

(18) of 1977

IN THE JURIDICIAL COMMITTEE OF THE PRIVY COUNCIL

No. 35 of 1976

O N A P P E A L
FROM THE COURT OF CRIMINAL APPEAL IN THE REPUBLIC
OF SINGAPORE

B E T W E E N :

MOHAMAD KUNJO S/O RAMALAN

Appellant

and

THE PUBLIC PROSECUTOR

Respondent

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i.

IN THE JUDICIAL COMMITTEE
OF THE PRIVY COUNCIL

No. 35 of 1976

O N A P P E A L
FROM THE COURT OF CRIMINAL APPEAL IN THE REPUBLIC
OF SINGAPORE
(Appellate Jurisdiction)

B E T W E E N :

MOHAMAD KUNJO S/O RAMALAN Appellant

and

THE PUBLIC PROSECUTOR Respondent

RECORD OF PROCEEDINGS

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1.

A P P E L L A N T

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

No. 35 of 1976

O N A P P E A L

FROM THE COURT OF CRIMINAL APPEAL IN THE REPUBLIC
OF SINGAPORE
(Appellate Jurisdiction)

B E T W E E N :

MOHAMAD KUNJO S/O RAMALAN

Appellant

- and -

THE PUBLIC PROSECUTOR

RECORD OF PROCEEDINGS

No. 1
Charge

SINGAPORE CRIMINAL CASE No. 52/75

IN THE SUPREME COURT IN SINGAPORE

BEFORE THE HONOURABLE MR. JUSTICE F.A. CHUA and
THE HONOURABLE MR. JUSTICE D.C. D'COTTA

In the
Supreme Court
in Singapore

No. 1

Charge
26th January
1976

This is the exhibit marked 'A' PUBLIC PROSECUTOR
referred to in the Affidavit
of Seah Kheng Mia Philip Thio
John Chan, Leong Chod Peng, VS.
Rosalind Low and John Nah
before me this 18th day of May
1976

MOHAMED KUNJO s/o
RAMALAN

10

Before me

Illegible
Asst.Registrar
Supreme Court, Singapore

For the Republic Mr. Sant Singh
For the Accused Mr. Peter Yap

Pte.Secy.: Criminal Case No.52 of 1975, Public
Prosecutor vs. Mohamed Kunjo s/o Ramalan.

D.P.P.: May it please you, my Lords, I appear on
behalf of the Public Prosecutor and
Mr. Peter Yap appears on behalf of the
accused.

In the
Supreme Court
in Singapore

No. 1

Charge

26th January
1976
(continued)

Mr. Yap: That is so, my Lords.

Chua J.: Will you charge the accused? Ask him to stand up.

THE ACCUSED IS CHARGED:

"Mohamed Kunjo s/o Ramalan, you are charged that on or about the 25th day of May, 1975, at about 8.50 p.m. in front of No.10, Pulau Saigon Road, Singapore, did commit murder by causing the death of one Arunmugam Arunachalam, and you have thereby committed an offence punishable under section 302 of the Penal Code (Chapter 103)."

10

(Accused claims trial).

(D.P.P. opens and calls evidence).

No. 2

Transcript of
Proceedings
before The
Honourable Mr
Justice F.A.
Chua and The
Honourable Mr
Justice D.C.
D'Cotta

Evidence for
the
Prosecution

Leonard Teo
Examination
26th January
1976

No. 2

Transcript of Proceedings before
the Honourable Mr. Justice F.A.Chua
and The Honourable Mr. Justice D.C.
D'Cotta

LEONARD TEO (Sworn in English)
(Examination-in-chief by D.P.P.)

20

Q. You are Leonard Teo?

A. That is correct.

Q. And you are Detective Police Constable No. 6840 attached to the Photographic Section of the Criminal Records Office, C.I.D.?

A. Yes.

Chua J.: What is the number?

D.P.P. : 6840, attached to the Photographic
Section of the Criminal Records
Office, C.I.D.

30

Q. You have been in the Police Force for the last 11 years?
A. That is correct.

- | | | | |
|----|--|---|---|
| Q. | On 25th May, 1975, at about 10.45 p.m. you took 25 photographs of the scene in front of No.10 Pulau Saigon Road? | A. Yes. | In the Supreme Court in Singapore |
| Q. | These photographs were taken under the direction of Inspector Chamkaur Singh? | A. That is correct. | No. 2 |
| Q. | Now on the 26th May, 1975 --- | Chua J.: Perhaps he could produce them?
D.P.P. : I will produce them collectively. | Transcript of Proceedings before The Honourable Mr. Justice F.A. Chua and The Honourable Mr. Justice D.C. D'Cotta |
| 10 | Chua J.: No, I am not going back again. Where are the photographs that you took on 25th May at 10.45 p.m.?
There are 25 photographs produced?
D.P.P. : Yes, can you look at P1 to P25?
Are these the photographs that you took? | Chua J.: Have you got the negatives? | Evidence for the Prosecution
Leonard Teo Examination
26th January 1976
(continued) |
| Q. | Are these the negatives for the 25 photographs? | A. Yes. | |
| 20 | Chua J.: Yes, we will put them in - they will be P1 to P25, and the negatives PN1 to PN25. | | Exhibits P1 to P25 & PN1 to PN25 |
| Q. | On 26th May, 1975, at about 9.15 a.m. you took two photographs of a male Indian corpse at the Singapore General Hospital Mortuary, Outram Road? | Chua J.: Is that right?
A.: Yes. | |
| Q. | Can you look --- | | |
| 30 | Chua J.: Taken under the instruction of Mr. Chamkaur Singh?
A. That is correct. | Q. Yes. | |
| Q. | Can you look at the last two photographs, are these the two photographs you took? | A. Yes. | |
| | Chua J.: You have got the negatives? | A. Yes. | |

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Mr. Justice
D.C. D'Cotta

Evidence for
for the
Prosecution

Leonard Teo
Examination
26th January
1976
(continued)

Dr. Seah Han
Cheow

Examination-
in-Chief
26th January
1976

Q. We will mark that P26 and P27 and
the negatives PN26 and PN27

(Inspector Chamkaur Singh produced and
identified).

Exhs.
P26 &
P27 and
PN26 &
PN27

D.P.P.: No further questions.

Chua J.: Yes, Mr. Yap?

Mr. Yap: I have no questions, my Lord.

(Witness stands down and is released).

SEAH HAN CHEOW (Sworn in English)
(Examination-in-chief by D.P.P.)

10

Q. Your name is Dr. Seah Han Cheow?

A. That is correct, my Lord.

Chua J.: Just a minute - yes.

Q. Your name is Dr. Seah Han Cheow and you are a
forensic pathologist attached to the Singapore
General Hospital? A. That is correct.

Q. On the 26th May, 1975, at about 9.05 a.m. you
performed an autopsy on one Arunmugam Arunachalam?
A. Yes, that is correct.

Q. The body of Arunmugam Arunachalam was identified 20
to you by Inspector Chamkaur Singh?
A. Yes, that is correct.

Q. It was also identified by one Tan Chewee Siong,
the employer of the deceased?
A. No, my Lord, Tan Chweee Siong identified the
body to the State Coroner and not to me.

(Inspector Chamkaur Singh produced and
identified).

Q. Doctor, can you look at P27, can you identify this photograph?

A. I am afraid I cannot identify it.

Q. The last photograph?

A. No, I can't identify it now.

Q. Can you look at P26?

Chua J.: You cannot identify them isn't it because the face is not shown?

Q. Can you look at P13? A. Yes.

10 Q. Is this the person on whom you performed the autopsy?

A. No, my Lord, I am afraid I cannot identify these photographs. The identification of the body was done by the police officer when he showed the body to me - this is the body of so and so.

Chua J.: No, he is asking you ---

A. I cannot identify by photograph.

20 Q. Is this the body of the person whom you referred to as Arunmugam Arunachalam - on whose body you performed an autopsy on 26th May, 1975?

A. I cannot identify now at this stage.

Q. Yes.

Q. After the autopsy you put up a report No.960/75?

A. That is correct.

Q. Show him the autopsy report No.960/75 - P28?

A. Yes, this is my report.

30 Chua, J.: What exhibit is that?
D.P.P. : P28.

A. P28.

Q. Does your signature appear at the bottom?

A. Yes, I can recognise my signature.

D.P.P.: My Lord, may this report be entered? Exh.P28

Q. Doctor Seah, before you performed the autopsy, you removed the blood stained shirt, a pair of red trousers ---

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for the
Prosecution

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Cheow
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(continued)

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Prosecution
Dr. Seah Han
Cheow
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in-Chief
26th January
1976
(continued)

Chua J.: You removed from the deceased or you removed from the body, is that right?

Q. You removed from the body of the deceased a blood stained shirt, a pair of red trousers and a red underwear? A. Yes, that is correct.

Q. Can you look at the shirt, the red trousers and the underwear? A. Can I open the envelopes?

Chua, J.: Yes, certainly.

A. Yes, my Lords, I can identify these three articles. 10

Q. The shirt is what?

D.P.P.: P46. Exh. P46

Chua J.: Yes.

D.P.P.: The trousers is marked P47

Chua J.: P47. Exh. P47

D.P.P.: And the red underwear is P48.

Chua J.: Yes. Exh. P48

Q. You handed these three items, that is, the blood stained shirt, the trousers and red underwear to Inspector Chamkaur Singh? 20

A. Yes, I did.

Q. You then took a specimen of the blood of the deceased and some hair from the head of the deceased? A. Yes, I did.

Q. Doctor, is this - can you identify this?

Chua J.: Doctor, what did you do with the hair? Did you put it in an envelope and mark it?

A. I just handed it over personally to the inspector. 30

Chua J.: I know, but did you put the specimen hair into an envelope?

A. Yes, into a test tube and we sealed the test tube.

Q. Yes.

Q. And you gave this hair and the blood to
Inspector Chamkaur Singh? A. Yes, I did.

D.P.P.: My Lord, may this test tube and hair
be marked?

Chua J.: Can you identify them?

A. Yes.

Q. You identify it from the markings or
what?

A. By the markings - from the markings
and the hair which I remember very
well.

Q. All right, specimen hair will be
exhibit ---

D.P.P.: P41.

Chua J.: 41?

D.P.P.: That is true, my Lord.

Chua J.: Yes.

Q. Now doctor, can you look at your autopsy
report?

Chua J.: Yes.

Q. Can you tell this Court the height and weight
of the deceased?

A. The height was recorded as 165 cms. or 5 feet
6 inches.

Chua J.: Yes.

A. And the body weight is 50.9 kilograms
or 114 lbs.

Q. Now doctor, can you describe the external
injuries found on the body of the deceased?

A. External injuries were recorded in six places,
my Lord, which are listed in my report - page
one, external injuries No.1 to No.6.

Q. Can you take injury No.1, doctor?

A. Yes, the first injury was laceration 3 cm. long
at the left anterior parietal region, that means
the region above the left ear.

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Dr. Seah Han
Chow

Examination-
in-Chief

26th January
1976

(continued)

10

Exh.
P41

20

30

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Cheow
Examination-
in-Chief
26th January
1976
(continued)

Chua J.: Can you kindly indicate?

A. The region above the left ear, one laceration 3 cm. (indicates).

Q. Doctor, how could this injury have been caused?

A. This was caused by a violent blow of a blunt object.

Q. Can you look at injury No.2 of your external injuries?

A. Injury No.2 was a laceration 3 cm. at the inner canthus of left eye. 10

Chua J.: Slowly?

A. Canthus of the left eye, that means between the bridge of the nose and the left eye.

Q. Yes.

Q. Can you go on to injury No.3?

Chua J.: Exposing fractured bone?

A. Exposing fractured bone.

Q. Yes.

Q. We will go on to No.3?

A. No.3, a laceration $3\frac{1}{2}$ cm. at the outer half --- 20

Chua J.: Slowly?

A. $3\frac{1}{2}$ cm. outer half of left eye-brow also exposing fractures.

q. Doctor, how could these two injuries, that is, injuries No.2 and 3 be caused?

A. Injuries No.2 and No.3 could have been caused under two possible conditions - the first was due to a violent blow by a blunt object; the second possibility was due to fractured bone chips going outwards. 30

Q. Could you elaborate on the second condition under which these two injuries could have been caused?

A. When skull fracture occurs, my Lord, some of the bones --

Chua J.: Yes.

A. Were fractured externally.

Q. Some of the bones?

A. Yes, some of the bone chips were fractured externally and causing cuts - causing lacerations.

Q. Yes.

A. Causing lacerations on the skin.

Q. Now look at injury No.4, can you describe the injury to this Court?

10 A. No. 4, two small lacerations, each measured $\frac{1}{2}$ cm., one on each lip, near the left angle of the mouth.

Q. How could this injury have been caused, No.4?

A. This was caused by a blow from a blunt object.

Q. Doctor, can you look at injury No.5, can you describe it, this injury?

A. Injury No.5, laceration 4 cm. left side of chin exposing bone.

Q. How could this injury have been caused, doctor?

20 A. This was caused by a violent blow from a blunt object.

Q. Can you look at injury No.6?

A. No.6, bruise on dorsum of right hand, that means the back of the right hand.

Chua J.: Yes.

Q. How could this injury have been caused?

A. This was caused by a blow from a blunt object. It was a defence wound here.

Q. What do you mean by a defence wound, doctor?

30 A. Defence wound means that the victim was trying to cover himself when the blow occurs.

Q. Doctor, can you look at the report - the external injuries relating to the eye?

A. Yes.

Q. Can you describe them?

A. Yes, left eye socket was heavily bruised. This in common language is black eye, what you mean by a black eye.

Q. Can you tell this Court how this injury was caused?

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Dr. Seah Han
Cheow
Examination-in-
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26th January
1976
(continued)

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Evidence
for the
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Cheow

Examination-
in-Chief

26th January
1976

(continued)

- A. This was caused by a blow on the left eye or due to the fractured bone chips.
- Q. How could this fractured bone chip cause this injury?
- A. When fracture occurs, this bone chip just cut.

Chua J.: I think he has explained that earlier?

A. Yes, this was due to the same mechanism as I explained in No.2 and 3.

10

Q. Causing laceration on the skin?
A. Yes.

- Q. So can you look at the external injuries on the ears, doctor?
- A. Blood clots in both ears.
- Q. What does this injury indicate - the clots?
- A. The blood clots in the ears were due to fractured skull.

D.P.P.: My Lord, can this be marked for the purpose of identification?

20

Chua J.: Mark it P ---

D.P.P.: P42.

Chua J.: P42 for identification, yes.

- Q. Doctor, can you look at this pipe, is this the kind of blunt weapon that could cause injuries No.1, 2, 3, 5 and 6? A. Yes, I agree.

Chua J.: Injuries 1 ----

D.P.P.: 1, 2, 3, 5 and 6.

Chua J.: Yes.

- Q. Now doctor, let us proceed to the internal examination of the body of the deceased?

30

Chua J.: Internal injuries, yes.

- Q. You examined the skull of this deceased, can you tell this Court the injuries that you found on the skull?

A. There were fractures recorded ---

Chua J.: Yes.

A. The first group of fractures involved the left half of the frontal bone.

Q. Can you indicate to the Court where is the frontal bone?

A. Frontal bone is the bone covering the forehead up to the eye.

Chua J.: Yes.

10

A. So the deceased was found to have a fracture on this part (indicates) - on the left side of the forehead.

Q. Yes.

Q. Now can you describe this fracture on the left side of the forehead?

A. The fractures here were caused by a violent blow from a blunt object.

Chua J.: Yes.

20

Q. Can you describe this fracture, doctor?

A. I used a technical term, my Lord, called comminuted fractures, that means fractured into multiple loose pieces.

Q. Can you look at the second injury on the skull?

A. Yes, No.2 - I described as comminuted fractures, that means fractured into multiple loose pieces involving both temporal bones. Temporal bones are the bones of the ears.

30

Q. Doctor, can you indicate where these temporal bones are?

A. Bones on the ear - as we touch the ears we can feel the bones. These are the temporal bones (indicates).

Q. How could this second injury be caused, doctor?

A. These fractures were caused by violent blows from a blunt object.

Q. Doctor, can you look at injury No.3?

A. No.3 - there was a fracture line across the base of the skull.

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Evidence
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Dr. Seah Han
Cheow

Examination-
in-Chief

26th January
1976

(continued)

In the
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No. 2

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Evidence
for the
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Dr. Seah Han
Cheow
Examination-
in-Chief
26th January
1976
(continued)

Chua J.: Fracture ---

A. Fracture line across the base of
the skull.

Q. Yes?

A. Obliquely from the right petrous
temporal bone, that means the right
temporal bone proper, extended
through the pituitary fossa into
the left eye socket.

Q. Into the left eye socket?

10

A. Yes, this was a fracture line
across the bottom part of the
skull bone.

Q. Bottom part ---

A. Part of the skull.

Q. How could this third injury be sustained?

A. This was caused as a result of a blow - of a
violent blow to the region of the right ear.

Chua J.: Right ear?

A. Yes.

20

Q. What kind of blow?

Chua J.: You also found injury No.2?

A. Yes, the skull injury No.2.

Q. I know, what I am trying to find
out from you - is that another blow
or the one described in No.2?

A. In injury No.2, my Lord, here the
fractures were caused by two blows,
one on the left ear and one on the
right ear.

30

Q. I know, you say there was a blow on
the left ear causing injury No.2 and
so you say injury No.3 was caused as
a result of a violent blow on the
region of the right ear?

A. Yes, No.3 was right ear.

Q. So there was one blow that caused
No.2 on the right ear?

A. Another two blows, there are two
blows right ear and left ear one
blow.

40

Q. Yes, there must be separate blows isn't it, so there is one blow on the right to cause No.2?

A. Yes, one blow on the right.

Chua J.: Two separate blows?

A. No, if you will excuse me if I don't make myself clear. In No.2, this means two blows, one on the right ear and one on the left ear and No.3 ---

Q. I am only interested on the right, you say there was one blow on the right and one on the left?

A. Yes.

Q. That caused No.2?

A. Yes.

Q. And so No.3 you say also caused as a result of a violent blow to the region of the right ear. So I am trying to find out from you - whether there was one blow on the right ear or two blows to cause 2 and 3?

A. Yes, my Lord, there was one single blow to the right ear in No.2 and 3 - they were produced by the same blow.

Q. There is one blow, that is all I want to know.

A. Yes.

Q. Yes, all right.

Q. From these three injuries on the skull, doctor, can you tell this Court how many blows the deceased received?

A. There were three blows altogether.

Chua J.: Yes.

A. One on the left side of the forehead.

Q. On the left side ---

A. Left side of the forehead, one on the right ear and one on the left ear.

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- Q. Can you explain to this Court how you arrived at this conclusion?
A. Because of the fracture pattern - the fracture patterns on the skull.

Chua J.: Yes.

- Q. Doctor, can you explain how this fracture pattern helped you determine in coming to the conclusion that there are 3 blows?
A. Yes, I can explain.

Chua J.: Mr. Sant Singh, he has given an explanation and you are not satisfied. If Mr. Yap wants to know further, he is not clear, he can cross-examine him. There is no point for you to carry on.

10

D.P.P.: Yes, my Lord.

Chua J.: Yes.

- Q. Now, Doctor, we can go on to the internal examination of the brain?
A. Yes.

20

- Q. Can you describe your findings?
A. Brain - fresh subarachnoid haemorrhages were found at the temporal lobes of the brain.

Chua J.: Slowly, what were found?

- A. The temporal lobes - this temporal part of the brain is the part of the brain that lies --- that part of the brain that lies near the ear.

- A. The inferior surface of both frontal poles - frontal poles is the part of the forehead ---

30

Chua J.: Both frontal ---?

- A. Frontal poles is the tip of the brain nearest the forehead.

Chua J.: Yes.

- A. Also showed old contusions. These were old injuries.

Chua J.: These were what?

- A. These were old injuries.

- Q. Doctor, could you associate these fresh sub-arachnoid haemorrhages on the brain to any injury on the skull?
 A. Yes, these subarachnoid ---- the fresh sub-arachnoid haemorrhages were caused at the same time when the temporal bones were fractured.

Chua J.: Of what bones?

- A. Were caused at the same time when the temporal bones were fractured.

- 10 Q. That is injury No.(2) of the skull?
 A. Yes.

- Q. Doctor, what would these fresh subarachnoid haemorrhages indicate?
 A. When the fresh haemorrhages occur it means the victim was alive when he received the blows.

- Q. Doctor, what was the cause of death of the deceased?
 A. The certified cause of death was fractured skull.

- 20 Q. Now, doctor, would you look at the 3 injuries on the skull, would injury No.(1) in the ordinary course of nature cause death?
 A. Yes.

Chua J.: Injury No.(1) on the skull.

- Q. Would injury No.(2) on the skull, doctor, in the ordinary course of nature cause death?
 A. Yes.

- 30 Q. Would injury No.(3) on the skull in the ordinary course of nature cause death?
 A. Yes, it would.

- Q. Now, doctor, on the 27th of May 1975 ----

Chua J.: How soon after receiving the injury (1)?

How soon after receiving injury (1) would a person die?

- A. How soon after receiving the injuries?

Q. Injury (1)?

A. Injury (1)?

Q. Or (1), (2) and (3) then?

- 40 A. I expect injuries of this nature will kill the victim.

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Q. Of this nature you mean (1), (2) and (3)?

A. Yes, either (1) or either (2) or either (3).

Q. You would expect -- what did you say?

A. The victim to die very fast, within one hour.

Chua J.: On receiving injury (1), (2) or (3)?

A. Yes.

10

Q. When he received all these 3 he would have died very soon?

A. Yes, all these fractures caused together - if the victim received all these fractures together.

Q. I mean in this case?

A. Yes, in this case he would have died within 15 minutes.

Chua J.: Yes.

Q. Now, on the 27th of May 1975 at about 9.40 a.m. you handed over to Inspector Chamkaur Singh a specimen of blood of the deceased and hair of the deceased? A. Yes, I did.

20

Q. Can you look at P.41?

Chua J.: The hair?

D.P.P.: That is so.

(Relevant exhibit is shown to witness).

Q. Is this the hair that you handed to Inspector Chamkaur Singh? A. Yes.

Chua J.: He has already identified.

30

Q. Now, on the same day you instructed your Laboratory Attendant Lim Kia Heang to take another test tube containing the blood of the deceased to the Department of Chemistry?

A. My Lord, some clarification, on the same day I mean on the same day of autopsy on the 26th.

Chua J.: On the 26th? A. Yes.

Q. 26th of May?
 A. 26th of May, 1975.

Q. To take a test tube containing blood
 of the deceased to where?
 A. To the Government Chemist.

Q. For analysis? A. Analysis.

Chua J.: Yes.

10 Q. Now, you marked this test tube of blood as
 "Forensic Pathology" and also "Autopsy No.
 A960/75"? A. Yes, I did.

Chua J.: Yes.

Q. With the name of the deceased together with
 your name and the date, that is, "26th of May,
 1975"? A. Yes.

Chua J.: No, no, what is it that you marked?
 You marked "Forensic Pathology,
 Autopsy No. A960/75, Arunmugam
 Arunachalam" and you signed it?

20 A. No, I put a seal on the specimen,
 I sealed up the specimen.

Q. No, no, this "Dr. Seah --- "
 A. Yes, my name appears on the
 specimen also.

Q. Can you identify this Laboratory Attendant
 Lim Kia Heang?

A. Yes, if he is here I should be able to
 identify him. My Lord, I don't think he is
 here today.

(A person is produced).

30 A. Yes, this is the man.

Chua J.: He has given his name?

D.P.P.: Yes, he has given his name.

Q. Yes, subsequently, doctor, you received a
 Chemistry Report No. (S) 10299/75?

Chua J.: He received a report from the
 Chemist?

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D.P.P.: That is so, No.(S) 10299/75.
(Relevant document is shown to witness).

D.P.P.: My Lord, may this document be---

Chua J.: Is that the report?

A. Yes, this is the report that I have received.

Chua J.: All right, we mark it as what?

D.P.P.: P.29.

Chua J.: Are you calling the Chemist?

D.P.P.: No, my Lords. 10

Chua J.: Has a copy been served?

D.P.P.: Yes, a copy of this report had been served on the accused.

Chua J.: Yes, evidence will be given by the Inspector?

D.P.P.: That is so.

Chua J.: Then we will mark it for identification

Q. You subsequently gave P.29 to Inspector Chamkaur Singh? A. What is P.29?

Q. The Chemist Report. 20

A. No, I did not give him the report. He applied it from the Chemist - he applied for the Report from the Chemist.

Chua J.: He did not?

D.P.P.: I will adduce evidence from the Inspector, my Lord.

No further questions, my Lord.

Questions by
the Court

Chua J.: Dr. Seah, can you tell me - the report - this is from the Chemist, is it, in respect of the first blood specimen or the second blood specimen? 30

A. This is - you mean the second blood specimen? The first blood specimen was handed over to the Inspector for grouping purposes.

Q. No, as I understand from you now it would appear that on the day of autopsy you yourself sent a specimen to the Chemist?

A. Yes.

Q. Then later on the specimen was handed to the Inspector?

A. Yes, my Lord.

Q. Another test tube?

A. Yes, another test tube.

10

Chua J.: So I am asking you this report that you have produced.

A. Is the second blood specimen.

Q. That is the one, the test tube that was given to Inspector Chamkaur Singh?

A. That was the first specimen, first blood specimen.

20

Chua J.: There seems to be some confusion then.

Q. Doctor, the first blood specimen you gave to Inspector Chamkaur Singh, is that right?

A. Yes.

Chua J.: No, I am trying to understand this.

Q. Now, why did you give this blood specimen to Inspector Chamkaur Singh?

A. Because in murder cases - in all murder cases we always give one specimen to the Inspector in case they want to establish the blood group of the specimen.

30

Chua J.: No, all I am trying to establish from you, doctor, is that, you see on the 26th of May on the day of the autopsy --- A. Yes.

Q. You took a blood specimen from the deceased? A. Yes.

Q. And you directed your Lab. Assistant to take it to the Government Chemist? A. Yes.

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Chua J.: Then you received a report from
the Government Chemist which is P.29.
So all I want from you is this:
whether P.29 is in respect of the
blood specimen sent by you?

A. Yes, this is the specimen sent by me.

Chua J.: That is all I want to know.

A. I am sorry, my Lord.

(Cross-examination by Mr. Yap)

Q. Dr. Seah, could you tell the Court what the
contents of P.29 was, that means the result
of the specimen test on the blood?

10

Chua J.: 27?

Mr. Yap: Sorry, 29.

Chua J.: P.29 has been put in for
identification?

Mr. Yap: That is so, that is the report of
Ng Tju Lik that was handed over to
Dr. Seah.

Chua J.: So you are asking him on exhibit P.29? 20

Mr. Yap: That is so.

Chua J.: What is your question?

Mr. Yap: The question is you also read the
copy of this report.

A. My Lord, just to clarify, is it the Chemist Report?

Q. Of NgTju Lik. A. Yes.

Chua J.: P.29 is "(S) 10299/75".

A. Yes, I have a copy here.

Q. Now, on analysis the blood alcohol content of the deceased was found to contain 400 milligrammes per 100 millilitres.

Chua J.: On analysis?

10 Q. The blood alcohol content of the deceased's blood was found to contain 400 milligrammes ethanol per 100 millilitres of blood, is that correct?

A. Yes, that is correct, in the report.

Q. Would you not agree with me, therefore, that the deceased at the time of his death was highly intoxicated? A. Yes, I agree.

20 Q. At 400 BAC - to put it short - the blood alcohol content is abbreviated BAC, doctor would I be correct in saying that a person having 400 milligrammes BAC, that is, blood alcohol content, could be highly intoxicated that by itself could under some circumstances cause death?

A. Yes, under some circumstances cause death.

Q. In other words, doctor, a person whose BAC level is 400 milligrammes ethanol could even without any fall or injury but purely by reason of that state of intoxication could die?

30 A. Yes, I agree.

Q. Now, doctor, your conclusion earlier on, your examination-in-chief about the cause of death of the deceased Arunmugam Arunachalam was totally independent of this factor of his intoxication? A. Yes.

Q. In other words, you had not taken into account the factor of his intoxicated state?

A. Yes, I agree.

Q. Could you tell the Court the effects on the

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pathological condition, in other words, on the physical condition of a person at that rate of intoxication pertaining to its capacity of haemorrhaging, do I make myself clear, this question?

A. You mean the relationship to bleeding?

Q. To bleeding, yes. A. Yes.

Q. Can you tell the Court the relationship to bleeding of a person or of the condition, the physical condition of a person having that state of intoxication?

10

A. A man who is intoxicated by alcohol has a greater tendency of bleeding.

Q. In fact, alcohol in the blood would not allow the normal clotting process to take place, am I right? A. Yes, that is correct.

Chua J.: Would you say that again?

Mr. Yap: My Lord, the alcohol in the blood will reduce the clotting capacity.

Chua J.: Reduce?

20

Mr. Yap: Reduce the clotting capacity of the blood.

Q. And am I right in saying that the higher the rate of intoxication the lower will be the rate of this clotting process?

A. Yes, the higher ----

Chua J.: The higher the ---- what?

A. The higher the concentration of alcohol in the blood the more interference it will give to the clotting.

30

Q. The more ---- ?

A. The more interference to clotting will occur.

Q. Therefore, doctor, would you agree that a person having his BAC level at 400 milligrammes if he was hit, let us say, by a relatively minor injury to the head, let us say, by simple concussion, would cause intensive haemorrhaging within the skull? A. Yes, that is a correct fact.

40

Chua J.: That a person -----?

Mr. Yap: That a person with a BAC content---

Chua J.: About 400, is it?

Mr. Yap: 400.

Chua J.: Could it - what?

Mr. Yap: Could suffer severe haemorrhage within the skull.

Chua J.: Yes.

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10 Q. A relatively minor injury, like a simple concussion on the head and the consequence of which, doctor, that this person, having suffered a simple concussion on the head, could by that process bleed to death?

A. You mean this victim here?

Chua J.: He is not talking about this particular victim - generally.

A. A person in that condition?

20 A. Yes, a person, a highly intoxicated person can suffer serious haemorrhages inside the skull as a result of a mild or moderate blow.

Chua J.: Yes.

Q. A mild or a moderate blow or a concussion if he was, let us say fall down and land on his head suffering from a concussion - that could trigger off the same process as you have mentioned?

A. My Lord, I would like to use the word concussion - concussion is a medical term, concussion is a clinical syndrome.

30 Q. A blow of moderate force, so to speak?

A. Yes, a blow of moderate force can cause bleeding inside the skull.

Q. And in this class of moderate blows, you would include let us say a punch on the head or fall having the impact with the ground?

Chua J.: There are some examples which you give but not the others. Would that include a blow - a punch on the head?

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A. Yes, I would include a punch or
blow to the head with fists.

Q. From the fist? A. Or a fall.

Chua J.: On the head, is it?

A. Yes, on the head.

Q. You would also include, doctor, let us say a
fall on the ground with the head having impact
with the ground?

A. Yes, fall with the head on the ground would be
included. 10

Chua J.: Do you think it is necessary to hit
the head or just any fall?

A. And hitting the head.

Q. Yes.

Q. Doctor, earlier on you said a person having
400 mlg. B.A.C. could by itself be a cause of
his death? A. Yes, I agree to that statement.

Q. Now could it be, let us say a person who can
remain alive, is due to his tolerance level by
a habitual alcoholic? Do you understand my
question or shall I repeat it? 20

A. Could you repeat it again please?

Q. Now normally a person with 400 mlg. B.A.C. alone
could be the cause of his death? A. Yes.

Q. And therefore for a person having 400 mlg. and
could still be alive ---

A. Could you explain it in a much simpler term
please?

Q. You did say 400 mlg. B.A.C. is sufficient to
kill someone? A. Yes, I agree.

Q. By a reasonable blow can kill a person? 30

Chua J.: Yes, could kill.

Mr. Yap: Could kill a person.

Q. Can you explain to the Court then under what
conditions or under what circumstances would
a person having that amount of alcohol in the
blood remain alive?

A. Some persons by nature they can stand alcohol very well.

Chua J.: Yes.

A. And some habitual drinker can stand this level very well.

10 Q. Now doctor, even whilst the person having 400 mlg. B.A.C. is still alive, can you tell the Court his physical condition at that time, at that point of time? In other words, I would like you to tell the Court about his irritability, his perception, his ability to comprehend what is going on?

20 Chua J.: Mr. Yap, I think you are going too fast. You see, you are cross-examining the doctor. If you have some points put to him directly and he will agree with you or not, rather than asking him and let him grope about. He does not know exactly what you want.

Mr. Yap: As it pleases your Lordship.

Q. Could a person having that much of blood alcohol be capable of let us say totally violent acts without any explanation?

A. Oh, yes, he could.

Chua J.: Could be ---

Mr. Yap: Capable of violent acts without any reason whatsoever ascribed to it.

Chua J.: Could be capable of violent acts.

30 Mr. Yap: Without apparent reasons for such acts, or what is normally known as, my Lord, purposeless acts of violence - such people in that state of alcoholism is capable of purposeless acts of violence, would you agree with this?

A. Yes, I agree with this.

Chua J.: Purposeless ---

Mr. Yap: Acts of violence.

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Q. Now doctor, coming to your autopsy report, I presume that you have made a complete examination of the deceased without having left out any of the very important points?

A. Yes, I have done a complete post-mortem.

Q. Now doctor, coming first to the examination of the deceased's brain, you found that there were old contusions at the inferior surface of both frontal poles? A. Yes, I did.

Q. I presume you are not able to tell the age of these old contusions or are you able to? 10

A. No.

Q. But in any case ---

Chua J.: Just a minute, Mr. Yap.

Q. But in any case these old contusions had been in existence in the brain for some time already?

A. Yes, that is what I meant.

Q. Quite some time before the death of the deceased?

A. Yes, that is what I meant by old contusions.

Q. Doctor, you have put the word in the plural - I think there must be more than one contusion? 20

A. In both frontal poles.

Q. Can you indicate to which part of the brain it was?

A. It was on the tip of the brain on the surface near the forehead.

Chua J.: Tip of the brain near the forehead?

A. Near the forehead, yes.

Q. And what do you mean by contusions - sort of damage to the brain? 30

A. Some surface damage on the brain.

Q. And these contusions - probably caused by falls by the deceased in the past?

A. Yes, that is correct.

Chua J.: Probably, is it?

A. Probably.

Q. Could there be any other causes or would I be saying rightly if I say the only possible cause

is that that these old contusions have resulted from him falling on his head in the past?

- A. Not only - it may be someone had punched him before, strong enough there would be contusion of this nature.

Chua J.: Punched on the head?

A. Yes.

- 10 Q. Doctor, from your report it indicates or rather there is no indication of any fresh contusion on the deceased's brain, am I right?

A. That is correct, there was no fresh contusion.

- Q. Would I be right in saying therefore that the cause of contusion in the brain must normally come from rather severe or violent blows?

A. Yes.

Chua J.: Severe or violent blows, is it?

Mr. Yap: Yes, my Lord, severe or violent blows would cause contusion.

- 20 Q. Now doctor, is it possible that the person of a high degree of intoxication, for example, had 400 mg. B.A.C. sort of triggered of a process whereby the old contusions could be sort of reactivated - I hope I am using the right word? I could just give an example, I have one right here - now somebody had been suffering from syphilis, some disease of the brain, with intoxication that part of the brain which is unaffected with syphilis, would have been blossomed more as a result of the
30 intoxication? A. I cannot understand this.

- Q. I am trying my best to understand it. I am not an expert here - I am just trying to seek your guidance here really. Now assuming a person with these old contusions in the brain and there is a trauma caused, let us say by either a blow or a fall --- A. Yes.

- Q. Could this trauma accentuate this inherent defect?

40 A. A new injury you mean in a simple trauma - a new injury makes the old injury worse, is it?

- Q. Worse, yes? A. You mean by this?

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Q. Yes.

A. If the new injury, say a partly old contusion here and the person had another fall again, then of course the old injury will be damaged more.

Chua J.: You are talking about this particular man?

Mr. Yap: That is so.

A. He had contusion on the front part of the brain. 10

Q. There was brain damage to that part of the brain? A. Yes.

Chua J.: Old contusion?

Mr. Yap: Yes.

Chua J.: On the front part of the brain.

Q. Now by hitting himself, that brain injury could be made even worse?

A. Yes, if there is a fresh injury occurring on the same location.

Chua J.: Yes. 20

A. This second injury will be worse than the first injury.

Q. Will be worse.

Q. In essence, doctor, taking the deceased's case with these old contusions in the front of the head, if let us say he had fallen on his head at the same part together with his high intoxicated state, could he have died as a result of that kind of a fall?

A. No, my Lord, there is no fresh injury on the front of the brain - here I only found old injuries. 30

Chua J.: You say in this case there was no fresh injury on the front part of the brain?

A. Yes, there was no fresh injury there.

Q. Now doctor, coming to your examination of the skull, you did say that there were two groups

of comminuted fractures and the third one consisting of just a fracture line? A. Yes.

- Q. I note from your report, doctor, that there was no evidence of a depressed fracture or indented fracture, am I correct? A. That is right.

Chua J.: No evidence of a depressed fracture ---

Mr. Yap: Or indented fracture.

- 10 Q. And neither did you find any contusion or laceration of the underlying part of the brain where these fractures had occurred?
A. Yes, under these comminuted fractures there was no contusion or laceration of the brain.
Q. Now doctor, was there any evidence of fracture near the area of the old contusions?
A. Yes, the old contusions occurred at the front of the brain and over the left side.

Chua J.: The front?

- 20 A. Yes, the front of the brain and over the left side of the frontal bone there were fractures, that means, there were fractures under the old contusions.

- Q. I assume you are unable to tell the age of that particular fracture?
A. I beg your pardon?

- 30 Q. Can I assume that that fracture which you say corresponded to the old contusions, you are unable to tell whether it is a fresh fracture or an old fracture?
A. No, the fractures were fresh fractures.
Q. Now could this fracture be associated with the old contusions?
A. No, they were not associated because the fractures were fresh fractures.

Chua J.: No, these fractures ----

- A. The fractures were fresh fractures and the contusions were old contusions.
40 Q. Doctor, comminuted fractures mean there are

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several lines of fracture?

- A. It means, as I explained to the Court, multiple loose pieces - fractured in multiple loose pieces.

Chua J.: Fractured into small pieces?

A. Yes, in multiple small pieces.

- Q. But did they result in chips inwards?

A. Not necessarily.

- Q. But in this case were there any chips inwards?

A. No, outwards. 10

- Q. The chips were outwards?

A. As I explained earlier on.

- Q. Now doctor, did you examine every single line of these old comminuted fractures or is it possible ---

A. No, I did not say old comminuted fractures.

- Q. Did you examine all of the comminuted fractures or is it some of the fractures that could have been the old ones?

A. No, I looked - I had a look at all the fracture lines and they were fresh fractures. I did examine all the fracture lines. 20

Chua J.: They were fresh? A. Yes.

- Q. Doctor, how long would you be able to describe the fracture line to remain fresh as compared to an old fracture line?

A. My Lord, fresh fracture that means I see the blood around it - fresh blood. It is quite simple. Fresh fractures are surrounded by fresh blood and old fractures are surrounded by --- 30

Chua J.: No, fresh fractures are surrounded by? A. Fresh blood.

Q. Yes?

A. And old fractures are surrounded by organised blood clots.

Q. By--- organised?

A. Organised, yes.

- A. The blood clot it turns into solid and it changes its colour. 40

Chua J.: By organised blood, that means what?

A. Blood clots, organised blood clots, either small clots or big clots.

Q. I don't understand "by organised--"

A. Organised, my Lord, we mean, for example you have a cut, after some time the blood had changed the colour, turned darker and after some time it turned very solid.

10

Q. That means they are solid, is it?

A. Yes, and of different colour.

Q. Now, is it possible for fresh fractures to be inflicted on old fractures?

A. Yes, it is possible.

Q. Where it would be difficult or where there would be some difficulty in looking, let us say, for the old fractures?

A. No, I do not agree, still I can make the difference between old fractures and fresh fractures very easily.

20

Chua J.: You can recognise easily old fractures from new fractures?

A. Yes.

Q. Now, Doctor, you told us just now that there was no evidence of either indented fractures or depressed fractures?

A. Yes, I did say that.

Q. Depressed or indented fractures. Now, if the blow from a blunt object is very violent---

30

A. Yes.

Chua J.: If a blow from a blunt---

Mr. Yap: Object.

Chua J.: Yes.

Q. Is very violent or of a great force, you would expect that area of the skull at the point of impact to have either indented or depressed fractures?

A. It could occur but not necessary to be there always.

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Chua J.: What is your answer?

A. I don't expect it to happen
always.

- Q. Of course, I am not saying in every case but I
am saying that you would normally expect?
A. No, not even normally - normally it is also not
expected.
Q. Doctor, I would read to you a paragraph from
Gradwohl's Legal Medicine.

Chua J.: What --- Legal Medicine? 10

Mr. Yap: Gradwohl.

Chua J.: You have a copy of it?

Mr. Yap: My Lord, I must apologise, I do not
have the textbook with me. I have
a photostat of it, my Lord, but
this is taken from a private book
which was loaned to me and which I
have since returned. I am endeavour-
ing to obtain a copy from the Library,
my Lord, and I think if I can get one 20
by this afternoon I can furnish one
to your Lordships. Unfortunately,
the copy that I photostated from is
a private copy.

Chua J.: You have a copy for us?

Mr. Yap: Yes, my Lord.

Chua J.: What edition is this?

Mr. Yap: Second Edition, my Lord. I must
apologise I have only one copy.

Chua J.: You produce it to the Court. 30
Are you aware of this book?

- Q. Are you aware of the existence of this book?
A. Yes, I know of this book.

Mr. Yap: Gradwohl's Legal Medicine.

Chua J.: Any copies?

Mr. Yap: I must apologise, my Lord, I have

only one photostat copy, I seem to have misplaced the other copy. My Lord, in a minute I will photostat a copy of this and give it to your Lordship.

Chua J.: All right, please tell us the page.

Mr. Yap: Yes, my Lord, at page 310.

Chua J.: Yes, it begins with?

10 Mr. Yap: At the 5th paragraph on the left hand side. Can I read?

Chua J.: Yes.

20 Q. (reads) "In the case of the impact by blunt objects, injury to the brain is always to be expected at the point of impact and only if the blow was sufficiently severe to cause a local indentation or depressed fracture of the skull. Under these circumstances the cerebral damage may be caused as much or more by the depressed fragments of bone as by the traumatizing object. As a consequence, focal meningeal haemorrhage with contusion or laceration of the underlying brain is a characteristic lesion in such cases."

Do you agree with this?

A. Yes, I agree with this statement.

Q. You agree?

A. Could I read through, my Lord?

30 Chua J.: Yes. (Witness reads).

Q. You would agree with this paragraph?

A. Yes.

Mr. Yap: My Lords, I will photostat it during the recess and give a copy each to your Lordships.

Q. Now, Doctor, if I could go on to the next area of the fractures that you had described to the Court, this one pertaining to the third set that you have mentioned.

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Chua J.: You mean the third fracture?

Mr. Yap: The third set of fractures on the skull, the fracture line across the base.

Chua J.: All right.

Q. You have the report there, Doctor? A. Yes.

Q. This one pertains to the fracture line across the base of the skull. Are these also known as anterior fossa fractures, Doctor?

Mr. Yap: I would spell this to your Lordships. 10

A. No, part of it, say, the final part, where I mentioned "into the left eye socket", only this part is considered as anterior fossa fracture.

Chua J.: Yes, only this part?

A. Yes, the one on the eye socket, it means the anterior fossa fracture.

Chua J.: Sorry, what was your question?

Mr. Yap: The question is this: these sets of fractures would they sort of constitute this part of the skull known as the anterior fossa - would it constitute this part of the skull known as the anterior fossa. 20

Chua J.: So the Doctor said only this part.

A. Yes, only that small part is considered as the anterior lineal fossa - anterior fossa fracture.

Q. Can you sort of just indicate which part, is it from the neck upwards?

A. No, this part (indicates), as we feel from the eyes - is inside the eyes, that one, that forms the roof of the eye. 30

Q. Doctor, this fracture line, so to speak, includes the first part, the anterior fossa, is that correct?

A. Yes, this fracture line includes the fracture into the anterior fossa.

Chua J.: This fracture line includes---?

A. A portion, a part of the anterior fossa. 40

Chua J.: Yes.

Q. Would the other part of the fracture line, then, Doctor, be the middle fossa?

A. Yes, the one I mentioned - pituitary fossa is part of the middle fossa in the centre part.

Chua J.: Is what?

A. Middle fossa.

Mr. Yap: Is known as the Middle fossa, my Lord.

10 Q. Would I be right in saying then the remaining of this line of fracture was extended to the posterior fossa? A. Yes.

Chua J.: The remaining line of this fracture, yes.

Mr. Yap: Extended to the posterior fossa.

Chua J.: Extended to the exterior?

A. Extended to the posterior.

Chua J.: Posterior, sorry.

20 Q. In conclusion, therefore, Doctor, so far as this line of fracture is concerned it included the anterior, the middle and the posterior fossa? A. That's right.

Chua J.: This fracture line?

Mr. Yap: This fracture line, my Lord, constituted the anterior, the middle and the posterior fossa.

Q. Now, Doctor, am I correct in saying that this is a fracture which runs round the base of the skull? A. Yes.

30 Q. This is a fracture that runs down the base of the skull?

A. Yes, I mentioned in the report this is at the base of the skull.

Q. Doctor, am I right in saying that fractures in the anterior fossa are usually caused, due to a direct impact from a fall?

A. Yes, usually.

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Chua J.: Yes, what fracture?

Mr. Yap: The fractures at the anterior fossa
are usually ---

Chua J.: Slowly.

Mr. Yap: I am sorry, my Lord, the fracture
to the anterior fossa ---

Chua J.: Fracture to the anterior fossa or
at the?

Mr. Yap: That is so.

Chua J.: Fracture at?

10

Mr. Yap: At.

Chua J.: Yes, at the anterior fossa, yes.

Mr. Yap: Is usually due to the direct impact
from a fall.

Chua J.: From a fall?

Mr. Yap: That is so.

Chua J.: Yes.

Q. Now, in such cases, Doctor, where this person
falls forwards hitting his head forwards---

Chua J.: Sorry, in such cases ----?

20

Mr. Yap: In such cases, my Lord, where the
person falls forward that means the
impact is at the forehead - forwards -
these fissure fractures may extend
to the middle fossa.

Chua J.: Fissure?

Mr. Yap: Fissure fractures, my Lord, these
are known as fissure fractures.

Chua J.: Yes.

Q. May extend to the middle fossa?

A. Yes, that is possible.

30

Q. Now, Doctor, coming to the middle fossa, that part of the line fracture which you have described to us - we have talked about the anterior fracture? A. Yes.

Q. We are now talking of the middle fossa fracture, you say that it could -- if a person falls and this line of fracture could extend to the middle fossa, am I correct?

10 A. Yes, I agree that it could extend into the middle fossa.

Chua J.: What did you say?

A. It could extend into the middle fossa.

Chua J.: If a person falls you mean?

A. Yes.

Mr. Yap: If a person falls.

Chua J.: On the back of his head?

Q. Can you describe to his Lordship?

20 A. The learned counsel just now, my Lord, explains the person falling like that (demonstrates), hitting the front, hitting the region of the eye can cause a fracture at the anterior fossa with extension into the middle fossa. I agreed to this statement on a fall like that.

Chua J.: You mean fall on the?

A. On the forehead.

Q. So the fracture could what? Can you say that again?

30 Mr. Yap: The fracture from the anterior fossa, my Lord, would extend to the middle fossa.

Chua J.: The fracture from the anterior fossa could or would?

A. Could or would, both.

Chua J.: Could or would extend to the---

Mr. Yap: Middle fossa.

Chua J.: Yes.

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Q. Now, coming to this posterior fracture that you have told us, Doctor, could it be caused by striking the back of the head on the ground by falling backwards?

A. It caused the fracture inside?

Q. Caused the fracture to the posterior fossa?

A. In this case or any other cases?

Q. Well, we talk about normal cases.

A. In normal -- all things are possible, my Lord, a man could fall and cause a fracture in the posterior fossa.

10

Chua J.: Yes.

Q. Now, Doctor, we have dealt with the anterior, the middle and the posterior fossa fractures?

A. Yes.

Q. You did agree that it is possible that it could be caused or it would be caused by a fall either by the front or by the back? A. Yes.

Q. Now, this fracture line, of this third set of fractures that you found on the deceased, could it not also be consistent with such a fall that we have just elaborated?

20

A. No, one single fall will not cause such a long fracture line.

Chua J.: Yes.

A. As I agreed earlier on that a fall hitting the front of the head could cause fracture line at the anterior fossa into the middle fossa; that one single fall hitting the front of the head can cause fracture line in anterior fossa and extend into middle fossa and, secondly, a fall hitting the back of the head could cause fracture in the posterior fossa. It will be not possible for a man to fall---

30

Chua J.: It would not be possible?

A. For a man to fall forwards and backwards.

Q. At the same time you mean?

A. Yes, I mean either at the same time forwards, one single fall.

40

Q. Forwards and backwards? A. Yes.

Q. Yes?

A. To cause a single fracture across the anterior, middle and posterior fossa.

Q. To cause a single fracture?

A. Across the anterior, middle and posterior fossa.

10 Chua J.: Yes.

A. Unless this is a fall from a high building.

Chua J.: We will adjourn now.

Mr. Yap: As it pleases your Lordship.

Chua J.: We will resume at half past two.

(Court adjourns @ 1.00 p.m., 26.1.76.)

2.30 p.m. Hearing resumes.
26.1.76

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(Cross-examination by Mr. Yap) (contd.)

20 Chua J.: Yes.

Mr. Yap: My Lord, before I proceed I will first tender to the Court a photostat copy of the portion of the expert view that I mentioned earlier on in cross-examination.

Chua J.: Have you marked the passage?

30 Mr. Yap: I beg your pardon, my Lord, I haven't marked it. My Lord, I have marked it with a blue line the relevant paragraph.

Chua J.: Yes.

Q. Doctor, you said before we adjourned that a single fracture stretching from the anterior fossa through the middle fossa until the posterior fossa could be caused from a fall, if the fall is from a high building?

A. Yes, I mentioned that.

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Q. In other words, from a great height? A. Yes.

Q. Now the question is, for example the use of a blunt object to cause that kind of a fracture would have to be of a force or impact equivalent to a fall from a high building?

A. Yes, an impact which was very violent to have produced ---

Chua J.: Which was ---

A. Very violent to have produced a fracture like this. 10

Q. Like No. 3, is it?

Mr. Yap: Like No. 3, that is so, my Lord.

A. Yes.

Q. And this degree of violence would be equivalent to that of an impact similar like that of a drop from a great height?

A. Yes, the area of contact by this blunt object is actually very small and when we calculate the force ---

Chua J.: The area --- 20

A. Of contact by this blunt object is very small.

Q. Yes.

A. And we calculate by the amount of force, usually in Physics we calculate the amount of force - how many pounds per square inch.

Q. You said you calculate what?

A. No, I cannot.

Q. What did you say just now? 30

A. Usually in Physics when we mention about force, we mention about how many pounds per square inch.

Q. Are you able to tell the Court in terms of Physics what amount of force per square inch?

A. I mean as a comparison, when you fall from a height that means your area of contact is very great and when you inflict an injury with a blunt object, the area of contact is very small - therefore the violence should be adequate to produce a fracture like this. 40

Q. Now doctor, in such cases where the fracture is localised by a blow from a blunt object, you would expect to find that at the point of impact there would be indentation?

A. No, not necessarily so.

10 Q. Doctor, I will be grateful if you will pay attention to the question - I was saying we would normally expect, if I were to take an iron pipe, let us say this one, and inflict a very severe blow, one the degree of which you have just described as equivalent to that like a fall from a high building, would you not normally expect an indentation or a depression on that point of contact?

A. As I explained, not necessarily so because it also depends on which area of the skull bone.

Q. But would it not be expected in the case of the third classification of injuries?

20 A. No, I suspect this is on this third fracture, because this occurred on the temporal bone, petrous temporal bone.

Chua J.: Why?

A. Petrous temporal bone as I mentioned in my report.

Chua J.: What?

A. Normally the petrous temporal bone would not give rise to depressed fracture.

30 Q. Now doctor, is it not true that the temporal bone at the point of the middle fossa is a very thin bone?

A. No, part of the temporal bone but not on the petrous temporal bone as I mentioned in this fracture.

Chua J.: I cannot understand it.

40 A. Some other portion of the temporal bone will be very thin, but the petrous temporal bone - petrous means a rock - part of the temporal bone could be very thin.

Q. But not ---

A. But not the petrous temporal bone.

Q. Could you indicate to the Court which is the

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petrous of the temporal bone or which part of
the skull is above the temporal bone?

- A. If your Lordships would allow me, can I produce
a model, a skull model? Could I ask Inspector
Singh to bring in the skull?

Chua J.: Yes.

- A. This is an anatomical model, not
belonging to the deceased - the
temporal bone, this part of the
temporal bone is the thin part
(indicates). 10

Chua J.: Which part, I cannot see?

- A. Could I mark it?

- Q. Could you just hold it properly so
that I can see?

- A. This part of the temporal bone is
very thin - you can see the trans-
parency here. This part is called
the petrous temporal bone, this is
stone hard, this is a very solid
bone. 20

Q. Yes.

- A. And I agree that depressed
fractures occur here on the thinner
part as a result of a direct blow.

Q. Yes.

- A. But depressed fracture on the very
hard part, the petrous temporal bone
would be unlikely (indicates).

- Q. Doctor, could you show the Court on this where
the fracture line was in clause 3? 30

- A. The fracture line - black marker (witness marks
on the model and this is shown to the Court).

- Q. Doctor, using this as an example, where would
you say the point of impact would be - would you
locate where the point of impact with the blunt
object would be?

- A. I have circled it.

Chua J.: I know, but could you describe it?

- A. I describe it as above the opening
of the ear. This is the opening of
the ear (indicates) - of the right
ear. 40

Q. Yes.

Q. Could you estimate or are you able to estimate the amount of force at the point of contact to have caused that line of fracture?

A. I have mentioned it - violent blow - I have mentioned it earlier.

Q. I mean violent is a descriptive term, could you be precise?

A. No, I won't be able to give the precise figure because nobody has done an experiment on this scale.

Q. You have not, not nobody?

A. I have read through the literature and I have not come across anyone who had carried out an experiment on this work yet.

Chua J.: Yes.

Q. Now doctor, could you examine this pipe?

Chua J.: Yes, exhibit - what is that?

D.P.P.: P42.

Chua J.: 42, have you examined it closely, but according to the description of this exhibit, it is described as a pipe of a car - is it an exhaust pipe of a car?

D.P.P.: It appears to be an exhaust pipe of a car.

Mr. Yap: Or lorry or of a motor vehicle.

Chua J.: Exhaust pipe of a motor vehicle, yes.

Q. Now doctor, using P42 and applying it with the great force that you have mentioned to the point of impact here, would you expect some indented fractures - let us say on this weaker point here, the pipe is very hard compared to this skull? A. No, I would not expect.

Chua J.: Can I see it?

Mr. Yap: Perhaps your Lordship would like to see this?

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Chua J.: No, I would like to see perhaps
how heavy the pipe is (shown to
His Lordship).

- Q. Doctor, would you not agree at this point of
impact the blow from the pipe could also extend
to the thinner portion as you can see?
- A. This is a rounded object. If there is an impact,
it would be like this (indicates) - not over a
big area. It could be just to a certain point.
- Q. You are trying to be very precise, you know, I 10
am just saying that if I give a blow in that
region, would it not also hit the thinner
aspect of the temporal bone?
- A. Yes, if you hit at the thinner part, sure there
would be depressed fracture here, but not hitting
at the petrous temporal bone.

Chua J.: According to your examination, the
injury appeared to be on the petrous?

A. Yes, I have mentioned that.

Q. Not on the thin portion? 20

A. No, the thin portion, there were some
other fracture on the thin portion
as I have mentioned in 2.

Q. Firstly ---

A. There were fractures on the thinner portion as
I have mentioned in my report here.

Q. Was this the second group of fracture?

A. Yes, on the second group I mentioned - both
temporal bones.

Q. Could you mark the various fractures that were 30
found - could you mark it with a pen, it is
easier for you? A. Yes.

Chua J.: So you are asking him to mark on
the model fractures 1 and 2, is
that so?

Mr. Yap: 1 and 2, that is so, my Lord.

A. I have marked the fractures as seen
from the inside and outside of the
skull, my Lord.

Q. What about the first set? 40

A. The first set I did not mention.

Q. It is at the temporal lobes.

Chua J.: Inside it and outside it?

A. There were fractures inside and outside.

Mr. Yap: My Lord, the first group of fractures is not shown in this example. Dr. Seah has only drawn on this skull the second group of fractures and the third group.

10 Chua J.: This is what - this is No.1 or 2?

A. No.2 and No.3 - No.3 is the line and No.2 is the shaded edges.

Q. These are No.2?

A. The shaded edges - No.2.

Q. No.1?

A. No.1 is not marked here because No.1 involves ---

Q. That is all right, it does indicate the area?

20 A. Yes, the area of the temporal bone.

Q. Now, Doctor, this part of the second group of fractures here together with the third group of fractures, could it not have been caused by one single blow? A. It is possible.

Q. The fracture at the left temporal bone, I believe that is the correct expression, Dr. Seah?

Chua J.: Fracture at the left temporal?

Mr. Yap: Together with the third group of fractures.

30 A. The fracture at the right temporal area with the third group of fractures.

Q. Could have been caused by one single blow?

A. Yes.

Chua J.: I remember I asked you exactly the same point and you said that there were 2 separate blows if I am not mistaken.

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Mr. Yap: My Lord, I think Dr. Seah had mentioned earlier on this blow and the separate blows ---

A. On two sides of the ear were separate.

Chua J.: I know it must be separate. I was concentrating on this right side, I cannot remember whether it is in cross-examination or examination-in-chief.

D.P.P.: My Lord, I think it is in examination-in-chief. 10

Mr. Yap: The question asked by your Lordship.

Chua J.: Yes, I beg your pardon, he did say, yes, all right. So one blow could have caused 2, on the right side and No. 3?

A. Yes.

Chua J.: By one blow.

Q. Now, Doctor, on your assumption of the possibility that one blow could have been inflicted in this part, would I be correct to say that the angle would be approximately like this? (Demonstrates). 20

A. Yes, it could be like that.

Q. Now, Doctor, if I were to inflict a blow at this angle (demonstrates) with tremendous violence would you expect to find the depressed fractures at the temporal foot bone?

A. I do not expect it could happen there, and I have mentioned that the other part of the bones were badly fractured. 30

Q. If I were to do it right now with a tremendous force as described by you, equivalent to that like a fall from a high building, would you expect the temporal bone to sustain depressed or indented fractures?

A. As I told your Lordships it could happen or it could not happen, with depressed fractures.

Chua J.: You do not expect but it could be caused?

A. I do not expect all the time that it must be there. 40

Q. All right, now I am concentrating on the temporal bone. A. Yes.

Q. You can even cause fractures with a force equivalent to that of a blow from a fist, could you not?

A. On which part of the body?

Q. On the temporal bone.

A. On the thinner side, yes on the thinner side.

10 Q. Even from a blow with a fist you can expect fractures to result?

Chua J.: Yes, on the thinner--- ?

A. On the thinner----

Q. Thinner portion of the temporal bone?

A. Of the temporal bone.

Q. And if this force is greater than that of a fist punch it could result in indented fractures, there would be a depression in the temporal bone?

20 A. Oh, yes, on the thinner part of the temporal bone.

Chua J.: You would expect or not?

A. Yes, if a blow---

Q. No, I think the question is "you would expect".

A. Yes, I would expect.

Q. Where? On the thinner part, is it?

A. Yes.

Chua J.: Yes.

30 Q. Now, surely, Doctor, from what you have told us the last two answers, if a force of tremendous pressure is delivered at this point you would surely expect to find----

Chua J.: With this weapon or----?

Mr. Yap: With this weapon, my Lord.

Chua J.: You did not put it that way. I know you demonstrated only.

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Mr. Yap: I am sorry, my Lord, if I may just
recap briefly what he said.

- Q. A blow from a fist could cause the fracture to
the temporal bone? A. Yes.
- Q. The thinner aspect of the bone; now, if I were
to apply a greater force than that you would
expect already depressed fractures on the
thinner aspect of the temporal bone? A. Yes.
- Q. Right, now, if I were to take P.42 and deliver
a hefty blow like this (demonstrates)? A. Yes. 10
- Q. Surely you would expect to find depressed
fractures? A. Yes, if----
- Q. On the thinner aspect of the temporal bone?
A. Yes, my Lord, if the blow is applied at this
particular angle as demonstrated I agree.

Chua J.: How do you describe the angle then?

Mr. Yap: My Lord, could we describe it as in
here, as marked by Dr. Seah, my Lord?
He has drawn the areas of the
fractures which he took from the
examination of the deceased's skull
in this manner marked blue. 20

Chua J.: Yes. Yes, what would be the result?

Mr. Yap: He would expect or definitely
expect----

- Q. Could I include the word "definitely" expect?
A. I would just expect, not always; I say just
expect.
- Q. You just expect depressed fractures on the
thinner aspect of the temporal skull? 30

Chua J.: I think you'd better put it in as
an exhibit.

A. This is just a specimen, my Lord.

Chua J.: If we mark it as an exhibit you
will not be able to use it for other
purposes. We would like it to be
kept in Court for a while.

A. Could I get this back after the trial
is over?

Chua J.: Yes, of course, it will be returned to you after the trial.

A. It does not matter, my Lord.

Chua J.: Mr. Yap, if you want to use it to address the Court let us know. We had better mark it as an exhibit. It is a defence exhibit, we will mark it as D.1 then.

10 Mr. Yap: Yes, D.1. My Lord, there are two portions to this skull. Can we have the other portion included as a defence exhibit?

Chua J.: Yes, but you have not marked the other one.

Mr. Yap: Do you think we can include both as one exhibit?

Chua J.: You have no hook to attach the top to the bottom? A. No, no hook.

20 Q. Can you please mark on the upper portion the first group of fractures?

(Witness marks on exhibit).

Chua J.: Yes, can I have a look?

(Exhibit is shown to his Lordship).

Q. Doctor, from your own marking of the fractures that were found on the right temporal side of the skull, you had extended the 2 ---- virtually the whole portion of the temporal aspect of the skull? A. Yes.

Q. Am I right? A. Yes.

Q. You have extended, you have found the fractures - comminuted fractures virtually throughout the whole portion of the temporal - right temporal aspect of the skull, is that right? A. Yes.

Chua J.: Yes, No. 2, is it?

Mr. Yap: Yes, that part of No.2 which relates to the right side.

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Chua J.: Cover the ----?

Mr. Yap: Virtually the whole portion of the
temporal bone, right side.

Q. And yet, Doctor, you agreed with me earlier on
that you found no evidence of indented or
depressed fractures on the right temporal bone?

A. Yes, I had mentioned that.

Q. Which could therefore lead to one possible
conclusion, Doctor, that the blow in this
region was not that severe as to cause
indented fractures? 10

A. No, I do not agree, my Lord.

Q. Doctor, may be I am not making myself very
clear to you. You had just agreed with me that
if I were to deliver a blow of great force at
this point you would expect indented fractures
on the temporal part of the skull?

A. Yes, I agreed to this point.

Q. And yet you found no evidence of indented
fractures on the temporal part of the skull? 20

A. Yes.

Q. Right? A. Yes, I have told the Court.

Q. Now which must therefore necessarily mean that
blow could not have been that severe?

A. No, I did not agree to this.

Chua J.: Not severe enough to cause fractures?

A. You see, my Lord, as I told the Court
earlier on that there was violent
blow to the region of the ear;
either one blow on the right side 30
or one blow on the left side.

Q. Within the hard part?

A. Yes, the blow hit at the hard part
and in all these patterns of
fracture --- in this pattern of
fractures the thinner part of the
temporal bone became fractured
because of the force transmitted.
The thinner part of the temporal was
fractured because of the transmitted
force from the strong part of the 40
temporal bone - that means from the
petrous temporal bone.

Q. Doctor, are you then saying that the pipe never hit the temporal bone part of the bone?

A. Yes, from my finding here the most likely -- the most likely location of force was at the petrous temporal bone, that means at the very hard part of the temporal bone.

Chua J.: That is the most likely point of impact? A. Yes.

10 Q. Then why did you agree earlier on when I demonstrated to you that this could be the manner in which the impact could have ----

A. No, I did not say the manner of impact in this case because, my Lord, as the counsel demonstrated that sort of impact, to me I had to agree with him because that was his theory.

20 Chua J.: You see, you did not emphasize, you were not questioning him on this particular case, the deceased; you were just demonstrating, you see, the blows delivered in that way.

Mr. Yap: That is so. In fact I did demonstrate to the witness and I did mention to the Court the area.

Chua J.: But this point in issue in this case, the blow was not delivered in the fashion that you have described; that is your point isn't it?

A. Yes, the blow was not delivered in that way.

30 Chua J.: If the blow was delivered in the same manner that you have described ---

Mr. Yap: Yes, my Lord.

Chua J.: Then he agrees with you.

Mr. Yap: I see.

Chua J.: But as far as this case is concerned he does not agree that the blow was delivered in the way that you have described.

Mr. Yap: As you please.

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Chua J.: He said the blow landed on the hard part.

Mr. Yap: I see your Lordship's point.

Q. Now, Doctor, let us go on to the left side, the left temporal bone? A. Yes.

Chua J.: Yes.

Q. I see under classification (2) that there were comminuted fractures on the temporal bone.

A. Yes, I described in my report.

Q. Did you mention anywhere in your report that the comminuted fractures extended to the petrous part of the temporal bone, left side? 10

A. In No.(2), my Lord, I mentioned comminuted fractures involving both temporal bones. When I used the word temporal bones I meant the whole temporal bone - the thinner part and the harder and the strong part.

Q. I am asking you a very precise question.

A. Yes.

Chua J.: The whole temporal bone? 20

A. Yes, the whole temporal bone.

Q. The hard part and the soft part -- not soft, thin part?

A. Thin part.

Q. Doctor, would I not be correct in saying that you did not describe the damage to the left temporal bone in the same manner as you had given the description pertaining to the right side?

A. The right side has additional fracture line, that is why, my Lord, I mentioned the third - No.(3) - further detail on the right side. 30

Chua J.: You said what? Additional---?

A. Additional fracture line to the front, that is why I put up another No.(3) after No.(2).

Q. But specifically you made no mention pertaining to any fracture in the petrous temporal bone, left side, I am quite correct in saying so?

A. No, when I mentioned the piece of bone I mean the whole piece of bone. 40

Q. Doctor, assuming this to be the actual skull that you had examined and this is where the areas of the comminuted fractures of the left temporal bone (indicates on exhibit skull), could you explain to the Court how the impact could have been caused with the use of P.42? At what angle would you have it; the deceased's skull, assuming this is the deceased's skull with the areas of fractures that you have marked, how would you have it?

A. My Lord, at any angle into the petrous temporal bone; any angle if the impact is into the petrous temporal bone.

Q. Could you demonstrate to the Court the angle or the area which P.42 could have inflicted the injuries on D.1? (Witness demonstrates).

A. Yes, my Lord, any angle when this part of the temporal bone was hit (indicates on exhibit skull).

Chua J.: Yes.

Q. Can it be at an angle where the impact with P.42 could have been with the temporal region?

Chua J.: Say that again, I don't follow.

Q. Could the blow delivered with the use of P.42 be at an angle which would also hit the temporal aspect of the skull?

Chua J.: You understand?

A. Yes.

Q. Or perhaps if I can demonstrate more clearly to you; just to illustrate it, could the blow have come in in this manner (demonstrates), assuming this is the deceased's skull and this was the weapon that was used?

Chua J.: I think his answer is it could be delivered at any angle.

A. Any angle around the petrous temporal bone.

Q. Around the petrous, is it?

A. Yes.

Mr. Yap: My Lord, I am demonstrating it.

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- Q. Could it be in this manner, can it be at this angle?
A. No, it won't be possible from an angle like that because in this way the petrous temporal bone it is missed. Could I show to the Court, my Lord? (Witness demonstrates).

- A. If it is hit at this angle as suggested there will still be some space.

Chua J.: No, no, let's have it clear, as regards the left side was the petrous temporal bone hit?

10

- A. Yes, the petrous temporal bone was the point of impact.

Chua J.: I see, yes.

- Q. And you also said in your examination-in-chief that the force was of a tremendous violence, is that right? A. Yes.

- Q. Now, are you able to associate this group of fractures with the lacerations that you found on the deceased? I gather you understand my question. A. On the left side?

20

- Q. Yes.

- A. My Lord, on both temporal regions there was no external laceration.

Chua J.: No external---

- A. There was no laceration on the temporal region.

- Q. On both temporal regions there was no laceration, is it?

D.P.P.: There was long laceration.

30

- A. No laceration.

Mr. Yap: No laceration.

Chua J.: No laceration, yes.

- A. On the skull - on the external.

Chua J.: External?

- A. On the head there was no laceration on the temporal region.

Q. Now doctor, if a blow of great severity with the use of P42 is applied behind my ear, would you expect lacerations?

A. I do not expect lacerations to be there always, lacerations could occur.

Q. Did you find any bruises?

A. No, there was no significant bruises there.

Q. At either of the temporal region?

A. That is correct.

10 Q. Now doctor, if somebody were to use P42 and give me a blow behind the ear, what are the external injuries would you expect?

A. The commonest injury would be bruises.

Chua J.: Yes.

Q. What are the other injuries?

A. Then the other possibility would be laceration.

Q. Any others? A. Fractured skull.

Q. No, I am talking about external injuries?

20 A. It is a very blunt object and I would only expect these two - bruises and lacerations - and possibly abrasion.

Q. Doctor, would I be right in saying that if the blow is slight, you would expect the possibility of abrasions? I am talking in terms of the three, abrasions, bruises and lacerations - if the blow is slight compared to the three of them, the other two, you would expect abrasions? A. Yes.

Q. If it is more severe -

30 Chua J.: If ---

Mr. Yap: If the blow is slight, you would expect ---

A. Yes, usually abrasions could be seen.

Q. Yes.

Q. And a force greater than that would cause lacerations? A. Yes, it is possible.

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- Q. I am sorry, I just missed one step - a slight force would cause abrasions, the next would cause bruising - a force greater than that would cause bruising? A. Yes.

Chua J.: And that the third stage?

Mr. Yap: And the third stage would be lacerations, my Lord.

- Q. It would be virtually impossible, if I might say, if a force is applied on a human body that there would be no trace of either abrasions, bruises or lacerations? 10

- A. No, I don't agree with this remark. It is quite common, we have seen it very commonly.

Chua J.: I have seen ---

A. Very commonly that blunt force, such as a blow from a blunt object produced no external injuries.

- Q. Before I go on, you did mention no lacerations and no bruises were found in these temporal regions and the deceased I take it that you found no abrasions of any significant nature in this area? 20

- A. Yes, that is correct - no abrasions.

- Q. No abrasions, no lacerations, no bruises in both temporal regions - doctor, I have not seen as many people you have who had suffered from such afflictions, but using this as a weapon to deliver a blow on any part of the body, this one, would you expect some form of external injury? 30

- A. Yes, some place on the body I expect some form of external injuries, but the same weapon could also produce no external injuries at all.

Chua J.: Yes.

- Q. Honestly, doctor, I don't understand at all unless this one is a magic wand which does not produce any bruise. Look at item 6 of the external injuries - there was a bruise on the whole of the dorsum of the right hand?

Chua J.: Item ---

Mr. Yap: Item 6 of the external injuries. 40

Chua J.: Yes.

Q. On the whole of the dorsum of the right hand - could you please indicate to the Court this injury that you found on the deceased - the whole of the dorsum of right hand?

A. The back of the hand, my Lord.

Q. Did you determine whether there were any fractures?

A. I did examine but there were no fractures.

10 Q. There were no fractures. Would a blow on the right dorsum of the hand by this weapon cause that bruise?

A. Yes, the bruise was consistent with a blow by this object.

Q. By this very pipe? A. Yes.

Chua J.: Am I right - P42?

Mr. Yap: The pipe is P42, my Lord.

Q. Would you describe the force on injury item 6, that is, the injury on the dorsum of the right hand. A. Yes.

20 Q. It is not a very severe one?

A. Yes, a moderate force.

Q. A moderate force because you only found a bruise but not fractures - right?

A. Yes, that is what I mean.

Q. Doctor, would you not agree with me that at the dorsum of the right hand we have several little bones? A. Yes.

Q. Finger bones? A. We call them the hand bones.

30 Q. Which are not very strong, they are rather brittle and can easily be fractured?

A. No, I don't agree - all bones in the body are strong bones be they big or small.

Q. Now if the same force that was applied on both of the temporal bones were to be caused at the dorsum of the right hand, would it have fractured any of the bones there?

A. Not necessarily.

Q. Could it have?

A. It could fracture but not necessarily so.

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Q. The same force, my Lord, that was inflicted on either of the temporal bones, if were inflicted on the dorsum of the right hand, as itemised in No.6 of the external injuries, would you have expected some fractures?

Chua J.: Not necessarily expect it?

A. Not necessarily.

Q. My question is, could you expect fractures to be found? A. I don't expect.

Q. But fractures could occur?

A. Yes, I agree fractures could occur. 10

Q. Doctor, if I used this weapon on somebody with such a force as to cause fracture of the bone, would you not expect at least some form of external injuries?

A. No, not necessarily so - we have seen it quite often.

Chua J.: Yes, he has already said so.

A. That is why as pathologist we always have to open up the body because the internal injuries are always much more important than external, that is, I do a full post-mortem. 20

Q. You want to know what is inside which you cannot see from the outside, but with a force that is sufficient to cause fracture on a bone, would you expect to find at least some form of external injury either by way of a bruise or a scratch? 30

A. Not at all - I won't be surprised to see no external injuries.

Q. All right then, doctor, would you agree with me that it would be highly unusual not to find any form of external injuries?

A. No, it is usual not to find external injuries. I don't agree with your statement. As I explained, quite commonly seen just now.

Chua J.: So your answer is not unusual?

A. Not unusual to find absence of external injuries when there are extensive internal injuries. 40

Q. Doctor, could you describe the effect on the skin of a person when a blow is delivered by this object?

A. My Lord, this depends on a lot of commonsense. If I put my hand on the table and then somebody comes and smashes on the hand like that, surely there will be extensive injuries, but the moment my hand moves and if I am hit by an object, I don't expect the injury to be so extensive.

Chua J.: Yes.

Q. Doctor, I fail to understand your last answer, you did say that if your hand were to move away, then the injuries would be less extensive.

A. Less extensive.

Q. But nonetheless you would expect to find some form of injury?

A. No, if I moved away fast enough there would be no injury.

Q. Of course, it misses and there would be no injury?

Chua J.: Yes.

