IN THE COURT OF THREE JUDGES OF THE REPUBLIC OF SINGAPORE

[2023] SGHC 65

Originating Summons No 2 of 2022

Between

Law Society of Singapore

… *Applicant*

And

Ravi s/o Madasamy

… *Respondent*

JUDGMENT

[Legal Profession — Disciplinary proceedings]

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Law Society of Singapore
v
Ravi s/o Madasamy

[2023] SGHC 65

Court of Three Judges — Originating Summons No 2 of 2022
Sundaresh Menon CJ, Tay Yong Kwang JCA and Belinda Ang JCA
9 November 2022

21 March 2023 Judgment reserved.

Sundaresh Menon CJ (delivering the judgment of the court):

Introduction

1 C3J/OS 2/2022 ("OS 2") is an application by the Law Society of Singapore (the "Law Society") for the respondent, Mr Ravi s/o Madasamy ("Mr Ravi"), to be sanctioned under s 83(1) of the Legal Profession Act 1966 (2020 Rev Ed) (the "LPA"). The misconduct that is in issue before us arose out of comments which Mr Ravi made when he was interviewed by The Online Citizen Asia ("TOC Asia") and other comments he subsequently posted on Facebook following the release of the Court of Appeal's oral grounds in *Gobi a/l Avedian v Public Prosecutor* [2021] 1 SLR 180 ("*Gobi (Review)*") on 19 October 2020. Mr Ravi's remarks suggested improper conduct on the part of the Attorney-General, the then-Deputy Attorney-General Mr Hri Kumar Nair (the "DAG"), the prosecutors from the Attorney-General's Chambers ("AGC") who had been involved in *Gobi (Review)*, and the Law Society. At the time of the

alleged misconduct, Mr Ravi was an advocate and solicitor of 20 years' standing and was practising with Carson Law Chambers.

2 Following a complaint made by the DAG in respect of Mr Ravi's various comments, a disciplinary tribunal (the "DT") was convened to investigate four primary and three alternative charges which were preferred against Mr Ravi under s 83(2) of the LPA. The DT found that three of the four primary charges against Mr Ravi were made out, but found that no cause of sufficient gravity for disciplinary action arose. It ordered Mr Ravi to pay a total penalty of $6,000 in respect of those charges.

3 Dissatisfied, the Law Society filed OS 2 on 20 January 2022 pursuant to s 94(3)(*b*) of the LPA, and contended that Mr Ravi's misconduct amounted to due cause and warranted the imposition of more serious sanctions under s 83(1) of the LPA.

Background

4 We begin by setting out the backdrop against which Mr Ravi's misconduct arose, starting with the criminal proceedings and various related events that culminated in *Gobi (Review)*. This will help explain the kernel of Mr Ravi's remarks which form the subject of the present disciplinary proceedings.

Criminal proceedings involving Gobi

5 On 11 December 2014, one Gobi a/l Avedian ("Gobi") was arrested on suspicion of having in his possession two packets of granular substance containing a prohibited drug. In HC/CC 13/2017 ("CC 13"), which commenced on 31 January 2017, Gobi was charged under s 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"), punishable by death under s 33(1) read with

the Second Schedule of the MDA, for importing the two packets of granular substance found to contain not less than 40.22g of diamorphine, a controlled drug under Class A of the First Schedule to the MDA (the "Drugs"). Gobi's defence counsel at the time was Mr Shashi Nathan.

6 At trial, the sole issue before the High Court was whether Gobi had rebutted the presumption of knowledge under s 18(2) of the MDA (the "s 18(2) MDA presumption"). Section 18(2) of the MDA states:

> **Presumption of possession and knowledge of controlled drugs**
>
> **18.**— …
>
> (2) Any person who is proved or presumed to have had a controlled drug in his or her possession is presumed, until the contrary is proved, to have known the nature of that drug.

7 At first instance, Gobi's case was that he thought the Drugs were a form of mild controlled drug mixed with chocolate, and thus that he did *not know* that the Drugs were a Class A controlled drug. The Prosecution's case was that Gobi "*knew* or was *wilfully blind* as to the nature of the drugs" [emphasis added]: see *Public Prosecutor v Gobi a/l Avedian* [2017] SGHC 145 ("*Gobi (Trial)*") at [2]. At the conclusion of the trial, the High Court found Gobi's testimony credible, and that he had rebutted the presumption of knowledge under s 18(2) of the MDA: see *Gobi (Trial)* at [53]. The High Court accordingly acquitted Gobi on the charge that was brought but convicted him on an amended lesser charge of attempting to import the Drugs believing it to be a controlled drug under Class C. Gobi was sentenced to 15 years' imprisonment and ten strokes of the cane on the amended charge and acquitted of the capital charge.

8 The Prosecution appealed against Gobi's acquittal on the capital charge in CA/CCA 20/2017 ("CCA 20"). The Court of Appeal allowed the appeal and

held that Gobi had failed to rebut the presumption of knowledge under s 18(2) of the MDA. On 25 October 2018, it set aside Gobi's conviction on the amended charge and convicted Gobi of the original capital charge: see *Public Prosecutor v Gobi a/l Avedian* [2019] 1 SLR 113 ("*Gobi (Appeal)*").

9 Mr Ravi began acting for Gobi in September 2019. On 3 January 2020, he filed on behalf of Gobi an application for leave to commence criminal review proceedings against the Court of Appeal's decision in *Gobi (Appeal)* pursuant to s 394H of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (the "CPC"). The Court of Appeal granted leave for Gobi to file a review application pursuant to s 394I of the CPC. On 25 February 2020, Gobi duly filed CA/CM 3/2020 ("CM 3"), seeking a review of *Gobi (Appeal)*.

10 This application was premised on a separate decision of the Court of Appeal in *Adili Chibuike Ejike v Public Prosecutor* [2019] 2 SLR 254 ("*Adili*") that had been released some months earlier on 27 May 2019, but some months *after* the Court of Appeal rendered its decision in *Gobi (Appeal)*. In *Adili*, the accused person had appealed against the High Court's decision convicting him of trafficking in a capital amount of methamphetamine and sentencing him to the mandatory death penalty. Both at first instance and on appeal, the Prosecution relied on the presumption of possession under s 18(1) of the MDA, which provides that:

> **18.**—(1) Any person who is proved to have had in his possession or custody or under his control —
>
> (*a*) anything containing a controlled drug;
>
> (*b*) the keys of anything containing a controlled drug;
>
> (*c*) the keys of any place or premises or any part thereof in which a controlled drug is found; or

> (*d*) a document of title relating to a controlled drug or any other document intended for the delivery of a controlled drug,
>
> shall, until the contrary is proved, be presumed to have had that drug in his possession.

11 The Prosecution's case, however, was that the accused had been wilfully blind to the existence of the drugs in question. The Court of Appeal held that the Prosecution could not invoke the s 18(1) MDA presumption in relation to wilful blindness because the s 18(1) presumption was a presumption of *fact* while the doctrine of wilful blindness was a construct of *law* which described a mental state falling short of actual knowledge but that was treated as its *legal* equivalent. The Court of Appeal, however, left open the question of whether the same was true of *s 18(2)* of the MDA: see *Adili* at [69].

Gobi's applications for prohibitory and declaratory orders in relation to his execution

12 Separately, Mr Ravi on 28 January 2020 filed HC/OS 111/2020 ("OS 111") on behalf of Gobi and one Datchinamurthy a/l Kataiah ("Datchinamurthy"). Datchinamurthy too had been sentenced to the mandatory death sentence after being convicted of trafficking in a quantity of drugs exceeding the threshold for the imposition of capital punishment: see *Public Prosecutor v Christeen d/o Jayamany and another* [2015] SGHC 126. Gobi and Datchinamurthy sought (amongst other orders) a prohibitory order to stay their executions in the light of their allegations that executions were being carried out by prison officials kicking prisoners on the back of the neck.

13 On 4 February 2020, a pre-trial conference was convened at the request of Mr Wong Woon Kwong of the AGC ("Mr Wong"). Mr Wong sought urgent hearing dates on account of the gravity of the allegations contained in OS 111.

In particular, Mr Wong added that he was "... instructed to state that we are expressly reserving all our rights against Mr Ravi" (the "Reservation Statement"). Mr Ravi sought to clarify the meaning of the Reservation Statement during the hearing, but was directed by the Assistant Registrar to seek clarifications from the AGC thereafter.

14 On 10 February 2020, Mr Ravi filed HC/OS 181/2020 ("OS 181") on behalf of Gobi and Datchinamurthy, seeking a declaration that the Reservation Statement constituted a breach of their right to a fair hearing. OS 111 and OS 181 were heard together on 13 February 2020 and dismissed.

Gobi (Review)

15 Returning to Gobi's review application, CM 3 was heard by a five-Judge panel of the Court of Appeal on 19 October 2020. Brief grounds of the Court of Appeal's judgment were delivered on the same day (the "Brief Grounds"), setting out its reasons for setting aside Gobi's conviction on the capital charge and reinstating Gobi's conviction on the amended charge imposed in *Gobi (Trial)*. At [9] of its Brief Grounds, the Court of Appeal made the following observation:

> Although we had, in *Adili*, expressly confined the aforesaid holdings to the s 18(1) presumption of possession, on the face of it, they seem likely to also apply to the s 18(2) presumption of knowledge. In this light, *we reviewed the record and observed what seemed to us to be an inconsistency between the Prosecution's case at the trial and its case on appeal in respect of the state of the Applicant's knowledge of the nature of the Drugs*.
>
> [emphasis added]

16 The Court of Appeal then found that the Prosecution's case had *changed* from one of wilful blindness *at trial* to one of actual knowledge *on appeal*. In

this regard, the Court of Appeal observed that "[t]his change in the Prosecution's case was ultimately prejudicial to [Gobi] because he was never squarely confronted with the case that he did not in fact believe what he had been told by [the relevant persons], and so he could not have responded to such a case" (see the Brief Grounds at [20]). As the Prosecution's case at trial was premised on wilful blindness, the court held that the Prosecution was not entitled to rely on the presumption of knowledge under s 18(2) of the MDA at all.

17 The Court of Appeal's full written judgment in *Gobi (Review)* was released after the hearing of CM 3.

Statements made by Mr Ravi in his interview with TOC Asia

18 Shortly after the delivery of the Brief Grounds on 19 October 2020, Mr Ravi was interviewed by TOC Asia outside the Supreme Court building (the "Interview"). When requested to comment on Gobi's criminal proceedings, Mr Ravi made the following remarks:

> Yes, this morning, the Court of Appeal has set aside the death sentence of Gobi Avedian, who is a Malaysian, on account of miscarriage of justice.
>
> This has made judicial history in Singapore, because it is for the first time that a case, a death penalty case, which has run its course to the Court of Appeal, after the clemency petition has been rejected by the President on the advice of the Cabinet, after all has been gone and when Gobi or the death penalty inmate has been facing an execution, that this case had been reviewed by the Court after we filed an application, and the Court has reviewed its previous decision, the Court of Appeal. And the Court of Appeal concluded that the previous decision is demonstrably wrong. Demonstrably wrong on the basis that there was another decision by the Court of Appeal that established the principles of willful blindness, which the previous Court of Appeal did not have the benefit. So therefore, when I filed the application, I pointed to the Court that in view of the latest decision, in the case of *Adili*, this Court of Appeal case on the definition of willful blindness. The Court of Appeal accepted that in view of the latest decision, in this case the

previous decision in the current case of Gobi is demonstrably wrong, and therefore Gobi has suffered a miscarriage of justice.

…

And *one of the things which is troubling in this decision today, is that the Court noted that the Attorney-General, or the Public Prosecutor ran a different case in the High Court and the Court of Appeal. Then that begs the question and calls into [sic] the fairness of the administration of justice in Gobi's case by the Prosecution*, because the Prosecution has a duty as ministers of justice to be fair.

As a defence counsel, I only have a role towards my client. But the Prosecution in prosecuting people, especially for death penalty, it is extremely important that you must be fair to both sides, the accused, and the State. So therefore, balancing this, the State has been overzealous in his prosecution, **the Public Prosecutor has been overzealous in his prosecution and that has led to the death sentence of Gobi**. In fact, Gobi was acquitted originally in the High Court, then his conviction/acquittal was overturned by the Court of Appeal when the Prosecution appealed. Now, after this review application, the Court of Appeal set aside its previous decision.

And what is crucial to bear in mind, is the numerous threats, the Government of Singapore gave me in defending Gobi. I suffered tremendous stress, to the extent that I even have to discontinue myself in acting in one of the appeal cases, he did in another application … I accept that you have to be careful about applications. But what if I had not taken up this? It is not that I am gloating over this, I could have given up anytime because of the threat.

The Government of Singapore said in one of another application when I was defending Gobi, that it will reserve its rights against me personally, and in this application when we filed before the Court of Appeal in Gobi's case, the Prosecution submitted that it is an abuse of process. Abuse of process means a threat of cost order can be coming, a complaint to the Law Society is coming, or may potentially come. All these things will affect my licence to practice. How can I be effective for other clients as well?

I am saying this to the State and the Prosecution and the Minister of Law. <u>Please apologise to Gobi, and for the suffering, his family, and he has gone through during this process, because the Prosecution, as the Court observed, ran a different case in the High Court and the Court of Appeal. So therefore, the Prosecution, essentially the fairness of the Prosecution, is called into question by the Court itself.</u>

> …
>
> [emphasis added in italics, bold and underline]

We refer to the statement in italics above as the "First Interview Statement"; to the statement in bold above as the "Second Interview Statement"; and to the underlined statement above as the "Third Interview Statement". These three statements are collectively referred to as the "Interview Statements."

19 A video recording of the Interview was published on TOC Asia's website and Facebook page on the same day. Excerpts of the Interview were also cited in an accompanying article titled "Court of Appeal sets aside death sentence of Malaysian inmate, cites miscarriage of justice".

Statements made by Mr Ravi in his Facebook posts

20 On 20 October 2020, the DAG wrote to Mr Ravi, referring to the Interview Statements (the "DAG's Letter"). The DAG informed Mr Ravi that the Interview Statements contained serious allegations that the Public Prosecutor had acted in bad faith or maliciously in the prosecution of Gobi, and alleged that Mr Ravi was aware that such allegations were false and inflammatory. The DAG also sought an apology and retraction of the Interview Statements by Mr Ravi.

