or minor hurt such as bruises, scratches, minor lacerations or abrasions	Fines or short custodial term up to 4 weeks
2	Moderate harm: hurt resulting in short hospitalisation or a substantial period of medical leave, simple fractures, or temporary or mild loss of a sensory function	Between 4 weeks' to 6 month's imprisonment
3	Serious harm: serious injuries which are permanent in nature and/or which necessitate significant surgical procedures	Between 6 to 24 months' imprisonment

10 The Prosecution submitted that the case fell within Band 1 in light of the low harm suffered by the victim. In assessing the Accused's culpability, the Prosecution pointed out that the custodial threshold would be crossed because of two factors: first, that the injuries were inflicted in the context of a domestic violence/relationship, and secondly, the risk of injury posed to the victim's 9-week old foetus.

11 With respect to the relationship between parties, the Prosecution submitted that the Courts had readily imposed custodial sentences on accused persons who inflict domestic violence on their family members or on their partners to send a strong deterrent signal showing the Court's disapproval of violent acts inflicted on more vulnerable persons within a domestic partnership. With respect to the harm caused, the Accused's actions resulted in the victim experiencing subrapubic pain at her abdominal region. In urging the Court to consider the potential harm to the 9-week-old foetus, the Prosecution cited the road traffic accident case of *PP v Koh Thiam Huat [2017] 4 SLR 1099*, where the High Court took into account the potential risk of harm in determining the extent of harm to be taken into account for the purpose of sentencing, in addition to actual harm caused. The Prosecution also cited the case of *PP v Hue An Li [2014] 4 SLR 661* to draw a parallel between the fact that "speeding increases the risk of harm occurring" and that "throwing multiple punches at a victim's body and abdominal area poses a risk of harm to the victim and/or causes the victim to suffer harm". It was submitted that drawing from both these cases, the Court ought to consider that the higher the degree of danger posed by this offender, the higher the risk of harm and the greater need there is to deter others from doing so. Further, there was a need to deter the like-minded from similar violent behaviour that puts vulnerable persons in domestic relationships in harm's way.

Mitigation Plea by Defence

Facts leading to the Offence

12 Defence counsel informed the Court that the Accused and the victim had been dating for a few years and had opted for an abortion when they found out that the victim was pregnant because they decided that they were too young and were not ready to become parents at that time. However, after the victim stayed overnight with the Accused on 15 July 2020, they had second thoughts and started arguing in the Accused's bedroom. The argument became increasingly heated and emotional, and both parties started shouting at each other. The Accused tried to leave the room to give themselves time to calm down, but was held back by the victim, who wanted him to stay and resolve the matter. It was at this time that as the Accused was struggling with her to leave the room and end the dispute that he pushed her onto the bed and assaulted her.

13 It was submitted that the incident happened impulsively without premeditation over a very short period of time. It was completely out of character and he was deeply remorseful over the wrongfulness and foolishness of his actions. After the incident, the Accused reconciled with the victim, and they planned to get married by the end of 2021. On her own accord, the victim tried to withdraw her complaint to the police and drop charges against the Accused, but was told that the case was no longer under the police's control. She then went to see her Member of Parliament for assistance to drop charges. The couple had the wrongful impression at first that the Court could not find him guilty if she did not agree to pursue the matter. On this basis, the Accused had initially thought to claim trial to the charge against him and applied for assistance under Law Society's Criminal Legal Aid Scheme ("CLAS"). After the present pro bono lawyer was assigned to him and with the benefit of legal advice, he understood the charge against him and agreed to plead guilty within a matter of days.

The Accused's Personal and Family Circumstances

14 The Defence also informed the Court that the Accused made an honest living as a delivery rider and was in a poor financial situation. He lived with his mother, stepfather and two younger step-siblings, who were in Primary One and Two. He worked hard to support his family and vowed never to conduct himself again as he did at the time of the incident.

15 It was highlighted that the Accused was a first offender, had cooperated fully with the police and pleaded guilty at the first opportunity. The injuries suffered by the victim were not severe. The Court was urged to give the Accused a chance to return to becoming a contributing member of society.