Q. But doctor, isn't it also true if the victim were to move away from the blow, so also correspondingly there would be less internal damage, isn't it? A. Yes.

Q. But would you not expect at least some form of skin damage?

A. No, I do not expect to see skin damage as a necessity of any blow.

Q. Doctor, if you did not find any form of skin damage from a blow, would you expect to find internal injuries?

A. Yes, we find this quite often - no external injury but there were extensive internal injuries. We find this every day in our daily work.

Q. Doctor, I just cannot agree with what you say, if I were to use this as a weapon of assault on another person, there would be absolutely no trace even on the skin?

A. Yes, this is very commonly seen.

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Q. Doctor, does not pressure cause frictions on the skin?

A. Yes, pressure causes some friction on the skin.

Q. And especially if there is a movement of the body, the friction is even greater, isn't it?

A. Yes, relatively.

Q. Now under those circumstances would you not expect to find some form of friction or abrasion? A. No, I don't expect.

Chua J.: Some form of what?

10

Mr. Yap: Some form of friction or abrasion on the skin and the doctor here says he does not expect.

Chua J.: Yes.

Mr. Yap: My Lord, the doctor's views come as a surprise to me. Perhaps if I read the relevant pages of ----

Chua J.: Perhaps we will adjourn now. You will make a photostat copy of it?

Mr. Yap: Yes, I will.

20

Chua J.: We will adjourn to half-past ten tomorrow. You might indicate to the doctor the passage you are going to read tomorrow morning?

Mr. Yap: Yes, I will indicate to him.

Chua J.: All right, the Court stands adjourned.

(Court adjourns at 3.55 p.m., 26.1.76 to 10.30 a.m., 27.1.76).

10.50 a.m. 27.1.76 (Court Resumes)

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Chua J.: Yes.

Mr. Yap: My Lords, before I proceed may I apply to have your permission for Dr. Paul Ngui who is the psychiatrist called by the defence to assist me in this trial?

10 Chua J.: To sit in Court, yes, all right.

Mr. Yap: Yes, he is in Court. I am much obliged.

Witness: On my former oath, my Lord.

Chua J.: Yes.

Q. Dr. Seah, could you explain to the Court how in certain cases where a blow is inflicted on the body yet no external injuries can be observed?

A. Certain parts of the body are very liable to get external injuries. These are usually the loose skin over certain parts of the body.

20

Chua J.: Loose skin?

A. Loose skin over certain parts of the body like around the eye.

Chua J.: Yes.

A. And certain parts of the body like the abdomen and also the region behind the ear because of cushion effect ---

Q. Cushion?

30

A. Cushion effect, external injuries are usually not seen.

Q. Doctor, would you not consider the area of the ear as having -- as of being loose skin?

A. The area above the ears; the areas above the ears are very loose but not the area behind the ear.

Q. Doctor, is it not true that bruising will be considerably less or even absent only if the skin is strongly supported by fibrous tissues?

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A. Can you repeat?

Q. Would you not agree with me if I say that only in areas where the skin is strongly supported by fibrous tissues will the bruising or marks of bruising be less or even absent?

A. Yes, that is correct.

Chua J.: Say that again?

Mr. Yap: These are areas where the skin is strongly supported by fibrous tissues -----

10

Chua J.: Areas--- what?

Mr. Yap: Where the skin is strongly supported by fibrous tissues will then bruise marks be considerably less or might even be absent.

Chua J.: Yes.

Q. Could you explain to the Court which parts of the body fall under this description with the skin strongly supported by fibrous tissue?

A. I have quoted one example, the back of the ear.

20

Chua J.: Yes.

Q. Now, Doctor, is it not true that if the side -- the back of the front portion of the head would even just to strike the ground, so much as to strike the ground, the commonest of such injuries would be a bruise just above and behind the ear?

Chua J.: You are reading from something?

Mr. Yap: That is so.

Chua J.: Can I have it? Such a long question, you know.

30

Mr. Yap: Yes, my Lord. (Hands up document).

Chua J.: I suggest Mr. Yap that you read the passages that you want.

Mr. Yap: Yes, my Lord, I think that is the best.

Chua J.: Give him a copy and find out from him whether he agrees or he does not.

Chua J.: You have the actual book itself?

Mr. Yap: Yes, will you please refer to page 282?

Chua J.: Page?

Mr. Yap: 282, my Lords, Gradwohl's Legal Medicine, 2nd Edition - I have marked the portion in blue, my Lords.

Chua J.: Would you kindly read it then?

10 Q. Doctor, will you please refer to the bottom of the page on the left hand side - "Injuries to the Side, Back, and Front of the Head. - In falls from the erect position certain parts of the head will usually strike the ground, the site of impact depending upon the direction in which the person falls. The commonest of such injuries present as a bruise with or without a laceration just above and behind the ear. This
20 is a fairly common injury to pedestrians in automobile accidents when the head hits the ground. The underlying fractures will run parallel with the line of impact through the base of the skull, involving the anterior or middle fossa and sometimes through the pituitary fossa to the opposite side.

30 Other points of impact are the brow, where, underlying an abraded laceration, there will be a fissure fracture of the anterior fossa, and the occiput, where there may be a posterior fossa fracture running towards or into the foramen magnum. Injuries to the back of the head may cause fracture of the orbital plates by contre-coup. Such injuries can be the result of being pushed or knocked over, or falling from the effects of natural disease or alcohol." - would you agree with this?

40 A. No, my Lord, this is out of context here. This passage deals with automobile accident.

Chua J.: Yes - this passage deals with --- deals with motor car, automobile accident where the impact from the moving vehicle is very great and this cannot be applied in this

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case of a man who falls down by
himself or even being pushed by
other people.

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- Q. Doctor, would you not agree that the mention of a motor accident here is purely as an illustration that is being used, but not as a general principle on which the principles of wounds have been just read out to you?
- A. No, I think to quote an example like that would be very unfair, my Lord, in the case of a fall. If I can use anyone as a model, for example if your Lordship will permit me, can I make use of this gentleman here as an example? 10

Chua J.: Yes.

- A. You see, in a case of a fall I agree very easily you can have an external injury on the brow, but as quoted in the book, it says the injury is above and behind the ear. Most people in most circumstances on this part will be cushioned off by the hair. Even a little hair you have, this will cushion off the injury in the case of a fall, but this will be different in the case of a motor car accident. 20

Chua J.: Yes, Mr. Yap.

- Q. Now doctor, would you agree with me from the passage I just read, it makes no distinction pertaining to the sustaining of bruises in the ear, above or behind the ear?
- A. When it mentioned about the ear, above and below the ear, the passage here deals with pedestrians in automobile accident - that is what I understand from this - reading from this passage. 30
- Q. You are not answering my question, doctor. I am saying - does that paragraph make any distinction in the sustaining of bruises in the ear, above or behind the ear?

Chua J.: Well, the doctor's point is that this passage refers to the injury behind the ear is only in respect of motor accident? 40

- A. Yes, from what I understand from this passage.

Mr. Yap: As your Lordship sees it.

Chua J.: He does not agree with a general statement that when you have a fall, you have injuries in all the areas there - that is his point.

Q. Now doctor, if a very severe blow is delivered by this object in this fashion ...

Chua J.: In the region of the ear?

Q. Yes, in the region of the ear ...

A. Above?

10 Q. Well say here, the point of impact as described by you, you know, for injuries 1 and 3, can you describe what area of the impact would be?

A. I locate it to the back of the ear, my Lord.

Chua J.: For injuries 2 and 3?

A. Yes.

Q. The point of impact was behind the ---

A. Ear - yes, behind the ear.

20 Q. With the greatest respect, did you not mark on this exhibit that the injury was located around not only just behind the ear, but on the ear and the upper portion of the ear?

A. Yes, I did.

Chua J.: That marking is in respect of injury No.2 as I understand?

Mr. Yap: That is correct, my Lord, injury No.2.

Chua J.: As I understand his evidence, the impact is behind the ear?

30 A. Yes, I explained to the Court.

Q. Is that what you said?

A. I said the impact of blow transmitted forward and caused fractures of the other bones.

Q. He never said the impact was the place he marked, that is injury No.2.

Q. That is so, but having regard to the size of the pipe, could you say it was just at the point

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behind the ear? You know, it is not a small ball-point sized end which hit it where you can just pinpoint it behind the ear. It is a large pipe which is about 5½ feet long and about 6" thick, can you really say the blow was behind the ear?

A. Yes, from what I had found out the injuries were here. My Lord, I only mentioned that the pattern of injury was consistent with one inflicted by the weapon. 10

Q. Behind the ear? A. Yes.

Q. Now Dr. Seah, could you tell the Court the position of the deceased at the time when these two blows were hit? A. No, I can't, my Lord.

Chua J.: In relation of what?

Mr. Yap: I mean, was he hit from the back?

A. I can't, my Lord.

Q. Or was he hit from the side?

Chua J.: From the front or from the back, you can't say? A. Yes. 20

Q. Doctor, there was absolutely no damage to the ear, am I correct? A. That is right.

Q. Now if the victim had been hit from the side, the ear would be here would it not? Now if the victim was hit from the side, surely you would have expected some damage to the ear?

A. No - you mean the victim was hit like that?

Q. Yes, would there be any damage to the ear?

A. Yes, can I indicate - if the victim was hit like that. 30

Chua J.: On the ear?

A. On the ear itself, I expect some external injuries to the ear.

Q. Some what?

A. Some external injuries to the ear.

Q. Now doctor, if it is hit from the front, you would also have expected injuries on the ear because the damage as you say is behind the ear? A. Yes.

Q. Right, so if he is hit from the front, you would have expected the ear to have been damaged? A. Hitting like that (indicates).

Q. Yes. A. Here like that or in front.

Q. You see, it is not a pinpoint injury I am describing. It is a very large pipe, it covers about that ear - it covers virtually the whole ear, am I right? Would I be right in saying that the pipe is larger than the ear?

10 A. Yes, in comparison it covers the ear.

Q. Now if the blow is delivered from the front causing damage to the back of the ear, would you have expected ---

Chua J.: Not the length, the circumference of the pipe?

Mr. Yap: Yes, the circumference of the pipe is larger than the ear, am I right?

A. Yes, about the same size of the ear.

Chua J.: What exhibit is that?

20 Mr. Yap: P42.

Chua J.: Larger than the ear, yes.

Q. If the blow had come from the front to cause damage to the back of the ear, you would have expected damage to the ear?

A. From the front because - yes, if the force was applied like that (indicates), I expect to see a bit of external injury on the ear as well.

Q. Which means, doctor, the only possibility of the manner in which that blow could have occurred would be from the back because that would avoid the ear?

30

A. Yes, I agree to this point, my Lord.

Chua J.: You mean he was hit from the back?

A. Yes, most likely the blow came from the back of the ear.

Q. Back of the ear? A. Yes.

Q. Doctor, we have been talking about the right side temporal bone damage - would not what you

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have just said be applicable to the left side
temporal bone damage? A. Yes, that is correct.

Q. Therefore, doctor, if the victim is lying on the
ground face upwards, such injuries could not
have been sustained by the blows? Let us put
it this way (indicates) I am saying now that
the victim is on the ground ---

A. Yes.

Q. Assuming that the victim is lying on the ground?

A. Face downwards. 10

Q. Face upwards, these two injuries at the
temporal bones could not have been sustained
by a blow? A. It would be unlikely.

Q. It is quite possible?

Chua J.: Why are you saying that it is ---

A. I say it is unlikely, my Lord.

Q. It is likely when these two
injuries were inflicted the
victim was standing up?

A. That is my --- 20

Q. Is that what you mean?

A. That is the likelihood, most
likely that the victim was in a
standing position when he was hit.

Chua J.: When he was hit on the temporal
bones, yes.

Q. And not only must be the victim be standing up,
the person who delivered the blow must be from
the back or at least the victim would have his
back to the --- 30

A. To the back of his head to the assailant.

Chua J.: The blow must have come from the
back?

A. To the back or of his head.

Q. Doctor, did you find any evidence of chip
bones at either of the temporal bones?

A. My Lord, I have already explained that the
bones were in multiple pieces.

Q. You have, but I am asking you whether there are in chips?

A. Comminuted that means in chips - that is the definition.

Q. With the bones in chips, would it not usually cause laceration on the skin?

A. Not necessarily, not usual.

10 Q. Doctor, I would have thought it would be otherwise. If there are chips, it means that there are little bits and pieces facing outwards and if pressure is applied would not the skin tissue be damaged?

A. No, my Lord, I think the counsel does not understand usual pathological evidence. Any fracture on the front of the skull where the fractures were in chips, usually we see lacerations like, as I quoted to your Lordships yesterday, about the lacerations on the eye. When fractures occur on the front part, this is a usual pattern. When a fracture occurs on this part (indicates) or at the back, it is very unusual to find the bone chips extended externally and cut the scalp.

20

Q. Doctor, I will show you another authority supporting to some extent what you have mentioned - at pages 277 and 278? A. Yes.

Mr. Yap: Of the same book, my Lord - on the right hand column at the bottom of the page, my Lord - page 277 and 278, continued on the next page.

30

Chua J.: 277?

Mr. Yap: Yes.

Chua J.: Yes.

Q. Under the heading of "Conditions and Type of Tissue. - If the skin is ---

Chua J.: Where are you reading from?

Mr. Yap: At the bottom of page, bottom right hand column - it is marked in blue.

40

Chua J.: Conditions and type of tissue - yes.

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- Q. That is so - it reads, "If the skin is loose at the site of injury, as, for example, around the eye, bruising will occur more easily and be more extensive." A. Yes, I agree with this.
- Q. "This will also apply if there is excess of subcutaneous fat. Conversely, if the skin is strongly supported by fibrous tissue, then bruising will be considerably less or even absent, whilst if muscle tone is good, bruising, as is seen on the abdominal wall of boxers, may be minimal." - do you agree with this? 10
- A. I agree whole-heartedly.
- Q. In fact it confirms what you said. Now doctor, if you could turn to page 280 - at pages 280 and 281, my Lords.
- Chua J.: Yes.
- Q. Doctor, would you look at figure 173 - figure 173 at page 280, my Lord.
- Chua J.: Yes.
- Q. Now doctor, you have got the figure there with you? A. Yes. 20
- Q. Do you agree with the principle?
- A. Yes, I agree with the principle as illustrated here.
- Q. You therefore agree that an impact by a blunt object pressing tissues at point against bone will crush against bone and B thus bursts skin. Removal of A leaves laceration - you agree with that?
- A. Yes, I agree, if the weapon is of this shape as marked A the injuries should be of this pattern. 30
- Chua J.: You agree as illustrated?
- A. Yes, as illustrated here.
- Q. Yes.
- Q. Now doctor, that is laceration will come about if the force from the blunt object is fairly severe? A. Yes, that is correct.

Chua J.: The force was ---

Mr. Yap: Fairly severe, my Lord, sufficient to cause a tear in the skin.

Q. Now if the force was less than that, you might expect to see bruises, that is, it is not severely strong to tear the skin? A. Yes.

Q. And if the force is one of a degree lighter than that, lighter than that I have just now mentioned, it could have caused an abrasion?

A. Yes, in general it is correct.

10 Q. Now doctor, what bone would you describe this - this part (indicates)?

A. This is part of the temporal bone.

Q. This part of the temporal bone protrudes out from the skin, is that correct?

A. Yes, that is called the mastoid of the temporal bone.

Q. Yes, that is the word I want to use - the mastoid of the temporal bone.

Chua J.: Yes.

20 Q. Now because of the bone base and with just a small piece of skin covering it, you could just feel the mastoid bone quite easily?

A. Yes, that is correct.

Q. Would not a force applied in the manner as illustrated as at figure 173 be similarly applicable?

Chua J.: Where, on the mastoid?

Mr. Yap: On the mastoid bone.

30 A. No, my Lord, in this illustration it describes about the tip of the weapon.

Chua J.: It would not be the same result, is it?

A. Yes, in the diagram here the object A is the tip of one end. It does not apply.

Q. You say the weapon - what about the weapon?

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A. It is the tip of the weapon that hits - that hits like that, more or less perpendicularly like that.

Q. Yes.

A. But in the case of the deceased the blow from the object was in - what we call a tangential manner, that means flat.

Chua J.: What?

A. Tangential - that means hit in this way.

10

Q. Yes.

Q. In other words, doctor, am I right when you say about tangential blow, that this blow to the back of the ear was not a direct one in that sense, but it was a glancing one which came at an angle, is that correct? A. Yes.

Q. At a tangent?

A. Yes, something like that (indicates).

Q. Could you describe to us the probable position, like this?

A. The most likely position is this (indicates).

20

Chua J.: Yes.

Q. Doctor, would you not agree with me that the part of the skin that connects the ear to the skull here is loose?

A. No, not as loose as we expect. The loose part you can easily spread it out is like around the eye.

Q. This you say is not loose?

A. To me it is not considered as loose.

30

Q. Doctor, would you suffer bruising at the back of the ear if an object landed on the back of the ear lobe? A. Yes, I have seen bruising.

Q. Yes, but a force of reasonable violence?

A. If it hit like that (indicates).

Q. Yes.

A. No, I don't think so, the blow was directly on the mastoid or behind the ear.

- Q. I am saying if there is a blow behind the ear lobe or if the pipe were to pass through the ear lobe in this way, would you get bruises behind the ear?
- A. No, this part is very difficult to bruise behind the ear, because it just gives way easily whenever there is a blow.
- Q. All right, doctor, bruises are caused as a result of ruptured capillaries?
- 10 A. Yes, that is correct.
- Q. This is at page 276, my Lord, on the right hand column at the bottom of the page under the heading of Contusions also known as Bruises. Now if I could just read this portion to your Lordship - you have it Dr. Seah?
- A. Yes, that I can follow.
- Q. "These are due to a rupture of capillaries and veins leading to an escape of blood into the tissues beneath the skin. They can occur spontaneously in association with such diseases as purpura, scurvy, or leukaemia, but are more commonly due to injury, in which case such diseases, if present, will exaggerate them; the degree of violence required to cause bruising will vary from firm gripping to heavy blows. The immediate result may not be obvious or may show merely as a red blush; whilst, depending upon the severity, there will later be swelling and discoloration. The discoloration will be more marked after the passage of time, especially if death takes place, when post-mortem changes will accentuate the appearance. For this reason it is always advisable to re-examine the body 24 hours later, as the appearance of 'finger-tip' bruises, which may indicate a struggle or restraint, can be of the utmost importance; bruises produced at the time of death may show little swelling, and less extravasation. If the victim survives they will be more marked; hence living persons who have been assaulted should also have a second examination after an interval of one or two days for bruising which had only been indicated originally by tenderness on pressure or slight swelling." - doctor,
- 20
- 30
- 40
- A. Which line please?

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Q. "Bruises produced at the time of death may show little swelling and less extravasation."?

A. Oh yes.

Chua J.: Where is this?

Mr. Yap: I am sorry, this is at page 277 left hand column beneath the paragraph, my Lord - somewhere around the 8th line - below figure 165. "Bruises produced less extravasation."

Chua J.: Yes.

10

Q. Doctor, could you explain - sorry.

Chua J.: You are asking him - do you agree?

A. Yes, I agree with this whole passage as read.

Q. Without reservation?

A. Or I agree wholehearted, my Lord.

Chua J.: Yes.

Q. Doctor, could you just elaborate on this word "extravasation"?

A. Extravasation that means blood leaks out from the capillaries into the surrounding tissues.

20

Q. Doctor, would I be right in saying that if a blow is to be inflicted on a living person as compared to a blow being inflicted --- the same blow is being inflicted on a dead person, the bruise if any would be more marked on a living person as compared to a dead person?

A. It is a correct statement, my Lord.

Chua J.: I think that statement is in here, isn't it? It is in this passage, correct?

30

Mr. Yap: Yes, my Lord, I am now going on to the comparison, if the same blow is inflicted on a living person.

Chua J.: Yes, if --- what?

Mr. Yap: If the same blow is inflicted on a living person it would be more marked than a dead person.

Chua J.: Yes.

Q. Doctor, would you classify -- what I have said would you classify a person in a state of coma; is it correct to say "coma four" - extreme form of coma?

A. Coma means loss of consciousness; "coma four" means severe loss of consciousness.

Q. Yes, coma four, would a person in a stage of coma four ----

Chua J.: Coma four is --- what?

A. A very severe loss of consciousness.

Chua J.: Yes.

Q. Would the same symptoms---

Chua J.: What, if a blow is delivered to a dead person-----?

Mr. Yap: Yes, like that of a dead person.

A. No, in coma four---

Chua J.: Just a minute. You said "in coma four-----" something?

A. In coma four the victim is still considered as alive because the heart is still pumping blood and bruises still occur.

Chua J.: Yes.

A. It is different; the reaction is different from that of a dead body.

Q. Therefore, Doctor, if, let us say, the victim is dead now, and the next moment I inflict a blow, would it not fall under the classification of infliction of injuries on a dead person?

Chua J.: I don't understand.

Mr. Yap: Perhaps if I rephrase it.

Q. We are just now talking about the distinction between the response to blows, all right, on the skin between a living person and the dead ---

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Chua J.: What I understand from the Doctor is that the response to a blow differs in the case of a living person from that of a dead person. But in the case of a person in coma four it is the same as a living person.

Mr. Yap: That is so, my Lord.

- Q. What I want to know is this, if a person has just died, let us say, if he is at this moment -- his heart has just stopped pumping and the next moment somebody hits a blow would you classify that as a dead person? 10
- A. You have already mentioned that the victim is dead.
- Q. May be I have not made myself clear. If a blow is inflicted on a person who has just died ---
- A. Yes.
- Q. Would it have the same effect as if the person has been dead, let us say, for 10, 15 minutes?
- A. When a person dies there is practically no bruise when the tissues are injured. 20

Chua J.: It makes no difference whether a person has just died or died 15 minutes.

- A. Yes, whenever anyone's heart stops we don't expect bruises to be of any significance, whether the tissues are injured.

Chua J.: Yes.

- Q. Now, Doctor, taking the case of the deceased, in this case assuming that at the time of the assault he was dead you would even less expect to observe bruises on the points of impact? 30

Chua J.: I think he has answered, he has really answered the question.

Mr. Yap: That may be so.

- Chua J.: What I have here is if a blow is inflicted on a person who has just died there would practically be no bruise; the moment a person dies you don't expect any bruise, whether the tissues are injured. 40

A. Even the tissues are injured.

Mr. Yap: Yes, my Lord, I was just applying it to our present case.

Q. Now, Doctor, you have earlier on in cross-examination said that the deceased was very highly intoxicated having a BAC level of 400 milligrammes?

A. Yes, that is correct; blood alcohol 400 milligrammes per 100 cc of blood.

10 Chua J.: Am I right in thinking, Doctor, when you wrote this report you had not received the Chemist Report of his analysis of the blood, is that right?

A. Yes, the Chemist had sent me a report.

20 Chua J.: I know he sent you a report but what I am asking you is that when you prepared the report am I right in thinking that you have not yet received the Chemist Report?

A. Yes, that is correct, when I wrote out the report I still do not know the Chemist result.

Chua J.: About the contents of the blood.

Q. But when you examined the deceased even though he was smelling very much of alcohol, smelling very strongly of alcohol?

30 A. No, practically all that body will give the alcohol smell. Alcohol means decomposed tissues, so I never depend on my notes for alcohol.

Q. Decomposition does not set in early.

A. No, alcohol is the product of decomposition; so whatever is rotten and dead, the alcohol is there, I never depend on my notes.

40 Q. No, all I want to know is this, Doctor, when you examined the deceased's head you must have come quite close to it; did you smell any strong liquor, was there any strong liquor smell?

A. I couldn't smell the liquor.

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Q. You also mentioned, Doctor, that under normal circumstances a person with that high degree of alcoholism can be expected to die?

A. I mean the degree of alcoholic intoxication and not alcoholism.

Q. Alcoholic alcoholism? A. Yes.

Chua J.: You say alcoholic intoxication you mean high alcoholic intoxication could cause death?

A. Yes, with this degree of alcoholic intoxication a person is liable to sudden death. 10

Q. As I have said with this degree, this high degree of alcoholic intoxication?

A. A person is liable to sudden death.

Q. Liable to sudden death? A. Yes.

Q. You mean he will just drop dead?

A. Yes.

Q. And these chances of sudden death are even higher if, let us say, he is involved in a struggle with somebody whereby his head would be knocked, you know? A. I don't think they are related. 20

Q. No, may I just repeat the question then: now you say that a person with this degree of ---

Chua J.: You mean when a person with a high degree of alcoholic intoxication exerts himself, he is struggling with someone?

Mr. Yap: Yes.

Q. Would it sort of seriously enhance the sudden death? A. No, I do not see any difference. 30

Q. Doctor, you mean a person having that high degree of intoxication, as you say, is liable to sudden death, I mean would it be even more liable to sudden death if, let us say, he suffers knocks on the head on the ground, let us say?

A. Yes, that is correct if he knocks on the ground.

Chua J.: If he falls down and knocks?

A. Yes, if he falls down and knocks himself. 40

Chua J.: If he falls down and knocks his head,
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10 Q. Now, taking the example of the deceased in this case, he had at least 400 milligrammes of alcohol in his blood, now, he struggles with someone, subsequently he is either pushed or in the course of the struggling knocks himself; he falls to the ground knocking his head on the ground and he lies motionless, would it not be probable that this person was dead at that time?

A. I would say possible not really probable. Possible.

20 Q. Now, assuming as I said, I have described to you the grabbing, the pushing, the falling down, particularly on the deceased's head, knocking on the ground together with a high state of intoxication after which he lies motionless you said it is possible that he could be dead; right, now, the person whom he was grabbing with goes some distance, comes back with a pipe like this and then inflicts two blows in the region of the ear as you have described ---

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Chua J.: I don't quite understand the question. Now you are putting the other way to him - the injuries were caused when he was lying on the ground ---

30 Mr. Yap: Yes, I see the point.

Chua J.: In your cross-examination the point you got out of him was---

Mr. Yap: Yes, I was going on a different point actually.

Chua J.: That is why I don't understand.

Q. Now, a person who is dead lying motionless on the ground he will not be able to respond to any blows? A. Yes, that is commonsense.

40 Q. Obviously. Now, Doctor, if you will recollect yesterday you said that there were three areas of fractures. A. On the left forehead.

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Q. Left forehead?

A. On both ears there are three.

Q. Now, on a normal person, let us say, who is not intoxicated, on a normal person who is not intoxicated, how long would it take a person to die, let us say, resulting from the first injury only - only from the first injury; you ignore the other injuries sustained by the deceased, only the injury No. 1.

Chua J.: Yes.

10

A. As I told the Court yesterday such a massive fracture alone on the forehead inflicted on a person like the victim I expect him to live perhaps a few hours.

Q. A few hours, few hours you mean 3 to 4 hours?

A. Yes.

Chua J.: 3 to 4 hours?

Mr. Yap: 3 to 4 hours, my Lord.

Q. And he could still be saved, let us say, if you do an emergency operation?

20

A. No, the most important factor, my Lord, depends upon the kind of brain damage inside. I only quote as a general rule.

Q. Yes, of course.

A. But in this case I must tell my Lord that there was no brain damage associated with this fracture.

Q. Yes.

A. The fracture at the front.

Q. So with brain damage you expect him to live for 3 to 4 hours? A. Yes.

30

Q. With brain damage? A. Yes.

Chua J.: There was no brain damage?

A. There was no brain damage associated with this fracture.

Q. If there is no brain damage then you would expect him to die or he is able to live only 3 to 4 hours if there is brain damage?

- A. If there is brain damage it depends on how serious is the brain damage.
- Q. Yes, that is true. You are saying that as a result of the first set of injuries you would expect him to live for a few hours which you said would be about 3 to 4 hours correct? That is if there is brain damage you would expect him to live 3 to 4 hours?
- A. No, average cases.

10

Chua J.: No, I think you bring in the question of brain damage when he said in answer to your question - could he have been saved, I suppose by surgery or something and he said it all depends on the extent of the brain damage.

A. Yes, that is what I mean.

Chua J.: Just now he has answered you.

Mr. Yap: I see your Lordship's point, yes.

20

- Q. So if the more extensive it is of the brain damage the lesser will be the chance of survival? A. Yes, that is correct.

Chua J.: I cannot see what this line of your cross-examination is: it makes no difference.

Mr. Yap: That is so.

Chua J.: Of whether he could have been saved or not.

30

- Q. So if there is no brain damage he could have saved, let us say, by an emergency operation?
- A. Or even no operation at all. If there is no brain damage there is no necessity for operation.

- Q. I see. That means in this case, Doctor, if we leave aside other fractures, the mere fracture that was caused to the deceased, under the first set of injuries sustained by him, would not have killed him because there was no brain damage? Unless I come to the wrong-----

40

- A. Yes, I must tell my Lord, you see, that

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fracture here is not associated with brain damage and not associated with bleeding inside. The only conclusion was this man was dead when this blow was inflicted.

Chua J.: That is your opinion?

A. I mean when this blow on the front of the forehead was inflicted he was not alive.

Q. This particular case you mean?

A. Yes, in this particular case. 10

Chua J.: He was already dead?

A. He was already dead, yes.

Q. From there you would then conclude that the fractures described in (a) - in the first group of fractures, is known medically as post-mortem fractures? A. That is correct.

Q. Now, would not this conclusion also extend to the other sets of fractures that could be post-mortem fractures?

A. No, could I draw your attention to my report on the brain? 20

Chua J.: Yes.

A. My Lord, the answer is - in my description about the brain, my report "Internal Examination" sub-heading "Brain", I mentioned that fresh sub-arachnoid haemorrhages were found at the temporal lobes.

Chua J.: Yes.

A. This indicated that most probably the deceased was still alive when he received the blows behind the ears. 30

Chua J.: Yes.

Q. Doctor, could it not be possible that the sub-arachnoid haemorrhages can also - you said it is possible, could it not be possible that it could have been sustained as a result of the fall causing haemorrhaging at those points? As you have mentioned earlier on that a person with that degree of intoxication is highly liable to haemorrhaging. 40

A. This is only a possibility. I admit that there is a possibility.

Q. This haemorrhaging at the temporal lobes?

A. Yes.

Chua J.: You say there is a possibility that----?

A. Could be due to falls.

Q. Can be due to falls, is it?

A. Falls on both sides.

Q. On both sides?

A. Either one side, I mean could be due to falls.

Q. On either side of his head?

A. Yes.

Q. I suppose you took into consideration also that he was highly intoxicated?

A. Yes, I have taken that into consideration.

20 Q. Now doctor, if we go on the assumption that this possibility which you have just mentioned that the haemorrhage on the temporal lobes could have been caused as a result of a fall, then on this possibility it would follow that the haemorrhaging at the temporal bones would be quite independent of the infliction of the blows - it is a possibility?

A. Yes, there is a possibility that - my Lord, there is a possibility that these are different.

30 Chua J.: There is a possibility that these haemorrhages which you described ---
A. Are not associated with the fracture.

Q. Now doctor, if we just look at the second group of fracture - the comminuted fractures involving both temporal bones - now we ignore the haemorrhages because you said it could be independent of it? A. Possible.

Q. Yes, possible - could the fracture let us say of that nature you had examined on the deceased by itself cause the death of the deceased?

40 A. Could you repeat it?

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- Q. I will re-phrase it - taking it into consideration only the second group of fractures, the comminuted fractures around the temporal bone, could it by itself cause the death of a person?
A. Oh yes, it could - fracture of the temporal bone.
- Q. Could cause death? A. Could cause death.
Chua J.: Could or would cause death?
A. Could cause death.
- Q. But there are also cases where possible where fracture of such a nature does not cause death - there is no accompanying brain injury, where there is no accompanying haemorrhage? 10
A. Yes, purely fractures alone and not complicated into extensive haemorrhage or brain damage - of course, the chances of survival should be very good.
- Q. Now doctor, this fracture line that you have described is the third injury. That fracture by itself, if it is not complicated or associated with haemorrhaging or damage to the brain, would not normally be fatal, am I right following from what you said just now, you know just this line of fracture by itself? 20
A. This is a very extensive fracture, usually there are complications associated with it.
Chua J.: Yes?
A. Of course if there is no complication, there is a chance of survival.
- Q. By chances of survival, am I right in saying that it would not be fatal? 30
A. No, I just say chance of survival - may be survived or may be dead.
- Q. As you please, now doctor, if you were to disregard the haemorrhaging - there is one other point before I go on to that fracture line at the base of the skull as indicated as fracture (3)? A. Yes.
- Q. It is possible, there is a possibility that it was not associated with the haemorrhaging that you found on the brain? A. It is possible. 40
- Q. Now doctor, from what you have said so far, would you not describe the cause of death then

as due to the haemorrhage? Now if we go on the possibility as fractures 2 and 3 could be independent of the haemorrhaging, not associated with the haemorrhaging, on that premise would not the cause of death then be haemorrhage?

A. No, the certified cause of death should be fractured skull. I cannot certify many causes.

10 Q. Doctor, it has been established earlier, as pointed out by his Lordship, that when you prepared your post-mortem report, it was done before you received the chemist report?

A. Yes.

Q. As to the possibility of the existence of intoxication, is that right? A. Yes.

20 Q. In the course of cross-examination, it has now been pointed out to you of the existence of the chemist report which you yourself also saw subsequently and from what we have said so far, you have agreed with me that where persons of that degree of intoxication would haemorrhage easily, is that right?

A. Yes, that is correct.

Chua J.: Sorry, would what?

Mr. Yap: Haemorrhage easily.
A. Would bleed easily.

Mr. Yap: My Lord, I brought it up yesterday - why there is no clotting process in a person who is highly intoxicated.

30 Chua J.: Have you got the passage here - what page is it?

Mr. Yap: I must apologise, I have not given page 326 to your Lordship.

Chua J.: You have not?

Mr. Yap: I must apologise - I thought I did.

Chua J.: You handed extract from Gradwohl's - page 326?

40 Mr. Yap: I beg your Lordship's pardon, I have got one copy and I will supply the other copy to your Lordship after the recess, my Lord.

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Chua J.: Very well then, read it and see whether he agrees with it - is it the only copy you have?

Mr. Yap: The only photostat copy.

Chua J.: Yes, you can read the passage to him.

D.P.P.: My Lord, the doctor has got the book.
A. I don't know which page.

Chua J.: 326.

Mr. Yap: 326.
A. Yes.

10

Chua J.: Now what are the passages you want to read - the one underlined in red?

Mr. Yap: That is so, my Lord - page 326 right hand column.

Chua J.: It begins with - "The most important effect"

Mr. Yap: That is so. "The most important effect..." - a right hand column page 326, you see a little black star - "The most important effect of alcohol on traumatic injuries of the brain is the accentuation of bleeding. Because injuries of the brain sustained in traffic injuries or in falls (coup-centre-coup mechanism) are so often manifest by haemorrhages, even in the case of contusions in which bleeding plays an important part in the secondary disruption of the brain, an exaggeration of the process is not only serious but often fatal."

20

30

Chua J.: You agree with that?

A. Yes, I agree.

Q. And there is another passage?

Mr. Yap: My Lord, that is for the time being.

Chua J.: Yes.

Q. The relevant portion that I am reading to the

doctor. Doctor, you have considered the possibility that the haemorrhaging of the brain as described in your report could possibly be caused by a fall on the head?

A. Yes, I have mentioned that possibility.

Q. Now in the event of haemorrhaging, that kind of haemorrhaging could be fatal? A. Yes.

Q. I hope I make myself clear - could it by itself I mean be fatal?

10 A. Yes, that is correct.

Q. Doctor, you have also mentioned that - no, I will put it the other way round, you did mention that it is possible that the fractures sustained at injuries 2 and 3 - the fractures at 2 and 3 could be independent of the haemorrhaging?

A. Yes, I have agreed to that point already.

Q. Therefore in the case of the deceased, could not the cause of death now having regard to the intoxicated state, the highly intoxicated state - could not the cause of death be that of haemorrhage?

20 A. Haemorrhages inside the brain, it is possible.

Chua J.: It is possible that death was caused by the haemorrhages?

A. Yes, it is possible.

Q. To cause the death of the deceased - now from what you have said so far, doctor, is it not also possible that the fractures could have been inflicted after the deceased had died?

30 A. I already have mentioned to your Lordship.

Q. No, even for fractures 2 and 3?

A. Yes, there is a possibility.

Mr. Yap: Was already dead - no further questions, my Lord.

Chua J.: You will take some time with the doctor?

D.P.P.: That is so.

Chua J.: In that case we better adjourn now. We will adjourn to half-past two.

40

(Court adjourns at 12.45 p.m. to 2.30 p.m., 27.1.76).

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2.30 p.m. 27.1.76 (Court Resumes)

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(Cross-examination by Mr. Yap) (cont'd.)

Chua J.: Yes.

Mr. Yap: My Lords, I must apologise, I do have one or two points to clarify with Dr. Seah, my learned friend has no objections to my continuing with the cross-examination.

Chua J.: Yes.

10

Q. Dr. Seah, could you look at photograph No. 13?

A. Yes.

Q. Which shows deceased lying on the ground, is that correct? A. Yes.

Q. Now, could you see the little bruise on the right dorsum of the deceased's hand, those little scratches?

A. No, I just can't see, there are lots of reflections.

Q. No, this one (indicates on photograph).

20

A. These are not certain, either bruises or blood clots, my Lord. The photograph just cannot give me an answer.

Chua J.: You are not sure, is it a bruise?

A. Or blood clots.

Q. Doctor, you look at item 6 of the "External Injuries" where you said "Bruise whole of dorsum of right hand".

A. Yes, this is my post-mortem finding.

Q. Now, was this the same injury that you saw?

A. My Lord, this bruise -- post mortem findings, because on a dark pigmented man like the deceased we had to make a cut and look at the bruise. The surface finding is always not reliable so I do not admit that I see or do not see this bruise on the photograph.

30

Chua J.: So you removed a piece of skin?

A. Yes, we cut open the skin to see the bruise.

Q. You cut open a bit of the skin, is it?
A. Yes.

Q. Doctor, all I am asking is, is it possible that the mark we see on his hand in photograph----

Chua J.: Which is the mark? There are several things on his right hand, which one you are referring to? The one near the knuckles or what?

Mr. Yap: That is so, my Lord.

10 Chua J.: The dark shadow there?

Mr. Yap: That is correct, with little lines.

Chua J.: Is that a bruise?

A. No, I don't think so because they were on the knuckles; there were no bruises as far as I remember and recorded.

20 Q. It is not nearly on the knuckles it is below the knuckles if you look at it carefully; is it possible that this is the bruise which you had itemised as No. 6 of the "External Injuries"?

A. The area is within the area I described in my report - "External Injuries, No.6. The number as pointed out by the learned counsel is within the area I have recorded.

Chua J.: This is within the area?

A. Yes.

30 Q. The area of the bruise. Now, Doctor, could you indicate to the Court on this photograph after your post-mortem where the actual area of the bruise was? I mean you said that the surface is inclusive of the area, would you indicate to the Court?

A. Could I use a marker to indicate the area?

Q. Yes, where the bruise was.
(Witness marks on photograph).

Q. Now, Doctor, the bruise as you found in item 6 could have been caused by a direct or a glancing blow from a blunt object? A. Yes.

Q. Now, would you look at photograph 13 again,

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could this bruise be inflicted or is it possible that this bruise be inflicted on the deceased while he was in that position?

A. Yes, possible.

Q. It is possible for the wound to be inflicted whilst the accused is in that position as shown in photograph 13? A. While the victim-----

Q. Yes, in that position. A. Yes, yes.

Q. Yes. Now, Doctor, is it not possible that whilst the accused is in that position--- I am sorry, whilst the deceased is in the position as shown in photograph 13, a strike from a blunt object could possibly inflict the wound as you mentioned here whilst at the same time inflicting the wounds in the region of the left eye of the deceased?

10

Chua J.: Left eye?

Mr. Yap: Yes, left eye, the region of the left eye of the deceased.

Q. Now, if the blow is directed in this manner (demonstrates) you can see it is quite straight, can both injuries be sustained at the same time? A. While the deceased was in the same position?

20

Q. Yes.

A. The answer is yes, possible.

Chua J.: Injury No. 1?

A. Left eye, the injuries above the left eye.

Chua J.: That is injury No. 1 then?

Q. External injuries, No. 1? A. No. 2.

30

Q. No. 2?

Mr. Yap: My Lords, let's first put it down as injuries around the left eye.

Chua J.: External injuries?

Mr. Yap: Around the left eye.

Q. This would be injuries to the left eye region

stretching from here, let us say, to cover the area of the nose bridge approximately like this (indicates on photograph); I have marked it with a circle, that these two injuries could have been sustained at the same time?

A. Yes.

Mr. Yap: My Lord, I have marked it in the photograph.

Chua J.: What do you mean at the same time? With one blow?

Mr. Yap: One blow.

A. No, under the same manner, is it you mean by under the same manner, hit?

Q. Yes, with one blow.

Chua J.: Mr. Yap, your question is not clear, you know. First of all, you dealt with the bruise on the dorsum----

Mr. Yap: Yes, my Lord.

Chua J.: Of the right hand.

Mr. Yap: Yes, my Lord.

Chua J.: Then you went to the eye.

Mr. Yap: The region of the left eye.

Chua J.: So I thought your first question to the Doctor was if the deceased was in the position shown in photograph 13 whether the injuries to the left eye could be inflicted; he said yes.

Mr. Yap: Together-----

Chua J.: No, no, I am afraid it was not clear to me; I am afraid it was not clear to the Doctor. What you mean is that with one blow the injuries on the dorsum and the left eye could be caused. I don't think the Doctor understood; that was your question.

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A. No, I mean in the same manner.

Q. Yes, in the same manner that means two blows. No, he is putting to you one blow could cause the injury on the right dorsum and the left eye---

A. No, I do not mean that. I meant under the same----

Chua J.: He misunderstood you and I did not follow you that way.

Mr. Yap: I am sorry, although I did not intend to put it in that manner--- I would clarify this with the Doctor. 10

Chua J.: So he is putting it to you is it possible for these two injuries to be inflicted in one blow?

A. No, unlikely.

Q. Possibility? Please be very careful about this. You see, the position of the right hand of the deceased----- 20

Chua J.: You know it is very difficult. This person is lying down; of course, if the assailant is stooping down and holding the thing almost parallel to him then there might be a possibility. But if he is standing up, he is holding the weapon the weapon would be likely to the front; unless it is posed this way (indicates), I don't know. 30

Mr. Yap: In fact, we could have a demonstration here, my Lord, whether it is possible to have both injuries being sustained in this way.

Chua J.: But if the assailant is standing up I don't see how he could have caused the two injuries in one blow.

Mr. Yap: My Lord, the angle in which it is held; if it is held, let us say, in a parallel manner, if I were to stoop---I am talking----- 40

Chua J.: Of the assailant standing up?

Mr. Yap: But what if the assailant could be stooping, my Lord.

Chua J.: Yes, I know that is another point but if the assailant is standing up that is impossible.

A. No, my Lord, it is not possible that one single blow could produce injuries at two sides.

Chua J.: Right dorsum?

A. Right dorsum and left eye.

Q. What is your reason?

A. These two blows are too far apart.

Q. Doctor, by saying too far apart you are presuming; if it is taken at this point (demonstrates), then it would be too far apart, right? If I were to hold the pole, and say, here, (demonstrates), it would be quite impossible to cause a single blow there, correct?

Mr. Yap: My Lord, I hope I have demonstrated it clearly.

Chua J.: From the photograph here it would appear that the right dorsum is lower than the right eye?

A. No, my Lord, you see, the anatomical position as suggested is like that (demonstrates), and I do not see by any commonsense any possibility.

Q. This person, the right dorsum is lower than the right eye, so the direction would be this way, sloping this way?

A. That is why I did not say; if the blow is delivered in this manner I expect more damages on the cheek and other parts of the face; that is why I give my opinion that I do not think they receive it at the same blow.

Mr. Yap: My Lord, I think this can quite

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easily be demonstrated, whether if the assailant, let us say, were either to be stooping or if he were to deliver the blow parallel more or less; both items of injury, whether they could be sustained by the same blow. Now that we have it on photograph, perhaps a simple demonstration----

Chua J.: That means, if that is what you say, that means the assailant must be stooping very low. 10

Mr. Yap: Or holding the pipe very low, my Lord.

Chua J.: I think you can ask the Doctor.

- A. If the pipe is holding too low I don't think it has sufficient strength to cause a fracture.
- Q. Doctor, what you are describing is if I merely from this height reduce it (demonstrates) perhaps it may not be sufficiently strong to cause the fracture but if I were, let us say, from a standing position in this manner, continuous action (demonstrates), you know, what I mean now? Would that not be sufficiently strong? 20
- A. No, I just cannot think of any assailant doing this sort of manoeuvre.
- Q. No, I have just done it for you, could I not bring the----

Chua J.: Your demonstration is that the assailant is in a standing position, lifts up the weapon and then he pulls the weapon down? 30

Mr. Yap: Yes.

Chua J.: On to the deceased's head.

Mr. Yap: Yes.

Chua J.: That one blow he said would cause the injuries to the left eye and to the right dorsum?

- A. No, my Lord, I still do not think it is possible.

This hand is so mobile that I do not think it can be inflicted in one single blow to cause injuries on two sides.

Chua J.: You can do it in your submission.

Mr. Yap: As you please.

Q. But it could have been caused by two separate blows? A. Yes.

Q. One followed by the other? A. Yes, I agree.

10

Chua J.: No, not "could", I think they are caused by two separate blows; there must be two blows; it must have been. If he does not agree with you that they are caused by one blow then it necessarily follows that they must have been caused by two blows.

Mr. Yap: Yes.

Chua J.: Doctor, am I correct in thinking---
A. Yes.

20

Chua J.: Your view is that these two injuries could not be caused by one blow; so it necessarily follows they must have been caused by two blows?
A. Yes.

Q. But two blows, let us say, one following the other?

Chua J.: But there are still two blows.

30

Mr. Yap: That may well be so. Can I just then ask the Doctor if it is two blows could not the first blow land on the left eye and then followed by the one on the head?

Q. I do not know which one comes first.

Chua J.: He can't say which is the first blow. It is impossible for the Doctor to say whether the blow on the eye is the first blow or the blow on the dorsum is the first blow. It is impossible for him to say.

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Q. Dr. Seah, to have inflicted the two blows as you say one on the dorsum and one on the left eye, the assailant would have to be on this side, am I right (indicates)?

A. Not necessarily so.

Q. Any side could have caused these injuries?

A. Yes, that is right, any side.

Q. But to inflict the injuries on the temporal bone the assailant would still have to be at the back because there was no damage to the ear as you have said?

A. If the victim was lying in this position as shown in the photograph, then to inflict injuries.....

Chua J.: To inflict the injuries.....

A. To inflict the fractures on the temporal bone, he could stand either.....

Chua J.: The assailant could stand?

A. Yes, the assailant could stand either here on the left side of the body.

D'Cotta J. On the right side?

A. Sorry, on the right side or on the head on this side (indicates).

Chua J.: Stand on the right side of the body?

A. Or in this position over the head (indicates).

D'Cotta J.: But he said on the right side of the body?

A. It is possible.

D'Cotta J.: Could there be an injury on the left ear?

A. It is inflicted in such a way that they don't touch the left ear. It is possible, though caused frequently on the left ear.

Chua J.: Yes.

Q. Doctor, you are fully aware of course that the petrous temporal bone is directly behind the ear?

A. Yes, behind and slightly below the ear.

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- Q. Now to have inflicted the wound which is directly behind the ear or in this position underneath the ear without causing any damage to the ear, do you think it is possible?
- A. It is possible if the body is lying in this position, but earlier, my Lord, I have told you that in my view, that in my opinion the most probable position of the deceased...

Chua J.: Yes.

- A. The most probable position of the deceased when he received the blows behind the ears was when he was at a standing position. 10

- Q. You therefore agree with me, doctor, that the chances of having two blows being inflicted at precisely the same spot at both petrous temporal bone without any damage to the surrounding area or the ear would have been a coincidence which probable is so infinitesimal?

Chua J.: I don't understand your question - the fact is that there were two injuries inflicted precisely at the same place --- 20

Mr. Yap: Yes.

Chua J.: That is a fact he found, the two bones were fractured, so it is not a question of coincidence - it is a fact. I don't understand the way you put it, it is not a coincidence. The coincidence is what - that there is no injury to the ear? 30

Mr. Yap: There is no injury to the ear.

Chua J.: But what is the coincidence you are talking about?

Mr. Yap: On having two places having been directed at precisely the same spot without a person moving - I suppose there has been some movement from one side to the other or that the assailant must have moved from one side to the other side and hitting both places at precisely the same area without damage to the 40

surrounding area. My Lord, the chances are rather infinitesimal. I am merely putting it to the doctor - there could also be two possibilities?

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Chua J.: All right, you do that in your submission then - how these two bone fractures caused by a fall?

Mr. Yap: Yes, probably by a fall.

10 Chua J.: You can do that in your submission - one fall and he fractured the temporal bone.

Mr. Yap: Yes, or if the fall is of such a tremendous force, with one fall with the head on the ground when the full impact is transmitted to the back of the head.

Chua J.: You can put it to him.

20 Q. Yes, now doctor, where we left off just now, now you do agree that it is possible that the bruise in item 6 of the external injuries could have been caused after the first set of fractures were caused? A. Yes, possible.

Chua J.: Sorry, what is your question?

30 Q. My Lord, the last question before we have this little demonstration was that the bruise as shown in item 6 of the external injuries, the bruise on the dorsum of the right hand, my Lord, could have been caused after the fractures on the left half of the frontal bone were inflicted.

Chua J.: Yes, I think he said that.

Mr. Yap: He said it could be.

Chua J.: Yes.

40 Q. Now doctor, of course from there we can conclude as one possibility now since the first set of fractures as you say are post-mortem fractures, therefore it is possible that the bruise on the right dorsum could also be a post-mortem fracture?

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A. Correct, that is possible.

Q. Doctor, the lacerations which you have mentioned in your external injuries, lacerations 1, 2 and 3, that means the laceration 3 cm. in the left anterior parietal region, the laceration 3 cm. at the inner canthus of the left eye exposing fractured bone and the laceration 3½ cm. outer half of left eye-brow exposing fractures - you have the three dimensions there? A. Yes.

10

Q. Could they be associated with the injuries caused by the blow that had already caused the fractures in the first set?

A. Yes, I told the Court earlier that these injuries No. 1, No.2 and No. 3.

Chua J.: Yes, this could be caused by the fractures of the first group, is it?

Mr. Yap: Of the first group, that is so.

A. Associated with fractures mentioned in first group.

20

Chua J.: You said that they could be associated with the fractures in the first group.

Q. Now doctor, external injuries 4 and 5 -----

Chua J.: So just now you are referring to 1, 2 and 3 only?

Mr. Yap; That is so, my Lord.

Chua J.: Now 4 and 5 - yes.

Q. 4 and 5, could they have been caused - No.4 first, my Lord, could they have been caused by say a punch? A. Yes.

30

Q. Item 5, the laceration on the left side of the chin, could it be caused by a punch? A. No.

Q. Could it be caused, let us say that portion, the left side of the chin, that portion you saw the laceration, could it be caused by a fall on any of those stones around on the road? A. Possible.

Chua J.: By falling, is it?

Mr. Yap: By falling on the stones in the vicinity. My Lords, I would now like to refer to pages 294 and 295 of the same text that I have been using - Gradwohl's Legal Medicine and also the illustration at page 309 of the same book.

Chua J.: Have you got a copy for the Court?

Mr. Yap: Yes.

Chua J.: Two hundred and ---

Mr. Yap: 294 with the illustrations at page 309.

Chua J.: Yes.

Mr. Yap: Beginning at the bottom of the left side of 294, I have underlined the relevant portion in blue?

Chua J.: Yes, you want to read it, is it?

Mr. Yap: Page 294 - doctor, have you got a copy there?

A. Yes, I have got it.

Q. Under the heading of the skull - "1. The Vault.
- This can be the site of fissure, depressed, and crushed fractures, which may be in their turn simple, compound, or comminuted, whilst under certain conditions separation of the sutures may occur. The behaviour of the bones of the skull will depend upon their hardness, thickness, and age, for in children the structure of the skull makes the effect of trauma on its bony structure and contents different from that of the adult which is hard, and in fact a closed box. So, too, the nature of the trauma will play a part. Thus, impact against a flat object will produce fissure fractures, a localized object a depressed fracture (in children a pond fracture), whilst compression between two objects will produce a crush fracture. The external appearance of the scalp may indicate the nature of the object causing the injury, but the behaviour of the

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bone beneath will play an important part in determining its effects. Unfortunately, in medicolegal practice there may be a complicating fact in an old injury or congenital abnormality, such as parietal foramina, which may be of significance in relation to subsequent behaviour of the bone or may be mistaken for old trephine holes. 2. Base of Skull - a. Depressed anterior fossa fractures are usually due to direct impact from a fall, although sometimes they may be the result of falling forwards, whilst fissure fractures may be extensions from the middle fossa and are more likely to be due to secondary impact. One feature is the fracture of the orbital plate due to contra-coup from an impact to the back of the head. The importance of anterior fossa fractures lies in the risk of extension into the air sinuses, with consequent risk of infection (meningitis or abscess). Such a complication can occur after an appreciable lapse of time and has been known to follow a bout of sneezing or coughing or even after 'nose blowing'. It must always be anticipated when there is an escape of cerebrospinal fluid from the nose and this may be masked by post-nasal bleeding. b. Middle fossa fractures result from direct or secondary impact, the commonest site being just above and behind the ear, from hitting the ground. They also occur with crush injuries of the head and may involve both middle fossae and the pituitary fossa. Sometimes they extend into the anterior or posterior fossae or on to the vault. It is of significance that the temporal bone can be thin at this point and cases have been seen of fractures resulting from a simple blow with a fist. c. Posterior fossa fractures may run into the foramen magnum. They are usually caused by striking the back of the head on the ground when falling backward, and the extent of the injury will vary considerably from person to person, but they are undoubtedly more frequent and serious in persons who are taken by surprise or who are in a state of alcoholic intoxication. There may be extension into the middle fossa." - doctor, would you quarrel with this opinion?

A. The opinion is correct - is the usual pattern of fractures.

Chua J.: Yes.

A. The usual fracture, I mean fissure

fracture as mentioned, my Lord, in the text here.

Q. Fissure, is it?

A. Yes, fissure fracture means fracture in one line, my Lord.

Q. In one line, yes.

Q. Are you suggesting that it does not cover cases where the fractures are comminuted?

10 A. As in this case comminuted fractures of the petrous temporal bone, that means, the hard petrous temporal bone turned into multiple loose pieces. I don't agree - even it is not mentioned here in the text, my Lord, I also don't agree with that. Comminuted fracture of the petrous temporal bone could occur as a result.

D'Cotta J.: Petrous -----

20 A. Petrous temporal bone could occur as a result, just as the result of a fall from a standing position.

Q. Now doctor, you say that if I understood you correctly, that is, if it is a fissure fracture then it is possible?

A. Yes, if it is a fissure fracture, then it is possible.

Chua J.: Yes.

30 Q. Would you include the fracture under the third category - the fracture line across the base of the skull as a fissure fracture?

A. Yes, under the third category, this one is a fissure fracture.

Q. So you say it is possible that fracture injury 3 could have been caused by a fall following from what we have?

A. Yes, there is a possibility.

40 Q. All right doctor, if the force is sufficiently strong to cause a fissure fracture, then let us say an even greater force will cause comminuted fracture?

A. I cannot see a man falling like that, has one fall and falling again is a greater fall.

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Q. No, not falling again, if the same person, assuming the first fall is sufficient to cause a line fracture. Now if the same person falls hard, not falling again, for another person falling hard, if the force is greater, would it not cause comminuted fracture?

A. No, I don't agree.

Q. I mean, is it possible? A. Not possible.

Chua J.: It is not possible to cause comminuted fracture?

10

A. On the petrous temporal bone.

Q. On the petrous temporal bone.

A. Just with a simple fall.

Q. Doctor, I have learnt yesterday from you that the temporal bone is rather thin?

A. The squamous portion of the temporal bone.

Q. Yes, it is vulnerable?

A. Yes, I said yesterday - squamous.

Chua J.: How do you spell it?

A. The transparent part.

20

Q. What is the term?

A. S-q-a-m-o-u-s.

Q. The squamous temporal bone, is it?

A. Yes.

Chua J.: It is within part-----?

A. It is within part of the temporal bone.

Chua J.: Yes.

Q. Now, doctor, some person falling, let us say, on this part here (indicates), would you say the force would sufficiently cause the fracture line---no, if he was hit, let us say, on a broader kind of surface, a harder impact, would there not be a possibility of the force being transmitted to the weaker portion of this temporal bone thus resulting in comminuted fractures?

30

A. Yes, comminuted fractures occurring on the squamous temporal bone is possible as a result of a fall.

40

Q. And this form of comminuted fractures at the squamous temporal bone is not as a result of a direct blow but as a transmitted force?

Chua J.: In this case, is it?

Mr. Yap: I mean in the case, of this possibility.

A. Yes, I have mentioned in my evidence yesterday, my Lord, that the direct blow was at the petrous temporal bone.

10 Chua J.: I mean you are talking of this particular person?

A. Yes, this particular person, the point of impact was at the petrous temporal bone and transmitted to the squamous part of the temporal bone.

Chua J.: Yes, and caused the comminuted fracture there?

20 A. Yes, and caused the comminuted fracture there.

Q. And so also on the left side of the skull if there is a fall on the ground, similarly, comminuted fractures on the squamous temporal bone is possible?

A. If this man received a blow?

Q. No, a fall on the ground, the impact on the ground.

Chua J.: And hit the back of his head?

Mr. Yap: Yes, at this point.

30 Chua J.: Hitting the left side?

Mr. Yap: My Lord, we were dealing with the right side just now.

Chua J.: So put it clearly to him - if the deceased had fallen down on the back of his head on the left side there would be a transmitted shock to cause comminuted fractures on the left side of the squamous temporal bone?

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A. No, I do not agree with this possibility if there is a fall.

Chua J.: You call it a shock or whatever it is transmitted?

Mr. Yap: A force.

Chua J.: A force?

A. We call it a transmitted force.

Chua J.: Yes.

Q. Doctor, why do you say it is not possible when you say it can be possible on this side, why is it not possible on the left side? 10

A. Possible when there is a blow, an impact by---

Q. I would just like to recap what you told us just now.

Chua J.: But not a fall?

A. Possible due to a blow but not due to a fall.

Q. Doctor, I thought you did mention on the right side it is possible if a fall occurred sufficiently hard as to cause a line fracture? 20

A. Yes, a fissure fracture.

Q. Fissure fracture or line fracture, at the same time comminuted fractures on the squamous temporal bone can also happen?

A. No, I only agreed that if a fall with a direct impact on this---

Chua J.: No, doctor, I am sorry, I have got it also, I have written down here what you said: "Comminuted fractures on the squamous portion of the temporal bone is possible as a result of a fall". 30

A. Yes, as a result of a fall if this portion is directly hitting the surface.

Chua J.: Yes, but this one he is putting it, he says if he falls on his back, back of his head?

A. No, I must apologise, fall at the back of this region would not produce comminuted fracture in front. 40

Q. Fall on the back of the head?

A. Back of the ear or back of the head will not produce comminuted fractures on the squamous portion of the temporal bone.

Q. So you say it is possible if the fall is on the front?

A. It is possible if the fall is directly hitting on the temple. If in a fall the impact is directly on the temple then the squamous temporal---squamous portion of the temporal bone could be comminuted or suffer comminuted fractures.

Q. Now, doctor, yesterday you agreed that even with a simple blow from a fist you can cause comminuted fractures on both squamous temporal bones? A. Yes, that is correct.

Q. Even a simple blow from a fist.

Chua J.: That blow would have to be directly on the squamous portion.

Mr. Yap: Yes.

Q. Could similar fractures occur if there is a secondary impact, as a result of a fall and there is a secondary impact, I mean at that point?

Chua J.: I don't understand by "secondary impact".

Mr. Yap: My Lord, it is mentioned here rather technically, secondary impact would cause damage to surrounding areas---

A. My Lord, we mention it in traffic cases where a man hit something and then go and hit again on some other object.

Q. That means if I fall down on my head and then I twist myself again that makes secondary impact, is that right?

A. I will just call it fall and then fall again rather than secondary impact which we reserve for traffic cases.

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Q. No, no, no, I don't think it is limited only to traffic cases with the greatest respect, doctor.

Chua J.: I don't think he is confining to it. He is giving an illustration, is it?

A. Yes.

Q. When a motor vehicle hit another person then that person hit something else?

A. Yes, we call it secondary impact. 10

Q. But it is not confined only to traffic cases or accidents rather?

A. Most of the cases; we confine to traffic cases.

Chua J.: Yes.

A. Any other area we just mention, say, fall again.

Q. Fall again but not with the same degree as the original blow or fall, that is why it is secondary, it is not the primary fall?

A. What you mean, if fall again and then as a result--- 20

Q. Of a secondary impact there is comminuted fracture at the temporal bone, is it not possible?

A. Yes, fall again and then fall. I mean fall and then fall again, of course, it could cause comminuted fractures at this region.

Chua J.: Say that again: if a person falls---?

A. Falls.

Q. And he falls again? 30

A. And then hit again.

Q. It will cause comminuted fracture?

A. If the temple has come in contact with a hard surface.

Q. It could cause comminuted fractures at the squamous temporal bone?

Chua J.: You say first of all, your remark is that the squamous portion of the temporal bone can only be fractured if a fall is directly on the temple? 40

A. Yes, if a fall is directly on the temple.

Q. Now, your second statement you said if a man falls and falls again it could cause fracture to the squamous?

A. Yes, if he falls again and hit on the temple again.

Chua J.: Oh, hit on the temple?

A. If I fall and then after that I got up a bit and then fall again.

Q. But that is not---you mean one fall, need not be on the temple you mean?

A. I beg your pardon?

Q. One fall need not be on the temple?

A. Unless the fall is directly on the temple, my Lord.

Q. But you say one fall is directly on the temple it could cause comminuted fracture to the squamous? A. Yes.

Q. Now, he has two falls?

A. No, the learned counsel just now demonstrated to me falling like that (demonstrates).

Q. Oh, I see, so if a person falls on his back and then he falls again, then he falls on his temple?

A. Yes.

Q. That would cause comminuted fracture?

A. Yes, I agree to that.

Chua J.: Yes.

Q. Doctor, would you go through the 3 areas of fractures that you have mentioned? Is there anywhere in your 3 classes of fractures where you have mentioned comminuted fractures of the petrous temporal bone?

A. In No.(2), I mentioned both temporal bones. When I call it both temporal bones that means the whole piece of bone. And in No.(3) I mentioned about the whole piece of temporal bone.

Chua J.: That would include---

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A. Include the squamous portion and the petrous portion, and again in No.(3), of this description of fractures I did mention petrous temporal bone. I am sure it can make the difference.

Q. Petrous temporal bone, you did mention petrous temporal bone?

A. Yes, at No. (3).

Q. Yes, you have mentioned the petrous temporal bone only in relation to the line fracture? A. Yes. 10

Q. But you have not in item 2 specified that there were comminuted fractures at the petrous temporal bone itself?

A. No, there is no necessity to specify when you see the whole piece already was comminuted.

Q. Now, doctor, the same principle, the principle that we had talked about just now, when impact would cause fracture or comminuted fractures at the petrous temporal bone followed by a secondary impact could cause the comminuted fractures, would not the same principle be applicable to the left side too? 20

A. Can you illustrate, I am sorry I can't----

Q. All right, I will put an illustration to you then, now assuming this is the deceased---

A. Yes.

Q. He falls on the left side now at the region of the petrous temporal bone, could it not cause comminuted fractures as a result of a fall?

A. No, I have repeatedly mentioned earlier a fall will not cause comminuted fractures on the petrous temporal bone. 30

Chua J.: Yes.

Q. But if you were to fall, let us say, from some height it can cause?

A. Yes, I mean when I say a fall in the sense that a man standing and falls down.

Q. I see, I see; but if the force is greater, for example, if it is a fall from a height? A. Yes.

Q. It could cause comminuted fractures at the petrous temporal bone? A. Yes, that can happen. 40

Q. Now, doctor, if you could look at the illustration at page 309-----

Mr. Yap: My Lords, I have given your Lordships a copy, a photostat copy of page 309, I would like to draw your Lordships' attention to (B), figure (B), my Lords.

Chua J.: Yes.

Q. Now, figure (B) indicates a crush fracture?

10 A. Yes, a crush fracture like overrun by a car.

Q. That is the extreme form of course.

Chua J.: It indicates what?

Mr. Yap: It indicates a crush fracture or illustrates a crush fracture.

Q. And a crush fracture, would I be right in saying, doctor, that a crush fracture would be when there are two sort of solid objects?

A. Yes, as I mentioned, overrun by a car.

Q. Let's not take such extreme---

20 Chua J.: From the illustration it would appear that there are two forces?

A. Two forces on two sides.

Chua J.: Forces on both sides, yes, two sides of the head.

Q. Both sides of the head, opposite sides of the head. Now, doctor, if the force is applied in the arrows I have marked in blue, if the force had been applied in that direction---

Chua J.: If the force-----?

30 Mr. Yap: If the force is applied in that manner, in the direction that I have marked in blue.

A. Forehead?

Q. Sorry-----

A. Could I have a look at your direction because it is not marked in my book.

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Chua J.: Mr. Yap, I think it would be easier if you could mark your direction also in this copy rather than having 3 separate copies.

Mr. Yap: Yes, my Lord.

Q. In other words, doctor, where the force is applied---

Chua J.: Has the doctor got it?

A. I read through already, the direction. 10

Q. No, the force? A. Yes.

Chua J.: So what is your question?

Mr. Yap: The question is, my Lord, if the crushing force, so to speak, comes from this angle (indicates), with the opposite direction somewhere around here (indicates), would not fracture be an obvious result, that is the line fracture here (indicates).

A. But I do not understand that there is a crushing here on the deceased. 20

Q. No, no---

Chua J.: No, no, not the deceased, he is just making an illustration.

A. In the usual illustration?

Q. Yes.

A. Yes, if a man suffers a crushing injury in this manner, this pattern of fracture line.

Chua J.: No, do you agree?

A. Yes, I agree. 30

Q. But you say this is not the case of the deceased?

A. Yes, the deceased, I did not see anything crushing him here, my Lord.

Chua J.: Crushing him in that manner, yes.

Q. Now, Doctor, assuming this was the head of the

deceased, at this angle (demonstrates), you have the hard base of the ground as a force when a blow is struck here (indicates on skull), am I correct? A. Yes.

Q. I believe it was Newton's law, isn't it, that where in every action there is a reaction; and where the head is unable to, let us say, move, the force is virtually double, am I correct?

A. Yes.

10 Q. I don't know, you have done physics, I haven't.

Chua J.: Your illustration, you want to put it into words - if the back of the head is on a hard surface---

Mr. Yap: With the opposite side on a hard surface, my Lord.

Chua J.: And the blow, is it?

Mr. Yap: Yes, and the blow is directed on the left side of the head as indicated.

20 Chua J.: On the left side of the head?

Mr. Yap: Yes.

Chua J.: Left front side, is it?

Mr. Yap: Yes, left front side.

Chua J.: The force would be double?

Mr. Yap: The force would be double.

Chua J.: You agree to that?

A. It would be, my Lord, exaggerated. I do not know how much is double, the force will be exaggerated.

30 Chua J.: Yes.

Q. And even though the blow comes from here (indicates), since this portion is on a hard surface there is also an equivalent force driven upwards, am I correct?

A. Yes.

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Chua J.: Equivalent force, did you say?

Mr. Yap: Yes, my Lord.

Chua J.: You agree with that equivalent force
driven upwards? A. Yes.

Chua J.: Yes.

Q. And the equivalent force at the lower portion
directly opposite that of the upper force
would result in fractures?

A. Yes, would result in fractures.

Q. Now in which case even in the absence of a
direct blow, you will still find fractures if
the blow is applied here - if the head is on
solid ground? A. Yes, I agree to this.

10

Q. Therefore assuming now - I am sorry, the
deceased was on the ground if you were to look
at photograph 13? A. Yes.

Q. Of course the deceased could have changed
position slightly, but you can see the fracture
around his left eye, is that correct - you can
see the damage or injury to his left eye?

20

A. Yes, that is correct.

Q. Would not a very hard blow at this point---

Chua J.: The hard blow is delivered on the
left eye?

Mr. Yap: On the left eye.

Chua J.: Yes.

Q. Whilst the head is on solid hard ground possibly
cause fractures? A. On which part?

Q. On the petrous temporal as well as the squamous
temporal? A. Yes, possible.

30

Chua J.: You have finished with it? If you
are, we can adjourn - on this aspect?

Mr. Yap: Yes, my Lord, I am just about to
finish with this aspect.

Chua J.: Yes.

Q. Now doctor, if it is possible if the force applied is so great that it could be transmitted to this, if the force is so great that it could be transmitted to this side, you see this 'Y' shape thing, something like the foundation on the head?

A. It may occur as a straight line but not as comminuted as in this case.

Q. You can expect let us say a straight line?

10 A. Yes, a straight line fracture - a straight line into the right petrous temporal bone.

Chua J.: Left?

Mr. Yap: Left.

A. Sorry, the left temporal bone.

Chua J.: Yes.

Q. Doctor, whether it is a line fracture or whether it results in the comminuted fracture, it is a question of the degree of force, isn't that so? The greater the force, the greater will be the likelihood of the fracture spreading over a wider area?

20

A. Yes, I agree - the degree of force, but as demonstrated in this manner, I don't agree that comminuted fracture will occur on the left petrous temporal bone, the most would be a fracture line extending into that bone.

Q. All right doctor, if there is in existence a line fracture on the left side of the temporal bone, which means that the temporal bone - I am sorry, the petrous bone is already weakened by this line of fracture, if he were to fall again, would he not sustain comminuted fracture, is it not possible?

30

A. Yes, my Lord, I admit once a fracture occurs on a bone, the bone is weakened.

Chua J.: Yes.

A. And subsequently a smaller force or fall can produce exaggerated fractures or comminuted fractures.

40

Q. Yes.

Mr. Yap: My Lord, I just like to finish the last bit before we adjourn.

Chua J.: Yes.

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- Q. Now summarising all that you have said, now could it not have been in this manner - whilst the deceased was lying in this manner, one very heavy blow happened here (indicates) thus causing this line fracture with the possibility of comminuted fracture at the petrous temporal bone?
- A. Yes. 10
- Q. And also the possibility of line fracture on the left side of the petrous temporal bone?
- A. Yes, all this is possible. 10
- Q. And with my subsequently turning round, I mean if he falls again on the left side thus exaggerating the line fracture to that of comminuted fracture on the petrous temporal bone, left side - right?
- A. Yes.
- Q. So that possibly could be the explanation as to the absence of external injuries in this case?
- A. No, possibly ---
- Q. Possibly?
- A. Possibly another comminuted fracture of left petrous temporal bone. 20
- Q. With another fall, you know? A. Yes.
- Q. That would be a possible explanation to the absence of external injuries? A. I am ---
- Q. I am just talking about possibility, doctor?
- A. Up to this point of the fall and causing comminuted fractures on the left petrous temporal bone, I agree, my Lord, on this suggestion.
- Q. No, I have gone further than that, I have described to you in this manner, the deceased was lying in this manner, a very severe blow (indicates) first of all possibly causing this line fracture - right? A. Yes. 30
- Q. Possibly causing comminuted fractures in the petrous temporal bone? A. Yes.
- Q. And possibly causing a line fracture in the left side of the petrous temporal bone? A. Yes.
- Q. And subsequently the deceased turned over or for some reason or other fell to the other side?

D'Cotta J.: Can he fall when he is lying down? How can you fall once your body is lying on the ground like that?

Chua J.: May be in turning his head, his head hits the ground?

Mr. Yap: Turning the head, is it possible that he is turning his head?

10

A. Turning his head when he was on the ground or ---

Q. Let us say.

A. Turning his head, I thought that you meant he subsequently had another fall, that is possible, but on that lying position and turning his head, I cannot see any possibility of causing fracture.

D'Cotta J.: Exactly.

20

Chua J.: We will adjourn now, Mr. Yap.

Mr. Yap: Yes, my Lord.

(Court adjourns at 4.12 p.m., 27.1.76 to 10.30 a.m. 28.1.76).

10.30 a.m. 28.1.76 (Court Resumes)

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(cont'd)

Chua J.: Yes, Doctor.

A. On my former oath, my Lords.

Chua J.: Yes, Mr. Yap.

30

Mr. Yap: May it please you, my Lords.

Q. Doctor, we did establish yesterday of the possibility that the person falling in this manner hitting his head on the hard ground would cause a fissure fracture of the petrous temporal bone? A. Yes.

Q. Doctor, fissure fracture is also line fracture,

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it is synonymous with line fracture, is it not?
A. Just we call fissure fracture a fracture line.

Q. Fracture line, I see. Now, Doctor, when the petrous temporal bone has a fissure or a fracture line on its left hand side - just have a look at this illustration - now this bone is considerably weakened?

A. Oh, yes, I had said it yesterday.

Chua J.: Which bone?

Mr. Yap: The petrous temporal bone. 10

Chua J.: Weaker?

Mr. Yap: Will be considerably weaker.

Chua J.: Yes.

Q. Now, Doctor, before we finished yesterday, you did say that a blow coming from the left hand side here (indicates on skull) if the head is resting on a hard ground, such a blow will result in a line fracture together with comminuted fractures on the petrous temporal bone? A. Yes. 20

Chua J.: Would cause---what? Fissure fracture of what?

Mr. Yap: Fissure fracture on the petrous temporal bone, right side, my Lords.

Chua J.: Yes.

Q. And may even extend, if the force is severe enough, it may even extend to a line fracture on the right side of the petrous temporal bone?

A. Yes, I did say that yesterday.

Q. Now, Doctor, that was on the assumption that the left petrous temporal bone was before that in its solid form? A. Yes, of course. 30

Q. But, if, Doctor, the line fracture had already existed on the left side of the petrous temporal bone, it had already been in existence, the line fracture, and now you have a blow on this side (indicates on skull), you understand me?

A. That means the line of fracture existed already there.

- Q. Existed already there. A. Before.
 Q. Before this blow. A. If there is a line?
 Q. Yes, if there is a line on the left petrous temporal bone.
 A. Before the blow to the left side of the forehead?
 A. That is correct, yes.

Chua J.: Before the fracture line?

Mr. Yap: Was in existence before the blow on the left side of the head.

- 10 Q. Is it not possible that that fracture line - is it not possible that that fracture line would now be exaggerated into comminuted fractures?
 A. A very slight possibility.

- Q. But none the less you agree it is possible.
 A. Yes, a slight possibility.

- Q. There is a possibility that that fracture line on the left petrous temporal bone would now be sort of exaggerated into a more serious form to the extent of being a comminuted fracture?

- 20 A. Yes, I mentioned a slight possibility.

- Q. Doctor, you have told us that the comminuted fractures to the squamous temporal bones in the case of the deceased was a transmitted force--- was caused by a transmitted force? A. Yes.