21 Later that day, Mr Ravi uploaded the DAG's Letter in a Facebook post (the "First Facebook Post"). The material parts of the First Facebook Post are as follows:

> [The DAG] has written to me a letter today asking me to apologise and retract certain comments I made yesterday outside the Supreme Court on the miscarriage of justice in Gobi's case … I am entitled to my criticisms of the unfairness associated to the miscarriage of justice …

> [The DAG] threatens to complaint [*sic*] – where else: The Law Society of Singapore. This is a bold threat by the [DAG]. [The DAG] owes an apology to me for sending this letter as this tantamounts [sic] to humiliating Gobi and his family by insulting them further to threaten their counsel to apologise when *these government lawyers who handled Gobi's case are the wrongdoers*. The public should demand the AG to retract this letter and apologise.
>
> **I have already taken instructions from Gobi and his family to commence proceedings against [the AG], [the DAG] and Mr Faizal SC in court. I will file the writ of summons in the next few days for both personally against all 3 of the above Government lawyers and also against their offices in which they hold public appointment. They have to be accountable to Gobi and his family in court and be subject to rigorous cross examination and public scrutiny of their conduct of Gobi's case**. I believe the AG and his government legal officers will instruct some big firms…
>
> I will respond to [the DAG's] threatening and humiliating letter accordingly. <u>I will also commence proceedings against law society [*sic*] if it does not do its part to protect lawyers and the independence of the profession if it entertains any further complaints or participates in any harassment by the AG to harass me in doing my job</u>.
>
> …
>
> [emphasis added in italics, bold and underline]

We refer to the statement in italics above as the "First Facebook Statement"; to the statement in bold above as the "Second Facebook Statement"; and to the underlined statement above as the "Third Facebook Statement". These statements are collectively referred to as the "Facebook Statements".

22 On 22 October 2020, Mr Ravi replied to the DAG's Letter (the "Reply Letter"). In the Reply Letter, Mr Ravi acknowledged that he had made the Interview Statements but rejected the allegation in the DAG's Letter that the statements had been made with the knowledge that they were false, or that any obligations under the LPA and the Legal Profession (Professional Conduct) Rules 2015 (S 706/2015) (the "PCR") had been breached when he made those

statements. He maintained that there was sufficient basis, "both objective and subjective", for the statements to be made. Accordingly, Mr Ravi took the position that the AGC's requests for a public apology and retraction of the relevant statements were "not only plainly without basis, but also insulting given the fact that [the AGC had] treated Gobi's life with such a blatant disregard, whom [Mr Ravi] was trying to save at the eleventh hour and which he eventually succeeded". He concluded the Reply Letter by stating that "[r]egardless of the Prosecution's apology…, we have firm instructions from Gobi and his family to commence legal action and enforce his rights against [the AG, the DAG], and members of the Prosecution who had carriage of this matter in *Gobi (Appeal)* and *Gobi (Review)*".

23 Mr Ravi uploaded the Reply Letter in a Facebook post on the same day. In that post (the "Second Facebook Post"), he reiterated that he had been instructed to commence legal action (as set out in the foregoing paragraph).

24 On 4 November 2020, Mr Ravi commenced HC/S 1068/2020 ("Suit 1068") on behalf of Gobi against the AG, the DAG, and the prosecutors who had carriage of the *Gobi* proceedings (collectively referred to as the "AG *et al*"). It was alleged that the AG *et al* had committed the tort of misfeasance in public office and were in breach of their statutory duty under the PCR. The AG *et al* successfully applied to strike out the Statement of Claim in Suit 1068 and the action was dismissed by the High Court.

Proceedings before the DT

25 On 23 October 2020 (one day after the Second Facebook Post was published), the DAG referred a complaint against Mr Ravi to the Law Society pursuant to s 85(3)(*b*) of the LPA (the "Complaint"). The Complaint was made

in relation to the Interview Statements, the First Facebook Post and the Second Facebook Post, and requested that the Law Society refer the matter to a disciplinary tribunal. Following the Complaint, the Council of the Law Society applied to the Chief Justice to appoint a disciplinary tribunal. The DT was constituted to investigate the Complaint on 25 March 2021.

26 The Law Society preferred four primary and three alternative charges against Mr Ravi (collectively, the "Charges"). The first charge concerned Mr Ravi's First to Third Interview Statements, and read as follows (the "First Charge"):

> 1ST CHARGE
>
> You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 19 October 2020 attend a live interview with Online Citizen Asia in which you made, *inter alia*, the following statements in relation to the Court of Appeal's decision in [*Gobi (Review)*]:
>
> > "*… the Public Prosecutor has been overzealous in his prosecution and that has led to the death sentence…*"
> >
> > "*And one of the things which is troubling in this decision today, is that the Court noted that the Attorney General, or the Public Prosecutor ran a different case in the High Court and the Court of Appeal. Then that begs the questions and calls into the fairness of the administration of justice in Gobi's case by the Prosecution…*"
> >
> > "*… because the Prosecution as the Court observed, ran a different case in the High Court and the Court of Appeal. So therefore, the Prosecution, essentially the fairness of the Prosecution, is called into question by the Court itself.*"
>
> which are false and/or misleading allegations intended to convey to listeners of the interview and/or readers of [TOC Asia] that the Public Prosecutor and/or [the AG] had acted in bad faith, maliciously and/or improperly, so as to discredit [the AGC] and/or its legal officers in the eyes of the public, and you have thereby committed an act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161).

[emphasis in original]

27 The second charge and second alternative charge pertained to Mr Ravi's First and Second Facebook Statements (the "Second Charge" and "Second Alternative Charge" respectively):

2ND CHARGE

You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 20 October 2020 make and post on your Facebook page the following statements:

> "*… when these government lawyers who handled the Gobi's case are the wrongdoers.*"
>
> "*I have already taken instructions from Gobi and his family to commence proceedings against [the AG], [the DAG], Mr Faizal SC in court. I will file the writ of summons in the next few days for both personally against all 3 of the above Government lawyers and also against their offices in which they hold public appointment. They have to be accountable to Gobi and his family in court and be subject to rigorous cross-examination and public scrutiny of their conduct of Gobi's case…*"

which statements contain a baseless accusation of misconduct and/or a threat to commence legal proceedings against your fellow legal practitioners, and you are thereby guilty of improper conduct within the meaning of section 83(2)(b)(i) of the Legal Profession Act (Cap 161) read together with Rule 7(2) of the Legal Profession (Professional Conduct) Rules.

ALTERNATIVE 2ND CHARGE

You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 20 October 2020 make and post on your Facebook page the following statements:

> "*… when these government lawyers who handled the Gobi's case are the wrongdoers.*"
>
> "*I have already taken instructions from Gobi and his family to commence proceedings against [the AG], [the DAG], Mr Faizal SC in court. I will file the writ of summons in the next few days for both personally against all 3 of the above Government lawyers and also against their offices in which they hold public appointment. They have*

> *to be accountable to Gobi and his family in court and be subject to rigorous cross-examination and public scrutiny of their conduct of Gobi's case…*"

> which statements contain a baseless accusation of misconduct and/or a threat to commence legal proceedings against your fellow legal practitioners, and you have thereby committed an act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161).

> [emphasis in original]

28 The third charge and third alternative charge concerned Mr Ravi's Third Facebook Statement, which was directed at the Law Society (the "Third Charge" and "Third Alternative Charge" respectively):

> 3RD CHARGE
>
> You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 20 October 2020 make and post on your Facebook page the following statement:
>
> "*I will also commence proceedings against law society if it does not do its part to protect lawyers and their independence of the profession if it entertains any further complaints or partcipates [sic] in any harassment by [the AG] to harass me in doing my job.*"
>
> which statement contains a threat to commence legal proceedings against the Law Society and/or a baseless insinuation that the Law Society misuses its statutory powers, and you are thereby guilty of improper conduct within the meaning of section 83(2)(b)(i) of the Legal Profession Act (Cap 161) read together with Rule 8(3)(b) of the Legal Profession (Professional Conduct) Rules.
>
> ALTERNATIVE 3RD CHARGE
>
> You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 20 October 2020 make and post on your Facebook page the following statement:
>
> "*I will also commence proceedings against law society if it does not do its part to protect lawyers and their independence of the profession if it entertains any further*

> *complaints or partcipates [sic] in any harassment by AG to harass me in doing my job*."

> which statement contains a threat to commence legal proceedings against the Law Society and/or a baseless insinuation that the Law Society misuses its statutory powers, and you have thereby committed an act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161).

> [emphasis in original]

29 The fourth charge and fourth alternative charge related to Mr Ravi's Reply Letter (the "Fourth Charge" and "Fourth Alternative Charge" respectively):

> 4TH CHARGE
>
> You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 22 October 2020 send a letter to the Attorney General Chambers threatening to commence legal proceedings against [the AG], [the DAG], and members of the prosecution who had carriage of the matter in CA/CCA 20/2017 and CA/CM 3 of 2020, and you are thereby guilty of improper conduct within the meaning of section 83(2)(b)(i) of the Legal Profession Act (Cap 161) read together with Rule 7(2) of the Legal Profession (Professional Conduct) Rules.
>
> ALTERNATIVE 4TH CHARGE
>
> You, Ravi s/o Madasamy, an Advocate and Solicitor of the Supreme Court of Singapore, did on 22 October 2020 send a letter to the Attorney General Chambers threatening to commence legal proceedings against [the AG], [the DAG], and members of the prosecution who had carriage of the matter in CA/CCA 20/2017 and CA/CM 3 of 2020, and you have thereby committed an act amounting to misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession under Section 83(2)(h) of the Legal Profession Act (Cap 161).

The DT's decision

30 Following the hearing before the DT, which took place from 28 to 29 July 2021, the DT released its findings in its report dated 20 December 2021 (the "DT Report").

31 In relation to the First Charge, the DT considered that the key issue was whether the Interview Statements constituted fair criticism. This was Mr Ravi's sole defence to the First Charge before the DT. In the DT's determination, whether the Interview Statements constituted fair criticism depended in turn on whether Mr Ravi had "any rational basis" for making these statements. The DT found it relevant to consider the factors set out in *Attorney-General v Tan Liang Joo John and others* [2009] 2 SLR(R) 1132 at [15]–[23] (and affirmed by the Court of Appeal in *Shadrake Alan v Attorney-General* [2011] 3 SLR 778) in the context of the law of contempt of court. Applying these factors, the DT found that Mr Ravi had a rational basis for making all three Interview Statements and that the First Charge was not made out.

32 In relation to the Second Charge, the DT found that Mr Ravi had failed to treat the AG *et al* with courtesy and fairness in breach of s 83(2)(*b*)(i) of the LPA read with r 7(2) of the PCR, by publicly communicating his intention to commence an action against them in the First Facebook Post. In this regard, the DT accepted Mr Ravi's explanation that the use of the word "wrongdoers" referred to those responsible for the commission of a civil rather than a criminal wrong, and that the Second Facebook Statement was not a threat made by Mr Ravi to commence legal proceedings. The DT found, however, that it was not proper of Mr Ravi to have made allegations of misconduct without referring the matter to the appropriate body.

33 For the Third Charge, the DT found that Mr Ravi, by making the Third Facebook Statement, had acted in a manner contrary to a legal practitioner's position as a member of an honourable profession pursuant to s 83(2)(*h*) of the LPA read with r 8(3)(*b*) of the PCR. In the DT's view, the Third Facebook Statement constituted a threat against the Law Society and an accusation that it was complicit in alleged "harassment" by the AG. The fact that Mr Ravi had made the statement in a public forum also compounded the severity of his misconduct.

34 In relation to the Fourth Charge, the DT relied on its reasoning with respect to the Second Charge to find that Mr Ravi had similarly breached s 83(2)(*b*)(i) of the LPA read with r 7(2) of the PCR.

35 In the round, however, the DT determined that there was no cause of sufficient gravity disclosed by Mr Ravi's misconduct, as the misconduct in question did not "involve dishonesty ... trustworthiness or moral turpitude, or a conviction for a criminal offence". It ordered that Mr Ravi pay a monetary penalty, pursuant to s 93(1)(*b*)(i) of the LPA, comprising the following sums:

(a) For the Second and Fourth Charges, a collective penalty of $4,000.

(b) For the Third Charge, a penalty of $2,000.

The Attorney-General's application to review the DT's findings on the First Charge

36 Dissatisfied with this result, the Attorney-General proceeded to file HC/OS 41/2022 ("OS 41") on 18 January 2022. OS 41 was an application to review the DT's findings in relation to the First Charge pursuant to s 97(1) of the LPA.

37 OS 41 was heard on 5 and 12 May 2022 before a judge of the General Division of the High Court (the "Judge"), who dismissed OS 41 and found that the Interview Statements did not necessarily imply that the Prosecution had acted with malice, in bad faith or improperly: see *Attorney-General v Ravi s/o Madasamy and another* [2022] SGHC 180 ("*AG v Ravi*"). In particular, the Judge was of the view that (see *AG v Ravi* at [31]):

> … The statements were supported by a rational basis – that the Prosecution's advancement of a different case on appeal in [*Gobi (Appeal)*], premised on actual knowledge of the drugs instead of wilful blindness as put forward at trial in [*Gobi (Trial)*], *did* cause prejudice to Gobi. This was specifically highlighted by the Court of Appeal in both its Oral Judgment and subsequent written grounds in the Review Judgment.
>
> [emphasis in original]

38 Two days after OS 41 was filed, the Law Society filed the present application on 20 January 2022 for Mr Ravi to be dealt with pursuant to s 83(1) of the LPA.

39 With this background in mind, we turn to consider the parties' cases in OS 2.

The parties' cases

The Law Society's case

40 The Law Society agrees with the DT's determination that the Second to Fourth Charges are made out, and raises no issue in relation to the First Charge given the decision in *AG v Ravi*. However, it disagrees with the DT's determination under s 93(1)(*b*) of the LPA that no cause of sufficient gravity for disciplinary action exists under s 83 of the LPA. It argues that Mr Ravi's

misconduct is sufficiently serious to warrant the imposition of sanctions under s 83(1) of the LPA, and makes three main submissions:

(a) First, the Law Society contends that the DT erred in relation to the applicable test for whether a cause of sufficient gravity arose. It submits that the applicable test is whether the impugned conduct is sufficiently serious and this is not confined to conduct that fell within the categories of "dishonesty ... trustworthiness or moral turpitude, or a conviction for a criminal offence".

(b) Second, the DT failed to give adequate weight to the implications of Mr Ravi's conduct. In particular, the DT overlooked the fact that the AG and the Law Society, being the subject of Mr Ravi's various statements, were important legal institutions. It was also highlighted that despite being a senior member of the Bar, Mr Ravi had expressed these statements in a public manner (where he had a significant online following) and adopted a scornful tone in so doing.

(c) Third, the DT failed to consider the "blatant and wilful" manner in which Mr Ravi breached the PCR. In this regard, the Law Society contends that Mr Ravi had voiced his objections publicly in order to drum up public pressure against the AGC and the Law Society.

