

IN THE STATE COURTS OF THE REPUBLIC OF SINGAPORE

Magistrate Arrest Case No 910838 of 2021 and 7 others

Public Prosecutor

Against

Rajpal Singh

ORAL JUDGMENT

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Public Prosecutor
v
Rajpal Singh

Magistrate Arrest Case No 910838 of 2021 & 7 others
District Judge Sharmila Sripathy-Shanaz

30 August 2024

District Judge Sharmila Sripathy-Shanaz:

Introduction

1 These are my brief oral remarks on sentence. Full grounds will be furnished in due course, should these be required.

2 Mr Rajpal has been convicted of five charges of outrage of modesty committed against three different women between September 2019 to July 2020. I note the consensus between the Prosecution and the Defence that the *Kunasekaran* framework¹ would guide sentencing in the present case. Parties differ however on the appropriate sentence to be imposed. The Prosecution seeks a global sentence of between 21 to 26 months' imprisonment and at least 4 strokes of the cane. Notwithstanding Mr Rajpal's personal plea for fines to be imposed,² Defence Counsel contends that a global sentence of no more than 10 to 12 months' imprisonment without caning, should be imposed.³

Common Offence-Specific Factors

3 As there are multiple charges before me, I begin by considering offence-specific factors that are common to all the offences.

¹ *Kunasekaran s/o Kalimuthu Somasundara v Public Prosecutor* [2018] SGHC 09

² Mitigation Plea at [3(a)]

³ Mitigation Plea at [3(b)]

Abuse of trust

4 Foremost, there is aggravation accruing from Mr Rajpal’s abuse of the trust reposed in him by the victims. Trust is a defining element in every teacher-student relationship. In the present case, this intrinsic trust was expressed in the latitude given to Mr Rajpal, in his capacity as a yoga instructor, to freely touch the bodies of his female students to perform legitimate physical adjustments during yoga lessons.

5 The testimonies of the three victims reveals just how innate and foundational this trust was. Ms C testified that she had regarded yoga classes as “a safe space” and had not expected to have been violated during a yoga class by a teacher⁴ who was in a position of “authority in the room”.⁵ Ms V testified that she had difficulties processing what had happened to her because she could not accept that she had been touched inappropriately by an instructor whom she believed would be “properly trained and know how to adjust the students appropriately.”⁶ Ms R regarded Mr Rajpal as an “authority figure” whom she had put “on a pedestal” as she assumed that he knew what he was doing because he was in the “position of a teacher, an instructor, even a guru or master”.⁷ It is clear to me that Mr Rajpal had acted in gross violation of the trust reposed in him by these women.

Emotional and psychological harm

6 In my judgment, the enduring emotional and psychological harm to the victims is another factor that must be accorded weight in sentencing. Ms C’s palpable shock and distress in the immediate aftermath of the molests was

⁴ Notes of Evidence (“NE”), 7 March 2023 22/25-30

⁵ NE, 7 March 2023 93/17

⁶ NE 9 March 2023, 10/3-10, 21/19-20, 39/24-25, 52/11-15

⁷ NE 27 June 2023, 15/17-22

apparent to Mr Arvind who testified that she was in a “state of shock” and “crying uncontrollably”.⁸ Explaining how the incidents have since affected her “quite a bit”, Ms C gave evidence that she no longer practices yoga and has been receiving therapy from a counsellor.⁹ Ms V’s overt distress was patent at various junctures of the trial.¹⁰ She also testified that she remains “very affected” by the sexual assaults to date and described them as “a very traumatic experience”. She too, no longer practices yoga in other studios.¹¹ Ms R testified that she no longer practices yoga and shared that it took her several months to process the “trauma” with a therapist.¹²

Common Offender-Specific Factors

7 I now turn to consider if there are any common offender-specific factors that ought to feature in the individual sentences calibrated by this Court. First, I regard the fact that Mr Rajpal has claimed trial to be a neutral factor. While it is his right to do so, he is not entitled to any sentencing discount that would otherwise have applied had he pleaded guilty.¹³ Second, given his serial offending I do not regard Mr Rajpal as a first offender. The only reason why Mr Rajpal has no prior convictions, is because the law had yet to catch up with him for his misdeeds: *Chen Weixiong Jerriek v Public Prosecutor* [2003] SGHC 103 at [15] and [17].