Mr. Yap: The comminuted fractures on the squamous temporal bones.

Chua J.: Yes,---was?

Mr. Yap: Caused by the force transmitted from the petrous temporal bones.

- 30 Q. And the same applies on both sides of the petrous temporal bones? A. You mean the----

- Q. Yes, the fractures at the squamous?
 A. Transmitted to the squamous portion from the petrous portion of the temporal bones - the same will apply in both the temporal bones.

- Q. Now, Doctor, if the fall---before that, Doctor,

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I am sorry, we have yesterday ascertained your agreement pertaining to the theories raised by Gradwohl's Legal Medicine at page 294 and page 295----

Chua J.: What pages?

Mr. Yap: 294 and 295.

A. 294?

Q. Now, Doctor, I would refer you again to paragraph (b) which is on the left hand column of page 295. A. Yes, I have this.

10

Chua J.: Paragraph (b)?

Mr. Yap: Of page 295, my Lord.

Chua J.: Yes.

Q. I would just read quickly that portion to you now: (reads)

"Middle fossa fractures result from direct or secondary impact, the commonest side being just above and behind the ear, from hitting the ground. They also occur with crush injuries of the head and may involve both middle fossae and the pituitary fossa. Sometimes they extend into the anterior or posterior fossae or on to the vault. It is of significance that the temporal bone can be thin at this point and cases have been seen of fractures resulting from a simple blow with a fist".

20

You agree with this proposition?

A. Yes, I agree with this.

Q. Now, Doctor, in other words, if I could just translate it into this illustration: if the head were to sustain direct blow or fall on to the ground at this point of the petrous temporal bone----

30

Chua J.: No, no, if the head----

Q. If the head at the left petrous temporal bone hits the ground with a reasonably hard impact, that is, with sufficient force, it is possible

that that force could transmit the force into this very thin bone, the force?

Chua J.: Could be transmitted?

Q. Could be transmitted to this very thin left squamous temporal bone, is it not possible?

A. Yes, this is possible.

Q. Now, Doctor, this would also be possible on the right petrous temporal bone, would it not be?

A. Of course.

10 Q. In other words, Doctor, proceeding from where we left off yesterday, if the skull or if the head of the deceased was on the ground in this manner (demonstrates) with a blow on the left side----

Chua J.: If the head of the deceased----?

Mr. Yap: If the head of the deceased, my Lord, was on the ground in this manner, this would be where the region of the right ear, my Lord, on the ground.

20

Chua J.: With the right ear?

Mr. Yap: The region of the right ear.

A. The region behind the right ear.

Q. Yes, behind the right ear on the ground.

Chua J.: Yes.

30 Q. And you have a blow on the left, on the region like that of the first group of fractures - like that of the first group of fractures, having the blow being delivered here, Doctor, (indicates), the force at this point----

Chua J.: You have a blow on the right? I don't understand.

Mr. Yap: That is the question, my Lord, whilst the deceased is in this portion----

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Chua J.: I will read to you what I have recorded: "If the head of the deceased was on the ground, with the region of the right ear on the ground, you have a blow----

Mr. Yap: And if there is a blow.

Chua J.: To the region like that of the first group of fractures--- I don't understand "You have a blow on the left of that region like that of the first group of fractures"? 10

Mr. Yap: Like that causing---I am sorry, my Lord.

Chua J.: Like that causing?

Mr. Yap: Like that causing the first group of fractures.

Chua J.: Yes.

Q. Will not the resultant force at the petrous temporal bone---

Chua J.: Sorry? 20

Mr. Yap: Would not the force at the right petrous temporal bone.

Chua J.: Yes.

---be even greater than the force earlier mentioned?

D'Cotta J.: Wait, this depends on what position the man's head is - the man's head position as in the position in P.13?

Chua J.: No, he says the position, with the region of the right ear behind the ground. 30

D'Cotta J.: Yes, first of all, where is this resting when you hit him here? If it is resting on the ground then there is a force but if it is not resting on the ground where is the force?

Mr. Yap: My Lord, we are now simulating a situation where the resting is on the ear this way, (indicates).

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10 D'Cotta J.: Right, then you hit him here (indicates), where is the force here? There is nothing underneath. This thing has got to be pressed against something; for the force to come, this must be pressed on the cement; then when you hit him here the reaction takes place.

Mr. Yap: My Lord, if I could just demonstrate this to your Lordship, assuming this is the ground, my Lord, and the head is like that, we are talking of the blow from here - the chin is here.

D'Cotta J.: What is underneath the chin?

20 Mr. Yap: The chin is not resting on anything but this part of the head (indicates on skull), is resting on the ground.

Chua J.: The part behind the ear?

Mr. Yap: That is so, the part behind the ear would be something like this (demonstrates).

Chua J.: Resting on the ground?

Mr. Yap: That is so, the chin is virtually in the air, my Lord, somewhere here (demonstrates).

30 Q. Would this be the position?

A. Oh, yes, the head can be lying on the floor like that.

Mr. Yap: And the chin could be facing up, my Lord.

Chua J.: And the blow is delivered there)

Mr. Yap: The blow is delivered here (indicates on skull).

Chua J.: In the region of the left eye?

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Q. Would not the force here, Doctor, because there is the hard ground, an even more exaggerated force than this force?

Q. We discussed Newton's theory very briefly where there is action there is a reaction.

A. Yes, we could have a force as strong as the one striking the forehead.

Chua J.: But he says double.

A. No, I do not know how much force will be absorbed by the other side but to be fair it should be as great as the one, as great as the striking force; because we are not entering into any precise physics here, my Lord. As I understand, the basic physics, certain energy will probably be---because the ground is, in fact, strictly not a very rigid one, probably it will also give way a bit.

10

20

Q. The ground giving way, as you please.

Chua J.: What is wrong with the ground giving way? That is why you could have an indentation; if you dropped something, even a hard ground, could cause an indentation. That is how the ground gives way.

Mr. Yap: It depends.

Chua J.: Well, of course, it depends on the ground.

30

Mr. Yap: Solid ground.

Chua J.: That is the reason why he says the most the blow would be an equal force, not double as here because the ground would give way also.

Q. Now, Doctor, assuming that the ground is hard, as hard as a cement floor, would the force be double or more exaggerated than this force?

A. The force surely will be less than double. What you have quoted about this Newton's law it can only be done in the physics lab under ideal conditions.

40

Chua J.: In your view it would not be double?

A. I do not agree it will be twice; it will always be less than double; as great as the striking force.

Chua J.: So you say it will not be double but only as great, yes.

10 Q. Now, Doctor, with that kind of force coming from the bottom would that not have caused, let us say, comminuted fractures at the petrous temporal bone?

A. Yes, I have mentioned that yesterday already.

Chua J.: Would that not cause comminuted fractures?

Mr. Yap: Comminuted fractures at the petrous temporal bone.

Chua J.: Your answer is yes?

A. Yes.

20 Q. And this force even though the blow is largely from there but because of the ground here which you say is about similar to the type of a blow from here (indicates), by that kind of a reaction the force to be transmitted would cause comminuted fractures in the petrous temporal bone?

A. Yes, that is possible, I have already mentioned that.

30 Q. Comminuted fracture at the squamous temporal bone, left side: now, Doctor, bearing all that we have said in mind, could you foresee a possibility or agree with this possibility that on the day of the incident the deceased could have first fallen on his left side at the back of his head in this region causing first comminuted fractures at the petrous temporal bone and possibly a line fracture along the petrous temporal bone, left side? A. Yes.

40 Q. Now, while the deceased is lying in that--- I am sorry, now assuming next the deceased is on this position, right, (demonstrates), the accused now delivers a very severe blow on the left side as we have described just now, would not that blow have caused this line fracture, comminuted fractures at the right petrous

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temporal bone exaggerating the line fracture
into a comminuted fracture?

A. Yes, the last part I already told the Court a
slight possibility.

Chua J.: You are going on the same ground.
He has agreed to that.

Mr. Yap: I am sorry, my Lord.

Chua J.: Of course, he agreed that if that
was what happened that day to the
deceased, he had fallen first on the 10
back of his head and then the blow
is delivered on the left region of
his eye then it would have caused
all these comminuted fractures. I
think he has agreed.

Mr. Yap: As you please, my Lord.

Q. Then in which case I could conclude the possi-
bility that all the 3 fractures mentioned in
your post-mortem, with the exception, of 20
course, that as for the second group of fractures
there is already existing the line fracture at
the petrous temporal bone, left side?

A. I cannot understand the question.

Q. All right, you just look at the second group of
fractures. A. Yes, second group of fractures.

Q. All right, assuming that the deceased already
had a line fracture at the petrous temporal bone
as well as comminuted fractures----

Chua J.: Death is due to falling on the back
of his head, to put it simple. 30

A. Yes, I understand that part.

Q. And those fractures already exist, now, with
one blow on the left side all the 3 fractures
that you have mentioned here could have been
caused?

Chua J.: I think some of his evidence is
that it is so.

A. Yes, I have already told the
Court it is possible.

Q. Yes, I thought I just want to make it quite
clear.

Chua J.: Well, I think it is clear in my mind the way you are putting it. Am I right, if the deceased had fallen down on the back of his head that would have caused the line fracture.

Mr. Yap: Yes.

Chua J.: He suffered that, then somebody delivered a blow on the left side of his head.

10 Mr. Yap: Yes.

Chua J.: Then that would cause (1) and (2)?

Mr. Yap: (1), (2) and (3), my Lord.

Chua J.: (1), (2) and (3)?

Mr. Yap; Yes, my Lord.

Chua J.: I thought (3) was caused by a man falling on the back of his head.

Mr. Yap: That was possible.

Chua J.: TO cause the fracture line.

Mr. Yap: That was possible.

20 A. That I agreed to the counsel's suggestion that it was possible.

Q. But it could also be ----

Chua J.: I thought that what you are clearing is that the deceased fell backwards with the back of his head on the hard ground and that caused No.(3).

Mr. Yap: That was one possibility.

30 Chua J.: That is what I understood you, the way you put it, that this fracture line has weakened the temporal bone - that is what I understand; and then when he received a blow on the left eye that exaggerated it and caused these comminuted fractures (1) and (2)--- No. (2)

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I mean, I am sorry, that is what
I understood, that is what you
are saying.

Mr. Yap: Quite correct, yes.

Chua J.: Of course, No. (1) is the blow
itself, isn't it? on the left eye.
It is No.(2), you see.

Mr. Yap: Yes.

Chua J.: But I think he has agreed to all
this, is that right. 10

A. Yes, I agreed that one fall plus
one strong blow will cause all
these fractures.

Q. Of course, one blow delivered on the
forehead will cause (1), isn't it?
That is the comminuted fractures
involving the left half of the
frontal bone, and then the blow is
transmitted, you see; that caused
(2), am I right or not? 20

A. I think what I understood, I agreed
on the possibility during this
cross-examination, is one fall on
the left side here (indicates)
hitting the solid ground.

Chua J.: Yes, and later followed by---no,
you have agreed that one fall could
cause the line fracture?

A. The line fracture on the left
petrous temporal bone and not the 30
one mentioned in No. (3).

Chua J.: I see.

A. No. (3) is right petrous temporal
bone.

Q. The line fracture on the right side?

Chua J.: Yes.

Q. Doctor, will you please continue?

A. And after that followed by a blow on the left
side of the forehead and I agree that this one
blow could cause all these fractures - as a
possibility, I agree on that. 40

Chua J.: Yes.

Q. Doctor, yesterday you mentioned that this blow was a post-mortem blow?

A. Yes, I mentioned most probably the blow on the left side of the forehead was a post-mortem blow.

Chua J.: Yes.

10 Q. It must therefore follow is it not on this premise now that he fell first and then with this blow, all the consequential fractures were post-mortem fractures? On the premise that this blow is a post-mortem blow, the consequential fractures that we have described, you know, the line fracture, the comminuted fracture here and the comminuted fracture on the right temporal bone and also the comminuted fracture on the left temporal bone, are also considered as post-mortem fractures on this premise?

20 A. Yes, to cause this pattern of fracture possible.

Q. Possible?

A. I put it as possible - possible to cause this pattern of fracture.

Chua J.: He has not really answered your question.

Q. Yes, I will repeat what you have told us - the deceased probably sustained two hits so to speak, the first one was a fall and then the second one was the blow?

A. A fall that caused the fracture first.

Q. Yes, a fall and a blow would have caused all the fractures that you have mentioned in your post-mortem?

A. Yes, I agree on this point.

Chua J.: Yes.

Q. Doctor, I would remind you that you did mention yesterday that the blow was a post-mortem blow?

A. Probably, was probably, most probably a post-mortem blow.

Chua J.: Left forehead?

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Mr. Yap: Left forehead.

Q. It must then necessarily follow isn't it, doctor, on this premise that the fracture line plus the comminuted fractures and the temporal fractures here as well as the petrous temporal fractures would be post-mortem fractures?

D'Cotta J.: What about the fracture sustained as a result of the fall?

Mr. Yap: My Lord, this is on the assumption that he fell first. 10

D'Cotta J.: Yes, what did he suffer when he fell first?

Mr. Yap: Finally there was this fall, my Lord.

D'Cotta J.: What injury would you first consider as a result of the fall, that is before the blow was delivered?

Mr. Yap: Yes.

D'Cotta J.: So you have to make allowance for this? 20

Mr. Yap: I will then give allowance to this aspect.

D'Cotta J.: Excluding those injuries, whatever injuries you say as a result of this blow were post-mortem injuries - excluding the injuries.

Mr. Yap: As it pleases, your Lordship, excluding the injuries sustained as a result of the fall, all the other injuries sustained would then be post-mortem? 30

A. Yes, it is probable.

Q. Now doctor, you did mention that - now you mentioned that in all probability the first blow was post-mortem?

A. It is probable as you suggested, you know, by you.

Q. Yes, is it because the deceased could have died from, let us say, the effect of sudden fall due to the effect of high intoxication?

A. I mentioned it as a possibility, my Lord, yesterday.

Chua J.: You remember you said it is most probable the blow on the left side was a post-mortem blow and I remember the reason you gave us why you found that there was no brain injury.

A. No brain injury - brain haemorrhage.

10 D'Cotta J.: No brain haemorrhage.

Chua J.: Yes.

Q. And there was no brain haemorrhage because the person was dead?

A. Yes, that was the reason I gave.

Q. Now you did mention the possibility of cause of death, of his sudden death a phenomenon -
4 would that be the possibility or the other possibility?

D.P.P.: What is the question?

20 Mr. Yap: He mentioned the possibility of the cause of sudden death?

A. Sudden death due to alcoholic and intoxication as the possibility, this one I have mentioned yesterday.

Chua J.: In this case?

A. Yes.

Q. There is a possibility, is it?

A. There is a possibility.

30 Q. Cause of death by ---

A. Acute alcoholic and intoxication.

Q. Doctor, can I ask you this - is this a common thing or not? Is it a common thing for a person to die from acute alcoholic and intoxication? Is it common or is it rare?

A. I don't know how to compare it. There are around 10 cases in Singapore every year.

40 Q. 9 cases, is it?

A. Around 10 cases every year happen in Singapore.

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Chua J.: Yes.

- Q. Doctor, in the case of a sudden death as you have mentioned, you said the possibility could be that of acute alcoholic --

Chua J.: Doctor, yesterday - I don't quite understand this - you said a person would just drop dead, that is the thing I don't understand, because you said a person died from this acute alcoholic and intoxication because he bleeds, is it? You said it is due to bleeding? 10

- A. No, yesterday I mentioned - I agreed that any person suffering from alcoholic intoxication will have a greater tendency of bleeding because the blood would not clot so efficiently.

Q. And they die?

- A. And those who died of acute alcoholic intoxication, it is because the brain was poisoned by the alcohol and they died. 20

Q. Yes.

- Q. Doctor, just a little bit on this pathological aspect of causing death, the poison in the brain would somewhat transmit the poison to the heart, is it thereby accounting for its sudden death? What are the mechanisms of sudden death, perhaps I should ask you then, what are the mechanisms for sudden death? 30

- A. The medical theory on sudden death in alcoholic intoxication?

Chua J.: Slowly?

- A. The theory on sudden death in alcoholic intoxication---

Q. Acute?

- A. Yes, in acute alcoholic intoxication such as when the brain is poisoned in such a way that it failed to control. 40

Q. That is what?

- A. That it fails to control the beating of the heart.

Q. Yes.

A. And the expiration of the breathing and so the victim dies.

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Mr. Yap: My Lord, I believe we have in evidence this would be the probable cause of death?

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Mr. Yap: I believe we have it on record that the probable cause of death of the deceased is as a result of this acute alcoholic intoxication.

Chua J.: No, what I have recorded in his own words - in this case it is a possibility that death was caused by acute alcoholic intoxication.

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A. Yes, I mentioned that there is a possibility.

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Q. There is a possibility.

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Mr. Yap: May I proceed to establish just more than a possibility that the deceased was dead as a result of alcoholic intoxication because it is my submission later.

(continued)

Chua J.: I don't think he ever said so?

A. No, I say probably death is due to acute alcoholic intoxication.

Q. Yes.

Q. But doctor, you also said that death as a result of fractures would be up to 3 to 4 hours?

Chua J.: What fracture?

A. That means within the period of 3 to 4 hours.

Q. His evidence is, if the deceased had sustained injury No.1, he would have died within 3 to 4 hours and then taking cumulatively he would die within 15 minutes?

A. Yes, I predict that he would have died within 15 minutes.

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Q. But doctor, I also thought that you mentioned that since there was no haemorrhaging as a result of the blow, it would indicate that a person is dead?

Chua J.: That is another point?

A. That is another point as suggested.

Chua J.: It is for you to satisfy the Court that the person was dead already.

Mr. Yap: Yes, my Lord.

Chua J.: When these blows were inflicted. 10

Mr. Yap: As you please.

Chua J.: That is another point altogether, Mr. Yap. You see, he is of the assumption that if a person is not dead when he received all these injuries, he would have died within 15 minutes.

Mr. Yap: Yes.

Q. In this case, doctor, would I not be right in saying that since there were no traces of haemorrhage, this is a fact, not a possibility, this is a fact that there was no haemorrhage as a result of that severe blow? 20

D.P.P.: My Lord, I must object to that. I think the doctor has said earlier that there was haemorrhage at the temporal region in his examination-in-chief and we have the post-mortem report, my Lord.

Chua J.: Because his statement not long ago was that - I stated that it was probable that blow on the right side of the forehead was post-mortem because I found no brain haemorrhage there. 30

A. Yes, that applied ---

Q. To the forehead?

A. To the forehead fractures.

Q. But then you found haemorrhage on the temporal lobes.

Mr. Yap: Which could have been caused by the fall.

D.P.P.: That is a matter for submission.

Mr. Yap: Which also has been agreed by the doctor.

Chua J.: I don't remember - could this be caused ---

A. I agree that - fresh subarachnoid haemorrhages were found at the temporal lobes. Yes, I agree on that point - could be due to fall.

Q. Just a minute, yes I agree that the subarachnoid haemorrhages were found at the temporal lobes - you mentioned in your report - and could be due to a fall?

A. Could be, possibly due to a fall, only a possibility.

Q. There is a possibility - could be due to a fall - yes.

Q. But as a result of this blow, doctor, you found as a matter of fact that there was no haemorrhage on this portion of the brain?

Chua J.: Yes, he has agreed to that - is that right?

A. Yes, I agree to that.

Q. Yes.

Q. In other words, meaning that the person was dead?

Chua J.: When that blow was delivered?

A. Yes, that is correct, when the blow on the left side of the forehead was delivered.

Q. When that blow was delivered the person was already dead - yes.

Q. Now death in this case would have been the result of what you have mentioned the sudden fall phenomenon, would it not be, doctor?

A. No, I don't agree on this point. I again say it is a possibility.

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Q. Doctor, I am just summarising what you have said, before the blow was delivered or rather at the time when the blow was delivered, you said that this person was already dead?

A. Yes.

Q. Is that right, doctor?

A. Was probably dead, not already.

Q. Could it be otherwise, if he is not dead, he is either alive or dead - now if he is alive there would be haemorrhage, am I not right?

10

A. You see, if he received a blow and died within a few seconds, there is no chance for haemorrhages. That is why I used the words - most probable.

Q. Doctor, I think we have it on evidence so far that from this blow, there was no haemorrhaging on that part of the brain and this indicates, my Lord, that when the blow was delivered the person was already dead?

A. I only mentioned that - most probable, not conclusive or complete.

20

Chua J.: He said it is most probable that the blow on the left side of the head is post-mortem.

Mr. Yap: My Lord, I don't say it is most probable - if a person is dead, you don't find haemorrhaging. This is what the doctor said earlier on.

Chua J.: He explains that if a man was alive for a few minutes, there is no chance for haemorrhage.

30

A. Yes.

Mr. Yap: My Lord, I think fractures would normally take some time before a person can die?

Chua J.: Yes.

Q. The point I would like to establish is this - if the deceased was alive when the blow was inflicted, would there be some form of haemorrhaging?

A. If he survives long enough, there would be haemorrhage.

40

Chua J.: Long enough means in terms of hours or ---

A. The heart is allowed to beat another 10 or 20 times there will be a lot of blood.

Q. 10 ---

A. 10 or 20 times pumping of the heart and there will be a lot of blood accumulated out.

10

Q. 10 to 20 times you say? A. Yes.

Q. And then haemorrhage will be formed?

A. And then there will be a significant amount of blood.

Q. Yes.

A. And if he dies within a few seconds, haemorrhages would not be significant.

20

Q. Doctor, is it not more correct to say that the few seconds after a person is dead, you can still find haemorrhage? Isn't that correct to say it in that way that the few seconds after the person is dead, in other words after the heart has stopped pumping you could still cause haemorrhages?

A. But not significant as I have already mentioned.

Q. We are talking of traces of haemorrhaging?

A. No traces, even a dead body you could still see the blood - we cannot argue in that way.

30

Q. Now let us establish this, doctor, even a few seconds after a person is dead and a blow is delivered, you would still expect some traces of haemorrhaging, am I not right?

A. I beg your pardon?

Q. If the blow was delivered a few seconds after the person dies, there would be some traces or there could be some traces of haemorrhaging?

A. Yes, agree - it is possible.

40

Q. Now how long would a person be dead when you will find no traces of haemorrhaging? How long would a person have to be dead when you did not find any traces of haemorrhaging?

A. It depends on the position of the body. There is no general rule.

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Q. I am not asking for the general rule, but could you just give us an estimate, how long after a person died would haemorrhaging stop?

Chua J.: The doctor said it depends on what?

A. It depends upon the position.

Q. Of the person, is it?

A. The position of the body.

Q. Can you give us an estimate - hours or ---

Mr. Yap: In terms of seconds. 10

Chua J.: Is it in terms of seconds or minutes?

A. It would be in terms of seconds.

Q. It would be in terms of seconds.

Mr. Yap: My Lord, I must apologise - can I have the answer again?

Chua J.: He said it depends on the position of the body and then you asked him whether it is in terms of minutes or seconds. He said it would be in terms of seconds. 20

Q. In terms of seconds, but virtually speaking how long will a person be dead when you find no traces of haemorrhaging after a blow is delivered?

A. You mean on this?

Q. Yes. A. Within seconds as I have mentioned.

Q. Within seconds you will still find haemorrhaging, that is what you have told us - now it would be after that period when you find no haemorrhages?

A. Within a few ---

Q. After these few seconds? 30

A. I expect after a few seconds.

Q. Yes, after a few seconds there would be no traces of haemorrhaging on the brain, am I right, doctor? A. Yes.

Q. Now this would invariably mean that after a blow is inflicted and you find no traces of haemorrhaging, the person would have been dead for some seconds already?

A. No - I already have mentioned, if the span of life was too short, then the bleeding is not significant.

Chua J.: What is too short?

A. The span of life, the time of survival is too short, then the bleeding is not significant.

Q. The bleeding ---

A. The bleeding, the haemorrhage is not significant.

10

Q. Doctor, I don't follow what you say?

A. I also cannot understand all that you asked of me - so sorry.

Q. That does not matter, at least you have given us some answers that I can follow. Now am I right in saying, doctor, that so long a person remains alive the blood circulates because the heart still pumps?

A. Yes, that is the recognised fact.

20

Q. Now when a person dies, even though the heart has stopped pumping it would still take a few seconds for the blood to stop flowing in the region of the brain isn't it?

A. The blood will still be there even if a person is dead.

Q. The blood will still be there, yes even though the person is dead, right - in other words, even if you find traces of haemorrhaging ---

Chua J.: Yes.

30

Q. It is possible that the person is dead?

Chua J.: If you find haemorrhages ---

Q. If you find traces of haemorrhaging, my Lord - if the heart stops pumping or pulsating, the person is considered as clinically dead, but there will be blood in the brain that could still cause haemorrhage, am I right?

A. Yes, there is a possibility as suggested - possible.

D.P.P.: Can I have it again?

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- Q. In other words, doctor, if a person is clinically dead, it is still possible to find haemorrhaging on that part of the brain if a blow is delivered let us say immediately afterwards or even within a few seconds, when haemorrhaging can be caused, am I right?
- A. A small amount of haemorrhages is possible - could occur at the injured site after a person died.

Chua J.: You say it is possible that ---

10

A. That a small amount of blood, a small amount of haemorrhage occurred at the injured site.

- Q. Even though a person is clinically dead?
- A. Yes.

- Q. Now after these few seconds that haemorrhaging is possible, right, there comes a period where it is impossible to find haemorrhaging, right? It is even within these few seconds that he is clinically dead that you find the possibility of haemorrhaging, after which you will find no possibility of haemorrhaging?
- A. No, I cannot understand it. There will still be veins or arteries full of blood even many days after that. The moment you cut these blood vessels, the blood still flows out.

20

Chua J.: That is why you used the words 'not significant' - that is the reason?

A. Yes.

- Q. All right, you will find no significant haemorrhaging after the few seconds?
- A. Yes, that is what I agreed to.

30

- Q. Now doctor, could I illustrate to you in this manner - up to this point the person is dead, clinically dead because his heart has stopped pumping, right, then you find the possibility of significant haemorrhaging for the next few seconds? We talk of about the different phases and after which you find no significant haemorrhaging happening to the brain - putting the illustration you have told us so far, would you agree?
- A. No, I say - could you repeat the whole thing again so that I can understand?

40

Q. Now we break it into three phases, the first phase is a person who is clinically dead, all right; the next phase constituting perhaps of only a few seconds, you would expect significant haemorrhage?

Chua J.: That he does not agree, he does not use the word - he said small amount of haemorrhage.

Mr. Yap: Small amount of haemorrhage?
A. Yes.

Q. And for the third phase, in terms of a small amount, it would be no significant haemorrhaging at all?
A. Yes, that is correct.

Chua J.: Yes.

Q. Therefore doctor, if you at the time of examining the brain find no traces of haemorrhaging, would it not be at the phase of time that the person is already dead - would it be in this phase of time, do you follow me?

A. Yes, that is why I mentioned most probably, and not nearly conclusive.

Q. But it would appear to be conclusive that if at the time of examination you find no traces of significant haemorrhage which is in this phase when he is already dead?

A. All the medical facts are indeed on probability and there are exceptions - that is why I brought out earlier.

Q. Well, doctor, you are now talking of extremes that anything can happen in this world, but we are talking now of established principles of medicine where you find it so crudely put it into three phases up to a point of a person's death haemorrhaging is there?
A. Yes.

Q. After which for a few seconds there would be a small amount of haemorrhaging, and after which you will find no significant trace of haemorrhaging?
A. That is the general rule.

Q. Standard principles?

A. Not 100 per cent conclusive. My Lord, yesterday I have already mentioned that even in life when you received a blow, there could be still no bruise - I mean this is just on probability, not 100 per cent.

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- Q. But this basic principle you accept - the principle without considering the infinitesimal chances of exceptions?
A. Not small chances, there are possibilities outside this general guide.

Chua J.: What did you say? That although you find most of the haemorrhages it is not 100 per cent that a person is dead at that time, is it?

A. I beg your pardon? 10

Q. You said it is not 100 per cent that the person is already dead, is that what you mean?

A. No, no, no, I said all these principles - medical principles - as brought out here are already generally correct and there are exceptions.

Q. All right, Doctor, therefore, if you were to examine the brain and you would have found no significant traces of haemorrhaging in the brain he would generally be in this phase? 20

A. Yes, generally or most probably in this phase.

Q. Let me rephrase it in another way, Doctor, it would only be considered exceptional if he can still be considered as alive?

A. You mean when a blow----

Chua J.: When a blow is delivered----

A. Was delivered.

Q. And there is no sign of significant haemorrhaging it would be exceptional--- 30

Q. It would be exceptional to expect to find a person to be alive?

A. Yes, that is what I agreed earlier on already.

Chua J.: Yes.

Q. Now, it would be exceptional for the deceased to be alive at the time when the blow was inflicted?

A. When the blow was inflicted on which part?

Q. On this part (indicates), one inflicted blow but under the generally normal rule as we know it he would have died? 40

A. Yes, most probably when he received this blow.

Chua J.: You cannot expect him to agree with you that he was sure the person was dead. He can't say it. You see, you are trying, you are persisting in it, you want him to say that the deceased was dead but he is not prepared to say that.

10 Mr. Yap: Yes, my Lord, I take it that it is his reluctance to say that the person was-----

Chua J.: Because in his view he cannot say that definitely the deceased was dead at the time the blow was received at the forehead. That is the point, isn't it?

20 Mr. Yap: It may well be so. I think we have established quite sufficiently so far that it would be exceptional for him to be considered alive. The general rule is that he would be dead; exceptionally he would be considered as alive.

A. When he received the blow at the left side of the forehead?

Q. Exceptionally he could be still alive?

A. Yes, that is what I agreed all the time.

Q. Now, Doctor, perhaps you could explain how exceptions can arise?

30 D.P.P.: My Lord, I must object to the persistent line of questioning by my learned friend. The Doctor has stated very clearly that in his view he cannot say.

40 Chua J.: I know, Mr. Yap if you think the Doctor is wrong then you can adduce your own evidence from some medical expert; if you think the Doctor is wrong you can call or adduce evidence.

Mr. Yap: In fact, I am quite satisfied with the witness's answers so far.

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- Q. Finally, Doctor, your certified cause of death which you have put as "Fractured skull"---
A. Yes, that is correct, I certified the cause of death as fractured skull.

- Q. Certified cause of death as fractured skull. Now, at the time when you certified this to be the cause of death you did not take into consideration the other factors which we have brought up, namely, those involving, particularly those involving the effects of acute intoxication?
A. Yes, I did not consider that.

10

Chua J.: You did not consider the acute alcoholic---

Mr. Yap: Acute alcoholic intoxication, my Lord.

- Q. Now, obviously, Doctor, when at the time of your post-mortem you had no knowledge of the Chemist Report which was only subsequently served on to you after you had completed your post-mortem report?

20

Chua J.: That is so, Mr. Yap, as far as that is concerned.

Mr. Yap: Yes.

- Q. Now, bearing these aspects, acute alcoholic intoxication and the various points we have brought up in cross-examination you would agree with me if I said that the cause of death would be due to the acute alcoholic intoxication?
A. No, I do not agree. I say there is a possibility that the cause of death was due to acute alcoholic intoxication.

30

- Q. Now, Doctor, you have, of course, given your post-mortem without considering what could have happened at the time of the incident. Now, if I were to put forward and say what might have happened I was wondering whether you could agree with me as to the possible cause of death.

40

Mr. Yap: My Lord, if I may be permitted to pursue on this line because Dr. Seah

has absolutely no idea as to what the possible sequence of events might be because he is basing his answers on hypotheticals.

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Q. Now, Doctor, if I were to give you this set of facts, if the deceased with his high rate of intoxication----

A. High-----

Q. High rate of intoxication.

10 Chua J.: He has what?

Mr. Yap: High rate of intoxication.

Q. Which we have established to be 400 milligrammes BAC. A. Yes, I understand it.

Q. And the deceased struggles, grapples with --- well, we call him the assailant - struggles, grapples with his assailant, in the course of which he is either pushed down or he falls down on to the ground---

Chua J.: Either pushed down or----?

20 Mr. Yap: Or falls down, trips over some stones and falls down on the ground.

Chua J.: Yes.

Q. Knocks his head on the ground, the deceased then lies still on the ground motionless, now, this assailant goes some distance or staggers to some distance and picks up that pipe - P.42 - now, during this time, Doctor, the deceased lies motionless; now, subsequently the assailant, so to speak, uses this pipe and delivers a blow near the left eye of the deceased whilst the deceased was lying on the ground in this fashion, that is, with the back of his ear to the ground, now, Doctor, subsequently you conducted the post-mortem, you found no traces of haemorrhaging at the point of impact with this blow-----

30

Chua J.: At the point of impact, at the left eye?

Mr. Yap: At the left eye.

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Chua J.: Yes.

Q. Now, Doctor, would you not then consider the cause of death of the deceased----sorry, I would like to preface that with one other question - did you not consider that at the time the deceased lay motionless he was dead - if he had been motionless without moving, there were some seconds-----

Chua J.: He was dead, yes.

Mr. Yap: He was dead.

10

A. There is a possibility.

Chua J.: Yes.

Q. The other thing would be this - which I accidentally left out - now, whilst he fell down his condition was made even worse by the haemorrhaging at the temporal lobes; now, would not the cause of death in this case, Doctor, be that of acute alcoholic intoxication bearing this set of facts I mean?

A. As I already agreed earlier on it was possible.

20

Q. And it would be-----of course, now we are seeing the fact of the situation and it would be unlikely that the cause of death would be that of the fractures?

A. No, I don't agree on this last part.

Q. Now, Doctor, we go on now to the premise of only one blow with the possibility-----

Chua J.: One blow on the left side of the forehead?

Mr. Yap: That is so, one on the left of the region.

30

Chua J.: Yes.

Q. And the deceased was possibly dead while lying motionless on the ground; would not the cause of death be more likely to be that of the effects of acute alcoholic intoxication rather than that of the fractures? Of course, both are possible.

A. I already agreed that it was possible that he died-----

40

Q. Both are possible, yes.

Chua J.: Pardon, what is the answer?

A. That it was possible that he died of acute alcoholic intoxication.

Q. Now, Doctor, finally, you say the cause of death could possibly be that of acute alcoholic intoxication and possibly could also be from the fractures?

A. No, most probably from fractures, that is why I certified the cause of death as due to that

Ch
Chua J.: Yes.

Q. But, Doctor, here I am working on the assumption, on the possibility that the person was already dead when he was motionless?

Chua J.: I think it is logical that if a person was already dead when he received the blow, then he must have died of acute alcoholism before the blow was delivered. The person was dead before the blow was delivered and you are aware there was this acute intoxication?

A. Yes, I got your point, my Lord, I am thinking the deceased here as a whole.

Q. No, he does not want you to consider other injuries because, you see, your view is that these comminuted fractures were caused by blows; but he is putting it to you that if the deceased's death was not caused by blows but by a fall and plus the blow on the forehead---

A. Yes, thank you, now I understand this point.

Q. Then if the man was dead before the blow was delivered then the cause of death you can really certify would be that he died of acute alcoholic intoxication.

A. Yes, on this assumption.

Q. Don't consider all the other things.

A. Yes, my Lord, on this assumption as

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suggested then, of course, alcoholic
intoxication was the cause of death -
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Mr. Yap: I have no further questions.

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D.P.P.: My Lord, Dr. Seah is supposed to be
on leave all this while, so if I may
be permitted to begin my re-
examination on this point?

Chua J.: You may begin, it is only twenty
past twelve.

10

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SEAH HAN CHEOW (Re-examination by D.P.P.)

Q. Now, Dr. Seah, you have told this Court that
the deceased had 400 milligrammes of ethanol
in his blood?

A. Yes, 400 milligrammes of ethanol - ethal
alcohol.

Q. Now, how much liquor or alcohol must be
consumed to arrive at the figure of 400 milli-
grammes BAC, if, say, he had consumed brandy?

A. If this man had consumed brandy this amount
would be equivalent to about one bottle of
brandy - one bottle of brandy.

20

Chua J.: Big bottle or small bottle?

A. The 26 ounces.

D'Cotta J.: How much is 400 milligrammes,
how many ounces, Doctor?

A. No, this 400 milligrammes already
present in the blood. In every 100
cc of blood, this had been worked
out medically, so if a man has
about 400 milligrammes per 100 cc

30

in the blood he had consumed about one bottle 2 hours--during the last 2 hours before he died.

Chua J.: Two hours before?

A. Two hours before he died or before the measurement was taken in a live patient then two hours before we take the blood. But in the case of a dead man that means two hours before he died.

10

Chua J.: Yes.

Q. Now, if there was 100 milligrammes BAC how much brandy could the deceased have taken?

Chua J.: Does that arise out of cross-examination?

D.P.P.: This is about the blood content, my Lord.

Chua J.: But then you should have asked all this in examination-in-chief.

20

D.P.P.: I am going to-----I am just trying to emphasize the amount of liquor.

Chua J.: I know you are trying to do that. If you want to elicit information about it you should have asked him in examination-in-chief not in re-examination, because Mr. Yap has never cross-examined him on this.

D.P.P.: My purpose is to show the quantity consumed, my Lords.

30

Chua J.: Yes, I know.

Mr. Yap: It is not a disputed fact that the deceased had 400 milligrammes BAC.

Chua J.: All right, we will allow him. I think if Mr. Yap wants to question him on this he can. These things should be brought up in examination-in-chief.

D.P.P.: No, I won't pursue this point further.

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Chua J.: I mean if it is relevant to your case let's have it.

D.P.P.: It is not particularly relevant except that I want just to go to show how much alcohol in terms of--

Chua J.: Well, I don't know, is it relevant? I don't know what the defence is going to be. The defence, as I can see, is that he is so intoxicated that he does not know what he is doing. So you say it is not relevant, I don't know; the line of his cross-examination suggests to us that the defence plea is going to be that he is so intoxicated that he does not know what he is doing. It is one of the Exceptions of the Penal Code; you'd better consider this carefully. 10

D.P.P.: If your Lordships permit me to question this witness--- 20

Chua J.: No, no, I am not stopping you questioning this witness about the blood content. My remark to you is that all this should have been brought up in examination-in-chief.

D.P.P.: Yes, my Lord.

Chua J.: That is all my remark is directed to. So we will allow you to question the Doctor about the blood content and then we will allow Mr. Yap to question this witness further if he wishes to. But I am a bit surprised that you say it is not relevant. 30

Q. If the blood content has got 100 mg. of ethanol per 100 ml. blood, how much liquor would have been consumed if the person had been consuming brandy?

A. He would have consumed 3 to 4 pegs of brandy.

Chua J.: He would have consumed ---

A. 3 or 4 pegs of brandy two hours before, within the two hours before his death - died or before he was examined. 40

Q. Yes.

Doctor, you have told this Court that if a person has got B.A.C. of 400 mg. that of itself can cause death?

A. Yes, possible - it could cause death.

Chua J.: Could cause death, is that right?

A. Could.

Q. Now could this be the case of a person who has a high tolerance for alcohol?

10 A. Even in a person with a high tolerance of alcohol, he can still possibly die of this kind of intoxication.

Chua J.: Yes.

Q. Doctor, does the tolerance level for alcohol vary from person to person? A. Oh, yes.

Q. Doctor, in the case of a person who is a habitual drinker, is the tolerance for alcohol increased?

A. Yes, the tolerance is high or increased.

20 Q. Doctor, this figure of 400 B.A.C., this is a figure for an average man, isn't it? This figure of 400 mg. B.A.C. resulting in death, this is an average figure arrived at?

A. You mean the average man drinks?

A. No, my question is, this computation figure of 400 mg. of B.A.C. is the average figure? How has this figure of 400 mg. B.A.C. which can cause death - has been arrived at?

A. Oh yes, in the average man's person 400 mg. of blood alcohol could cause death.

30 Chua J.: Could or would?

A. Could.

Q. Doctor, you have said that this tolerance of alcohol could vary from person to person?

A. Yes.

Q. So a person with a particularly high tolerance of alcohol need not necessarily follow it having a blood content of 400 mg. B.A.C.?

A. That is correct, has less - there is less chances of death.

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Chua J.: Yes.

Q. Now doctor, I refer you to your autopsy report and in particular to the report where you examined the brain?

Chua J.: Will you speak a bit louder?

D.P.P.: I am sorry, my Lord, I refer to your autopsy report, doctor, and in particular to the examination of the brain of the deceased? A. Yes.

Q. You found old contusions? 10

A. Yes, the second sentence I mentioned - "The inferior surface of both frontal poles also showed old contusions." I mentioned old contusions in the brain.

Chua J.: Yes.

Q. Doctor, how are these contusions caused?

A. Due to falls in the past.

Q. Doctor, is there any other name for this old contusion at the frontal poles?

A. No, I can't think of - just say old injuries in the brain. 20

Q. These contusions at the frontal poles, are they known by any other name?

A. No, no specific names have been given.

Q. Doctor, I will come to the re-examination of the fractures on the skull. Well in your cross-examination doctor, you said that these fractures on the skull at the temporal region were fresh, how have you come to this conclusion? 30

A. Oh, that means I did not see old blood clots around the fracture, that is why I called these fresh fractures.

Chua J.: Did not find---

A. I did not find old blood clots.

Q. Doctor, how would you determine whether a fracture is fresh or old apart from the blood clots?

A. No, it is very easy to find. In a fresh fracture the blood around it would be fresh and old 40

fracture the blood around is old blood. It is very easy.

Chua J.: Fresh fractures there will be fresh blood? A. Yes.

Chua J.: I think he told us yesterday?
A. No, I have mentioned about fresh fractures very obvious.

Q. I remember you mentioned this?
A. Yes, I mentioned that there was no significant blood, but there are still traces of blood around the fracture line and by looking at this so easily to notice them.

Q. In this case of the deceased, did you find any traces of fresh blood?

Chua J.: That is why he said they were fresh fractures?

D.P.P.: Yes, my Lord.

Q. Now doctor, what does this indicate - fresh fractures and the presence of blood at the fissure of this fracture?

A. That means most probably they are sustained during life.

Q. Doctor, I will go to the fracture No.3 in your autopsy report, that is the fracture at the base of the skull. Now in cross-examination, doctor, you said that if a person falls forward the anterior fossa could be fractured and this can be extended to the middle fossa and you also said that if a person falls backwards the posterior fossa can be fractured. Now the question is, doctor, taking fracture No.3 as well, that is the fracture from the base of the skull, would he possibly sustain this fracture as a result of a fall?

A. Unlikely.

Q. Doctor, you also indicated that the right petrous temporal bone was fractured in fracture No. 3 - is it possible for the petrous temporal bone to be fractured as a result of a fall?

A. Yes, it is possible.

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- Q. Now would it be possible, doctor, to have the petrous temporal bone to sustain a comminuted fracture as a result of a fall from a body height?
A. There is a very slight possibility only - very slight possibility.

- Q. Now doctor, I will go to the second group of fractures on the skull, that is the comminuted fractures on the temporal bone. Now you have said in cross-examination that both these temporal bones sustained comminuted fractures. Is it possible for a person to sustain a comminuted fracture on both temporal bones as a result of a single fall from a body height?
A. A single fall from the body height will not be possible to produce comminuted fractures on both sides of both temporal bones.

10

Chua J.: It is not possible to say?

A. Not possible.

Q. You said earlier there was very slight possibility of that?

20

A. A slight possibility one side when I was asked about one side fracture - one side comminuted fracture.

Chua J.: Not possible for both petrous bones, is it?

D.P.P.: That is so, my Lord.

Chua J.: By a single fall, is that right?

A. From a body height.

Chua J.: All right we will adjourn now - adjourn to half-past two.

30

(Court adjourns at 12.45 p.m. to 2.30 p.m., 28.1.76)

SEAH HAN CHEOW (Re-examination by D.P.P.)(cont'd.)

- Q. Dr. Seah, before the lunch break we were at the second group of fractures on the skull; in cross-examination, Dr. Seah you had said that you did not find any external injuries at the mastoid bone?
A. On the mastoid region that means behind the ear, yes, I did not find external injury there.

Chua J.: Mastoid bone?

40

A. On the mastoid region.

Q. Dr. Seah, when a blow is inflicted with a blunt object, say, like P.42 at the mastoid region is it normal to find any manifestation of external injury in this region, that is, at the mastoid region?

A. Yes, normal to find external injuries there.

Chua J.: With this sort of weapon, is it?

D.P.P. : That is so.

10 Q. Can there be cases where a blow inflicted by P.42 results in no physical injury, no physical external injury being manifested at the mastoid region? A. Yes, it can.

Q. Can you explain why this is so?

A. As I explained earlier on there are two: first, is that the victim dies very fast after receiving the injuries - after receiving the blow; and the other reason-----

Chua J.: Slowly.

20 A. The victim dies very soon, very fast after receiving the blows.

Chua J.: Yes, second.

A. The other reason is a lot of people have very thick and strong skin on this part, especially those who lie around on very hard surface at night - who lie down on very hard surface at night.

Q. Doctor, if there is hair covering the mastoid region would that act as a buffer?

30 A. Yes, hair will also give a cushion effect.

Q. Doctor, we move on to another area: under cross-examination you have said that when a blow is inflicted and internal injuries are caused there might not be any manifestation of external physical injuries? A. Yes, I did mention that.

Q. But, Doctor, have you not any literature or any authorities to support this proposition?

A. Yes, I have. I had found out one reference in Professor Camp's book.

40 Q. What is this reference, Doctor?

A. This is written in Taylor's Principles and Practice on Medical Jurisprudence.

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Chua J.: What is it) Professor Camp?
A. Yes, edited by Professor Simpson.

Q. No, no, what is the book called?
A. Taylor's Principles and Practice on
Medical Jurisprudence, Volume I.

Chua J.: Yes, what edition is it?
A. 12th Edition.

Q. Page 195, is it? A. Page 195.

Chua J.: Yes, can you read the passage?
A. Yes, on the top part: (reads)

10

"It is often thought that no severe
blow could have been inflicted
because of the absence of any indica-
tion of violence on the part struck;
but, of course, severe injury to
internal organs with fatal effusion
of blood in vehicle accidents or
falls can occur without any external
bruising of the skin of the trunk."

Q. Doctor, on the basis of what you have just read
to this Court, is it surprising not to find any
external injuries at the region of the temporal
bones - two temporal bones?

20

A. Is it a surprise? Could you-----

D.P.P. : My question, my Lord, is, is it
surprising not to find any external
injuries at the temporal region?

A. At the mastoid, is it?

Q. That's right.

A. I am not surprised at all because in addition
the skin here is very fibrous and very thick.

30

Q. Now, Doctor, I will now touch on the manner in
which these injuries were inflicted; now, you
have said in cross-examination that these
injuries were inflicted from the back - these
injuries at the temporal---

A. Petrous temporal----

Q. Petrous temporal, were inflicted from the back;
Doctor, the question is when you say from the
back did you mean from the back of the body?

40

A. No, I mentioned from the back of the head.

Q. In other words, Doctor, it is not necessary for a person to be physically standing at the back of the deceased to inflict those wounds?

A. Of course, not always necessary.

Q. Now, on that basis, Doctor, if the head of the victim is to be turned to the side, is it possible for a person to inflict the injury by standing in front?

10 A. Oh, yes, if the head is turned like that (demonstrates), if the victim has turned his head like that it is very easy.

Chua J.: You mean his head turns towards the assailant? A. Turns to one side.

Q. So in that case the assailant would be in front?

A. He could be in front, possible to be in front.

Q. Or for that matter at the side of the deceased?

20 A. Yes, it is possible to be from the side.

Q. Now we go to the autopsy report; so far as the subarachnoid Doctor you found fresh subarachnoid haemorrhages at the temporal lobes?

A. Yes, in the brain mentioned in my findings, in the brain fresh subarachnoid haemorrhages were found at the temporal lobes.

Q. Doctor, you also found comminuted fractures involving both temporal bones on the scalp of the deceased? A. Yes, I did find.

30 Q. Doctor, is there any association between the comminuted fractures at the temporal bones and the fresh subarachnoid haemorrhages which you found at the temporal lobes?

A. The subarachnoid haemorrhages---the subarachnoid haemorrhages at the temporal lobes were just adjacent next to the fractured bones.

Q. So what is the association or what would be the connection that you draw when you look at both these two injuries, that is, the injuries at the temporal bone and the subarachnoid haemorrhages?

40 A. My conclusion is this: the subarachnoid haemorrhages and the fractures on each side, on the left

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and on the right were caused by the same blow.

Q. That is the same blow that inflicted the
comminuted fractures involving the temporal bone?
A. Yes, that is what I meant.

Q. Doctor, I observe that in describing the sub-
arachnoid haemorrhages at the temporal lobes you
used the word "fresh" subarachnoid haemorrhages,
what is the significance of the word "fresh"?
A. "Fresh" that means not inflicted long ago, say,
the injuries were not there for some time. 10

Q. Doctor, you have said in cross-examination that
the haemorrhage of the brain can be caused when
a person is lying, is that so? A. Yes.

Q. Now, these haemorrhages that you have found at
the temporal lobes did they cover the whole of
the temporal lobes?
A. Cover the whole temporal lobes.

Chua J.: Cover the whole?

A. Whole temporal lobes.

Q. Now, would you consider this haemorrhage in view 20
of the fact that it cover both the temporal
lobes significant?
A. Oh, yes, this means a lot of blood, and
significant.

Q. Doctor, coming to the external examination and,
in particular, the bruise over the whole of the
dorsum of the right hand, was this bruise on
the dorsum of the right hand extensive?
A. Yes.

Q. Now, Doctor, this bruise that is caused, is it 30
caused by the diffusion of blood from the
capillaries of the heart?
A. From the diffusion of blood from capillaries
and larger blood vessels.

Q. Now, Doctor, speaking generally, that is, the
bruises are generally ante-mortem injuries,
would you agree?
A. Yes, generally bruises are ante-mortem injuries.

Chua J.: What do you mean by ante-mortem?

A. That means injuries occurring during 40
life.

Q. Ante-mortem? A. Ante-mortem.

Q. Doctor, correct me if I am wrong, did you not earlier described this injury No.6, the bruise as a defensive injury?

A. Yes, I have mentioned that as a defensive injury.

Q. Now, taking on from there, Doctor, that it is a defensive injury and the fact that bruises are generally considered to be ante-mortem injuries would you consider external injury No. 6 an injury inflicted most likely when the deceased was alive?

A. Oh, yes, that is what I meant by ante-mortem injuries.

Q. Now, Doctor, we are moving on to another area. Now, if you will recollect under cross-examination, that is, earlier on this morning - earlier on in the morning, Doctor, there was a proposition of how these injuries could have been inflicted, put forward to you by the learned counsel: Now, the proposition was that if the head of the deceased was lying with the portion of the back of the ear----

A. Back of the right ear.

Q. Back of the right ear on a hard surface and the blow was inflicted on the left eye of the deceased at the forehead with an object like P.42, it could result in injury No. (1) on the skull and also a comminuted fracture of the right temporal bone, you follow me?

A. Yes, I follow you, yes I had mentioned that; I agreed to that assumption.

Q. Now, Doctor, the question is would it make any difference on what kind of surface the back of the right ear---would it make any difference on what kind of surface the portion of the head, the back of the right ear was resting on?

A. The worst effect will be when this part of the head rested on a cement floor. The worse effect where part of the ear rested on cement ground or cement floor.

Chua J.: Yes.

Q. Of course, doctor, the other end of the skull would be when it is on something soft like rubber?

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- A. Oh yes, the force would be on the other end.
- Q. Doctor, would it make any difference if the back of the right ear were to be resting on something like sand as distinct from cement?
- A. Yes, then the amount of injuries behind the ear - I mean on the right petrous temporal bone would be less extensive.
- Q. When you say less extensive, what do you mean?
- A. I say less chances of getting comminuted fractures of the right petrous temporal bone. 10
- Q. Leading from there if the back behind the right ear is in sand, would a blow inflicted on the left eye extend the fracture to the right temporal bone - sorry, left temporal bone?
- A. Yes, possible - it still could extend to that region.
- Q. Now would it result in comminuted fracture of the petrous temporal bone? A. On which side?
- Q. On the left side? A. Unlikely.
- Q. Your opinion would cover a situation where the sand is firm, not loose - when the sand is firm, cohesive? A. Yes. 20
- Q. Doctor, now coming to the question of acute alcoholic poisoning, can you tell this Court the symptoms which normally precede death as a result from acute alcoholic poisoning?
- Chua J.: What are the signs?
- D.P.P.: Signs preceding death, my Lord.
- A. Most victims who die of acute alcoholic intoxication --- 30
- Chua J.: Most victims ---
- A. Who die of acute alcoholic intoxication have a period of coma before they die.
- Chua J.: That is the reason why I cannot understand you saying that he will drop dead?
- A. My Lord, yesterday I mentioned the possibility. I saw some cases drop dead, but in some cases will pass 40

through the comatose stage and die,
that means they ---

Q. After a period, is it?

A. Of coma - they die after a period of
coma.

Q. Yes.

A. That means they lie down.

Q. Yes, I understand.

10 Q. How long does this state of comatose last
actually?

A. Most cases will become comatose for some hours
before they die.

Chua J.: Some hours, is it? A. Yes.

Q. Can you be a bit more specific, doctor,
approximately?

A. Most cases will remain comatose or unconscious
for half an hour or up to many hours.

Chua J.: For half an hour or ---

A. Up to many hours before they die.

20 Q. Doctor, I am putting forward to you a general
proposition, if you have a person who is highly
intoxicated and he has been actively moving
about, he does not remain still, actively
moving round and he suddenly collapses and
dies, in your opinion, doctor, would the cause
of death be likely to be acute alcoholic
poisoning?

A. It could happen, I mean death could happen but
unusual to be due to alcoholic intoxication.

30 Q. From this would it be correct for me to say,
doctor, that if a person has been fairly active,
has been moving around, it would be unlikely
that he would suddenly collapse and die of
alcoholic poisoning? A. Yes, I agree.

Q. Doctor, let me extend this proposition a little
bit further, now if a person is a habitual
drinker and has a higher tolerance for alcohol--

Chua J.: Slowly, Mr. Singh?

Q. Where he moves around and he is fairly active

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and he suddenly collapses and thereafter dies, in your opinion doctor, would the cause of death be likely to be acute alcoholic poisoning, that is, in relation to what you have said earlier? A. It would be unlikely.

- Q. Would it be more unlikely than a case of a person who is not a habitual drinker and his tolerance is not that high?
A. Yes, it would be more unlikely compared with the previous example. 10
- Q. Doctor, would it be fair to complete that if a person who has been active, in other words if he has moved around quite a bit in a particular locality or scene and would it be unusual for him to have just suddenly collapsed and died of acute alcoholic poisoning? A. Collapse and die?
- Q. Yes.
A. Yes, I have mentioned unusual.
- Chua J.: But it is possible that he could just collapse and go into a coma and then die? A. Yes, it is possible. 20
- Q. I mean that will be the usual thing?
A. The usual thing - yes.
Q. Yes.
- Q. Doctor, coming to another area - now when under cross-examination you have said that a person who has a high content of alcohol in his blood will be more susceptible to brain haemorrhage - do you remember having said that?
A. Yes, haemorrhage of any sort, including brain haemorrhage. 30
- Chua J.: Very high, is it? A. Very high.
- Q. B.A.C., susceptible to haemorrhage, is it?
A. Yes, including brain haemorrhage.
- Q. Doctor, is it possible for a person who has not taken any alcohol at all to sustain a brain haemorrhage as a result of a fall from a body height? A. Is it possible?
- Q. Yes. A. Yes, it is possible. 40
- Q. Now doctor, quite apart from the question of the

person who has got a very high B.A.C. being more prone to falling, would you consider any difference in the susceptibility of a person having a high B.A.C. and a person having no alcohol in his blood to sustain brain haemorrhage when he falls?

A. It is a long question, could you repeat the question again?

10 Q. Sorry, I will go slowly, now quite apart from the question of a person who is intoxicated or highly intoxicated being more prone to falling - quite apart from this question --- A. Yes.

Q. Would there be any difference between a man being more susceptible to suffer brain haemorrhage as a result of a fall from a body height?

A. I am so sorry, I really cannot understand - I beg your pardon.

20 Q. Yes, I will say that again, you see, quite apart from this question of a man who is highly intoxicated being more prone to falling because he loses his balance more quickly --- A. Yes.

Q. Quite apart from this question, is there any difference between a man who is highly intoxicated and a man who has got no alcohol content in his blood being more susceptible to brain haemorrhage as a result of a fall?

30 A. Apart from the blood changes we have mentioned, say the alcoholic intoxicated man suffers haemorrhages more readily. The man who is so intoxicated will suffer a greater fall.

Chua J.: The man who is so intoxicated----

A. Will suffer a greater fall.

Q. Yes.

A. Because of his unsteady state, that means when he has a fall, he really has a big fall because he is unsteady.

Q. Can you please explain that?

40 Chua J.: No, I am trying to write down your answer - apart from the blood changes you say the man who is so intoxicated will suffer a greater fall? A. Yes.

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Q. The man will suffer a greater fall
because of his unsteady state?

A. Yes.

Chua J.: And what else did you say?

A. If he falls, the fall will be a
great fall.

D.P.P. : A greater fall.

CHua J.: I am sorry, I don't quite understand
it.

D.P.P. : Can you explain? 10

Chua J.: No, there is no question of
explaining. I just want to know if
I recorded it correctly - apart
from the blood changes I have
mentioned, a man who is so intoxi-
cated will suffer a greater fall.
It doesn't seem to read right -
perhaps because of his unsteady state
his fall would be a greater fall?

D'Cotta J.: He is likely to suffer a greater
fall. 20

Chua J.: Because he has suffered a greater
fall?

D'Cotta J.: He is more likely to suffer a
greater fall.

Chua J.: Do you mean a person who is highly
intoxicated would suffer a greater
fall than a person who is not
intoxicated, is that what you mean?

A. Yes, because of the line of natural
defences when we are fully alert. 30

Chua J.: That is what you mean, is it?

A. Yes.

Q. Because of his unsteady state?

A. Yes, because of his unsteady state.

Q. Doctor, coming to the certified cause of death--

Chua J.: Yes.

Q. Doctor, in this case you have said that the certified cause of death is as a result of a fractured skull?

A. That is correct, I certified it.

Q. Now doctor, you had put up this report before you received the chemist report of the alcoholic content of the deceased? A. Yes.

Q. When did you receive this report from the chemist about the alcoholic content in the blood of the deceased?

A. I received the report on the 12th June, 1975, about two weeks after the post-mortem - on the 12th June, 1975.

A. About two weeks after the post-mortem on the 12th of June 1975 - about two weeks after the post-mortem.

Q. Now, Doctor, taking into consideration the fact that you are aware of the BAC of the deceased would you still certify the cause of death of the deceased as due to fractured skull?

A. Yes, I still certify the cause of death as fractured skull.

Q. Now we are still on the subject of the fractured skull, Doctor: fracture No. (3), that is the fracture which stretches across the base of the skull, now, under cross-examination you said that this fracture could lead to complications?

A. Yes, I did mention that.

Q. What are these complications?

A. These complications would be internal haemorrhage, infection.

Chua J.: What is it?

A. Internal haemorrhage and infection and loss of pituitary function.

Q. Sorry? A. Loss of pituitary function.

Q. Now, Doctor, what does loss of pituitary function involve?

A. Because of injuries in the pituitary fossa.

Chua J.: What is the point you want to make, Mr. Sant Singh?

D.P.P. : To assess the extent of the injury.

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Chua J.: Yes, what is the point you want to make?

D.P.P. : The seriousness of the injury.

Chua J.: You just ask him. He is asking you whether the injury is serious?

A. Yes, that is a serious fracture.

Q. No. (3), is it? A. Yes.

Q. Now, Doctor, taking into consideration the complications that might arise, the fact that this is a serious fracture would it be in your opinion---would it in the ordinary course of nature cause death to the deceased? 10

A. Yes, I had mentioned it earlier.

Chua J.: I think you have asked him in examination all these things.

D.P.P. : I was just thinking of the additional factor of the complication.

Chua J.: I don't think Mr. Yap is making any point out of this. He is just saying the fracture is being caused by a fall on the head instead of being hit by somebody; that these fractures are consistent with a person falling on the back of his head. You are telling us about the seriousness or not serious. 20

Q. Now, Doctor, going on from there, that is, the certified cause of death as fractured skull, do you consider fracture No. (3), that is, fracture across the base of the skull to be likely the result of a fall from a body height? 30

Chua J.: What is your question?

D.P.P. : This fracture No. (3), my Lords, would it be likely to be caused from a fall from a body height.

A. Yes, it could.

Chua J.: Yes.

D.P.P. : My Lord, if I may have a moment, my Lord.

Q. Finally, Doctor, now, at the close of the cross-examination the proposition was put forward to you which I had described earlier where the back portion of the head behind the right ear being on hard ground, and a blow is inflicted on the left eye, on the forehead of the deceased; Doctor, you have also said you were of the opinion that this injury on the forehead was a post-mortem injury?

10 A. Most probably post-mortem injury.

Q. Going on from there, Doctor, in view of your opinion you have stated earlier during the examination that injuries at the temporal lobes were ante-mortem injuries, would it be fair to say that the injury on the forehead was inflicted after the injury at the temporal regions---sorry, before---I beg your pardon, before the injury at the left eye,---

Chua J.: I think it must follow.

20 A. Usually this one first and then this one inflicted after.

Chua J.: What the learned counsel is saying is that your opinion is that injuries here were inflicted when the person was alive? A. Yes.

Q. And you are of the opinion that the injuries here, left eye, would be inflicted most probably after death?

A. Most probably after, yes.

30 Q. Doesn't that mean that these are the injuries inflicted first?

A. Yes, most probably these injuries are inflicted first.

D.P.P. : No further questions, my Lord.

Chua J.: It's all right, thank you, Dr. Seah.

SEAH HAN CHEOW (Questions by the Court).

40 D'Cotta J.: Now, you prepared this report and you have certified the cause of death as fractured skull. After preparing the report you have seen the Chemist Report which

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says that the deceased had a
very high alcoholic content?

A. Yes.

D'Cotta J.: Taking all these factors into
consideration in your view how
did the accused--I mean the
deceased meet his death?

A. Most probably he died of fractured
skull.

Q. Which particular---how, in your
view, just your view, your
opinion? 10

A. Yes, most probably he died of
fractured skull in the two blows
he received.

Q. Most probably?

A. He died of fracture.

Q. Died of a fractured skull?

A. As a result of the two blows behind
the ears. 20

Q. At the petrous bones?

A. At the back of the ear.

Q. At the back of the ear, how long
would death take place after
receiving the two blows?

A. It takes very fast - death occurs
very fast.

Q. When you say "fast" what space of
time would you say?

A. I had earlier on mentioned less
than 15 minutes. 30

Q. Less than 15 minutes and you still
think that the blow here (indicates)
is a post-mortem blow?

A. Yes, most probably post-mortem
blow.

D'Cotta J.: Now, going on what you have told
the Court, this injury, of this
blow inflicted here (indicates),
must have taken place more than
15 minutes after the blow here
(indicates), on this argument -

on this logic?

A. No, I only say less than---my Lord, I predict less than 15 minutes.

Q. It could be 5 minutes?

A. It could be even earlier.

Q. Oh, I am sorry, because you must appreciate the fact that this man with a weapon, he is hitting the deceased; he is not waiting for 5 or 10 minutes to deliver the next blow. He is hitting him like this (demonstrates); he is not hitting him and waiting for 10 to 15 minutes or so. So if death occurred as you say as a result of these two blows it must have occurred in a very short space of time?

A. Yes, it is likely.

D'Cotta J.: Thank you.

Chua J.: Yes, thank you, Doctor.

Mr. Yap: My Lords, I do have just a number of questions, just one point which I feel your Lordships might be interested to consider.

Chua J.: Yes.

Mr. Yap: I will not be long on these fresh and old fractures which my learned friend has brought up in re-examination.

Chua J.: What is your question?

Mr. Yap: My Lords, first of all, I wish I am correct in saying that Dr. Seah's earlier evidence was that he found traces of blood in the fresh fractures.

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SEAH HAN CHEOW

(Further cross-examination by Mr. Yap)

Q. Am I correct?

A. Yes, when I mean fresh fractures that means I see traces of fresh blood.

Q. You saw traces of fresh blood and it was definitely not of significant amounts equivalent to that of haemorrhaging, in other words?

A. No, it is still haemorrhages but not significant amount because just traces. 10

Q. Traces of blood but not significant amounts. Doctor, am I right in saying that within the skull there is a complex set-up of blood capillaries and veins that emanate from the inside portion of the brain which exists within the bone of the skull?

A. Yes, there are blood vessels within the skull bone.

Q. And numerous complex capillaries that exist within the bone of the skull? 20

A. Not too numerous because the bone is relatively not well supplied by blood.

Q. All right, but there are veins or blood vessels that exist within the framework of the bone of the skull?

A. Yes.

Q. Now, Doctor, when a person is clinically dead, although the heart has stopped pumping, blood still remains within those veins and capillaries, am I right, Doctor? 30

A. Yes, that is correct.

Q. Now, if therefore a fracture is caused after the death the blood that exists in the blood vessels within the bone structure would erupt causing some traces of blood to invade into the fracture lines?

A. That is correct.

Q. And you would find traces of blood within the fracture lines to tell you that these are fresh fractures, am I not correct?

A. Yes.

Q. Now, on the other hand if the person is still alive and the heart is pumping, therefore, circulating the blood, so to speak, within the body system including that of the head, the skull and the whole network of veins and capillaries, if there is a fracture at that point the blood that is emitted would be flowing with some profusion, am I not right, Doctor?

A. That is correct.

Q. With the result -----

Chua J.: Here you are asking many questions, the question you have already asked in your cross-examination.

D.P.P. : Yes, my Lord, this question is being repeated.

Mr. Yap: No, my Lord, in fact, I am trying to clarify this point from the prosecution.

CHUA J.: What point is it?

Mr. Yap: About the fresh and old fractures.

Chua J.: Look, you have examined him for 2 days-----

D.P.P.: 3 days, my Lord.

Chua J.: And you are asking him the same thing all over and over again you know.

Mr. Yap: That may be so but it is in the context of the fresh and the old fractures that were just brought up by my learned friend.

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Chua J.: Yes, that is the purpose of the re-examination. I mean in your cross-examination you brought up all the points and he clarifies it in his re-examination and you cannot ask him again. You ask him again and there will be no end to this. No, no, Mr. Yap, you have had enough time to cross-examine this witness.

Mr. Yap: I am much obliged, my Lord. 10

Chua J.: Doctor, you will be away from Singapore?

Witness: No, no, I am supposed to go on leave today.

Chua J.: I know-----

Witness: Not going away, I just remain at the seaside cottage.

Chua J.: If you are out of Singapore and if these people want to recall you----

D.P.P.: I think, Doctor, there is a telephone at the chalet? 20

Chua J.: No, so long as he does not leave Singapore then I don't mind releasing him. But if he is leaving Singapore then I might have second thoughts about it. So long as you are going to remain in Singapore where you can be contacted then for the time being you are released and go and enjoy yourself at the seaside. 30

Witness: Thank you.

Chua J.: All right, the Doctor is released.

(Witness stands down and is released).

We will adjourn now.

(Court adjourns @ 4.00 p.m., 28.1.76).

10.30 a.m. 29.1.76 Hearing resumes.

Chua J.: Yes, your next witness?

D.P.P. : My Lords, my next witness is Dr. V. Gandhimuthu at pages 14 and 15.

Chua J.: Yes.

V. GANDHIMUTHU (Affirmed in English)

(Examination-in-Chief by D.P.P.)

Q. Your name is Dr. V. Gandhimuthu?

A. Yes, my Lords.

10 Q. And you are a medical officer with the Changi Prison Hospital? A. Yes, my Lords.

Q. How long have you been attached to the Changi Hospital? $2\frac{1}{2}$ years, my Lords.

Q. Now doctor, on the 26th May, 1975, at about 2.30 a.m. you examined one Mohamed Kunjo s/o Ramalan? A. Yes, my Lords.

Q. Doctor, can you identify this witness?

A. No, my Lords.

20 Q. Sorry, doctor, can you identify this person?

A. Sorry, I cannot identify him.

Q. Now this Mohamed Kunjo s/o Ramalan was escorted to the Changi Prison Hospital by Police Constable No.513? A. Yes, my Lords.

Q. Now after examining Mohamed Kunjo s/o Ramalan you prepared a report. Doctor, can you look at this report, is this the report that you prepared? A. Yes, my Lords.

Chua J.: P ---

D.P.P. : P30, my Lord.

30 Q. Doctor, the signature appearing at the bottom of the report is yours?

A. There are three signatures - one is mine.

D.P.P. : My Lord, may this medical report CPS/MR.370/75 be admitted in evidence?

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Chua J.: Yes, marked P30.

Q. Doctor, can you look at your report? Now in paragraph one you said that his breath smelt of alcohol? A. Yes, my Lords.

Q. And No. 2, you said that his gait was staggering? A. Yes, my Lords.

Q. Now doctor, what do you mean by staggering? A. Unsteady gait, my Lords.

Q. How long did the accused walk? How long did Mohamed Kunjo walk? 10

Chua J.: What did you do? You made him walk, did you?

A. By observing while he was entering the office.

Q. Yes.

A. And from the seat to the examination bed.

Q. Yes; he was unsteady, that is all?

A. Yes, my Lords.

Q. Yes. 20

Q. Doctor, can you tell this Court why he was unsteady on his feet?

A. The unsteadiness may be attributed to different factors.

Chua J.: May be due to various factors?

A. Various factors, for example, alcoholic intoxication, fatigue and tiredness.

Q. Fatigue?

A. Fatigue and tiredness and certain other diseases also. 30

Q. And certain other diseases, yes.

Q. Any other factors, doctor? A. No, I won't know.

Q. Doctor, did you establish the age of the person - Mohamed Kunjo? A. Yes, he was 54 years.

Chua J.: He told you?

A. Yes, my Lords, according to the records.

Q. Yes, I know but the record is made from what he said?

A. From what he said.

Q. I suppose that is recorded by your nurse or ---

A. It is recorded in my presence by my nurse.

10

Q. How many years old? A. 54.

Q. Yes.

Q. Could this unsteady gait be also attributed to his age, doctor? A. It depends on the person.

Q. This particular person that you examined?

A. No, I don't ---

Chua J.: You don't think so?

A. I don't think so.

Q. Yes.

20

Q. Doctor, you examined this Mohamed Kunjo at 2.30 a.m., is it not? A. Yes, my Lords.

Q. Speaking generally, doctor, could an unsteady gait be also attributed to tiredness?

A. Yes, fatigue and tiredness.

Chua J.: He has said so.

Q. All right, we will go on to No. 3 in your report - sub-conjunctival haemorrhage in right eye - what is sub-conjunctival haemorrhage?

A. It is redness of the white of the eye - conjunctiva.

30

Q. How could this injury be sustained?

Chua J.: Is this an injury?

A. Yes, my Lord, this is redness of the conjunctiva. It was consistent with a blow with a hard object - with a blunt object, sorry, my Lord.

Q. A blunt object like a fist, doctor? A. A fist.

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Q. Doctor, can you look at P42 - could it be caused by an object like this?

A. I don't think so, my Lords.

Q. We will come to item No.4 of your report, doctor - abrasion about 5" x 1" over the back of right forearm. Can you tell this Court what is an abrasion?

A. It is a peeling of the skin.

Q. But how could this abrasion at item No. 4 be caused?

A. Body coming in contact with rough surface.

10

Chua J.: Yes.

Q. Could it be caused by a fall?

A. Possible, my Lords.

Q. Item No. 5 of your report, doctor - on analysis his blood contained 100 mg. ethanol per 100 ml. of blood. Now what is ethanol, doctor?

A. Alcohol.

Q. Now doctor, when a person has consumed 100 mg., a person who has got 100 mg. in his blood, how much liquor was - liquor like brandy - how much would he have consumed?

A. About 4 to 5 fluid ounces.

20

Chua J.: How much?

A. About 3 to 4 fluid ounces.

Q. Now this would be in cases where a person had consumed brandy or whisky, is that so?

A. No, this is whisky.

Chua J.: Whisky, yes.

Q. Doctor, how have you arrived at this conclusion that he must have taken this amount?

30

A. The blood was analysed at the Chemistry Department.

Chua J.: No, the computation about the amount of alcohol consumed?

A. It is from Medical Jurisprudence and Toxicology book, my Lord.

Q. From what book?

A. Glaister's Medical Jurisprudence and Toxicology.

40

Q. What edition is this?

D.P.P.: This is the 12th edition, my Lord.

Chua J.: If you have a photostat copy, let us have it?

D.P.P.: Yes, this is found at page 605.

A. 605.

Q. There is a table? A. Yes.

Chua J.: Yes.

10 Q. Now doctor, you said he would have taken 4 to 6 fluid ounces, approximately 4 to 6 fluid ounces of whisky be equivalent to how many pegs of whisky?

A. About 4 to 5 pegs, my Lords.

Chua J.: About how many pegs?

A. 4 to 5 pegs, my Lord.

20 Chua J.: Mr. Yap, I am afraid yesterday you produced all these extracts from this book and I have not marked them and these passages were read to the doctor. So we will do it - this one will be also marked, page 605 we will mark it---

D.P.P. : Can we mark it as P55?

Chua J.: 55, yes, Exhibit P55.

Q. Well doctor, I am going to show you another extract from the book by Professor Simpson?

Chua J.: What page?

30 D.P.P. : Page 381, this book is Taylor's Principles and Practice of Medical Jurisprudence edited by Professor Keith Simpson - it is the 12th edition.

Chua J.: Yes.

D.P.P.: And this is the second volume.

Chua J.: We will mark it as P56, yes.

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Q. Doctor, I am going to read to you the second paragraph of page 381 - "Alcoholic drinks contain ethyl alcohol (as absolute alcohol) in about the following proportions: Rum 50-60%, whisky, gin, brandy 40-45% ..." - and it goes on to "Ordinary beers 2-5%". Doctor, can you explain to this Court - do you agree with this passage?

A. I won't know, my Lords, because I am an ordinary medical officer, not an expert in medical jurisprudence. 10

Chua J.: You cannot agree or disagree?

A. I have to agree because it is written by an eminent doctor.

Q. No, doctor, my question is, can you explain to this Court?

Chua J.: You see, all these figures must have been obtained from analysis, isn't it - must have been obtained on analysing? A. Yes, my Lord. 20

Q. Yes, what is your question?

Q. My question is, doctor, can you explain to this Court what is pure alcohol - if I say it is 40% proof pure alcohol, what is the proof?

A. 100 per cent proof is alcohol.

Q. If it is 40% proof?

A. It contains 40% of alcohol.

Chua J.: Yes.

Q. If it is 75% proof it means it contains ---

A. 75% of alcohol. 30

Q. That is 75% of pure alcohol, doctor?

A. Yes.

Chua J.: Pure alcohol? A. Yes, my Lord.