41 In relation to the appropriate sanction, the Law Society submits that the penalties ordered by the DT are inadequate. It highlights, amongst other things, Mr Ravi's disciplinary antecedents and his lack of remorse, and seeks an order that Mr Ravi be suspended from practice pursuant to s 83(1)(*b*) of the LPA. As for the duration of the suspension, counsel for the Law Society, Ms Lin Weiqi Wendy ("Ms Lin") initially took the position that a suspension of three months was appropriate. Her final position, when given the opportunity to address this

court in reply (after Mr Ravi had made his oral submissions), however, was that a suspension that exceeded 15 months should be imposed instead.

Mr Ravi's case

42 Mr Ravi was initially represented in these proceedings by Eugene Thuraisingam LLP. Written and skeletal submissions were filed on his behalf on 15 September 2022 and 17 October 2022 respectively (collectively referred to as the "Written Submissions").

43 In the Written Submissions, Mr Ravi indicated his agreement with the DT's determination in its entirety. Mr Ravi's Written Submissions in relation to the seriousness of the misconduct under the Second to Fourth Charges may be summarised as follows:

(a) He had referred to the "government lawyers" as "wrongdoers" in the sense of their having committed a "civil wrong". This did not amount to serious misconduct.

(b) He felt threatened by the Reservation Statement and, in making the First and Third Facebook Statement, had reacted under pressure rather than out of "calculation or artifice".

44 On the appropriate sanction, Mr Ravi argued in his Written Submissions that the monetary penalty issued by the DT is in line with precedents concerning allegations against important legal institutions made in a public forum. He further argued that his previous disciplinary antecedents should not be accorded great weight where those antecedents involved his suffering from bipolar disorder. Mr Ravi also highlighted his remorse and *pro bono* contributions in mitigation.

45 On 20 October 2022, Mr Ravi filed a notice of intention to act in person in place of his solicitors, and subsequently represented himself at the hearing of this matter before us on 9 November 2022. In his oral submissions, Mr Ravi accepted that he had made the allegations contained in the Interview Statements and Facebook Statements, but raised the following arguments:

(a) First, his conduct had to be viewed in light of the "seriousness of the miscarriage of justice" that Gobi faced.

(b) Second, his conduct had to be seen in the context of "cause lawyering". This also explained why Mr Ravi had made the impugned statements in public, as "it should not be a private matter when … a miscarriage of justice has taken place".

(c) Third, Mr Ravi viewed himself as a person under disability, and that the court should therefore consider his rights under the United Nations Convention on Rights of Persons with Disabilities ("CRPD"). He emphasised, in this regard, that he had been operating under tremendous stress at the time and had made the review application "despite the threats" by the AG in the Reservation Statement.

(d) Fourth, his misconduct had to be assessed against the unfairness with which the AG had allegedly conducted its case throughout the *Gobi* proceedings. He alleged that it was dishonest of the AG to have continued to resist the review proceedings despite the court having raised the issue of the Prosecution's change of case in the course of those proceedings.

46 Further, we observe that Mr Ravi adopted a far more combative stance during his oral submissions, which belied the remorse he claimed to have in his

Written Submissions. In fact, Mr Ravi went *further* by suggesting at various junctures impropriety on the part of the *court* in the conduct of the *Gobi* proceedings, an allegation that hitherto had not been raised in the Interview, the Facebook Posts or in the course of the disciplinary proceedings:

> Menon CJ: Well, the question really is whether you conduct yourself in the manner of an honourable profession. That's the question that we are [dealing with].
>
> [Mr Ravi]: That---that---that history and the society will judge, Your Honour, and you can judge whatever way you want to. I---I---may I move on Your Honour? And it is not easy for me to tell that you are---*that the judiciary has made a serious mistake for---for---on Gobi's case because you didn't exercise on your own motion when there was a departure.* And I'm just highlighting how serious it is that that man's [*sic*] had been lost if I had listened to Law Society's advice to keep quiet, Your Honour, and---and make big bucks on cases and then move on.
>
> [emphasis added]

47 In a similar vein, Mr Ravi took the opportunity to voice his displeasure regarding the legislative mechanism for complaints made by the AG to the Law Society. In this regard, Mr Ravi highlighted s 85(3)(*b*) of the LPA, which provides that, upon the AG's request, the Law Society *must* apply to the Chief Justice to appoint a disciplinary tribunal. He argued that because s 85(3)(*b*) of the LPA gives the AG a "pre-emptive power", legal practitioners at all times had a "sword of Damocles" hanging over their heads which undermined the administration of justice.

Issues

48 The issues that arise for our determination are as follows:

(a) whether due cause has been shown for Mr Ravi to be subject to the sanctions in s 83(1) of the LPA; and

(b) if so, what the appropriate sanction ought to be.

Whether due cause has been shown

The applicable law

49 Section 83(1) of the LPA provides that all advocates and solicitors shall be "liable on due cause shown" to be subject to the various penalties enumerated in ss 83(1)(*a*)–83(1)(*e*). This includes censure, a monetary penalty, suspension, and the ultimate punishment of striking the errant solicitor off the roll. In turn, the sub-provisions relied upon in the First to Fourth Charges, namely ss 83(2)(*b*) and 83(2)(*h*) of the LPA, provide as follows:

> **Power to strike off roll, etc.**
>
> **83.**— …
>
> (2) … [S]uch due cause may be shown by proof that an advocate and solicitor —
>
> …
>
> (*b*) has been guilty of has been guilty of fraudulent or grossly improper conduct in the discharge of his or her professional duty or guilty of such a breach of any of the following as amounts to improper conduct or practice as an advocate and solicitor:
>
> (i) any usage or rule of conduct made by the Professional Conduct Council under section 71 or by the Council under the provisions of this Act [such as the PCR];…
>
> …
>
> (*h*) has been guilty of such misconduct unbefitting an advocate and solicitor as an officer of the Supreme Court or as a member of an honourable profession;
>
> …

50 Neither the Law Society nor Mr Ravi disputes the DT's findings that the Second to Fourth Charges were made out. It is also undisputed that Mr Ravi's conduct in relation to the Second to Fourth Charges constitutes improper conduct within s 83(2)(*b*)(i) of the LPA for breaching rr 7(2) and 8(3)(*b*) of the PCR. A determination that the advocate and solicitor's conduct falls within one of the limbs of s 83(2) is, however, a "*necessary – but not sufficient – condition*" [emphasis in original] in determining whether due cause has arisen (*Law Society of Singapore v Jasmine Gowriwamni d/o Daniel* [2010] 3 SLR 390 ("*Jasmine Gowriwamni*") at [35]); and it is here that the parties join issue. Therefore, the central inquiry here is whether, on the "totality of the facts and circumstances of the case", Mr Ravi's misconduct is "*sufficiently serious to warrant the imposition of sanctions under s 83(1) of the LPA*" [emphasis in original] (see *Law Society of Singapore v Udeh Kumar s/o Sethuraju and another matter* [2017] 4 SLR 1369 ("*Udeh Kumar*") at [30]).

51 We first consider the Law Society's argument that the DT had erred in the test it applied in determining whether a cause of sufficient gravity arose. In our judgment, there was no real divergence between the standard applied by the DT and that set out in the preceding paragraph. It is apparent from the DT Report that the DT was cognisant of its role as a "sieve" to ensure that only the most serious complaints are referred to the Court of Three Judges, having cited at para 169 of the DT Report the observations of this court to similar effect in *Jasmine Gowrimani* at [24] (see also *Jasmine Gowrimani* at [28]). Therefore, when the DT had found that no cause of sufficient gravity arose as Mr Ravi's conduct did not reflect "dishonesty ... trustworthiness or moral turpitude, or a conviction for a criminal offence", it appeared to be listing *non-exhaustive categories* of misconduct that ultimately fell within its broader assessment of

seriousness. On that score, it was satisfied in the circumstances that Mr Ravi's conduct did not rise to that degree.

52 The heart of the dispute, in our view, was not as to the applicable legal test, but the *proper characterisation* of the misconduct at hand. The essential question, put another way, concerns what the *gravamen* of Mr Ravi's misconduct was. In this connection, we consider it helpful to revisit the DT's analysis in respect of the First Charge. While the First Charge is, strictly speaking, not in issue before this court, a detailed examination of the DT's findings on that point not only sheds light on why the DT saw fit to dismiss the First Charge, but also provides a valuable perspective on how the DT viewed Mr Ravi's misconduct *as a whole* in arriving at its determination that no cause of sufficient gravity arose.

The First Charge

53 To recapitulate, the First Charge concerned whether Mr Ravi had acted in a manner unbefitting an advocate and solicitor under s 83(2)(*h*) of the LPA by advancing false and/or misleading allegations in the First to Third Interview Statements which intended to convey that the Public Prosecutor and/or the AG had acted in bad faith, maliciously and/or improperly. These statements are set out in full at [18] above and we reproduce them below for reference:

> (a) **The First Interview Statement**: "... one of the things which is troubling in this decision today, is that the Court noted that the Attorney-General, or the Public Prosecutor ran a different case in the High Court and the Court of Appeal. Then that begs the question and calls into the fairness of the administration of justice in Gobi's case by the Prosecution, because the Prosecution has a duty as ministers of justice to be fair."

(b) **The Second Interview Statement**: "… the Public Prosecutor has been overzealous in his prosecution and that has led to the death sentence of Gobi …".

(c) **The Third Interview Statement**: "Please apologise to Gobi, and for the suffering, his family, and he has gone through during this process, because the Prosecution, as the Court observed, ran a different case in the High Court and the Court of Appeal. So therefore, the Prosecution, essentially the fairness of the Prosecution, is called into question by the Court itself."

54 As explained at [31] above, the DT took the view that whether the First Charge was made out turned on whether Mr Ravi had "any rational basis" for making each of the three statements. In relation to the Second Interview Statement, the DT considered that the question was whether Mr Ravi had a rational basis for describing the Prosecution's conduct of the Gobi proceedings as "overzealous". It therefore began its analysis on the Second Interview Statement by considering the conduct of the Prosecution in *Gobi (Trial)* and *Gobi (Appeal)*. The DT then turned to *Gobi (Review)*, where it noted that the Court of Appeal had found "a change in the Prosecution's case in [CCA 20] because ... the Prosecution's case in [CCA 20] before the Court of Appeal was one of actual knowledge, and that such change in the case it ran in [CCA 20] prejudiced Gobi". Upon consideration of the Prosecution's fundamental duty to assist in the administration of justice, the DT concluded that the Second Interview Statement was not devoid of rational basis.

55 Turning to the First Interview Statement, the DT found that there was a rational basis for Mr Ravi to have used the term "troubling" and that the Court of Appeal's observation that the Prosecution had run different cases "call[ed]

into question the fairness of the administration of justice in Gobi's case by the Prosecution". This was because, in the DT's view, "even the Court of Appeal itself before the review hearing was troubled over this issue", having directed further submissions on this point.

56 Finally, with respect to the Third Interview Statement, the DT found that there was a rational basis for Mr Ravi to articulate the view that "the fairness of the Prosecution [was] called into question by the Court". This was for the sole reason that the Court of Appeal had in *Gobi (Review)* noted that "the Prosecution's change in the case that it ran on appeal, as compared to the case that it ran at the trial, prejudiced [Gobi]". It was for these reasons that the DT concluded that the First Charge was not made out.

57 While the DT's findings in respect of the First Charge are not directly in issue in these proceedings, we express our views in relation to these findings as they have a bearing on our analysis of Mr Ravi's misconduct that forms the subject of the Second to Fourth Charges. To state our views at the outset, we do not agree with the DT's interpretation or analysis of the First to Third Interview Statements. We make three observations in this regard.

58 First, and with respect, the DT did not appear to consider the full ambit of the Court of Appeal's observations in the Brief Grounds in its analysis of whether Mr Ravi had a rational basis to make the Interview Statements. We highlight the Brief Grounds because, according to Mr Ravi, he had given the TOC Interview immediately *after* the delivery of the Brief Grounds, but *before* he had obtained the full written judgment in *Gobi (Review)*. His Interview Statements, therefore, had to be seen in light of the entirety of the Court of Appeal's observations in the Brief Grounds. As is apparent from our brief summary of the DT's findings in the foregoing paragraphs, however, the DT

focussed its assessment on the Court of Appeal's finding that the Prosecution had run a different case at trial and on appeal, and that this had caused prejudice to Gobi. As such, the DT observed that:

> 111. The Court of Appeal in [*Gobi (Review)*] noted that there was a change in the Prosecution's case in the Appeal because it is undisputed that the Prosecution's case in the earlier Appeal before the Court of Appeal was one of actual knowledge, and that such change in the case it ran in the earlier Appeal prejudiced Gobi …
>
> …
>
> 112. In [*Gobi (Review)*], the Court of Appeal also took the opportunity to further emphasise the importance of the Prosecution running a consistent case so as to give the accused a fair chance of knowing the case that is advanced against him and what evidence he has to adduce (and what standard of proof) in order to meet that case, and that the Prosecution is not permitted to seek a conviction on a factual premise which it has never advanced, and which it has in fact denied in its case against the accused person (see [*Gobi (Review)*] at [119])
>
> …
>
> 115. It cannot be gainsaid that where the offence(s) for which the accused person is charged carries the death penalty and what may be expressed as the near-irretrievable finality of punishment, as in the case of the criminal proceedings against Gobi, it is even more imperative and essential that the Prosecution strictly and scrupulously observes it role, functions and duties …
>
> 116. Having regard to the above findings and observations made by the Court of Appeal in [*Gobi (Review)* and the Brief Grounds], as well as the Court's exposition on the role and duty of the Prosecution in criminal proceedings, we are of the view that it cannot be said that the First Statement is devoid of any reasonable, rational or objective basis.

59 What was absent from the DT's analysis, however, was any reference to the Court of Appeal's express qualification in the Brief Grounds that the Prosecution *could not have* anticipated or perceived that it had *impermissibly*

changed its case at the time *due to the extant understanding of the law*. This, in turn, requires a more granular examination of the procedural history of the *Gobi* proceedings, the relevant episodes of which we summarise below:

(a) On 28 June 2017, the High Court found that Gobi had rebutted the presumption under s 18(2) of the MDA that he knew that the granular substance in his possession was diamorphine. Gobi was convicted on an amended lesser charge of attempting to import diamorphine, believing it to be a controlled drug under Class C of the First Schedule to the MDA. In the course of trial, the trial judge sought clarification from the Prosecution on whether its case was that Gobi "should not have believed" the representations of the persons passing him the drugs ("Vinod" and "Jega") or that he "did not believe" these persons. The Prosecution confirmed that its case was the former.