Sentence Sought by the Defence

16 Defence counsel sought a fine of \$3500.00 against the Accused, or alternatively, an imprisonment term not exceeding one week.

Sentencing Considerations

17 Applying the sentencing framework in *Low Song Chye*, it was agreed by both Prosecution and Defence that the harm caused to the victim in this case would fall within Band 1, for which the indicative sentencing range would be a fine or short custodial term of up to four weeks.

Precedent Cases

18 In placing the culpability of Accused, there was a lack of precedent cases involving violence against domestic partners with a similar factual matrix due to the unique facts in this case. The Prosecution submitted a schedule of ten cases involving domestic violence where the accused persons were sentenced to imprisonment terms, four of which were decided pre-*Low Song Chye*, and six decided after. Of the four pre-*Low Song Chye* cases, two involved accused persons who had Personal Protection Orders ("PPOs") against them in favour of the victims, whilst in the other two, the accused persons faced multiple charges and/or were traced for previous offences as follows:

(a) In the case of *PP v Satesh s/o Navarlan [2019] SGM 3* involving a married couple with a 5-year-old daughter, the accused had returned home at 2.30am after a drink session and gone to the bed where the victim and their daughter were sleeping, grabbed the victim's blanket and bit her right leg for no reason. Ten minutes later, the accused followed the victim as she brought their daughter out of the room and got into an argument with her. The accused then punched the victim several times, whilst she took an umbrella to block the blows. The accused then grabbed the umbrella and hit her with it on both flanks. The victim left their home as a result of the attack and sought refuge and shelter at the Anglican Family Centre. All this happened when the victim had a PPO against the accused. The accused was subsequently charged for one count under s 323 of the Penal Code and one count under s 65(8) of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Women's Charter"). In allowing the Prosecution's appeal, Tay JA noted that while the injuries were not serious, the accused's culpability was high due to the relentless nature of the assault in the presence of the young child and sentenced the accused to five weeks' imprisonments for the s 323 charge and three weeks' imprisonment for the charge under the Women's Charter (global term of five weeks' imprisonment as sentences were ordered to run concurrently).

(b) In the case of *PP v Mohamed Isa b Mohamed Yatim [2018] SGM 71*, the accused was similarly charged for one count under s 323 of the Penal Code and one count under s 65(8) of the Women's Charter. Prior to the incident, the accused and his wife, the victim, had frequent arguments due to the accused's extra-marital affairs and were undergoing divorce proceedings. The victim applied for a PPO against him and was granted an Expedited Order ("EO") on 23 September 2016. When the accused saw the EO the next day, he became angry with the victim, confronted her and slapped her – causing her to suffer from sustained traumatic iritis (iris inflammation) and left humifacial spasms. The victim subsequently moved out of their home. The accused had previous antecedents for theft, criminal intimidation of his girlfriend and ex-wife, disorderly behaviour and breach of PPO. He was sentenced to a global term of two months' imprisonment.

(c) In the case of *PP v Lydiawaty bte Ab Rahman [2017] SGDC 303*, the accused faced five charges^[note: 1], including one under s 323 of the Penal Code. With respect to this charge, the accused was 28 years old and the victim was 19 years of age at the material time. After meeting online in 2012, the victim looked up to the accused as a "mentor" and they developed a romantic relationship. Sometime in December 2013, they broke up as the accused wrongly thought that the victim had been physically intimate with her friends during their staycation. On 10 February 2014, the accused contacted the victim for a meet-up by claiming that she had been sexually assaulted the previous day. As soon as the victim went to the accused's apartment, the accused locked the gate and bolted the door behind her. The accused became agitated and started shouting at the victim over the staycation and other matters. She punched victim several times on her face and dragged her by her hair across the floor into the bedroom, causing her to suffer swelling and tenderness over the right zygomatic area and tenderness over the mid-thoracic spine area. She was sentenced to an imprisonment term of two weeks' for this charge.