8 Third, I also do not find the character references submitted by the Defence, to be a meaningful consideration in sentencing. In my view, the *subjective attestations* as to Mr Rajpal’s integrity and the concomitant

⁸ NE 8 March 2023, 30/16, 21-23, 31/27

⁹ NE 7 March 2023, 45/29 – 46/7

¹⁰ NE 9 March 2023, 5/25-31

¹¹ NE 9 March 2023, 17/5-8

¹² NE 27 June 2023, 34/3-13

¹³ *Kunasekaran* at [66]

characterisation of him as a gentleman, simply do not comport with the *objective facts* before this Court which undergird the convictions.

9 Given the content of many of these testimonials, I find it necessary to set in context what this case is about, and by extension, what it is *not* about. For the writers of these testimonials to understand the sentence that will be imposed by this Court, they need to first understand what issues are engaged in this case. So let me explain. This is not a case about Mr Rajpal's proficiency as a yoga teacher. This is also not a case where physical adjustments made during a yoga class, inadvertently or unintentionally encroached into the victims' private parts. Neither is this a case where the victims were averse to physical adjustments and had misconstrued or misunderstood the adjustments made. Put simply, there was no inadvertent, unintentional or accidental touching of Ms C, Ms V and Ms R's private parts. This is a case where Mr Rajpal had slapped his students' buttocks and touched their vaginas with the intention of outraging their modesty, artfully interspersing these acts between performing other legitimate adjustments during class.

10 Against this backdrop, while the 20 individuals who have penned testimonials for Mr Rajpal, appear to hold him in some regard, their experience is clearly not shared by the three women involved in this case, who prior to this, were unknown to one another. It is crucial to highlight that **the positive encounters others may have had with Mr Rajpal, does not in any way invalidate the experience of the women who were sexually assaulted by him. The existence of positive narratives does not diminish the reality of the contrasting experiences Ms C, Ms V and Ms R have suffered.**

11 I would also observe that the testimonials might perhaps have carried *some* weight if they showed that Mr Rajpal's folly was an isolated, momentary aberration that was wholly out of character. However, such a submission cannot stand in this case given Mr Rajpal's conviction on five charges involving three

different women. In any event, I am mindful that an offender's good character is most relevant where rehabilitation is the main sentencing consideration and there is no countervailing need for retribution, deterrence or prevention to feature in the sentence: *Tan Sai Tiang v Public Prosecutor* [2000] 1 SLR(R) 33; Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2nd Ed, 2019) at para 21.008, cited with approval in *Niranjan s/o Muthupalani v Public Prosecutor* [2023] SGHC 181 at [78]. In the present case, deterrence remains the dominant sentencing consideration given the serious and serial nature of the offending.

12 Finally, I do not consider the adverse personal consequences, including financial hardship to Mr Rajpal's dependents,¹⁴ to be a relevant mitigating factor. Such collateral consequences, whilst unfortunate, are not relevant to sentencing. Quite simply, a person who breaches the criminal law must expect to face the consequences that follow under the law: *Stansilas Fabian Kester v Public Prosecutor* [2017] 5 SLR 755 at [110] to [111] and *M Raveendran v Public Prosecutor* [2021] SGHC 254 at [13], [22], [38] and [47].