(b) On 25 October 2018, the Court of Appeal in *Gobi (Appeal)* held that Gobi had failed to rebut the s 18(2) MDA presumption and convicted Gobi of the capital charge. In the Prosecution's written submissions, it had taken the position that Gobi *did not in fact believe* Vinod and Jega.

(c) On 27 May 2019, the Court of Appeal released its judgment in *Adili*. It clarified an important point of law for the first time, which was that the doctrine of wilful blindness had no relevance in the analysis of whether the presumption under s 18(1) of the MDA had been rebutted (see *Adili* at [71]). Notably, it confined this finding strictly to the issue of knowing possession under s 18(1) of the MDA (see *Adili* at [42]), and left open the question of whether the same applied to s 18(2) of the MDA (see *Adili* at [69]).

(d) On 25 February 2020, Mr Ravi filed CM 3, seeking a review of *Gobi (Appeal)* in light of *Adili*. In his written submissions filed on behalf of Gobi on the same day, Mr Ravi argued, amongst other things, that the Court of Appeal had erred in *Gobi (Appeal)* to the extent that it had premised the conviction of Gobi on wilful blindness. This argument was erroneous and seems to have been based on Mr Ravi's view that the Court of Appeal in *Adili* had held that the doctrine of wilful blindness had no application to *s 18(2) of the MDA*. In fact, as we had noted in the preceding sub-paragraph, the Court of Appeal in *Adili* had explicitly left open the question of whether and how *Adili* might affect the s 18(2) MDA presumption.

(e) On 20 April 2020, the Supreme Court Registry sent a letter to the respective parties in *Gobi (Review)*, conveying the Court of Appeal's direction to the parties to file further written submissions (the "Registry Letter"). The Court of Appeal highlighted that *contrary to Mr Ravi's submissions*, it had *not* in *Adili* settled the question of the interface between the doctrine of wilful blindness and s 18(2) of the MDA (see *Gobi (Review)* at [36] where the Court of Appeal clarified the same). As such, it directed parties to file further submissions on this issue. It also sought further submissions as to whether the Prosecution had run a different case in *Gobi (Trial)* and *Gobi (Appeal)* in relation to Gobi's knowledge of the nature of the drugs, and if so whether such a change was permissible.

(f) In its further submissions dated 1 June 2020, the Prosecution maintained that its cases at trial and on appeal were both premised on Gobi's actual knowledge of the nature of the drugs.

(g) As for Mr Ravi, as we note below at [138], in his submissions filed on the same day, Mr Ravi maintained that *there was no prejudice to Gobi* occasioned by the change of case.

(h) On 19 October 2020, the Court of Appeal set aside Gobi's conviction on the capital charge and reinstated Gobi's conviction on the amended charge in *Gobi (Trial)*. It held for the first time that its holdings in *Adili* extended also to the s 18(2) MDA presumption. The Court of Appeal concluded that the Prosecution's case in the High Court trial had in fact been run on the basis of wilful blindness but that it had run its case on appeal on the premise that Gobi *actually knew* of the nature of the drugs. Notably, the Court of Appeal highlighted at [9] of the Brief Grounds that "[t]his issue *was not raised* by [Gobi] in [CCA 20] or in the initial submissions [in CM 3]" [emphasis added], but instead that it was raised for the first time *on the Court of Appeal's own motion* in the Registry Letter.

60 It is pertinent to reiterate here that *Adili* was released *after* the conclusion of the proceedings in *Gobi (Appeal)*. The clarification in *Adili* regarding the distinction between the *legal* concept of wilful blindness and the *factual* nature of the evidential presumption in s 18(1) of the MDA, therefore, had not yet found expression in our case law at the time. In this regard, and critically for present purposes, the Court of Appeal observed at [19] of the Brief Grounds that:

> *In fairness to the parties, at the time of the trial,* ***they did not have the benefit of the guidance subsequently set out in*** **Adili**. The DPP might thus have formulated the Prosecution's case on the premise that *actual knowledge and wilful blindness were not distinct concepts*, and that *the doctrine of wilful blindness was relevant in considering whether the s 18(2) presumption had been rebutted.* ***We have now held that this is incorrect in law*** …

> [emphasis added in italics and bold italics]

61 Crucially, the Court of Appeal in its Brief Grounds went further to explain how the confluence of certain material circumstances had led to its determination to set aside its earlier decision in *Gobi (Appeal)* (see the Brief Grounds at [23] and [24]; *Gobi (Review)* at [125] and [126]):

> 23 In the circumstances, we set aside [Gobi's] conviction on the capital charge. We highlight the coming together of three circumstances that have led to this outcome:
>
> (a) the nature of the case that was run by the Prosecution at the trial;
>
> (b) the different case that the Prosecution ran on appeal, ***a difference that has to be said was not pointed out by the Defence*** in the course of the appeal and ***that was likely not thought to be material by either the Prosecution or the Defence at the time, given the prevailing legal position at that time***; and
>
> (c) the change in the legal position in respect of the doctrine of wilful blindness ***that was effected by this court in Adili after [Gobi (Appeal)] was decided, and that we have, in this criminal motion, decided should apply to the interplay between the s 18(2) presumption and the doctrine of wilful blindness*** and, specifically, the question of the Applicant's knowledge of the nature of the Drugs.
>
> 24 It is likely that if any of these three circumstances had been absent, the outcome in this criminal motion might well have been different. That the legal position may change from time to time, including as a result of case law development, is not controversial. *It is generally the case that the correctness of a decision is determined by reference only to the legal position as it stood at the time of the decision. It is a reflection of the robustness of our legal framework that the court may in limited circumstances take into account subsequent changes in the legal position to reassess previously made decisions,* ***even if they were correct at the time they were made****.* ***That is precisely what has happened in this exceptional case.***
>
> [emphasis added in italics and bold italics]

62 In our judgment, these parts of the Brief Grounds are *essential* to understanding the manner in which the Prosecution had conducted its case in the *Gobi* proceedings. This was not, as the DT deemed it, a case of the Prosecution failing to "strictly and scrupulously [observe] its role, functions and duties". Conversely, the Court of Appeal had – more than once – clarified that the Prosecution had evidently acted *in accordance with the state of the law at the time*. Put in the context of the present inquiry, therefore, a proper appreciation of the *exceptional* circumstances that led to the Court of Appeal's finding that the Prosecution's change of case was prejudicial to Gobi was *just as important* as the finding itself. It is also important to correctly understand the Court of Appeal's finding that Gobi had been "prejudiced". This inquiry was directed at whether the Prosecution's change of case could be material to the outcome of the case: see *Gobi (Review)* at [117]–[120]. This was a necessary part of the inquiry because the review power can only be exercised where it is shown not only that the relevant ground (such as new material or a change of the law) is made out, but that this could have a material bearing on the outcome of the case. It was upon these premises that the DT's search for a rational basis should have begun. Placing a narrow focus on the Court of Appeal's finding that the Prosecution's change of case had caused prejudice to Gobi, without due regard for the full ambit of the Court of Appeal's observations in their proper context, puts one in jeopardy of missing the forest for the trees. This would, at the same time, facilitate an unduly innocuous view of Mr Ravi's Interview Statements (which the DT appears to us to have taken).

63 Second, when the First to Third Interview Statements are set against this understanding of the Prosecution's conduct in the *Gobi* proceedings, it is our view that there was *no rational basis* for Mr Ravi to have made them. We

consider each of the Interview Statements in turn, beginning with the Second Interview Statement.

64 The Second Interview Statement contained the allegation that the Public Prosecutor was "overzealous in his prosecution and that has led to the death sentence of Gobi". Preliminarily, we address the DT's determination that the word "overzealous" "did not inherently carry or imply any negative or offensive connotation". With respect, we cannot see how this could be. The prefix "over", especially when applied to the word "zealous" which in itself connotes a sense of an energetic and enthusiastic pursuit of a cause or objective, plainly suggests an *excessive*, perhaps even unrestrained, sense of enthusiasm. When employed in relation to the Prosecution's core function in the institution and conduct of criminal proceedings against accused persons, this plainly connotes an improper exercise of prosecutorial power and cannot reasonably be viewed as innocuous. And the crux of the allegation in the Second Interview Statement was something even more sinister; it was that this improper zeal had "*led to the death sentence*" imposed on Gobi [emphasis added].

65 The Second Interview Statement also has to be understood in the context of the wider point that Mr Ravi was making. We note the comments made by Mr Ravi that prefaced the Second Interview Statement:

> As a defence counsel, I only have a role towards my client. *But the Prosecution in prosecuting people, especially for death penalty, it is extremely important that you must be fair to both sides, the accused, and the State.* So therefore, balancing this, the State has been overzealous in his prosecution, the Public Prosecutor has been overzealous in his prosecution and that has led to the death sentence of Gobi.
>
> [emphasis added]

66 What is apparent from this is that Mr Ravi was not only alleging that the Prosecution had been excessively enthusiastic in the conduct of the criminal proceedings involving Gobi, but in doing so had been *unfair* to Gobi, potentially to his fatal detriment. It is difficult to see, then, how describing the Prosecution's conduct of the *Gobi* proceedings as "overzealous" could be anything *but* negative, let alone a description that was merely neutral.

67 When this understanding of the Second Interview Statement is juxtaposed against the true nature of the conduct of the Prosecution's case (as explained at [62] above), there can be no doubt that the Second Interview Statement was wholly without basis. Nothing in the Brief Grounds or the Prosecution's conduct in the course of the Gobi proceedings lends credence to Mr Ravi's allegation that the Prosecution had acted *unfairly* towards Gobi in light of the prevailing legal position at the relevant time.

68 The same is true of the First and Third Interview Statements, which essentially consist of allegations that the change of the Prosecution's case noted by the Court of Appeal in *Gobi (Review)* called into question the "fairness of the administration of justice … by the Prosecution", and that "the fairness of the Prosecution [was] called into question by the Court itself". Again, it is difficult to see how these statements could be premised on a rational basis in light of our observations at [62] above on the state of the law at the relevant time. It was not accurate for Mr Ravi to say that the Court of Appeal had called into question the fairness of the Prosecution; nor was any question raised as to the Prosecution's administration of justice because the conduct of Gobi's prosecution had been premised on the pre-*Adili* understanding of s 18(1) of the MDA, which at the time also extended to the s 18(2) MDA presumption.

69 The third and final observation we make is that Mr Ravi, in making the First to Third Interview Statements, had conveyed that the AG *et al* had acted improperly in the conduct of the *Gobi* proceedings. In this connection, we respectfully disagree with the DT's view that Mr Ravi had "never said anywhere or *made the imputation* that the AGC had acted in bad faith, maliciously or improperly" [emphasis added]. Mr Ravi's intention in this regard may be understood with reference to both an objective interpretation of these statements and his own subjective account of his motivations, viewed in the context of his surrounding conduct at the time these statements were made. The starting point here was to consider what Mr Ravi *meant* when he made the First to Third Interview Statements. On a plain reading of these statements, as we have canvassed at [64]–[68] above, the First to Third Interview Statements imputed that the AG *et al* had *unfairly* conducted the *Gobi* proceedings in a manner that constituted a breach of the fairness of the administration of justice by the Prosecution. In our view, such an imputation clearly suggested that the Prosecution had acted improperly. To the extent that the DT did not take the same view, it may have well been due to the "neutral" interpretation it had placed on words such as "overzealous" in the First to Third Interview Statements. Mr Ravi, in fact, confirmed in cross-examination before the DT that he had sought to highlight this alleged "breach of … fairness" by the Prosecution:

> Q: Okay, so you were not trying to imply that the public prosecutor was acting in [bad] faith or maliciously, yes?
>
> [Mr Ravi]: … I was saying that the public prosecutor was a wrongdoer to the extent that they have conduct the---the---they---the---there *was a breach of their fairness in terms of they are ministers of justice and administration of justice* in the context of running a different case.
>
> [emphasis added].

70 Given that Mr Ravi had invoked the paramount duty of the Prosecution and its officers as "ministers of justice", we cannot see how the alleged *breach* of that duty could be characterised as not improper. In our view, Mr Ravi's subsequent conduct in making the Facebook Statements (which, amongst other things, alleged that the Prosecution were "wrongdoers"), and his further act of commencing legal proceedings in Suit 1068 which claimed that the AG *et al* had committed the tort of *misfeasance in public office,* and which we will return to later in this judgment, reinforces the inference that Mr Ravi intended to convey impropriety by the Prosecution.

71 In light of the foregoing observations, we consider that the DT erred in its interpretation of the First to Third Interview Statements. Indeed, when the full extent of the Court of Appeal's comments in its Brief Grounds is considered, the allegations contained in the First to Third Interview Statements are devoid of any reasonable basis. Mr Ravi essentially sought to cast the impression that the Prosecution had "*overzealous[ly]*" and *unfairly* changed its case in order to secure Gobi's conviction of a capital charge potentially leading to his *death*, and he then attempted to shore up this assertion by erroneously stating that the "Court itself" shared similar misgivings regarding the Prosecution's conduct. That was untrue as is evident even from the extracts of *Gobi (Review)* and the Brief Grounds that we have referred to above. Plainly, Mr Ravi intended to convey impropriety on the part of the Public Prosecutor, and these allegations, which rested on false premises, were gravely irresponsible and wholly improper.