(d) In the case of *PP v Muhammad Faizal bin Mohamed Salleh [2019] SGDC 115*, the accused and his wife got into a heated argument after she told him that she intended divorce him and move out thereafter. He then punched her at the mouth area and left cheek, and then menacingly wrapped one of his hands around her throat such that she was still able to breathe and held on tightly to her left bicep. As a result of his assault, she suffered from a 3cm irregular-shaped bruise on her left cheek, a 1cm irregular-shaped bruise on her lower left inner lip, a 2cm irregular-shaped bruise on the front of her neck below her chin, and a 6cm by 4cm irregular-shaped bruise on the underside of her left bicep. In this case, the accused was charged with two offences under the Penal Code, one of which was under s 323, with two other charges taken into consideration for the purposes of sentencing^[note: 2]. He was also traced for offences under the Moneylenders Act. For the s 323 charge under the Penal Code, he was sentenced to two weeks' imprisonment.

19 With respect to the six post-*Low Song Chye* cases referred to by the Prosecution, two involved s 323 read with s 74C(2) of the Penal Code, attracting enhanced penalties for offences against victims in intimate relationships. The first was *PP v Wei Zao tong DAC-907774-2021*, where the accused was charged with three counts under s 323 of the Penal Code and one count under s 506 of the same Code, with five other charges under s 323 of the Penal Code^[note: 3] taken into consideration for the purposes of sentencing. The accused and the victim were in an intimate relationship and lived together. For a protracted period of a year, between May 2020 and April 2021, he committed various acts of violence against the victim, including slapping, kicking, strangling and punching her. With respect to the first s 323 charge, he detached the pipe of a vacuum cleaner and used it to hit the victim repeatedly on her arms and legs, causing multiple bruises on her arms and knees. For the third and eighth charges under s 323, he kicked her lower stomach and pubic area, pointed a pair of scissors at the victim and held it very close to her throat. Although the victim did not seek medical attention, she experienced pain in her lower stomach area for more than a week. In the ninth charge, the accused strangled the victim and punched her in the right eye, resulting in right eye upper lid haematoma, for which she was issued a 2-day MC. The accused was sentenced to six weeks' imprisonment for each of the first, third and eighth charges, and five weeks' imprisonment in respect of the ninth charge.

20 The second charge was that of *PP v Teh Wee Wee MCN-900081-2021*, where the victim was a Thai National and the accused's wife. On 25 September 2020, after an argument at home, the accused kicked the victim on her left thigh, punched her head, face and upper left arm, and pulled her hair. The attack was witnessed by their 2-year-old daughter. The victim carried their daughter into her room and called the police. The accused tried to stop her from doing so by pulling out the telephone wire. He then grabbed her by her sleeve and hurled her into his room, where she hit her face against a metal shelf and fell onto the ground. He then kicked her thigh when she was still on the ground. When the police arrived at the offender's unit, the accused became angry at the victim and slapped her on the cheek. As a result of the assault, the victim suffered superficial injuries. In sentencing the accused to six weeks' imprisonment, the Court took into account the fact that the attack was sustained over a period of time, the accused attacked the victim in the presence of their young daughter, and that he had shown a lack of regard for lawful authority by slapping the victim when police was at his doorstep.

21 In one of these cases, *PP v Saravana Chandrasekaran DAC-906641-2020 & Ors*, the accused assaulted his wife despite an EO against him. The victim returned home at around 10.30pm and found that their 3-year-old son was sleeping with the accused in another room. The victim told the accused that she wanted their son to sleep with her, but he refused. The couple then got into a dispute and the accused punched her several times on her face and body, resulting in a fracture of her nasal bone. The victim also suffered an abrasion over her right cheek, mild erythema and tenderness noted over her left zygoma, a 1-cm bruise on left upper arm, and mild tenderness over the nasal bridge, and was given 5 days' MC. In sentencing the accused to four weeks' imprisonment, the Court considered that the accused had rained multiple kicks and punches on the victim, causing a nasal bone fracture. It also considered that the EO against the accused indicated a history of violence. Additionally, the accused also faced a charge under s 65(3) of the Women's Charter, which was taken into account for the purposes of sentencing.