Q. Yes.

Q. Doctor, when you saw Mohamed Kunjo at about 2.30 a.m. on 26th May, 1975, did you speak to him? A. Yes, I spoke to him.

Q. Could he understand you?

A. Yes, he could understand me.

Q. Doctor, did he speak to you - Mohamed Kunjo?
A. Yes, he also spoke to me.

Q. Could you understand him?
A. I could understand him.

Q. Was he speaking clearly?
A. He was quite clear.

D.P.P.: No further questions.

Chua J.: Yes.

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10 V. GANDHIMUTHU
(Cross-examination by Mr. Yap)

Q. Now doctor, when the patient entered your
office, was he not assisted by a police
officer or did he walk in alone?

A. No, usually in the prison he was escorted up
to the main gate by the police. From the main
gate a prison warder or an officer escorted
him to my office.

Chua J.: What is the procedure in this
particular case?

20 A. In this particular case when he
came in I was called.

Q. When he came in where?

A. Came in to the main gate.

Q. No, I think what Mr. Yap is more
interested is - at the time you
saw him walk into your office,
entering your office, was he
walking alone or was he assisted
by somebody?

30 A. He was holding or something like
that is it?

Q. Holding on to something?

A. No, he was walking alone but escorted.

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Chua J.: By the warder - yes, he was escorted by a warder?

A. Yes, my Lord.

- Q. Doctor, you observed that his gait was staggering, not merely unsteady, he was staggering?
A. That is the word I used for unsteady gait - staggering.

Chua J.: I mean you agree that he was staggering in your office?

10

A. Not to the extent of falling down, my Lord, but he was unsteady.

Q. Yes, but Mr. Yap's point is in your report you had written down there - his gait was staggering.

- Q. It is correct, is it?
A. By staggering I mean unsteady, my Lords.

Chua J.: Yes.

- Q. Would I be right if I were to demonstrate this gait as sort of swinging from side to side, but not really about to fall, but swinging about side to side, was that the gait you observed? A. Yes. 20

Q. Now he smelt of alcohol, was the smell quite strong?

A. I couldn't remember that, my Lords.

Q. Was not your preliminary observation one of that - that the patient was in a state of intoxication? A. That is right. 30

Chua J.: What is your question?

Q. Was not your preliminary observation of your patient one that the patient was in a state of intoxication? You then proceeded to a clinical examination of his body? A. Yes.

Q. Did you make him lie down on your bed?

A. First I made him stand and then looked for the injuries on him and later made him lie down and did other examination.

Q. I see, at first you examined him while he was standing upright? A. Yes. 40

Q. You then stripped him of his clothes and looked or rather examined his body in greater detail?

Chua J.: Yes, what - when he was lying down?
A. Standing.

Q. Whilst he was standing and after that examination you brought him to the bed and you asked him to lie down? A. Yes.

Q. And there you continued further examination of his body, is that right? A. Yes.

10 Q. Now doctor, this preliminary examination while he was fully clothed and then you asked him to take off his clothes and you had a thorough examination and then you took him to the bed for another thorough examination, now how long did that take? A. Just a short time.

Q. I mean the total time taken for the whole examination - was it about 10 to 25 minutes approximately? A. About 10 to 15 minutes.

20 Q. About 10 to 15 minutes, it was only after this that you took the blood sample from him, is that right, doctor? A. Yes.

Q. So it was approximately 2.45 or 2.50 that you took the blood? A. Approximately, yes.

Q. Sample from the patient?

Q. Doctor, I suppose you are aware of what is known as the rate of elimination of alcohol from the blood? A. Yes.

30 Q. You are aware of this concept of the rate of elimination of alcohol from the blood: this process is also known as detoxification, is that correct? A. Detoxification, yes.

Q. Doctor, the rate of detoxification in a person of course varies from individual to individual, am I right, within a certain limit there is a variation, am I right?

A. I am not sure, it may be, I don't know.

Q. Or would you say it is a standard process of elimination of every individual?

40 A. I think it depends on a person; it varies from person to person.

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Q. Yes, it does vary from person to person, and it also varies from condition to condition. If I may just illustrate, let us say, now the rate of elimination will be slower if I were to merely sleep and the rate of elimination will be higher if I were to do exercise, let us say, if I were to walk about the place the rate of elimination will be higher, is it Doctor?

A. Higher, yes.

Q. Doctor, would I be right in saying that averagely high rate of detoxification has been found to be in the region of 20 milligrammes per hour?

10

A. The average only I know, my Lords; the low and the high I don't know.

Q. The average rate of detoxification?

A. Is about-----

Chua J.: You do not know what?

Mr. Yap: The Doctor does not know the high or low rate of detoxification, my Lord but he is able to mention the average rate of detoxification.

20

Chua J.: Yes.

A. It is about 15 milligrammes per hour.

Chua J.: 15 milligrammes per hour.

Q. Doctor, would I be right in saying that it can be as high as 20.7 milligrammes rate of detoxification? You will not be able to comment? A. Yes.

Mr. Yap: My Lords, could I refer to page 561 of Gradwohl?

30

Chua J.: Page what?

Mr. Yap: Page 561, my Lord, I have marked it in blue ball pen at the bottom of the page.

Chua J.: We will mark it as D.2.

Q. Doctor, I will just read one sentence to you and I was wondering whether-----

Chua J.: Mr. Yap, in future you give us some photostat--there is no marking at the top, but at least you should write for us.

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Mr. Yap: I am sorry, I will provide a proper photostat copy.

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Chua J.: All right, I mean the page does not show from what book.

Mr. Yap: Unfortunately it was cut off accidentally.

Chua J.: No, no, you just write it down for us. Yes.

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Q. Doctor, I will just read this sentence to you:
(reads)

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"Other workers-----" - this was in the process of experiments - "Other workers have reported mean hourly elimination rates varying from 11.9 mg. per 100 ml. to 20.7 mg. per 100 ml."

20 Would you quarrel with this finding?
A. No, I won't.

Chua J.: Yes.

Q. Doctor, at approximately 2.45 or 2.50 you took the blood sample, now, if it had been approximately 6 hours earlier, by a simple calculation, of course on the average rate of elimination, what would be the patient's blood alcohol content? A. About 190 milligrammes.

Chua J.: You mean 6 hours before 2.50?

30 Mr. Yap: Before 2.50, before the time the blood sample was taken.

Chua J.: The BAC will be how much?
A. About 190 milligrammes.

Q. 190? A. 190.

Q. Doctor, this would be on the basis---of course you mentioned the average rate of elimination - this would be on the basis of the average rate

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of elimination. You have agreed that exercises or activity would increase this rate of elimination? A. Yes.

Q. And by exercises I mean by walking around the place? A. Yes.

Q. The rate of elimination in such cases, that means where the patient has been walking around, you know, that activity, the rate of the blood alcohol would be far higher than 190 - can I repeat my question? A. Yes. 10

Q. We have been talking about average rates of elimination where other factors are not taken into consideration; then you would estimate that the blood alcohol content of the patient 6 hours before to be approximately 190 milligrammes?

A. Yes.

Q. But Doctor, I am saying where this rate of elimination has been accelerated, let us say, by exercises or by walking round?

A. It would have been more than---- 20

Q. It would have been more than 190 milligrammes. I will not be incorrect to say that the rate of elimination would be increased to around 4 or 5 milligrammes per hour extra, I mean I would not be incorrect to say so, isn't it? You see, the average - we take it as an average of 15, the rate of detoxification to be 15 milligrammes per hour but with increased activity like walking around this rate would be increased, let us say, by approximately 4 or 5 milligrammes, could be? A. Could be. 30

Q. Could be, yes. And it will not be wrong for me to estimate the blood alcohol content of this patient to be increased approximately to about 210 or 220 milligrammes BAC of the same patient?

A. I cannot say.

Chua J.: You can't say?

A. I can't say.

Q. But, Doctor, you have agreed that because of the increased activity as compared to just merely sleeping the average would be more than 190 milligrammes; so would it be possible, let us say, for the person to be in the region of excess 40

of 200 milligrammes, I mean you would expect to be in excess of 200 milligrammes?

A. Still I don't know, my Lords.

Chua J.: Yes.

Q. Now, Doctor, if the Chemist were to say that upon the examination -----

Chua J.: Mr. Yap, I notice this page 561, an experiment with wine drinking, does it make any difference?

10 Mr. Yap: It does not make any difference because, My Lord, wine is sort of-----

Chua J.: But I don't know what the accused drank, whether it is whisky, brandy or wine, I don't know. The only thing I would like to point out is that you were reading this passage; I notice this experiment is on wine drinking subjects.

20 Mr. Yap: My Lord, from the little that I know I don't think it would make any much difference between the type of drink that the patient takes or the person takes and the rate of elimination.

Chua J.: Then why don't they----no, no, I am just talking about this; yes, I notice there is only one column for rate of elimination.

30 Mr. Yap: This is page 55, my Lord, the table. But, my Lord, it appears to me that the fluid ounces would be the corresponding factor.

Chua J.: Yes.

Mr. Yap: Where the rate of alcohol is higher than the rate of ounces lower, my Lord. So it has a sort of a counter-balance effect so far as the rate of elimination is concerned. That is the point I am coming to, my Lords, the nature of the drink.

40 Chua J.: Yes.

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Q. Now, Doctor, you did say that the proof spirit is the equivalent of the pure alcohol. I may, if I say a certain percentage spirit it means a certain percentage proof alcohol, that is the corresponding equivalent? A. Yes.

Q. Now, if the Chemist report on its analysis says that the liquid that was examined contained 72.7 proof spirit would the alcohol content be also 72.7?

10

Chua J.: No, no, if the report says-----?

Mr. Yap: If the report says that the liquid analysed contains a spirit strength of 72.7 proof spirit would the alcohol content in the liquid be 72.7.

A. I do not know how they analyse it. It is calculated on 100 millilitres of blood.

Chua J.: Would that-----

Mr. Yap: Would that alcohol content in the liquid be 72.7

20

A. I don't know.

Chua J.: Yes.

Q. Now, Doctor, so far as the state of intoxication is concerned, Doctor, would I be right if I were to generally classify the categories as one of excitement, next coming to a state of confusion and next going to a state of stupor?
A. Yes, and then coma.

Q. And then coma and death, of course? A. Yes.

Chua J.: So would you repeat it, Mr. Yap, I shall record it.

30

Mr. Yap: I am sorry, my Lord.

Q. Doctor, would I be right in classifying the various stages of intoxication as one, excitement and the second one of confusion, stupor and--- the third one is stupor.

Chua J.: Yes, and then?

Q. Coma---

Chua J.: Yes.

Q. Death.

Chua J.: You agree with that?
A. Yes, my Lord.

Q. Doctor, would I be right in classifying a person whose rate of intoxication as in the region of about 200 milligrammes to be clearly in the state or stage of confusion?

10 Chua J.: A person with 200----?

Mr. Yap: Milligrammes BAC.

Chua J.: BAC, yes.

Mr. Yap: To be in that stage of - as I have mentioned - confusion.

A. Possible.

Mr. Yap: My Lords, I have a page from the same book that my learned friend had earlier produced to the Court by Keith Simpson.

20 D.P.P. : It is called Taylor's Principles and Practice of Medical Jurisprudence.

Chua J.: Yes, what page is it now?

Mr. Yap: I am sorry, my Lord, the one that I have is---I must apologise, my Lord, because I really do not know sometimes which pages are required for photostating. My Lords, I must apologise, I have only one copy of the photostat.

30 Chua J.: Is it the same edition or not?

Mr. Yap: It is Forensic Medicine, my Lord, this is at page 330 of Forensic Medicine by Keith Simpson.

Chua J.: Is it the same book?

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Mr. Yap: No, my Lord, it is quite different from the one that my learned friend has produced; that is Taylor.

Chua J.: But he says that is edited by Keith Simpson.

Mr. Yap: It is the same editor I believe.

D.P.P. : This is in two volumes, my Lord; that is one single volume.

Chua J.: It is an abridged version?

D.P.P. : It is more or less an abridged version. 10

Chua J.: Let's get the title.

Mr. Yap: The title of this book is Forensic Medicine.

Chua J.: Yes, by Keith Simpson?

Mr. Yap: Yes.

Chua J.: What edition is that?

Mr. Yap: This is the 7th edition. It should be marked D.3, my Lord.

Chua J.: The photostat copy marked D.3, is it?

Mr. Yap: Yes. 20

Chua J.: Yes, and the passage is underlined in blue?

Mr. Yap: The last paragraph underlined in blue.

Q. Doctor, I am going to read this sentence to you.

Chua J.: The whole of the last paragraph or just a few lines?

Mr. Yap: Two sentences.

Chua J.: Page 330?

Mr. Yap: Page 330, my Lord.

Chua J.: Perhaps you could just read it first and then you show it to the Doctor. 30

Mr. Yap: Yes. (reads)

"The blood alcohol in states of marked drunkenness is usually 200 to 400 mg per cent; the former is the equivalent of 5½ pints of ordinary beer or 9 fluid ounces of whisky; the latter, double these figures. Anything over this is likely to be associated with complete stupor."

10 Q. Do you agree with this, Doctor?
A. Yes, my Lords.

D'Cotta J.: 5½ pints of beer?

Mr. Yap: 5½ pints of beer or 9 fluid ounces of whisky.

D'Cotta J.: Two quart bottles and one pint?

Mr. Yap: I am not familiar myself, my Lord.

20 Q. Doctor, this principle would even apply in cases where a person----this principle would also apply in cases where a person is a habitual drinker, could also apply?
A. Can also.

D'Cotta J.: You must correlate it to a person's ability to contain the alcohol.

Mr. Yap: Yes.

D'Cotta J.: A person who can contain this alcohol, that 5½ pints of beer is no----

Mr. Yap: It depends on the tolerance level.

30 D'Cotta J.: Yes, it depends on the tolerance level.

Mr. Yap: But in my case I believe if I were to take about even a hundred milligrammes alcohol I will probably be close to stupor, my Lord.

D'Cotta J.: The time in which it is consumed there are other factors to be taken into consideration.

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Mr. Yap: These are all the variable factors
which are explained----

D'Cotta J.: Yes, the time in which it is
consumed.

Q. Now, Doctor, in this state of confusion or in
this stage of confusion one's personality is
affected, am I right? A. Yes.

D'Cotta J.: One's personality is----?

Mr. Yap: Is affected.

A. Possible, my Lord, is affected. 10

Q. He has a tendency to lose his co-ordination?

A. Possible, my Lord.

Q. Of the various faculties he has; it might also
cause blurring of his sight? A. Yes, my Lord.

D'Cotta J.: What is that?

A. Blurring of sight.

Q. Now, Doctor, a person in this state of intoxica-
tion if he were to receive a blow, let us say,
particularly in the region of his head would
not his condition be even more aggravated? 20

A. It depends on person to person, my Lords.

Q. That is true, yes.

A. That is on the individual.

Chua J.: His condition will be what?

Mr. Yap: Aggravated, this condition of mind
would be even more aggravated.

Q. Doctor, of course, the effect of the aggravation
will vary from person to person, from case to
case but it is an accepted principle is it not
that when a person is in that state, if he
sustains a serious blow----if he sustains a
severe blow in the region of the head his
condition will be definitely more aggravated,
isn't it? I mean even a very normal person,
even if he were to sustain a blow in the eye
or in the region of his head he gets groggy,
he sees stars in other words? 30

A. Stars, yes.

Mr. Yap: Even in the case of a normal person, my Lords, if he sustains a blow in any part of the region of the head.

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Chua J.: Yes.

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10 Q. Particularly so, isn't it, Doctor, if it is in the region of the eye, isn't it, Doctor? I mean if I were to distinguish between, let us say, a blow on the hard surface of the skull as one involving the eye which I believe has an optic nerve that connects directly to the brain it would be even more aggravated if the blow is on the eye? A. Which is aggravated?

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Q. As compared to a blow on the forehead, let us say?

A. No, just now I agreed with you for seeing stars, but not-----

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Q. No, we talked generally about infliction of a blow on the region of the head, now I am particularising that---

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20 D.P.P.: My Lords, perhaps I do not understand this question; what does Mr. Yap mean by aggravated, perhaps he could explain.

Chua J.: The condition of his mind will be aggravated. You mean you will get more confused?

Mr. Yap: That is so, I don't think-----

Q. Is that what you mean?

A. Confusion will be more.

30 Q. Yes, if there is no confusion it might cause confusion; if there is already confusion the confusion becomes even more? That is the meaning of aggravation.

A. I don't know, my Lords.

Chua J.: You can't answer that?

A. I do not know.

Chua J.: So really he can't answer your question, Mr. Yap; he is unable to answer your question. Yes.

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Q. Doctor, would I be correct in just saying this then - we talk generally about the region of the head - would not a blow in the eye be of a more aggravated effect than, let us say, a blow on the head----

Mr. Yap: I am sorry, my Lords.

Chua J.: You see, Mr. Yap, you are really treating this Doctor as an expert but really he is not an expert.

A. Yes, my Lord.

10

Chua J.: So most of the questions you put to him he will not be able to answer. I know the purpose of your asking him is because you want to bring out certain evidence at this stage. If you have any authorities, I mean you will be calling an expert for the defence but if you have any authorities or authority you can show it to him instead of asking him.

10

A. These are my findings, my Lord. I am only a medical officer, I am not an expert witness, I won't know.

Chua J.: You see, but unfortunately Mr. Sant Singh also asked him a lot of things about the blood and so on, treating him as an expert.

D.P.P. : No, my Lord, my questions just confine to the elementary findings in the report.

20

Chua J.: He is the officer who examined this man. If you want to ask him about the reaction of alcohol on a person then you must find some person who is really qualified to tell us. He is not the person, he is just a general practitioner.

Mr. Yap: My Lord, if my learned friend is bringing in an expert for the prosecution I would certainly reserve all these questions for him.

30

Chua J.: Yes.

Chua J.: He cannot answer you.

Mr. Yap: Could I know from the learned
Prosecutor whether an expert ---

Chua J.: I don't know whether the chemist is
to be called or not - he is the
person who can give us the answer.

Mr. Yap: I have been trying these questions
on anyone with medical knowledge on
this point. Unless I know specifi-
cally there is an expert to be called
by the prosecution, then I will
reserve all these questions for him.

Chua J.: I think it is not for him to call -
the question of expert on alcoholic
content and its effects - because it
is not their case. It is your case.

Mr. Yap: It may well be so, my Lord. I was
just hoping perhaps this aspect of
the case could be brought to the
attention of your Lordships.

Chua J.: I know you have to do your best with
this witness and if he cannot
answer - he says he cannot answer -
don't try to answer it and say that
I am not qualified.

A. Yes, my Lord, at the beginning I told
you, my Lord.

Chua J.: You will have to leave it. If the
defence is called, you have an
opportunity to call your expert.

Mr. Yap: Yes.

Chua J.: So as I say, it is not the prosecu-
tion case, he is not concerned and
you are the one who is putting these
questions.

Mr. Yap: Would your Lordships consider this -
whether I can get various particu-
lars and I ask Dr. Gandhimuthu
whether he will agree with them?

Chua J.: I don't know whether my learned
friend will accept it?

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D.P.P. : My Lord, it is really not fair to Dr. Gandhimuthu because he has not made a special study of this particular field.

Mr. Yap: But I would remind my learned friend that he did in fact ask the doctor to comment on the evidence of the prosecution. This is precisely the point that I am developing on.

D.P.P. : My questions were merely confined to the few questions, confined specifically to the finding of the doctor in his report and did not touch anything beyond it.

10

A. Yes, I was able to understand him and he was able to understand me.

Chua J.: All right, if you have any passages from which you want to put to him, but if he cannot agree or he does not know, he will say he does not know.

20

Mr. Yap: As your Lordship pleases, could I put this - the effect of the blow on a person and the effect of a blow in a state of intoxication, because these could be things even the general practitioner could be quite capable of knowing?

Chua J.: If he can answer, he will answer you. IF he cannot answer, he will say I cannot answer.

30

Mr. Yap: Yes, my Lord, I will put it to him.

Q. If you find any difficulty, doctor, you just refrain from answering. Now doctor, I would be right in saying that the normal person, who sustains a blow of some severity in the region of the head would make a person see stars so to speak, that much you will agree? A. Yes.

Q. Now doctor, would I be correct in saying that the eye is one of the most vulnerable parts of the head? A. Yes.

40

Q. Particularly so because it is directly connected

to the brain by the optic nerve, is that correct, and even in the case of a normal person, if a blow is inflicted on the eye, he is stunned? A. More of a shock.

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Q. More of a shock or stun, and this shock and the stunning is an even more serious form of just being confused - in terms of confusion, it is an even more serious form of confusion?

A. Confusion, yes.

10 Q. And during the effect of this period of shock, the effect would be that he would have lost his capacity to reason, his capacity to think?

A. Reaction you mean of a person?

Q. Yes.

A. That would vary from person to person.

Q. Doctor, the degree of reaction will vary from person to person, is that right? A. Yes.

Q. But there will be some effect to a person's capacity, to his mental capacity so to speak - the degree of the effect varies from person to person, but nonetheless there will be some effect in impairing his capacity?

20

A. That of course varies.

Q. Yes, of course that varies from person to person in degree, but nonetheless it would have some effect on the mental capacity? A. Yes.

Q. Now doctor, a person who you said earlier on, a person with about 200 mg. B.A.C. could be in that state of confusion, you remember in the various phases we have described, he could possibly be in that state of confusion?

30

A. State of confusion with the alcoholic intoxication?

Q. Yes.

A. He will be in a state of confusion - can you repeat your question?

Q. Earlier we described the various stages. We have had excitement, confusion, stupor, coma and death - the 5 stages. Now I mention that a person with 200 mg. B.A.C. could possibly be in that state of confusion?

40

A. What do you mean by that state of confusion?

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Q. In that state we have described as confusion?
A. After the punch?

Q. No, ignore this punch?

Chua J.: He has agreed with you that a person
may be in a state of confusion.

Mr. Yap: I think he was.

Chua J.: He said it is possible. He does not
say he could be - he said it is
possible.

Q. Yes, now doctor, assuming that the person who
is now in a state of confusion with 200 mg.
B.A.C. sustains a blow on the eye, would not
the condition that you have mentioned to us
just now would even be more aggravated? 10

D.P.P.: I must object to this - to his
answering this question.

Chua J.: He is unable to answer this question.
You have already asked him, Mr. Yap.

Mr. Yap: I think I have to establish those
points again. 20

Chua J.: He is unable to answer.

Mr. Yap: My Lord, may I rephrase in one
sentence? I do not know whether
your Lordship ---

Chua J.: He said - I can't say if that person
hit on the head, that is the person
in the second state, the confusion
state, his condition of the mind
would be aggravated. He said it
depends and it will vary from case
to case, so he is unable to answer
you and why are you persisting and
as I remarked, he is not an expert. 30

Mr. Yap: Very well, I am sorry.

Q. Doctor, you mentioned in item 3 of your examina-
tion that there was a sub-conjunctival haemorrhage
in the right eye? A. Yes.

Q. Then you said it was bleeding in the vein on the white portion of the eye, is that right?
 A. Yes.

Chua J.: Yes.

Q. Would I be correct in saying that that blow must have caused quite a severe degree of force?
 A. Yes, I agree.

Chua J.: So the blow was quite severe?
 A. Quite severe.

10 Q. Yes.

Mr.Yap: I have no further questions, my Lords.

Chua J.:Any re-examination?

D.P.P.: Yes, my Lord.

(Re-examination by D.P.P.)

Q. Doctor, my question will be confined very generally to intoxication. Now doctor, does the tolerance to alcohol vary from person to person - tolerance for alcohol?

A. Yes, it varies from person to person.

20 Q. Doctor, in the case of a habitual drinker, a person who drinks regularly, would the tolerance in alcohol be increased?

A. It will be increased.

Q. Well doctor, under cross-examination you have stated that the state of intoxication varies from - commences with excitement, confusion, stupor, coma and subsequently death. Now you have also said that a person who has 200 mg. would be in a state of confusion. Now doctor,
 30 this state of 200 mg. ---

Chua J.: Mr. Sant Singh, he never said that person would be - he said it is possible.

D.P.P. : It is possible, I am sorry, my Lord.

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Chua J.: Yes.

Q. Now this 200 mg. BAC resulting in confusion is an average figure?

Chua J.: What do you mean by average figure?

D.P.P. : It is an analysis, kind of test.

Chua J.: It is not an analysed test.
200 mg. - what is the question?

Q. Doctor, my question is, this 200 mg. BAC, that is the blood alcohol content, you said quite possible to result in a confused state. Now if a person has got a high tolerance of alcohol, will this produce a confused state - 200 mg. BAC? 10

A. That I don't know, my Lords.

Q. Doctor, on this question of tolerance of alcohol, when you said the tolerance is increased, it means that he can contain alcohol better?

A. Can consume more and contain more alcohol.

Q. Now going on this, if a person has a high tolerance of alcohol, he can contain 5 pints of beer better than a person who has a low tolerance of alcohol and takes 5 pints of beer? 20

A. That is so.

D.P.P. : No further questions, my Lord.

Chua J.: Well, thank you, doctor - he is released.

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THANGAVELLU MANIAM
(Examination-in-Chief by D.P.P.)

Q. Your name is Thangavellu Maniam? 30

A. That is correct.

Q. Detective 4141 attached to the Special Investigation Section, C.I.D.? A. Yes.

Q. How long have you been attached to the S.I.S., C.I.D.? A. About 7 years.

Q. On 25th May, 1975, at about 9.35 p.m. you were at Toa Payoh when you came to know of a case of murder at No. 8 Pulau Saigon Road.

A. That is correct, my Lords.

Chua J.: Yes.

Q. You subsequently arrived at the scene at the open space in front of No. 8 Pulau Saigon Road at about 10.05 p.m.?

A. That is correct, my Lords.

Q. Witness, can you look at P1, now is this the open space in front of No.8 Pulau Saigon Road?

A. Yes, this is the open space.

10 Q. At the open space in front of No.8 Pulau Saigon Road you saw a body of a male Indian lying on the ground? A. That is correct, my Lords.

Q. If you look at the same photograph, that is, P1, is this the position in which you found the body? A. Yes, my Lords.

Q. Witness, can you look at P27, can you identify this photograph? A. Yes.

Chua J.: Yes, what is it?

Q. What does this photograph show?

A. This is the deceased.

20 Chua J.: Is that the photograph of the male Indian?

A. Found at the scene at No.8 Pulau Saigon Road.

Q. Yes.

Q. On the 26th May, 1975 ---

Chua J.: No, and then did you make inquiries?

A. Yes.

Q. Yes, on the 26th ---

30 Q. On the 26th May, 1975, at about 12.05 a.m. you left the scene at Pulau Saigon Road? A. Yes.

Chua J.: And did what?

A. To search for the accused.

Q. To search for an Indian, is it?

A. Yes.

Q. Male Indian, is it?

A. Yes, my Lord.

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Q. Where did you go to?

A. As I was passing ---

Q. You walked towards Clemenceau
Avenue, is it?

A. I took my motor cycle and went to
Clemenceau Avenue.

Chua J.: And you went to Clemenceau Avenue -
did you go to Clemenceau Avenue?

A. Yes, my Lord.

Q. Yes.

10

Q. Can you tell this Court what you saw when you
were at Clemenceau Avenue?

A. While passing Clemenceau Avenue, I saw a male
Indian.

Chua J.: Yes.

A. I saw a male Indian walking towards
the left side of the road towards
the direction of River Valley Road.

Q. Yes.

A. I stopped my motor cycle and I
approached the male Indian. As I
went closer, I saw that the male
Indian had an injury in his lower
part of his right arm.

20

Q. Had an injury where?

A. He had a right swollen eye.

Q. No, injury where?

A. Right lower arm.

Q. Yes.

A. He had a swollen right eye.

30

Q. Yes.

A. He was smelling of liquor. I
identified myself and asked him what
his name was. He told me his name
is Kunjo.

Chua J.: His name was what?

A. Kunjo and I asked him for his identity
card and I found his name to be
Mohamed Kunjo. I immediately
arrested him and brought him to Central
Police Station at about 12.15 a.m.

40

Q. Brought him to ---
 A. Central Police Station at about
 12.15 a.m. As I reached Central
 Police Station with the accused---

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Q. You have not identified the person
 yet?

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D.P.P. : You have not identified the person?

Chua J.: Yes, Kunjo - what did you do?

A. I confirmed his identity card - he
 was Mohamed Kunjo.

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Q. You have mentioned the accused, you
 have not identified the accused?
 As you arrived at the Central
 Police Station ---

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A. I met Mr. Chamkaur Singh at the
 charge room.

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Q. Yes.

A. I handed the accused, I handed
 Mohamed Kunjo together with his
 identity card to Inspector Chamkaur
 Singh.

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Q. Now is this person Mohamed Kunjo who you
 arrested in Court?

A. Yes, my Lord, he is in the dock.

Chua J.: He is the person in the dock?

A. Yes.

Q. Can you identify Inspector Chamkaur Singh?

A. Yes.

Chua J.: I don't think he need identify
 the inspector - yes.

D.P.P. : No further questions.

(Cross-examination by Mr. Yap)

Chua J.: Yes, Mr. Yap.

Cross-
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Q. Mr. Maniam, when you arrived at the scene,
 that is, at No. 8 Pulau Saigon Road, Inspector
 Chamkaur Singh was already there?

A. I am not sure, my Lords, whether he was there
 or not.

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Q. You went out to look for the male Indian at about 12.05 which meant that you were there for approximately 2 hours? A. That is correct.

Q. During this period of 2 hours surely you must have met Inspector Chamkaur Singh there. Can you try and recollect this as far as you can. Did you meet Inspector Chamkaur Singh there during this period of 2 hours?

A. I could have seen him but there were so many officers there; but I cannot recollect. 10

Q. Look, how many officers were there during the whole of the 2 hours?

A. About 20 perhaps, my Lord, policemen.

Chua J.: About 20 officers and men?

A. And men.

Q. Now, in the course of your inquiries about the cause of death you spoke to 2 persons - 2 male Indians who came to be eye witnesses?

A. My Lords, I spoke to several persons but I cannot remember who are the persons. 20

Chua J.: You want them to be produced?

Mr. Yap: Just in a while depending on the other answers he may give.

Chua J.: You say you cannot what? Whether you saw 2 Indians?

A. I spoke to several people around there.

Q. Indians, are they?

A. Indians, Malays.

Q. Now, when you checked the identity card of the accused you discovered that the name was Mohamed Kunju you immediately arrested him? 30

A. Yes, my Lord.

Q. Was it not because this confirmed that you in the course of inquiries had been told that the person to look for was Mohamed Kunju?

Chua J.: Mr. Sant Singh, I know that there are some amendments to the Criminal Procedure Code that statements made in the course of investigation----- 40

D.P.P. : Yes, my Lord, that is why I did not touch on it.

Chua J.: Yes, carry on.

Mr. Yap: Then may I rephrase this.

Q. Now, in the course of the inquiry you had ascertained that the assailant in this case was Mohamad Kunju, the name had already been ascertained?

A. I only ascertained by the name of Kunju, my Lord.

10 Chua J.: No, I mean you can ask him "Did you go out looking for Mohamad Kunju".

Mr. Yap: Yes.

Q. After making these inquiries you went out looking for a Mohamad Kunju?

A. That's right, yes.

Chua J.: Yes.

Q. Who instructed you to look for Mohamad Kunju?

A. No one instructed me.

20 Q. After you had arrested the accused did you bring him back to the scene of the incident?

A. No, my Lords.

Q. You were on your motor-cycle then how did you bring him back to the Central Police Station?

A. We walked together to Central Police Station.

Chua J.: And you pushed your motor-cycle or you left your motor-cycle there?

A. Yes, I left my motor-cycle there and we walked.

30 Q. You walked with the accused to Central Police Station.

Q. And whilst at Central Police Station you met Inspector Chamkaur Singh? A. That's right.

Q. And you told him that you had arrested Kunju?

A. Yes, my Lord.

Q. And you handed him over to Inspector Chamkaur Singh? A. That's right, my Lord.

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Mr. Yap: No further questions, my Lords.

Chua J.: Any re-examination?

D.P.P. : My Lord, there is something I want to
examine this witness on which has got
nothing to do with the cross-
examination. I have left out-----

Chua J.: What question is this?

D.P.P. : This is in relation to the witness
when he handed over the accused to
Inspector Chamkaur Singh, the short
caution which was administered. 10

Mr. Yap: My Lord, I do not see how this has
arisen as a result of my cross-
examination.

Chua J.: No, no, he is asking for the leave of
the Court; yes, you can examine him.

(Further examination by D.P.P.)

Q. Now, when you handed the accused to Inspector
Chamkaur Singh at the Central Police Station at
about 12.15 a.m. on the 26th --- 20

Chua J.: At about what time?

D.P.P. : 12.15 a.m.

Chua J.: Yes.

Q. Did Inspector Chamkaur Singh say anything to the
accused?

A. Yes, my Lord, he asked him in Malay what dialect
Mohamad Kunju spoke. Mohamad Kunju answered
that he spoke Malayalam. Inspector Chamkaur
Singh then asked me whether I could speak
Malayalam and then I told Inspector Chamkaur
Singh that I can speak Tamil. And Inspector
Chamkaur Singh then asked Mohamad Kunju whether
he could understand Tamil and Mohamad Kunju
replied he could understand Tamil. 30

Chua J.: Yes.

Q. What happened?

A. Then the Inspector told me to tell Mohamad Kunju that Arunachalam has died.

Chua J.: Then----?

A. Inspector told me to tell Mohamad Kunju that Arunachalam has died.

Chua J.: Yes.

10 A. I interpreted the same to him in Tamil. The Inspector told me to interpret a short caution - the short caution "You are not obliged to say anything but anything you say may be given in evidence."

Chua J.: Yes.

A. I interpreted the same to him in Tamil. Inspector asked me to ask him in Tamil to tell us what happened. When I interpreted the same to him in Tamil he just shook his head and kept silent.

Chua J.: Yes.

20 D.P.P.: No further questions.

Chua J.: Mr. Yap, you want to ask him anything?

Mr. Yap: Yes, my Lord.

(Further cross-examination by Mr. Yap)

Q. Now, when the accused just shook his head and remained silent did he appear to you to be quite reluctant to give a statement?

A. I do not know, my Lords.

Q. The question is this did it appear to you-----

Chua J.: Just a minute.

30 Mr. Yap: I am sorry, my Lord. The answer is, my Lord, he does not know.

Chua J.: What is the question?

Mr. Yap: The question is this: "When the accused just shook his head and

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kept silent did it appear to you that the accused was reluctant to give a statement in response to your caution".

Chua J.: So his answer is he does not know?

- A. He appeared emotionally upset, my Lord.
- Q. Would you say that he appeared emotionally upset on hearing the news of Arunachalam's death or did he appear upset to the caution?

Chua J.: Well, how can he say that?

10

- Q. Can you demonstrate to the Court what you mean?
A. When I interpreted he just shook his head.

Chua J.: No, he appeared upset when he heard Arunachalam had died or-----

- Q. Yes, did he appear to be emotionally upset when he heard that Arunachalam had died?
A. It could be, my Lord.

Chua J.: You see, first of all, the Inspector asked him this and that, and the Inspector told you to tell the accused that Arunachalam had died; so when he heard that did he appear to you to be emotionally upset, when he was told that Arunachalam had died?
A. Not at that moment, my Lord. When I asked him "What happened? Tell us, tell us what happened?"

20

Chua J.: Yes.

- Q. Did you use the words to this effect "Tell us, tell us what happened"?
A. I interpreted in Tamil.
Q. You interpreted in Tamil-----

30

Chua J.: I know, what are the words that you interpreted? Is it "Tell us what happened"?
A. Yes, my Lord.

Chua J.: Yes.

Q. This "Tell us what happened" was what Inspector Chamkaur Singh had asked you to interpret to the accused? A. That is correct.

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Q. Now, don't you agree that this is quite different from what you told us earlier on when you said that you interpreted the caution to him which says that he was not obliged to say anything but now you have told us that you had said words to him to this effect "Tell us, tell us what happened"?

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A. I merely interpreted what was told to me to interpret.

Q. And it was at this stage that the accused appeared emotionally upset?

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A. When I said that----when I asked him that, what happened, that is the moment he shook his head and kept silent.

Thangavellu
Maniam
Further
Cross-

Chua J.: That was the moment he appeared upset? A. Yes, my Lord.

20

Q. Did he say anything subsequently, did the accused say anything subsequently?

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(continued)

Chua J.: We do not want any evidence of that.

Mr. Yap: As your Lordship pleases. Yes, I have no further questions, my Lord.

Chua J.: Yes, you have finished with him?

D.P.P. : Yes.

Chua J.: All right, thank you Mr. Maniam. Does he wish to be released?

D.P.P. : I beg your pardon?

30

Chua J.: All right, you can stand down.

(Witness stands down).



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TAN CHWEE SIONG
(Examination-in-chief by D.P.P.)

.....

Chua J.: Stack of ---

A. Stack of wooden poles - just in front
of the stack of wooden poles.

Q. Is it poles or planks?

A. No, my Lord, poles.

Q. Stack of poles in the middle -
back ground of the photograph?

A. That is so. 10

Q. Now was the accused alone?

A. Both of them were there, my Lord, the accused
and the deceased were there.

Chua J.: So he was with the deceased?

A. He was with the deceased.

Q. What were they doing?

A. They were standing there.

Chua J.: Yes.

Q. Did you approach them? A. I did.

Q. What happened when you approached them? 20

A. When I approached them, I had the intention of
asking them to load some timber on to the lorry.

Chua J.: Yes.

Q. What happened when you approached them?

A. When I was quite near to them I noticed that
both of them were smelling strongly of alcohol.

Q. Yes, what happened?

A. On second thought on seeing them in that
condition, I did not ask them to do anything.

Q. And what did you do afterwards? 30

A. I asked them to go and sleep. After that I
went back to the office.

Chua J.: Yes.

Q. Can you tell the Court what happened when you
went back to your office?

A. After switching off the lights in the office,
I left the office and went home.

Chua J.: When did you leave the office? You went to your office and at what time did you leave your office?

A. Shortly afterwards.

Q. Say at 8 o'clock?

A. About 8 o'clock.

Q. And went home, is that right?

A. Yes.

Q. Yes.

10 Q. Did you stay in your office for a short while - did you remain in your office?

A. Yes, I remained in the office for a while.

Chua J.: Yes.

Q. Did the deceased and the accused come to see you in your office? A. They did.

Chua J.: Yes.

Q. Why did they come to your office?

A. They asked me if they could load the timber tomorrow. They were in a very intoxicated manner.

20

Chua J.: They asked me if they could load the timber on the following day - yes.

A. They were in a very intoxicated manner and I told them all right and told them to go and sleep.

Q. Who asked you in an intoxicated manner whether they could load the timber tomorrow morning?

A. I cannot remember which one.

Chua J.: You mean they spoke.

30 Q. Now this load of timber that they were supposed to load on the lorry, was it meant for consignment to a customer?

A. That is so, that is correct.

Q. Was it your intention to deliver the timber on the 25th May, 1975? Was the consignment due for delivery on 25th May, 1975?

A. Yes, that is so, the customer told me on that day that the timber was to be delivered to him

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that night, 25th May. The telephone call from the customer also came on the same evening.

Q. And how was this timber to be delivered?

A. By lorry.

Q. Your lorry? A. Yes.

Q. And deceased was supposed to drive - have you got any other driver? A. No.

Q. Was the deceased to deliver this consignment of timber?

A. Yes, if they were not in that intoxicated manner. 10

Chua J.: I think from the evidence it would suggest that the deceased was told earlier. You see, his story is that he went there intending to ask the timber to be loaded on the lorry, but the way you put it - was the deceased supposed to deliver the timber?

D.P.P. : I will re-phrase the question - did you intend to ask the deceased to deliver the time to your customer? 20

Chua J.: On that night.

A. That is so, that was my intention.

Q. Yes.

Q. At about 8 p.m. you left for home?

A. That is so.

Q. Now on the same day at about 11 p.m. ---

Chua J.: The same night?

Q. The same night at about 11 p.m. you were informed by the police about the death of the deceased? 30

A. Yes, somebody telephoned to my house.

Chua J.: Yes.

Q. You then went down to your office at Pulau Saigon Road? A. I did.

Chua J.: Yes.

Q. On the same night at 11.50 p.m. ---

Chua J.: What time?

D.P.P. : 11.50.

Chua J.: Yes.

Q. Can you tell the Court what you did at that time?

A. On arrival at my office, I waited there for a while and later on some policemen took me to the Central Police Station.

10 Chua J.: All right, we will adjourn now.

(Court adjourns at 4.00 p.m., 29.1.76 to 10.30 a.m., 30.1.76).

10.30 a.m. 30.1.76 (Court Resumes)

TAN CHWEE SIONG

(Examination-in-chief by D.P.P.) (cont'd.)

Chua J.: Yes, can we have the last witness?

D.P.P. : Yes, my Lords, Tan Chwee Siong.

Chua J.: On his former oath. His last evidence was----

20 D.P.P. : He was brought to the Central Police Station.

Chua J.: At 11.50 p.m. he went to his office and waited for a while and the Police took him to the Central Police Station.

D.P.P. : My Lords, I am tendering this exhibit for the purposes of identification.

Chua J.: So you are showing him a photograph is it?

D.P.P. : Yes.

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Chua J.: P.38 for identification, yes, all right.

Q. Now, witness, can you look at this photograph, did you see this photograph on the 25th of May 1975? A. I did.

Q. Can you tell this Court at about what time and where you saw this photograph on the 25th of May 1975?

A. I saw this photograph at about 11.40 p.m. outside my office. 10

Chua J.: At 11.40 p.m., yes.

A. On the 25th of May outside my office.

Q. Who showed you this photograph?

A. One Inspector Singh.

Chua J.: A Sikh Inspector, is it?

A. A Sikh Inspector, yes.

Q. Can you identify this Inspector? A. Yes.

(Inspector Chamkaur Singh produced and identified).

Q. This is the Inspector. Now, can you tell this Court why you were shown this photograph? 20

Chua J.: What did he ask you to do?

A. He asked me to identify those persons who appear in this photograph.

Chua J.: Yes.

Q. Did you identify them? A. I did, my Lord.

Q. Who did you identify these persons as?

A. The person on the extreme right I identified as Kunju. The one in the middle he was known as Abdullah, the deceased. We called him Abdullah; he was the deceased. 30

Q. Is it Abdullah or Aruna?

A. I beg your pardon, Aruna.

Chua J.: Yes.

Q. Now, do you know who took this coloured photograph? A. I did.

Chua J.: Yes.

Q. Have you got the negative of this photograph?

A. Yes, I had handed the negative to the Sikh Inspector.

Q. When did you hand the negative to the Sikh Inspector?

A. I think one or two days after the 25th of May that I handed the negative to the Inspector.

Chua J.: Yes.

10 Q. Is this the negative that you handed to the Sikh Inspector? (Relevant negative is shown to witness).

A. I think it is, I am not sure.

D.P.P. : My Lords, may this exhibit be marked for the purposes of identification?

Chua J.: That will be what?

D.P.P. : P.38N.

Chua J.: For identification, yes.

20 Q. Now, on the 26th of May 1975 at about 9.00 a.m. you identified the body of the-----

Chua J.: At about 9.00 a.m.?

D.P.P. : That is so.

Q. You identified the body of the deceased to the State Coroner at the Singapore General Hospital Mortuary in the presence of Inspector Chamkaur Singh? A. That is so.

D.P.P. : No further questions.

Chua J.: Yes, Mr. Yap.

(Cross-examination by Mr. Yap)

30 Q. Now, as far as you were aware how was the relationship between the deceased and the accused?

A. As far as I know they were good friends.

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Q. You were not aware of any sort of trouble or dispute that the two of them might have had?
A. Occasionally when they were in an intoxicated manner sometimes they had arguments.

Q. Otherwise you were not aware of any trouble?
A. That is so.

Q. Now, on the night of the 25th May 1975, when you first saw the two of them did you observe if they were having any dispute?

A. When I first saw them standing there I did not see them having any argument. 10

Q. Did you see they were drinking?

A. They were not.

Q. What then were they doing, were they just sort of standing around?

A. They were standing there and listening to what I was telling them.

Q. Now, if you were to look at the photograph at pages 8 and 9---- A. Yes.

Q. P.8 and P.9, you saw them standing around this area, is that correct? 20

A. That is so, my Lord, here (indicates on photograph).

Chua J.: You saw them standing by the pile of poles? A. That is so.

Q. I take it that this pile of poles is covered by tarpaulin?

A. That is so.

Q. Did you observe these two bottles that you can see in the photograph? Did you observe any of them having in possession of one of them, did you see these two bottles there with both of them? 30

Chua J.: When he first saw them?

A. I did not pay attention to that.

Q. But when you approached them you realised that the two of them were highly intoxicated?

D.P.P. : I must object to this question.

Chua J.: Well, he is being cross-examined,
Mr. Sant Singh.

D.P.P. : The witness has said-----

Chua J.: It does not matter what he said but
he is cross-examining him. It is
for him to say whether he was highly
intoxicated or not.

A. That is so.

Chua J.: That is correct, they were highly
intoxicated? A. Yes.

Q. And it was because of their condition that you
did not want them to do any work?

Chua J.: That night?

Q. That night? A. That is so.

Q. Now, did it appear to you that the two of them
were in equally the same kind of condition?

A. That is so, equally intoxicated.

Q. Am I correct in saying that the deceased re-
joined your firm on the introduction of the
accused? A. That is correct.

Q. Now, yesterday you said that the two of them
came into your office and asked if they could
load the timber tomorrow and this you said they
appeared in a very intoxicated manner; would
you demonstrate again to the Court the
condition they were in?

A. In this manner (demonstrates).

Chua J.: Both of them?

A. Both of them, they were almost
unsteady on their feet when they
were talking to me.

Q. What do you mean "almost unsteady",
they were unsteady? A. Yes.

Q. Yes, did they speak clearly?

A. No, they were slurring in their
speech.

Q. They were sort of swerving from side to side?

A. Yes.

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Q. Now, you left your office at about 3.00 p.m.
is that correct? A. That is so.

Q. As you left your office did you see the
accused and the deceased again?

A. No, I did not see them again after I left the
office.

Q. What I meant was, could you identify in any of
the photographs where your office is and the
door where you had left your office?

Chua J.; Apparently it does not appear in
the photographs. 10

Mr. Yap: It does not matter, my Lord. Can
I then rephrase the question.

Chua J.: But he did say, if I remember, he
said looking at photograph 1 is
office is behind this plank wall
on the right?

Mr. Yap: It is near the lorry.

Chua J.: I do not know whether it is near
the lorry; he says it is just behind
the plank wall. But is it important
to you where his office is? 20

Mr. Yap: It does not matter, my Lord.

Q. The point is this did you walk past the place
again when you left the office?

A. No, I did not go past the place again when I
left the office.

Chua J.: The place again meaning?

Mr. Yap: Where he had seen them earlier.

Chua J.: You mean where he had seen them
earlier? 30

A. That is so, my Lord.

Q. Now, Mr. Tan, you look at the photograph at P.1,
is this place brightly lit, dimly lit or dark
at night?

Chua J.: It is an open space, is it?

Mr. Yap: Yes, my Lord.

A. It was dimly lit---there was some light from the other side.

Chua J.: Which side?

A. From this light as appearing in picture 4; there is a fluorescent light on top of the entrance as shown in photograph No.4.

Q. It is a very high gate?

A. Quite high, up to the end of that curtain (indicates).

Q. About 10 feet? A. Yes.

Q. Now, after you were told about the deceased's death you went back to your office about some time past 11 o'clock?

Chua J.: Some time past 11.00 p.m.?

Mr. Yap: That is so, my Lord.

Chua J.: That is P----?

Mr. Yap: P.38, my Lord.

Q. Did you ascertain from Inspector Chamkaur Singh what had happened? A. I did.

Q. Were you told by Inspector Chamkaur Singh that the deceased had been killed by Kunju?

A. He did.

Q. And he asked you then to pick out who Kunju was from this coloured photograph?

A. That is so.

Mr. Yap: No further questions, my Lords.

Chua J.: Yes, any re-examination?

D.P.P. : Yes, my Lord.

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TANCHWEE SIONG
(Re-examination by D.P.P.)

Q. Mr. Tan, on 25th May, 1975, at about 7.40 p.m. you went back to your office at No.8 Pulau Saigon Road. You said that you saw the deceased and the accused standing somewhere in the region in photographs 8 and 9. Now can you tell this Court exactly where they were standing?

A. Just in front of this pile of poles. 10

Q. Now can you show exactly where the deceased was and where the accused was?

Chua J.: Is it very important exactly where they were at that stage?

D.P.P. : Yes, my Lord, I am just laying the basis for some further questions.

Q. Looking at photographs 8 and 9, where was the deceased actually and where was the accused?

A. I could not remember because I had not anticipated that there was going to be such an incident. 20

Q. Was any one of them leaning against this stack of poles?

A. Both of them were leaning against this stack of poles.

Q. Both of them were leaning against this stack of poles, were they facing you?

A. They were facing me.

Q. Now when you approached them, did you speak to them? A. Yes, I spoke to them. 30

Q. Did they speak back to you?

A. No, did not reply. On seeing them in that condition, I told them to go to bed. I did not ask them to do anything.

Q. And when you were speaking to them, both of them were leaning against the stack of poles?

A. That is so.

Q. They were not moving around?

A. They did not.

Q. Mr. Tan, you got some alcoholic smell from the deceased and the accused you said?

A. That is so.

Q. How did you arrive at the conclusion that they were highly intoxicated at this stage?

A. When they were breathing, I noticed there was steam coming out.

Chua J.: When they were what?

10

A. When they were breathing, I noticed that there was steam coming out from their breath.

Q. By steam, Mr. Tan, what do you mean?

A. What I meant was that they were smelling very strongly of liquor.

Q. So you arrived at the conclusion that they were highly intoxicated because they were smelling very strongly of alcohol?

A. That is so, that is why I did not ask them to do anything.

20

Q. Now at this stage apart from the smell, you did not receive any other indication that they were highly intoxicated - any other signs?

A. The place was not brightly lit.^m

Chua J.: Did you notice anything else?

Mr. Yap: May I just interrupt, I believe the word used "steam", so it suggests heavy breathing?

Chua J.: No, Mr. Yap please, he did say they were ----

30

Mr. Yap: Breathing steam.

Chua J.: But he said - what I meant was that they were smelling strongly of liquor.

D.P.P. : He qualified that.

Mr. Yap: Oh, yes.

Chua J.: You say the place was not brightly lit?
A. Not brightly lit.

Q. I am just asking you whether you notice anything else?

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A. I could not see clearly because the
place was not brightly lit.

Q. Yes.

Q. How far were you away from the deceased and the
accused when you were speaking to them?

A. This distance (indicates) - two to three feet.

Chua J.: Yes.

Q. You must be very close to be able to smell?

A. Yes, at this distance I could smell the alcohol.

Q. Now if either the deceased or the accused had
moved, you were near enough being one or two
feet away to see their movements?

10

Chua J.: He has also answered you. I don't
know why you are not satisfied -
they were not moving around.

D.P.P. : My question is, if they had been
moving.

Chua J.: No question of if they were moving -
the thing is, they were not moving.

D.P.P. : My purpose of asking the question is
to establish that they were not
moving.

20

Chua J.: He has already said they were not
moving. We have established that.

D.P.P. : And he has further said it was dark
and that he did not notice.

Chua J.: It does not matter whether it was
dark, that was why you noticed no
other sign of intoxication. The
answer, when he said the place was
not brightly lit, that was the
answer to your question whether he
saw any other signs of intoxication.
He said the place was not brightly
lit and he did not notice any other
sign. Are you suggesting that they
were moving around?

30

D.P.P. : They were seen around.

Chua J.: Mr. Sant Singh, I don't waste time, he has already said they were not moving around.

D.P.P. : Yes, my Lord, I will not pursue this point.

Q. So you came to the conclusion, to this conclusion because of the smell of the alcohol?

10 Chua J.: He has already said so - I came to the conclusion that they were highly intoxicated because they smelt of alcohol.

D.P.P. : Yes, my Lord.

Q. Now, Mr. Tan, I move on to the second incident when you saw them in your office. Now when they came into your office you said that under cross-examination they were slurring in their speech. Now were both of them speaking?

20 Chua J.: The question is, did only one of them speak or both of them speak?

A. I cannot remember whether one or two.

Q. Yes.

Q. How far were you from them at this stage, Mr. Tan? A. This distance (indicates).

Chua J.: How many feet?

Interpreter: According to the witness it is about 4 feet.

Chua J.: 4 feet, yes.

Q. What was the exact position of the deceased and the accused when they spoke to you?

30 Chua J.: What do you mean the exact position?

Q. How were they standing?

Chua J.: You want to find out whether they were standing side by side or standing one behind the other?

A. One was slightly behind the other - slightly at an angle.

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Q. Yes.

Q. Who was standing in front?

A. I cannot remember.

Q. Were they standing one directly behind the other or at an angle?

Chua J.: No, one stood behind the other at an angle.

Q. Could you see both of them or at what angle, can you demonstrate?

A. Yes, I could see both of them at once. 10

Q. Were both straggling at the same time?

A. Both of them were straggling at the same time.

Chua J.: Yes.

Q. Now under cross-examination you said that because of their condition you did not want them to do any work that night. Now by work you mean drive your lorries?

Chua J.: It is quite clear in my mind what he meant. He told us that he was supposed to deliver a consignment of timber the customer had rung him up asking him to deliver the timber, so he intended to ask these two persons to load the lorry and so one will be driving. I cannot understand why you are asking him, Mr. Singh - the question is he is supposed to deliver a consignment of timber? 20

D.P.P. : Yes, I am going to lead on to the next question, my Lord. The question that follows this, my Lord, is that - did you say that you were of the opinion that they were not in a condition to do the work and drive the lorry? A. That is so. 30

D.P.P. : No further questions.

Chua J.: Yes, all right thank you, Mr. Tan. He is released. He can leave - yes, your next witness.

(Witness stands down and is released). 40

PHASARAM MISA (Affirmed in English)
Examination-in-chief by D.P.P.)

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Q. Your name is Phasaram Misa? A. Yes.

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Q. And you are residing at 10 Pulau Saigon Road?
A. Yes.

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Q. You are presently 16 years old? A. Yes.

Chua J.: Occupation?

Q. You are an Office Boy? A. Yes.

10

Q. You are living at 10 Pulau Saigon Road with
your father? A. Yes.

Evidence
for the
Prosecution

Q. Your father is a Watchman of Tung Fong Company
at No. 10 Pulau Saigon Road? A. Yes.

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Q. And you are staying at the Watchman's Quarters
next to Tung Fong and Company? A. Yes.

Q. Can you look at photograph No.4, P 4? Can you
show this court where your house is?

Chua J.: The quarters.

Q. Quarters. Can you show it please?

20

(Witness indicates to the extreme right of
photograph P 4.)

Q. Tung Fong and Company is where the big gates
are? A. Yes.

Q. Can you look at P 13? Can you identify this
person in the photograph? A. Yes.

Q. Who is he? A. Tamby.

Q. Do you know him by any other name? A. Hitem.

Q. Do you know where he was living?
A. He was staying at No.8 Pulau Saigon Road.

Q. Can you look at photograph No. 23?

30

Chua J.: Do you know where he works?
A. Yes, at No.8 Pulau Saigon Road.

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Chua J.: The name of the company where he works? A. Joo Siong.

Chua J.: The same address, No.8? A. Yes.

Q. Can you look at photograph No. 23? A. Yes.

Q. Can you tell the court where is Hitam?

(Witness indicates to the door on the extreme left of the photograph P 23)

Q. Do you know the accused? A. Yes.

Q. What do you know him as? A. Kunjo.

Q. Do you know where he was working?

A. He was working at No.8, Joo Siong & Co. 10

Q. Do you know where he was staying?

(Witness indicates to the door on the right of photograph 23.)

Q. That is so. How long have you known the accused?

A. About 3 years.

Q. On the 25th of May, 1975, at about 8 p.m. where were you? A. I-----

Chua J.: Can you please speak up. I can't hear you. Where were you?

A. I came riding on a bicycle towards No.10 passing by No. 8 Pulau Saigon Road on the way. I saw--- 20

Q. You were on your way home? A. Yes.

Chua J.: You saw what?

A. I saw Mohamad Kunjo and Tamby sitting on the planks leaning against the wall at No.8 Pulau Saigon Road.

Q. Witness, can you look at P 7? Can you tell this court exactly where you saw Tamby and accused?

Chua J.: Points to stack of poles in photo P7. They were sitting on the top of the stack? 30

A. They were sitting on top of these planks leaning against this wall.

Chua J.: Against the black wall?

A. After passing by there I parked my bicycle in front of No.10.

Chua J.: Where did you park your bicycle?

A. In front of No.10 Pulau Saigon Road.

Q. Did you know what Tamby and the accused were doing at the stack of poles?

A. They were talking to themselves.

Q. After parking your bicycle in front of No.10 Pulau Saigon Road, what did you do?

A. I went straight inside my house and hung my shirt on a hanger. After hanging my shirt I came out of the house and sat in front of my house beside Saeroen.

Q. Saeroen bin Rakiman. Who is this Saeroen?

A. He is a Malay man.

Q. Can you identify him? A. Yes.

(Saeroen bin Rakiman was not around for witness to identify)

D.P.P. : May I proceed and carry on with the identification later?

Chua J.: Yes.

Q. Witness, can you look at P 4 ? Can you show the court where is your house?

(Witness points to right-hand side of photograph)

Q. And where did you park your bicycle?

A. In front of No.10 Pulau Saigon Road.

Q. Is this your bicycle? A. Yes.

Chua J.: So it was parked at the place shown in this photograph? A. Yes.

Q. Can you tell this court where you sat in front of the house?

(Witness points to the chair in photograph)

Chua J.: Which chair is it? There are 3 chairs there. A. in the centre.

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(continued)

Chua J.: They were still on the stack of poles? In the
A. Yes. Supreme Court
in Singapore

Q. Can you tell this court what happened at about
8.15 p.m.?

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Chua J.: Let us hear the story. That is all
you saw? They were laughing.

A. After that I saw them laughing.
After that I turned my face back and
started talking to Saeroen.

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10

Chua J.: Yes. A. Then about half ----

D'Cotta J.: At this stage how far were they
from you?

A. About twice of this court.

Evidence
for the
Prosecution

D.P.P. : Twice the length from here to the
door.

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Chua J.: Twice the length of ----- From
where?

D.P.P. : The witness box to the door.

(Length of court is 27 feet).

(continued)

20

Chua J.: 54 feet. Twice is 54 feet.

Q. Yes, can you please continue?

Chua J.: No, just a minute. What time was
that you think?

A. I can't remember.

Chua J.: You came back at 8 o'clock; you
cycled past there and you went to
your house; you parked your bicycle
and you went into your house to
change and came out to sit.

A. About half an hour later.

30

Chua J.: About 8.30 then? A. Yes.

Q. Yes, please carry on.

A. About 8.30 p.m. I heard them - they were talking
louder.

Chua J.: I understood you to say that you saw
them laughing. That was about 8.30

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A. No, that was about ----- when I
said after about 5 minutes.

Chua J.: You see, you returned home at 8
o'clock. You parked your bicycle
then you went in to change. Then
you came out and sat down. What
time was that?

A. That was around 8.10

Chua J.: That was about 8.10. Then 5 minutes
later you heard them laughing?

10

A. Yes.

Chua J.: So now you say it is about 8.30?

A. Yes.

Chua J.: Yes, what happened?

A. I heard them - they were -----

Chua J.: You heard Kunjo and Tamby.

A. They were talking more louder.

Chua J.: Louder than before? A. Yes.

D.P.P. : Louder and what?

Chua J.: Than before.

20

A. Rough.

Chua J.: Roughly?

A. I mean like they were talking like
very "kasar".

Chua J.: "Kasar" is a Malay word. Literal
translation is "roughly".

Q. Is it aggressive?

Chua J.: What did they appear to you?

A. They were talking like going to
fight.

30

D'Cotta J.: Arguing? A. Arguing.

Chua J.: Arguing. Yes?

A. I turned my face to them.

Chua J.: Towards them.

A. Yes. I saw Kunjo and Tamby; they
get out of the planks and fell.

Chua J.: We refer to that as a stack of poles. Did they get off from the stack and on to the ground? A. Yes.

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Chua J.: And then?

A. After that they came out of the thing and start grabbing each other.

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Chua J.: Yes?

A. After that they were wrestling with each other and fell on the ground.

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10

Chua J.: Who fell on the ground?

A. Both persons at the same time.

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Chua J.: Yes?

And get up a few times. They fell and got up a few times.

Chua J.: And what did they do when they got up? They still struggled?

A. Yes.

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Chua J.: And they fell down, is that right?

A. Yes.

(continued)

20

Chua J.: This happened several times?

A. Yes. While they were wrestling they were coming towards us. Then after that while they were wrestling they were coming towards us, does not know what happened to Kunjo.

Chua J.: While they were wrestling they were coming towards you.

A. And at the same time they both persons, they were punching.

30

Chua J.: They punched each other, yes?

A. Suddenly Mohamad Kunjo ran towards his store, No. 8 Pulau Saigon Road.

Q. Witness, can you look at P 1? Can you tell this court where Kunjo ran on this photograph?

A. At the back of this lorry here. There is a pole here.

Chua J.: Where?

D.P.P. : At the back of this lorry shown in the photograph.

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Chua J.: So he ran towards the lorry?

A. Towards the store. This all is the store here.

Q. Can you show exactly?

Chua J.: To the lorry?

A. Yes, at the side of this lorry. And he came back holding in his hand an iron pipe.

Q. Witness, can you look at this pipe? Is this the pipe that Kunjo was holding? 10

Chua J.: Exhibit P?

D.P.P. : 42.

Q. What happened next?

A. Then he rushed towards Tamby.

Chua J.: Where was Tamby?

A. He was standing and Mohamad Kunjo came near Tamby. He hit the first blow on the head.

Chua J.: Hit what?

D.P.P. : The first blow on the head. 20

Chua J.: On whose head? Tamby's head?

A. Yes, on his head.

Chua J.: Then he hit Tamby's head?

A. Yes, on his head.

Chua J.: With what?

A. With the iron pipe but this Tamby tried to defend with his both hands, but he failed and he fell to the ground. Then Mohd Kunjo hit the iron pipe by the side of the head. 30

Chua J.: With the iron pipe?

A. Yes, about 3 to 4 times.

Chua J.: How many times, you said?

A. Three to four times.

Q. What do you mean by the side of the head?

A. The deceased was here. He hammered by the side.

Q. If you look at Pl----

Chua J.: Can you tell us how--- You said Tamby fell on the ground. How was he lying on the ground?

A. He is lying straight.

Chua J.: Straight. And the head?

D.P.P. : He was lying on his back.

A. He fell backwards.

10

Chua J.: Tamby fell backwards and he was lying on his back on the ground; and the head was in which direction?

A. I couldn't say because it was too dark.

Q. When Tamby fell on the ground on his back, where was the accused?

A. The accused was standing there and he walked a few steps by the side. The accused was standing and holding the pipe in his hand.

Chua J.: Standing nearby, is it? A. Yes.

20

Chua J.: Holding the pipe?

A. And he walked a few steps by the side of the head.

Chua J.: Still on the side?

A. He hit him on the side of the head.

Chua J.: He walked a few steps?

A. After walking, he hit him on the head at the side.

Chua J.: Hit at the side of Tamby's head?

30

Q. Look at Pl. Can you tell the Court where he walked to, the side nearer towards the entrance or the side nearer towards 10 Pulau Saigon?

A. After hitting him 3 or 4 times, he walked out straight.

Q. No, no.

Chua J.: He hit Tamby. Tamby fell. You said he walked towards Tamby. Can you tell us he walked to the left side of Tamby or to the right side of Tamby? Think carefully.

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A. He was standing here first. When he hit the first blow, he fell. After that he walked a few steps until here.

Chua J.: So according to your indication on the photograph of P1, after Tamby fell he went to the left side of Tamby? A. Yes.

Chua J.: And from there, he hit Tamby's head? A. Yes.

Q. After hitting his head, what did he do? 10
A. After hitting his head, the pipe was chucked aside.

Chua J.: After hitting Tamby 3 or 4 times, is that right?
A. I beg your pardon.

Chua J.: Hitting Tamby 3 or 4 times? A. Yes.

Chua J.: He threw the pipe away?
A. Yes, and walked away along his store.

Q. Towards his store? 20
A. Towards his store. After that, myself and Saeroen got up from the chair and went-----

Q. Before we come to that, can you show on P1---

Chua J.: You went to Tamby?
A. Myself and Saeroen.

Chua J.: You went to Tamby?
A. Near Tamby, and saw that he was in a pool of blood. After that I went back towards my store and rang for the Police.

Chua J.: You went to your store? A. Yes. 30

Chua J.: Yes?

Chua J.: And rang the Police.

Q. Have a look at P1, Witness. Is this where the deceased, Tamby fell? A. Yes.

Q. Did you see an iron pipe just above the head of the deceased? A. Yes.

Q. Is this where Mohd Kunjo threw the pipe?

A. Yes.

Q. Now, how far is it from where the deceased fell to this lorry? How far is it from the body of the deceased to the lorry? A. It was about--

Q. Can you estimate? A. 50 feet.

Q. When you saw Mohd Kunjo---

Chua J.: We are going to adjourn now, Mr. Sant Singh. We resume at 10.30 tomorrow.

(Court adjourns at 4.10 p.m. on 3.2.76 to 10.30 a.m. on 4.2.76)

(Court resumes at 10.35 a.m. on 4.2.76)

PHASARAM MISA (On former affirmation)
(Examination-in-chief by D.P.P.) (Cont'd.)

Chua J.: We will continue with PW?

D.P.P. : Phasaram Misa, PW13, page 32.

Q. Now, witness, yesterday you were telling this Court that you walked to where Tamby lay and saw him in a pool of blood and you rang for the Police. Can you tell this Court what happened after you called for the Police?

A. After that, about 5 minutes later, an ambulance came followed by the Police.

Q. Is that when you met Insp Chamkaur Singh?

A. Yes.

Q. Can you identify Insp Chamkaur Singh?

A. Yes.

Q. Is he present in Court? A. Yes.

Q. Can you point him out?

A. (Witness points to Insp Chamkaur Singh).

Chua J.: Identifies Insp Chamkaur Singh.

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Q. What happened when you met Insp Chamkaur Singh?
A. He showed me a coloured photo.

Q. Is this the coloured photograph that you saw?
A. Yes.

Q. P38. Can you look at this exhaust pipe? Will you look at Pl. Is this the iron pipe that you see in photograph No. 1? A. Yes.

Q. When you saw accused and Tamby at about 8 p.m. on 25 May 75, did you see them drinking?
A. No.

10

Chua J.: At what time?

D.P.P. : At about 8 p.m.

Q. That is when you were cycling? A. Yes.

Q. Was it quite dark? A. Yes.

Chua J.: It was quite dark where they were?
A. Yes.

D.P.P.: No further questions.

Chua J.: Yes, Mr. Yap?

Cross-
examination

(Cross-examination by Mr. Yap)

Q. Now, witness, would you agree with me if you look at Pl that the vicinity of the area show in the photograph is quite dark? A. Yes.

20

Q. At night? A. Yes.

Q. And whether or not a person is sitting on the ground or sleeping on the ground, it would be quite difficult to observe; am I right?
A. But it can be seen also who are sitting there.

Chua J.: You don't agree?

Q. Now, at about 8 p.m. you said you passed by these 2 gentlemen, and they were seated leaning next to a stack of poles. How far away were you from them when you passed by them? You were cycling while they were sitting on the stack of poles. How far were they from you?
A. About here to the board here.

30

Q. Where the gentleman is sitting there? A. Yes.

Chua J.: How many feet is it?

Mr. Yap: 20 feet.

D.P.P. : To the front board or back board?

A. Front.

Q. From 20', you can observe if somebody is standing or sitting, is that right? A. Yes.

Q. But if it is further than that, let us say about 50' away, would it be easy to distinguish?

10 A. 50'?

Q. Yes. Would it be easily distinguishable whether a person is standing or sitting or sleeping on the ground? A. Can't.

Q. Now, if it is about twice the length of this Court, it would be more difficult for a person to distinguish whether a person is sitting, lying or standing, having regard to the condition of the light? A. Yes.

20 Q. Now, whilst you were sitting with Saeroen, you were seated opposite him? A. Besides him.

Q. Opposite him. In other words, you were facing Saeroen?

A. No, I was sitting at my left, besides him.

Chua J.: He was on your left? A. Yes.

Q. Now, you did say in examination-in-chief that where the accused and Tamby were, you had your back to them?

A. My back was facing towards the riverside.

Q. Now, could you look at P32.

30 Chua J.: Mr Sant Singh, the plan drawn by Insp Singh, it does not indicate where is the watchman's hut. I take it it is the one on the right top corner of P32.

D.P.P. : The watchman's quarters is this one; it is not indicated.

Chua J.: You accept that, Mr. Yap, or not?

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Mr. Yap: Perhaps it could be marked with a cross.

Chua J.: The Inspector was not asked. If you agree, we will mark it, otherwise we will ask the inspector.

Mr. Yap: I agree. It is not very much in dispute.

Chua J.: If you agree, then I will indicate this is the watchman's quarters. I don't know why the inspector did not mark it, he marked so many other things. 10

Chua J.: This is where the witness was sitting? He said he was sitting outside the hut.

Q. Now, Witness, take a good look at the sketch plan. This square indicates--

Chua J.: Just a minute.

Mr. Yap: Sorry.

Chua J.: Exhibit P32.

Mr. Yap: P32, My Lord. 20

Q. You understand this plan? A. Yes.

Q. If I told you this is the watchman's quarters, in other words your quarters, as seen in photograph P4---

Chua J.: There is no other evidence where the watchman's quarters are.

Mr. Yap: I don't think I will be wrong, my Lord, if the one that is white, the white shack, the white-coloured shack--- 30

Chua J.: It is quite clear from the evidence where the watchman's quarters is.

Mr. Yap: This one here corresponds with this structure in P4.

Q. Now, you said you were sitting with your back to the Singapore River? A. Yes.

Q. Singapore River is shown here on the sketch plan. A. Yes.

Q. In other words, you were facing the front of Tong Fong & Co.? A. Yes.

Q. Is that right? A. Yes.

Chua J.: You say they were facing the gate?
A. Yes.

Chua J.: Facing the gate of Tong Fong?

Mr. Yap: Yes.

10 Q. How were you seated? Were you seated on the chair with your back to the back or were you turning the chair around or squatting yourself on the seat; you understand? A. No.

Chua J.: Were you sitting on the chair, Were you asking whether he was sitting on the chair or squatting on the chair?

Mr. Yap: Yes, my Lord.

20 Q. There are 2 ways one can sit - with the back here or you can turn the chair the other way round and sit like this (Counsel demonstrates).

Chua J.: It is not squatting.

Mr. Yap: It is a sort of squatting position and sitting down.

A. Sit in the first way.

Q. You sat in this way?

Chua J.: You sat in the usual way, is that right? A. Yes.

Chua J.: With your back to the back of the chair?

30 A. To the back of the chair.

Q. In that position where you were seated facing the gate of Tong Fong & Co. where the accused and Tamby were, they would be behind you, they would be at your back?

A. They would be at my side.

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Q. They would be at your back at an angle?

A. Yes.

Q. I think that would be an accurate description. They would be at your back at an angle, left angle. A. Yes.

Q. But without turning your body, you will not be able to see them? A. If I turn my face.

Q. Without having to turn your head, you will not be able to see them? A. Yes.

Q. Is that right? A. Yes. 10

Q. If you were to turn your head, you can only see them at the corner of your eye, if you turned your head?

Chua J.: If you turned your head to the left.

Mr. Yap: If you turned your head to the left, you will only be able to see them with the corner of your eye.

Chua J.: You understand what that means? In other words, you can't see them clearly. 20

A. Can be seen seen also.

Q. Can be seen. But you can only see them at the corner of your eye, right? A. Yes.

Chua J.: You understand the question or not? A. Yes.

Chua J.: You agree even if you turn your head to the left, you can't see them clearly?

A. Can be seen, I said.

Chua J.: Can be seen. He is putting to you you just see from the corner of your eye. That means you don't see them clearly. A. Can be seen. 30

Chua J.: Clearly? A. Yes, clearly.

Chua J.: You don't agree. Then why did you say you agree?

Q. Now, compared to you, Saeroen is facing you, am I right?

Chua J.: Depends on the position where Saeroen was. We are not very clear on that.

Q. You were sitting on one of these chairs facing this door? A. Yes.

Q. Directly?

10 Chua J.: He did not say directly, Mr. Yap: he did not say directly at all.

Mr. Yap: Facing the door, facing the gate.

20 Chua J.: Yes, I know. Facing does not mean facing directly. You must ask him whether he is facing the door directly. I can't imagine, his evidence was that he was sitting to the back of the Singapore River, so he can't be directly facing the gate Mr. Yap, if the river is almost at right angles to the gate. If he has his back to the Singapore River, he can't be facing directly the gate. You must ask him.

Mr. Yap: I will try and establish this point.

Q. You said you were facing the gate in P4?

A. Yes.

Q. Was it directly in front of you or at an angle?

A. Not directly. It was at right angle.

30 Q. It was an angle to the right?

A. It was not direct to the gate.

Chua J.: I was sitting not directly facing the gate but at an angle, to the right or to the left?

A. To the right.

Chua J.: To the right. You understand what it means?

A. Yes, My Lord, at the right hand.

Chua J.: There is the gate there. You were

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sitting here. So you are at an
angle to the right, like this.

A. Angle to the right.

Chua J.: To the right? A. Yes.

Q. At an angle to the right meaning - I hope I
don't get you wrong here.

Chua J.: You went to English school?

A. Yes.

Chua J.: What standard did you pass?

A. Primary VI.

10

Chua J.: Primary VI only.

Q. At an angle to the right, let me clarify, means
that you are looking more towards your quarters.
Is that what you mean?

A. (Witness shakes his head).

Q. What do you mean by an angle to the right?
My understanding of angle to the right is, you
were facing in a direction more towards your
quarters.

D'Cotta J.: Why not demonstrate?

20

Q. Assuming the gate of Tong Fong is where the
gentleman in pink shirt is. How were you facing?
You were facing this way or this way or this way?
(Counsel demonstrates).

Chua J.: There is the gate here, Right in
front of you is the gate. How are
you facing?

A. This way. Towards the gate.

Chua J.: So you were to the right?

A. To the right.

30

Q. Now, whilst in that position, for you to look
back to where the accused and Tamby were, did
you need to turn your head to the left or did
you need to turn your head to the right?

A. Left.

Q. So you need to turn your head to the left to
see them. If you turn your head to the right,
you will not be able to see them?

A. Will not be able to see them.

Q. You will not be able to see them if you turn your head to the right.

Chua J.: You got to ask him about how Saeroen was sitting.

Mr. Yap: Yes, My Lord. Just one more question before that.