72 In that light, it is apt also to touch on the Judge's decision in *AG v Ravi*. The Judge agreed with the DT's decision on the First Charge and found that Mr Ravi had a rational basis for making the Facebook Statements: see *AG v Ravi* at [46]. Unlike the DT, and in fairness to the Judge, the Judge had at [44] of *AG*

v Ravi expressly considered the observations of the Court of Appeal in the Brief Grounds and *Gobi (Review)* (see *AG v Ravi* at [110] and [113]) regarding the conduct of the Prosecution in light of the legal position at the time. He reasoned, however, that (*AG v Ravi* at [44]):

> … [I]n my view, the first defendant's Interview Statements hinged on the Court of Appeal having specifically highlighted two matters in the [Brief Grounds]: first, the Prosecution's change in its stance on appeal, and second the resulting prejudice to Gobi. The former was an objective fact. The latter was also factual in that the Court of Appeal had expressly articulated its concern that prejudice *was* caused to Gobi by the Prosecution's change in stance, and this was so irrespective of whether the Prosecution had reasonable justification for how it ran its case on appeal.
>
> [emphasis in original]

73 With respect, we are unable to agree with the Judge's reasoning. It follows from our observations regarding the *true import* of the First to Third Interview Statements that Mr Ravi was not merely stating *objective facts* regarding the conduct of the *Gobi* proceedings but had gone further to call the "fairness" of the Prosecution's conduct into question. The First to Third Interview Statements carried an imputation of wrongdoing which implicated the *propriety* with which the Prosecution had conducted its case (namely, by suggesting a deliberate, "overzealous" and unfair pursuit of the death penalty against Gobi), rather than factual statements regarding the *result* that prejudice was caused. Contrary to the Judge's observations (and as we have highlighted at [62] above), because of the imputation of wrongdoing on the part of the Prosecution, whether the Prosecution had a "reasonable justification for how it ran its case on appeal" was of direct relevance to whether these statements were made on a rational basis. As previously explained, in our judgment, they were not so made because the change of case was not something that anyone, including the Prosecution seemed to have thought was legally material at the

relevant time, and which Mr Ravi *himself* thought was not material even after the Court of Appeal had raised the issue when hearing *Gobi (Review)*. Further, the Court of Appeal's observations as to prejudice were not directed at suggesting any such impropriety on the part of the Prosecution but solely at the potential materiality of this change of case given that the Prosecution had run its case at trial on a certain basis. If the Prosecution was held to that case, then in the light of the development of the law after *Adili*, it would not be able to rely on the presumption under s 18(2) once the point was decided in *Gobi (Review)*.

74 To conclude this section of the judgment, we reiterate that the First Charge is not in issue, and that we therefore do not base our findings on due cause on this. But the point of the foregoing analysis on the First Charge is to demonstrate the fact that an assessment of the gravity of Mr Ravi's misconduct *cannot* be undertaken properly without a granular examination of the context in which they were made. This includes, in particular, the various turns in the *Gobi* proceedings. It would be artificial to ignore Mr Ravi's conduct which forms the subject of the First Charge in considering the other charges against him, which involve statements of a similar nature made by Mr Ravi in the same series of events. We return to this theme later in our judgment.

75 With the foregoing in mind, we turn to consider what the gravamen of Mr Ravi's misconduct in relation to the Second to Fourth Charges was.

The Second Charge

76 The Second Charge pertained to Mr Ravi's First and Second Facebook Statements. These are set out in full at [21] above and are set out again below:

(a) **The First Facebook Statement**: "… these government lawyers who handled the Gobi's case are the wrongdoers."

(b) **The Second Facebook Statement**: "I have already taken instructions from Gobi and his family to commence proceedings against [the AG], [the DAG], Mr Faizal SC in court. I will file the writ of summons in the next few days for both personally against all 3 of the above Government lawyers and also against their offices in which they hold public appointment. They have to be accountable to Gobi and his family in court and be subject to rigorous cross-examination and public scrutiny of their conduct of Gobi's case …".

By these statements, Mr Ravi is charged with having made "a baseless accusation of misconduct and/or a threat to commence legal proceedings" against his fellow legal practitioners, which amounted to improper conduct under s 83(2)(*b*)(i) of the LPA read with r 7(2) of the PCR. Rule 7(2) of the PCR provides that:

> **Responsibilities of legal practitioners to each other**
>
> **7.—** …
>
> …
>
> (2) A legal practitioner must treat other legal practitioners with courtesy and fairness.

77 Put simply, the key inquiry in the Second Charge is whether Mr Ravi's failure to treat his fellow legal practitioners (in this case, the AG *et al*) with courtesy and fairness was of such a degree of seriousness as to amount to due cause. The DT found that no serious misconduct arose from the First Facebook Statement. This was ostensibly because the DT found that Mr Ravi had, in referring to the AG *et al* as wrongdoers, intended to imply a *civil* wrong as there was "no reference to any criminal proceedings or the prospect/possibility thereof".

78 In our view, and with respect, the DT missed the mark in focussing its analysis on the distinction between a civil and criminal wrong. As we have highlighted at [74] above, the real gravamen of the misconduct here had to be assessed in relation to all the relevant circumstances, including the nature of the statements and the target of the allegations made therein, rather than be confined to the binary question of whether the wrong alleged was civil or criminal in nature. Such a distinction is tangential to the issue of whether Mr Ravi had acted in fairness and courtesy toward the AG *et al* as fellow legal practitioners. The essence of the inquiry centres on understanding what Mr Ravi meant when he labelled the AG *et al* as "wrongdoers".

79 That, in turn, is informed by reference to several contextual sources. We begin with Mr Ravi's Interview Statements, which were made one day prior to the Facebook Statements. These, due to their proximity in time, are relevant to any attempt to understand the essence of Mr Ravi's allegation of wrongdoing on the part of the AG *et al*. It will be recalled that Mr Ravi's Interview Statements contained the allegation that the AG, as Public Prosecutor, was "overzealous in his prosecution" having conducted it in a manner which "call[ed into question] the fairness of the administration of justice in Gobi's case by the Prosecution", "[leading] to the death sentence of [Gobi]." Put in Mr Ravi's words, the "wrongdoing" referred to the alleged "breach of [the Prosecution's duty of] fairness [as] ministers of justice and [the] administration of justice".

80 Beyond this, the full sting of the alleged "civil wrong" is best articulated in the statement of claim filed by Mr Ravi when he made good on his declaration to commence an action against the AG *et al* in Suit 1068 (the "Statement of Claim"). Suit 1068 was commenced on 4 November 2020, less than two weeks after the release of the Brief Grounds. We note that on the same day, Mr Ravi posted the Statement of Claim on Facebook with a comment that the suit was

based on an alleged abuse of power or other breach of duty. In his Statement of Claim, Mr Ravi (on behalf of Gobi) alleged that the AG *et al* were liable for the tort of misfeasance in public office for "abus[ing] their powers and act[ing] in bad faith by improperly performing a legal act which resulted in harm to [Gobi]". This alleged breach was particularised as follows:

> 34. By running a different case as between the Plaintiff's trial and the Prosecution's appeal in [*Gobi (Appeal)*], the [AG *et al*] were ***dishonest*** and behaved in a manner unbefitting of a legal practitioner's professional standing which is contrary to the public interest with substantial prejudice to the fairness of [Gobi's] trial.
>
> 35. Through the ***deplorable*** conduct, the [AG *et al*] had ***taken unfair advantage*** of [Gobi] by ***misleading*** the CA as to its case on appeal, leading the CA to overturn [Gobi's] acquittal and sentence him to death in [*Gobi (Appeal)*]…
>
> 36. By running a different case as between [Gobi's] trial and the Prosecution's appeal in [*Gobi (Appeal)*], the [AG *et al*] have ***failed to act honourably*** *in their duties to assist in the administration of justice*. Through such conduct, *the prosecutorial process did not maintain fairness, integrity and efficiency* which is contrary to [Gobi's] right to due process …
>
> [emphasis added in italics and bold italics]

81 When these paragraphs of the Statement of Claim were brought to Mr Ravi's attention during the hearing before us, he explained that he had described the conduct of the *Gobi* proceedings as "dishonest" in light of the Prosecution's alleged failure to apply to set aside Gobi's conviction in *Gobi (Appeal)* despite the Court of Appeal having raised the issue of a change of case in the Registry Letter (see [59(e)]–[59(f)]). Mr Ravi also sought, in an e-mail sent to the Supreme Court Registry on 9 February 2023, to furnish another explanation for the use of the term "dishonest" (the "9 February e-mail"), even though no leave had been sought by Mr Ravi to make these further submissions. Mr Ravi averred that the allegation of dishonesty had to be seen in the light of the conduct of the state counsel in charge of OS 111. It transpired that during

the course of the proceedings in OS 111, the AGC had requested and received from the Singapore Prison Service ("SPS") the appellants' correspondence with their lawyers and families (see *Gobi a/l Avedian and another v Attorney-General and another appeal* [2020] 2 SLR 883). Mr Ravi stated in the 9 February e-mail that the "AGC was dishonest" in the course of those proceedings when the state counsel involved denied that the SPS had forwarded the correspondence in issue, when "in fact, there were multiple disclosures for multiple prisoners, the true scale of which is unknown".

82 Leaving aside the procedural impropriety of the 9 February e-mail, these arguments are without merit. It is apparent from the language of paragraph 34 of the Statement of Claim that the term "dishonest" was not directed at any alleged failure of the Prosecution to discontinue the *Gobi* proceedings. Further, the issue in OS 111 of the appellants' correspondence was not even faintly alluded to in paragraph 34, or for that matter, anywhere else in the Statement of Claim. Instead, it is clear that the allegation of dishonesty was made in relation to the "*running of a different case as between [Gobi's] trial and the Prosecution's appeal in* [CCA 20]" [emphasis added].

83 Returning to the inquiry at hand, which is what Mr Ravi was referring to when he labelled the AG *et al* as "wrongdoers", in our judgment, it is apparent from paragraphs 34 to 36 of the Statement of Claim that Mr Ravi was not merely stating the fact that the Prosecution had run a different case at trial and on appeal and that this had been prejudicial to Gobi. Rather, Mr Ravi had gone much further to allege that the Prosecution had chosen to conduct the Gobi proceedings in a "dishonest", "deplorable" and dishonourable manner that "[took] unfair advantage" of Mr Ravi's client and misled the court, leading to the imposition of the sentence of death on Gobi. The First Facebook Statement must be read in this light, because in Mr Ravi's view, it was this grave and

intentional abuse of prosecutorial powers that warranted his public call in his Second Facebook Statement for the AG *et al* to be "accountable to Gobi and his family in court and … subject to rigorous cross-examination and public scrutiny of their conduct of Gobi's case".

84 In our judgment, quite apart from whether this referred to a transgression of a civil or criminal nature, the allegation of "wrongdoing" in the First Facebook Statement, in substance, constituted a *serious accusation* against the AG *et al*. The AG holds an essential role in our legal system, having been accorded the power "to institute, conduct or discontinue any proceedings for any offence" by Art 35(8) of the Constitution of the Republic of Singapore (2020 Rev Ed). This is mirrored in s 10 of the CPC, which states that the AG, as the Public Prosecutor, "has the control and direction of criminal prosecutions". The central place that the AG, as the Public Prosecutor, has in the administration of justice is underscored by the *status* accorded to the prosecutorial function, which is subject only to the constitutional power of the court to prevent the prosecutorial power from being exercised unconstitutionally: see *Law Society of Singapore v Tan Guat Neo Phyllis* [2008] 2 SLR(R) 239 at [144]. To similar effect, this court observed in *Re Gopalan Nair* [1992] 2 SLR(R) 969 ("*Gopalan Nair*") at [48], that "[t]he office of the AG, like that of a judge, is an essential pillar of our legal system and no advocate and solicitor should be allowed to undermine the integrity of that office".

85 When these weighty considerations are set against the nature of the allegation made in the First Facebook Statement, which is that the AG *et al* had set out to do wrong in the "fairness of the administration of justice in Gobi's case" in a manner that "led to the death sentence of Gobi", it is difficult to conceive of a more serious attack against the office of the AG. The allegation

of wrongdoing cuts *right to the heart of the AG's role* and suggested serious impropriety and the dereliction of his duty in the fair administration of justice.

86 The gravity of Mr Ravi's misconduct in the Second Charge also had to be assessed against the procedural history of the *Gobi* proceedings. We return here to the point we made at [71] of this judgment, that an in-depth understanding of the relevant events is necessary in order to grasp the *full pith* of Mr Ravi's misconduct. While we do not propose to rehearse the matters set out at [59(a)]–[59(h)], we do reiterate two pertinent observations that were made in the Brief Grounds. First, the Court of Appeal, referring to those representing Gobi, highlighted at [9] of the Brief Grounds that "[t]his issue [of a change of case] *was not raised* … in [*Gobi (Appeal)*] or in the initial submissions [in *Gobi (Review)*]" [emphasis added], but instead was raised for the first time *on the Court of Appeal's own motion* in the Registry Letter. Second, and relatedly, the Court of Appeal explicitly considered at [19] of the Brief Grounds that the parties *did not* have the benefit of the guidance in *Adili* at the time of trial and contemplated that the Prosecution's case might have been formulated on the premise that the doctrine of wilful blindness *was* relevant in considering whether the s 18(2) presumption had been rebutted. The Court of Appeal at [23] of the Brief Grounds also emphasised that its decision came in the light of particular circumstances in the course of the *Gobi* proceedings, one of which was "the different case that the Prosecution ran on appeal, *a difference that ... was likely not thought to be material by either the Prosecution or the Defence at the time, given the prevailing legal position at that time*" [emphasis added].

87 Linking these points to the allegations that form the subject of the Second Charge, two further points arise.

88 First, *nothing* in the Brief Grounds provided Mr Ravi with a reasonable basis to allege serious "wrongdo[ing]" on the part of the AG *et al*, as he had done in the First Facebook Statement. We reiterate here that while the Court of Appeal did observe in its Brief Grounds at [20] that the Prosecution's change of case had caused prejudice to Gobi, it *did not* conclude that the Prosecution had done this deliberately. Conversely, it expressly clarified that no party to the proceedings could have appreciated the distinction in the Prosecution's cases at trial and on appeal because of the prevailing legal position at the time. This indeed was why the point was not picked up by any of those involved in *Gobi (Appeal)* – neither the Prosecution, the Defence, nor even the court. The consequent prejudice – in the sense that this gave rise to a course that could have a material bearing on the accused person – was, as noted by the Court of Appeal, a result of a confluence of unique circumstances, as well as the evolution and clarification of the legal position following *Adili*. Therefore, when the allegation of "wrongdo[ing]" in the First Facebook Statement (made the very day following the delivery of the Brief Grounds) is set against this backdrop, it becomes clear that the First Facebook Statement was made *wholly without basis*.

89 Second, Mr Ravi, *at the least, ought to have known* of the seriousness of the allegations made in the First and Second Facebook Statements, and that any suggestion of impropriety on the Prosecution's part lacked basis in light of the Court of Appeal's Brief Grounds. While Mr Ravi denied any knowledge of the falsehood of these statements in his Reply Letter, we take the view that he ought to have known this not merely because he is an experienced lawyer of around 20 years' standing, but also because he had represented Gobi *throughout* the review proceedings and was present when the Court of Appeal delivered its Brief Grounds. To have proceeded to make the accusations that he did in the

First and Second Facebook Statements despite this, in our view, indicates that Mr Ravi did so at least recklessly (if not deliberately), without due regard for the importance of communicating the true state of affairs.

90 To summarise our findings on the Second Charge thus far, the gravamen of the misconduct here is that by making the First Facebook Statement, Mr Ravi recklessly levied a *grave yet baseless* accusation that the Prosecution had chosen to conduct the *Gobi* proceedings in a "dishonest" and "deplorable" manner that "[took] unfair advantage" of Gobi and misled the court, causing the sentence of death to be wrongly imposed on Gobi.