22 None of the three other cases involved an untraced accused person facing a single charge under s 323 where the injuries suffered by the victim was minor. A brief summary of the four cases are as follows:

(a) In *Melis Hendrikus Dirk Maria v PP*, the accused was charged for three offences^[note: 4], one of which was under s 323 of the Penal Code. The accused had strangled his wife (the victim) after a dispute over the disciplining of one of their daughters. The victim broke free and went to the kitchen, warning the accused not to approach her. She then hit him on the head with a wooden spoon a few times after he persisted. The accused snatched the spoon from her and punched her in the face multiple times, resulting in multiple facial injuries. He then stopped and went to his room. After the police arrived, the accused became belligerent again and pushed a female officer aside and used vulgarities and racial slurs on a male officer before he was subdued and arrested. Five other charges were taken into consideration for the purposes of sentencing. On appeal, the accused was sentenced to 90 days' imprisonment on the s 323 charge.

(b) In *Tobin Lau Chee Bing v PP MA 9192/2019*, the accused got into an argument with his ex-girlfriend over an apartment which they had jointly purchased. During the argument, he punched her several times in her face with his fists and elbows. Although she screamed for help, he pinned her down and kicked her on her body and continued punching her face. She tried unsuccessfully to block her face from his blows and continued screaming until he stopped. As a result of his assault, she suffered severe swelling and bruising around the right eye, extending downwards and laterally to the right side of the cheek, bruising on the nasal bridge, blowout fracture of the right side of the orbital floor with contents of the right orbit herniating into the right maxillary sinus, enophthalmos (posterior displacement) of the right eye and diplopia (double vision), subluxation of the upper left central incisor, as well as bruises on her right and left arms. The victim was given 33 days' of hospitalisation leave. Close to two years after the assault, the victim continued to suffer from blurred vision. In sentencing the accused to three months' imprisonment, the Court found that the injuries fell within Band 2 of the *Low Song Chye* framework due to the sustained nature of assault, level of violence inflicted, and serious injuries suffered by victim. The accused's appeal against sentence was dismissed on appeal.

(c) In *Jonathan S/O Kunasilan v PP MA 9330/2018*, the accused faced two charges, one under s 506 of the Penal Code and one under s 323 of the same Code. He was convicted after a full trial for pointing a chopper at the victim, his estranged wife, and telling her that he was going to kill her. He also hit her on the head with a motorcycle helmet. He was sentenced to 12 months' imprisonment on the s 506 charge and 4 weeks' imprisonment on the s 323 charge, with sentences to run concurrently. The accused's appeal against sentence was dismissed.

23 I summarised the facts of each of the ten cases submitted by the Prosecution above to illustrate the point that the present case involved facts which were unusual and did not fall within the usual fact pattern of violence against domestic partner cases. In this case, the incident of abuse appeared to be a singular event wherein the Accused and the victim had been in a heated and emotional argument over their plans regarding the pregnancy. Having learnt of it just days before, the couple had to make a hurried decision on whether to abort the foetus within a week. According to a letter written to Court by the victim, which was submitted by the Defence, the couple had already intended to abort the foetus before the incident happened because they were too young and were not prepared to start a family. Things were apparently peaceful just prior to the dispute – the victim had gone to the Accused's home and even spent the night with him there. There was no indication that the Accused had been violent against the victim in the past.

Aggravating and Mitigating Factors

24 I turned to the aggravating factors highlighted by the Prosecution and the mitigating factors submitted by Defence counsel. The two aggravating factors raised by the Prosecution was the fact that this case involved domestic partners and that the victim had been pregnant at that time. In the Accused's favour was his relatively young age of 24 years, his plea of guilt and his prospects for rehabilitation as demonstrated by his sincere remorse in his personal hand-written mitigation plea, his resolve to improve himself, positive working attitude and desire to do better in his life in order to take better care of his family.

25 I accepted the Accused's explanation that the incident occurred because both parties had been agitated in their argument just moments before. He tried to leave the room in order to end the argument, but the victim held onto him and refused to let him leave. The subsequent acts of violence by the Accused was committed on impulse and the physical altercation with them was not pre-mediated. The injuries suffered by the victim was superficial and minor, and she was given a retrospective one-day MC for 15 July 2020.