10 Q. If you look at P5. P5 is the photograph of the deceased lying on the ground. Now, seated as you were towards the right of the main gate of Tong Fong, would you be able to see this place from the left or from the right or from both? A. From the left.

Chua J.: You said you could see them by turning your head to the left.

A. To the left.

Q. Am I correct that you will not be able to see the deceased lying in that position if you turn to the right? A. Yes.

20 Q. There you were sitting, facing slightly towards the right of the main gate. How was Saeroen seated?

A. He was sitting besides me on my left and was facing-----

Chua J.: Slowly. He was sitting beside me on my, on your?

A. Left hand side.

Q. Facing towards, facing in the opposite direction where you were looking?

A. He was facing straight.

30 Chua J.: I know straight, but where?

Facing the gate or was he facing the river?

A. He was not facing towards the gate; he was facing where there is lorries parked there.

Chua J.: Will you make it clear for us by looking at this plan 32. No, look at the plan. A. Yes.

40 Chua J.: He was facing where?

A. Lorries parked here.

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Q. In other words Saeroen would be looking in the direction where the accused and Tamby were. That would be his direction.

A. Do you mean-----

Chua J.: Sorry, you better make it clear. There are two locations where the lorry is parked here. This is the one on the top.

Q. Which parked lorry are you referring to? Is that the one at the bottom of the plan? You said he was looking in the direction where the lorries were parked. 10

Chua J.: Can you show it to us - the top one. We will mark it as 'X'.

Q. In that position the two of you were virtually facing each other so to speak, am I right?

A. Facing each other.

Q. He was on your left-hand side.

Chua J.: Can you tell me, looking at plan P32, where the accused and Tamby were sitting? 20

A. They were sitting at the poles here.

Chua J.: You see, there is No. 7 Pulau Saigon Road, No. 8 Pulau Saigon Road, Where were they sitting?

A. They were sitting at the store at No. 8 Pulau Saigon Road.

Chua J.: So they were sitting here then. So looking at plan P 32 upright with Tung Fong & Co. on the top, they were sitting on the right of the plan? A. Yes, on the right. 30

Chua J.: So they were sitting there?

A. Yes.

Mr. Yap: Perhaps I could get the witness to mark on the sketch plan where he was seated and where Saeroen was seated.

Chua J.: There are so many markings already on the sketch. Were they sitting at this place marked somewhere near 'C'? 40

A. Yes.

Mr. Yap: Yes, this little protrusion, My Lord, I believe this little protrusion on the plan represents the stack of poles.

10 Chua J.: That is the trouble. The learned Deputy never lead evidence. He just tendered this thing and we have to guess what these things are. All he has is No. 7. Mr. Singh, you could have told us this is the place where there is the stack of poles. Then it could be marked there but he has not been asked.

Mr. Yap: My Lord, could I ask this witness to mark on this sketch plan where he was sitting and where Saeroen was sitting, I suppose with a little 'a' and 'b'?

Chua J.: Yes.

20 Mr. Yap: Much obliged my Lord.

Q. Could you mark on this plan 'a' where you were sitting and 'b' where Saeroen was sitting?

Chua J.: Is that the court copy?

Q. Would you mark on the court copy?

(Witness marks)

Chua J.: So you have marked it 'a' 'b'.
A. Yes my Lord.

Chua J.: 'a' is where you were?
A. Sitting.

30 Chua J.: And 'b'?

Q. Now you recognise this little oblong shaped thing that is just outside No. 8 Pulau Saigon Store?
A. Yes.

Q. Was this where the accused and Tamby were sitting?
A. Yes.

Chua J.: Perhaps we could mark it. There are a lot of a, b, c, d, e, f, g, h, i. Is there any j, k?

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D.P.P. : No 'j'.

Chua J.: We will mark the place where Tamby
and accused were sitting with 'k'.

(Witness marks)

Show it to Counsel.

(Marking shown to Counsel)

Yes?

Q. You are seated at 'a'? A. Yes.

Q. Facing the angle of the watchman's quarters, this
direction, am I right? A. Yes.

10

Q. In that position where would Saeroen be?

A. He was on the left.

Q. Do you know which side is your left side?

A. Yes.

Q. Which side is your right side? A. Yes.

Q. If you were to face the Watchman's quarters
which side would Saeroen be?

Chua J.: Facing the watchman's quarters, he
was facing the gate at an angle to
the right and Saeroen was facing left. Of course, Mr. Yap, you cannot sort of
go questioning about how he has
marked it. Of course he has marked it
side by side. There is a danger of
asking people to mark things and
cross-examining him how he has marked
it. You must follow what he says in
evidence. You expect him to mark 'a'
there and 'b' further down. He has
not done so. There was evidence that
he was sitting with his back to the
Singapore River facing Tung Fong
towards the right and Saeroen was
sitting to his left and facing this
place marked 'x' in P 32 where lorries
are parked.

20

30

Q. You were seated there you said from about ten
past eight, is that right? A. Yes.

Chua J.: You said you were seated there at ten past eight. About 8.10 that's right.

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Q. And Saeroen was already seated there when you came? A. Yes.

Q. You said about 5 minutes later you heard the accused and Tamby talking loudly. Were you able to understand what they were talking about?
A. No.

10

Q. Did they sound----- I don't know whether you had experience of hearing drunken people talk. Have you had the experience of hearing how drunken people talk? A. Yes.

Q. You have. Did they sound as if they were drunk or mumbo-jumbo garbled tones? A. Yes.

Chua J.: They sounded like they were drunk?
A. Yes.

Chua J.: Do you understand? When you heard them talking - you said you had experience of hearing drunken people talk - did they sound to you as if they were drunk?

20

A. No, my Lord, but they were quite steady. While they were talking they were quite steady in their talking.

Chua J.: So they did not sound drunk to you. Then why did you say "yes" just now? Mr. Misa you must realise this is very important, your evidence. Please answer carefully and if you don't understand the question, say you don't understand.

30

Q. At the same time they were also laughing?
A. Yes.

Q. If you don't understand my question please ask me to repeat my question. They were laughing and shouting at each other. Is that the correct picture as to what was going on then?

40

A. They were talking loudly but not shouting very loud.

Q. They were talking very loudly? A. And laughing.

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Q. And laughing at the same time.

Chua J.: They were not shouting at each other?

Mr. Yap: They were talking loudly, my Lord.

Q. Was it because of this loud talking and laughing that attracted your attention then?

A. I never understand.

Chua J.: What made you turn your head?

A. When they were talking loudly then I turned. 10

Chua J.: Is that the reason why you turned your head? Because you heard them talking and laughing loudly?

A. Yes.

Q. Did you turn to look for some time or was it just a glance through to the back?

Chua J.: I can't hear you. Did you look at them for a long time or short time?

A. Short time.

Chua J.: How short? A. About a few seconds. 20

Chua J.: Can you tell me whether they were sitting or standing?

A. They were sitting.

Chua J.: Where? They were sitting on this stack of poles? A. Yes.

Q. In that period, the short period that you had looked, will you be able to see if they were moving or not? Let us say they were patting each other's back. Would you be able to see if they were in that motion? A. I could see. 30

Q. You could see if they were moving? A. Yes.

Chua J.: Were you saying just now if they were patting each other?

Mr. Yap: Yes.

Chua J.: Were they doing that?

A. No, my Lord, they were doing after half an hour.

Chua J.: I can't understand.

A. I mean that I turned my head for a few seconds they were laughing at each other?

Chua J.: They were not patting each other?

A. Not yet.

Chua J.: You said something about half an hour.

A. Then I turned my face back and about half an hour later ----

Chua J.: I am now asking you at this stage when you turned your head the first time. That is later. Don't mention it please. We will ask you all in good time.

Q. When did you turn your head again to see?

A. About half an hour later.

Chua J.: To the left is that right?

A. Yes.

Q. In that half hour did anything happen - from the time when you first turned your head you saw them talk loudly and laughing at the same time and then half an hour later you turned back your head. From the time you first turned your head to the second time you turned your head what was going on?

A. I was talking with Saeroen but I did not notice what they were doing.

Chua J.: You did not know what Tamby and accused were doing? A. Yes.

Q. Did you hear anything during this half hour?

A. No.

Q. What was it that made you turn your head again the second time, that is, half an hour later?

A. They were talking loudly than before.

Chua J.: You heard them talking louder than before? A. Yes.

Chua J.: And you turned your head the second time? A. Yes.

Chua J.: To the left? A. Yes.

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Q. From where you were the second time when you turned around? A. I was sitting on the chair.

Q. You were still in the same position. You had not changed your position? A. No.

Q. And you still need to turn to the left to see them?

Chua J.: It is obvious isn't it Mr Yap?

Q. You were still sitting in the same position. During this period of half an hour did you go anywhere to the toilet? A. No. 10

Q. You were seated there all the time? A. Yes.

Q. When you turned your head the second time to see, were the two of them seated at this stack of poles? A. Yes.

Q. You saw that they were still sitting? A. Yes.

Q. Now where these two persons were seated, can you tell which side the accused was sitting and which side Tamby was sitting?

A. Tamby was sitting on the right-hand side of Kunjo.

Q. Were they in the same position when you first saw them? A. Yes. 20

Q. So you saw the two of them seated at the stack of poles. Then what happened?

A. Then they got up from the poles and start grabbing each other.

Q. Am I correct in saying that they were pushing and pulling?

A. They were not pushing. They were like grabbing each other.

Q. You mean hugging each other? A. Yes. 30

Chua J.: They were hugging each other did you say? A. Yes.

Q. But they were also pushing each other were they not?

A. While they were like grabbing they start wrestling also.

Q. They were wrestling on the ground also?

A. They fell on the ground a few times and get up.

Chua J.: They both fell? A. Yes.

Q. At the same time they were also laughing and shouting? A. Yes.

Q. Their shouting and laughing were very loud?
A. Yes.

Q. Did they appear to you to be very unsteady on their feet? A. Yes.

10 Q. Staggering kind, swaying from side to side?
A. Yes.

Q. Did both of them appear to you to be unsteady?
A. Yes.

Q. Did they appear to you that they were behaving like drunk people? A. Yes.

Q. Have you ever seen them behaving like this before? A. No.

20 Q. Did you observe that either the accused or Tamby in the staggering movement fell on the ground even by himself? Do you understand my question? A. No.

Q. All right then, I will repeat.

Chua J.: You said that they wrestled and they fell several times. They were both falling down. He is asking you did you see one of them falling down and the other one still standing up? A. No.

Chua J.: When they fell they both fell?
A. Yes.

30 Q. Were you able to see whether they were falling forwards or whether they were falling backwards? A. No.

Q. Could not see. Did any one of these two, when he fell on the ground, sort of remain on the ground for some time?

A. They both persons remained about, I think, a few seconds like this. Then they got up again.

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Chua J.: And both got up? A. Yes.

Q. While they were wrestling with each other were they also fisting each other? You know throwing punches at each other? A. No.

Q. Could you see it?

A. Yes, they never used their direct punch.

Chua J.: They never what? A. Used---

Mr. Yap: They never delivered any direct punches.

Chua J.: They were not fisting each other? 10

Mr. Yap: They were not fisting each other.

Q. They then staggered towards the direction of No.10? A. Yes.

Chua J.: No. 10 is Tung Fong & Co.? A. Yes.

Q. Now, having staggered that distance, did both of them fall down again? A. Yes.

Chua J.: Having staggered, all of a sudden they both fell down?

Mr. Yap: Yes.

Q. All this while, while you saw them staggering, wrestling, pushing each other - did you say pushing? A. No. 20

Q. You saw them wrestling with each other. Were you able to distinguish who fell, whether the accused fell, falling first, whether it was Kunjo?

Chua J.: Mr Yap, he never said one of them fell; he said both fell.

Q. Are you able to say who fell on who? A. No.

Q. Whilst falling, were you able to distinguish which part of the body hit the ground? A. No. 30

Q. Even as they were staggering towards the direction of No. 10, were they still laughing whilst wrestling with each other? A. Yes.

Q. They were still laughing. Were they still laughing whilst they were staggering towards the direction of No. 10?

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Chua J.: He never said they were wrestling. That is why I am a bit confused. He said they then staggered towards the direction of No.10. While they were staggering, they both fell down. Then you asked him to go back again to the first incident and you said as they were staggering towards No.10.

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Q. Were they still laughing? A. Yes.

Chua J: They were still laughing? A. Yes.

Chua J.: And were they wrestling with each other? A. Yes.

Chua J.: You understand, while they were walking, they were wrestling?
A. They were not walking. They were still wrestling and laughing and they were coming towards No.10.

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Chua J.: They were wrestling and laughing and staggering towards No. 10? A.Yes.

Q. Did they give the impression that they were sort of involved in a playful kind of wrestling and grabbing and pushing - I'm sorry, and staggering? Was it a sort of playful kind of atmosphere the two of them were involved in? A. Yes.

Chua J.: They appeared to you to be playing around? A. Yes, My Lord.

30

Chua J.: Yes, Mr. Yap.

Q. Did it give you the appearance that they were not attacking each other, so to speak, that it is a playful kind of pushing, wrestling?

Chua J.: I don't know why you ask him whether they appeared to be playing around. If they appeared to be playing around, they can't be fighting, Mr. Yap.

Mr. Yap: Yes, MY Lord.

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Q. At this point of time, did they also fall down,
the 2 of them? A. Yes.

Q. They also fell down.

Chua J.: Many times or once only?

A. Many times.

Chua J.: Fell down together many times?

A. Yes.

Q. Now, you said Mohd Kunjo suddenly ran towards
his store at No. 8 Pulau Saigon. Am I correct
in saying that Mohd Kunjo sort of staggered
towards that direction? A. Which direction? 10

Q. Towards the direction of the store at No. 8.

A. He ran towards the store at No. 8.

Chua J.: Towards what, towards No. 8?

Q. I am asking you to describe his running. Was
the running----- A. He was quite steady.

Chua U.: Pardon.

D.P.P. : He was quite steady.

Chua J.: He was not staggering? A. No.

Chua J.: When you say he ran towards No. 8,
you say No. 8 where there was a
lorry parked, is that right? 20

A. Yes, My Lord.

Q. Did you see where he picked up the iron pipe?

A. Yes.

Q. Did you see him picking it up?

A. Picking up?

Q. Yes. A. No.

Q. Do you know where he picked the iron pipe
from? A. Yes. 30

Q. Did you see the iron pipe before that day?

A. Before. You mean before the fight?

Q. Before the fight. Have you ever seen that
before? A. No.

Q. Do you know where this iron pipe was kept?

A. No.

Q. If you don't know where the iron pipe is kept, you haven't seen it, how can you tell the Court where he picked the iron pipe from?

A. I never told you from where he picked up the pipe.

Q. I remember I asked you this question, did you know where he picked the iron pipe from and you said yes.

A. Because there is a parked lorry, where he picked it up.

Q. Somebody's life is on trial. Let's be clear with your answers. I asked you: Did you know where he picked the iron pipe from. You said yes.

Chua J.: Now you say he ran to No. 8 where there was a parked lorry. A. Yes.

Chua J.: Did he go inside No. 8?

A. He went inside No. 8.

Chua J.: He went inside No. 8 where there was a parked lorry. Did you see him come out? A. Yes.

Chua J.: Was he carrying anything when he came out?

A. He was carrying an iron pipe.

Q. Were you able to see whether he was carrying with one hand or both hands?

A. When he came, one hand, on the right hand.

Q. He was carrying? A. On the right hand.

Q. This hand, like this? A. Yes.

Chua J.: Carrying the iron pipe in his right hand in this manner? A. Yes.

Chua J.: What manner, can you demonstrate? You saw him carrying the pipe.

A. In his right hand. (Witness demonstrates).

Chua J.: Like that? A. Yes.

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Chua J.: So his forearm is level with the ground.

Q. Now, is it not true that you did not see him go inside No. 8 Pulau Saigon? You merely saw him running towards the direction of the lorry that was parked there? A. Yes.

Q. And thereafter it was so dark you were not able to see him?

Chua J.: One thing at a time, Mr. Yap.
He is putting to you you did not see him enter No. 8.

10

A. I saw him that he enter No. 8.

Q. I am putting it to you that you merely saw him running towards the direction of the parked lorry shown in photograph 14. You merely saw him run in that direction. Whether or not he had entered the building at No. 8 you do not know, isn't it?

A. But I saw him. He was entering inside No. 8.

Q. Now the accused running away in that direction, according to you, entering No. 8, and then coming out again? A. Yes.

20

Q. How long would you estimate that time to be?

Chua J.: How long did he stay in No. 8?

Q. The time taken for the accused to run from where he was with the deceased, with Tamby, towards the direction of No. 8 and entering No. 8 and then coming back to where Tamby was. How long do you estimate the time to be? A. A few seconds.

Chua J.: A few seconds? A. Yes.

30

Q. Few seconds you mean just about 4 or 5 seconds or are you inclined more to say it is about half a minute, amount of time spent. Everything seems to be few seconds. Is it really a few seconds, in other words, 4, 5 seconds?

A. Yes. He entered the store and came back about few seconds.

Chua J.: Few seconds - 4 or 5, 10 seconds, 30 seconds.

A. About that, 45 seconds.

40

Chua J.: 45 seconds. A. 45 seconds.

Q. You know 45 seconds is about $\frac{3}{4}$ of a minute?

A. Yes.

Q. During all this while had you changed your sitting position or were you still looking as to what was happening by turning left?

A. Still looking.

Q. Still looking by turning left? A. Yes.

Q. Without changing your position? A. Yes.

10 Q. And you had been looking like this, turning left throughout the whole period without even for a moment turning back; is that correct?

A. Yes.

Q. In the meantime, this $\frac{3}{4}$ minute, during these 45 seconds, did you pay attention as to what was happening to Tamby?

A. Tamby was standing. He was not standing steady. He was standing.

20 Chua J.: Please answer the question. During the 45 seconds were you paying attention to the deceased?

A. Yes, My Lord, both persons.

Chua J.: That is your question, is it?

Mr. Yap: Yes, My Lord.

Chua J.: You said he was standing?

A. Tamby was standing.

Chua J.: He was standing at the same place?

A. He was standing, yes, where they stopped the wrestling.

30 Q. He was standing at the place----

Chua J.: Where they stopped wrestling, is it?

A. Yes.

Q. Was he standing straight?

A. He was not standing straight. He was not in steady standing.

Chua J.: What were your last words, he was not standing straight?

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A. He was not standing straight.

Chua J.: And you said something else.

D.P.P. : He was not standing steady. He was
unsteady. A. Yes.

Q. Did he remain at one spot or did he walk around?
A. Who?

Q. Tamby. A. He was moving around.

Q. He was on the same spot?
A. He was on the same spot.

Q. Would I be correct in saying that the spot
where Tamby was standing would be approximately
50' from where you were? 10
A. No, I was sitting. He was 50' from where the
store, it was about 50'.

Chua J.: He was not 50'. Was he more or was
he less? A. He was less.

Q. Where was Tamby facing? You said he was standing
unsteadily. Where was he facing?
A. Towards the river.

Chua J.: Facing towards the river. He was
not looking at? A. Kunjo, no. 20

Chua J.: At the accused? A. No.

Q. Now, you said you saw the accused coming back
with the iron pipe and hit the first blow on
the head of Tamby? A. Yes.

Chua J.: He hit once on the head of Tamby?
A. Yes.

Q. Which part of the head was it that he hit?
A. This part, at this part, left side.

Q. Show to Their Lordships where you saw the blows. 30

Chua J.: Left forehead? A. Yes.

Q. Where was the accused standing at the time when
that blow was delivered?

D'Cotta J.: Assuming the witness is Tamby.

Facing the witness, in what direction is the accused?

A. Here was the store, he came this way.

D'Cotta J.: No, no.

Chua J.: You are Tamby. The accused came from the right side of Tamby or left side of Tamby? or from the back?

A. From the right hand side.

10 D'Cotta J.: Right hand side from behind or in front?

A. Right side, right angle.

Q. At the right side at a right angle.

Chua J.: He came from the right side of Tamby at an angle. Angle to the front or to the back? A. Right hand side.

Q. Angle to the front or angle to the back?

A. To the back.

20 Q. In other words, when the first blow was delivered, the accused was standing behind Tamby on the right side. Am I correct ---- assuming -- I will demonstrate to you. Would I be correct, if I were Tamby and I was facing the river, you saw the accused standing there, delivering the first blow, to this side?

A. No, he came straight, from here, and he go right in front there, on the left hand side in front.

Q. He came from the right, went to the front of the deceased? A. At the left hand side.

30 Q. Went to the left hand side.

Chua J.: The accused came from the right side of Tamby, and went to the front?

A. Yes, My Lord.

Chua J.: Front of Tamby and to Tamby's left?

A. Yes, My Lord.

Chua J.: And he delivered the first blow?

A. Yes, My Lord.

Q. Did Tamby fall down immediately after this?

A. He defend with both hands.

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- Q. question is this. After the blow was delivered, did he fall down immediately?
A. Yes, towards backwards.

Chua J.: When did he do this?

A. When he hit the first blow, Tamby defends with his both hands.

Chua J.: After he was hit or before he was hit? A. Before he was hit.

Chua J.: Before he was hit, he raised both his hands? 10

A. Defends with both his hands, but he couldn't.

Chua J.: Tamby tried to defend himself with both his hands but the blow landed on his head. On the top of his head?

A. Yes.

Chua J.: And he immediately fell down?

A. After defending with his hand--

Chua J.: He put up his hand, he got the blow, then he fell? A. Yes. 20

- Q. And he landed with his back to the ground?
A. Yes.

Chua J.: He landed on his back? A. Yes.

- Q. His head was facing upwards, is that correct?
A. This place was a little bit dark, I couldn't notice his head was in which direction.

Chua J.: It was dark, I could not see in which direction he faced. You don't know?

A. I don't know.

Chua J.: Could not see? A. Yes.

- Q. Now you said Tamby raised his hands to defend himself. Did you see whether the pipe had hit either of his hands? A. No. 30

Chua J.: You did not see? A. No.

- Q. Are you therefore suggesting that as Tamby was raising his hands to protect himself he sustained the blow? That was why he was not hit

- on the hands. Would this be correct?
 A. I can't understand what you mean.
- Q. You said that Tamby was raising his hands to protect himself. A. Yes.
- Q. Up to what stage did you see his hands go to?
 A. Like this. (demonstrates)
- Q. That would be below the head.
 A. Higher than this.
- Chua J.: Just above his head? A. Yes.
- 10 Q. But you did not see the pipe hitting the hand?
 A. Yes.
- Q. As Tamby laid on the ground, would it be too dark for you to see the area where his head was? A. Yes.
- Q. Would it? A. You mean on the head?
- Q. Yes, the region of the head. It would be too dark for you to see clearly, ah? A. Yes.
- Q. After Tamby fell (it was on the ground) which side did the accused go to?
 20 A. By the side of the head on the left-hand side.
- Chua J.: After Tamby fell to the ground did accused move? A. Yes.
- Chua J.: Where did he move?
 A. Whilst still holding the pipe he moved to the side of the head on the left-hand side.
- Chua J.: You said when the first blow was delivered he was standing on the left-hand side of Tamby? A. Yes.
- 30 Chua J.: Then Tamby fell backwards on his back. Then he is asking you when Tamby fell did the accused move?
 A. Yes.
- Chua J.: Did he walk? A. No.
- Chua J.: He was still where he was?
 A. Yes.

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Chua J.: Then.

A. Then the accused hit on Tamby's head.

Chua J.: Several times is it?

A. Three to four times.

Q. Were you able to see which part of the head he hit? A. No.

Q. Is it not true that all that you saw was that he had hit in the direction of the head? Whether or not he hit the head you are unable to tell. A. Yes.

10

Chua J.: That is correct, is it? A. Yes.

Q. After which he just threw the pipe where the deceased was? A. Yes he threw it at the side.

Q. He just threw it at the side of the deceased? A. Yes.

Chua J.: Then he ran away?

A. He then walked away.

Q. He did not run away. He walked away? A. Yes.

Q. Even as this was happening you were looking at the scene by merely turning your head to that side still without changing your sitting position? A. Yes.

20

Q. All this while Saeroen was seated next to you? A. Yes.

Q. But unlike you where you had to turn your head around he was facing the scene directly. You understand my question) If you don't I will repeat. During all this while you were seated looking at the scene by turning your head? A. Yes.

30

Q. But Saeroen was seated in such a position that he was facing the scene directly? A. Yes.

Q. Both you and Saeroen gave testimony at the Preliminary Inquiry is that right? A. I don't understand.

Q. Before it came to trial in the High Court there was an Inquiry into this case in the Magistrates' Court. A. Yes.

Q. On the 7th of August last year. A. Yes.

Q. You remember the time when you had to go to Court? A. I can't remember which date.

Q. But anyway you do remember there was one occasion when you went down to the Lower Courts in South Bridge Road and you gave testimony pertaining to this incident, is that right?

A. Yes.

Q. And Saeroen also was called as a witness together with you for this Inquiry right? A. Yes.

Q. At the Inquiry Saeroen had said -----

Chua J.: I don't think we can make use of what Saeroen said at the Preliminary Inquiry.

Mr. Yap: In fact I am putting my defence case to witness.

Chua J.: You can put the defence case in but you don't put it in such a way that Saeroen said it in the Lower Court.

Mr. Yap: It was the testimony of Saeroen at the time.

Chua J.: Mr. Yap, you can't use the testimony even in the Preliminary Inquiry here.

Mr. Yap: Perhaps if I could explain myself.

Chua J.: I know, but you put it to me indirectly the defence case and then you rely on Saeroen to support your true story but you don't put it in the way that Saeroen said in the PI this and that.

Mr. Yap: It would be necessary for me to do so because -----

Chua J.: But you can't Mr. Yap.

Mr. Yap: As your Lordship pleases.

Chua J. $\frac{5}{8}$ Saeroen will be giving evidence in

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court. He will be coming here to give evidence.

Mr. Yap: In fact the Prosecutor has written to me to say that he is not calling Saeroen.

Chua J.: But you can call him. I don't understand why you decided not to call him Mr. Singh. He is an eye-witness. I am surprised to hear this. I know that his evidence is in conflict with this man's evidence but there is no reason why you should not call him just because of that. The Prosecution has to present all the evidence. You don't just pick and choose. And he is an eye-witness. 10

D.P.P. : My Lord, his testimony would be more that of defence witness.

Chua J.: It does not matter. He was called at the PI wasn't he? 20

D.P.P. : Yes.

Chua J.: You know well what his statement was to the Police. You need not call him at the PI but you did. I think you should call him. You are not just going to chuck him as a defence witness. Surely it must be fair. The Prosecution's duty is to prepare all the evidence.

Mr. Yap: Much obliged my Lord. 30

Chua J.: He is an eye-witness to the case. It is a different matter if he says he does not see anything.

Q. I put it to you that after the grabbing between the accused and Tamby and when the accused left to take the pipe, Tamby was not standing but that he was already on the ground.

A. I saw with my eyes he was standing.

Q. I put it to you that when Tamby fell to the ground at that time he laid on his back and he did not get up or move. 40

Chua J.: Can you put that again?

Mr. Yap: I am sorry my Lord.

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Q. You see, after they were grabbing with each other and wrestling with each other and then the accused got up and left to get the iron pipe, I am saying that Tamby did not remain standing but that he had fallen down and was remaining on the ground before the accused came back with the iron pipe.

10 A. No, he was standing.

Q. When the incident was happening, was it not Saeroen who attracted your attention to what was happening between the accused and Tamby?

A. He was looking also.

Q. Yes but was he the one who attracted your attention and said, "Look, look, look, there was a fight going on,". Did he? A. No.

Q. I put it to you that your account that the accused hit Tamby whilst he was standing is not accurate.

20 A. You mean that he did not hit him?

Q. You said he hit him whilst he was standing. I am putting it to you that that is not accurate.

D'Cotta J.: Tell him: "I put it to you that it is not true". He does not know what "accurate" means.

Q. That it is not true.

Chua J.: You understand or not?

A. Yes my Lord.

30 Chua J.: Your story is that the accused hit Tamby on the head once when Tamby was standing up. That was your story? A. Yes.

Chua J.: He is putting to you that story of yours is not true. A. It is true.

Q. Am I right in saying that you are not aware as to any possibility of trouble arising between the two of them before this incident? Sorry, I will rephrase it. Before this incident were

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you aware if there was any ill-feeling or any trouble between the two of them, that is, Tamby and the accused?

A. That I don't know. You mean is there any trouble between them?

Q. Yes. A. That I don't know.

Chua J.: Your answer is you don't know there was any trouble between them or you don't know what?

A. I don't know if there was any trouble in between them. 10

Chua J.: "I don't know whether there was trouble between them before".

Q. All you can possibly testify to is that there was only one blow on the head whereas for the blows after the deceased had fallen on the ground you are unable to say whether it had in fact hit the head.

Chua J.: I think you have got that.

Mr. Yap: I am sorry. I have no further questions. 20

Chua J.: You want a little time with him?

D.P.P. : Yes, my Lord.

Chua J.: We will adjourn. Resume at half past two.

(Court adjourns at 12.50 p.m., 4.2.76)

(Court resumes at 2.37 p.m. on 4.2.76)

Re-
examination

PHASARAM MISA
(Re-examination by D.P.P.) (Contd.)

Chua J.: Before we proceed, can I ask you about P32. There are some figures along the dotted line. I take it they are distances, isn't it? 30

D.P.P. : Yes, My Lord.

Chua J.: I see there are 3 figures. Look at the one at the top, the line leading to the gate, 40.8. That's what? Feet, is it 13.6-----

D.P.P. : If you look at the exhibit which has been tendered in Court, there is only 1 figure in metres, My Lord. Now the additional figures that you see----

10 Chua J.: Mr. Sant Singh, you must see that copies to the Court are the exact copy of the exhibit. Can I see the original? I can't understand why copies can't be made from the exhibit which has been tendered to the Court. Has this exhibit been made from some other copy?

D.P.P. : This is from my own copy, My Lord.

Chua J.: The exhibit itself is really in metres. Very well, then.

20 D.P.P. : The additional figures appearing at P32 are in my handwriting; it gives the figures in yards.

Chua J.: Next time you give copies to the Court, they should be an exact copy of the exhibit - can't be a copy of some other thing.

Chua J.: PW?

D.P.P. : 13, My Lord.

30 Q. Witness, can you look at P8, photograph No.8. Now, in cross-examination you said that this place, the vicinity of this place is dark. Can you look at P4. Do you see a body there?
A. Yes.

Q. Now, this place where the body is lying, is it as dark as P8? Is this place where the body is lying as dark as P8?
A. Yes, it is quite dark.

Q. Is it as dark as this? A. Yes.

40 Chua J.: You understand the question or not?
A. Yes, My Lord.

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Chua J.: Is this place where the body is lying
as dark as this place? A. Yes.

Chua J.: As dark? A. Yes.

- Q. In cross-examination you said that you had to
turn your head to the left to look at the
deceased and the accused. A. Yes.
- Q. Now, this was when they were sitting on a
stack of poles? A. Yes.
- Q. Witness, can you look at P32. You said that
the accused and the deceased were grappling with
each other and moving towards No. 10 Pulau
Saigon Road. A. Yes. 10
- Q. Did you have to turn your head as much as when
the deceased and the accused were at the store
at No. 8 Pulau Saigon Road? A. Not so much.
- Q. Now, at the position where the accused struck
the deceased with P42, with the iron pipe, could
you see them clearly? Could you see the accused
and the deceased clearly? A. Yes.

Chua J.: He has identified Tamby from the
photograph, has he? 20

D.P.P. : Yes.

- Q. Now, Witness, when the accused struck the first
blow on the head of the deceased, he fell down?
A. Yes, the deceased fell down.
- Q. Can you tell this Court what exactly did the
accused do after striking the first blow?
A. After striking the first blow, Tamby fell
towards his backwards and Kunjo hit on his head.

Chua J.: Then what did he do? 30
A. Hits on his head.

Chua J.: Pardon. A. About 3 to 4 times.

- Q. If you look at P32-----

Chua J.: But you said in cross-examination---
Did he say in cross-examination that
you did not see the iron pipe
hitting the head?
A. He hit on the head.

D'Cotta J.: Which part?

Chua J.: Mr. Yap questioned you very closely on this, and this is what you said. I saw him hitting in the direction of Tamby's head. Whether he hit the head or not I can't tell. And now you say he hit him on the head. You see, at first you said after Tamby had fallen on the ground, the accused hit Tamby's head 3 or 4 times. A. Yes.

10

Chua J.: Then Mr. Yap questioned you several times and you agreed with him that what you saw was the accused hitting in the direction of Tamby's head. A. Yes.

Chua J.: And whether the iron pipe hit Tamby's head or not, you can't see. A. Can't see.

20

Chua J.: But now you say you saw he hit Tamby's head 3 or 4 times. A. In the direction of his head.

Chua J.: The evidence is that you did not see the iron pipe landing on Tamby's head. A. Yes.

Chua J.: But the blow was in the direction of Tamby's head, or blows? A. Yes.

Q. Can you demonstrate to the Court how the accused directed these blows at the head of the deceased?

30

A. Hit him in this way. (Witness demonstrates).

Chua J.: Your demonstration shows he was holding the iron pipe with both his hands. A. Yes, My Lord.

Q. Did he bring the iron pipe behind his body like this? A. He didn't.

Q. Can you show how far he lifted?

A. He lifted until here only.

Chua J.: He raised the iron pipe high? A. Yes.

40

Chua J.: Then he brought it down? A. Yes.

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Chua J.: And this was in the direction of the
deceased's head? A. Yes.

Chua J.: Were the blows hard or soft?
A. That I don't know.

Chua J.: You can see that he brought it down
with force or without force.
A. Quite hard.

Q. Did you hear any sound, whishing sound or?
A. No.

Chua J.: You are asking him, did you hear
any whishing sound? 10

D.P.P. : Swishing.

Q. Did you hear any swishing sound? In all the
3 or 4 blows, did he raise the iron exhaust
pipe high like you demonstrated? A. Yes.

Q. And all these 3 or 4 blows were in the
direction of the deceased's head? A. Yes.

D.P.P. : No further questions.

Chua J.: Yes, all right.
Will you sit down? 20

(Witness stands down)

Have you any other witnesses?

D.P.P. : My Lords, I am calling the next
witness, Saeroen bin Rakiman.

Chua J.: He will be PW14?

D.P.P. : That's right, PW14, at page 40.

Saeroen bin
Rakiman
Examination-
in-Chief

SAEROEN BIN RAKIMAN (Affirmed in Malay)
(Examination-in-chief by D.P.P.)

Q. What is your name?
A. My name is Saeroen bin Rakiman. 30

Q. And you are residing at No.7A, Pulau Saigon
Road?

Chua J.: You are living at No. 7?

D.P.P. : 7A.

A. 7A Pulau Saigon Road.

Q. You are employed as a watchman by Yew & Co.?

A. Yes, at night, I am a watchman, but I am a labourer during the daytime.

Chua J.: During the day a casual work labourer? A. Labourer.

Q. Yew & Co. is at 7A Pulau Saigon Road as well?

A. Yes.

Q. Is that right? A. Yes, My Lord.

Chua J.: It is not on this plan.

D.P.P. : Yes.

Q. How old are you, Mr. Saeroen?

A. I am 76 years old.

Chua J.: How is your eyesight?

A. Not very good.

Chua J.: You wear glasses? A. No.

Chua J.: Never wore glasses?

A. I never use glasses.

Chua J.: Can you see the time?

3 minutes to 3.

Chua J.: That is quite good, better than mine.

A. My eyesight is good during the daytime.

Q. Can you see at night, Mr. Saeroen?

A. Sometimes I could see very well, but sometimes because of the glare--

Chua J.: You can see well in the day?

A. I can see very well during the day. At night I can see well, but sometimes because of the glare I can't see, I can't see very well.

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Chua J.: Because of the glare. Glare of what?

A. Glare of the lights. Sometimes I
feel slight pain in my eyes.

Q. Sometimes you feel some what?

A. Some pain in my eyes.

Q. Can you look at--

Chua J.: AT night you are talking about?

A. At night.

Q. Can you look at P13. Can you identify this
person in the photograph? 10

A. He was known to me as Hitam; I don't know his
name.

Q. Do you know him by any other name?

A. I just knew him about 1½ years. I don't know
his name.

Q. Do you know where he was working?

A. He was working as a driver with Yew Chong
Timber Co.

Chua J.: Joo Siong, is it? Joo Siong
Timber Co.? A. Yes. 20

Chua J.: What is the address.

A. The number was not displayed there.

Chua J.: Where is this Joo Siong? A.No.8.

Chua J.: No. 8 Pulau Saigon.

Q. Witness, can you look at P23. Look at this
photograph. Can you tell this Court where the
deceased was living?

Chua J.: Hitam?

D.P.P. : Hitam.

A. Hitam stayed above this small store. (Witness
indicates). 30

Chua J.: He points to the centre of the
photograph.

Q. Can you point out the entrance to this store?

A. There is a door here.

Chua J.: Entrance to the store - he points to somewhere near the poles, No. 8. He points at this post, the figure No.8.

A. It was not actually a proper door, just some planks.

Chua J.: An opening, is it?

A. A door made of some planks, not a proper door.

10 Q. Witness, can you look at the extreme left of the photograph? There appears to be a door.

A. This is a door to the store. The one to the left, another door to the store.

Chua J.: It is another door to the store. Is it the same store you are talking about?

A. This door is normally used when the goods are to be brought out, My Lord. Hitam usually used the other door which he just pointed out.

20 Q. Can you go up where Hitam stays by using the door at the extreme left?

Chua J.: I don't think we need waste so much time. I don't think there is any dispute that Hitam is the deceased.

Q. Do you know the accused?

Chua J.: Ask him to stand. (Accused stands in the dock)

A. Yes, he is Mohd Kunjo.

Q. How long have you known him?

A. For about 5 years.

30 Q. Do you know where he is working?

A. Working in the same company, same place.

Chua J.: Same company as Hitam? A. Yes.

Q. Do you know where the accused is staying looking at P23?

A. Living somewhere here in the store, further inside, but his entrance will be this small door on the right.

40 Q. Now, Encik Saeroen, can you tell this Court

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where you were on 25 May 75 at about 7 p.m.?
A. I was outside No. 7A Pulau Saigon Road.

Q. Were you all the time outside No. 7A Pulau Saigon Road. A. Yes.

Chua J.: Were you sitting?
A. I often sat there.

Q. Did you then go to No. 10 Pulau Saigon Road?
A. Then I went to No. 10 Pulau Saigon, in front of the store, Tong Fong store.

Q. What time was that? A. At about 8 p.m. 10

Q. Why did you go to No. 10 Pulau Saigon?
A. I often had conversation with the watchman there.

Q. On that day at about 8 p.m., did you meet Phasaram Misa at No. 10 Pulau Saigon Road?
A. Yes, he came from the outside.

D.P.P. : Phasaram Misa, PW13, My Lord.

Chua J.: He came from where?
A. From the outside.

Q. Was he on a bicycle? A. Yes.

Chua J.: Has he identified Phasaram Misa? 20

D.P.P. : Not yet.

(Person produced in Court).

A. Yes, he is Phasaram. I know him as Prem Nath.

Chua J.: You know him as? A. Prem Nath.

Q. What did you see Prem Nath do when he came home?
A. He left the bicycle-----

Chua J.: Tell him to call him Misa.

A. After leaving his bicycle, he went into his room to take off his shirt.

Chua J.: He changed. 30
A. Just to take off his shirt and he came out wearing his singlet only.

Q. Can you look at P4. Look at this photograph. Can you tell this Court into which building Prem Nath went? Where is Prem Nath's house?

Chua J.: Mr. Sant Singh, in order not to get confused in reading the notes, we call him Misa.

A. His house is here, on the extreme right of the picture.

Chua J.: He points to structure on extreme right of P4.

Q. When Misa went to his house to change his shirt, where were you standing, can you show us in this photograph?

A. I was seated on a chair here, My Lord.

Q. You mean the chair nearest, the chair furthest away from No. 10?

Chua J.: Points to the chair.

Q. Which chair?

A. The one nearest to the foreground.

Chua J.: Nearest to the foreground.

Q. Did Misa come and join you?

Chua J.: He said Misa came out wearing his singlet. Then Misa came and sat where?

A. Then Misa came and sat on a chair beside me.

Q. Is the chair next to you? A. Yes.

Chua J.: He sat on a chair? A. Beside me.

Chua J.: On your left, on your right?

A. On my right.

Q. Which direction were you facing, Encik Saeroen, when you were seated on this chair?

A. I was facing in this direction.

Chua J.: I was facing in the direction of the foreground of this photograph.

A. Yes.

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Q. It was then about 8 p.m.? A. Yes.

Q. That day was a Sunday, was it? A. Yes, My Lord.

Q. And the stores were, at open space, closed,
No. 10, No. 8? A. Yes.

Q. Were the lights in front of No. 8 Pulau Saigon
switched on? A. Yes, the lights were on.

Chua J.: The lights where?

A. No. 10, the lights were on.

Chua J.: You mean the light above the gate
of No.10?

A. Yes, My Lord, this is the only light. 10

Q. Can you look at photograph No. 1. Can you
identify this photograph? A. Yes.

Q. The area in the background, that is where the
man is standing. Where the lorry is, is it
dark? A. Yes, the place was dark.

Q. Can you see this body in photograph No. 1?
A. Yes.

Chua J.: I don't understand where you can
see the body. 20

D.P.P. : In the photograph.

Q. Was this area bright or dark? A. Was bright.

Chua J.: You are talking about light?

A. There was a light somewhere - the
light from the store, Tung Fong.

Chua J.: There was a light somewhere?

A. Near the store, Tung Fong. The
light at No. 10 Pulau Saigon lit
the area.

Q. What kind of light lit the place in front of
10 Pulau Saigon) A. 100-watt bulb. 30

Q. Are you sure it is 100 watts? A. Yes.

Q. At your sitting with Misa at about 8 p.m. on
that night, did you see the accused and the
deceased? A. Yes.

Q. Where did you see them?
A. They were around the place.

Chua J.: Yes, but where?
A. They were somewhere near the door.

Q. Can you look at P 7?
A. I am not sure where they were but they were moving around with each other.

Chua J.: Can you tell us roughly where they were moving around?

10 D.P.P. : He has indicated in the photograph the area where they were moving around.

D'Cotta J.: When you first saw them at 7 o'clock in the evening before you were joined by Misa.

20 Chua J.: Did you see them? You did not say you had seen them at 7 o'clock. At 7 o'clock you said you were outside No. 7A. Did you see the accused and the deceased before you went to No. 10?

A. At that time I did not see.

Q. When did you first see the deceased and the accused on that day?

A. I saw them earlier in the day time.

Chua J.: We are not interested in what happened in the day time. We are interested in what happened that night.

30 A. At first they were behind my store and they were turning around. They were just turning or moving around.

Chua J.: Can you ask this witness: the first time you saw them they were moving around outside your store, outside 7A?

A. There were three stores. They were around the stores.

40 Chua J.: The first time you saw them, they were moving about, is that right?

A. They were chasing one another.

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Chua J.: And at that time you were sitting
at No. 10? A. Yes.

Q. Before you went to No. 10 Pulau Saigon Road----

Chua J.: So you said they were chasing one
another. Where? Outside the stores?
A. Yes.

Chua J.: What number?
A. The vicinity of all the three stores,
No. 10, 8 and 7A.

Q. This was at what time? Before 7 p.m. 10

Chua J.: That was before 7 p.m.?

Q. You mean before 7 p.m. the accused and the
deceased were chasing each other around these
three stores? A. Yes, my Lord.

Chua J.: Can you tell the witness I am a bit
puzzled. You said that you first
saw them, they were chasing each
other and you also said when you saw
them doing that you were seated at
No.10. That is what you have said. 20
And you also said that you went to
No.10 at 8 p.m. And now you say
you saw them chasing each other
before 7 p.m.

A. I arrived at the place some time at
6 p.m.

Chua J.: What place you are talking about?

A. I was in the vicinity for about
2 hours.

Chua J.: Let us go back again. You said you 30
came out from your store at 7 p.m.
and you did not see the accused or
the deceased. A. That is so.

Chua J.: Now, you said you saw them chasing
each other before 7 p.m. Where
were you then? You were in the
office?

A. When I was in the store I could see
them chasing one another and I saw
them through the window. 40

Chua J.: Before 7 p.m. is it? A. Yes.

- Q. What time was this? A. About 6.30 p.m.
- Q. And you left your store at 7A Pulau Saigon Road at about 7 p.m.? A. Yes.
- Q. And when you came out from your store, were the accused and the deceased still chasing each other?
- A. Yes, they were chasing one another.
- Q. Witness, can you look at P32, the sketch plan?
- Chua J.: You are asking him to look at?
- 10 D.P.P. : P 32.
- Chua J.: Can you understand the plan?
- A. Yes.
- Chua J.: I don't think you can understand unless you explain to him.
- D.P.P. : I will explain to him the plan.
- Chua J.: Yes.
- Q. Witness, if you look at this plan, on the right of the plan is the Singapore River and on the top of the plan, if you look at it this way, is No. 10 Pulau Saigon Road, the store Tung Fong at the right-hand side; somewhere in the middle is No. 8 Pulau Saigon Road, two stores. Can you tell this court in this sketch plan whether your office appears anywhere in No. 7A Pulau Saigon Road?
- 20 Chua J.: Your store?
- (Witness points to entrance to No. 8 Pulau Saigon Road store, the larger store)
- Chua J.: This is the lower part of the entrance of the main road?
- 30 A. Yes.
- Chua J.: So you are sure your store is here?
- A. Yes.
- Q. From this store you saw the accused and the deceased chasing each other between 6 and 7 p.m.?
- A. Yes.

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Chua J.: It is at 6.30 p.m.

A. At about 6.30 p.m.

Chua J.: And at 7 p.m.? A. Yes.

Q. You are sure of that, that you saw them chasing each other at 6.30 or 7 p.m.? A. Yes.

Q. Can you look at P 3. A. Yes.

Q. Can you see these lorries parked in this photograph? A. Yes.

Q. If you look at this structure which is just above these lorries, can you see the structure which is just above these lorries? 10

Chua J.: I can't see any structure.

D.P.P. : Just above these lorries, my Lord.

A. Yes.

Q. Isn't that really where your store is? A. Yes.

D.P.P. : I think, my Lords, witness is a bit confused. It should actually be on the left.

Q. Witness, if you agree with me that -----

Chua J.: I think you can find out from him. You see this photograph P 3. That is this space here and on the other side is the main road. A. Yes. 20

Chua J.: Is it correct that your store is at the main road, the front of your store or whatever it is? I don't know whether it is the front or the back. A. Yes, my Lord.

Chua J.: So your store is on this side and not this side? A. Yes. 30

Chua J.: So you have made a mistake. Tell me does he agree that he has made a mistake when he said that No. 8 here is his store?

A. Yes, I thought the unpaved path was the road.

Chua J.: Is it correct to say that your store is next to No. 7 Pulau Saigon? It is not marked by the Police, 7A. Just ask him does he know whether his store No. 7A is next to No. 7.

A. Yes.

Chua J.: Does he know or doesn't he know? Next door to 7A is what number?

A. I only know there is a No.7A store.

10 Chua J.: Is it correct then that your store is on this side? A. Yes.

Q. On that day between 6.30 and 7 p.m. were there lorries parked in front of your store?

A. I am not sure. Sometimes there are lorries, sometimes there are no lorries.

Q. Witness, now that we have established that your store is on the left-hand side, can you tell this court where you saw the deceased and the accused chasing each other?

20 Chua J.: Please tell him his store is this side. This is Misa's house. The one on the top right-hand corner is Misa's house and his store is on the top left-hand and the Counsel is asking you: you said you saw the deceased and the accused chasing each other. Where were they chasing each other looking at this plan?

30 (Witness points to the area in front of No.7 and in front of his store.)

Q. Did they go outside this area pointed out by you? A. No.

Q. At 7 o'clock you said you left your store at 7A Pulau Saigon Road? A. Yes.

Q. Where did you go?

A. I went to the front of Misa's place.

Q. And were you there until 8 o'clock that night and joined by Misa? A. Yes.

40 Q. During this period, that is, between 7 p.m.

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and 8 p.m., did you see the accused and the deceased?

A. Yes, they were wrestling with each other.

Q. Where did you see them wrestling with one another?

(Witness points to somewhere near figure No.1 on the plan.)

Q. Between 7 and 8 p.m. that night were they all the time around this figure 1?

A. They were there until Hitam fell down on his own. 10

Q. They did not move away from this spot you have indicated, this figure 1, between 7 and 8 p.m.?

A. No.

Q. Were they all the time in your view?

A. According to what I saw, they were wrestling and then Hitam fell down on his own. He was not thrown.

Q. No, my question is did you see them all the time at this spot between 7 p.m. and 8 p.m.?

A. Yes, until he died. 20

Chua J.: He was there? A. Yes.

Q. Did either the deceased or the accused move away from this figure until the deceased died? A.No.

Chua J.: What?

A. None of them moved away from the place.

Chua J.: Accused did not move away?

A. After the deceased had fallen on to the ground, accused walked away. 30

Chua J.: Where to?

A. He walked in the direction of his store.

Chua J.: Did you see him again?

A. He came back with something in his hand which I cannot ascertain.

Chua J.: What, in his hand?

A. Yes, which I cannot ascertain. When he was near me I saw that it was an iron pipe which he was carrying. He then swung ---- 40

Chua J.: Where did he go? He carried the iron pipe, where to?

A. He took the iron pipe to the dead body and he swung it four times hitting the body.

Q. How did you know that was a dead body?

A. He was lying on his back and motionless.

Chua J.: So you came to the conclusion that he is dead.

10 A. Yes, he was dead before being hit.

Q. Did you examine the body of the deceased before the accused hit him? A. I dare not approach.

Chua J.: The question is, when the deceased was lying motionless on the ground and the accused walked away towards his store, did you go up to the body? A. No.

Chua J.: You said he was dead? A. Yes.

20 Q. So you came to the conclusion that the deceased was dead because he was lying motionless?

A. Yes.

Q. Can you explain to this court your statement that you thought deceased was only dead at that point of time?

30 Chua J.: He has already explained. He said he was dead because he was lying motionless. I mean if that is what he thought, that the accused person, before he hit the body, the body was dead.

Q. Witness, I will bring you back to the point of time between 7 and 8 p.m. when you told this court that the accused and the deceased were around point 1. Are you sure that he did not move away from point 1 between 7 p.m. and 8 p.m.? A. Yes.

Q. And between this period, 7 p.m. and 8 p.m., they were all the time in your view? A. Yes.

40 Q. Did you see anybody approaching the deceased and the accused between 7 p.m. and 8 p.m.?

A. No.

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- Q. During this period, that is 7 p.m. to 8 p.m., when you said that the deceased and the accused were resting with each other, were they drinking at that point of time?
- A. I don't know whether they had been drinking but I know that they were staggering.

Chua J.: Can you tell me, you said these two people were wrestling and then the deceased fell to the ground alone and that took place between 7 p.m. and 8 p.m. A. Yes.

10

Chua J.: When this happened, when deceased fell by himself, where was Misa?

A. Misa was beside me standing. I was standing too at that time.

Chua J.: Where? At Misa's house, outside Misa's house?

A. That is so, at the same place where we were standing earlier.

Chua J.: Mr. Singh, we will adjourn now.

20

(Court adjourns at 4.10 p.m., 4.2.76)

(Court resumes at 10.35 a.m. on 5.2.76)

D.P.P. : My Lords, we were on PW14, Saeroen bin Rakiman, at page 39 of the Pl notes.

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Q. Encik Saeroen, before we adjourned yesterday, you told us that the accused returned with an iron pipe exhibit P42 and struck the deceased while he was lying on the ground? A. Yes.

10 Q. Can you tell this Court when the deceased fell to the ground?

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Chua J.: Sorry.

Q. When that night did the deceased fall to the ground?

A. I can't remember the time very well, but I think it was about 8 p.m.

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20 Q. Encik Saeroen, yesterday you told us that at about 8 p.m., you went out, Misa joined you at about 8 p.m. in front of his house. Do you remember that? A. Yes.

Q. How long after Misa had come and joined you in front of his house, did the deceased fall to the ground?

A. Deceased fell down some time slightly past 8 p.m.

Q. And before the deceased fell to the ground, what was he doing?

A. Both of them were wrestling and throwing each other.

30 Chua J.: Wrestling and?

A. Throwing each other.

Chua J.: What do you mean by throwing each other?

A. They were grappling with each other and pushing each other.

Q. During this process that the deceased and the accused were pushing each other, can you tell this Court how many times they fell to the ground?

A. The deceased fell down once.

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- Q. Did the accused fall down to the ground?
A. No, he did not fall down.
- Q. So from 7 p.m. to the time that the deceased fell to the ground, the accused never fell to the ground?
A. No, they were only pushing each other.
- Q. When they were pushing each other, were they steady on their feet?
A. They were swaying about.
- Q. Were both of them swaying about? 10
A. Yes, they were not steady.
- Q. Can you demonstrate to this Court how they were swaying about?
A. (Witness demonstrates). Finally the deceased fell down to the ground by himself.
- D'Cotta J.: By himself? A. Yes.
- D'Cotta J.: You mean he fell of his own accord? A. Yes.
- Q. When the deceased fell to the ground of his own accord, as you said, where was the accused? 20
A. He was about 1 yard away from the head of the deceased after he had fallen down.
- D'Cotta J.: Can you demonstrate how he fell down?
A. (Witness demonstrates). Backwards and head sideways, the head facing to the right.
Chua J.: Fell backwards?
A. And his head sideways to the right.
- Q. That is, he fell on the right side of his face. Is that what you are trying to tell this Court?
A. Yes. 30
- Q. Can you tell this Court whether the deceased fell straight or did his feet or his legs give way?
A. His feet were straight when he fell backwards, legs were straight, I mean, when he fell backwards.
- Q. His legs did not give way, in other words?
A. Yes.
- Q. Before the deceased fell where was the accused?

A. The accused was on the left of the deceased, about 1 yard.

Q. Before the deceased fell, when was the last time you saw them grappling with each other?

A. Some time past 8, they were grappling with each other.

Chua J.: When the deceased fell, at the time the deceased fell, they were not wrestling with each other?

10

A. They were not holding on to each other. They had released their grip on each other.

Q. How long before the deceased fell did they stop wrestling?

Chua J.: I don't think he understands the question.

They were grappling with each other. Then they stopped. Then the deceased fell. The Learned Deputy is asking what is the period of time that they stopped grappling with each other and the deceased falling down?

20

A. 10 to 20 minutes.

Chua J.: I don't know whether he understands. They stopped grappling with each other, isn't it? How long after that the deceased fell down?

30

A. Immediately after the grappling, the deceased was released from the grip and he fell down.

Q. Witness, you were demonstrating to the Court just now that they were grappling and gripping each other, and the deceased slipped; the moment he was released he fell.

A. The deceased fell down and then the accused was swaying about.

Q. Would it then be true to say that they were wrestling immediately before the deceased fell? A. Yes.

40

Chua J.: The deceased fell immediately the accused released his grip is that right? A. Yes.

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- Q. Witness, can you demonstrate to this Court how the accused was gripping the deceased just before the fall? Can you demonstrate? Say, if you are the accused -- (Witness demonstrates).
- Q. Can you show again?
- Chua J.: You are supposed to be the accused.
A. They were pushing each other.
- Chua J.: So he had both hands around the body of the deceased? A. Yes, My Lord. 10
- Chua J.: Then when he released, he released both hands? A. Yes.
- Q. Can you show to the Court how he released---
- Chua J.: Just a minute.
- D.P.P. : I'm sorry, My Lord.
- Q. Can you show the Court how he released?
A. He was not released by the accused but was released by----
- Chua J.: You mean the deceased struggled and he released himself? 20
A. Yes, the grip was released----
- Chua J.: Does he mean that the deceased struggled?
A. Was released----
- Chua J.: Did the deceased struggle?
A. Both of them were pushing each other and swaying.
- Chua J.: They were pushing each other and then?
A. And the grip was released by itself.
- Q. Now, when both of them were grappling with each other, wrestling with each other, where was the deceased facing, and where was the accused facing? 30
A. They were turning about, I can't say for sure.
- Q. Now, when they were grappling with each other, the accused was in front of the deceased?
A. Yes.

D.P.P. : My Lords, I stand to be corrected, but the notes I have before me say that in answer to a question, this witness said the accused was on the left of the deceased about 1 yard at the time the deceased fell. He mentioned that earlier.

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10 Chua J.: I got it down: when the deceased fell, the accused was about 1 yard from the head of the deceased after deceased had fallen down. That is what I have. When the deceased fell to the ground, the accused was about 1 yard away from the head of the deceased after deceased had fallen down; so it would appear that after the deceased had fallen down, the accused was 1 yard away from the head of the deceased.

20 D.P.P. : My Lords, that is in answer to an earlier question. Later on, about 2 questions further down,---

Chua J.: This morning?

D.P.P. : Two questions or a few questions earlier.

D'Cotta J.: Before deceased fell, the accused was on the left of the deceased about 1 yard away.

D.P.P. : That is 3 questions after what Your Lordship has read out.

30 Chua J.: That is afterwards, later on. Before the deceased fell, the accused was on the left of the deceased about 1 yard away.

Q. Witness, you just told this Court that the deceased was about 1 yard away, I am sorry, the accused was about 1 yard away from the deceased before the fall. Now you are telling the Court that they were struggling immediately before the deceased fell.

40 Mr. Yap: If I may interject at this stage. I believe my Learned Friend is not quite accurate here because I believe the last question that was asked of

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the witness was in what direction
was the accused facing and he did
not specify which stage. I believe
the witness did say in the course of
the struggle, they were moving
around in circles, so to speak.

Chua J.: But the point is that the was asked
earlier...

Mr. Yap: That was at the time---

Chua J.: ...when the deceased fell, where was
the accused? and he said, his first
statement was the accused was one
yard away from the head after
deceased had fallen down. Later on
he says before the deceased fell,
the accused was on the left of the
deceased about 1 yard away before
the deceased fell.

10

Mr. Yap: Yes, My Lord, but the question that
was asked---

20

Chua J.: Then, there is another variation;
and he says the deceased fell
immediately after the accused
released the grip. So we are not
quite clear what really happened.

Mr. Yap: As Your Lordship pleases.

- Q. Witness, you have said at first that the
accused was 1 yard on the left of the deceased
before he fell. Now you are saying that they
were wrestling together and he slipped and
fell off. Whic is the more correct version?
- A. The accused was 1 yard beside the deceased
after he had fallen on to the ground.

30

- Q. Witness, if I remember correctly, I had asked
you this question about where the deceased was -
I beg your pardon - where the accused was when
the deceased fell and --

Chua J.: But you asked him that question and
his answer is to the effect that the
accused was 1 yard away from the
deceased after the deceased had
fallen down. In other words, he did

40

not answer your question. Now, it would appear that they were grappling with each other when the deceased fell.

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D.P.P. : The point I am trying to get at, My Lords, when I ask these 2 questions, apparently the witness might have misunderstood the question.

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Chua J.: I don't know whether he understood or misunderstood but he did not answer your question. In fact, later on he answered by saying when the deceased fell, they were together because they were grappling with each other, so one of his statements must be untrue.

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D.P.P. : I will leave it at that.

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Q. When the deceased fell, what did the accused do?

20

A. The accused was standing about 1 yard away from where the deceased was lying and the accused was swaying about on his feet.

Chua J.: This is what we don't understand. Your evidence is not clear. According to you, they were grappling with each other, then the deceased fell. Now, did he fall straightaway or he staggered and then fell?

A. (Witness demonstrates).

30

Chua J.: So it is your evidence when they were grappling the deceased fell backwards? So the accused was standing where he was?

A. He was standing towards the left of the deceased.

Chua J.: Can't get anything out of this witness - quite hopeless.

D.P.P. : My Lords, I will try---

40

Chua J.: When the deceased fell, the accused was standing 1 yard away. How did he get 1 yard away from the deceased? Did he walk away or what? Keep on saying "lepas sendiri."

A. The accused fell backwards on his own.

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Chua J.: You see, when they were grappling, they were together, isn't it?

A. Yes.

Chua J.: We know that. Then the deceased fell, according to you, like that. So we want to know how did the accused get to be 1 yard away?

A. He fell down backwards and he moved slowly backwards; he moved about 1 yard backwards. 10

Chua J.: So your evidence is that the deceased fell 1 yard away from the accused? About 1 yard.

Q. Now, Witness, when the deceased fell 1 yard away from the accused, did he fall 1 yard backwards?

Chua J.: He fell backwards?

A. Yes, he fell backwards.

Chua J.: And then the accused was standing at the foot of the deceased or where?

A. Yes, about 1 yard. He was standing about 1 yard away from the foot of the deceased. 20

Chua J.: So after the deceased fell, the accused was 1 yard from the feet of the deceased? A. From the feet.

Q. Now, Witness, you have told this Court that the accused was 1 yard on the left of the deceased. Can you explain how this could have happened if the deceased fell backwards?

Chua J.: Mr Sant Singh, we won't pursue this. You are really cross-examining him, not examining him. 30

D.P.P. : My Lords, in view of the manner in which this witness---

Chua J.: I know, Mr Sant Singh, but you can make your submission on this. You are examining this witness, not cross-examining him.

D.P.P. : Yes, My Lord.

Chua J.: I know he is not giving the evidence you want.

D.P.P. : I thought I will try and establish the truth.

Chua J.: You have 2 witnesses, isn't it? You have that man and this man. You can make comments on their evidence to the Court.

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Q. Witness, when the accused fell, what did the accused do?

A. Yes, he was standing beside where the deceased was lying down. He was swaying about on his feet and then he moved away.

Chua J.: Then he did what? Did he turn around?

A. Yes, he turned around.

Chua J.: And where did he go to? And he went towards the direction of his store?

A. Direction of his store.

20

Q. Now, how did he proceed towards the store - did he walk, run?

A. He just walked in this manner. (Witness demonstrates).

Chua J.: One thing at a time, please. Just answer the question. We are not asking about his returning yet. We are just asking him how did he go towards the store. That is what the Deputy is asking. He was swaying about, was he? A. Yes.

30

Chua J.: He was swaying about in the direction of his store. Yes, all right.

Q. Can you look at P1, the photograph, and can you tell this Court where the accused went?

Mr. Interpreter: Witness wishes to know if this is the direction of Tong Fong Store.

Q. No.

Chua J.: Tell him this place where the man is in the photograph, in the background

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is the road leading to the main road. He recognises this photograph or not?

A. Yes, My Lord. He walked towards the gate of his store.

Chua J.: Where is the gate of his store?

A. Somewhere near where the man is standing.

Q. Did he go to the gate where the lorry is parked? Can you see this lorry parked there? 10

Chua J.: In the first place, ask him does he recognise this place or not. If he can't, he can't indicate, Mr. Sant Singh.

Mr. Interpreter: Witness wishes to know if this is the main gate to the store.

Chua J.: He doesn't recognise the photograph?

A. That is so.

Chua J.: In fact, he doesn't recognise this photograph. 20

Q. Can you look at P23?

Chua J.: You recognise this photograph?

A. Yes.

Q. Did he walk towards this store?

A. Which one?

Q. The one on the right.

A. Yes, he walked to this small door on the right of the photograph.

Chua J.: You mean he went in that direction or he entered the door or what? 30

A. No, he went---

Chua J.: He went in that direction?

A. Yes.

Q. And you saw him walking all the way to the store?

A. Yes. I saw him reaching the front of his store.

Chua J.: And what else did you see? Did you see him entering the store or not?

A. He did not enter the store.

Chua J.: Then?

A. I then saw him returning with something in his hands but at that time I did not know what it was.

Q. Now, did the accused stop in front of the store shown on the right hand side of the photograph?

A. Yes, he did stop in front of the store, but I don't know what he picked up.

10 Chua J.: You don't know what he picked up?

A. That is so.

Chua J.: Has he been giving all this evidence yesterday? The same thing?

D.P.P. : It was very briefly given, my Lord.

Q. What were you doing at this time?

A. I was looking at him when he was coming back, and I was seated there.

Q. How long did the accused take to come back?

A. More or less, 5 minutes.

20 Chua J.: And he was away for 5 minutes?

A. Yes.

Q. You mean it took him 5 minutes to walk to the store and come back? A. Yes, about that.

Q. Was the accused very long at the gate or the entrance to No.8 of the store at Pulau Saigon Road? A. Not very long.

Q. And during this time that he was at the entrance of this store he was in your view?

30 A. I only saw him again after he was returning back to the place where the deceased was lying.

Q. Was he out of your sight at any time?

Mr. Yap: I believe that answer has been given by this witness because he said he went in that direction.

Chua J.: He said he was walking back.

D.P.P. : It could be that witness was not paying attention.

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Chua J.: But you are not putting to him that he was walking towards the store.

Were you paying attention to him?

A. I was not paying attention. I knew he was drunk and he was staring. I was just looking.

D'Cotta J.: He said something about drunk?

A. I know he was drunk at that time.

Q. Five minutes later you said he came back to where the deceased was lying? A. Yes. 10

Q. What did the accused do next?

A. He was still swaying on his feet. He then lifted up the iron pipe with both his hands. I didn't dare go up to him for fear of being assaulted. He then strikes at the body four times.

Chua J.: Strikes at the body?

A. On the head of the deceased four times.

Q. Now, you said he was swaying and then lifting up his pipe? 20

A. Yes, he was swaying about as if he was swaying downward.

Q. When he was holding the pipe, was the pipe moving around? A. Yes.

Q. And where was the accused standing?

A. The accused was on the right of the deceased near his head.

Q. Witness, can you look at P.4. Looking at this photograph, can you indicate to this Court where the accused was standing? 30

A. Standing on the right-hand side (witness indicating).

Chua J.: Can you mark it with a cross?

Q. Witness, how close was he to the body of the deceased? How close was he standing?

A. He was standing between $1\frac{1}{2}$ to $2\frac{1}{2}$ yards from the deceased. If he was far away the iron pipe wouldn't reach the deceased.

Q. Can you demonstrate to the Court how the accused struck his four blows? 40

Chua J.: He said that yesterday. You want to go through the same thing again?

D.P.P. : That was the other witness, my Lord.

Chua J.: Yes, all right.

Q. Can you demonstrate to the Court how he struck the four blows?

A. (Witness demonstrates). Lifted up the iron pipe with both his hands and he brought down the iron pipe. Stepped backwards and raised the iron pipe again and brought it down again. He did this four times.

Q. How high did he lift the iron pipe?

A. Actually he was bending to one side and he raised the iron pipe.

Chua J.: The iron pipe was raised above his head, am I right?

A. Sometimes above his head, sometimes did not pass his head.

Chua J.: Hold this thing above my head or is it to the back?

A. He was swaying about. So sometimes the iron pipe was towards his back, sometimes towards the side, sometimes above his head.

Q. Now, you said the accused was swaying about, was he swaying a lot or was he swaying slightly?

A. He was swaying about a lot.

Q. The first blow, did you see it landing on the head? A. Yes, very far I could see.

Q. What about his second blow?

A. I was not sure about the second blow. By that time I did not care about him.

Chua J.: Care about whom?

A. Didn't care about the accused because he was already drunk.

Q. Now, this blow that you saw landing on the head of the deceased, in what position was the deceased's head when this first blow was inflicted?

A. He was facing to the left.

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Chua J.: Deceased faced to the left?
A. Yes.

Chua J.: Then?

- Q. When the first blow was struck the deceased face was facing the left and where did the blow land?
A. (Points here on the temple). I was a distance away.

Chua J.: Which side is it?

A. On the right side face, near the ear. 10

- Q. You are sure about that? A. Yes.

D.P.P. : My Lord, I stand to be corrected. The notes down here: "The deceased fell on the left side of the face." Witness had said earlier that deceased fell on the right side of the face.

Chua J.: That was yesterday, was it?

D.P.P. : This morning. The 13th question.

Chua J.: He fell to the left side of the face, face sideways to the right. Fell on the right side of his face. Earlier this morning you said that the deceased fell on the right side of his face, and now you say on the left side of his face? 20

- A. This is the position of the head when the blow landed (demonstrating) just as if he was staring to the left.

Chua J.: What do you mean by that? Did he fall to the left side of his face or right side? 30

- A. He falls on the left side of his face. I couldn't see very well because of the glare of the light.

- Q. Witness, you were looking in the direction of the deceased and the accused at that point of time when the blow was struck? A. Yes.

- Q. The back of your head, where was it facing?
A. The back of my head was towards the door. 40

Chua J.: Mr Singh, why did you ask him that? He was looking in the direction of the accused and the deceased when the first blow was struck.

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D.P.P. : That is in view of the explanation that the witness had given of the glare of the light. Mr. Interpreter, what was his answer?

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Chua J.: When you were looking in the direction of the accused and the deceased, where was this light? Was the light to your side or to the back?

A. There was one light towards the back of me and there was another light from the main road which was also glaring.

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Chua J.: The first light?

A. The first light was behind me.

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20

Q. This light from the road affects your vision?

A. Yes, it was very glaring.

Q. Could you see clearly with this light shining in your face? The scene in front of your - this light shining in your face?

A. Not very clearly.

Q. You saw this blow being inflicted on the right side?

(continued)

30

Chua J.: In words he said that. He demonstrates it is on the right side. Now he has corrected himself. He fell on the right side, sorry. The first blow landed on which side of the head of the deceased?

A. On the right side.

Chua J.: Witness puts his hand on the right side of his face near the ear.

Q. When these blows were being struck, what were you doing? A. I was still seated there.

D.P.P. : May I have a moment to look at the evidence of this witness?

40

Chua J.: Yes.

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Q. You said you remained seated, are you sure about this?

A. Yes, I was seated and I just looked.

D.P.P. : My Lord, yesterday you told this Court

Mr. Yap: My Lord, the Prosecutor has been cross-examining this witness for the past two hours. This is a witness for the prosecution. The duty of the Prosecutor is to present his case and not to cross-examine this witness.

10

Chua J.: I think he is quite right. Does it matter very much that he was sitting down or standing up? It is for the Defence in cross-examination to establish it is important whether he saw it or not and he already said he saw it and you are not satisfied with him, and you are asking questions after questions to pull him down. But he said he saw the blows on the head. It is the function of Mr. Yap.

20

D.P.P. : I appreciate that, my Lord. The fact that there have been inconsistent stories told by this witness itself...

Chua J.: But it is for Mr. Yap, isn't it, to draw the conclusion.

D.P.P. : May I be permitted by section 154 to cross-examine this witness?

30

Chua J.: We won't allow you Mr. Sant Singh.

D.P.P. : If the Court pleases.

Q. What happened after the blow was struck? What did he do?

Chua J.: You said you saw the first blow landed on the head of the deceased and you said you didn't know about the second blow because you were not paying attention? A. That is so.

40

Chua J.: Because the accused was drunk. How about the third and fourth blows,

did you see?

A. I don't know whether the third or fourth blows landed.

Chua J.: Were you paying attention or you couldn't see?

A. I didn't pay attention.

Q. How far were you away from the deceased and the accused at this point of time?

A. Six to seven yards.

10

Chua J.: What happened after the blows were delivered?

A. The pipe was thrown near the head of the deceased and then I saw the accused swaying about. He then walked away swaying and staggering about.

Chua J.: In which direction?

A. At first he walked in the direction of his store and then I am not sure in which direction he turned later.

20

Q. Witness, can you indicate to this Court how far do you think is 6 to 7 yards?

A. To the gentleman seated there. (Indicating from witness box to press box, about 20 feet.)

Q. What did you do next?

A. I then went up to the deceased, then looked at the deceased and I also saw the object was an iron pipe. There is nothing else for me to say. That's all I know.

30

Q. Before you walked up to the deceased you didn't know the object was an iron pipe?

Chua J.: He didn't know what the object was. Of course he mentioned "iron pipe" because he now knows it is an iron pipe.

A. Yes, I didn't know it was an iron pipe, before.

Q. And where was Misa?

A. Misa was beside me.

40

Chua J.: Misa went together with you?

A. Yes.

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Q. Was he seated next to you?

Chua J.: I thought we are now at the stage when he went up to the deceased. You are asking whether Mr Misa was with him? - and now you say about being seated?

D.P.P. : I beg your pardon. When the blow was struck was Misa with you?

A. Yes.

Q. What was he doing? A. He didn't do anything. 10

Chua J.: You were watching the scene, isn't it?

A. Yes.

Chua J.: What was he doing? Was he sleeping?

A. He was also looking at the scene.

Chua J.: Say so then.

Q. Now, we come to the stage where you walked to the body of the deceased. Did Misa follow you?

Chua J.: Misa was with me when I went up to the deceased.

D.P.P. : Yes, my Lord. 20

Q. What happened next?

A. Just mentioned that the head was injured.

Chua J.: You saw that?

Q. And Misa then went to telephone the Police?

A. Yes.

Q. Can you look at P.38, a coloured photograph? Have you seen this photograph before?

A. I know who they are. I have not seen this photograph before. The one on the right is Mohamad Kunjo. The one in the centre is the deceased. I don't know the one on the left. 30

Q. Witness, do you know the accused well?

A. Yes.

Q. Are you good friends?

A. Yes, we work in the same place.

Chua J.: The question is, are you good friends?

A. We are good friends and we never quarrelled with each other.

Q. Do you know the deceased well?

A. I don't know him very well.

Q. How long did you know the deceased?

A. He worked there for about one year.

Chua J.: He has known him for one year, is it?

A. Yes.

10

D.P.P. : No further questions.

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examination

(Cross-examination by Mr. Yap)

Q. After Hitam fell on his back he remained still and was motionless? A. Yes, my Lord.

Q. And it appeared to you that he was dead?

A. Yes.

Q. And it was only after this that the accused came back with an object? A. Yes.

Chua J.: With the iron pipe.

20

Q. With the iron pipe. When the deceased fell down, he fell on his right side, you said so.

A. Yes.

Chua J.: The right side of his face.

Q. Yes. Would I be correct in saying that he was resting somewhere around here in the region of the ear? Was he resting something like this on the right-hand side? (demonstrating to witness) A. Yes.

Chua J.: With his right ear to the ground?

A. Yes.

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- Q. The place where the deceased was lying is not very bright, not very clear.
A. It was bright but because of the glare I could not see very well.

Chua J.: Glare from the street lamp?

A. Yes.

- Q. You look at the photograph in P 13 - the position of the deceased's head was something like this? A. Yes.

- Q. When the first blow was delivered, when the first blow was struck, I am just asking you, is it possible he hit this side? (indicating the left forehead). You just pay attention to me, witness. Assuming this is the ground, he was lying like this. Assuming the first blow was struck, could it be possible it was struck this side? 10

Chua J.: He is asking you the first blow ---- You say the first blow, according to your evidence, hit here. He is asking you is it possible that the first blow landed on his forehead? 20

A. In the region of the right forehead.

- Q. At that time you said that it was a bit glaring? A. Yes.

- Q. So you are not quite sure which part of the head it was? You just saw it coming down in that direction.