91 In our judgment, the misconduct disclosed in the Second Charge constituted a serious breach of r 7(2) of the PCR. The First Facebook Statement could not be described as courteous or fair in any conceivable sense of these terms. The particular severity of Mr Ravi's misconduct in this case, given the targets of his statements, may be highlighted with reference to the principles in r 7(1) of the PCR, which guide the interpretation of r 7(2). In particular, r 7(1) states that "[a] legal practitioner must not deal with another legal practitioner in any manner that may adversely affect *the reputation and good standing of the legal profession or the practice of law in Singapore*" [emphasis added]. In the "paradigm" case where one legal practitioner treats another discourteously or unfairly, that in itself may affect the reputation and standing of the legal profession as an honourable profession. Where, however, the legal practitioner in question is a *constitutional office-holder* (as is the case with the AG), and the precise *form* taken by the discourtesy or unfairness involves a fundamental attack on the discharge of that constitutional role, the damage to the reputation and standing of the legal profession is particularly severe: see at [83] above. The manner in which the First Facebook Statement attacked the AG *et al* seriously

undermined not only the good standing of the legal profession, but more broadly, the *integrity* of the legal system as a whole.

92 We add here that the extent of unfairness and discourtesy shown by Mr Ravi in advancing a baseless allegation against the AG *et al* is *further amplified* when one considers the potential public reach of Mr Ravi's First and Second Facebook Statements. As the Law Society highlights in its submissions, the various Facebook posts that are material to these proceedings were posted on Mr Ravi's Facebook account, which was accessible to the public and had a sizeable following of *over 32,400 followers*. Undoubtedly, the widespread circulation of an allegation of the nature set out above enhanced the risk that the integrity of the AG would be undermined in the eyes of the public. Thus, the unfairness and discourtesy here was of such a degree as to threaten to erode the public's trust in a key legal institution of Singapore not merely by virtue of its *content*, but also its *potentially far-reaching circulation*.

93 In this light, we address Mr Ravi's submission that "cause lawyering" justified his decision to make the various Facebook posts that are material to the present proceedings. Mr Ravi's argument here, as we understand it, is that the *nature* of the case (being one that involved the potential imposition of capital punishment) was such that it necessitated public discussion. Indeed, Mr Ravi, making reference to Jothie Rajah and Arun K Thiruvengadam, "Of Absences, Masks, and Exceptions: Cause Lawyering in Singapore" (2013) 31 (3) Wisconsin International Law Journal 646 ("*Cause Lawyering in Singapore*"), explained his submission as follows:

Mr Ravi:	Yes. The cause lawyering article, I thought, would be useful because, Your Honour, judicial execution, and---and---and executions are important matters. They're not property matters. They're not

> arbitration matters. They're not company matters. This is a human life. And the state, when it executes, it executes on behalf of its citizens. Judicial executions also will---will---will apply the same way because of the powers that has been given to the Judges. *What I'm saying is that---that it should not be a private matter when there's a miscarriage of justice has taken place when the AG, after all that has transpired, have issued all those letters.*

[emphasis added]

94 In our judgment, this submission is wrong and in no way mitigates the seriousness of Mr Ravi's misconduct. We cannot see how the "cause" at hand, no matter its public sensitivity or significance, necessitated (let alone justified) the publication of *unfair, baseless, discourteous and damaging* statements. While the *Gobi* proceedings were undoubtedly a matter of public interest given the nature of the legal issues at hand and, more importantly, the fact that a life was at stake, this *did not* give Mr Ravi a license to publicly levy accusations of wrongdoing against the AG *et al* without basis. For completeness, nothing in *Cause Lawyering in Singapore* suggests otherwise (nor was the professional conduct of legal practitioners in Singapore discussed there).

95 Before we conclude our findings on the Second Charge, we turn to consider Mr Ravi's submission that the case authorities involving breaches of r 7(2) of the PCR generally have not been found to disclose due cause. However, only one authority cited by Mr Ravi – namely, *The Law Society of Singapore v Terence Tan Bian Chye* [2007] SGDC 10 ("*Terence Tan*") – involved discourtesy between legal practitioners.

96 In *Terence Tan*, the respondent was a practitioner of about 15 years' standing who represented his client in a High Court suit. In the course of those

proceedings, the respondent wrote several offensive and threatening letters to his opposing counsel and various related parties to the suit. In particular, his letter to his opposing counsel contained the allegation that the opposing counsel was misleading the court. While this was found to have breached the equivalent of r 7(2) of the PCR, the disciplinary committee found that due cause was not shown and recommended a monetary penalty of $3,000 for this particular act (amongst other monetary penalties for the letters he had sent to the related parties to the suit).

97 Mr Ravi also relied on an excerpt in Jeffrey Pinsler, *Ethics and Professional Responsibility: A Code for the Advocate and Solicitor* (Academy Publishing, 2007) ("*Ethics and Professional Responsibility*") at paragraph 25-066 to illustrate that such cases often only attracted fines. This excerpt listed cases involving "offensive behaviour" between legal practitioners, as follows:

> In December 1993, an advocate and solicitor was fined $250 for using threatening language against a legal officer of the HDB. In September 1993, an advocate and solicitor was fined $1,000 for threatening a court interpreter. In November 1994, December 1996 and February 2001, certain advocates and solicitors were fined $100, $1,500 and $5000 respectively for being offensive to public prosecutors. In February 1995, an advocate and solicitor was fined $2000 for writing a letter in threatening terms. In February 2000, an advocate and solicitor was fined $1000 for making offensive remarks about the President of the Shariah Court in a written submission. In July 2000, an advocate and solicitor was fined $1000 for disrespectful conduct towards the Commissioner of Labour (which included the allegation that the Commissioner was biased) …

98 In our view, these authorities do not assist Mr Ravi. The misconduct in the case before us, unlike in *Terence Tan*, was not a mere instance of emotions spilling over between counsel on opposing sides, resulting in the exchange of harsh words. Nor was this simply one example in the litany of cases on rude behaviour cited in the excerpt from *Ethics and Professional Responsibility* set

out above. Instead, as we have noted at [83], the nature and sting of the discourtesy and unfairness that were encapsulated in the First and Second Facebook Statements, when these are correctly understood, was an affront to an *essential pillar of our legal system* with reckless disregard for the truth. The failure here went far beyond the realm of impoliteness and was an attack on the administration of criminal justice. This cannot be lightly countenanced, nor waved away with a slap on the wrist.

99 Therefore, in our judgment, due cause is amply established when the proper gravamen of the Second Charge is appreciated. We turn next to consider the gravamen of the Third Charge.

The Third Charge

100 The Third Charge concerned Mr Ravi's declaration in the Third Facebook Statement that he would "commence proceedings against law society [*sic*] if it does not do its part to protect lawyers and their independence of the profession if it entertains any further complaints or partcipates [*sic*] in any harassment by AG to harass [him] in doing [his] job." In so doing, Mr Ravi was charged with issuing "a threat to commence legal proceedings against the Law Society and/or a baseless insinuation that the Law Society misus[ed] its statutory powers" and was thereby guilty of improper conduct pursuant to s 83(2)(*b*)(i) of the LPA read with r 8(3)(*b*) of the PCR.

101 The DT found that the Third Facebook Statement constituted a baseless accusation against the Law Society, because, contrary to what the Third Facebook Statement suggested, the Law Society did not have the discretion *not* to act on the DAG's Complaint.

102 We agree with the DT. The substance of the allegation in the Third Facebook Statement was that, in "entertain[ing]" or, in other words, acting on the DAG's Complaint, the Law Society was "participat[ing] ... in ... harassment by [the] AG" against Mr Ravi in "doing [his] job" and thereby was failing to "protect lawyers and the independence of the profession". This implicitly suggested that the Law Society *chose* to act on the DAG's Complaint, which was simply *not the case*. Section 85 of the LPA sets out the statutory scheme for the consideration of complaints against regulated legal practitioners. In the ordinary case, where the formal requirements of s 85(1) are fulfilled, the Council of the Law Society must refer every complaint to the Chairperson of the Inquiry Panel: see s 85(1A) of the LPA. In turn, the Chairperson of the Inquiry Panel must constitute a Review Committee (see s 85(6) of the LPA), which in turn will either refer the matter back to the Chairperson or direct the Council to dismiss the matter (see s 85(8) of the LPA). Should the Review Committee refer the matter to the Chairperson, the Chairperson is to constitute an Inquiry Committee (see s 85(10) of the LPA). The Inquiry Committee is to consider, amongst other matters, whether a formal investigation by a Disciplinary Tribunal is required (see s 86(7) of the LPA).

103 As we recently observed in *Law Society of Singapore v Nalpon, Zero Geraldo Mario* [2022] 3 SLR 1386 ("*Nalpon*") at [29], however, unlike the position under s 85(1) of the LPA, "[s] 85(3)(*b*) of the LPA … confers on a very select group of office holders a power of a relatively exceptional nature by granting their complaints special weight, according them a statutory 'shortcut' that bypasses the usual procedure of an inquiry by an Inquiry Committee before a complaint can come before a Disciplinary Tribunal". As the AG fell within this "select group", the DAG's Complaint could be and was referred to the Law Society under the statutory "shortcut" under s 85(3)(*b*). This, as a matter of

statutory design, *mandated* the Law Society to apply for a disciplinary tribunal to be appointed. In so far as the Third Facebook Statement contained any insinuation suggesting that the Law Society could choose not to act in this way and would be acting improperly if it did apply for the appointment of a Disciplinary Tribunal, it was wholly without basis.

104 We do agree with the Law Society that Mr Ravi *knew* that the Law Society was statutorily required to act on the complaints referred to by the AG. In this regard, Mr Ravi's affidavit of evidence-in-chief contained his acknowledgment that the Law Society was "statutory [*sic*] obliged to take the steps under s 85(3) of the LPA upon receipt of complaints from the AGC". Mr Ravi also acknowledged his awareness of the same during the hearing before us. His main arguments on the Third Charge were, instead, centred on how the statutory framework under s 85 of the LPA was "imbalanced" in favour of the AG, therefore constituting a breach of natural justice. In this regard, Mr Ravi explained that this was why he had made the Third Facebook Statement:

> [Mr Ravi]: [Section 85(3) of the LPA] undermines the administration of justice to the extent that lawyers have to be---*always have this sword of Damocles hang---dangling with---on their---over their head with these pre-emptive powers given to the Attorney-General to refer a complaint to the DT directly*, bypassing even the Inquiry Committee, Your Honour.
>
> Menon, CJ: And *that is why you issued that statement against the Law Society*?
>
> [Mr Ravi]: *Yes, Your Honour*. And also generally, this is also the view of many members of the criminal bar.
>
> [emphasis added]

105 These arguments, in our view, do little to justify the baseless attack by Mr Ravi directed at the Law Society's execution of its core functions. Conversely, they reinforce the view that Mr Ravi, in making the Third Facebook

Statement, had *known of* the true state of affairs and the Law Society's statutory obligations, but, *in spite of this, chose* to impute impropriety to the Law Society for doing nothing more than carrying out those statutory obligations, in order to ventilate the unfairness he perceived in the legislative scheme. This suggested to us that Mr Ravi made the Third Facebook Statement with, at the very least, a *reckless disregard* for the truth.

106 We turn our focus to the latter portion of the Third Facebook Statement, which is that the Law Society would be "*participat[ing]…*in *harassment*" by the AG [emphasis added]. In this regard, the Third Facebook Statement appears to insinuate that if the Law Society was to act on the DAG's Complaint, it would be part of a *wilful* effort to harass Mr Ravi's attempts to "[do his] job". This premise was tied to one of the core purposes of the Law Society (which is to "protect lawyers and the independence of the profession": see s 38(1)(*d*) of the LPA). The Third Facebook Statement, therefore, not only gave the erroneous impression that the Law Society could in its discretion have decided not to refer the DAG's Complaint to the DT, but also intimated that the Law Society would *deliberately be acting improperly and contrary to its own purposes,* even to the extent of abdicating its own duties to the legal profession if it acted upon the said complaint.

107 This, in our judgment, constituted a serious breach of r 8(3)(*b*) of the PCR, which provides that "[a] legal practitioner must not act towards any person in a way which is fraudulent, deceitful or otherwise contrary to the legal practitioner's position as a member of an honourable profession". Attacking the very statutory body charged with the regulation of the profession is wholly inconsistent with such notions of honour. The misconduct in the Third Charge, therefore, is of sufficient seriousness and gives rise to due cause.

The Fourth Charge

108 The Fourth Charge is that Mr Ravi acted improperly within the meaning of s 83(2)(*b*)(i) of the LPA read with r 7(2) of the PCR in sending the Reply Letter and threatening to commence legal proceedings against the AG *et al* therein.

109 Neither party seriously contended that the Fourth Charge disclosed due cause in and of itself. That said, the *facts* that ground the Fourth Charge cannot be viewed in isolation. They form part of the "totality of the facts and circumstances" in the light of which the court ought to assess whether Mr Ravi's misconduct is sufficiently serious. On this score, Mr Ravi's Reply Letter, accompanied by his subsequent act of publicly announcing his "strict instructions to commence proceedings" against the AG *et al* in his Second Facebook Post, had the effect of *strengthening* our interpretation regarding the entire course of Mr Ravi's conduct as one that persistently insinuated or alleged impropriety on the part of the AG *et al*. This therefore buttresses our finding that due cause is made out.

Conclusion on due cause

110 In the round, we find that due cause has been shown in respect of Mr Ravi's misconduct giving rise to the Second to Fourth Charges, taken as a whole. Mr Ravi accused the AG *et al* of having improperly and unfairly pursued the prosecution of Gobi at the potential cost of his life. He then went on to suggest falsely that, should the Law Society act on the DAG's Complaint, it would be committing a deliberate act of impropriety (even to the extent of abdicating its statutorily accorded duties to the legal profession). The character and import of these allegations were such as to pose a real threat of serious injury to public confidence in the cornerstones of our legal system. This was not

simply because of the manner in which these allegations struck at the core functions of the AG and the Law Society respectively, but also because they were untruthful and published to a potentially wide audience. There can be no understating the seriousness of such infractions, nor any doubt that it warrants that Mr Ravi be dealt with under s 83(1) of the LPA.