The Appropriate Sentence

13 Against this backdrop, I turn now to consider the appropriate starting point for the individual offences. I first address the **8th and 10th Charge**. The degree of sexual exploitation is high since the acts involved incursions into the victims' vaginas which were not fleeting. Ms C testified that Mr Rajpal had groped her, swiping his hand from one butt cheek to her vagina and thereafter to her butt cheek in a smooth joint movement.¹⁵ Ms V testified that Mr Rajpal had used his hand to touch her from the centre of her buttocks to her vagina.¹⁶

¹⁴ Mitigation Plea at [14] and [24]

¹⁵ NE7 March 2023, 21/30 – 22/13

¹⁶ NE 9 March 2023, 5/17-26

14 After a holistic assessment of the factors at the first and second stage of the *Kunasekaran* framework, I find a sentence of 11 months' imprisonment warranted for each of these offences. In addition, I also impose 2 strokes of the cane for each of these charges to adequately reflect the need for deterrence and retribution. This accords with the practice that caning ought to be imposed where a victim's private parts and sexual organs are intruded upon: *Public Prosecutor v Chow Yee Sze* [2011] 1 SLR 481 at [9]; cited with approval in *GBR v Public Prosecutor* [2017] SGHC 296 at [31] and *Kunasekaran* at [50]. The sentence for the 8th and 10th Charge is thus 11 months' imprisonment and 2 strokes of the cane.

15 I now turn to the **1st, 7th and 9th Charge**. These offences involved Mr Rajpal smacking the buttocks of Ms C, Ms V and Ms R, and fall under Band 1 of the *Kunasekaran* framework. In my view, while the degree of sexual exploitation is not the most egregious, the offence-specific factors outlined earlier, certainly render the custodial threshold crossed and warrant an imprisonment term of 1 month for each of these offences.

16 For completeness, I find no merit in Mr Rajpal's submission for a fine. I did not regard the precedent cited to me to be a useful comparator, even though it concerned a yoga instructor from the same yoga studio who had pleaded guilty to slapping his student's buttocks during a yoga class. Foremost, it is an established principle of law that sentencing precedents without grounds or explanations are of little, if any, precedential value because they are unreasoned and it will thus not be possible discern what had weighed on the mind of the sentencing judge: *Keeping Mark John v Public Prosecutor* [2017] SHGC 170 at [18], cited in *Kunasekaran* at [62]. Second, a key distinguishing factor between the precedent and the present case, is the fact that the offender in the case cited, had pleaded guilty and was thus clearly remorseful. The same cannot be said of Mr Rajpal. For these reasons, I place no weight on the precedent cited by the Defence

The Aggregate Sentence

17 The next stage of the sentencing analysis requires me to determine how the individual sentences should run. In this regard, the starting point of the analysis is whether the offences are unrelated, and this is determined by considering whether they involve a single invasion of the same legally protected interest. As a general rule, sentences for unrelated offences should run consecutively, while sentence for offences that form part of a single transaction should run concurrently, subject to the requirement in s 307(1) Criminal Procedure 2010: *Public Prosecutor v Raveen Balakrishnan* [2018] 5 SLR 799 at [98(b)].

18 In the present case, I find it necessary to order the sentences for the 1st Charge, 8th Charge and 10th Charge to run consecutively. Each of these charges pertain to a different victim and are thus plainly unrelated and not part of a single transaction. The global sentence is thus **23 months' imprisonment and 4 strokes of the cane.**

19 The final stage of the sentencing analysis requires me to apply the totality principle and take a “last look” at all the facts and circumstances to ensure that the aggregate sentence is sufficient and proportionate to Mr Rajpal’s overall criminality. There are two limbs to the totality principle. First, the court should examine whether the aggregate sentence is substantially above the normal level of sentences for the most serious of the individual offences committed. Second, the court should examine whether the effect of the sentence on the offender is crushing and not in keeping with his past record and future prospects: *Raveen* at [98(c)] and *Public Prosecutor v Loh Cheok San* [2023] SGHC 190 at [47].

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20 In my judgment, the aggregate sentence imposed in this case is proportionate to the criminality before me, *viz.* Mr Rajpal's serial offending. There is no basis for me to thereafter moderate the aggregate sentence on account of the totality principle.

21 The sentence of 23 months' imprisonment and 4 strokes of the cane will take effect from today, unless the Defence has any applications.



Sharmila Sripathy-Shanaz
District Judge

DPP Selene Yap and Gladys Lim (Attorney-General's Chambers) for
the Public Prosecutor;
Anil Murkoth Changaroth (RHTLaw Asia LLP) for the accused.