A. Yes, I am not very sure -----

- Q. ----- which part of the forehead the first blow landed. But you did see it coming down in this direction. You are not quite sure which part of the forehead it landed but you did see it coming down in this direction? A. Yes. 30

Chua J.: He has demonstrated that the blow is on the right forehead. You have demonstrated to him the left forehead.

Mr. Yap: I would like to illustrate to the court that at that time he was not very sure. 40

Chua J.: You must clear this first.

Mr. Yap: I will clear that when I come -----

Chua J.: Your demonstration is on the left side.

Mr. Yap: I was just wondering whether he would agree to the general kind of layout.

Chua J.: He is putting it to you that the blow landed not on the right forehead but on the left.

10 Chua J.: He demonstrated that the blow landed ----- You see, first of all, he said it landed in the region of the ear - that is in examination-in-chief. Then when you questioned him he agreed that the blow landed somewhere in the region of the forehead but he indicated the right forehead. So you are putting it to him really that the blow landed on the left forehead. You must put it to him in one way. 20 Just now he demonstrated the blow landed on the right forehead but you are demonstrating to him the blow landed on the left forehead.

Mr. Yap: At that particular spot he said that it was a bit glaring and therefore it was not very clear.

30 D'Cotta J.: But he demonstrated. If he says I am not sure, then you have the right to put it to him that it hit the left, not if he demonstrates and says here.

Q. Would I be correct to say that the blow landed more to the left side of the head?

A. According to what I saw from a distance, the blow landed on the right forehead.

Q. Now witness, if you will look at P 13 again. When you went up to the deceased did you not also see the injury on the left side of the forehead? 40

A. I just saw blood.

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Chua J.: See, in your evidence you said when you went up to the deceased you saw that it was injured in the head. That is what you said. A. Yes.

Chua J.: Mr Yap is putting it to you that the injury on the head was on the left side, the left forehead.

Q. Is that right?

A. I saw the injury but the head was all covered with blood. 10

Chua J.: But you saw the injury where?

A. Actually I was not very sure because the head was covered with blood.

Chua J.: You mean which part of the head was injured?

Mr. Yap: Yes, he was not sure which part of the head was injured.

Chua J.: The head was covered with blood?

A. Yes.

Q. Both the accused and the deceased, did you know if they had any trouble before this incident? 20

A. No.

Mr. Yap: I have no further questions.

Chua J.: Any re-examination?

D.P.P. : Just one small point.

Re-
examination

(Re-examination by D.P.P.)

Q. In the cross-examination you said that deceased fell on the right ear to the ground. Was his right cheek on the ground as well?

A. Yes, the cheek was also touching the ground. 30

Chua J.: The right cheek, is that right?

A. The right cheek.

Q. And the deceased remained motionless after that?

A. That is so.

D.P.P. : No further questions.

Chua J.: He remained motionless after he fell?
 A. That is so.

Chua J.: Yes, all right you can stand down.

(Witness stands down)

Chua J.: Is that your case?

D.P.P. : That is the case for the prosecution.

Chua J.: Yes Mr Yap?

10

Mr. Yap: My Lord, I was intending to have a written statement before your Lordships and, my Lord, I think my submission will be rather involved, involving matters of facts, law and also the medical opinions, my Lord. I was wondering if your Lordships will allow me to have time this afternoon to prepare my submission, have it in writing.

Chua J.: When will you have it ready?

Mr. Yap: I think by tomorrow morning.

20

Chua J.: No, no, no, we cannot have an adjournment for you to prepare your written submission.

Mr. Yap: In which case I have to rely on my oral submission.

Chua J.: Yes, you have to rely on your oral submission. It is the usual practice.

30

Mr. Yap: I was thinking of the convenience of the court. My Lord, could I have some time to consolidate all these various points and we come back this afternoon and have my submission made?

Chua J.: We will adjourn to 2.15. We have been taking such a long time over this case.

(Court adjourns at 12.30 p.m., 5.2.76)

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for the
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Mohamad
Kunjo s/o
Ramalan (the
accused)

Statement
from the
Dock
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(Court resumes at 10.35 a.m. on 6.2.76)

D.P.P. : My Lords, I am making an application
to have Dr Teo Seng Hock from the
Woodbridge Hospital to sit behind.

Chua J.: Yes, very well.

D.P.P. : Much obliged.

Chua J.: The accused has elected to make a
statement from the dock?

A. Yes.

MOHAMAD KUNJO s/o RAMALAN (Accused) 10
STATEMENT FROM THE DOCK (Speaking in Malayalam)

On the day in question, My Lord----

Chua J.: You are speaking in Tamil, is it?

A. I am speaking in Malayalam.

On the day in question, My Lords, I woke up at
10 a.m. I went to a nearby toddy shop and consumed
5 pints of toddy. I felt dizzy and returned to my
store and slept. I woke up again at about 4 p.m.
and went to a Chinese coffee shop to drink beer.
When I reached the coffee shop I saw Arumugam,
the deceased, drinking beer. I bought a bottle of
beer, a big, sorry, My Lords, I bought 2 big
bottles of beer and 2 small bottles of Chinese
samsu. Both myself and the deceased consumed-- 20

Chua J.: Both?

A. Both myself and the deceased drank
from the bottles.

Both of us then left to buy some food from another
shop and returned back to the same coffee shop.
We again bought a small bottle of samsu each and
took the small bottle of samsu to the store. At
the store, we were eating and drinking samsu and
at that time, My Lords, our employer, our towkay
arrived and told us to do some work. I told my
employer I was feeling drowsy and dizzy because
I had taken some beer and samsu, but I would do 30

the job on the following day. My employer then left the scene and we continued to eat and drink. While we were doing so, My Lords, I told the deceased that he had to drive the lorry the following day and that he should not drink much. The deceased said that it was his own business to drink and then he punched me on my right eye. Subsequently, My Lord, I remember vaguely of having wrestling and pushing with each other.

10 Chua J.: Wrestling and pushing)
 A. Pushing each other.

I remember also vaguely, My Lords, that both of us were rolling on the ground. I don't remember having hit the deceased and even if I did, I don't know with what I hit him. He was my best friend, My Lords, and I had helped him to get the job for him. I had no intention of killing him and I don't remember anything else, My Lord.

That is all, My Lord.

20 Chua J.: He can sit down.

Mr. Yap: My Lords, my next witness is Dr. Paul W Ngui.

PAUL W NGUI (Sworn in English)
(EXAMINATION-IN-CHIEF BY MR YAP)

Chua J.: Are you Catholic?
 A. Catholic.

Chua J.: And your name is?
 A. Paul William Ngui.

Chua J.: Ngui? A. Ngui.

30 Q. You are a consultant psychiatrist?
 A. Yes, I am.

Q. Your office is at 613 Supreme House, Penang Road?
 A. That's right.

Chua J.: What address?

Mr. Yap: 613 Supreme House, Penang Road.

Q. Would you inform the Court of your qualifications?

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A. My qualifications are MBBS, DPM, Diploma in Psychological Medicine, Member of the Royal College of Psychiatrists and Academy of Medicine.

Q. Have you testified as an expert before, as a psychiatrist?

A. I have testified in Court as an expert witness on several occasions.

Q. Dr., you have prepared a medical report on one Mohd Kunjo son of Ramalan. A. Yes, I have.

Q. Can you identify Mohd Kunjo, son of Ramalan? 10

A. Yes, I can identify him.

Q. He is the accused?

A. Yes, he is the accused.

Mr. Yap: My Lords, I have copies of the medical report, which have just been handed to me by Dr Ngui.

Chua J.: Exhibit D10.

Q. Now, Dr, could you please tell the Court of your findings according to your report?

A. Perhaps I will read the report. 20

Chua J.: Where did you examine him?

A. It is in the report.

Chua J.: The report has not been read.

A. Maybe I should read the report.

Mr. Yap: The doctor will now read the report.

A. "I examined Mohamad Kunjo at Queenstown Prison on 22 and 23 Jan 76.

PERSONAL HISTORY

He was born in Kerala, India in 1921. His father was a tailor and died when accused was a young child. 30

His mother is still alive and about 90 years old. He is the eldest of 3 children and has one younger brother and one younger sister.

He had no schooling and as a boy worked as a cowherd. He tended cows till 1945, when he

married. A few months after marriage he accompanied another villager to Singapore. The villager recommended him a job as a piling construction worker with Sime Darby. For 5 years, he laboured in bondage giving all his salary to the villager. He was unable to send any money home.

10 Being illiterate, he did not correspond with his wife and family and over the years he has lost touch with them. After confirming that he had paid off his obligations to the villager, he resigned from Sime Darby and worked for a road work construction company.

The work was hard. He had few friends and was disillusioned with life. After toiling 5 years without any savings, he decided not to save.

His drinking history began soon after he resigned from Sime Darby.

ALCOHOLIC HISTORY

20 He was not clear when he really started drinking but it was in the early 1950's. He began with one glass of toddy a day and gradually increased his alcoholic intake to five glasses of toddy a day.

30 For the past 10 years he drank heavily. His average daily consumption of alcohol was 1 suku bottle of spirits and 1 large bottle of beer. On Sundays, and holidays, he would start off drinking at 10 a.m. about 5 glasses of toddy and by the end of the day he would have finished 2 suku bottles of spirit and one to two large bottles of beer.

40 Although he is able to restrain from drinking during working hours, there are signs of addiction to alcohol. He becomes restless and at the first opportunity makes a bee-line for the liquor shop. Once he starts drinking, he cannot stop and he will continue drinking until dead drunk, going off to sleep. Sometimes he is carried home. There were numerous occasions when he could not remember what happened the previous night. These 'blackouts' or amnesic periods are characteristic of chronic alcoholism.

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There were no previous aggressive outbursts during drinking. There was also no history of delirium tremens. Other symptoms of alcoholism were the tremors of his hands which disappeared after drinking.

PHYSICAL EXAMINATION

Except for fine tremors of his outstretched hands, he was physically in good health. His blood pressure was normal.

PSYCHIATRIC EXAMINATION

10

Accused was rational. He appeared cooperative and frank. He gave his name and age correctly and his orientation for day, date and place was satisfactory.

His thought processes were normal and there were no psychotic symptoms. In mood, he was depressed. He was remorseful at having killed his friend and kept repeating he did not mean to kill him.

His memory for recent events was poor. He had great difficulty in remembering a name and address given. Memory test on digit span was very poor. He was only able to repeat 4 digits forward (normal between 7 and 8) and 2 digits backwards (normal between 6 and 7).

20

I gave him some simple tests of arithmetical calculations and he failed the tests. This could be due to his lack of formal education.

I would put his intelligence as normal but below average.

30

OPINION

On the basis of these interviews I formed the opinion that he suffered from chronic alcoholism which contributed to a mild degree of impairment of his memory function especially for recent events.

His previous personality was an introverted depressive personality.

ACCUSED'S ACCOUNT OF THE OFFENCE

At the interview, he accused remembered the date of the offence as on 15 Mar 75 (the actual date was on 25 May 75). According to the accused, it was Saturday and an off day for him....

10 Chua J.: Dr, in my copy Saturday has been struck off with red pencil. Which one did you put in as a Court exhibit?

Mr. Yap: The copy by the doctor.

Chua J.: Is that the original? Where is the original?

Mr. Yap: My Lord, I must apologise.

Chua J.: Can we have the original report? Dr Ngui, which one is the original?

Mr. Yap: The original has this deletion here.

Chua J.: Is that the original?
A. Yes, that would be the original.

20 Chua J.: It is the one I had just now.
A. The others are carbon copies.

Chua J.: In the original copy, the word Saturday has been struck off. There is a line across the word Saturday. Did you cancel it?
A. No, I did not cancel it.

Chua J.: That is what I mean. The word should be there?

Mr. Yap: It should be there.

30 Chua J.: So that one is the original and should be the Court exhibit.

A. (Ctd.) Well, "according to the accused, it was a Saturday and an off day for him. He woke up about 10 a.m. and went straight for the toddy shop where he had 4 to 5 glasses of toddy. He had some bread and tea for breakfast.

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After drinking toddy, he felt a little high and he went home to sleep.

He slept through until 4 p.m. when he woke up. He did not have his lunch but went direct to a liquor shop to buy a large bottle of beer. He met the deceased at the shop and they decided to drink together. Each of them finished one suku bottle of Boon Qui Loo and one large bottle of beer.

Following this, they proceeded to buy some food and on the way home, they picked up two suku bottles of Boon Qui Loo and two large bottles of beer. They then had their meal and drinks together. 10

He vaguely recalled the employer asking them to load the lorry the following day. While they were drinking, accused remembered asking deceased not to drink too much, as they would be working the next day. Deceased replied that it was a personal matter and started to assault accused. He remembered vaguely that they wrestled and grappled with each other and that the deceased punched him in the right eye. He was not certain what really happened after the punch but remembered hitting deceased with something. He could not recall how he hit deceased and with what. 20

The events of the evening was a complete blur to him after the punch.

MENTAL STATE OF ACCUSED AT TIME OF OFFENCE. 30

From the evidence, the blood alcohol concentration (BAC) of the accused taken at 2.30 a.m. was 100 mg per 100 ml of blood. The rate of metabolism for alcohol ranges from 10 to 20 mg per 100 ml, the average being 16 mg per 100 ml.

Taking the average rate, the accused would have a BAC of 188 mg per 100 ml at the time of the offence (5½ hours earlier).

This is assuming that the rate of metabolism was constant. The rate of metabolism of alcohol may be increased by exercise and excitement. The accused was arrested more than 2 hours after the offence. He was wandering about since he 40

left the scene of the crime. Further he was made to walk some considerable distance from the place of arrest to the Central Police Station.

10 Taking the higher rate of metabolism into account the accused would have a BAC of 210 mg per 100 ml. It is reasonable to conclude that at the time of the offence, the BAC of the accused would be in the region of 188 to 210 mg per 100 ml.

At this BAC, the accused would be in a state of severe drunkenness. This is referred to in Forensic Medicine, Simpson, page 330..."

Chua J.: Are you going to put in the extract, Mr. Yap?

Mr. Yap: My Lord, I believe this has been given to the Court earlier.

Chua J.: By you?

20 Mr. Yap: I stand to be corrected, My Lord.
A. Page 330, Simpson, Forensic Medicine.

Mr. Yap: 7th edition, Keith Simpson.
A. Forensic Medicine.

Chua J.: I am just checking to see whether it has been put in.

Mr. Yap: I believe so, My Lord.

Chua J.: Yes, it is. Simpson, edited by Keith Simpson.
A. Yes, Simpson.

30 Chua J.: Page 330, volume 2.
A. No, this one is Forensic Medicine, not Taylor's.

Chua J.: Forensic Medicine by Simpson.
A. Under Signs and Symptoms after paragraph d. Then the next paragraph: "The blood alcohol in states of marked drunkenness is usually 200 to 400 mg per cent..."
And the other reference is Taylor's Principles and Practice of Medical

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Jurisprudence, Vol 2, page 382.
I think Your Lordships has the copy
too.

Chua J.: What is the passage that you want to
read?

A. Under Behaviour and one last sentence:
"The critical concentration seems to
lie at or about the 150 mg per cent
level; any person with this amount in
his blood can be considered to have
imbibed a significant amount of
alcohol. With increasing concentra-
tions the symptoms become more
pronounced and at concentrations
beyond 200 mg per cent....." 10

Chua J.: I'm sorry, I haven't got the page.

A. Page 382.

Chua J.: And you are reading "With increasing
concentrations?"

A. Under behaviour. 20

Chua J.: Yes, I have got it.

A. "With increasing concentrations the
symptoms become more pronounced and
at concentrations beyond 200 mg per
cent----"

Chua J.: I haven't got page 383.

Mr. Yap: My Lord, I will then photostat 383
for Your Lordship. In the meantime,
perhaps Your Lordship will follow
him with the use of this book. 30

Chua J.: This is exhibit P56. That was put in
by Mr Sant Singh. I have got my copy
which says P56.

A. "...concentrations beyond 200 mg per
cent there is likely to be marked
inco-ordination, coma and a danger of
death."

The evidence of his employer, Tan Chwee Siong
the two eye witnesses, Phasaram Misa and Saeroen
would confirm his drunken state. 40

The accused was observed to be playfully
frolicking and grappling with the deceased.

This was probably the early stages of drunkenness with loss of inhibitions including a care-free jocularity with shouts of laughter.

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10 A more severe stage of drunkenness was arrived with evidence of slurred indistinct speech, general inco-ordination of movements and staggering gait. This would indicate that the basal centres of the brain were being overcome. At this severe level of intoxication, his mood would be in a state of confusion. Thinking would be slowed down, and would be incoherent. He would have difficulty in grasping and interpreting events correctly. Subsequent recollection of this period would be hazy and amnesia would commonly follow. Accused's account of the events leading to the crime with amnesia would be consistent with severe intoxication.

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20 When I examined the accused, I found his memory to be poor. He was also confused about the date of the offence. He was convinced that the crime took place on Saturday, 15 Mar 75. He had little difficulty in recalling the events up to the time when they returned to the store to have their meal and drinks together.

30 The recollection of events after this was patchy up to the point when he received the blow on the eye by the deceased. The blow must have aggravated his confusions because he appeared to be amnesic for the period after the blow. That blow to his head was probably significant. I tried to elicit his reaction to the blow and he tried very hard to recollect his reactions but he was unable to remember. I can only conclude that that blow caused a minor concussion which precipitated an abnormal fear reaction or rage reaction in his already confused mind, and which consequently led to his attack on the deceased."

40 Here I would like to refer, my Lords, to 'Criminal Responsibility and Mental Illness', Whitlock, page 82 to 83.

Q. Under page 82.

Chua J.: Just a minute. We will mark that, it will be Exhibit D.11.

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Witness: This refers to studies of clouding of consciousness and the first paragraph refers to mild clouding of consciousness; the second paragraph refers to severe degrees of clouding. Shall I read that particular passage, my Lords?

Chua J.: Yes.

A. "Severe degrees of clouding with associated delirium occur in many acute and chronic organic disorders of the brain. The acute infections, cerebral injuries and intoxications, as well as the progressive dementias of old age are often characterized by short-lived or prolonged periods of disturbed consciousness. In particular, the epilepsies are manifested by brief episodes when conscious control is wholly absent; and on occasions these periods are prolonged for hours or days following which the patient will have very little memory of events. 10 20

Head injuries with minor degrees of concussion will sometimes be followed by periods of complex, apparently purposive, behaviour of which the patient will have only a confused memory. It is during such periods of disturbed consciousness that violent acts can occur of which the patient may have no knowledge. 30

The principal features of these states are a disturbance of orientation in time and place, a feeling of bewilderment often associated with intense fear, excitement, restlessness and irritability, and impulsive behaviour which can be dangerous to the patient or to bystanders. Much of the behaviour can be explained on the basis of misinterpretations of surroundings, possible delusions and hallucinatory experiences and, above all, the fearful affect which causes him to strike out, believing that he is about to be attacked and must make every effort to defend his life. 40

Following some desperate act the patient may pass into a deep sleep from which he will awake with total amnesia for recent events; or, at best, his memory will be so confused that while he may have some knowledge of his actions he will be totally incapable of giving any satisfactory explanation to account for them."

10 "From all accounts of his behaviour at the time of the offence, I am of the opinion that he was in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the necessary intent to commit the offence.

Furthermore I am of the opinion that the abnormal fear or rage reaction would have severely impaired his responsibility for his actions."

20 Q. Doctor, you were present in Court during the period of this trial? A. Yes, I was.

Q. And you have heard the evidence as given by Tan Chwee Siong and the two eye-witnesses of this incident, Phasaram Misah as well as Saeroen Rakiman? A. Yes.

Q. Doctor, that drink that you are referring to, would it be—— first of all, can you tell us, Dr. Ngui, who gave you the name 'Boon Qui Loo'?
A. The Accused gave me the name.

30 Mr. Yap: I have no further questions, my Lords.

Chua J.: Is this an exhibit, a bottle of "Boon Qui Loo"?

Mr. Yap: Yes, my Lord.

Chua J.: It's P.44?

Mr. Yap: 44 and 45.

Chua J.: Mr. Sant Singh, you want a little time to consult your expert?

D.P.P. : Yes, my Lord.

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Chua J.: Because you have not given him a copy of your -----

Mr. Yap: No, my Lord, in fact I only got a copy myself this morning.

Chua J.: So I think since it is a little technical, I think we should give Mr. Sant Singh a little time to consult his expert.

D.P.P. : That will be most helpfl.

Chua J.: And that will shorten proceedings, instead of groping around. How much time do you think you will need? 10

D.P.P. : About an hour and-a-half.

Chua J.: An hour and-a-half will bring us to one o'clock. In that case we will adjourn and resume in the afternoon at 2.15.

(Court adjourns at 11.20 a.m. to 2.15 p.m.)

(Court resumes at 2.25 p.m., 6.2.1976)

Cross-
examination

PAUL W. NGUI
(Cross-examination by D.P.P.) 20

D.P.P. : My Lords, I must apologise to the Court. I was under the misconception that hearing was at 2.30.

Chua J.: I said 2.15 - you didn't hear.

D.P.P. : I am sorry. My Lords, before I proceed with Dr. Ngui, may I apply for the release of P.W.13 and 14.

Chua J.: Yes, the eye-witnesses?

D.P.P. : They are the two eye-witnesses. 30

Chua J.: Yes.

D.P.P. : Much obliged.

(P.W.13 and 14 leave the Court.)

Q. Now, Dr. Ngui, you have told this Court that from your examination of the Accused you found him to be a chronic alcoholic? A. Yes.

Chua J.: Found him-----?

D.P.P. : Alcoholic.

Chua J.: At what page is this?

D.P.P. : That's at page 3, my Lords, 'Opinion', under the heading 'Opinion'.

Q. Now, Dr. Ngui, can you tell this Court how you arrived at this conclusion?

10 A. Chronic alcoholism is a condition in which there is excessive drinking of alcohol to the point that it affects adversely the patient's work, his family and social relationships, and where there is evidence of physical or mental deterioration.

Chua J.: Where there is -----?

A. Mental ill-health.

Q. Now, Doctor, did you find any signs or symptoms of any physical ill-health as far as this Accused is concerned?

20 A. As far as I, on my examination there are signs of fine tremors.

Chua J.: There are signs-----?

A. ----of fine tremors in his out-stretched hands.

Q. Fine, f-i-n-e?

A. F-i-n-e, Yes.

30 Q.(ctd.) I think on the mental side there is a past history of blackouts and amnesic periods, and his memory I found to be very poor, especially for recent events. For instance, I had to repeat my name and address over eight times before he was able to register it.

Q. Doctor, we will come to the bit about recent memory by and by. My question - perhaps I have not made myself clear - is the physical examination, that is your examination, physical examination, of this Accused, apart from this 'fine tremors'?

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A. Apart from the fine tremors, physically I found him to be reasonably healthy. However, there were, there was a history of insomnia and restlessness during the period when he was in the prison.

Q. Now, Doctor, these fine tremors, can you explain to this Court what you mean by fine tremors?

A. Well, if you ask the person to put out his hands in front normally it will be steady. Well, in most cases of people who have indulged excessively in alcohol you find evidence of, over a long period of time you would find evidence of fine tremors in the outstretched hands.

Chua J.: In what?

A. Fine tremors in the outstretched hands.

Q. Now, Doctor, is there such a medical term as gross tremors?

Chua J.: Gross -----?

D.P.P. : -----tremors.

A. Yes, Yes. 20

Q. Now if a person were to have gross tremors, what would that indicate?

A. Gross tremors would indicate quite a number of things - one cannot really generalise.

Q. Let me be specific, Doctor. In the case of an alcoholic, a person who is a chronic, is it usual to find gross tremors when he puts his hands out straight?

A. You would get either fine or gross tremors. Gross tremors for instance would occur where the liver has been badly damaged and you would--- where the liver has been badly damaged by alcohol you would even get what we call flapping tremors of the hands. That would be very severe case of liver damage due to alcoholism. 30

Q. Doctor, wouldn't it be normal to find tremors in the case of an old or elderly man who outstretches his hands like this?

A. Well, it depends on how old the person is, a person of 65, 70 or over 60 might have fine tremors. 40

Chua J.: A person over— over what age?

A. Over 60, 65 probably to 70.

Q. Might have?

A. May have fine tremors.

Q. What about a person aged 50 years old, Doctor, is it possible?

A. Well, I think it is possible, but less likely.

Q. And if you have-----

Chua J.: Slowly! What is your last statement, you say it is possible but?

A. It is possible but less likely.

Q. But less likely?

A. Yes, for a man of 54.

Q. Fifty? A. Fifty-four.

Q. Now if a man, say about 50 years old has been taking drinks regularly, would it be normal to find fine tremors when he stretches out his hands?

A. Here it will depend on the amount he drinks, it would depend on the amount of, the severity of his drinking habits.

Q. Say, Doctor, about three pints of beer a day?

A. Three pints of beer?

Q. Of beer a day, every day.

A. I wouldn't expect to find any tremors in a person who drinks three pints of beer a day.

Q. Doctor, you have told this Court, you said that it is possible in the case of a man over 50 to have fine tremors. Now wouldn't it be more possible in the case of a man of 50 who has been drinking three pints of beer every day?

A. The two would be independent, the two, I think, would be independent of each other. In other words, a person who drinks three pints of beer a day and the age of 54-plus develops tremors, it is quite possible that the tremors are independent of the -----

Chua J.: In a person-----?

A. (ctd.) ---- and that is probably related more to old age.

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Chua J.: A person who in old age----?

A. It is possible.

Q. When he reaches 54?

A. Yes. The point I would like to stress--

D'Cotta J.: Wouldn't a person's diet have
something to do with it?

A. Yes, a lot has got to do with the
amount he drinks, the diet and --

Q. You see, for example, if Mr. Sant
Singh says, a man takes 3 or 4
pints of beer, after that he has a
very good meal with a lot of
proteins, as opposed to one who
does not have any meal, goes to
sleep on it, over a period of time
wouldn't it---?

10

A. Yes, I think diet is relevant.

Q. Doctor, before all this, you said a person could
get tremors, fine tremors, as a result of drinking
and other factors, due to old age: what other
factors did you have in mind?

20

A. One thing is diet, the other factor would be the
amount he drinks. I mean, if a person drinks
excessively and if he is drinking without
considering his physical health, ignoring food,
ignoring having regular meals-----

Chua J.: Yes, what would happen to him?

A. (ctd.) ----and if he is drinking regularly over
a period of years and if he has experienced
withdrawal symptoms, with urges to drink -----

30

Chua J.: What?

A. If he has experienced withdrawal
symptoms -----

Q. What?

A. Withdrawal, withdrawal symptoms.

A. (ctd.) ----- and during these periods of with-
drawal symptoms he manifests, you know, gross
tremors, (that) would prove drinking. After a
period of time, a certain period of time without
drinking he would show some fine tremors, if not
gross tremors.

40

Q. So, Doctor, a person who has been drinking regularly about 3 or 4 pints of beer every day for the last 15 years and is now 50 years, isn't it likely for him to have fine tremors, for 15 years, 16 years?

A. Just 3 or 4 pints a day I would say is not likely.

Q. Now, Doctor, could these fine tremors be caused by nervousness?

10 A. In this particular, with the Accused or in general?

Q. No, No, I am asking in general.

A. Yes, nervousness, tension, can cause fine tremors of the hand.

Q. Doctor, would you agree with me that a person who is facing a capital charge would be quite nervous? A. Yes.

Q. And restless? A. Yes.

20 Q. Now apart from these physical symptoms - we are only talking about the physical symptoms - you did not find any other physical symptoms to come to the conclusion that this Accused was a chronic alcoholic?

A. No, and I must add that I have not done blood test investigations for liver functions.

Chua J.: You say you carried out no blood test?

A. No - for liver functions.

30 Q. Blood test---

A. ----for liver functions.

Q. For liver functions?

A. Test for liver functioning, whether it is normal or abnormal.

Q. Now did you carry out any biopsy of the liver of this Accused? A. No, my Lords.

Q. You would not be in a position to say that in that condition the liver of this Accused is--?

A. No, my Lord.

40 Q. Now, Doctor, did the Accused have what they call a liver palm?

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Chua J.: Liver -----?

D.P.P. : Liver palm.

Chua J.: Liver palm?

A. Signs of liver palm, signs---

Q. Signs of liver palm?--- Did he have any?

A. No, he did not.

Q. And what's that, liver palm?

A. It is erythemetus, patches in the palm which when seen would be very typical of liver damage. 10

D'Cotta J.: What patches did you say?

A. Erythemetus, red patches on the palm.

Chua J.: Which is seen?

A. Which would be diagnostic of severe liver damage.

Q. Liver damage? A. Yes.

Q. This liver damage is medically known as cirrhosis of the liver, Doctor? A. Yes. 20

Q. Now, Doctor, is cirrhosis of the liver caused by excessive alcohol drinking?

A. Yes, one of the causes could be due to excessive alcohol.

Q. Doctor, isn't it true that not only can it be one of the causes but if you take excessive alcohol over a long period of time it will result in your having cirrhosis of the liver?

A. Yes, if you take excessive alcohol over a long period of time. 30

Q. Doctor, did you find any red petachiae at the region of the chest of the accused? A. No.

Chua J.: Red what?

D.P.P. : Petechiae.

Chua J.: How do you spell it?

D.P.P. : P-e-t-e-c-h-i-a-e.

Q. Can you explain to this Court any red petechiae?

Chua J.: On the chest, is it?

D.P.P. : Yes, my Lord.

A. These are capillary haemorrhages found like spider mark haemorrhages which are seen or associated with liver damage.

Chua J.: Yes.

10 Q. Now isn't this red petechiae or spider marks on the chest of any person be indicative of the fact that he is an acute alcoholic?

A. It would be indicative of liver damage, not necessarily alcoholic.

Q. Of course, I will lead you to my next question..

Chua J.: Would be indicative of liver damage, not necessarily ---

A. Alcoholic.

Q. Doctor, again this liver damage can be caused by excessive alcoholic intake? A. Oh, yes.

20 Q. Now if a person has regularly taken over a long period of time alcohol, wouldn't it be normal to have these spider marks on his chest?

A. I think it depends on the extent of the liver damage really. In early stages of liver damage there may not be any sign of petechiae haemorrhages. Only where there is moderate or severe damage to the liver, then these signs will appear.

30 Q. So you will agree with me, doctor, if it is serious liver damage, it is normal to find spider marks on the chest? A. You may find.

Q. Doctor, if you look at page 2 of your report under the heading "Physical Examination"-----

Chua J.: Page?

D.P.P. : Page 2 under the heading "Physical Examination", it is the second line?

A. Yes.

Q. He was physically in good health? A. Yes.

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Q. Now doctor, have you heard of this book Mayer-Gross on Clinical Psychiatry?

Chua J.: What book is this?

D.P.P. : I will give this to your Lordships.

Chua J.: Yes.

Q. Doctor, would you agree with me that this is as the Bible for psychiatrists in Great Britain? It is considered as good as a Bible for psychiatrists in Great Britain?

A. Well if it is considered as a Bible, we can consider it. 10

Q. It is a leading authority?

A. Yes, it is one of the leading books.

Chua J.: Leading textbook?

A. Yes.

Q. Yes.

Q. My Lord, can you please refer to page 395 - 395 to 396 - indicated by lines drawn on the side of the photostat copy?

Chua J.: Yes. 20

Q. In particular paragraph F, doctor, and can you read that aloud please?

A. 395 paragraph F?

Chua J.: We will mark that - that will be P--
What is the next number - P57.
So you want him to read paragraph F?

D.P.P. : Paragraph F.

Chua J.: Yes, doctor.

Q. Can you read paragraph F?

A. It says here "Chronic Alcoholism may be regarded as the final stage in which excessive drinkers manifesting different drinking patterns and underlying pathologies converge. The chronic alcoholic manifests certain consistent physical and psychological changes. He suffers from continual nausea which usually leads to under-nutrition and this in turn contributes to 30

the causation of the physical complications such as poly-neuritis and cirrhosis of the liver which are common in chronic alcoholics. He shows rapidly diminishing physical tolerance and drunkenness may be produced by smaller and smaller amounts of alcohol. The reduced intake at one and the same time fails to satisfy craving but renders him more disorganized. Although he gains little or no pleasure from drinking he is compelled to continue with it and, if under financial pressure, may resort to drinking cheap wines or methylated spirits. The outcome is usually admission to hospital with one of the physical complications or with a psychiatric disorder such as delirium tremens or alcoholic hallucinosis, epilepsy or a paranoid psychosis."

10

Q. Do you doctor - would you quarrel with this opinion? A. No.

20

Q. Doctor, isn't it true that you also said in your report that the accused did not suffer from delirium tremens?

A. No, there was no history of that.

Q. You also said that he was physically in good health?

A. Yes, from the clinical examination.

Chua J.: From what examination - physical examination?

D.P.P. : Clinical examination.

30

Chua J.: Clinical - Dr. Ngui, you said from clinical examination?

A. From clinical examination, yes.

Chua J.: Yes.

Q. Now did you find any sign of polyneuritis?

A. There is no sign of polyneuritis.

Chua J.: No sign of what?

A. Polyneuritis.

40

Q. The word appearing on lines 7 or 8 or paragraph F, and really, doctor, you are unable to tell this Court whether he has any cirrhosis of the liver or not? A. No.

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Q. Dr. Ngui, now taking into consideration the fact that you told this Court that these delirium tremens can be caused by nervousness and a person, who is facing a capital charge, who is in prison is fairly nervous and restless, and in the absence of all these other factors, can you explain to this Court how you came to the conclusion that he was an acute or he was a chronic alcoholic?

A. From his drinking past pattern and his mental changes. 10

Chua J.: And his -- what changes?

A. Mental changes.

Q. Now doctor ---

Chua J.: Just a minute.

D.P.P. : I am sorry, my Lord.

Chua J.: Yes.

Q. Then it is from these two patterns, his drinking pattern and his mental changes, that you came to the conclusion? A. Yes. 20

Chua J.: I take it that his drinking pattern - this drinking pattern is what you ascertained from him, is it?

A. Yes and the mental changes in the form of memory.

Q. And the mental changes?

A. In the form of memory defects.

Q. Test, is it?

A. Memory defect.

Q. I see. 30

Q. So doctor, really this drinking pattern is what the accused told you? A. Yes.

Q. You have no other evidence of his drinking pattern - any evidence apart from what the accused had told you? A. No.

Q. Doctor, finally the mental changes, this is in so far as the chronic alcoholism is concerned, what tests did you conduct to find out the mental changes?

A. The prominent mental changes were seen in his memory.

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Chua J.: Slowly, prominent mental changes---
A. Were seen in his memory deterioration.

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Q. What deterioration?

A. Memory, especially for recent events.

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Q. Yes.

A. His registration as seen with the name and address given to me was very poor. He was unable, he was only able to remember after repeated reminders of the name and address given and his test on the digit span.

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Chua J.: Span?

A. Span - was very bad indeed.

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Q. Was very bad? A. Very bad.

Q. What does this test involved?

A. This test involved asking him just to repeat digits forwards and second test is to repeat the digits backwards.

Q. Yes.

Q. Doctor, we will take the first test - now you said his memory was very bad? A. Yes.

Q. Now doctor, can you tell this Court when did you interview this witness?

A. I interviewed him on the 22nd and 23rd of January.

Chua J.: 22nd and 23rd of January this year - yes.

Q. Now doctor, did you remember what day of the week it was? A. That I can't remember off-hand.

Q. Doctor, in your report at page one you said that the accused had no schooling at all? A. Yes.

Q. So for your purpose, doctor, he is illiterate - he can be considered to be illiterate?

A. He is illiterate.

Q. Now doctor, can you tell this Court what name and address you gave to the accused?

A. I gave him my name.

10

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Chua J.: Your name and address?

A. And the address I gave for simplicity was 613 Orchard Road instead of Supreme House. He was familiar with Orchard Road.

Q. Slowly, the address for simplicity was -----

A. 613 Orchard Road - I just gave him - Dr. Ngui, 613 Orchard Road.

Q. He knows Orchard Road?

A. Yes, he was familiar with Orchard Road.

10

Q. Yes.

A. And I have to repeat. I said once he could not remember. I had to repeat it again and he still could not remember.

Q. Yes.

A. And only after 8 times was he able to register.

20

Q. Doctor - Ngui is your surname? A. Yes.

Q. It is a rather uncommon surname, isn't it, doctor? A. Yes.

Q. And wouldn't this name be even more uncommon to an illiterate Indian who can't speak English, doctor? A. It would be uncommon, yes.

Chua J.: Now can you tell me - you gave him your name Dr. Ngui, 613 Orchard Road?

A. Yes.

Q. How did you write it - you repeat it or you write it?

A. He could not remember.

Q. He could not remember the name and he could not remember the address?

A. He was able to remember Orchard Road.

Q. That is all he could remember?

A. And then after all - Dr. Ngui, he could not remember all this.

Q. No, the first time -----

A. He was able to remember - Dr. Ngui, Orchard Road but wasn't able to remember all three at one time.

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Q. I mean he could say - Dr. Ngui?

A. Yes.

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Q. The first time?

A. Yes and subsequently he could remember Orchard Road, and then he would get the numbers mixed up instead 163 or some other numbers or it makes up 163.

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10

Q. Doctor, do I take it that he could say this collectively, that is, Dr. Ngui, 613 Orchard Road collectively without making any mistake after 8 times? A. Oh, yes, after 8 times.

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Chua J.: Yes.

Q. The first time, doctor, could he remember the words Orchard Road?

A. The first time he could not remember anything and then the second time was able to remember Orchard Road and after that he was able to know progressively, remember a little more of it, until on the final 8th time that he was able to remember all these three items.

20

Q. Doctor, you have just told this Court that you had established that the accused was familiar with Orchard Road?

A. Yes, he was familiar with Orchard Road. After several times I asked him whether he knows Orchard Road or not, he said he knows it.

30

Q. So from this test you came to the conclusion that his recent memory was incomplete?

A. No, after that he would kind of recall this. I have to see whether he can retain it. After remembering it, he must be able to recall.

Chua J.: Doctor, finally you asked him to repeat it correctly?

A. I asked him to remember this and 5 minutes later I would ask you again and try to recall.

40

Chua J.: Did he recall it?

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A. He had great difficulty. He could remember only half, not all three items.

Q. Doctor, would you agree with me that it is easy to transpose figures, in other words to say 613 you can say 631 - I mean that happens to everyone?

A. No, when your memory is good there is no question at all. It depends on the number of digits and especially when you are trying to remember - with a conscious effort to remember.

10

Q. Well doctor, isn't it true that your memory diminishes with age? A. Yes.

Q. And in this case the accused is 54 years old?
A. Yes.

Chua J.: Did you ascertain from him or from his identity card about his age?

A. This was given by him and confirmed by the P.I. notes.

Q. Can we have the date. It is taken from his identity card which is not produced even. What happens to his identity card?

20

D.P.P. : It is with the police, my Lords.

Mr. Yap: My Lord, the age is in the charge, page 63.

Chua J.: Page 63?

Mr. Yap: Yes.

Chua J.: Well that is the age of the deceased - 54.

D.P.P. : The age of the accused is in the charge.

Chua J.: This must have been taken from the identity card?

D.P.P. : Yes.

Q. Doctor, now this question of diminishing memory is a natural process? A. With age, yes.

Q. Or loss of memory increases with age, do you agree or not?

A. Yes, I think I would agree with that, but the point at which the loss begins will vary from person to person.

Q. Yes, exactly. A. On his capacity.

Q. Doctor, is it also true that different persons have got different capacity for memory?

A. Yes.

10 Q. Doctor, this question of losing one's memory with age can just be the sheer process of getting old, in other words your memory can be lost by the sheer process of getting old?

A. Memory deterioration is commonly seen round the age of 70 plus when he is in the process of ageing, due to the normal process of ageing. There are also abnormal processes of ageing such as seen in some cases.

Chua J.: Normal process ---

20 A. There is the normal process of ageing as is seen with senility, usually around 70 and then there is the abnormal process of ageing which could occur at a very much earlier age.

Chua J.: Yes.

Q. Doctor, this abnormal process of ageing, you mean to say it does not occur before 70?

30 A. No, I said it can occur at a very much earlier age.

Q. Very much earlier age? A. Yes.

Q. I am sorry. Now, what are these abnormal --- what is this abnormal process?

A. This would be conditions known as dementias.

Chua J.: Would you spell it?

A. D-E-M-E-N-T-I-A-S (spelt), and the causes in such dementias are many. Amongst the more important group would be the pre-senile dementias.

40 Q. Pre----what?

A. Pre-senile dementias.

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A. That is one group. This dementia is associated with atherosclerosis, that is hardening of the arteries especially of the brain. Such conditions -----

Q. Can you repeat that? A. Atherosclerosis.

Q. Sorry? A. A-T-H-E-R-O-S-C-L-E-R-O-S-I-S (spelt).

Chua J.: Yes.

A. In this case there would be evidence of usually associated by high blood pressure. Then it can be caused by infections of the brain such as syphilis of the brain. These are only a few of the more common conditions causing dementia in middle-aged life. 10

Q. Doctor, what do you consider by middle-aged life?

A. From the fifties onwards.

Q. Middle-aged, fifties?

A. Yes, forties to sixties.

Q. Now, Doctor, I refer you to page 3 of your report under the heading "Accused's account of the offence": Now, Doctor, you examined the accused about 8 months after the incident, isn't it? 20

A. Yes.

Q. That is a fairly long time? A. Yes.

Q. Doctor, in your report you said that the accused was not sure whether it was the 15th of March 1975 or the 25th of May 1975?

Chua J.: No, no, the question is he remembered the date as on 15th March 1975 but he was not sure - the accused remembered the date of the offence as 15th of March? 30

A. Yes, in fact he was convinced it was the 15th of March not that he was not sure. He was convinced.

Chua J.: He gave you, is it, the 15th of March 1975 or ----?

A. Yes, 15th of March 1975, he gave the date.

Chua J.: Yes.

Q. Now, during this period that you interviewed him was 8 months after the incident?

A. January, recently, yes.

Q. Now, do you really expect a man to remember 8 months after the incident exactly on what date he committed the offence?

A. Not really but one must remember that he has been through the P.I. and one would normally try to remember the date of such an incident.

10 Chua J.: But he has gone through the notes of the Preliminary Inquiry? A. Yes.

Q. So he should remember, is it?

A. One would normally try to remember such an important date.

Q. Doctor, even in his state of restlessness and anxiety? A. On that day he was not restless.

Chua J.: Sorry?

A. On the day of the examination he was neither tense nor restless.

20 Chua J.: He was not restless?

A. He was not restless. He was neither tense; he was neither restless nor tense. He was not nervous in that sense but he was depressed, yes.

Q. Quite understandably so? A. Yes, of course.

Q. Doctor, would you seriously expect him to remember even in that depressed stage?

A. He was not severely depressed. He was, as I said, mildly depressed.

30 Chua J.: He was not severely depressed?

A. He was mildly depressed.

Q. Sorry? A. Mildly depressed.

Q. Highly depressed?

D.P.P. : Mildly depressed.

Chua J.: Mildly depressed, sorry.

A. It is only when he recalled the events that he became remorseful but at other times of the interview he was mildly depressed.

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Q. Doctor, won't you agree that when he gave you an account of the offence he would have recalled the offence and would have been remorseful?

Chua J.: Sorry?

D.P.P. : My Lord, the question was when he gave the account of the offence he would have recalled the events leading to this incident and would have been remorseful as he said.

A. Yes. 10

Q. So taking into consideration the fact that he was depressed, mildly depressed and the fact that he was remorseful would you seriously expect him to remember?

A. Well, at the beginning of the interview I asked him to remember what was the date when this happened before I go into the subsequent events. So it is, you know, at the beginning of the interview, I asked him before he really develops into the later phases of his story, giving the account of the offence itself. I was surprised that he gave this date. I really expected that he would try to remember such an important date for the purpose of answering questions, and he tried. 20

Q. Doctor, I do not mean to be disrespectful, correct me if I am wrong. I asked you when did you go to the Hospital, you had to refer to your notes----- A. Oh, when did I?

Q. Yes. A. I said 22nd----- 30

Q. And you have to refer to your dates-----

A. Yes, I had to refer.

Q. On this, and this incident was about two weeks ago, your visit to the Prison----- A. Yes.

Q. You are not depressed, Doctor, at this stage?

A. I have lots of appointments, my Lord, and this is only one of the visits that I made and I make no special effort to remember but in his particular case I think it would be expected that he tried to remember such an important date. 40

Q. Now, Doctor, would you agree with me that the days of the week would be fairly difficult to remember? A. Yes.

Chua J.: Days of the week?

A. Yes, it would be difficult to remember days of the week if it has occurred over a long period of time.

Q. It would be even more difficult if it had occurred about 8 months ago? A. Yes.

Q. Now, would it be even more difficult for an elderly person to remember the days in a Gregorian calendar?

10 A. Well, I am not aware of what calendar he uses.

Q. No, I am asking you a general question, it is really a simple question?

A. I think there is no difficulty, what calendar there should be no difficulty in remember the date.

Q. Day of the week?

A. Day of the week, if you want.

Chua J.: There should be no difficulty in remembering---?

20 D.P.P. : Day of the week.

A. I mean the question was asked, whether "Hari satu, dua, tiga" - this is 1,2,3,4,5, and so forth.

Chua J.: He is asking you when you wrote down here what he said did he use the word "March" - when he said "lima belas" he spoke to you in Malay, is it? A. Yes.

30 Q. And for March he used what?

A. Tiga.

Q. "Lima belas hari bulan tiga" is it?

A. Yes.

Q. Then the year?

A. "Tahun tujuh puluh lima".

Q. Doctor, you spoke to the accused in the Malay language?

A. On the first day I had an interpreter. On the second day -----

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Chua J.: What interpreter is it? Malayalam?
A. Tamil interpreter, my Lord.

Q. Then the second day?
A. I saw him alone.

Q. And you spoke in Malay?
A. I spoke in Malay.

Q. And this interpreter, what language did he
speak? A. In Tamil.

Q. Now, this account of the dates what language
was that spoken? 10

Chua J.: Sorry?

Q. The account as to the date, spoken in Malay?
A. Subsequently the next day I again went over with
him these facts.

Q. In Malay? A. In Malay.

Q. Doctor, do you know whether the accused can
speak good Malay?
A. I would say his Malay is passable. He is able
to answer my questions and I can understand him.

Q. Now, Doctor, we come to this---you say "He woke
up about 10 a.m."? A. Yes. 20

Q. "And went straight to the toddy shop", Doctor,
you have told this Court that this man according
to your observations had a very bad recent
memory - poor recent memory - how can you
explain the fact that he can remember the time
as 10 a.m.?

A. Well, when you interview a patient, although we
record here that he says that he went to the
toddy shop at 10 a.m. it is a series of 30
deductions. What he said actually was "normally
on holidays the toddy shop opens at 10 a.m." and
that is the normal time he wakes up and he goes
straight to the toddy shop. But it is for
convenience sake that it is summarised but at
interviews it takes a certain amount of inquiries
before you come to, you know, something quite
definite.

Chua J.: So is it your evidence that he did
not use the words "10 a.m."? 40

A. About 10 a.m.

Q. No, he-----

A. Yes, he said about 10 a.m. and he qualified it, you know, that usually on off days he wakes up late, just around opening time. The opening time I enquired was around 10 o'clock. So he woke up at about 10 o'clock that day.

Chua J.: Yes.

10 Q. Doctor, you heard the accused giving this evidence this morning? A. Yes, I did.

Q. To me he said quite clearly that----I will read to you "I woke up at 10 a.m. I went to a nearby toddy shop"; he said quite clearly he went at 10 a.m. how is it that a man with a poor memory - poor recent memory - can remember an incident of 8 months ago and give you the exact time?

A. Perhaps he has gone over this several times.

20 Q. And he further told the Court that he had 5 pints of toddy?

A. To me he said 4 to 5 glasses.

Q. Yes, 4 to 5 glasses.

A. So there could be a discrepancy.

Q. Now, Doctor, isn't it strange for a man to remember 8 months after the incident that he had 4 to 5 pints of toddy?

Chua J.: Glasses.

30 Q. Glasses, about 4 to 5 glasses of toddy isn't that strange, Doctor, for a man with a poor memory?

A. In the early phases of memory it is only the more recent things - it is only the more recent things that are forgotten but in remote events they are better remembered, especially when he has been reminded again and again - he has been questioned again and again.

40 Q. Doctor, you have-----

A. As a question of fact whether he actually took 5 glasses or 5 pints I do not think anyone knows.

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Q. Yes. Now, Doctor, you just told this Court that this particular day, that is the 25th of May, 1975, should hold some special significance for this accused - he should remember; now he fails to remember that but remembers that he took 4 to 5 glasses of toddy, I mean how do you reconcile this, something which is so important to him?

Mr. Yap: My Lord, I do not believe that is quite correct because if I am not mistaken I think the doctor did say that he remembers the day as 15th of March in that he is not sure as to what day it was. He precisely remembers; he says the 15th of March, 1975.

10

D.P.P. : Very well, my Lord, I will rephrase the question.

Q. How is it that a man can mistake a particular date in which he committed so serious an offence, like you say of special significance, he forgets about that completely and he remembers an obscure thing, like taking 4 to 5 glasses of toddy?

20

A. Here again the very fact that he says that the incident occurred on the 15th of March, that is - shall I put it - delusion; that is an inaccuracy, it could be a delusion. He really believes that it happened on that day. The fact that he had 5 glasses of toddy may or may not be correct - may or may not be accurate. It may not have been more than 5, it may have been less than 5 but he remembers the day and he believes it. So I do not know how one can draw any inference from this. He just believes.

30

D'Cotta J.: He says 15th of March?

A. Yes.

Q. He is speaking from his memory?

A. Yes.

Q. And he says 4 to 5 glasses a day, it may be his regular break on Sunday to do it. So he speaks from what he does?

40

A. Yes, this, as I said is a regular pattern.

A. I think I did mention later. Yes, this is his standard pattern that on off days he says that he drinks so much and I don't think he can remember specifically whether it was 5 or 6 or 3 on that particular day but I suppose he has to say something and he says it is 5 which may or may not be correct.

Chua J.: Yes.

10 Q. Doctor, you rightly pointed out it could have been his regular habit but Doctor if I told you that on the 25th of May it was Vesak Day and it holds special significance to a Hindu---

Chua J.: Well, he is not a Hindu, he is a Moslem. Is he a Hindu?

Mr. Yap: Mohamad Kunju.

Chua J.: Mohamad is the name.

D.P.P. : The deceased was a Hindu.

Chua J.: I know. The accused is Mohamad-- he is not a Hindu.

20 D.P.P. : Yes, my question, I will rephrase it, my Lord.

Q. Now, Doctor, you said that this Saturday 15th of March was an off day?

A. According to him.

Q. According to him? A. Yes.

Chua J.: 15th of March was an off day, yes.

30 Q. Now, Doctor, what if I told you that the 25th of May was a holiday as well, it was Vesak Day, could it have been possible for the accused to have just forgotten the dates? It is quite normal to forget the dates.

A. Yes, he had forgotten the date.

Q. And that can be quite normal to forget dates?

A. But to be convinced is a different thing.

Q. Of course.

A. It is quite-----but alone by itself I think it would be taken as normal but considering all

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the other factors of his drinking habits then
it becomes-----

Q. Yes, Doctor, I will move on.

Chua J.: We will adjourn now. We will resume
on Monday then.

D.P.P. : Yes.

(Court adjourns at 3.55 p.m., 6.2.76)

(Court resumes at 10.35a.m. on 9.2.76)

PAUL W. NGUI
(CROSS-EXAMINATION BY D.P.P.) (continued)

10

Chua J.: Yes, Mr. Sant Singh?

D.P.P. : May it please you, My Lord, may I
be permitted to continue with
Dr. Paul Ngui.

Q. Dr. Ngui, we left off on Friday afternoon after
you completed the physical effects and I was on
the mental symptoms, which led you to the conclu-
sion that the accused was a chronic alcoholic.
Dr., you have told this Court that the accused
did not suffer from delirium tremens. Did he
suffer from any hallucinations? A. No.

20

Q. That is, alcoholic hallucinations. A. No.

Q. Dr., did he suffer from any epilepsy? A. No.

Q. Dr., did you detect any signs as to whether the
accused was paranoid, was suffering from
paranoic psychosis?

A. There were any signs of paranoic psychosis at
the time of examination.

Q. Were there any symptoms of this disease?
 A. Symptoms there were none.

Q. Were there any social complications?

Chua J.: Sorry.

Q. Were there any social complications as a result of this chronic alcoholism? A. Yes.

Chua J.: Social, what is it?

D.P.P. : Complications, My Lord.

10 A. Over the years he has lost contact with his family.

Chua J.: Lost contact with?

A. With his family in Kerala. He has not sent any money home.

Chua J.: He did not send any money?

A. He did not send any money at all. He earns about \$7.50 a day and he spends about \$5 to \$6 a day on drinks.

Chua J.: On what, drinking?

20 A. On drinks a day, which left him very little for food and for other daily needs.

Q. Dr., the fact that he spends \$5 or \$6 on drinks a day, this is what the accused told you, isn't that so? A. Yes, this is what he told me.

Q. Dr., did you find any other social complications apart from his loss of contact?

A. He has no friends at all except his drinking partner, I would say, that is the deceased.

Q. Any other complications, Dr.? A. None.

30 Q. Dr., you have told this Court on Friday that the accused is an illiterate person? A. Yes.

Q. He therefore could not read letters? A. No.

Q. Dr., you did not find any social complications by way of absenteeism from work?

A. Not in the exact sense of absenteeism, but as said by the employer himself, there were times

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when he got to do a job, I suppose he postponed the operation till a later date.

- Q. Sorry, Dr., I could not hear you.
- A. There is no absenteeism in the real sense because his work could be postponed.
- Q. Dr., what do you mean by his work being postponed?
- A. As the employer wanted to ask him to load a lorry that night.
- Q. Is it on that basis that you have come to the conclusion that you can't say that he did not have any social complication of absenteeism? 10
- A. Yes, he did not have any absenteeism in the real sense. If he is asked to work the next day, or if he is required to work at a particular time, he is able to restrain from drinking.
- Q. But, Dr., perhaps I did not make myself clear. It is not completely that he did not suffer any social complication of absenteeism. You further qualified by referring to the actual day when the employer asked him to work at the evening and he could not work. Is that the basis for your coming to the conclusion that you cannot positively say that there was no absenteeism at all? 20
- A. On the basis of that night, I don't really know whether that was absenteeism. I suppose if you really define it, it is absenteeism because he is required to work that night and he couldn't. I suppose the employer was tolerant of such behaviour.
- Q. Dr., perhaps you realise on that particular evening, it was a holiday? A. Yes. 30
- Q. So it would be quite normal not to work on that day? A. Yes.
- A. Just to put it right, as far as I can obtain from him, he said he did not absent himself from work.
- Chua J.: He did not what?
- A. As far as I enquired from the accused, he did not absent himself from work.
- Q. Dr., would I be not correct to say that the mental symptoms of a person who is an acute chronic alcoholic would be he will be suffering 40

from delirium tremens, hallucinations, epilepsy and paranoic psychosis?

- A. No, I wouldn't say that because the process of alcoholism is a gradual development in stages, the process of alcoholism.

Chua J.: Chronic alcoholism is a gradual process?

- A. Process of alcoholism, not chronic alcoholism. Alcoholism is a gradual process of development in stages taking a period of many years duration, beginning with the period of excessive drinking first, then the second stage of alcoholic addiction and finally the stage of chronic alcoholism. So in the early stages or the first stage of alcoholism, the physical and mental symptoms may not be present in a severe degree. It is only the later stages you may get delirium tremens, paranoic psychosis and the other conditions that the D.P.P. has mentioned just now. If any one of these conditions are seen, then the diagnosis of chronic alcoholism would be more definite.

- Q. Dr., you would agree with me that chronic alcoholism would be regarded as the final stage of excessive drinking? A. Yes.

- Q. Dr., can you please turn to page 396 of Mayer-Gross. That is P57, My Lords.

Chua J.: Page 396?

D.P.P. : 396, My Lord, paragraph f.

A. Mayer-Gross.

Chua J.: Yes, page 396.

A. I'm afraid I don't have that. Oh, yes, that's right.

- Q. Can you look at paragraph f?

A. I have read it the other day.

- Q. On Friday you agreed with me that this was an authority on clinical psychiatry? A. Yes.

- Q. Now, according to Mayer-Gross, paragraph f, these are the symptoms which are manifested in chronic

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alcoholism? A. Yes.

Q. And you are now telling this Court in the early stages of chronic alcoholism, these physical and mental symptoms are not present. Is that true?

A. I didn't say they are not present; they would be less severe. Is that right?

Q. Less what? A. Less severe?

Q. The symptoms would be less severe?

A. The presence of physical and mental complications would be less severe. 10

Q. Dr., it is only a question of severity of these symptoms?

A. Yes, there would be some physical or mental changes.

Q. And in this case you did not find any of these mental symptoms?

A. I did; there were some defects in his memory performance.

Q. Apart from his defects? A. Physically. 20

Q. We are talking about mental symptoms.

A. Apart from what?

Q. Apart from this question of memory, there were no other mental symptoms?

A. Only from the history of amnesia of the past.

Q. This question of history of amnesia of the past was told to you by the accused himself?

A. Yes.

Q. Dr., coming back to your earlier answer, there being the question only of severity of these symptoms, when you used the word severity, you mean it is the degree or the extent of these signs and symptoms. Is that what you mean, Dr.? 30

A. Yes.

Q. All the same, you would find these symptoms in the case of chronic alcoholism?

A. Yes, you would find.

Q. Dr., isn't it strange that you did not find a single of these mental symptoms listed in Mayer-

Gross, that is, delirium tremens, alcoholic hallucinosis, epilepsy, and paranoid psychosis?

A. No, it is not strange.

Q. Dr., these symptoms are listed by a leading authority on clinical psychiatry.

A. Yes, but if you read the passage carefully, the outcome is usually admission to hospital with one of the physical complications or with a psychiatric disorder, such as DT, alcoholic hallucinosis, epilepsy or paranoid psychosis. This is the very late stages of alcoholism, after he has resorted to cheap wines and methylated spirits, after he has reduced tolerance to alcohol. So they go through a stage, until towards the very bad phase, then they develop these possible conditions, not all along at that stage either.

Q. Dr., I think we are quarrelling about the ---

A. What I mean is that, it is not necessary for chronic alcoholism to manifest the final stages.

Q. Dr., I think we are quarrelling about the very thing which Mayer-Gross has pointed out at page 395 under "Varieties of drinking pattern in alcoholism".

Chua J.: Paragraph what is it?

D.P.P. : Just after the heading "Varieties of drinking pattern in alcoholism."

Q. I will read it to you, Dr: "It has been emphasized by a number of authors that a too narrow approach which focuses attention on the compulsive drinker to the exclusion of others who must be considered alcoholics requiring treatment, carries some dangers."

A. I agree with that.

Q. "The concept of alcoholism requires to be defined in broader terms."

A. Very true. Very true, My Lord. Therefore one must not be rigid in stepping into chronic alcoholism, but there are stages in the development.

Q. Dr., these stages are discussed in paragraphs A, B, C, D and E.

A. They are not stages in that sense, My Lord;

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they are just drinking patterns. They are not stages of alcoholism.

Q. These patterns are styles of drinking, aren't they? A. Yes, that's right, just that.

Q. And if you look at paragraph F in particular, Dr., the first line, "Chronic alcoholism may be regarded as the final stage in which excessive drinkers manifesting different drinking patterns and underlying pathologies converge."

A. Yes, that's right. 10

Q. Dr., unless my understanding of this sentence is wrong, when Mayer-Gross talks about chronic alcoholism, it is the final stages of these different patterns which result in excessive drinking that leads to chronic alcoholism?

A. Yes, no quarrel about that.

Chua J.: Will lead him to the final stage?

Q. Is that so?

A. All these drinking patterns if continued in excess can lead to chronic alcoholism. 20

Q. Dr., the next sentence reads: "The chronic alcoholic manifests certain consistent physical and psychological changes." A. Yes.

Q. Dr., in this case, the only psychological change you found is a loss of memory, isn't that so?

A. Following that, you can see: "He suffers from continual nausea which leads to under-nutrition.."

Chua J.: The psychological changes you found were, what? Loss of memory?

A. Loss of memory. The line following that is important, My Lord. That is what is most common in chronic alcoholism - presence of physical complications such as poly-neuritis and cirrhosis of the liver, which is damage to the liver. 30

Q. We will come to the physical changes by and by, Dr. From this basis that he had loss of memory, you came to the conclusion, and of course what the accused told you, you came to the conclusion he was a chronic alcoholic?

A. Yes, I have put him, classified him under the chronic alcoholic type. This is a matter of opinion, My Lord. 40

Q. Dr., you formed this opinion from the single psychological change? Forget about the physical symptoms for the time being. As far as the mental or psychological symptoms are concerned, you formed this opinion from the single sign of loss of memory?

A. As I said, the other symptoms from the history are all supportive symptoms. One doesn't make a diagnosis just based on one symptom, I think that would be wrong.

Q. Doctor, my question is this: from the single sign, as far as the psychological changes that caused that chronic alcoholism, from the single sign of loss of memory you came to the conclusion?

A. Together with other-----

Q. Yes, we know about that, but as far as the psychological changes that occurred it is only this single sign, by this single sign, that you came to this conclusion? A. Yes.

Q. And insofar as physical effects, you only found these fine tremors? A. Yes.

D.P.P. : My Lords, since I will be referring constantly to this chapter in Mayer-Gross - I have only given your Lordships pages 395 and 396 - I propose to give your Lordships the whole chapter.

Chua J.: Pages what is it?

D.P.P. : It begins with page 388, my Lords, up to page-----

Chua J.: Whole chapter of---- what chapter is it?

D.P.P. : Chapter 7.

Chua J.: The whole of Chapter 7 of Mayer-Gross. Yes.

D.P.P. : Yes, my Lords.

Chua J.: I mean the marking can remain the same.

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D.P.P. : Yes, my Lords.

Chua J.: Can we have it?

Q. Doctor, have you got page 39 with you?

D.P.P. : My Lords, have you got the complete chapter?

Chua J.: Yes, I know, I am just trying to----

D.P.P. : P.88--- My Lords, it is not the complete chapter, it is until page 405.

Chua J.: I see, up to page 405, still P.57. 10

D.P.P. : Yes, my Lords.

Q. Doctor, can you read this last paragraph right until page 392?----- I am sorry, can you turn to page 391, the last paragraph, "The reduction of efficiency-----", right until page 392?

A. "The reduction of efficiency was established in famous experiments by Kraepelin and his pupils as early as 1892; subsequent investigators have repeated these experiments and have carried out others, with identical results. Alcohol in moderate amounts reduces motor control. Co-ordination of movements of eyes and fingers, marksmanship in shooting, accuracy in type-setting, typewriting, speaking, etc., are interfered with and the movements are slowed and made more random. The increase of the random element in movement gives an illusion of increased speed and efficiency, not borne out by the results obtained. A similar impairment has been demonstrated in mental operations involving intelligence, memory, attention and judgement. Work in recent years has conclusively demonstrated that there is no threshold below which alcohol is without effect on skill and co-ordination, which are lessened even by small quantities." 20 30

Q. Doctor, you can stop there. Doctor, would you agree with this paragraph? A. Yes.

Q. Now, in particular at page 392, and I quote:-

"A similar impairment has been demonstrated in mental operations involving intelligence, 40

memory, attention and judgement. Work in recent years has conclusively demonstrated that there is no threshold below which alcohol is without effect on skill and co-ordination, which are lessened even by small quantities."

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A. Yes.

Q. So, Doctor, memory can be affected even by small quantities of alcohol? A. I agree, Yes.

10 Q. Doctor, can you turn to page 7 of your report: you said there was "a mild degree of impairment of his memory function"? A. Yes.

Q. So, Doctor, basing on this statement which I just read, it is possible, isn't it, for a person to have a mild memory impairment as a result of taking small quantities of alcohol?

A. Yes, he wasn't taking alcohol at the time.

Q. Do you know, Doctor----- How do you know, Doctor, he was (not) taking?

20 A. He was in prison and I don't think he could have obtained alcohol. My Lord, may I explain that these are tests, you know, on the immediate effects of alcohol and the effects as present are on the finer movements and co-ordination of movements of the eyes and fingers - finer movements, "marksmanship in shooting, accuracy in typesetting, typewriting, speaking---"

Q. Doctor----

A. -----and these are finer effects of alcohol after taking them.

30 Chua J.: Your point is that when you questioned him, when you found him---

A. He wasn't taking alcohol at the time.

Q. "Mild impairment": he was not, he has not taken any alcohol because he was in prison? A. No, No.

Q. That is your point.

40 Q. My question, Doctor, is, he could have lost his memory on that particular day, there could have been mild impairment of his memory on the 25th of May if he had taken small quantities of alcohol? A. At that time?

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Q. Yes. A. Yes, Yes.

Q. Doctor, with this mild impairment of his memory he would not be able to remember all the details as to what happened on the 25th? We are not talking about the effects in prison - as to what happened on the 25th.

A. I think, amnesia for the events is not mild, you know.

Q. No, my question is a general question, Doctor.

A. Yes, I would say his impairment of memory for the events of the 25th was severe - it is not mild. 10

Q. Doctor, if you say now that his memory impairment is severe, then isn't that a contradiction of your opinion at page 3?

Chua J.: Look, I think what the learned Counsel is saying is, you agree on the 25th of May there could be a mild degree of impairment of his memory after taking a small quantity of alcohol. 20

A. There could be, Yes.

Q. So on the 25th there is a mild----

A. No, No, far from--- I said, there could be.

Q. Alright, we assume that there was an impairment, mild impairment---

A. Yes, on the 25th I would say it's severe.

Q. Yes, but the point is he says, a mild impairment on the 25th. Then when you interviewed him he could not remember what he was doing? 30

A. Yes.

Q. If he can't remember what took place on the 25th, if he can't remember---

A. There are two things, my Lord, about his memory; his present memory for recent events, like what he did yesterday or whether he could remember names and addresses, the impairment is mild at this time when I examined him. But on the day in question because he had almost 40

complete amnesia, I would say his memory is severely impaired at that time. So there are two situations. I am not saying his impairment of memory is very bad, but for that particular night, Yes, it was very bad.

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- 10 Q. I see what you mean now. So, Doctor, you are
telling the Court now that his memory for that
particular day, that is the 21th(sic) of May, 1975,
when you interviewed him was severely impaired?
A. Yes, correct. May I add further?

Chua J.: Yes.

- 20 A. (ctd.) That his present memory, like the
duration, is due to excessive drinking over a
period of years, chronic alcoholism, but for
that particular night his memory deficiency
which was severe was more due to the acute
alcoholism and not related actually to the
chronic alcoholism.

- Q. Doctor, you used the word 'acute intoxication'?
A. Yes, I did.

- Q. Would you clarify 'acute intoxication'?
A. Well, if in terms of blood alcohol concentra-
tion, anything above 200 milligrams per cent.

Chua J.: In terms of blood----?

A. ----alcohol concentration.

Q. Anything above 200, is it?

A. ----200.

30 Q. That is acute intoxication?

A. Yes.

D.P.P. : My Lords, I would not want to
cross-examine Dr. Ngui on this as
yet so as not to confuse on the
issues. I am still on the
memory bit.

- 40 Q. Now, Doctor, we forget about this acute
intoxication for the time being. Now on the
question of memory, you said severely (impaired).
Now, Doctor, if you look at your report, the
Accused's account, on page 3; now I don't like

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to go through line by line, but from his report to you the Accused told you that he got up at 4.00 p.m.? A. Yes.

Chua J.: Where is that?

A. Oh, Yes! 4.00 p.m. in the evening.

D.P.P. : Page 3.

Q. He could remember the time. Now he got up at 4.00 p.m. - he slept through until -----

Chua J.: Where Mr. Sant Singh?

D.P.P. : Page 3, last paragraph. 10

Chua J.: 4.00 p.m. on the 25th of May---

D.P.P. : -----'75, my Lords.

Q. He told you this? A. Yes, about 4.00 p.m.

Q. And he also told you that he had one suku bottle of 'Boon Qui Loo'? A. Yes, he did.

Q. And one large bottle of beer? A. Yes.

Q. And that he had some food on the way home?
A. Yes--- Not on the way home - had food at a stall.

Q. Doctor, turn to page 4 of your report, please look at the first line:- 20

"Following this they proceeded to buy some food and on the way home they picked up two suku bottles of 'Boon Qui Loo' and two large bottles of beer."

A. Yes.

Q. Doctor, this to my mind seems to be a very detailed account of what he did on the 25th of May, 1975?

A. Yes, it was, fairly detailed. 30

Q. And how you can say there was a severe impairment of his memory-----?

Chua J.: Well, Mr. Sant Singh, he hadn't had

his drink yet, he hadn't finished his suku bottles or two large bottles. I suppose the deceased had one and he had one and he had one large bottle of beer. He had already consumed one suku bottle.

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10 D.P.P. : According to this report, the Accused would have consumed one large bottle and one-quarter bottle of 'Boon Qui Loo', that is about half.

Chua J.: That's right, Yes. So he had consumed one suku bottle and one large bottle of beer.

Witness: Yes.

Q. And, Doctor, you have followed the trial?

A. Yes - that wouldn't affect his memory for that period after the first suku.

20 Chua J.: Before they went back? That would not affect his memory?

A. No---- To a certain extent, Yes, but he wouldn't be so bad that he couldn't remember what has happened.

Q. Doctor, you have followed this trial, you would be aware, I suppose, that there was one full bottle recovered from the scene of the crime?

A. Yes.

Chua J.: One full bottle of 'Boon Qui Loo'?

D.P.P. : -----'Boon Qui Loo'.

30 Q. So it would appear, Doctor, that the Acused took less liquor after coming back?

A. Well, I wouldn't know, my Lord, whether he took the whole bottle, or the deceased could have taken half for his share.

Q. Doctor, when did the Accused suddenly develop this impairment of his memory, at what point of time?

A. I think after the punching he couldn't remember what happened subsequent to the punch.

40 Chua J.: After he had received the punch on the eye?

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A. Yes, and then he couldn't remember what happened after that.

- Q. At page 5 of your report, last paragraph, Doctor, page 5, last paragraph, "you are of the opinion that this blow or punch caused this minor concussion."? A. Yes.
- Q. And this minor concussion affected his memory?
A. This minor concussion together with his intoxication combined could have caused this either fear or rage reaction, and the acute excitement, during this rage or fear reaction, many people who go through this will have amnesia. 10
- Q. Doctor, you examined this patient eight months after the incident? A. Yes.
- Q. So how can you say, how can you positively say, that he had minor concussion?
A. Well, he says he had received a blow on the head, there is a bruise on his eye, examined by the doctor; so on the basis of that I thought that this was a fact, probably correct. 20
- Q. Doctor, you did not carry out any clinical examination to establish a concussion?
A. No one could at that time.
- Chua J.: That's eight months.
- Q. So you cannot positively say that there was concussion? A. I can only infer.
- Chua J.: Yes, he can only infer.
- Q. Yes, you can only infer. A. From the -----
- Q. So it would be correct to say that this is only an inference? 30
- Chua J.: Yes, that is what he said.
- A. Yes.
- Q. And, Doctor, you have also said----
- D.P.P. : I am sorry, my Lords, I am going back to page 4.
- Q. (ctd.) ----- "that the events of the evening" -

second paragraph, last sentence of second paragraph, "the events of the evening was a complete blur to him after the punch." Doctor, you used the word 'complete blue'? (sic). A. Yes.

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Q. When you used the word 'complete blur' you mean he cannot remember anything, 'complete'?

A. Yes--- I don't really mean that - he did remember some. Perhaps the word 'complete' is not correct. He did remember some.

10 Chua J.: He can remember something, Yes.
A. Yes.

Q. Doctor, I refer you to page 64, the preliminary inquiry notes-----

Chua J.: How do you refer to it? It is not evidence in this Court?

D.P.P. : My Lords, I am only referring to the cautioned statement, but I might as well use the cautioned statement.

Chua J.: Yes, page 64, is it?

D.P.P. : Yes, page 64.

20 Can you please give the Doctor P.40,
the cautioned statement is P.40.

Q. Doctor, I will read the cautioned statement to you:-

"The fight started because I told Arumugam not to drink when he drove lorries. He got angry and punched me on the eye. He also used a wood to hit me on my left hand. I got angry and hit him back."

30 Now, Doctor, from this statement it appears that after the Accused was punched on the eye he still remembers he used a wood to hit him on the left hand----- "I got angry and hit him back"?

Mr. Yap: My Lords, I think this is a matter of interpretation, whether or not the blow with the wood was before or after the punch on the eye. It is not clearly established in a

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statement like this. For my learned friend to put it that way is merely one way of interpreting, my Lords.

Witness: No, I didn't enquire of him, my Lords, about this cautioned statement.

Chua J.: Yes?

A. About whether Accused has hit him on the hand with the wood - he couldn't remember that.

Q. So you asked him what, that the deceased-----? 10

A. ---did hit him with the wood, with the wood, and he said he couldn't remember that.

Q. Couldn't remember what?

A. That the deceased had hit him with the wood. There are quite a number of discrepancies in his memory, in his statement.

Chua J.: But that was when you asked him, he couldn't remember; but in his statement he said Yes? 20

A. Yes, in his statement he said that.

Q. That the deceased hit him on the left hand with the wood.

A. But he couldn't even remember having said it in the cautioned statement or having remembered the event itself. He only said, what he could remember was that he had some pain in his left hand and he found that there was blood - that was when he was wandering. 30

Q. Doctor, of course you are aware that this statement was recorded on the 26th of May, 1975?

A. Yes.

Q. And the events of the night before was still fresh in his mind? A. Would be fresh.

Q. And that his memory would be cloudy eight months (after) when you interviewed him by the sheer passage of time? A. It could be. 40

Q. Doctor, from your previous answer, this mild degree of impairment of his memory - in your opinion at page 3 - also with the passage of time could be----

A. No, it is of more recent events, of what happened yesterday, rather than what happened eight months ago. It is altogether different.

Q. I am sorry, I confused the issues. A. Yes.

10 Q. Now, couldn't this memory of his when you interviewed----- You said he had a bad memory for the events on the 25th of May, 1975, could it not have been caused by the passage of time, in this case eight months?

A. His memory of events that night?

Q. Yes. A. Yes, I think it can cause.

Q. While still on this question of memory, doctor, you said that you conducted a digital span test on the accused? A. Yes.

Q. You found to be 4 digits forwards? A. Yes.

20 Chua J.: Found to be what?

D.P.P. : 4 digits forwards, my Lord.

Chua J.: Yes.

Q. In the case of a normal man, this digit span when you count forward isn't it 6 to 7?

A. Yes.

Chua J.: This digit backwards and forward altogether is 7 - 8 according to the report. According to the report he was able to repeat 4 digits forward (normal 7 - 8)?

30 A. 7 - 8.

Q. Page 3?

A. Yes, 7 - 8.

Q. Doctor, can it be from 6 to 7?

A. I think backwards should be less, my Lord.

Chua J.: Sorry?