Sanction

111 Having found that due cause is established, we turn to consider the appropriate sanction to be imposed on Mr Ravi. In this regard, s 83(1) of the LPA provides for a range of penalties:

> **Power to strike off roll, etc.**
>
> **83.** —(1) All advocates and solicitors are subject to the control of the Supreme Court and shall be liable on due cause shown —
>
> (*a*) to be struck off the roll;
>
> (*b*) to be suspended from practice for a period not exceeding 5 years;
>
> (*c*) to pay a penalty of not more than $100,000;
>
> (*d*) to be censured; or
>
> (*e*) to suffer the punishment referred to in paragraph (c) in addition to the punishment referred to in paragraph (b) or (d).

112 Counsel for the Law Society, Ms Lin, initially took the position that a suspension of three months would be appropriate. When our recent decision in *Nalpon* was brought to Ms Lin’s attention during the hearing, she revised her position on the appropriate sentence. In *Nalpon*, due cause was found against the respondent on two charges: first, of having committed *sub judice* contempt of court by publicly commenting on ongoing court proceedings (see *Nalpon* at [55]); and second, of non-compliance with a costs order, accompanied by acts

taken with the aim of garnering public support for that non-compliance (which included the publication on Facebook of communications with the AGC on the said costs order) (see *Nalpon* at [63]). Taking into account the respondent's seniority, his disciplinary antecedents and his lack of remorse (amongst other factors), we imposed a 15-month suspension on the respondent: *Nalpon* at [65] and [69]. Having considered the sanction imposed in *Nalpon*, Ms Lin aligned her position on sentence with that imposed in *Nalpon*. When she was given the opportunity to address this court in reply (after Mr Ravi had made his oral submissions), however, her final position was that a suspension that *exceeds* that in *Nalpon* should be imposed in light of the inflammatory and unapologetic nature of Mr Ravi's arguments at the hearing.

113 On the other hand, Mr Ravi stands by the DT's recommendation of a collective penalty of $6,000, for the reasons we have set out at [43]–[45] above.

The applicable law

114 As we explained in *Law Society of Singapore v Ravi s/o Madasamy* [2016] 5 SLR 1141 ("*Ravi (2016)*") at [31], a determination of the appropriate sanction in the context of disciplinary proceedings involves a consideration of the following principles:

(a) the protection of members of the public who are dependent on solicitors in the administration of justice;

(b) the upholding of public confidence in the integrity of the legal profession;

(c) deterrence of similar defaults by the same solicitor and other solicitors in the future; and

(d) the punishment of the solicitor who is guilty of misconduct.

115 Of these, the paramount considerations are the protection of the public and the upholding of public confidence in the integrity of the legal profession. The ultimate question remains, in the words of this court in *Law Society of Singapore v Ravindra Samuel* [1999] 1 SLR(R) 266 ("*Ravindra Samuel*") at [13], "whether the solicitor in question is a fit and proper person to be an advocate and solicitor of the court."

116 As readily demonstrated in our analysis on due cause, Mr Ravi's misconduct was seriously injurious to public confidence in the integrity of the legal profession and thus warrants a sanction that appropriately reflects this. Specific deterrence is also engaged given Mr Ravi's history of disciplinary defaults of a similar nature (which we consider at [131] below). Even at this preliminary stage of the analysis, therefore, we are satisfied that imposing censure or a monetary penalty would be wholly insufficient. In this regard, reference may be made to the case of *Gopalan Nair*, which was the primary authority relied on by the Law Society. In *Gopalan Nair*, the respondent wrote what were found to be offensive and abusive letters to the AG, in which he had called into question the integrity of the AG and threatened to "expose" the AG. He also threatened to publish the letter should the AG fail to respond and proceeded to fax the correspondence he had with the AG to various law firms in Singapore. The Court of Three Judges found that the nature of the respondent's allegations cast serious aspersions against the integrity of the AG, and in finding that due cause arose, suspended the respondent for two years. In the present case, Mr Ravi's misconduct not only engaged similar issues of casting aspersions on and threatening public confidence in the AG, but *went further* in many respects (which we elaborate upon at [140]–[143] below). The point is that, taking reference from the sentence in *Gopalan Nair* (and that in *Nalpon* which we have considered at [112] above), it is clear to us that the

relevant question is whether Mr Ravi's misconduct warrants a period of suspension that is *at least* at a level comparable to what was imposed in *Gopalan Nair*, or whether it goes further and warrants the ultimate sanction of striking Mr Ravi off the roll of advocates and solicitors.

117 We emphasise that, as a matter of principle, the Court of Three Judges may consider and impose *any* sanction provided under s 83(1) of the LPA even if not expressly sought by the parties (see, for instance, *Law Society of Singapore v Ooi Oon Tat* [2022] SGHC 185 and *Udeh Kumar*). In the context of disciplinary proceedings, every advocate and solicitor, as an officer of the Supreme Court, is ultimately subject to the control of the court: see *Law Society of Singapore v Ang Boon Kong Lawrence* [1992] 3 SLR(R) 825 at [13]. In the exercise of this supervisory control over its officers, the court determines the propriety of the solicitor's conduct and metes out the appropriate sanction when due cause is shown: see *The Law Society of Singapore v CNH* [2022] 3 SLR 777 at [17]. The Law Society's position, or Mr Ravi's for that matter, therefore, does not and cannot constrain the court's discretion in this regard.

118 Returning to the question posed at [116], we note that both parties agree that Mr Ravi's misconduct in the present case does not involve dishonesty. Nevertheless, even proceeding on this assumption, a solicitor remains liable to be struck off (as opposed to merely being suspended) where he conducts himself in a way that either falls below the required standards of "integrity, probity and trustworthiness", or "*brings grave dishonour to the profession*" [emphasis in original]: see *Law Society of Singapore v Ismail bin Atan* [2017] 5 SLR 746 ("*Ismail bin Atan*") at [21] and *Ravindra Samuel* at [15]. In *Law Society of Singapore v Seow Theng Beng Samuel* [2022] 4 SLR 467 ("*Samuel Seow*"), we clarified that "fall[ing] below the required standards of integrity, probity and trustworthiness" and "bring[ing] grave dishonour to the profession" were two

distinct elements (at [37] and [40]). The core concern of the inquiry in respect of the *first* element (of "fall[ing] below the required standards of integrity, probity and trustworthiness") is whether the solicitor in question has a *defect of character* that renders him unfit to remain an advocate and solicitor, with all the duties and responsibilities that this entails. In contrast, the *second* element (of "bring[ing] grave dishonour to the profession") speaks to a different concern, which we framed as follows in *Samuel Seow* at [39]:

> The second element of "bring[ing] grave dishonour to the profession" [emphasis in original omitted] speaks to a somewhat different concern. *To be a member of the legal profession is to be accredited as worthy of confidence from other solicitors, from the courts, and from the public* …. The nature of this accreditation means that ***each legal practitioner is a representative of the legal profession***. To allow a legal practitioner who has brought grave dishonour to the profession to remain on the roll perpetuates that dishonour and undermines the value of that accreditation which is afforded to all other legal practitioners. In such circumstances, *the errant legal practitioner cannot be suffered to remain on the roll, and to continue bearing* ***the implicit imprimatur of the profession and the courts***.
>
> [emphasis added in italics and bold italics]

119 The applicable approach to considering whether a striking-off order is appropriate in cases of misconduct not involving dishonesty, therefore, is as follows (*Samuel Seow* at [41]):

> (a) First, the court should consider whether the misconduct in question attests to any character defects rendering the solicitor unfit to be a member of the legal profession.
>
> (b) Second, the court should consider whether the solicitor, through his misconduct, has caused grave dishonour to the standing of the legal profession.

(c) Striking off is the presumptive penalty if the answer to either (a) or (b) is yes. This presumption is only rebutted in exceptional cases.

(d) If the answer to both (a) and (b) is no, then the court will consider, upon close examination of the facts, whether there are circumstances that nonetheless render a striking-off order appropriate. The court here should compare the case with precedents to determine the appropriate sentence, taking into account the aggravating and mitigating factors.

120 In our judgment, Mr Ravi's misconduct exhibits a fundamental lack of respect and a blatant disregard for the integrity of Singapore's key legal institutions. This, in our view, revealed an ingrained attitude that may amount to a defect of character because Mr Ravi's views are not only not rooted in fact but also seem to be *stubbornly held and acted upon*. There is also no doubt as to the utter disregard he has for the AG and the Law Society, both of which are key institutions of our legal system, and has to this extent brought dishonour to the standing of the legal profession. This is therefore a case where consideration should be given to striking him off the roll. However, having considered the relevant precedents, and in the light of all the circumstances, including the fact that we disregard entirely the First to Third Interview Statements when deciding on sentence, and in particular, the matters set out at [136] below, we hold that the appropriate sanction is the maximum term of suspension. The position would likely have been a striking off order if we were also sanctioning Mr Ravi for the First Charge. We elaborate.

Defect in character

121 In the assessment of the character of the advocate and solicitor in question, this court had observed in *Samuel Seow* at [41(a)] that:

> (i) The list of character defects may include a fundamental lack of respect for the law (such as a lawyer who racks up multiple convictions even for relatively more minor offences), volatility or lack of self-control detracting from the ability to discharge one's professional functions (such as in *Law Society of Singapore v Wong Sin Yee* [2003] 3 SLR(R) 209 at [19]), and other predatory instincts (such as in *Ismail bin Atan* at [18]). This is not a closed list, and may be expanded upon, bearing in mind in particular the duties that a solicitor owes to the court, to his clients, to other practitioners and to the general public.
>
> (ii) The assessment of whether misconduct demonstrates a character defect rendering a solicitor unfit to be a member of the legal profession depends on the particulars of the misconduct, and the court should consider, taking into account all the circumstances of the misconduct, whether the misconduct stemmed from a lapse of judgment rather than a character defect …

122 In our judgment, and as we had identified above, the particular issue that stands out from Mr Ravi's misconduct in the Second to Fourth Charges is *his fundamental lack of respect and blatant disregard for the integrity of Singapore's key legal institutions to such an extent that he has no compunction in attempting to undermine them*. It cannot be gainsaid that every legal practitioner has a core duty to uphold the integrity of the legal system and legal profession. Mr Ravi, instead, has attacked each of these in, respectively, advancing allegations of serious misconduct against the AG *et al*, and in making unwarranted threats and casting unwarranted aspersions against the Law Society. In making these baseless and grave allegations, Mr Ravi has demonstrated not only his failure to uphold public confidence in the integrity of the legal system and legal profession, but also his readiness to actively *undermine* them.

123 Mr Ravi's blatant disregard for these key legal institutions is demonstrated by the *seriousness* of the allegations made against the AG and the Law Society coupled with his persistent tendency to make these allegations with no regard for the truth. As highlighted above, Mr Ravi made the First Facebook

Statement without any regard for the Court of Appeal's *actual* observations in its Brief Grounds, nor the entirety of the *Gobi* proceedings (despite his close personal involvement in the post-*Gobi (Appeal)* proceedings). Continuing in this theme, the Third Facebook Statement cast the Law Society as a willing and complicit participant in the AG's alleged harassment of Mr Ravi, when the Law Society, *in fact*, had no discretion but to apply for the DT to be convened under s 85(3)(*b*) of the LPA.

124 We consider Mr Ravi's submission that his misconduct was a result of having reacted under pressure from the State through the Reservation Statement because it is relevant to consider whether the misconduct stemmed from "a lapse of judgment rather than a character defect" (*Samuel Seow* at [41(a)(ii)]). In our judgment, the available evidence does *not* indicate that the disrespect shown to key legal institutions in relation to the Second and Third Charges was just a lapse of judgment. First, it was unlikely that the Reservation Statement was operating on Mr Ravi's mind in any significant manner when he chose to make the impugned statements. The Reservation Statement was made on 4 February 2020 in the pre-trial conference for OS 111, which the High Court dismissed on 13 February 2020. Those proceedings, including the appeal against the High Court's dismissal of OS 111, *concluded* when the Court of Appeal dismissed that appeal on 13 August 2020 in *Gobi a/l Avedian and another v Attorney-General and another appeal* [2020] 2 SLR 883. The impugned Facebook posts were then made *two months* later, on 20 October 2020. In these circumstances, it is difficult to perceive how any pressure from the Reservation Statement operating on Mr Ravi would have survived this passage of time, let alone provide a sufficient explanation for either the making of the offending remarks some eight months later, or Mr Ravi's persistence in maintaining the stance he

has taken even up to the time of the hearing some *years* later, as we elaborate below.

125 After making these statements on 20 October 2020, Mr Ravi persisted in his attack against the AG by filing Suit 1068 on 4 November 2020 and contesting the AG's application to strike out Suit 1068 in his written submissions dated 12 April 2021. Some months later, in the hearing before the DT, Mr Ravi held steadfast to his view that the Prosecution's conduct in the *Gobi* proceedings raised questions as to the proper administration of justice. Finally, and perhaps unsurprisingly, Mr Ravi openly stated at the hearing before us on 9 November 2022 that he maintained his assertions and stance against the Prosecution. The fact that Mr Ravi has made no attempt to remove or retract his Interview Statements or his Facebook Statements despite the passage of more than two years is equally telling. The foregoing amply shows that Mr Ravi's misconduct cannot be attributed to mere rashness or impulsivity on the spur of the moment, but instead was a *considered response* expressing his continuing views regarding these institutions. This reinforces our view that Mr Ravi's misconduct discloses an ingrained belief which points to a defect in character rather than a mere lapse in judgment. Indeed, Mr Ravi's misconduct is aggravated by his persistence in seeking to undermine the integrity of the legal profession with indifference to the truth.

126 Then there is Mr Ravi's history of related disciplinary antecedents and his unsavoury conduct at the hearing before us, points we return to at [131]–[135] below in the course of considering the relevant aggravating factors in this case.

Grave dishonour to the Bar

127 The justification for striking off a legal practitioner that brings grave dishonour to the profession lies in the perpetuation of that dishonour while he remains on the roll thus undermining the value of the accreditation reposed in other solicitors who share that accreditation: see *Samuel Seow* at [39]. In the present case, Mr Ravi made grievous allegations against essential pillars of our legal system which threatened to undermine public confidence in the integrity of these key institutions, accusing them of abusing their position and powers to take unfair advantage of an accused person facing the death penalty and to deliberately mislead the court (in the case of the AG *et al*), or of being complicit in an attempt to harass Mr Ravi (in the case of the Law Society). These allegations went beyond attacks on the integrity of these *institutions* themselves and, more fundamentally, cast doubt on the fairness and integrity of *the criminal justice system as a whole*.

128 Taking together the analysis at [121]–[127] above, it seems to us that there is basis for holding that Mr Ravi has shown himself not to be "worthy of confidence from other solicitors, from the courts, and from the public" (*Samuel Seow* at [39]) as a representative of the legal profession entrusted with upholding its honour and dignity.