26 In this case, the victim had not only forgiven the Accused but agreed to marry him within the next couple of months. The Prosecution rightly pointed out that forgiveness was a private matter between the victim and the offender and should not affect the sentence imposed on the offender by the courts, which reflected public interest in criminal punishment: *Ng Kean Meng Terence v PP [2017] 2 SLR 449 ("Ng Kean Meng Terence")* at para 45. However, there were two possible exceptions to this: first, where the sentence imposed on the offender would aggravate the victim's distress, and secondly, where the victim's forgiveness was relevant to a determination of the harm the victim has suffered as a result of the offence.

Forgiveness as a Mitigating Factor

27 Forgiveness by the victim should be regarded as a private matter between the victim and the offender, which should not affect the sentence to be imposed except under two conditions (1) where the sentence imposed on the offender would aggravate the victim's distress and (ii) the victim's forgiveness was relevant to a determination of the harm suffered as a result of the offence. These exceptions were explained at length in *PP v UI [2008] 4 SLR(R) 500* ("PP v UI"), a case involving the rape of the victim by her natural father several times when she was between ten and 14 years of age. In mitigation, the Defence tendered letters from the victim and her mother expressing their forgiveness of the offender and pleaded for leniency. In considering these exceptions, the Court of Appeal referred to a case commentary on the English case of *R v Adam John Nunn [1996] 2 Cr App R (S) 136* ("Nunn") in the Criminal Law Review^[note: 5] and the summary expressed by Lord Bingham CJ in *R v Gerard Martin Roche [1999] 2 Cr App R (S) 105* ("Roche").

28 The first exception was considered in *Nunn*, a case in which a young man was sentenced to four years' imprisonment^[note: 6] at the first instance for causing the death of his best friend due to dangerous driving. At his appeal against sentence, the deceased's mother and sister provided lengthy written statements to the English Court of Appeal expressing that the length of the sentence imposed on the offender had made it more difficult for the mother and the sister to come to terms with the loss and grief which they suffered following the death of the victim. The deceased's mother had stated in her written statement that:

While ... [the offender] remains in prison, *I will remain concerned about him, worrying about him and this will continue to be a source of additional grief to me.*

29 This was regarded by the English Court of Appeal as "clear evidence" that the length of the sentence was causing the deceased's family additional grief, and the offender's term of imprisonment was accordingly reduced to three years.

30 The second exception was from another English Court of Appeal case, where the offender had been charged with the rape of his former domestic partner. In *R v James Kevin Hutchinson* (1994) 15 Cr App R (S) 134 ("*Hutchinson*"), the victim attempted to withdraw the charges before and during the course of the trial and told the court that she still loved the offender. The offender was convicted and sentenced to six years' imprisonment. On appeal, Owen J, observed that (at 137):

It seems that the fact of [the victim's] forgiveness [of the offender] must mean that the psychological and mental suffering must be very much less in those circumstances than would be the case in respect of a woman who very understandably could not forgive such an offence as that with which we are dealing [*i.e.*, the offence of rape]. Accordingly, some mitigation must be seen in that one factor.

31 Accordingly, the sentence against the offender was reduced to five years' imprisonment.

32 In my view, both these exceptions were present in this case. In a letter handwritten by the victim dated 25 October 2021 tendered to Court, the victim put forth an impassioned plea for the Accused to be dealt with leniently. She explained that they had been dating for a long time (5 years) since secondary school and she was well aware that he was a man of good character. He was decent, cared for his family and kept his word. Although they had already decided to abort the pregnancy before the incident, he stayed with her. After the incident happened and she underwent the abortion, he took care of her whilst she was recuperating. He was determined to work hard and provide for their future together and had changed tremendously. She also informed the Court that she had tried to drop the charges against the Accused but was unable to do so. She then approached her Member of Parliament for Chua Chu Kang GRC Mr Zhulkarnain Abdul Rahim for assistance and was advised to provide a character reference for him.