A. Backwards would be less, 6 - 7.

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Q. Doctor, sorry, I couldn't follow you?
A. It is about that.

Chua J.: Now what did you say? According to
your report normal is 7 - 8?

A. Yes, backwards is 6 - 7.

Q. And he said, could it be 6 - 7?

A. Probably it could be less - less
than 5 - 6, probably.

D.P.P. : My Lord, I think you are confusing
the witness. Dr. Ngui, you say 5-6
for the backwards? 10

A. Yes, actually backwards is relative.

Chua J.: No, let us clarify the report - your
report said forward (normal 7 - 8),
is that correct or not?

A. Yes, that is correct.

Q. Could it be 6 - 7 forwards?

A. Yes, it could be 6 - 7.

Q. Forwards, so this is not really a very bad case
of memory failure? A. No, not bad. 20

Q. Doctor, for this digital span test that you
conduct, it requires a certain amount of con-
centration? A. Yes.

Q. And doctor, on Friday under cross-examination
you told this Court that the accused had a
history of insomnia and restlessness during a
period in prison? A. Yes.

Q. Now doctor, restlessness is a sign distinct from
symptom, isn't it?

A. Yes, it could be both. He could complain of
restlessness - actually both. 30

Q. Did the accused tell you how long he was
suffering from insomnia whilst he was in prison?

A. He said about two or three weeks.

Q. So he had not been sleeping well for two or three
weeks before your examination?

A. No, two or three weeks after the arrest.

Q. And restlessness?

A. Yes, for that period.

Q. The same, now doctor, coming to your opinion on page 3 again, this time about chronic alcoholism- the only physical symptom you find, doctor, was that he had these hand tremors? A. Yes.

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Q. And the mental symptom was a loss of memory?
A. Yes, not really loss of memory, impairment of memory on recent events, that is more correct.

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Chua J.: Impairment of memory on recent events? A. Yes.

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10 Q. Doctor, leaving aside what the accused told you, these were the only two symptoms so to speak that you found to come to the conclusion that the accused was a chronic alcoholic?

A. Leaving aside other factors, leaving aside other supporting history.

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Q. And the other factors would be what the accused told you? Yes.

Q. Doctor, I will be moving into a new area, that is, your finding at page 6 of the report - the first paragraph?

(continued)

20 Chua J.: Page 6, yes?

D.P.P. : Page 6, my Lord, I will take the second paragraph first.

Chua J.: Second paragraph, yes.

Q. I will read that, "Furthermore, I am of the opinion that the abnormal fear or rage reaction would have severely impaired his responsibility for his actions." A. Yes.

30 Q. What do you mean by this, especially the part - "impaired his responsibility for his actions"?

A. I think what I try is to assess his mental state at the time of the offence.

Chua J.: Yes.

A. From all accounts of the eye-witnesses he was drunk.

Q. He was ----

A. Drunk, so drunk as to totter about unsteadily. The blood alcoholic concentration at the time of the

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offence was estimated to be between
188 mg. per cent to 210 mg. per
cent.

Q. Between 188 ----

A. 188 mg. per cent and 210 mg. per cent.

Chua J.: And 210 mg. per cent.

A. Yes, this is the only available guide.
We do not really know what exactly
the blood level was at the time, but
these two guides or facts would
confirm that he was in a drunken
state. 10

Q. Slowly, these two facts would
confirm ----

A. That he was in a drunken state. We
have also evidence to show that they
were playfully grappling and wrestling
with each other. Earlier on we also
have evidence that they were drinking
together and that there was no sign of
animosity towards each other. From
here it would be reasonable to assume
that the accused had no intention to
harm the deceased. It was only after
they started an argument when he
received a punch in the eye,
following which ----- 20

Q. Slowly.

A. When he received a punch in the eye,
following which he had amnesia for
events following. Now, the two eye-
witnesses have given a different
account of what happened, one says
that he ran to the store, the other
says that he staggered to the store
returning with the weapon or pipe
and hitting the deceased. Now I as
an expert witness, I have tried to
ascertain what caused that change
from the playful hilarity just a few
minutes before to a complete
transformation. 40

Chua J.: To ----

A. To a complete transformation to an
aggressive action and it is difficult
to explain it if you assume that he

was in a normal state of mind at the time.

Q. Difficult to assume it?

A. If we assume that he was in a normal state of mind and the only likely explanation would be that the blow had caused -----

Q. That the blow -----

10 A. A blow on the head had caused a transient action which because of the intoxicated state precipitated either a fear reaction or a rage reaction which are primitive instincts, instincts for survival. So whether it was running away in fear or running away to fetch a weapon to protect himself, I wouldn't be able to say, but I think this is the most likely explanation for this transformation from a gentle to such an aggressive action.

20

Chua J.: Yes.

Q. Doctor, my question was, what do you mean by "his responsibility for his actions", not how you came to the conclusion? Now what I mean by my question was - did the accused understand the nature of his act or know what he was doing was contrary to law?

A. I say -----

30 Q. In other words, was he innocent at the point of time?

A. Well, I have questioned him, he has not been able to remember and I think it will be difficult to say exactly his mental state of mind was.

Chua J.: What, he could not remember-----

A. Did not remember hitting him with what.

Q. With what? A. With what.

40 Q. Yes, you say it is difficult to say about -----

A. Whether he was doing what was right or wrong.

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Chua J.: Yes.

A. But because of his memory loss, I would say that this was more due to improper registration of events at the time, and I would say his judgment would have been affected and in that sense impaired his responsibility for the act.

Q. Yes - can you say the last sentence again? 10

A. It would have affected his mental responsibility for his action. There was this improper registration of events which affected his judgment and his judgment had been affected and therefore it impaired his responsibility.

Q. Yes.

Q. Doctor, I notice in your explanation or answer to my question you used the collective term, you used the words "was not fully aware" - I stand corrected, my Lord. 20

A. Yes, was not fully aware.

Q. And his judgment would be affected - when you used the words "fully aware", do you mean to tell this Court that he was aware of what was happening but not to a complete extent?

A. When I say he was not fully aware, I would say in medical term - there was this clouding of his consciousness. 30

Chua J.: There was what?

A. Clouding of his consciousness which is ---

Q. What?

A. Clouding of consciousness.

Q. Yes.

A. It is a state of reduced wakefulness.

Q. Reduced wakefulness?

A. He is not completely awake and the various stages leading to a mild clouding and not clouding and eventually to unconsciousness. 40

Q. Doctor, when you say eventually to unconsciousness you mean to eventually loss of association with the world, from reality?

A. By unconsciousness means dead to the world, coma - unconscious.

Q. You mean physically unconscious?

A. Yes, physically unconscious, that is a very severe state.

Q. Of insanity?

10 A. No, of disturbance - mild clouding and not clouding to clouding of the mind.

Q. Now you are associating this with clouding of the mind or clouding of consciousness?

A. Clouding of consciousness.

Q. What about his mind?

A. It affects the mind of course. It affects his interpretation of events. As I said just now, the registration of events.

Q. Doctor, isn't this clouding of the mind is associated very closely with clouding of the consciousness - closely associated with clouding of the mind, isn't it the same thing?

20

A. Yes, not really. Consciousness is different from the mind. The mind is ----

Q. Yes, doctor?

A. Mind is a term for how the brain works and I agree that the term mind is synonymous with the character of a person, personality and all that, but consciousness just means a state of wakefulness - half awake when he is conscious.

30

Q. Doctor, I think I put it to you bluntly, are you aware of Section 84 of the Penal Code?

A. In Singapore?

Q. In Singapore? A. Yes.

Chua J.: Section 84 of the Penal Code?

D.P.P. : Yes.

Chua J.: Give a copy to the doctor?

Q. Now doctor, in your opinion -----

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Chua J.: It is not put forward by the defence,
isn't it?

Mr. Yap: The defence is not on insanity, my
Lord, section 84.

D.P.P. : My Lord, I put it to the doctor -
he said it was a clouding of the
mind.

Chua J.: Yes, that is a different thing from
unsoundness of the mind.

D.P.P. : So I will put to the doctor, my Lord, 10
whether section 84 -----

Mr. Yap: My Lord, section 84 is a legal inter-
pretation for the judges to decide.

Chua J.: In any case you are not relying on it.

Mr. Yap: No.

D.P.P. : In any case ----

Chua J.: Yes.

Q. Doctor, would it be true to say your second para-
graph is an extension of the first paragraph in
page 6 of your report? 20

A. The second paragraph?

Q. You have got your report - page 6?

A. I think the two go closely together.

Q. Doctor, you said in your evidence-in-chief that
the blood content of the accused projected
backwards to the point of time of the incident
would be about 188 mg? A. Yes.

Chua J.: 188 mg. is it to ---

A. To 210 mg.

Q. Doctor, 188 mg. would be the average rate of
intoxication? A. What is that? 30

Q. 188 mg. B.A.C. would be when you calculated
the average rate of intoxication?

A. Yes, that is right.

Q. And this other figure that you have, 210?

A. 210.

Q. As an inference on your part?

A. I calculated it at a higher rate.

Q. At a higher rate? A. The rate.

Q. At the higher rate you mean the maximum rate?

A. Of 20 milligrammes.

Q. That is the maximum rate?

A. I would say that is not the maximum rate. It is only a range and it could be faster than that.

10 Q. Isn't this rate at the other end of the scale, Doctor? A. Yes.

Q. Can you say positively, Doctor, in this case, the case of the accused it was actually 20 milligrammes per hour?

A. No, of course not.

Q. Doctor, isn't it true that tolerance for alcohol varies in different persons?

A. Yes, it is true.

20 Q. Doctor, isn't it also true that some persons have a higher tolerance for alcohol?

A. Yes.

Q. Doctor, isn't it also true that regular intake of alcohol will increase the tolerance level?

A. Yes.

Chua J.: Regular intake?

D.P.P. : Intake, my Lord.

Q. Doctor, you have formed an opinion that the accused is a habitual drinker, Doctor.

A. Yes.

30 Q. that is at page 2, in paragraph 2 of your report, isn't it? A. Yes.

Q. Doctor, isn't it true that if you take the alcohol on an empty stomach so to speak, the effect will be more severe than when you have it with food? A. Yes.

Q. Doctor, you also said that the accused was in your opinion at an acute level of intoxication?

A. Yes.

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Chua J.: Acute level of -----

D.P.P. : Intoxication on the 25th of May.

Chua J.: Pardon?

D.P.P. : On the 25th of May.

Q. Now, Doctor, it would appear from your report at page 6, the first paragraph---- A. Yes.

Q. That the accused was intoxicated to the extent that he was incapable of forming the necessary intent to commit this murder? A. Yes.

Chua J.: Yes.

10

Q. Doctor, can you please turn to page 392 of Mayer-Gross?

Chua J.: Page?

D.P.P. : 392.

Q. In particular, Doctor, the third paragraph.

Chua J.: Can you read that?

D.P.P. : I will read the third paragraph, my Lord.

Q. (Reads) "In the normal subject slight signs of intoxication appear when the concentration of alcohol in the blood reaches 0.2 per cent. by volume. Between 0.2 and 0.5 per cent. there are increasing degrees of intoxication, and above the higher figure there is danger of death." Now, Doctor, would you agree with those two sentences that I have read?

20

A. Yes.

Q. Now, Doctor, can you explain to this Court what is meant by 2 per cent?

A. 200 milligrammes---

30

Q. By volume?

A. Per 100 millilitres of alcohol.

Chua J.: Means what?

D.P.P. : 200 milligrammes.

Chua J.: 200 milligrammes?

A. 200 milligrammes per 100 millilitres of blood.

Q. And Doctor, the first sentence reads: "In the normal subject slight signs of intoxication appear-----" A. Yes.

Q. Now, how do you reconcile the statement with the first paragraph?

10 A. Well, there are other authorities who differ, as quoted in my----but the point is this, my Lord, I mean the BAC concentration here that we have arrived at is only a guide. We do not really know exactly what it is at the time of the offence. Now we know for a fact that even by that calculation it is a big range of errors and this is in Gradwohl, it is stated so. But if you find, I mean the statement here is when it reaches 200, beyond 200 milligrammes per cent. it would be, I suppose, the deceased here - slight signs of intoxication appear - when the concentration of alcohol in the blood reaches .2 per cent. Now, beyond that what happens - between .2 and .5; there are increasing degrees of intoxication, that is the thing - more relevant if it is above. Now, I have arrived at this not just because of the blood level, my Lord; it is in its critical stage as observed by the eye-witnesses. He was found staggering, tottering about which means that the centres of his brain are affected. The medulla which controls the gait is severely affected. Now, in the early stages of intoxication it is only the primary centres - the higher centres of the brain affected. So from what I have described, clinically it has reached the stage of alcoholic intoxication where the vessels or lower centres are affected. And I think the blood concentration I can only say that he has taken alcohol to a certain extent. It could have been well be more than 200 milligrammes per cent. and I would expect it to be more considering that the lower centres have been affected.

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Q. Sorry, I did not hear the last part?

A. I would have expected that his blood alcohol concentration would have been much more than 200 milligrammes. You see, consider the deceased also, his blood level was 400

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milligrammes, remember, at the time, and if they had been drinking together I would have expected the accused would have much higher blood concentration at 200 milligrammes per cent.

Q. Doctor, this last statement made by you that you would have expected the accused to have a higher percentage of BAC, isn't that an inference?

A. Inference from his---

Q. Inference from what?

A. From the level of intoxication as witnessed by the eye-witnesses. 10

Q. Come, come, Doctor. Doctor, none of the witnesses here have told this Court that they saw the accused and the deceased drinking, none of them-----

Mr. Yap: My Lord, I think they were not able to say they were drinking, not that they did not see them drinking.

D.P.P. : They were unable to say because of the drunkness, my Lord, and here we have this witness who says----- 20

Chua J.: Well, in that evidence there is one bottle and the other----

D.P.P. : Yes, my Lord, my question is this is an inference on his part.

Chua J.: But he says there is no empty bottle of beer found.

Q. Now, Doctor, isn't this an inference of your part?

Chua J.: Of course, it is an inference from the evidence he has heard through eye-witnesses. 30

D.P.P. : Now, my Lords, my purpose of asking this witness is none of the witnesses have said that they were able to see both of them drinking.

Q. But they were-----

Q. Doctor, how did you come to this conclusion?

A. I think one of the eye-witnesses said that they were staggering about; they smelt of alcohol and what other inference can you get? What can you draw from them? They were staggering, they smelt of alcohol.

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Q. Surely, Doctor, when 2 persons drink one can drink more than the other?

A. Oh, yes, I cannot deny that.

Chua J.: Yes.

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10 Q. Now, Doctor, you have also told this Court that you have expected the BAC of the deceased to be higher --- I am sorry the accused to be higher, am I right? A. Yes, that's right.

Q. Now, Doctor, you have just told the Court earlier that taking at the maximum rate, that is, 20 milligrammes per hour it would be about 210? A. 210, yes.

20 Mr. Yap: My Lords, I would like at this stage to clarify the 5½-hour lapse. My Lord, if I would refer to the evidence of Dr. Gandhimuthu I believe Mr. Ngui estimated the time at-----

Chua J.: No, no, all Mr. Sant Singh is going to clarify is that when this Doctor now says he expects the accused to have a higher BAC than 200 that means 210, higher than 200.

A. Yes.

30 Q. That is the highest, Doctor, 210?

A. Could be higher than that.

Q. How could it be higher than that when you have calculated this figure of 210 by assuming the maximum rate of detoxification?

A. I think there are----when you take the blood the detoxification does not take place at a constant rate. So there are peaks in the blood concentration. So if you take it at the peak-- say, 5½ hours later, assuming it was 100 milligrammes per cent, then you calculate it backwards 5½ hours earlier it would be 210, calculating at a higher rate. Now, supposing at that time you were taking the blood it was taken at the lower

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level, you know, there is blood concentration, it does not remain constant; it is taken and it is actually the lower peak, that means the 100 is the lower level actually, and as just stated it varies from time to time. So it could be 100 or it could be 120 actually if taken at the right peak at the same time or about the same time. So in which case you could make at least another 20 milligrammes per cent. difference and this is, I think the reference is in Gradwohl, the blood alcohol taken and by that calculation it is not really a very true estimate and it has been shown also in his experiments that most of them when calculated backwards show a lower level - the actual state of blood concentration. So it could be more; as I say it could be more or it could be less. But if you want to correlate the two, this clinical state at the time of the blood level, if he says, if the blood level is said to be at 150 milligrammes of 100 ml. detoxification then the blood level at 5½ hours will be 10.55. In other words, his blood level would be as low as 155. But considering his clinical state at that time I doubt it was at 155. You must try to correlate the two together. So I would expect considering everything it should be at least above 200 milligrammes rather than below. This is how I arrived at this.

10

20

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Q. So these calculations at very average figures they can cut both ways?

A. Yes, that's right.

Q. Doctor, isn't it true that this blood alcohol content is completely independent, I mean, in other words, the blood alcohol content of a person may be 200 and he may be clinically quite sober and in another case a BAC level of 100, if this chap has not taken any drinks in his life before clinically he will be quite drunk?

40

A. I think there is a limit to this. For instance, in the lower level, yes, at a 100 milligrammes per cent. some will be quite drunk, others will be very sober. But at 200 milligrammes per cent. if you look up Taylor's you will see that almost all will be considered as drunk. So it is above 150 milligrammes per cent. you find more and more proportions of people who will be diagnosed

as drunk. But above 200 milligrammes per cent. almost all - almost all will be considered as drunk irrespective of whether they are teetollers or alcoholics.

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10 Q. Doctor, so you will agree with me that this blood alcohol content is independent of the clinical examination?

A. At lower levels, yes - below 150 milligrammes or below 100 milligrammes.

Chua J.: Below 150, is it?

A. Yes, below 150. The higher you go, I mean at 300 milligrammes per cent. you cannot say it is independent at all.

Q. Doctor, you would therefore disagree with the opinion expressed in Mayer Gross at page 392, third paragraph, which was read "In a normal subject-----" you disagree with this view?

20 A. No, I do not disagree with it. I have already said so.

Q. Doctor, do I take it that you agree with this view? A. Oh, yes.

Q. Now, Doctor, if I were to read to you the second sentence in this third paragraph "Between 0.2 and 0.5 per cent. there are increasing degrees of intoxication, and above the higher figure there is danger of death"--

A. Yes, yes.

30 Q. So do you agree with this statement, the second sentence? So, Doctor, there is an increasing tendency when you pass the level of 200 milligrammes?

A. Yes, increasing drunkenness.

Q. Increase of intoxication?

A. Yes, increase of intoxication.

40 Q. Doctor, taking into consideration the first sentence in the third paragraph that there is only a slight sign of intoxication appearing between the level of zero and 200 milligrammes, so there will be an increasing tendency from this slight level of intoxication - would that be true, Doctor, when you read these two sentences collectively?

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A. Oh, yes, as the blood level reaches .2 per cent. it becomes slight intoxication.

Q. And you agree with me that this increase varies from person to person? A. Yes.

Q. Doctor, referring to the authority that you cited to the Court at page 383 of Taylor's Principles and Practice of Medical Jurisprudence--

Chua J.: Page what is it?

D.P.P. : Page 383, it has been tendered in by the defence. 10

Chua J.: It is exhibit P.56, yes. What are you referring to?

D.P.P. : It is a defence exhibit.

Chua J.: Page 383?

D.P.P. : Page 383.

Chua J.: Yes.

Q. Now, Doctor, if you read the sentence which commences from page 382 to 383 ---- A. Yes.

Q. The last sentence at page 382: "With increasing concentrations the symptoms become more pronounced and at concentrations beyond 200 milligrammes per cent up to 500 milligrammes per cent there is likely to be marked inco-ordination, coma and a danger of death". Isn't this exactly what is stated in the third paragraph of page 392 of Mayer-Gross? 20

A. Yes, that's right. May I draw your Lordships' attention to just a few sentences before this one, beginning of the paragraph.

Chua J.: At page 382? 30

A. 382.

A. (reads): "It is generally agreed that with concentrations in the blood below 50 mg. per cent a number will show mild symptoms and a few show decided symptoms. Between this level and 200 mg. per cent the number showing decided symptoms of intoxication increases and at the latter figure it is to be expected that practically all will be diagnosed clinically as being under the influence of alcohol." 40

So 200 milligrammes per cent is more or less a person regardless of what he is, whether he is a teetotaler or alcoholic - all of them will be diagnosed as under the influence of alcohol.

Chua J.: Mr. Sant Singh, we will adjourn now.

D.P.P. : Yes, my Lord.

Chua J.: We will resume at half past two.

(Court adjourns at 12.55 p.m., 9.2.76.)

(Court resumes at 2.32 p.m. on 9.2.76)

10 Chua J.: Yes, Mr. Sant Singh?

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(CROSS-EXAMINATION BY D.P.P.) (continued)

D.P.P. : My Lords, may I be permitted to continue the cross-examination.

Q. Dr Ngui, before the lunch break, you told the Court that you projected the BAC of the accused to something like 188 to 210 mg at the point or moment of the incident. A. Yes.

20 Q. Dr., correct me if I am wrong. You arrived at this figure by making a simple arithmetical calculation of 15---- A. 16.

Q. Milligrammes. A. And 20.

Q. Dr., in arriving at this figure, you did not take into consideration the time the accused first started consuming alcohol on that particular day?

A. I don't think that is of relevance.

30 Q. Please answer the question, Dr. Did you or did you not take into account when the accused had his first drink in coming to this figure?

A. I don't think it is really necessary to take that into account.

Q. So I take it that you did not take it into account? A. No.

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Q. Similarly, you did not take into account when the accused had his last drink?
A. No one knows when exactly he had his last drink. I did not take that into account.

Q. And similarly, you did not take into account the fact that the accused had dinner or any food that night? A. He had his meal.

Q. You did not take into account this factor when you came to the conclusion that his BAC was 188 to 210? 10

A. No, I did not take into account, but I don't think it is relevant.

Q. Dr., are you aware that alcohol with a higher percentage proof is more difficult to absorb than alcohol between 10 to 30 proof?

A. The rate of absorption is slower with high concentrations of alcohol. The peak is between 10 to 20%.

Chua J.: The rate of absorption?

D.P.P. : Is slower with? 20

Chua J.: With what?

A. Is slower with higher concentrations above 20%.

Chua J.: It is 20% proof?

A. 20%, not proof. 20, proof is different.

Chua J.: This is his question, I think.

A. Did you say proof?

Q. It says percent.

A. Percent but not proof. Proof is a different calculation. 30

Q. Perhaps you would care to explain what you mean by proof?

A. Proof alcohol 40% to 100%---

Chua J.: What I don't understand is the rate of absorption is slower with higher concentrations above 20%. 20% what?

A. 20% volume of alcoholic dilution.

Q. Dr., are you aware of the fact that absorption is usually completed within the next hour of taking a drink?

A. Yes, usually completed within one hour.

Q. And that larger doses of alcohol are lost faster?

A. Lost?

Q. Yes.

A. Could you qualify that - absorbed, lost or eliminated?

10 Q. Or absorbed? A. From where?

Q. Lost faster. If you consume a large amount of liquor, it is lost faster than if you drink half a pint over a period of 3 hours, over 3 hours you take half a pint.

A. Are you meaning the rate of elimination within the body?

Q. Yes.

Chua J.: I see you are reading from an extract. Why not put in the extract?

20 D.P.P. : I will just read to the doctor. May I refer Your Lordship to page 383 of Taylor's Principles and Practice of Medical Jurisprudence.

Q. Dr., can you look at figure 42 at page 383?

A. Yes.

Q. Now, can you explain to the Court the 2 graphs appearing on this figure, that is, the graph indicated as A and the graph indicated as B.

A. Yes.

30 Q. Slowly.

A. This shows that if he takes a certain amount of alcohol in one single dose, you would get a rapid rise of blood alcohol concentration.

Chua J.: In one single dose?

A. In one single dose.

Chua J.: You will take what?

A. You will get a rapid rise of blood alcohol concentration within the hour, but if you take the same

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amount and divide it into three doses over a period of time, then the blood alcohol will not rise as quickly as if the alcohol was taken in one single dose.

Q. Dr., if I can interrupt you---

Chua J.: As quickly as?

A. In one single dose. The time interval is significant. If it is a period of 3 hours interval, then the rise will be much less, but if it is taken over a period of 10, 15 minutes interval, the difference would probably be--- 10

Chua J.: The doctor is going a bit fast for me. If it is a time interval?

A. 3 hours, then the rise would be very, very much less, as seen in this graph. But if taken at intervals of 10 minutes, 15 minutes, the rise would be probably closer to that of a single dose. 20

Q. Now, Dr., look at this Graph A. Can you explain to the Court the amount of alcohol taken to get 200 mg in one dose?

A. That is the effect as shown here, 100 ml.

Chua J.: That is the effect of?

A. Of this graph here. It is shown -
As Effect of 100 ml alcohol.

Q. So, Dr., 100 ml of alcohol, how many bottles of beer would that be, small bottles? If you look at page 382, first paragraph, last 2 sentences: "This is the equivalent of about 15 mg per cent from the blood per hour, say the equivalent of half a pint of ordinary beer or one tot of spirits." A. Yes. 30

Q. 100 mg would be equivalent to 7 small bottles, would I be correct?

A. I am not so sure, it says 100 ml of alcohol, it is not 100 mg of alcohol. From the graph here, it says 100 mg of alcohol and the question is this is alcohol in the form of spirits or absolute alcohol. I would think it is probably spirits, which means 40%. 40

Q. Now, the principle involved here is that if you drink over a long period of time, your blood alcohol would not go up as high if you take a large dose at one go.

A. Oh yes, that is accepted.

Q. So Dr., don't you think it is important when calculating backwards to take into consideration the period of time that a person has been drinking, the first drink and the last drink?

10 A. I think it is probably not relevant at all because if the rate of intoxication is 16 mg per hour, then 5½ hours earlier, you calculate, then that would be the amount estimated. The only difference is that if he had been taking say, a large dose of alcohol within the half hour before that period, then perhaps that 20 180 mg calculated could be wrong in the sense that subsequent, I mean, the blood alcohol would probably be on the increase rather than going down.

Q. Now, Dr., I asked you a very general question. Now, on the basis that if a person takes a large dose of alcohol in a very short space of time, in the sense he takes 200 ml in one hour, the alcohol content of his blood shows up to 200 mg. Now, if he takes the same amount of alcohol over a period of 9 hours, then his alcohol content will never go up to 200, isn't that right? A. Oh yes, I will agree with that.

30 Q. If this is what you have agreed to, Dr., surely it is important to know the time span during which a man has been drinking.

A. We know for a fact, we know from 2 a.m.

Q. Sorry, Dr., we can't hear you.

A. We know from the time he left the scene of the crime, he did not take any alcohol.

Q. Dr., I did not ask you a specific question. I asked you a general question. If I take 100 ml----

40 A. I think I have considered that.

Q. You have considered?

A. Oh yes, if you take a single dose, it would be higher.

Q. Say, a man takes the same amount of alcohol one

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hour before the time when you project, calculate backwards, of course his BAC would be higher, would you not agree? A. Yes, after one hour.

- Q. If he has been drinking for six hours, before the time when you want to project his BAC, what would be his blood alcohol content? 10
- A. Subsequently $5\frac{1}{2}$ hours later, it will be much lower. You follow? Because the rate of intoxication carries on regardless. It will still be very much lower in this case. $5\frac{1}{2}$ hours later, it will probably be zero. So if his blood concentration at the time of offence was 100, by the time $5\frac{1}{2}$ hours later, it will practically be zero. It will be zero if you calculate it.
- Q. Now, Dr., if you are given a situation, and a man has taken 100 ml of alcohol and you are not in a position to say when he took this alcohol, you are just given 2 rough periods, you follow me so far? Would you be able to say projecting backwards what his BAC would be? 20
- A. Provided we know the blood alcohol concentration at a particular time. We know that $5\frac{1}{2}$ hours after, he has a blood alcohol concentration of 100, and that is a fact.

D'Cotta J.: And he had no alcohol within that time?

- A. And he had no alcohol in between to give him that figure of 100 mg per ml in the blood. So assuming that a rate of detoxification takes place within $5\frac{1}{2}$ hours, he must have at least 180 to 200. That is all I've got to say, and I think it is irrelevant whether it is taken 1 hour or 2 hours. The fact is that the blood alcohol concentration must be there at the time, 180 to 200. 30

- Q. This is the estimation or basis on which you have calculated. I am speaking of specifics, 188 to 200. You have not taken into consideration the fact that the accused could have taken alcohol between 9 p.m. until he was arrested. 40
- A. Yes, I think if he had taken alcohol, but he had not.

Q. That is on the basis that he has not taken any alcohol in between? A. That's right.

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Q. Dr., again on specifics. Taking this particular case, say the accused had taken alcohol at about 8.30 p.m. that night, 8.30 p.m. he had drunk 2 or 3 glasses, the alcohol would not be absorbed into his body until 9.30. Would you agree?

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10 A. No, alcohol is immediately absorbed, it is easily absorbed, but the rate of absorption progresses and reaches its peak in one hour.

Q. It is completely absorbed in one hour?

A. Yes.

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Q. You would not be able to say at what rate it had been absorbed? A. No.

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20 Q. Dr., in view of the fact that it is not possible for you to say at what rate alcohol is absorbed into the blood, and the fact that the process takes one hour, it will not be possible for you to say with accuracy that he must have had 188 mg at least of alcohol in his blood.

A. I never said this was an absolute figure, My Lord.

Q. So Dr., on this basis that he could have taken, the accused could have taken alcohol at 8.30 p.m.?

A. Yes, he could have taken at 8.30.

Q. And the fact that this is absorbed completely at 9.30 that particular night, it is very important to know when he had his last drink.

30 A. I think here again, there is evidence----

Q. Forget about the evidence.

A. He has been drinking almost throughout the day, not necessarily at 8.30. From 7 p.m. onwards he has been drinking, so with each drink from 7 to 8.30 it would increase the blood level of alcohol each time.

Q. Dr., even to arrive, not accurately at any average figures, is it not important to know when a person had his last drink? A. Yes.

40 Q. Now, if it is important to know when he had his last drink, similarly it is important to know when he had his first drink? A. Yes.

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Q. In this case, Dr., they have been drinking for a long period of time from 4 p.m. on that particular evening. A. Yes.

Chua J.: 4.30?

D.P.P. : 4 p.m.

Q. Dr., if you agree with me that it is important to know when a person had his first drink and when a person had his last drink, why is it you have told the Court or projected your figures back without taking these two factors into consideration? 10

D'Cotta J.: 2.30, he had 100 milligrams and the evidence was that he was drinking from 7 in the evening; you were working back and you say 5½ hours earlier he should have 188?

A. Yes, that's right.

Q. That 188 milligrammes could have been due to one single dose and on the basis that he did not have another dose from half-past 8 to half-past 2? 20

A. Yes - that 188 milligrammes is excessive blood level if he had not taken any alcohol after 7.00 p.m., that's all. Whether that 188 milligrammes was due to one single dose of alcohol or several doses of alcohol from 4.00 p.m., we don't know and I don't think anyone can arrive at. 30

Q. So now, Doctor, you are unable to tell whether this 188 milligrammes could have been caused by one single dose?

A. From all the evidence we have got, I think it is over a period of drinking from 4.00 p.m. Whether the last dose was the bigger one or not no one will be able to say.

Q. But how do you know what he has been drinking? You are unable to say, Doctor, really you are unable to say? 40

A. We have not got the bottles, we have the evidence given by the employer.

Q. No, my question is -----

A. With the smell of liquor, I mean it's difficult to draw any other conclusion and the very fact he has 100 milligrammes of alcohol in his blood. I mean, if he has not been drinking how could he have 100 milligrammes of alcohol in his blood at 2.30 a.m.

Q. Perhaps I have not been understood. What I mean is, you are unable to say this 188 milligrammes have been caused by one single dose?

Chua J.: No, he---

D.P.P. : I am basing my next question, my Lord.

Q. Following that: you were not there when he was drinking, so you would not know at what pace he was drinking? A. No.

Q. Yes, that's all. Doctor, if you are unable to tell what pace they were drinking, similarly you would be unable to tell at what time this liquor was taken.

Mr. Yap: My Lords, the doctor never said what time this liquor was taken.

D'Cotta J.: He can only go by the evidence.

D.P.P. : My Lord, the doctor is basing his evidence on the basis that the liquor was taken between 4.00 p.m. and the time of death.

Mr. Yap: That was the evidence before us, my Lords.

D.P.P. : My question to the doctor is, he would be unable to say at which time the liquor was taken between this 4 to 7, this period of 4 to 9.00 p.m.

Mr. Yap: My Lords, the doctor has not ventured into that area at all.

Chua J.: He only says the drinking took place between a certain period, that's all.

D.P.P. : My Lords, my purpose in questioning this doctor at this stage is that

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he is not in a position to say
whether it was taken in one dose or
not.

Chua J.: He agrees with you, many times he
said that.

Witness: I have conceded that many times.

Q. Doctor, if you have conceded that you didn't
know the time during which this dose was taken,
it could well have been taken at 8.30?

A. It could have, Yes. 10

Chua J.: The last drink?

D.P.P. : The last drink----

Q. ---- or the last two or three drinks, at 8.30?

A. Yes.

Q. So if the last drink could have been taken, the
last few drinks, could have been taken at 8.30
p.m. on that particular evening, would not your
projection that the BAC was 188 at 9.00 p.m. be
wrong, if the last two or three drinks were
taken at about 8.30 p.m.? 20

A. I have never said that these figures were
absolute. I mean these are only guide-lines.
Now if he had taken at 8.30, for instance,
then perhaps the peak of the alcoholic
concentration would be probably about 9.30.

Chua J.: 9.30?

A. So if the peak is at 9.30, then basing
-- that is 9.30, and if at 2.30 a.m.
the blood alcohol concentration was
100 milligrammes, that goes how many 30
hours ----- 9.30-----

D'Cotta J.: Five hours.

A. Five hours---- 5 hours at 20 would
be 100, say----

Q. 200.

A. At the time 9.30, the blood concen-
tration would be at around---

Q. 200.

A. In other words, this is on the, at
9 o'clock it would probably be 180 40
and it is on the rising level.

Q. So, Doctor, now that we have come to this stage, where if you had taken two or three drinks the blood content would be about 200 at 9.30 p.m.; now doesn't this make it obvious that it is not only important but very important that you establish when the last drink was taken?

A. Well, it doesn't alter the fact that it would be 188 around 9 o'clock, let's say 20.

10 Q. So, Doctor, finally you agree that those projections that you have given in this Court backwards were not made or were made without taking a very important factor into consideration, that is the time when the last drink was taken?

Mr. Yap: I must object to this because the doctor has already repeatedly stated that the evidence which was given was that the Accused started drinking from 4 o'clock onwards.

20 Chua J.: No, No, but the doctor has agreed that it is an important factor to be taken, when the person had his last drink.

Mr. Yap: Yes, my Lord, if you were to take the last drink in one big gulp then--

Chua J.: These are only general questions. We have to go on the evidence and we have no evidence when he had his last drink.

30 Mr. Yap: There was no mention.

Chua J.: Yes.

Q. Yes, what is the answer to that?

A. What is the last question?

Q. Doctor, when a person staggers - I will be moving into a completely new field - when a person staggers there could be many reasons for it? A. Yes.

Q. Staggering could be caused say by tiredness, when a person is tired?

40 A. Must be very, very tired, almost to the point of exhaustion if he is to stagger.

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Q. And, doctor, your co-ordination also would also be decreased if you had taken alcohol?

A. Co-ordination would be?

Q. Decreased. A. Increased?

Q. Decreased. A. Decreased, Yes.

Q. And you would not have a proper balance as well? Doctor, when you say that your co-ordination is decreased, can you explain to this Court what are the physical symptoms of this decrease in co-ordination?

A. Yes, inco-ordination would be manifested actually in motor movements----- 10

Chua J. Especially in----?

A. ----- in motor movements.

A. (ctd.) The initial stages would involve, skilled movements would be affected first, like touching your finger and your nose, these are the finer movements that would be affected first. Those are milder degrees of co-ordination, as he says typesetting, typewriting co-ordination, these are the ones that would be affected initially. Then as the intoxication progresses, not only fine skills but walking skills are affected, they may not be able to walk or they may be able to walk steadily but if given a straight line they may not be able to walk along that path. And as the intoxication progresses further where the cerebellum, which is a part of the brain which controls co-ordination, they become grossly ataxic, they cannot even stand steadily and they would seem to appear to, you know, sway and roll from side to side. These are the grosser effects as seen in severe drunkenness, and they would fall down, they tend to fall down easily. 20

Q. These would be reached about what milligram b.a.c.? A. These? 30

Q. Yes.

A. Well, it is difficult to say, I don't think I know what state----- but it would be around the third stage of intoxication. 40

Q. And that is roughly?

A. Over 200 milligrams.

Q. Over 200?---- And at this stage a person would not be able to do anything with any accuracy?

A. It depends---- Over what, over 200 milligrams?

Q. Yes. A. Yes.

Q. And you said he will be falling down?

A. That would probably be at a more severe stage of intoxication, probably more than 250 or so, 300. This is, you know----

D'Cotta J.: To the extreme stage?

A. Yes, it would be more the extreme stage.

10

Q. So at about 200 milligrams b.a.c. he would be staggering?

A. At 200 milligrams percent a person could be staggering. This will depend on the tolerance.

Chua J.: Tolerance? A. Yes.

A. (ctd.) But more likely in persons who are habituated I would expect the blood alcohol level to be much higher than that.

20

Q. So, Doctor, if a chap has a high tolerance, at 200 milligrams b.a.c. he would not be staggering?

A. He would be less likely, I would say.

Chua J.: What, at 200?

D.P.P. : Yes.

Q. Doctor, you said that, your opinion is that on the 25th of May, 1975, at about 9.00 p.m. the Accused was severely intoxicated?

A. Yes.

D'Cotta J.: The Accused was----?

A. ---severely intoxicated.

30

Q. Now, Doctor, you have also told this Court that if a person has got 200 milligrams b.a.c. he would not be staggering? A. Yes.

Q. Doctor, you have also told this Court that a person who is a habitual drinker, his tolerance for alcohol would be increased? A. Yes.

Q. Doctor, you have also told this Court that if

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he has taken food the chances of his being
intoxicated would be less than if he had
taken alcohol with no food at all?

A. That would depend on the amount of alcohol
he has taken.

D'Cotta J.: And the amount of food?

A. Yes, and the amount of food.

Q. I will rephrase that, Doctor. If a person
had taken alcohol without food he would get
more easily intoxicated than a person who
has taken food? A. Yes. 10

Q. Now, Doctor, I can't understand how you came to
this conclusion or opinion that the Accused was
severely intoxicated? You have told this Court
that he has a blood alcohol content of 188 to 210,
he is a habitual drinker, he has food on that
day, and yet you are of the opinion that he was
severely intoxicated? A. Yes.

D'Cotta J.: On the evidence?

A. Yes, on the evidence that he was
staggering about at that time. 20

Q. Yes, we will come to the evidence now. Can you
look at P.40, Doctor, this is the cautioned
statement. Doctor, I will read the first
sentence of the cautioned statement: "The
fight started because I told Arumugam not to
drink when he drove lorries." Speaking
generally about this statement, first, Doctor--

Chua J.: What is the question, what did you
ask the Doctor? 30

D.P.P. : I said speaking generally - I read
out the first sentence and I said
speaking generally about a statement
like this. Now I am going to ask a
question.

Q. Now, Doctor, speaking generally, would not this
statement imply that the Accused could think
clearly at that point of time? Speaking
generally that is, without taking into consider-
ation, without the other evidence, just this
evidence alone. A. Yes. 40

Q. And just by this sentence alone, Doctor, would
you not agree with me that his sense of

reasoning was not affected as yet? A. Yes.

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Q. Doctor, taking into consideration that this statement was made on a holiday and the following day was a working day, does it not imply that he remembered at this point of time making the statement that he had to work the next day?

A. Yes, probably was just reminded of that by the employer.

10

D'Cotta J.: The employer said both of them were not to work at night if they had been drinking: you can carry out the work tomorrow.

Q. Doctor, would this not imply then that when the Accused made this statement he had his orientation, that is there was work and he could reason, drinking excessively one should not drive lorries? You agree?

A. Yes, at the material time, Yes.

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Q. Secondly, Doctor, you have heard the evidence of P.W.13, Phasaram Misah? A. Yes.

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Q. Doctor, you have heard him tell this Court that the Accused ran a distance of 50 feet, about 50 feet? A. Yes, we know that.

Q. And you also heard him tell this Court that the Accused came back with an iron pipe of 4 feet 10 inches long? A. Yes.

30

Q. Now basing on that evidence, Doctor, a man running 50 feet, coming back with a long object of 4 feet 10 inches, just on that alone, would you say that he was not or that he did not know what he was doing?

Mr. Yap: My Lords, I think it is an extremely unfair question to ask on that particular thing without considering all the factors.

Chua J.: I can't understand? He is being asked on these facts alone.

Mr. Yap: No, my Lord----

Chua J.: It is for the doctor to answer.

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Mr. Yap: That may be so but I understood the question to be taking the other factors not into question.

Chua J.: No, no, he is being asked to give his opinion.

- Q. On that evidence, a man running 50 feet, carrying a object of 4 feet 10 inches, running back, striking somebody, would you say that the man was severely intoxicated, just on that evidence? 10
- A. Just on that evidence, by itself alone one would not be able to say whether that man is intoxicated or not.
- Q. Doctor, do you mean to tell the Court that if you are given this fact and the situation, you will be unable to tell this Court whether the man would be severely intoxicated?
- A. Not on that alone, not an isolated fact that a man running to the store and hitting a person. I mean one cannot draw any conclusion because of that fact and nothing else. 20
- Q. Isn't it one of the tests to determine whether a man who has a 200 mg. B.A.C. is to make him walk a straight line?

Chua J.: That does not follow that he won't walk straight?

D.P.P. : Yes, my next question follows, isn't that so, doctor?

A. It depends on how he ran.

- Q. No, doctor, my question is a general question - the answer is very simple? 30
- A. Given that fact I won't be able to say anything at all about his state, whether he is intoxicated or not just that bare facts, you know.

D'Cotta J.: The most important thing is taking all the circumstances into consideration - you took into consideration he left the spot and according to the evidence ran and picked up that object. He must have known that object all this time. He did not have to look for it, he went and picked it up - he must have known it, he could remember it? 40

D.P.P. : I am coming to that. Now, doctor, you said just now a man with 200 B.A.C. or more would be staggering, yes? A. Could be.

Q. And if he is staggering, do you think he is in a position to run 50 feet?

Mr. Yap: My Lord, there is conflict of evidence here. We have P.W.14 saying ---

Chua J.: I know, but he is talking about the evidence of Misa.

A. The only explanation here is that there occurred, even he was drunk at that time and the evidence he was unsteady, that blow on the head which could have caused a fear reaction and in times of emotional excitement and stress, the secretion of adrenalin and this probably account for the fact that he was able to run, he has fear for his life. If because of the intoxication he had misinterpreted that blow as something so threatening to his life, this could have started off that chain reaction of fear and could have mobilised his resources to the extent that he was able to run. That is a possible explanation - I am not saying that that is the explanation. I know that a person in severe intoxication could drive his way home and on arrival at home would just collapse outside the door and sleep there until the next morning and when he wakes up the next morning, he does not know what happened, how he arrives there - so this is a same similar situation.

Q. Now doctor, I am not disputing that, I am not asking for explanation. Doctor, I am just asking you a simple question with a simple fact at issue, that is, a man running 50 feet, picking up an object and running back - now can you call this man a severely intoxicated man running for 45 seconds?

A. No, I don't think you can call him intoxicated just on the facts.

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- Q. Yes, that is all. Doctor, you have told this Court that the accused received a blow on his right eye and this you said caused a minor concussion. It must have been a very hard blow to have caused a minor concussion?
- A. Not necessarily a hard blow. A hard blow would cause concussion, but some minor blows can cause concussion. The fact that he had a bruise in the eye would indicate that the person had a severe blow to have caused the bruising or the laceration.
- Q. Doctor, you are in agreement that it was a severe blow in all probability?

10

Mr. Yap: My Lord, may I show the doctor the extent of the damage to the eye?

Chua J.: That is in the report.

Mr. Yap: Yes, that is in the report given by the doctor.

- A. The sub-conjunctival haemorrhage of the right eye - it would be quite severe.

20

Chua J.: Yes.

- Q. Doctor, you have told us that it is your considered opinion that the accused was severely intoxicated?

Chua J.: What comment he made about it?

- A. That could be due to a severe blow.

Q. Yes.

- Q. Now doctor, a person who is severely intoxicated on receiving a severe blow, from a severe blow, would most probably fall down? A. Yes.

30

Chua J.: Would most probably fall down?

D.P.P. : Would probably fall down.

- Q. Doctor, you said that the accused was severely intoxicated. In this case he received a very severe blow and yet he did not fall down?
- A. Yes.

Mr. Yap: Doctor, -----

Chua J.: Mr. Peter Yap, you have a chance to re-examine, otherwise we cannot get on if you keep on interrupting?

Mr. Yap: Yes.

A. I think from the evidence of the witnesses, they were falling and getting up again three or four times, that is as far as I can gather from the evidence, so they fell together and got up several times.

10

Chua J.: Yes.

D.P.P. : My Lord, may I have a moment to go through the notes?

Chua J.: About what? Misa's evidence, is it?

D.P.P. : That is right. My Lord, I won't pursue the point.

Chua J.: Yes.

20

Q. Now doctor, you have heard in evidence that the place where the offence took place is a fairly dark place, in fact one of the witnesses P.W.13 Misa could not see clearly. Now doctor, you are aware that the accused had three fractures on him?

Chua J.: The accused?

D.P.P. : I am sorry, the deceased.

Chua J.: Yes.

30

Q. And there were comminuted fractures at the petrous temporal bones. You also heard Dr. Seah say that these blows were violently inflicted. Doctor, do you agree with me that the head is a very small region of the body? Now doctor, taking into consideration the fact that this place was fairly dark and the blows were very severe on a small part of the body, it would be fairly difficult for a man who is severely intoxicated to direct these blows, violent blows, on such a small part of the anatomy?

A. Yes, I think it will be difficult.

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Q. Doctor, if a man were to be severely intoxicated and tottering, my Lord, would he be able to swing an object like P42, this exhaust pipe, with any degree of deliberate and accurate force?

A. He would have great difficulty.

Chua J.: Exhibit - what is that?

D.P.P. : P42.

Q. Can you please show it to the doctor. Doctor, the exhibit, the exhaust pipe, the diameter of this exhaust pipe is more than 1", do you agree? A. Yes.

10

Q. And it is of cylindrical shape, wouldn't it be more difficult with a cylindrical object, which is very narrow and long, to hit a person on the head with an object like this in the dark even if you are not drunk?

A. No, I disagree. I think if you are not drunk, it is a very useful weapon and can be very accurate, if one is not drunk, with a hit on the head.

20

Q. Doctor, if the head is lying in a place which is not lit, fairly dark, you cannot see the direction of the head, in which direction the head is facing, do you mean that when you cannot see the head clearly, it is possible to hit three or four blows on the head?

Chua J.: I cannot understand your question, Mr. Singh. One moment you are suggesting these blows were deliberate and the next moment you said because of the darkness you cannot aim at the head, that is not deliberate. I cannot understand your line of questioning.

30

D.P.P. : My question is difficult.

Chua J.: We have agreed that it is difficult. The fact that he does not agree is that even a person is not drunk, can deliver the blows - he does not agree.

D.P.P. : Yes, I won't pursue the point.

Q. Now doctor, I am going to ask you a very long question - taking into account the statement of the accused to the deceased -----

Chua J.: Statement of the -----

D.P.P. : Accused to the deceased about not drinking.

D'Cotta J: About not drinking?

D.P.P. : About not drinking and driving lorry at the same time, that is the first part; secondly, taking into consideration the fact that -----

Chua J.: Secondly -----

D.P.P. : Secondly, that the accused ran a distance of about 50 feet, picked up an object 4 ft. 10" long, came running back and thirdly, using this object and striking 3 or 4 blows on a small part of the anatomy, that is, the head, with severe and deliberate blows, now taking these would you consider that the man severely intoxicated would be capable of performing all those three acts which I have just listed out?

Chua J.: Capable of performing, is it?

D.P.P. : Performing.

Chua J.: Yes, did you get the question?

A. Yes, a person in an intoxicated state can give brotherly advice.

Q. A person can -----

A. Can give sort of brotherly advice to a person.

Q. Yes.

A. Then the sudden change from giving brotherly advice to aggression. The sudden change is difficult to explain.

Chua J.: Yes.

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A. If he had been severely intoxicated, then the only possible explanation would be that at that particular moment of time there was a change in his biochemical constitution.

Q. Biochemical ----

A. Biochemical constitution that could have pulled him out of the intoxication state.

Q. Pulled him ----

A. Out of his intoxicated state and may make him able to run from one place to another, well from the place to the store and back again armed with this pipe - that more or less could possibly be due to the acute fear or rage.

10

Q. Due to -----

A. Acute fear or rage.

Q. Now doctor, I am not asking you to give an explanation why the accused committed this. My question is, given a fair situation where a man makes a statement, runs ----

20

Chua J.: No, that is not fair to the doctor because you said taking into account the statement of the accused to the deceased. You are taking a specific case.

D.P.P. : Yes, my Lord, I am sorry.

Q. Doctor, I will approach this differently. Now you have told this Court that the statement of the accused shows that he had a sense of reasoning? A. Yes.

30

Q. You also told this Court that if showed that he had some orientation as to the point of time? A. Yes.

Q. In other words, this indicates a presence of mind doctor? A. Yes.

Q. He knew what he was doing? A. Yes.

40

Q. Now going from there, a person knowing what is happening, he has his presence of mind, has some orientation, he runs this 50 feet, picks up P42, comes back, strikes 3 blows on the head of the person in the dark, would you still say that he is severely intoxicated on these facts - the statement of the accused, the distance ran and the striking of the blows in the dark?

Mr. Yap: My Lord, may I interrupt?

10

Chua J.: Mr. Yap, I already told you that you can re-examine the doctor.

Mr. Yap: I just thought of clarifying a point.

Q. Would you still say so?

A. There is difficulty to reconcile his mood, as I say, giving brotherly advice and then suddenly attacking the person. This is very difficult to reconcile.

Q. We will come to that, doctor.

20

A. But not taking this into consideration, just on your statement alone I think it will be difficult to say that he was severely intoxicated.

Chua J.: Pardon?

A. Just taking his statement, the prosecution statement, it will be difficult to say that he was severely intoxicated.

Q. Statement to the deceased, you say it is difficult or not possible?

30

A. Just the statement that the person ran from A to B and coming back.

Q. I thought just taking the accused's statement?

A. That is taking into consideration, it is very difficult to reconcile the two, one moment giving brotherly advice and the next moment attacking him. It will be very difficult to reconcile without the added, you know, factor.

40

Chua J.: THAT he was hit in the eye?

A. The change, yes possibly the hitting him in the eye and without

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taking into consideration his
intoxication.

Q. No, it is difficult to reconcile his
mood, giving brotherly advice and ---
A. Change in the moods, yes.

Q. Without taking into consideration his
hitting the eye, it is difficult to
reconcile his change - without taking
into consideration that he was hit
in the eye? 10

A. Yes, and the alcoholic intoxication.

Q. And the ----

A. Alcoholic intoxication.

Q. Doctor, if we leave aside the statement of the
accused, you will agree with me that it is diffi-
cult for you to say that the accused was severely
intoxicated because he had run this distance and
came back and hit the deceased - do you
understand the question?

A. If you are to say to me that here a person is 20
able to run from A to B and back again I would
say, in that manner I mean straight, I would say
it is difficult for me to say whether he is
intoxicated or not----

Chua J.: I think he said that.

D.P.P. : And striking the blows, I am putting
the two of them together; running a
distance of 50 ft and coming back
with an iron pipe and hitting 3 to
4 blows on the head. 30

Q. Would you consider that man to be severely
intoxicated?

A. ----- without the additional factors.

Q. Now, Doctor, isn't it true that a man who is
intoxicated, a man who has taken a certain amount
of liquor, he is more easily excitable?

A. Yes.

Q. Doctor, isn't it also true that a man who has
taken a certain amount of liquor would be more
easily made angry? A. Yes. 40

D'Cotta J.: More easily?

D.P.P. : Made angry, my Lord.

Q. Doctor, taking the case of a normal man who has not taken any alcohol, a blow on the eye would make him quite angry? A. Yes.

Q. More so, Doctor, when you are struck in the eyes whilst you are - using your own words - giving brotherly advice; now, that is the case of a normal man? A. Yes.

10 Q. Now, in the case of a man who has taken alcohol, if he is struck a blow anywhere on his body - if he is struck - won't that make him angry? A. Yes, it will.

Q. And this would be manifested even more to a greater extent? A. It will be exaggerated.

Chua J.: Exaggerated in what case?

D.P.P. : In the case of a man who has taken alcohol.

20 Q. Now, Doctor, taking the statement again, P.40 isn't it possible for the accused to have got quite angry if he was punched in the right eye by the deceased?

Chua J.: Say that again?

D.P.P. : Sorry, my Lord.

Q. Isn't it possible for the accused in this case to have got quite angry in being struck in the right eye by the deceased? A. Yes.

30 Q. Now, Doctor, taking into account the advice that he had offered the deceased and in return being give a blow on the right eye, would that have aggravated his anger? A. Yes.

Q. Doctor, I cannot quite understand your observations and that you can't explain why there was this sudden change in the attitude of the accused? A. No, I said ----

Chua J.: He can explain, it is difficult for him to explain if he does not take into consideration -----

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A. You see, it is a combination of both; the punch in the eye and the degree of intoxication. A person in a milder degree of intoxication will probably hit back at him or at the most to take hold of something nearby and retaliate. But for a person to run from one place going into that direction and coming back again, I mean this is a very exaggerated reaction, and because of that I must take into consideration his level of intoxication, to what effect if it has to impair his judgment.

10

Q. Doctor, you said that the reaction of the accused was exaggerated?

A. Oh, yes, very abnormal - abnormally exaggerated.

Chua J.: Yes.

Q. Now, Doctor, you just agreed with me earlier on that it is normal for a person who is intoxicated, who has taken liquor upon being hit his anger would be normally exaggerated?

A. Yes.

20

Q. And you had also agreed with me that in this case he was hit after giving some brotherly advice. Now, under these circumstances why would you consider the anger to be abnormal?

A. I have already stated that he ran all the way and came back. I think this is something which is not possible to explain in terms of a normal state of mind.

Q. In respect of a normal -----

A. State of mind.

30

Q. Normal state of the mind?

A. Yes. It is very difficult to reconcile this. His anger would be there, yes, and he will probably retaliate but to run away and come back this is something which is very difficult to explain.

Q. Doctor, you said it is difficult to explain the normal state of mind? A. Yes.

Q. But the accused had taken drinks, his mind---

A. Yes, which means-----

40

Q. Which is not normal in that sense?

A. ---that his level of consciousness has been so

affected that day as to impair his judgment
and only on that basis -----

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Chua J.: His what?

A. His level of consciousness had been--

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Q. Impaired, you say? A. Affected.

Q. Affected?

A. By the level of intoxication and
the punch in the eye.

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10 Q. Doctor, isn't this symptom known as blind rage?

A. Well, yes, you can call it blind rage.

Q. Now, Doctor, if it is possible that this
reaction of the accused was due to blind rage,
now, what is so abnormal about that?

A. The very act itself, I mean, you know, of
killing a friend.

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D'Cotta J.: The very ----?

A. The act of killing a friend.

(continued)

Chua J.: Yes.

20 A. The lack of motivation, the lack of premedita-
tion - all this would point to the fact that
this was---well, I would say, you known, an
action of an insane or abnormal mind. The very
bizarreness of the crime itself suggests to me
it is abnormal.

Q. Doctor, so you consider this offence to be
abnormal because a good friend was killed;
there was no motivation and it was bizarre,
nothing else? A. No, far from it.

30 Q. What are the other abnormal things?

A. Well, intoxication, blow and that sort of
thing.

Q. Sorry, the level of intoxication and---?

A. Yes, the blow to the eye; all these things are
relevant.

Q. So apart from these two factors there is
nothing else abnormal about the conduct - that
is the blow on the eye and the level of
intoxication?

A. And, of course, the complete amnesia, or

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rather, for the offence; almost complete
amnesia which is very typical in such a case.

Q. Now, you just agreed with me under cross-
examination that there was no complete amnesia?

A. Yes, I said almost complete amnesia.

Q. And the word at page 4 "complete" was a misnomer?

A. Yes.

D.P.P. : No further questions, my Lord.

Chua J.: We will adjourn till tomorrow.

I take it you want to re-examine him,
is it? 10

Mr. Yap: Yes, my Lord.

Chua J.: Then he will have to come back
tomorrow.

(Court adjourns at 4.16 p.m., 9.2.76)

Re-examination
10th February
1976

(Court resumes at 10.33 a.m. on 10.2.76)

RE-EXAMINATION BY MR. YAP

Chua J.: Yes, Mr. Yap?

Q. Dr., when you examined the patient, Mohd Kunjo,
the accused, it was close to about 8 or 9
months after the incident in May? 20

A. That's right.

Q. Would his general health have improved?

Chua J.: How does he know?

Q. Would you expect?

A. I think generally with the regular food and
meals, I would expect his general health,
physical health----

Chua J.: Generally with the regular food in
prison? 30

A. Yes, regular food and abstention
from drinks, his general physical
health would have improved.

Chua J.: His general health, is it?

A. Yes.

Q. Now, Dr., in the course of interview with the accused pertaining to the material time of the incident, was there any indication that he had neglected his food?

Chua J.: Neglect what?

Mr. Yap: Indication of neglect of food.

A. By material time, you mean on the day of the---

10 Q. On the day of the ----

Chua J.: That is not the question. Your question really is in the course of the interview with the----

Mr. Yap: That is so, pertaining to the material time of the incident.

Chua J.: Was there any indication whether?

Mr. Yap: Whether there was neglect of food.

A. Yes, there was. He had only bread and tea for his breakfast.

20 Chua J.: I don't quite follow. There was an indication of?

Mr. Yap: Neglect of food.

Chua J.: What do you mean by that? I don't quite understand. At the material time?

A. No, during the day.

Chua J.: Which day, of the interview or?

A. The day of the offence.

30 Chua J.: I asked you the day of the interview and you nodded your head. Mr. Yap, I don't understand your question.

Mr. Yap: This information was elicited on the day of the interview, but pertaining to the day of the offence.

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Chua J.: What indication of neglect of food
on the day of the offence?

A. On the day of the offence he had
only tea--

Chua J. He told you, is it?

A. He had tea and bread for breakfast.
He had no lunch at all, and dinner
he had only some rice and fish curry.

Q. Dr., in your report, you for the purposes of
back calculation mentioned $5\frac{1}{2}$ hours, and that 10
is because you have taken the approximate time
from 8.50 p.m. to the following morning, 2.30 a.m.?
A. Yes, that's right.

Q. This is approximately from 8.50 to 2.30. 8.50,
which is the time of the alleged offence. Dr.,
was he correct in saying that the time he was
brought to see Dr. Gandhimuthu was 2.30? We
also have evidence from Dr. Gandhimuthu the
actual time when the blood sample was taken.
It was about 2.45, 2.50 a.m. 20

Chua J.: Is that correct?

Mr. Yap: Perhaps My Learned Friend could
check on this point. Dr.
Ghandimuthu was PW3.

Chua J.: Was he cross-examined?

Mr. Yap: In the cross-examination, My Lord,
I think about 10 questions or so.

Chua J.: It was 2.45 or 2.50 when I took the
blood sample.

Mr. Yap: Yes, 2.50. 30

Q. Now, Dr., on the evidence that the blood sample
was taken at 2.50 a.m.-----

Chua J.: The doctor says 2.45 or 2.50.

Q. On the basis of taking the blood sample at 2.45
or 2.50 a.m., the calculation ought to be based
closer to six hours rather than $5\frac{1}{2}$, from 8.50
a.m. approximately to 2.50 a.m.? A. Yes.

- Q. Now, on the basis of 6 hours, Dr., what would the range be?
 A. The range would be on the basis of half an hour more, would be, on the average side would be 196, the high side 220; so the range would be 196 to 220.

- Q. Dr., may I refer you to page 561 of Gradwohl's Legal Medicine?

10 Mr. Yap: That is, I believe, my Lord, our exhibit D2.

Chua J.: What page is it?

Mr. Yap: 561, My Lord.

Chua J.: D2 is page 110.

Mr. Yap: Sorry, it was subsequently changed to D8; I beg your Lordship's pardon.

Chua J.: This is Gradwohl's?

Mr. Yap: Gradwohl's, My Lord, page 561. I am trying to get a copy for the doctor, My Lord.

- 20 Q. Dr., could you read the last sentence on the left hand column of this page?

A. The last sentence: "Other workers have reported mean hourly elimination rates varying from 11.9 mg per 100 ml to 20.7 mg per 100 ml, and they have noted that the descending curve is particularly unstable during the first few hours after drinking."

- 30 Q. Now, Dr., on this range of 11.9 to 20.7, this would usually be the result of experiments conducted under laboratory conditions?

A. Yes.

Q. Am I correct? A. Yes.

Chua J.: What is conducted, you say?

Mr. Yap: These are the results from experiments conducted under laboratory conditions.

Q. Dr., would it be expected, let's say, if a

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person has activity like walking around for a fairly long period of time to have a higher rate of elimination? Is it possible?

A. Yes, I think so because the energy used up, increased energy would mean increased oxidation of alcohol which is a form of energy, which is a source of energy.

Q. Now, Dr., you have heard the evidence of PW9, Thangavellu Maniam, the arresting officer in this case, who had found the accused sort of wandering or walking along Clemenceau Avenue, which is some distance away from the scene of the offence.

10

Chua J.: It all depends, Mr. Yap. This place is just near the bridge. Which part of Clemenceau Avenue was he found?

Mr. Yap: Walking towards the direction of River Valley Road.

Chua J.: That is not very far. All he has to do is cross the bridge and come to the junction, and that is River Valley Road.

20

Mr. Yap: But then we don't have any clear evidence.

Chua J.: This place is just by the bridge in front of the river. You see, from River Valley Road there is a junction, River Valley Road, Clemenceau Avenue and Tank Road. You cross the traffic lights and you go over the bridge.

30

Mr. Yap: That is so.

Chua J.: As soon as you are over the bridge, Clemenceau Avenue is on the left. It is not very far.

Mr. Yap: It is on the other end of the bridge.

Chua J.: Soon after crossing the bridge, it is not very far.

Mr. Yap: We have no evidence as to where he was going.

40

Q. After he was arrested he was made to walk with the arresting officer to Central Police Station. Dr., do you think walking that length or distance would be the kind of activity you are talking about?

Chua J.: He has already said that, if a person has been walking about, the rate of energy used is greater.

Mr. Yap: I will not pursue that point.

10 Q. Now, Dr., if you were please to look at the diagram at page 561, that is D8, there is this description of the descending curve or the rate of elimination is spiky.

Chua J.: Is what?

Mr. Yap: Spiky. In other words, it is not a uniform descending curve but one that goes up and down, in a descending manner, but nonetheless it is moving up and down.

20 Q. Now, Dr., at the time of the examination when the accused's BAC was found to be 100 mg. it could be at either the trough of this curve or it could be at the peak of this curve?
A. Yes, it could.

Q. Dr., perhaps if you could elaborate on this spiky curve and its implications pertaining to the blood alcohol concentration.

30 A. I think from the graph here, you can see that as little as 10 minutes difference in taking blood, you might get the blood level either at its peak of the spike or at the bottom. For instance, if you take the first line of the graph here, as it goes down - this is in minutes - as it goes down, you will find at about, just before 30 minutes, the graph shows that it is 0.10 percentage of blood alcohol. Now, if you take 10 minutes later, exactly 30 minutes, instead of being lower, it is higher; so this spiky descent of the blood alcohol level must be taken into account
40 and one can never say whether, when you are taking, the blood was taken at the peak or at the bottom. Therefore, if it is taken at the peak, it could give a higher level when you

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calculate backwards; taken at the trough it will give a lower level.

- Q. Dr., based on this experiment shown in the figure, what would the margin of variation be between the trough and the peak of the spike?
- A. There is one line. It shows it could be as much as from .10 to .14, that is 20 mg percent. If you note A in the Figure A, it is marked A, just around, just before the point marked A, the arrow, just about 20 minutes earlier, the difference is as great as I think 20 mg percent 100 to 140. The variation could be as high as that. 10
- Q. Now, Dr., working on this principle of the usual spiky pattern of the descending curve of the rate of elimination, now assuming that at the time when the accused's blood sample was taken at 100 BAC and it was taken at the trough and if it moves at the upturn to the peak of the spike, you could expect, let's say, in the next 10 minutes or so, to have an increase of as much as 120 mg? A. Yes. 20
- Q. Similarly, Dr., this works both ways. If the 100 mg was at the peak of the spike and the blood was taken let's say 10 minutes later at the downturn of the spike, of the trough, the accused's blood level content could be around the region of 80 mg, the next 10 minutes?
- A. It could be, yes.
- Q. The point I am trying to drive home is that the figure of 100 mg is not again the absolute figure? 30
- A. No, it is not the absolute figure.
- Q. Now, Dr., if I could---
- A. That is why I have taken this only as a guide.
- Q. It is a guide. Dr., may I refer you to your report at page 6. Now, Dr., in your final analysis, you were of the opinion that at the time of the offence, the accused was in a confused state of mind due to alcohol intoxication, so as to be incapable of forming the necessary intent to commit the offence. Now, you further added that the abnormal fear or rage reaction would have severely impaired his responsibility for his action. Is that right, Dr.? A. Yes. 40

Q. Now, Dr., you have used the word "due to alcoholic intoxication". You have left out the word "chronic alcoholic intoxication" in your final analysis. Dr., would it be relevant or would it that much important for you to come to this conclusion to consider whether he was a chronic alcoholic or not?

10 A. Whether he was a chronic alcoholic or whether he was suffering from moderate alcoholism is not really the crux of the issue. The crux of the issue is whether his mental state was so confused at the time due to acute alcoholic intoxication.

Chua J.: Acute?

A. Acute alcoholic intoxication.

Mr. Yap: I have no further questions, My Lord.

Chua J.: Thank you, Dr. (Witness stands down).

Is that your case?

20 Mr. Yap: That is my case, I have no other witnesses.

Chua J.: Mr. Sant Singh, you don't intend to call anybody in rebuttal?

D.P.P. : No, My Lord.

Chua J.: Yes, Mr. Yap?

Mr. Yap: My Lords, I was wondering whether you could allow me to have half an hour just to piece together the points of submission which I have.

30 Chua J.: Half an hour, how long are you going to be? How long are you going to take, Mr. Sant Singh?

D.P.P. : About 1 to 1½ hours, at least 1 hour.

Mr. Yap: I would expect to be around that time, too.

Chua J.: If you can finish today---- We want to finish today, but we don't want the addresses to finish roundabout half past 3 or 4 o'clock.

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D.P.P. : I am prepared to submit as it is,
My Lord.

Chua J.: We will give you half an hour.
Will you be able to finish by 1?

Mr. Yap: I should be able to, My Lord.

Chua J.: Then, Mr. Sant Singh starts at half
past two, and we won't finish until
half past 3 or 4.

Mr. Yap: I do apologise. I thought I would
go a bit more with the re-examination. 10
I have my submission in bits and
pieces, but I thought it would be
more coherent if I have a bit more
time to consolidate these various
references.

Chua J.: Very well, we will grant you half an
hour.

(COURT ADJOURNS FOR A SHORT WHILE AT 11.05 A.M.
ON 10.2.76)

(Court resumes at 11.40 a.m.)

20

Closing Address:

Mr. Peter Yap ... 11.41 a.m. to 12.50 p.m.

(Court adjourns at 12.50 p.m., 10.2.76 to
10.30 a.m. on 11.2.1976)

11th February
1976

(Court resumes at 10.30 a.m. on 11.2.1976)

Closing Address:

D.P.P. ... 10.30 a.m. to 11.40 a.m.

(Court adjourns for brief recess at 11.41 a.m.)

No. 3

Findings of the Court and Conviction
& Sentence

12.40 p.m. 11.2.76 Hearing resumes.

FINDINGS OF THE COURT

Chua J.: Will you ask the accused to stand up?

10 We have considered carefully all the evidence before us. We accept the evidence of Phasaram Misa, P.W.13, as to what took place that night of the 25th of May, 1975 between the accused and the deceased.

20 We find that the accused delivered the first blow with the exhaust pipe, Exhibit P42, in the region of the deceased's head and that when it was delivered the deceased was standing. After being hit the deceased fell to the ground and the accused delivered some more blows in the region of the deceased's head. We reject the defence contention that the deceased was already dead when those blows were delivered. We find that the cause of death was fractured skull.

30 We find that the accused was not in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the intention of causing bodily injury to the deceased. The evidence clearly shows that the accused had the intention of causing bodily injuries to the deceased which resulted in his death and that the bodily injuries inflicted were sufficient in the ordinary course of nature to cause death.

We therefore find the accused guilty of murder as charged and he is convicted.

(SILENCE IS CALLED)

(DEATH SENTENCE IS PASSED)

(Court adjourns at 12.43 p.m., 11.2.76)

In the
Supreme Court
in Singapore

No. 3

Findings of
the Court
Conviction &
Sentence

11th February
1976

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In the

No. 4

Notice on behalf of Accused
of wish to Appeal

No. 4

Notice on
behalf of
Accused of
Wish to
Appeal

FORM B
(Rule 6)

NOTICE ON BEHALF OF PRISONER

COURT OF CRIMINAL APPEAL, SINGAPORE

11th February
1976

Public Prosecutor v. MOHAMAD KUNJO s/o RAMALAN

To the Registrar of the High Court in Singapore
at Singapore

10

Take Notice that MOHAMAD KUNJO s/o RAMALAN
who was convicted in the High Court in Singapore
at Singapore on 11th February, 1976 for the offence
of Murder: Section 302 of the Penal Code and
sentenced to suffer death and who is now a prisoner
in this prison has informed me that he wishes to
appeal to the COURT OF CRIMINAL APPEAL, SINGAPORE
against his:-

conviction and sentence

The grounds on which he wishes to appeal are
stated by him as follows:-

20

(SEE NOTE)

That the conviction is unreasonable and the
sentence is excessive.

.....(Illegible)...

Signature of Officer in Charge of Prison

Thumb- Signature or mark of Appellant
print Mohamad Kunjo s/o Ramalan

Dated this 11th day of February 1976.

- NOTE: 1. If the prisoner has made an oral statement 30
insert the substance of the same here.
2. If the prisoner has made a written statement
it is sufficient to say so and attach a copy.

No. 5

IN THE HIGH COURT IN SINGAPORE

Criminal Case No. 52 of 1975

Public Prosecutor

vs.

Mohamad Kunjo s/o Ramalan

Coram: Chua J.)
D'Cotta J.)

In the
Supreme Court
in Singapore

No. 5

Grounds of
decision of
The Honourable
Mr. Justice
Chua and The
Honourable
Mr. Justice
D'Cotta

12th March
1976

GROUND OF DECISION

10 The accused was charged that he on or about the 25th May, 1975, at about 8.50 p.m., in front of No.10 Pulau Saigon Road, Singapore, committed murder by causing the death of one Arunmugam Arunachalam.

20 The deceased was 54 years of age and prior to his death was employed as a lorry driver by Messrs. Joo Siong of No. 8 Pulau Saigon Road and he resided at a store at the same address. The accused is also 54 years of age and was at the date of the incident employed as a lorry attendant by the same firm as the deceased and he also resided at No. 8 Pulau Saigon at a store adjacent to that occupied by the deceased.

30 On the day of the incident, 25th May, 1975, a Sunday, Tan Chwee Siong the Manager of Messrs. Joo Siong went to the firm's store at No. 8 Pulau Saigon at about 7.40 p.m. to ask the deceased and the accused to load some timber on to the lorry and deliver the timber to a customer that night. He saw the deceased and the accused standing near the door which led to the store where the deceased was living. He approached them and when he was quite near them he noticed that they were both smelling strongly of liquor and it appeared to him that they were highly intoxicated. On seeing them in that condition he did not ask them to do anything that night but he told them to go and sleep. He then went to his office. The deceased and the accused came to the office a short while later and they asked if they could
40 load the timber and make the delivery the following

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day to which he agreed. The deceased and the accused were unsteady on their feet. At 8 p.m. Tan Chwee Siong left the office and he did not see the deceased and the accused outside.

There are two eye-witnesses to the killing, (1) Phasaram Misa, aged 16, an office boy residing with his father at No.10 Pulau Saigon Road at the watchman's quarters which was opposite to No. 8 Pulau Saigon; and (2) Saeroen bin Rakiman, a watchman, residing at No. 7-A Pulau Saigon Road, who is 76 years of age.

10

The evidence of these two eye-witnesses was conflicting as to what took place between the deceased and the accused.

The evidence of Phasaram Misa was shortly this. On the 25th May, 1975, at about 8 p.m., whilst he was on his way home, he saw the deceased and the accused sitting on the top of a stack of poles which was near the door leading to the store where the deceased was living. The deceased and the accused were talking. He went into his house, hung up his shirt and came out of the house and sat in front of his house. Saeroen was already seated there. While he was talking to Saeroen he heard the deceased and the accused talking loudly. He turned his head to look in their direction and he saw the deceased and the accused still sitting on the stack of poles and they were laughing. A short while later he heard the deceased and the accused talking even louder than before, they were arguing. He turned his head in their direction and he saw the deceased and the accused getting down from the stack of poles on to the ground and they grappled and wrestled with each other and they both fell to the ground. They got up and struggled and fell down again. This happened several times. While they were wrestling they were coming towards him. They punched each other. Suddenly the accused ran towards the store of No.8 Pulau Saigon where a lorry was parked and returned with an exhaust pipe of a motor vehicle (Ex.P.42). The accused rushed at the deceased who was standing and when the accused was near the deceased he delivered one blow on the head of the deceased with the exhaust pipe. The deceased tried to defend himself with both his hands. The deceased then fell to the ground on his back and the accused then hit at the head of the deceased three or four times with the exhaust pipe. The accused then

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threw the exhaust pipe on the ground and walked away. He and Saeroen then went up to the deceased. He saw that the deceased was lying in a pool of blood. He then went to telephone the police.

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10 Saeroen's version of the incident was shortly
this. At 6.30 p.m. that day he was in No. 7A
Pulau Saigon Road and through the window he saw
the deceased and the accused chasing each other.
At 7 p.m. he came out of No. 7A Pulau Saigon and
he saw the deceased and the accused chasing each
other. He then went to Phasaram's place and at
8 p.m. he was joined by Phasaram. Between 7 p.m.
and 8 p.m. he saw the deceased and the accused
wrestling with each other. The deceased fell down
on his own and lay motionless there. The deceased
was dead. The accused walked in the direction of
his store and came back with the exhaust pipe and
hit the dead body of the deceased four times with
20 the exhaust pipe.