33 To understand the nature of the victim's forgiveness of the Accused in this case and why the exceptions in *PP v UI* were made out, I quote the relevant portions of her letter to the Court:

I would like to bring to light the kind of person that he is despite what has happened in recent times. Shawn is a person of good moral character. I realize that might seem hard to believe given the circumstances but it's true nonetheless. I am very well aware of the charges that he is facing and the consequences of those actions, but having seen how much effort he has put into change for the better I would like to plead for leniency he's a true gentleman and he's always true to his words. I'm sure he will learn from this experience and will not think of repeating it.

I have known Shawn since we were in secondary school and have been together for the past five years. In the time spent together, I have seen and gone through ups and downs with him and all the while I have been convinced that he is a decent person at the core. He just needs more people to believe in him so that he can become the person I know he is the deep down.

We have actually made plans to go for an abortion before the incident and he did not let what happened stop him from being there for me. He kept to his words and was by my side through it all he took very good care of me and did more than what was needed from him, especially when I was recuperating. These specific features make me believe he is truly a decent man. **I do see a future with him and I do not wish for this charge to have a negative impact on his future, academically and socially.** Shawn has shown me that he knows what he did was wrong and he's incredibly remorseful they happened. He is willing to do whatever it takes to make reparations, financially and emotionally if possible. But to do that he needs to be given an opportunity to get a second chance.

I recognize that Shawn broke the law and I do not believe that he should get off without any punishment. But I believe that just because he made a mistake it doesn't make him a bad person. Everyone makes mistakes and looking beyond the wrongs, I'm convinced that he is indeed a kind, loving, thoughtful and selfless person I'm confident that he will take responsibility for his actions and will not reoffend." [Emphasis mine]

34 The victim also shared that in meting out any sentence against the Accused, the Court should be mindful that it would affect her as well, as they were planning their future together. This should be seen in the light of the fact that they were to be married in the very near future and the Accused had plans to join a new company in a new job role:

Thank you for the opportunity to provide a submission to this inquiry and **I appreciate your consideration of this matter before passing any verdict as it might significantly hurt us in the planning of our future together.** Shawn will strive to make amends and I am sure we will see get to see his good works bring fruitful results to society. [Emphasis mine]

35 As an observer at close range, the victim was essentially testifying to the fact that the Accused was a good and responsible person who had acted out of character in a one-off incident, and who had also changed for the better since then. The Accused was of relatively young age and had clearly learnt his lesson. The fact of the victim's forgiveness was well established in this case by virtue of the fact that she had agreed to marry him at the end of the year and was looking forward to their future together. This was perhaps the most important indication of her faith in his character and transformation. As she explained, any sentence imposed on the Accused would therefore also impact her as well, fulfilling the exceptions in *PP v UI* and *Ng Kean Meng Terence* in regarding the victim's forgiveness as a mitigating factor.

36 I had invited the Prosecution to respond to the exceptions in *PP v UI* presented in this case, but was informed by the learned Prosecutor that the Prosecution's written submissions was as far as they would go in arguing this case.

Conclusion

37 Having considered fully the exceptional facts of this case, I sentenced the Accused to a fine of \$3500.00, in default two weeks' imprisonment.

38 Being dissatisfied with the sentence imposed, the Prosecution has now appeal against my decision.

[note: 1]The accused also faced four other charges under the Penal Code - one charge under s 324, one charge under s 352 and two charges under s 506.

[note: 2]The accused faced one other charge under se 326 of the Penal Code, with one charge under s 13(1)(g) of the National Registration Act and one charge under s 3(2) of the Protection from Harassment Act taken into consideration for the purposes of sentencing.

[note: 3]The TIC charges concern slapping, kicking, strangling, and hitting the victim resulting in minor injuries).

[note: 4]The accused was also charged for one count under s 353 of the Penal Code and one count under s 6(3) of the Protection from Harassment Act.

[note: 5]Criminal Law Review see [1996] Crim L R 210

[note: 6]The offender was also disqualified from driving for five years and was ordered to retake his driving test.