The ambulance arrived at the scene at 9 p.m.
and the ambulance attendant found that the
deceased was dead.

The accused was arrested that same night at
Clemenceau Avenue by a detective and brought to
the Central Police Station where he was handed
over to Inspector Chamkaur Singh at 12.15 a.m.

30 The accused was medically examined at the
Changi Prison Hospital on the 26th May, 1975, at
2.30 a.m. by Dr. Gandhimuthu. On examination the
doctor noted the following:

- "1. His breath smelt of alcohol.
2. His gait was staggering.
3. Sub-conjunctival haemorrhage in right
eye.
4. Abrasion about 5" x 1" over the back
of right forearm.
5. On analysis, his blood contained 100 mg
ethanol per 100 ml. blood."

On the same morning an autopsy carried out by
Dr. Seah Han Cheow, a Forensic Pathologist at the
Outram Road General Hospital, disclosed the
following injuries on the skull of the deceased:-

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- "(1) Comminuted fractures involving the left half of the frontal bone, associated with the two lacerations around the left eye.
(2) Comminuted fractures involving both temporal bones.
(3) There was a fracture line across the base of the skull obliquely from the right petrous temporal bone extended through the pituitary fossa, into the left eye socket (frontal bone)."

10

The doctor said that there were altogether three blows delivered on the deceased - one on the left side of the forehead; one on the right ear and one on the left ear; - that these fractures were caused by violent blows from a blunt object; that they could have been caused by the exhaust pipe Ex. P.42; and that each of the injury on the skull would in the ordinary course of nature cause death.

There was a bruise on the back of the deceased's right hand which the doctor said was caused by a blow from a blunt object. The doctor said that it was a defensive wound, that the deceased was trying to cover himself when the blow occurred.

20

The cause of death was fractured skull.

On the same day (26th May, 1975) Inspector Chamkaur Singh charged the accused with the murder of the deceased and the accused made a cautioned statement (Ex. P.40) to the Inspector. The statement reads:

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" The fight started because I told Arunmugam not to drink when he drove lorries. He got angry and punched me on the eye. He also used a wood to hit me on my left hand. I got angry and hit him back. I do not remember with what I hit him. I had no intention to kill him. I did not know he will die. That's all."

Counsel for the accused submitted at the close of the prosecution's case that no case had been made out against the accused on the charge of murder on the ground that the deceased had died from alcoholic poisoning and that the deceased was already dead when the accused delivered the blow on the head of the deceased. We rejected this

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submission. We found that the deceased was alive when the accused delivered the blows.

The blood sample of the deceased was sent to the Government Chemist for analysis and on analysis the Chemist found the blood sample to contain 400 mg. ethanol per 100 ml. blood.

10 In cross-examination Dr. Seah agreed that at the time of his death the deceased was highly intoxicated and that this alcohol content of 400 mg. ethanol per 100 ml. blood could under some circumstances cause death. Counsel for the accused asked Dr. Seah if in this case there was a possibility that death was caused by acute alcoholic intoxication and the doctor replied that there was such a possibility. The doctor prepared his autopsy report stating that death was due to fractured skull before he received the chemist report as regards the blood alcoholic content of the deceased. In re-examination the doctor said 20 that taking the chemist report into consideration he still would certify that the cause of death was fractured skull. He said that he found fresh subarachnoid haemorrhages in the brain of the deceased at the temporal lobes and these were caused at the same time as when the temporal bones were fractured and he said: "This indicated that most probably the victim was alive when he received the blows, the deceased was still alive when he received the blows behind the ears."

30 Saeroen is 76 years of age. Although his eyesight is good in the daylight he admitted that he was unable to see clearly at night. He said that that night there was a glare from the street lamp and it was difficult for him to see clearly. His evidence taken as a whole was difficult to follow. We were of the view that his evidence was unreliable.

40 In cross-examination Dr. Seah said that it was unlikely that the two injuries on the temporal bones could have been caused when the deceased was lying on the ground with his face upwards. In answer to the Court he said "It is most likely that the victim was in a standing position when he was hit on the temporal bones."

We accepted the evidence of Phasaram Misa in preference to that of Saeroen. Phasaram Misa had

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said that when the first blow was delivered by
the accused on the deceased the deceased was
standing up.

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We found on the evidence before us that the
deceased was standing when the accused delivered
the first blow on the deceased.

The accused elected to make a statement from
the dock. His statement was as follows:-

" On the day in question I woke up at
10 a.m., I went to a nearby toddy shop and
consumed 5 pints of toddy. I felt tipsy and
returned to my store and slept. I woke up at
about 4 p.m. and went to a Chinese coffee shop
to drink beer. When I reached the coffee shop
I saw Arunmugam deceased drinking beer. I
bought a bottle of beer, sorry I bought two
big bottles of beer and two small bottles of
Chinese samsu. Both myself and the deceased
drank from the bottles. Both of us then left
to buy some food from another shop and
returned to the same coffee shop. We again
bought a small bottle of samsu each and took
the two small bottles of samsu to the store.
At the store we were eating and drinking samsu
and at that time our employer, the towkay,
arrived and told us to do some work. I told
my employer I was feeling drowsy and tipsy
because I had taken some beer and samsu and
that I would do the job the following day.
My employer then left the scene. We continued
to eat and drink. While we were doing so I
told the deceased that he had to drive the lorry
the following day and that he should not drink
much. The deceased said that it was his own
business to drink and then he punched me on
my right eye. Subsequently I remember vaguely
of having wrestling and pushing each other.
I remember also vaguely that both of us were
rolling on the ground. I do not remember of
having hit the deceased and even if I did I
do not know with what I hit him. He was my
best friend and I had helped him to get this
job for him. I had no intention of killing him
and I do not remember anything else. That is
all."

The defence called Dr. Paul William Ngui, a
Consultant Psychiatrist in private practice. The

doctor interviewed and examined the accused on the 22nd and 23rd January, 1976, at Queenstown Prison and he was present in Court during the trial and heard the evidence given by Tan Chewee Siong, Phasaram Misa and Saeroen. He prepared a medical report on the 5th February, 1976 (Ex. D 10).

The opinion of the doctor based on the interviews was:

10 " On the basis of these interviews I formed the opinion that he suffered from chronic alcoholism which contributed to a mild degree of impairment of his memory function especially for recent events."

The opinion of the doctor on the mental state of the accused at the time of the alleged offence was this:

20 " From all accounts of his behaviour at the time of the offence, I am of the opinion that he was in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the necessary intent to commit the offence.

Furthermore, I am of the opinion that the abnormal fear or rage reaction would have severely impaired his responsibility for his actions."

30 There was no doubt about it that the cause of death was due to fractured skull and that it was the accused who inflicted the fatal blows on the head of the deceased. The main question for our consideration was: "Did the accused intentionally inflict the injuries on the deceased which resulted in his death?"

It was not in dispute that the accused had consumed a certain amount of intoxicating liquor on the night of the 25th May, 1975, and that he was intoxicated.

40 Counsel for the accused submitted that the accused was so severely intoxicated that he could not form the necessary intention to cause those injuries.

After considering the evidence adduced by the

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defence we did not alter our view formed at the close of the case for the prosecution that the evidence of Phasaram Misa was to be preferred to that of Saeroen.

From the statement of the accused from the dock it is quite clear that he could remember clearly events on the 25th May, 1975, up to the time he received a punch on his right eye from the deceased. He remembered vaguely that subsequently both of them were wrestling with each other and were also rolling on the ground. Thereafter he claimed his memory was a complete blank. It is to be noted that in his cautioned statement (Ex P 40) the accused could remember that the deceased also used a piece of wood to hit him on his left hand and that he got angry and hit the deceased back. We did not think that his memory was a complete blank.

10

The accused's conduct immediately prior to the killing is important. He ran a distance of fifty feet to the store and ran back with the long exhaust pipe and then struck four to five violent blows at the region of the head of the deceased. If the accused was in fear for his life he could to protect himself have picked up the piece of wood (Ex. P 51), or the empty bottle of liquor (Ex.P 45) which was nearby. Instead of that he chose to run fifty feet to fetch the exhaust pipe and ran back and struck four to five deliberate blows at the region of the deceased's head. This clearly could not be the action of a severely intoxicated person.

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30

Dr. Ngui formed the opinion that the accused is a chronic alcoholic on the basis that (1) there were fine tremors of the accused's outstretched hands and (2) that the memory of the accused for recent events was poor. The doctor said there was no previous aggressive outbursts during drinking and there was no history of delirium tremens.

The doctor was cross-examined at length by counsel for the prosecution and he was confronted with Mayer-Gross Slater & Roth - Clinical Psychiatry (3rd Ed.), which he agreed was a leading textbook. He agreed that physical and psychological changes occur in the case of the chronic alcoholic as enumerated in para. (F) at page 396 of Mayer-Gross (Ex. P 57). The accused does not manifest any of these changes.

40

The doctor came to the conclusion that the accused's memory for recent events was poor after he had conducted certain tests - accused could not repeat the doctor's name and address; his memory test on digit span was very poor; he could not do simple tests of arithmetical calculation. It must be borne in mind that accused is illiterate and his intelligence is below average. Is it any wonder that he failed in these tests?

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10 We were of the opinion that Dr. Ngui had no basis in forming the opinion that the accused was a chronic alcoholic. It is apparent that the doctor must have come to this conclusion on the basis of the drinking pattern of the accused as given to him by the accused himself. The accused had not adduced any evidence before this Court as to his alcoholic history.

20 The doctor came to the conclusion that the accused was so severely intoxicated that he could not form the necessary intention on two factors:-

- (1) the blood alcoholic content of the accused;
and
- (2) the evidence of the witnesses at the trial.

30 The blood alcoholic content (BAC) of the accused at about 2.45 a.m. on 26th May, 1975, was 100 mg. ethanol per 100 ml. of blood. By making a simple arithmetical calculation and making allowances for the fact that there are peaks and troughs when BAC is taken the doctor had projected backwards the BAC of the accused to the time of the killing and said that it was in the region of 196 mg. to 220 mg. The doctor was closely cross-examined on this point. It appeared to us that generally the BAC when calculated backwards is very unsatisfactory and the figures given by the doctor were not very reliable. The tolerance of alcohol varies from individual to individual and this tolerance increased in the case of a person who is a habitual drinker. The accused told the
40 doctor that he had been drinking heavily for the last ten years.

It is apparent that the doctor had disregarded the evidence of Phasaram Misa that the accused ran fifty feet and ran back with the exhaust pipe and deliberately struck the deceased in the region of the head four or five times with the exhaust pipe.

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He said in cross-examination that "Just on that evidence by itself alone one is not able to say if that man is intoxicated or not." It appeared to us that the doctor had placed great reliance on the evidence of Saeroen. As we have said we accepted the evidence of Phasaram Misa as the true version of what happened that night.

After considering all the evidence before us we were of the view that the action of the accused could not possibly be the action of a person who was so severely intoxicated that he could not form the intention to inflict the fatal blows.

10

We found that the accused was not in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the intention of causing bodily injury to the deceased. The evidence clearly showed that the accused had the intention of causing bodily injuries to the deceased which resulted in his death and that the bodily injuries inflicted were sufficient in the ordinary course of nature to cause death.

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We therefore found the accused guilty of murder as charged.

(Sgd.) F. A. Chua
.....
(CHUA, J.)

(Sgd.) D. C. D'Cotta
.....
(D'COTTA, J.)

Dated this 12th day of March, 1976.

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Petition of Appeal

In the Court
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Appeal

Dated this 5th day of June 1976

No. 6

IN THE HIGH COURT OF CRIMINAL APPEAL SINGAPORE

Petition of
Appeal

Criminal Case No. 52 of 1975

5th June 1976

High Court Singapore

Criminal Appeal No. 3 of 1976

Between

MOHAMAD KUNJO s/o RAMALAN ... Appellant

And

THE PUBLIC PROSECUTOR ... Respondent

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To The Honourable The Judges of the
Court of Criminal Appeal,
Singapore.

The Petition of Mohamad Kunjo s/o
Ramalan, Appellant

SHOWETH as follows:-

Your Petitioner, the abovenamed Mohamad Kunjo
s/o Ramalan was charged as follows:-

20

"You Mohamad Kunjo s/o Ramalan, m/54, i/c
1026417-J, are charged that you, on or about
the 25th day of May, 1975, at about 8.50 p.m.,
in front of No.10 Pulau Saigon Road, Singapore,
committed murder, to wit, by intentionally
causing the death of one Arunmugam Arunachalam,
m/54, and you have thereby committed an
offence punishable under Section 302 of the
Penal Code, Chapter 103."

30

2. Your Petitioner was convicted and sentenced
to death.

3. The learned trial Judges erred in holding
that the deceased was alive when the accused
delivered the first blow on the deceased as such
finding is against the weight of evidence.

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- (a) Phasaram Misa, an eyewitness had testified that the first blow was inflicted on the left forehead (page 475 Notes of Evidence). He further testified that the accused subsequently delivered three or four more blows in the direction of the deceased's head. This injury is referred to as the first group of fractures and described as:

"Comminuted fractures involving the left half of the frontal bone, associated with the two lacerations around the left eye."

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- (b) This clearly contradicts the medical evidence as given by Dr. Seah Han Cheow whose opinion was that "the only conclusion was that this man was dead when this blow was inflicted." (page 111 Notes of Evidence).

- (c) On the pathological aspect the Learned trial Judges gave no specific reasons for finding that the deceased was alive when the accused delivered the blows. If the learned trial Judges relied on the re-examination of Dr. Seah who said he found fresh subarachnoid haemorrhages in the brain of the deceased at the temporal lobes and these were caused at the same time as when the temporal lobes were fractured and thus saying that "This indicated that most probably the victim was alive when he received the blows, the deceased was still alive when he received the blows behind the ears," then the learned trial Judges failed to consider that these fractures (referred to as the 2nd group of fractures) must have been inflicted before the 1st group of fractures, as the 1st group of fractures were by their very nature post-mortem. This sequence was also agreed to by Dr. Seah.

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30

(page 234, 235 Notes of Evidence).

- (d) This sequence therefore also contradicts that of the evidence of Phasaram Misa who said that the 1st blow was inflicted on the left forehead. If the 2nd group of fractures i.e. those at the temporal lobes, are ante-mortem injuries, these must necessarily be inflicted first and not otherwise.

40

The learned trial Judges also failed to

consider that Phasaram Misa's evidence would be even more doubtful as he claimed that there was only one blow whilst the deceased was standing. (i.e. the one to the left of forehead). For the 2nd group of fractures to be caused and by the very nature of the injuries which were precisely at the mastoid part of both temporal bones, there must be at least two blows at these parts whilst the deceased was standing. It must be noted here that there was no trace of external injury at these areas.

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(pages 91-93, 132-136, Notes of Evidence)

Phasaram Misa also stated that after the blow the deceased fell backwards and landed on his back.

(page 436, 478, Notes of Evidence)

5. The learned trial Judges erred in failing to consider that the said sub-arachnoid haemorrhages could have been caused by falls and which were independent of the fractures at the temporal lobes.

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(page 114 Notes of Evidence)

This would be even more exaggerated having regard to the high blood alcohol concentration (BAC) of the deceased.

(pages 112-113, Notes of Evidence)

There was also abundant evidence that the deceased sustained a number of falls during the grappling and pushing with the accused prior to the assault.

6. The learned trial Judges erred in failing to consider that all the 3 groups of fractures could have been caused by one fall (at the left temporal side) and one blow on the left side of the forehead.

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(pages 174-177, Notes of Evidence)

This is consistent not only with the medical evidence, but also that there was positive testimony of only one blow (i.e. at the forehead) by the eyewitnesses.

7. The learned trial Judges erred in failing to consider that (if there was found to be more than

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one blow) then all the blows that were inflicted on the deceased were by their very nature and from the evidence delivered in rapid succession.

Even if the 2nd group of fractures were inflicted before the 1st group of fractures it would be most unlikely that when the 2nd group of fractures were inflicted the deceased was alive and when the 1st group of fractures was inflicted he was dead.

This is particularly so when in Dr. Seah's own evidence in Examination-in-Chief he has said that for either one of the said group of fractures, the victim would die within one hour.

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(page 19 Notes of Evidence)

It would be of interest to note that for the 1st group of fractures Dr. Seah had said that he would expect the victim to live for a few hours meaning 3 to 4 hours.

(Page 109 Notes of Evidence)

8. The learned trial Judges erred in failing to consider the other aspects of Dr. Seah's evidence that not only was there the possibility that the deceased's death was caused by acute alcoholic intoxication it was also possible that death could have been caused by the haemorrhages at the sub-arachnoid areas of the brain.

20

(page 120 Notes of Evidence)

and that these could have been caused by falls.

9. The learned trial Judges also failed to consider that there was a possibility that the 2nd and 3rd group of fractures were also post-mortem fractures.

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(page 120 Notes of Evidence)

10. The learned trial Judges erred in failing to consider that the burden of proof was that of the Prosecution that the deceased was alive at the time the blows were delivered and that when reasonable doubts exist the benefit of the doubt should be given to the accused.

The learned trial Judges therefore erred in directing that it was for the defence to satisfy the Court that the deceased was already dead.

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(page 186 Notes of Evidence)

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11. The learned trial Judges erred in rejecting the evidence of Saeroen bin Rakiman without giving any tenable reasons therefor.

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10 The Court had observed that notwithstanding his age his eyesight was impressively good. Saeroen had testified clearly that the deceased was motionless after the fall and there was no evidence that his view was impaired by any glare, obstruction or uncertainty.

There appeared some uncertainty as regards the position of the first blow on the deceased's head and this would have arisen because of the glare. Even Phasaram Misa testified that his observation on this point was not clear because it was dark.

20 12. The learned trial Judges erred in failing to consider that Saeroen bin Rakiman was a Prosecution witness and that his credit was not impeached and neither was it put to him by the Prosecution that he was lying or was wrong in so testifying.

30 13. The learned trial Judges erred in failing to consider that Saeroen bin Rakiman's evidence was consistent with the pathologist's evidence that the deceased could have been dead when the blows were inflicted by the accused. The learned trial Judges therefore erred both in fact and in law that the evidence of Phasaram Misa was in preference to that of Saeroen.

14. The learned trial Judges erred both in fact and in law in rejecting the evidence of Dr. P.W. Ngui in that no evidence was called by the Prosecution in rebuttal to Dr. Ngui's evidence.

40 15. The learned trial Judges erred in failing to consider Dr. P.W. Ngui's evidence that in the final analysis he was of the opinion that at the time of the offence the accused was in a confused state of mind due to alcoholic intoxication and whether or not the accused was a chronic alcoholic was not the basis of his opinion.

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16. The learned trial Judges erred in rejecting the 2 factors that Dr. P.W. Ngui had based his findings.

The learned trial Judges erred in holding that the backwards calculation of the BAC is very unsatisfactory as this finding is unsupportable by medical practice and opinion. It is the accepted medical practice that notwithstanding the variation from person to person, and taking into account this range of variation, it is still the guideline to determine the BAC of a person at some previous time.

10

The learned trial Judges therefore erred in holding that the figures given by Dr. P.W. Ngui was not very satisfactory.

17. The learned trial Judges erred in failing to consider the behaviour and conduct of the accused and the deceased prior to the deceased's death. Witnesses had testified that they appeared to be drunk, smelt of alcohol and were staggering about and that there was no motive of any kind that the accused would want to kill the deceased.

20

18. The learned trial Judges erred in failing to consider Dr. P.W. Ngui's evidence that the abnormal fear or rage reaction would have severely impaired the accused's responsibility for his actions.

19. The learned trial Judges erred in holding that the accused claimed that his memory was a complete blank. The reference to the cautioned statement of the use by the deceased of a piece of wood to hit the accused clearly emphasises the state of confusion the accused was in. None of the eyewitnesses had said that the deceased attacked the accused with a piece of wood and in Dr. P.W. Ngui's evidence he had said that when the accused was asked about this he said he could not remember.

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(page 655 Notes of Evidence)

Further it was also not clearly stated in the cautioned statement that the blow with the wood was before OR after the punch on the accused's eye.

40

20. The learned trial Judges erred in failing to consider that the accused in the struggle with

the deceased also sustained a blow on his right eye and the medical opinion was that the blow aggravated the confusion.

In the Court of Criminal Appeal

21. The learned trial Judges erred in failing to consider that in both the cautioned statement as well as the accused's statement that he had no intention of killing the deceased and that he did not know with what he had hit the deceased.

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(continued)

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22. Your Petitioner prays that such judgment or sentence may be reversed or annulled or that such order may be made thereon as justice may require.

Dated this 5th day of June, 1976.

(Sgd.) Illegible

SOLICITORS FOR THE APPELLANT

This Petition of Appeal was filed on behalf of the abovenamed Appellant, Mohamad Kunjo s/o Ramalan, by Messrs. Peter Yap & Co., No.1310 Straits Trading Building, Battery Road, Singapore 1.

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No. 7

No. 7

Judgment of Court of Criminal Appeal

Judgment of Court of Criminal Appeal

IN THE COURT OF CRIMINAL APPEAL IN SINGAPORE

Criminal Appeal No. 3 of 1976

12th August 1976

(In the Matter of Criminal Case No.52-75)

Between

Mohamad Kunjo s/o Ramalan ... Appellant

And

Public Prosecutor ... Respondent

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Coram: Wee, C.J. }
Choor Singh, J. }
Kulasekaram, J. }

J U D G M E N T

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—
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Judgment of
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(continued)

The appellant was convicted by the High Court of the murder of a man named Arunmugam Arunachalam in contravention of section 302 of the Penal Code and sentenced to death.

The evidence tendered at the appellant's trial showed that the appellant and the deceased were good friends, both 54 years of age, both employed by the same employer and both resided at the same address. The deceased was employed as a lorry driver and the appellant as a lorry attendant and they both resided at No. 8 Pulau Saigon Road, Singapore but occupied separate rooms at the store house of their employer. 10

On the 25th May 1975, a Sunday, their employer came to the store house at Pulau Saigon Road, Singapore at about 7.30 p.m. to ask them to load some timber on a lorry and deliver it to a customer that night but he found them both smelling strongly of liquor, unsteady on their feet, and it appeared to him that they were highly intoxicated. On seeing them in that condition he did not ask them to do anything that night and told them to go and sleep. He went to his office at the store house where he spent some time and when he left the place at about 8 p.m. he did not see the appellant nor the deceased outside the store house. 20

What happened after that was related at the trial by two eye witnesses, a boy named Phasaram Misa, aged 16 years who resided with his father at 10 Pulau Saigon Road which premises are opposite No.8 Pulau Saigon Road, and by Saeroen bin Rakiman, a watchman aged 76 years who resided at 7-A Pulau Saigon Road. 30

The evidence of Misa was shortly this. On the 25th May 1975 at about 8 p.m. whilst he was on his way home, he saw the deceased and the appellant sitting on the top of a stack of poles which was near the door leading to the store where the deceased was living. The deceased and the appellant were talking. He went into his house, hung up his shirt and came out and sat in front of his house. Saeroen was already seated there. While he was talking to Saeroen he heard the deceased and the appellant talking loudly. He turned his head to look in their direction and he 40

10 saw the deceased and the appellant still sitting on the stack of poles and they were laughing. A short while later he heard the deceased and the appellant talking even louder than before, they were arguing. He turned his head in their direction and he saw the deceased and the appellant getting down from the stack of poles on to the ground and they grappled and wrestled with each other and they both fell to the ground. They got up and struggled and fell down again. This happened several times. While they were wrestling they were coming towards him. They punched each other. Suddenly the appellant ran towards the store of No.8 Pulau Saigon Road where a lorry was parked and returned with an exhaust pipe of a motor vehicle (Exhibit P.42). The appellant rushed at the deceased who was standing and when the appellant was near the deceased he delivered one blow on the head of the deceased with the exhaust pipe. The deceased tried to defend himself with both his hands. The deceased then fell to the ground on his back and the appellant then hit at the head of the deceased three or four times with the exhaust pipe. The appellant then threw the exhaust pipe on the ground and walked away. He and Saeroen then went up to the deceased. He saw that the deceased was lying in a pool of blood. He then went to telephone the police.

30 Saeroen's version of the incident was shortly this. At 6.30 p.m. that day he was in No.7A Pulau Saigon Road and through the window he saw the deceased and the appellant chasing each other. At 7 p.m. he came out of No.7A Pulau Saigon Road and he saw the deceased and the accused chasing each other. He then went to Misa's place and at 8 p.m. he was joined by Misa. Between 7 and 8 p.m. he saw the deceased and the appellant wrestling with each other. The deceased fell down on his own and lay motionless there. The deceased was dead. 40 The appellant walked in the direction of his store and came back with the exhaust pipe and hit the dead body of the deceased four times with the exhaust pipe.

The ambulance arrived at the scene at about 9 p.m. and the ambulance attendant found that the deceased was dead.

An autopsy was performed on the body of the deceased next morning by Dr. Seah Han Cheow, a

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forensic pathologist attached to the General Hospital, Singapore, and he found a number of fractures on the skull of the deceased. These will be dealt with in more detail later. A sample of blood from the deceased was sent to the Government Chemist and he found on analysis that it contained 400 mg. ethanol per 100 ml. of blood. Dr. Seah certified the cause of death as "fractured skull".

The appellant was arrested on the night of the incident and at 2.30 a.m. he was examined by a Government doctor at Changi Prison Hospital. On examination the doctor noted the following:- 10

1. his breath smelt of alcohol;
2. his gait was staggering;
3. sub-conjunctival haemorrhage in right eye;
4. abrasion about 5" x 1" over the back of right forearm;
5. on analysis, his blood contained 100 mg. ethanol per 100 ml. blood. 20

The prosecution relied on a cautioned statement made by the appellant to the police after his arrest in answer to the charge of murder, which was as follows:-

" The fight started because I told Arunmugam not to drink when he drove lorries. He got angry and punched me on the eye. He also used a wood to hit me on my left hand. I got angry and hit him back. I had no intention to kill him. I did not know he will die. That's all." 30

The appellant's defence was called on the charge of murder and he made an unsworn statement from the dock which was as follows:-

" On the day in question I woke up at 10 a.m. I went to a nearby toddy shop and consumed five pints of toddy. I felt tipsy and returned to my store and slept. I woke up at about 4 p.m. and went to a Chinese coffee shop to drink beer. When I reached the coffee shop I saw Arunmugam deceased drinking beer. I bought a bottle of beer, sorry I bought two big bottles of beer and two small bottles of Chinese samsu. Both myself and the deceased drank from the bottles. Both 40

of us then left to buy some food from another shop and returned to the same coffee shop. We again bought a small bottle of samsu each and took the two small bottles of samsu to the store. At the store we were eating and drinking and at that time our employer the towkay arrived and told us to do some work. I told my employer I was feeling drowsy and tipsy because I had taken some beer and samsu and that I would do the job the following day. My employer then left the scene. We continued to eat and drink. While we were doing so I told the deceased that he had to drive the lorry the following day and that he should not drink too much. The deceased said that it was his own business to drink and then he punched me on my right eye. Subsequently I remember vaguely of having wrestling and pushing each other. I remember also vaguely that both of us were rolling on the ground. I do not remember having hit the deceased and even if I did I do not know with what I hit him. He was my best friend and I had helped him to get this job for him. I had no intention of killing him and I do not remember anything else. That is all."

The defence called Dr. Paul William Ngui, a consultant psychiatrist. He stated that on the basis of his interviews with the appellant, he was of the opinion that the appellant suffered from chronic alcoholism because there were fine tremors of the appellant's outstretched hands and also because the appellant's memory of recent events was poor. He expressed the further opinion that at the time of the alleged offence the appellant was in "such a confused state of mind due to alcoholic intoxication as to be incapable of forming the necessary intent to commit the offence."

The trial judges made the following finding:-

" We find that the accused delivered the first blow with the exhaust pipe, Exhibit P.42, in the region of the deceased's head and that when it was delivered the deceased was standing. After being hit the deceased fell to the ground and the accused delivered some more blows in the region of the deceased's head. We reject the defence

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contention that the deceased was already dead when those blows were delivered. We find that the cause of death was fractured skull.

We find that the accused was not in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the intention of causing bodily injury to the deceased. The evidence clearly shows that the accused had the intention of causing bodily injuries to the deceased which resulted in his death and that the bodily injuries inflicted were sufficient in the ordinary course of nature to cause death." 10

The trial judges convicted the appellant on the charge of murder and sentenced him to death.

Before us, it was urged by counsel for the defence that the appellant was not guilty of murder on two grounds. First, it was contended that there was no satisfactory evidence as to the cause of death; that the deceased may have died from acute alcoholic intoxication or from brain haemorrhage due to a fall and that it was not proved beyond a reasonable doubt that the death of the deceased was brought about by an act of the appellant. Secondly, it was submitted that there was sufficient evidence of drunkenness which rendered the appellant incapable of forming the specific intent essential to constitute the offence of murder. 20 30

To consider the first submission, it is necessary to examine the medical evidence in some detail.

Although Dr. Seah the pathologist in his autopsy report grouped the fractures he found on the skull of the deceased under three groups, there was in fact four separate and distinct fractures:-

1. comminuted fracture involving the left half of the frontal bone, associated with the two lacerations around the left eye; 40
2. comminuted fracture involving left temporal bone;
3. comminuted fracture involving right temporal bone;
4. fracture line across the base of the skull obliquely from the right petrous temporal bone extended through pituitary fossa into the left eye socket (frontal bone).

There was also fresh subarachnoid haemorrhage found at the temporal lobes. The interior surface of both frontal lobes also showed old contusions. The deceased also had the following external injuries:-

1. laceration 3 cm. at left anterior parietal region;
2. laceration 3 cm. at inner canthus of left eye; (i.e. between bridge of nose and left eye) exposing fractured bone;
3. laceration $3\frac{1}{2}$ cm. outer half of left eye brow, exposing fracture;
4. two small lacerations, each measured $\frac{1}{2}$ cm. one on each lip, near left angle of mouth;
5. laceration 4 cm. left side of chin, exposing bone;
6. bruise whole of dorsum of right hand.

In his evidence in chief Dr. Seah stated that the first fracture involved the left half of the frontal bone i.e. the bone covering the forehead up to the eye. It was a comminuted fracture. There was no brain damage associated with this fracture. He expressed the opinion that this fracture was caused by a violent blow from a blunt object and that it could have been caused by a blow from the exhaust pipe tendered in court as Exhibit P.42. In cross-examination Dr. Seah stated that as this fracture was not associated with brain damage and not associated with bleeding inside, the only conclusion he could form was that the man was dead when the blow causing this fracture was inflicted.

As regards the second and third fractures i.e. the fractures on both temporal bones, Dr. Seah stated that they were also comminuted fractures and were caused by separate violent blows with a blunt object. He stated that there was no external laceration or bruise on both temporal regions but this according to him was not significant as it was not unusual to find the absence of external injuries over the site of extensive internal injuries. He expressed the opinion that the fresh subarachnoid haemorrhages found at the temporal lobes of the brain indicated that most probably the victim was still alive when he received the blows which caused these comminuted fractures. In cross-examination Dr. Seah conceded that the sub-arachnoid haemorrhages found at the

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temporal lobes of the brain could have been caused by the victim's falls on the ground and if so were not associated with the fractures. He conceded further that the subarachnoid haemorrhages could have caused death independently of any fractures.

The fourth fracture was a fracture line across the base of the skull, obliquely from the right petrous temporal bone extending through the pituitary fossa into the left eye socket. Dr. Seah stated that this fracture line "was caused as a result of a blow - a violent blow to the region of the right ear". He stated further that a single blow to the region of the right ear could have produced this injury as well as the comminuted fracture of the right temporal bone. 10

Dr. Seah stated that a single fall would not cause such a long fracture line unless it is a fall from a great height but admitted later in cross-examination that this line fracture could have been caused by a fall from body height. 20

Dr. Seah also conceded that having regard to the blood alcoholic concentration found in the blood of the deceased, the possibility of death having been caused by acute alcoholic intoxication could not be ruled out. He stated further that if a person has a high tolerance of alcohol he can still die "of this kind of intoxication". He added further, "with this degree of alcoholic intoxication a person is liable to sudden death. If he falls to the ground, knocking his head on the ground and lies motionless, it is possible that he is dead." 30

The evidence of the boy Phasaram Misa, which was accepted by the trial Judges, must now be examined in the light of the medical evidence. Misa stated that the appellant and the deceased were grappling with each other and "playing around". They fell down several times, got up and continued their "playing around". Suddenly the appellant ran towards the store at No.8 and came back within a few seconds holding an iron pipe in his right hand. The deceased was standing unsteadily. The appellant came and hit the deceased on the left forehead. When he delivered this blow the appellant stood in front of the deceased and to his left. The deceased defended with both hands but the blow landed on his head. The deceased then fell down and landed on his back. The appellant moved to the left side of the 40

deceased's head and hit him three or four times. Misa admitted that he was not able to see whether or not these blows landed on the head. The appellant then threw the pipe near the deceased and walked away.

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10 Saeroen, the only other eye witness of the incident, confirmed Misa's evidence that the appellant and the deceased were fighting with each other and that the deceased fell to the ground several times. The vital conflict in the evidence of these two witnesses is that Misa stated that the deceased was standing when the appellant delivered the first blow on the head of the deceased whereas Saeroen stated that the deceased was lying motionless on the ground. The trial judges chose to accept Misa's evidence and rejected that of Saeroen.

20 It was urged upon us that in accepting Misa's evidence, the trial judges were in error because his evidence was not only contradicted by Saeroen but was also not supported by the medical evidence. Counsel relied on the fact that Dr. Seah had expressed the opinion that the fracture involving the left half of the frontal bone, which evidently was caused by the blow which Misa claimed he saw being delivered on the left forehead of the deceased when he was standing, was a post mortem injury. The reason given by Dr. Seah for his conclusion that it was a post mortem injury was
30 that the fracture was not associated with brain damage and not associated with bleeding inside. In our opinion Dr. Seah was here clearly in error. It does not follow that because the brain was not damaged and there was no bleeding inside the skull, the fracture was therefore a post mortem injury. It could also be that the brain was not damaged and there was no bleeding inside the skull because the blow which caused the fracture was not severe enough to cause such damage. In our
40 pinion Misa's evidence that he saw the blow being delivered on the deceased's left forehead when the deceased was standing is supported by two other injuries found on the deceased. First, there was a bruise on the whole dorsum of the deceased's right hand. Misa had stated that when the appellant raised the iron pipe to hit the deceased, he put up both hands to ward off the blow aimed at his head. And Dr. Seah stated that the bruise on the dorsum of the right hand of the

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deceased was a defensive injury. This injury therefore clearly supported Misa's story. Again, Dr. Seah had stated that the fracture involving the left half of the frontal bone was associated with the two lacerations found around the left eye of the deceased. These two lacerations also supported Misa's evidence that the deceased was standing (and therefore alive) when he received the blow which caused the comminuted fracture involving the left half of the frontal bone. Quite apart from the trial judges' assessment of his credibility based upon his demeanour in the witness box, the medical evidence supported Misa's evidence and the trial judges therefore were clearly justified in accepting his evidence and rejecting that of Saeroen whose evidence, in any case, they found to be unsatisfactory.

10

Misa's evidence was that when the deceased fell down after the first blow on his head, the appellant delivered another three or four blows with the iron pipe in the region of the deceased's head. This was confirmed by Saeroen and it can be properly inferred that those three or four blows with the iron pipe caused some, if not all, the other fractures found on the head of the deceased. Dr. Seah's evidence was that each of the four fractures was sufficient to cause death in the ordinary course of nature and that the cumulative effect of all the four fractures would have caused death within fifteen minutes.

20

30

The three possible causes of death canvassed at the trial, fractured skull, alcoholic intoxication and subarachnoid haemorrhage due to falls on the ground were all considered by Dr. Seah and though he conceded the possibility that death of the deceased could have been due to one of the other two causes, he stuck to his opinion that death was due to fractured skull. Where there are a number of possibilities, it is eminently a matter for the trial judges to decide which is the most likely possibility. In this case the trial judges having heard the whole evidence, had the complete picture before them as it emerged from the totality of the evidence and in our opinion they were justified in accepting Dr. Seah's opinion that the death of the deceased was due to fractured skull and not due to alcoholic intoxication or subarachnoid haemorrhage due to falls on the ground.

40

The only other point which needs consideration is the intention with which the appellant attacked the deceased. It is submitted that there was sufficient evidence of drunkenness which rendered the appellant incapable of forming the specific intent essential to constitute the offence of murder.

The relevant provision of the Penal Code is in the following terms:-

10 " 86.-(2) Intoxication shall be taken into account for the purpose of determining whether the person charged had formed any intention, specific or otherwise, in the absence of which he would not be guilty of the offence."

20 In Broadhurst v. The Queen, (1964) A.C. 441 The Privy Council considered the effect of the provisions of section 35(4) of the Criminal Code of Malta which are identical with those of section 86(2) of our Penal Code and there the Privy Council held that it was not for an accused to prove incapacity affecting the intent and that if there is material suggesting intoxication the jury should be directed to take it into account and to determine whether it is weighty enough to leave them with a reasonable doubt about the accused's guilty intent.

30 What is the intent which the prosecution had to prove to bring home the charge of murder? This has to be ascertained from the provisions of section 300 of the Penal Code which are in the following terms:-

"300. Except in the cases hereinafter excepted culpable homicide is murder ---

- (a) if the act by which the death is caused is done with the intention of causing death;
- (b) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or
- 40 (c) if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or

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- (d) if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death, or such injury as aforesaid."

On the facts of this case, to find the appellant guilty of murder, the intention which the trial judges had to find present in the mind of the appellant, when he attacked the deceased, is that set out in clause (c), the intention "of causing bodily injury (to the deceased) and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death". And for the purpose of determining whether the appellant had formed that specific intention, the trial judges had to take into account his intoxication. They have stated in their Grounds of Decision:-

" After considering all the evidence before us we were of the view that the action of the accused could not possibly be the action of a person who was so severely intoxicated that he could not form the intention to inflict the fatal blows.

We found that the accused was not in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the intention of causing bodily injury to the deceased. The evidence clearly showed that the accused had the intention of causing bodily injuries to the deceased which resulted in his death and that the bodily injuries inflicted were sufficient in the ordinary course of nature to cause death."

In our opinion the trial judges were justified in rejecting the defence of intoxication. It was not enough that before the event the appellant had been drinking heavily or that when examined after the event he was pronounced to have been under the influence of alcohol. There is nothing in the evidence of the Doctor who examined him or of those witnesses who observed him before or after the event to suggest that at the time of the event his physical and mental faculties were affected to the extent of affecting his capacity to form an

intent to cause bodily injury. There was no evidence of defect in speech or movement. In fact the evidence is that the appellant ran a distance of some 50 feet to a store to fetch the iron pipe with which he came back and attacked the deceased. This is of course only evidence about what the appellant did, but what he intended to do is a matter of inference. But the irresistible inference from all the evidence is that the appellant was not so drunk as not to know what he was doing at the material time and was not so affected by alcohol as to be incapable of forming the specific intent under clause (c) of section 300 of the Penal Code.

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12th August 1976

(continued)

10

In our judgment there are no grounds at all for disturbing the conviction of the appellant on the charge of murder. The appeal is dismissed.

Dated this 12th day of August, 1976.

(Sgd.) Wee Chong Jin
.....
Wee, C.J.

20

(Sgd.) Choor Singh
.....
Choor Singh, J.

(Sgd.) Kulasekaram
.....
Kulasekaram, J.

No. 8

CERTIFICATE OF RESULT OF APPEAL

CRIMINAL APPEAL NO. 3 of 1976

IN THE MATTER OF CRIMINAL APPEAL IN SINGAPORE
(In the Matter of High Court Criminal Case No. 52 of 1975)

BETWEEN

MOHAMAD KUNJO S/O RAMALAN .. APPELLANT

AND

THE PUBLIC PROSECUTOR .. RESPONDENT

30

No. 8

Certificate of Result of Appeal

12th August 1976

442.

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of Criminal
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No. 8

Certificate
of Result
of Appeal

12th August
1976

No. 8

CERTIFICATE OF RESULT OF APPEAL

CRIMINAL APPEAL NO 3 OF 1976

IN THE MATTER OF CRIMINAL APPEAL IN SINGAPORE

(In the Matter of High Court Criminal Case No. 52
of 1975)

BETWEEN

MOHAMAD KUNJO S/O RAMALAN ... APPELLANT

AND

THE PUBLIC PROSECUTOR ... RESPONDENT 10

In accordance with the provisions of Section 57(1) of the Supreme Court of Judicature Act (Chapter 15) I hereby certify that the above-mentioned Appeal was called on for hearing on the 28th and 29th days of June, 1976 and after reading the transcript of the evidence and adjudication and conviction and after hearing Mr Peter Yap, Counsel for the abovenamed Appellant and Mr Loh Lin Kok, Deputy Public Prosecutor, Counsel for the Respondent:

20

IT WAS ORDERED that the Appeal do stand for Judgment and the same coming on for Judgment this 12th day of August, 1976 in the presence of Mr Peter Yap, Counsel for the Appellant and Mr. Loh Lin Kok, Deputy Public Prosecutor, Counsel for the Respondent:

IT WAS ORDERED that the Appeal be dismissed.

Given under my hand and seal of Supreme Court this 12th day of August, 1976.

(Sgd.)

30

Michael Khoo Kah Lip
Deputy Registrar,
Supreme Court, Singapore.

/csp

No. 9

Order granting special leave to appeal
in forma pauperis to the Judicial
Committee

(L.S.)

AT THE COUNCIL CHAMBER WHITEHALL

The 9th day of December 1976

BY THE RIGHT HONOURABLE THE LORDS OF THE
JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

In the
Judicial
Committee of
the Privy
Council

No. 9

Order granting
special leave
to appeal in
forma pauperis
to the
Judicial
Committee

9th December
1976

10 WHEREAS by virtue of the Republic of Singapore
(Appeals to Judicial Committee) Orders 1966 and
1969 there was referred unto this Committee a
humble Petition of Mohamad Kunjo s/o Ramalan in
the matter of an Appeal from the Court of Criminal
Appeal of the Republic of Singapore between the
Petitioner and The Public Prosecutor Respondent
setting forth that the Petitioner prays for special
leave to appeal in forma pauperis to the Judicial
Committee from a Judgment of the Court of Criminal
20 Appeal dated the 12th August 1976 which dismissed
the Petitioner's Appeal against conviction of
murder and sentence of death in the High Court in
Singapore on the 11th February 1976: And humbly
praying Their Lordships to grant the Petitioner
special leave to appeal in forma pauperis
against the Judgment of the Court of Criminal
Appeal dated the 12th August 1976 and for
further or other relief:

30 THE LORDS OF THE COMMITTEE in obedience to
the said Orders have taken the humble Petition
into consideration and having heard Counsel in
support thereof and in opposition thereto Their
Lordships do grant special leave to the
Petitioner to enter and prosecute his Appeal
in forma pauperis against the Judgment of the
Court of Criminal Appeal of the Republic of
Singapore dated the 12th August 1976.

40 AND Their Lordships do further order that
the authenticated copy of the Record produced by
the Respondent upon the hearing of the Petition

In the
Judicial
Committee of
the Privy
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No. 9

Order granting
special leave
to appeal in
forma pauperis
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9th December
1976
(continued)

ought to be accepted (subject to any objection
that may be taken thereto by the Petitioner) as
the Record proper to be laid before the Judicial
Committee on the hearing of the Appeal.

E. R. MILLS

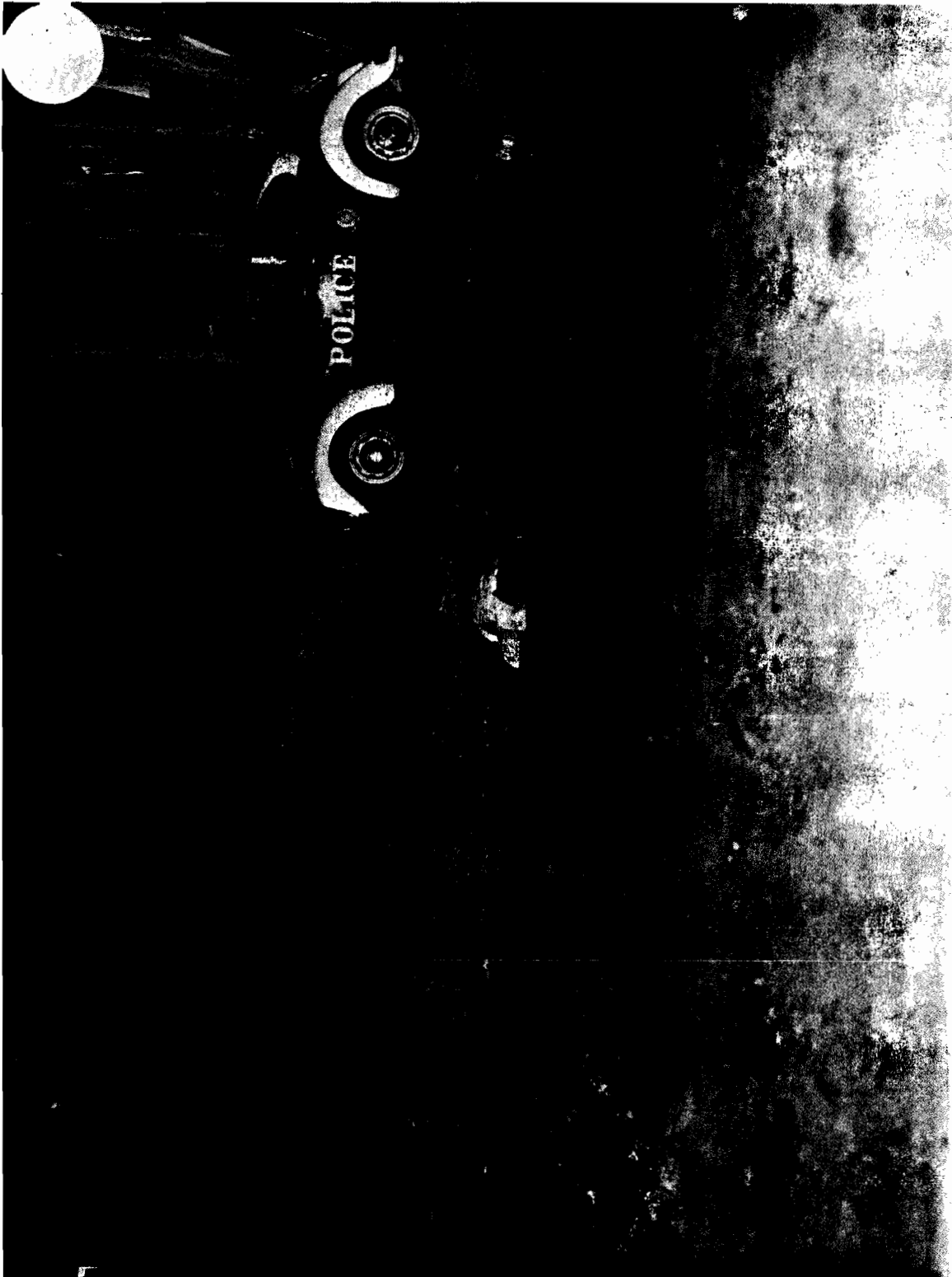
Registrar of the Privy Council

EXHIBIT P.2 - SEPARATELY REPRODUCED

18 of 1977

Exhibit
P.2
Photograph

Exhibits
Prosecution
Exhibit
P.2
Photograph



18 of 1977

Exhibit
P.6
Photograph

Exhibits
Prosecution
Exhibit
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Photograph



EXHIBIT P.6 - SEPARATELY REPRODUCED

447.

P 28

Autopsy Report

Dept. of Pathology: Autopsy No. 960/75
Admission : B.I.D. Ward No.
Coroner's Case: Yes M.O. i/c
NAME: ARUNMUGAM ARUNACHALAM Age: 54 years
Race: Indian Sex: Male

Exhibits
—
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Autopsy
Report

Date and time of Autopsy: 26.5.75 9.00 a.m.

Autopsy performed by: Dr. Seah Han Cheow
Body identified by: Insp. Chamkaur Singh 'A'

10

EXTERNAL EXAMINATION:

The body of an elderly male Indian of thin build, 165 cm. and weighed 50.9 kg.

The following clothings were first removed:

1. Heavily blood-stained shirt (cut at right sleeve to enable its removal at the mortuary).
2. Red long trousers.
3. Red underwear.

EXTERNAL INJURIES:

20

1. Laceration 3 cm. at left anterior parietal region.
2. Laceration 3 cm. at inner canthus of left eye (i.e. between bridge of nose and left eye) exposing fractured bone.
3. Laceration $3\frac{1}{2}$ cm. outer half of left eye-brow, exposing fractures.
4. 2 small lacerations, each measured $\frac{1}{2}$ cm., one on each lip, near left angle of mouth.
5. Laceration 4 cm. left side of chin, exposing bone.
6. Bruise whole of dorsum of right hand.

30

Eyes: left eye socket was heavily bruised. No cornea capacity.

Ears: blood-clots in both ears.

Nose: normal.

Mouth: lacerations noted on gums on the lower jaw. The largest patch was 1 cm. long.

Breasts and external genitalia: normal.

Exhibits

Prosecution
Exhibits

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Autopsy
Report
(continued)SKELETAL SYSTEM:

Spine, ribs and bones of the limbs were intact.

INTERNAL EXAMINATION:HEAD: Scalp: normal.

Skull: The skull was of normal thickness and density. The following fractures were found:

- (1) Comminuted fractures involving the left half of the frontal bone, associated with the two lacerations around the left eye. 10
- (2) Comminuted fractures involving both temporal bone.
- (3) There was a fracture line across the base of the skull obliquely from the right petrous temporal bone extended through the pituitary fossa, into the left eye socket (frontal bone).

Brain: Fresh subarachnoid haemorrhages were found at the temporal lobes. The inferior surface of both frontal poles also showed old contusions. 20

NECK: - Pharynx : normal.
Larynx : normal.
Trachea : normal.
Thyroid : normal.

CHEST: - Oesophagus: normal.
Bronchi : normal.
Pleural cavities: normal. 30
Lungs : normal.
Aorta : normal.
Heart : healthy.

ABDOMEN: Stomach : contained a little digesting food.
Liver : fatty changes.
Pancreas : normal.
Gall bladder and bile duct: normal.
Kidneys : normal.
Ureters : normal. 40
Bladder : normal.
Spleen : normal.
Adrenals : normal.

CERTIFIED CAUSE OF DEATH: FRACTURED SKULL.PATHOLOGIST: Sd:

Chemist Report

DEPARTMENT OF CHEMISTRY, SINGAPORE

CERTIFIED TRUE COPY

DEPARTMENT OF CHEMISTRY, Chemist Report
OUTRAM ROAD,
SINGAPORE 3.

SGD.
Chemist, Singapore

10th June, 1975

Lab. No. (S) 10299/75

10 REPORT UNDER SECTION 424 OF THE CRIMINAL PROCEDURE CODE, 1955.

I, Ng Tju Lik, Chemist, Singapore do hereby certify that at 2.40 p.m. on the 27th day of May, 1975 there was handed to me by Lim Kia Heang, 1 T/Tube Blood sealed Forensic Pathology and marked "Autopsy No. A960/75 Name: Arumugam Arunachalan Specimen: Blood Dr Seah Date 26.5.75".

On analysis, I found the blood sample to contain 400 mg ethanol per 100 ml blood.

20

SUPREME COURT
SINGAPORE
EXHIBIT P.29
in Cr. Case No. 52/75
Sgd.
Date: 26/1/76 f. Registrar

After examination the exhibits ^{was} sealed "Chief Chemist", Singapore" and handed ^{were} together with this Report to
.....
30 aton.....

Govt Pathologist
Attn: Dr Seah Han Cheow
S/pore.

Sgd Dr. Ng Tju Lik
.....
Chemist, Singapore

c.c. Coroner, S'pore.

/csp

450.

Exhibits

P 30

Prosecution
Exhibits

Medical Report of Dr. Ghandimuthu

P 30

C O N F I D E N T I A L

Medical
Report of
Dr. Ghandhimuthu
23rd June 1975

OFS/MR.370/75

Dr. V. Gandhimuthu, to Medical Superintendent
Changi Prison Hospital Outpatient Service,
Singapore 17 Singapore 2.

Re: Mohamed Kunjo s/o Ramalan,
Ref. PM.328/75

The above was examined by me at Changi Prison Hospital on 26.5.75 at 2.30 a.m. for Degree of intoxication and injuries. 10

On examination, the following were noted:-

1. His breath smelt of alcohol.
2. His gait was staggering.
3. Sub-Conjunctival Haemorrhage in right eye.
4. Abrasion about 5" x 1" over the back of right forearm.
5. On analysis, his blood contained 100 mg ethanol per 100 ml. blood. 20

He was admitted for observation and discharged well on 27.5.75.

Sd. (Dr. Moses Tay),
Deputy Medical Superintendent,
Outpatient Services,
Singapore 2.

Sd. (Dr. V. Gandhimuthu)
Medical Officer,
Changi Prison Hospital,
Singapore 17.

Chamkaur Singh, D/Insp,
I O 'A' Division,
Central Police Station
Ref. Report A/10937/75 30

Forwarded, please.

Sd. (Dr. S. Devi)
Medical Superintendent,
Outpatient Services,
Maxwell Road,
Singapore 2.

SUPREME COURT
SINGAPORE

EXHIBIT P30
in C.C.52/75

Date: 29/1/76

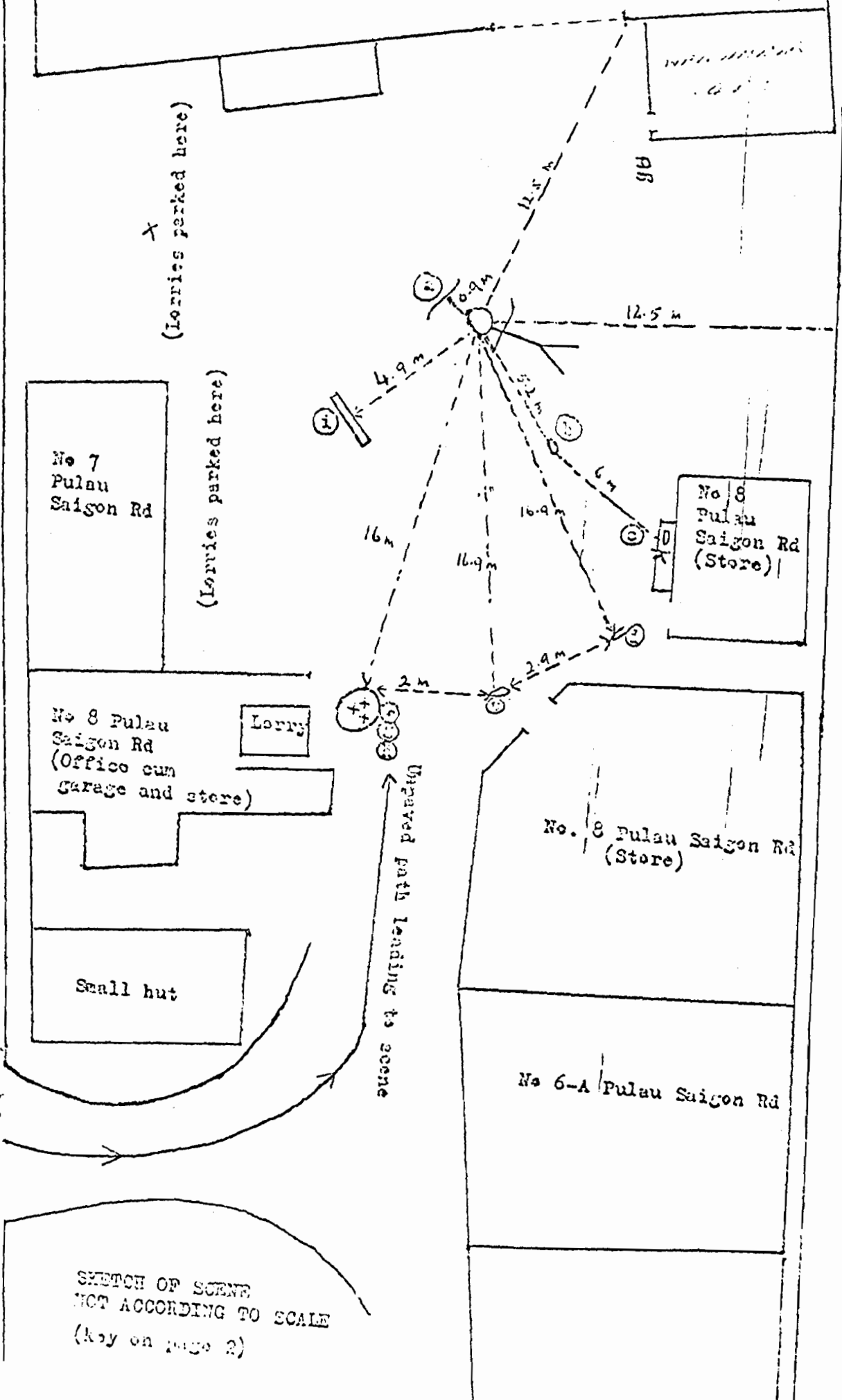
- Sd -

for Registrar

Date: 23 Jun 1975 40

451.
No. 10 Pulau Saigon Road
Tong Fong & Co Store

SEARCHED SERIALIZED



(Lorries parked here)

(Lorries parked here)

No 7
Pulau
Saigon Rd

No 8
Pulau
Saigon Rd
(Store)

No 8 Pulau
Saigon Rd
(Office cum
garage and store)

Lorry

Scall hut

No. 8 Pulau Saigon Rd
(Store)

No 6-A Pulau Saigon Rd

Dug path leading to scene

SKETCH OF SCENE
NOT ACCORDING TO SCALE
(key on page 2)

No. 10 Pulau Saigon Rd
Tong Fong & Co Store Rd

P. 32

No. 1.

432.2 / 95

P 132

Exhibits

page 2

Prosecution
ExhibitsItems recovered at scene

P32

Key:Sketch Plan
(continued)

- a) Exhaust pipe
- b) Small bottle of liquor - nearly full
- c) Small empty bottle of liquor on top of canvas
- d) Upturned left slipper
- e) Right slipper
- f) Cash \$2.80 (a \$1/ note and \$1.80 in coins)
- g) Singapore Sweep ticket. 10
- h) Key attached to key chain.
- i) Wooden plank

P40

P40

Cautioned
Statement
of AccusedCautioned Statement of an accused person Mohamad
Kunjo

On 26/5/75 at 1350 hrs, at Changi Prison, I read a charge under Section 302 Cap.103 to one Mohamad Kunjo m/54 I/c. No.1026417-J through an interpreter DPC 8470 speaking in Malayalam. Accused is not educated and wished to speak in Malayalam. The charge was read and explained to him through the interpreter DPC 8470. Having understood the charge, the accused signed on a copy of the charge sheet. I then administered the following caution to him through the interpreter. 20

"Do you wish to say anything in answer to the charge? You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence." 30

Sd. illegible

Interpreted by:-

Sd. illegible
D/8470Sd. illegible
(Chamkaur Singh) D/Insp
10 A Div.SUPREME COURT
SINGAPORE
EXHIBIT P40
in Cr. C. 52/75Sd.
f. Registrar
Date 3/2/76

The above caution was read and explained to the accused through the interpreter. He signed immediately after the last word as having understood it. He wished to say:-

Exhibits
—
Prosecution Exhibits

10 "The fight started because I told Arunmugam not to drink when he drove lorries. He got angry and punched me on the eye. He also used a wood to hit me on my left hand. I got angry and hit him back. I do not remember with what I hit him. I had no intention to kill him. I did not know he will die. That's all.

P40
Cautioned Statement of Accused (continued)

Interpreted by: Sd. illegible

Sd. illegible Sd. Chamkaur Singh
D/8470 D/Insp
10 A Div

20 The above statement was read and explained to the accused through the interpreter. He affirmed it true and correct and signed immediately after the last word. I then invited him to make corrections or add anything else he wished to say, but he had no corrections to make and nothing to add.

Interpreted by: Sd. illegible

Sd. illegible Sd. Chamkaur Singh
D/8470 D/Insp
10 A Div

P 43

Chemist Report

30 DEPARTMENT OF CHEMISTRY, SINGAPORE

DEPARTMENT OF CHEMISTRY
OUTRAM ROAD
SINGAPORE 3

P43
Chemist Report
5th June
1975

Lab. No.(S) 10263/75

5th June 1975

REPORT UNDER SECTION 424 OF THE CRIMINAL PROCEDURE CODE, 1955

I, Lim Chin Hua Senior Chemist, Singapore do hereby certify that at 11.10 a.m. on the 27th day

Exhibits
 —
 Prosecution
 Exhibits
 P43
 Chemist
 Report
 5th June 1975
 (continued)

of May, 1975 there were handed to me by D/Insp Chamkaur Singh three exhibits sealed "Officer i/c 'A' DIV S.P.F." and marked "PSR1", "PSR2" and "PSR3" respectively.

I found the exhibits to be:-
 "PSR1" .. One test-tube which was sealed "Forensic Pathology" marked "Autopsy No.A960/75, Arumugam Aru, Specimen Bld., 26.5.75, Dr.Seah" and contain a specimen of blood.
 On examination I found this specimen of blood to be of the "A" group. 10

"PSR2".. One test-tube sealed "Forensic Pathology" and containing a quantity of hair which was generally dark in colour with some white strands.

On examination I found this exhibit to be human hair.

"PSR3".. One piece of metal piping.

I examined the metal pipe "PSR3" and found it to be stained with human blood. I also attempted to determine the blood group of this stain but obtained inconclusive results. 20

I also found on the stained area of the pipe "PSR3", three strands of hair 3cm., 1cm and $\frac{1}{2}$ cm. long respectively. On examination I found these three strands of hair to be human hair.

I also observed that the 3cm strand was in part dark and in part white in colour while the other two strands was dark in colour.

I compared the three strands of hair from "PSR3" with those in "PSR2". I found that I did not detect any evidence to indicate that the 3cm and the 1cm strands had not come from the same source as those in "PSR2". 30

I found that the $\frac{1}{2}$ cm strand from "PSR3" was thicker than the other two strands from "PSR3" as well as those from "PSR2". However this strand had its root present while the others did not. The $\frac{1}{2}$ cm strand of hair from "PSR3" could not therefore be compared with the sample of hair in "PSR2".

SUPREME COURT
 SINGAPORE
 EXHIBIT CC 43
 In CC 52/75
 Sd. illegible
 f. Registrar
 Date: 3/2/76

Contd. 40

After examination, exhibits "PSR2" and "PSR3" and the strands of hair recovered from the pipe "PSR3", were sealed "Chief Chemist, Singapore" and handed together with this report to D/Insp Chamkaur Singh at 10.35 a.m. on 13.6.75.

Sd. illegible

Senior Chemist,
Singapore.

Exhibits
—
Prosecution
Exhibits

P43

Chemist
Report
5th June 1975
(continued)

10 Commissioner of Police
Singapore.

P 53

Chemist Report

DEPARTMENT OF CHEMISTRY, SINGAPORE

DEPARTMENT OF CHEMISTRY
OUTRAM ROAD
SINGAPORE 3

5th June 1975

Lab. No.(S) 10368 and 10737/75

REPORT UNDER SECTION 424 OF THE CRIMINAL PROCEDURE
CODE, 1955

20 I, Lim Chin Hua Senior Chemist, Singapore do
hereby certify that at 11.55 a.m. on the 28th day
of May, 1975 there were handed to me by D/Insp
Chamkaur Singh eight exhibits sealed "Officer i/c
'A' DIV S.P.F." and marked "PSR4" to "PSR11"
respectively.

I found the exhibits to be:-

- 30 "PSR4" .. One bottle bearing commercial label "Tai
Thong Wine Traders Pte Ltd. Boon Qui Loo"
and containing 168 millilitres of yellow-
ish liquid. On analysis I found this
liquid to be an Intoxicating Liquor as
defined in the Customs Act with a spirit
strength of 72.7% proof spirit.
- "PSR5" .. One bottle bearing commercial label "Tai
Thong Wine Traders Pte Ltd. Boon Qui Loo"
and which I found to be empty.

Exhibits
 —
 Prosecution
 Exhibits
 P53
 Chemist
 Report
 5th June 1975
 (continued)

- "PSR6" .. One white shirt (cut) which I examined and found to be stained with human blood.
- "PSR7" .. One pair of red coloured trousers which I examined and found to be stained with human blood.
- "PSR8" .. One red and white underwear which I examined and found to be stained with human blood.
- "PSR9" .. One light blue shirt which I examined and found to be stained with human blood. 10
- "PSR10" .. One pair of brownish coloured trousers which I examined and found to be stained with human blood.
- "PSR11" .. One piece of wooden plank which I examined for blood stain but was not able to detect any.

I also examined the blood stain on the light blue shirt "PSR9" and found it to belong to the "AB" group.

I also attempted to determine the blood group of the stain on the pair of brownish coloured trousers "PSR10" but obtained inconclusive results. 20

I further certify at 10.40 am on the 2nd day of June 1975 there was shown to me by D/Insp. Chamkaur Singh one person answering to the name of Mohamed Kunjo.

With the permission of the said Mohamed Kunjo and in the presence of D/Insp. Chamkaur Singh, I took a specimen of the blood of Mohamed Kunjo.

Subsequently on examination I found this specimen of blood to belong to the "AB" group. 30

After examination exhibits "PSR4" to "PSR11" were sealed "Chief Chemist, Singapore" and handed together with this report to D/Insp. Chamkaur Singh at 10.35 a.m. on 13.6.75.

Commissioner of Police
 Singapore

Sd. Lim Chin Hua
 Senior Chemist
 Singapore

SUPREME COURT, SINGAPORE
EXHIBIT P 53 in Cr.C. 52/75
 Sd. illegible
 Date: 3/2/76 f. Registrar

457.

D 10

Exhibits

DR. PAUL W. NGUI
MBBS (Malaya), MRCPsych.,
DPM (England),
AM (S'pore)

613 SUPREME HOUSE
PENANG ROAD
SINGAPORE 9.

Defence
Exhibits

D10

CONSULTANT PSYCHIATRIST

5th February, 1976

Report of
Paul W. Ngui

5th February
1976

MEDICAL REPORT
ON
MOHAMAD KUNJO s/o RAMALAN

10 I examined Mohamad Kunjo at Queenstown Prison
on 22nd & 23rd January, 1976.

PERSONAL HISTORY:

He was born in Kerala, India in 1921. His
father was a tailor and died when accused was a
young child.

His mother is still alive and about 90 years
old. He is the eldest of 3 children and has one
younger brother and one younger sister.

20 He had no schooling and as a boy worked as a
cowherd. He tended cows till 1945, when he married.
A few months after marriage he accompanied another
villager to Singapore. The villager recommended
him a job as a piling construction worker with
Sime Darby. For 5 years, he laboured in bondage
giving all his salary to the villager. He was
unable to send any money home.

Being illiterate, he did not correspond with
his wife and family and over the years he has lost
touch with them.

30 After confirming that he had paid off his
obligation to the villager, he resigned from Sime
Darby and worked for a road work construction
company.

The work was hard. He had few friends and was
disillusioned with life. After toiling 5 years
without any savings, he decided not to save.

His drinking history began soon after he
resigned from Sime Darby.

ExhibitsDefence
Exhibits

D 10

Report of
Paul W. Ngui
5th February
1976
(continued)ALCOHOLIC HISTORY:

He was not clear when he really started drinking but it was in the early 1950's. He began with one glass of toddy a day and gradually increased his alcoholic intake to five glasses of toddy a day.

For the past 10 years he drank heavily. His average daily consumption of alcohol was one suku bottle of spirits and one large bottle of beer. On Sundays, and holidays, he would start off drinking at 10 a.m. about 5 glasses of toddy and by the end of the day he would have finished 2 suku bottles of spirit and one to two large bottles of beer. 10

Although he is able to restrain from drinking during working hours, there are signs of addiction to alcohol. He becomes restless and at the first opportunity makes a bee-line for the liquor shop. Once he starts drinking, he cannot stop and he will continue drinking until dead drunk, going off to sleep. Sometimes he is carried home. There were numerous occasions when he could not remember what happened the previous night. These "blackouts" or amnesic periods are characteristic of chronic alcoholism. 20

There were no previous aggressive outbursts during drinking. There was also no history of delirium tremens. Other symptoms of alcoholism were the tremors of his hands which disappeared after drinking. 30

PHYSICAL EXAMINATION:

Except for fine tremors of his outstretched hands, he was physically in good health.

His blood pressure was normal.

PSYCHIATRIC EXAMINATION:

Accused was rational. He appeared co-operative and frank. He gave his name and age correctly and his orientation for day, date and place was satisfactory.

His thought processes were normal and there were no psychotic symptoms. In mood, he was 40

depressed. He was remorseful at having killed his friend and kept repeating he did not mean to kill him.

His memory for recent events was poor. He had great difficulty in remembering a name and address given.

Memory test on digit span was very poor. He was only able to repeat 4 digits forwards (normal 7-8) and 2 digits backwards (normal 6-7).

10 I gave him some simple tests of arithmetical calculation and he failed the tests. This could be due to his lack of formal education.

I would put his intelligence as normal but below average.

OPINION:

On the basis of these interviews I formed the opinion that he suffered from chronic alcoholism which contributed to a mild degree of impairment of his memory function especially for recent events.

20 His previous personality was an introverted depressive personality.

ACCUSED'S ACCOUNT OF THE OFFENCE:

At the interview, the accused remembered the date of the offence as on 15th March 1975 (the actual date was on 25th May, 1975). According to the accused, it was Saturday and an off day for him. He woke up about 10 a.m. and went straight for the toddy shop where he had 4 to 5 glasses of toddy. He had some bread and tea for breakfast.

30 After drinking toddy, he felt a little high and he went home to sleep.

He slept through until 4 p.m. when he woke up. He did not have his lunch but went direct to a liquor shop to buy a large bottle of beer. He met the deceased at the shop and they decided to drink together. Each of them finished one suku bottle of Boon Qui Loo and one large bottle of beer. Following this, they proceeded to buy some food and on the way home, they picked up two suku bottles of Boon Qui Loo and two large bottles of beer. They then had their meal and drinks together.

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Exhibits

Defence Exhibits

D10

Report of
Paul W. Ngui
5th February
1976
(continued)

Exhibits

Defence
Exhibits

D10

Report of
Paul W. Ngui
5th February
1976
(continued)

He vaguely recalled the employer asking them to load the lorry the following day. While they were drinking, accused remembered asking deceased not to drink too much, as they would be working the next day. Deceased replied that it was a personal matter and started to assault accused. He remembered vaguely that they wrestled and grappled with each other and that deceased punched him in the right eye. He was not certain what really happened after the punch but remembered hitting deceased with something. He could not recall how he hit deceased and with what.

10

The events of the evening was a complete blur to him after the punch.

MENTAL STATE OF ACCUSED AT TIME OF OFFENCE:

From the evidence, the blood alcohol concentration (B.A.C.) of the accused taken at 2.30 a.m. was 100mg/100ml of blood.

The rate of metabolism for alcohol ranges from 10 to 20mg/100ml, the average being 16mg/100ml.

20

Taking the average rate, the accused would have a B.A.C. of 188mg/100ml. at the time of the offence (5½ hours earlier).

This is assuming that the rate of metabolism was constant. The rate of metabolism of alcohol may be increased by exercise and excitement. The accused was arrested more than 2 hours after the offence. He was wandering about since he left the scene of the crime. Further he was made to walk some considerable distance from the place of arrest to the Central Police Station.

30

Taking the higher rate of metabolism into account the accused would have a B.A.C. of 210mg/100ml. It is reasonable to conclude that at the time of the offence, the B.A.C. of the accused would be in the region of 188 to 210mg/100ml.

At this B.A.C., the accused would be in a state of severe drunkenness. (see Forensic Medicine, Simpson page 330, Taylor's Principle and Practice of Medical Jurisprudence, Vol.II page 382, under Behaviour.)

40

The evidence of his employer, Tan Chwee Siong the two eye witnesses, Phasaram Misah and Saeroen would confirm his drunken state.

The accused was observed to be playfully frolicking and grappling with the deceased. This was probably the early stages of drunkenness with loss of inhibitions inducing a care free jocularity with shouts of laughter.

10 A more severe stage of drunkenness was arrived with evidence of slurred indistinct speech, general inco-ordination of movements and staggering gait. This would indicate that the basal centres of the brain were being overcome.

At this severe level of intoxication, his mind would be in a state of confusion. Thinking would be slowed down, and would be incoherent. He would have difficulty in grasping and interpreting events correctly. Subsequent recollection of this period would be hazy and amnesia would commonly follow.

20 Accused's account of the events leading to the crime with amnesia would be consistent with severe intoxication.

When I examined the accused, I found his memory to be poor. He was also confused about the date of the offence. He was convinced that the crime took place on Saturday 15th of March, 1975.

He had little difficulty in recalling the events up to the time when they returned to the store to have their meal and drinks together.

30 The recollection of events after this was patchy up to the point when he received the blow on the eye by the deceased. The blow must have aggravated his confusions because he appeared to be amnesic for the period after the blow. That blow to his head was probably significant. I tried to elicit his reaction to the blow and he tried very hard to recollect his reactions but he was unable to remember.

40 I can only conclude that that blow caused a minor concussion which precipitated an abnormal fear reaction or rage reaction in his already confused mind, and which consequently led to his attack on the deceased. (See Criminal Responsibility and Mental Illness, Whitlocks, pg.82-83.)

Exhibits

Defence Exhibits

D10

Report of Paul W. Ngui 5th February 1976

(continued)

Exhibits

Defence
Exhibits

D10

Report of
Paul W. Ngui
5th February
1976
(continued)

From all accounts of his behaviour at the time of the offence, I am of the opinion that he was in a confused state of mind due to alcoholic intoxication so as to be incapable of forming the necessary intent to commit the offence.

Furthermore, I am of the opinion that the abnormal fear or rage reaction would have severely impaired his responsibility for his actions.

(Sgd.) P. W. Ngui

DR. PAUL W. NGUI.
MBBS(Malaya), MRCPsych.,
DPM(England) AM(Singapore)

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SUPREME COURT
SINGAPORE

EXHIBIT D10
in Cr. C. 52/75

sd. illegible
f. Registrar

Date: 29/1/76

IN THE JURIDICAL COMMITTEE OF THE PRIVY COUNCIL

No. 35 of 1976

O N A P P E A L

FROM THE COURT OF CRIMINAL APPEAL IN THE REPUBLIC
OF SINGAPORE

B E T W E E N :

MOHAMAD KUNJO S/O RAMALAN

Appellant

and

THE PUBLIC PROSECUTOR

Respondent

R E C O R D O F P R O C E E D I N G S

Coward Chance,
Royex House,
Aldermanbury Square,
London EC2V 7LD

Solicitors for the Appellant

Charles Russell & Co.,
Hale Court,
Lincoln's Inn,
London WC2A 3UL

Solicitors for the Respondent