Whether there are circumstances pointing away from the sanction of striking off

129 We turn to consider the third limb of the approach in *Samuel Seow*. We also consider at this stage the aggravating and mitigating factors of this case.

130 We begin with the following aggravating factors in this case, which are relevant:

(a) First, Mr Ravi's status as a senior practitioner of close to 20 years' standing at the material time. In this regard, it is well established that the more senior an advocate and solicitor, the more damage he does to the integrity of the legal profession: see *Law Society of Singapore v Nathan Edmund* [1998] 2 SLR(R) 905 at [33].

(b) Second, Mr Ravi has disciplinary antecedents.

(c) Third, Mr Ravi remains wholly unremorseful even up to and at the hearing of this matter.

The latter two factors warrant further elaboration.

131 Section 83(5) of the LPA states that "the court may in addition to the facts of the case take into account the past conduct of the person concerned in order to determine what order should be made". In this regard, the fact that an advocate and solicitor had previously committed a similar disciplinary offence is a "significant aggravating factor": *Law Society of Singapore v Ng Bock Hoh Dixon* [2012] 1 SLR 348 at [35]. We note that Mr Ravi has a number of antecedents of a similar nature over the past 15 years. These are summarised as follows:

(a) In *Law Society of Singapore v Ravi Madasamy* [2007] 2 SLR(R) 300, Mr Ravi admitted to being disrespectful to and behaving rudely before a district judge in open court. The Court of Three Judges found him guilty of misconduct under the statutory equivalent of s 83(2)(*h*) of the LPA in force at the time, and sentenced him to a one-year suspension.

(b) In *Law Society of Singapore v Ravi Madasamy* [2012] SGDT 12 ("*Ravi (2012)*"), Mr Ravi made various allegations against a High Court Judge, including that of racial bias. The disciplinary tribunal found him guilty of misconduct under s 83(2)(*h*) of the LPA. Taking Mr Ravi's mental condition and remorse into account, the disciplinary tribunal recommended a monetary penalty of $3,000.

(c) In *Law Society of Singapore v Ravi s/o Madasamy* [2015] SGDT 5 and *Ravi (2016)*, Mr Ravi pleaded guilty to four charges involving the making of baseless allegations against the President of the Law Society and a fellow advocate and solicitor on social media (amongst others). The Court of Three Judges, noting the exceptional circumstances regarding Mr Ravi's mental condition and the consequent need to protect public confidence in the integrity of the legal profession (*Ravi (2016)* at [73]), prohibited Mr Ravi from applying for a practising certificate for a period of two years.

(d) In *The Law Society of Singapore v Ravi s/o Madasamy* [2020] SGDT 8 ("*Ravi (2020)*"), Mr Ravi was found guilty of misconduct under s 83(2)(*h*) of the LPA for making various allegations against a Deputy Public Prosecutor and a District Judge. The disciplinary tribunal, noting his remorse, recommended that he pay a monetary penalty of not less than $10,000.

132 While we acknowledge that *Ravi (2012)* and *Ravi (2016)* engaged somewhat different considerations due to Mr Ravi's mental condition at the time, this was no longer a live consideration in *Ravi (2020)* or in the present case. While Mr Ravi cited the CRPD as a basis to mitigate his liability, this was misconceived. First, there was no evidence to suggest that his condition had

contributed to his misconduct in this case. In fact, at the material time, Mr Ravi was practising under a conditional practising certificate which mandated, amongst other conditions, that Mr Ravi had to attend regular medical appointments to monitor his fitness to practise. Accordingly, there was no suggestion that Mr Ravi was labouring under his previous medical condition when he made the impugned remarks in October 2020, nor even at the point when he took on the *Gobi* proceedings in September 2019. Second, and in any case, Mr Ravi failed to elaborate on how the CRPD was relevant at all to this case. In this light, these antecedents demonstrate a degree of recalcitrance on Mr Ravi's part, and also lays bare the obvious insincerity behind Mr Ravi's claimed remorse in each successive instance.

133 Turning to Mr Ravi's conduct at the hearing, this was aggravating and again indicative of an utter lack of remorse (despite having claimed to be remorseful in his Written Submissions). At the hearing, Mr Ravi did not apologise for his misconduct, or, for that matter, make any reference to his claimed remorse; instead, he appeared to *double down* on his allegations against the Law Society and the AG *et al*. With regard to the former, Mr Ravi added to his insinuation that the Law Society was complicit in the AG's harassment of him, stating that "the Law Society should not be a complaint mechanism for the Attorney-General", and further alluded to broader systemic oppression arising from what he deemed the "pre-emptive powers" of the AG pursuant to s 85(3)(*b*) of the LPA. With regard to the AG *et al*, Mr Ravi alleged that the AG's "dishonesty" was not merely confined to the change of case in the *Gobi* proceedings, but lay also in the fact that they had persisted in opposing the review application in *Gobi (Review)* despite the Registry Letter having indicated the possibility that there was a change of the Prosecution's case at trial and on appeal in the *Gobi* proceedings. Mr Ravi contended that upon receipt of that

letter, the AG had the duty to take the position that the mandatory death penalty be set aside, and further to withdraw from the review proceedings. The fact that they did not do so was, according to Mr Ravi, "dishonest". This, despite the fact that, as the court subsequently noted, it was likely the case that the change of case and its legal significance was not appreciated at the material time. Remarkably, Mr Ravi also seemed to have overlooked the fact that at the very same time, *he himself thought the change of case had not prejudiced Gobi*: see [138] below.

134 Mr Ravi, in fact, went even further to allege that the *court* had "abdicate[d] its duties" by failing to exercise its powers under s 394J(1)(*b*) of the CPC to review the *Gobi* proceedings on its own motion. This point is entirely irrelevant to the issues in the present proceedings, which are concerned with the impropriety of the allegations he had levied against the AG *et al* and the Law Society. In our view, these further accusations were *not only indications of his impenitence, but yet another marker of his inclination to make baseless assertions of impropriety against key legal institutions.* Mr Ravi even went so far as to impugn *the profession as a whole* during his oral submissions, stating that he "[did] not feel any more part of an *honourable* profession" [emphasis added]. This was an attack on the standing and integrity of the legal profession insinuating, without any basis, that the profession was *not honourable* or at least did not meet Mr Ravi's standards of honourable conduct. Indeed, after Ms Lin drew attention to this statement in her reply submissions, Mr Ravi repeated this not once, but *twice* during the hearing:

> [Mr Ravi]: I do maintain I'm not afraid of that---that---that, you know, I---I---you know, that---that I---as if I'm a kid, that she's sanctioning me, because that---what I'm saying is that, you know, one needs to understand the kind of work that I've been doing all these years, 20 years. What I'm saying is that it is sad to say that *I do not feel*

> *any longer that I am part of a honourable profession, Your Honour, that can uphold the dignity of the profession without fear or favour.* And there is too much of oppression that's being imposed on lawyers in Singapore, and that is a fair criticism that I---not only me, that I've made. It has made---it is International Commission of Jurists, International Bar Association which Singapore Law Society is a member, have also identified in many respect. And I will---I will say that I'm not seeking any favour from this Court of any sort. I'm just zealously pursuing what I did not come to law to make big bucks and join big firms. I'm here to pursue my cause, the oath I've taken to the rule of law, Your Honour, without---to advocate my position without---
>
> Menon, CJ: Yes, Mr Ravi, we've heard all this. Thank you.
>
> [Mr Ravi]: Yes, I'm sorry to say *I don't part --- peel --- feel part of an honourable profession, Your Honour. I maintain that.*
>
> [emphasis added]

135 The whole tenor of Mr Ravi's arguments at the hearing made it evident that he viewed himself as a victim of what he believed to be a dishonourable system that tolerated the improper abuse of prosecutorial power by the AG *et al*, the abnegation of duty by the court to initiate the review process, and the need to contend with the "sword of Damocles" that the AG and the Law Society had set over him during the course of his representation in the *Gobi (Review)* proceedings and over the legal profession at large. Within this allegedly unjust and oppressive system, Mr Ravi cast himself as someone who was simply "zealously pursuing … [his] cause [and] the oath [he had] taken to the rule of law". This is reinforced in the contents of the 9 February e-mail, which was sent about three months after the hearing. In the 9 February e-mail, Mr Ravi complained that "[n]either of the state counsels [in OS 111] have been referred for disciplinary action but instead AG's complaint had been *entertained against [him]* which *reinforces the unfairness [he] had highlighted at the hearing*"

[emphasis added]. This wholly ignored the fact that Court of Appeal had stated at the outset that there was nothing to suggest that any of the parties even appreciated the significance of the change of position by the Prosecution in *Gobi (Review)* because it preceded *Adili*; as well as the fact that the Law Society had no discretion to "entertain" complaints referred to by the AG. These points had been highlighted to Mr Ravi at various junctures, but he nonetheless remained impervious to this.

136 Before leaving this part of our analysis, we mention one factor that might redress the balance a little in favour of Mr Ravi in this assessment. That is the fact that when he made the allegations in the First to Third Facebook Statements, he did not *at the same time* publish the matters that were subsequently set out in the Statement of Claim that he filed in the ill-conceived proceedings he brought against the AG *et al*. The Statement of Claim was filed and was posted by Mr Ravi on Facebook some two weeks or so later. We have referred to parts of that Statement of Claim because it leaves no doubt at all as to what Mr Ravi meant and intended to convey. But the fact that those parts of the Statement of Claim were not included in Mr Ravi's Facebook Statements means that perhaps some of those who read the Facebook Statements at the time these were published may not have appreciated the full extent of his attack on the legal system. This is especially so since we also assume in Mr Ravi's favour that such readers may have taken the First to Third Interview Statements in the way the DT mistakenly saw them, rather than with a full understanding of what Mr Ravi was saying as we have explained above.

137 We turn to consider the mitigating factors in this case. Preliminarily, we note that mitigating factors are a less persuasive consideration in disciplinary proceedings than in criminal cases, because of the public interest in safeguarding the integrity of the profession and in protecting the public (see

Ravi (2016) at [33]; *Law Society of Singapore v Kurubalan s/o Manickam Rengaraju* [2013] 4 SLR 91 at [48]–[49]).

138 Mr Ravi highlights two factors in mitigation. The first is his claimed remorse. This is utterly without basis as evident in Mr Ravi's conduct and we need say no more. The second mitigating factor relied on by Mr Ravi is his involvement in the *Gobi* proceedings, which contributed to the correction of a grave miscarriage of justice. While this might in theory be considered mitigating if it has in fact advanced the public interest, the fact is that the review application ultimately turned on the change of the Prosecution's case, a matter that was *first raised by the Court of Appeal* and not by Mr Ravi. Mr Ravi, in fact, maintained in his further submissions following the Registry Letter that "there *does not appear to have been an obvious prejudice* to [Gobi] caused by the change in case because the Court in [*Gobi (Appeal)*] quite properly regarded the case against him as the case presented at trial and the case upon which evidence was taken." [emphasis added]. This necessarily limits the extent of Mr Ravi's personal contribution to the outcome in *Gobi (Review)*. Moreover, as the Court of Three Judges stated in *Law Society of Singapore v Wee Wei Fen* [1999] 3 SLR(R) 559 at [39], the court will only give consideration to the applicable mitigating circumstances insofar as they are consistent with the paramount principles of the protection of the public and the preservation of public confidence in the profession. In our judgment, the nature of Mr Ravi's accusations against the AG *et al* and the Law Society, coupled with his disciplinary history and lack of remorse, make it untenable to accord any significant mitigating weight at all to such considerations in this case.

139 We turn finally to consider the precedents.

140 Here, we return to our earlier reference to the cases of *Gopalan Nair* and *Nalpon*, and address how Mr Ravi's misconduct here was *more serious* than that in issue in those cases. In relation to *Nalpon*, it is crucial to appreciate that the offending posts in that case *did not impugn the core functions of the AG to the same grave extent that Mr Ravi's Facebook Statements did*. In *Nalpon*, the gravamen of wrong involved the respondent's "wilful non-compliance with the [costs order which was] accompanied by acts taken with the aim of garnering public support for that non-compliance" (see *Nalpon* at [59]). In other words, even though the respondent's misconduct involved the making of certain statements against the AG in a public forum, those statements *did not call into question or impugn* the AG's performance of his central role in the administration of justice in Singapore. This placed Mr Ravi's misconduct on an entirely different plane from that of the respondent in *Nalpon*, on whom we imposed a suspension of 15 months.

141 Turning to *Gopalan Nair* (where a two-year suspension was imposed), the respondent there was a relatively more junior practitioner of around nine years' standing at the time. Further, we take into account Mr Ravi's disciplinary record. We also note that Mr Ravi published his offending statements to his significant following on Facebook, which held greater potential to undermine *public* confidence in the AG, whereas the respondent in *Gopalan Nair* had circulated his offensive letters only amongst certain *law firms* in Singapore. Most importantly, the gravity of the misconduct in *Gopalan Nair* is markedly less than that found in the present case. To appreciate this point, a closer examination of the facts and the nature of the misconduct in *Gopalan Nair* must be undertaken. The backdrop to *Gopalan Nair* was the decision of the High Court to strike Mr J B Jeyaretnam ("Mr Jeyaretnam") off the roll of advocate and solicitors due to his criminal convictions. The Privy Council allowed the

appeal against this decision: see *J B Jeyaratnam v Law Society of Singapore* [1988] 3 MLJ 425. In the course of those proceedings, the AG had advised the government that the Privy Council's determination had no bearing on the criminal convictions of Mr Jeyaretnam, and further stated that he had been denied an opportunity to be heard before the Privy Council. The respondent, taking reference from a report of the proceedings before the Privy Council in a certain publication, then decided to send a letter to the AG, demanding to know why he had stated that he (the AG) had been denied an opportunity to be heard. In a subsequent letter, the respondent threatened to publish their correspondence should he not receive a satisfactory reply; a threat he eventually carried out. The High Court found that the respondent sought, by his first letter, "to show that the complainant was less than honest when [the AG] asserted that he was denied an opportunity of being heard by the Privy Council when the Council went into an examination of the merits of the convictions" (see *Gopalan Nair* at [25]). It was further found that he had no basis to insinuate this, and that those letters were written "deliberately with a view to discrediting the AG" (see *Gopalan Nair* at [48]).

142 Turning to the present case, Mr Ravi, by making the First and Second Facebook Statements, sought to accuse the AG, without basis, of *conducting the* Gobi *prosecution* in a dishonest and unfair manner to such an extent that it could have *led to Gobi's death*. As we had also observed above, it is hard to conceive of a more serious accusation against the AG. While the manner in which the integrity of the AG was questioned in *Gopalan Nair* was wholly unacceptable and the misconduct undoubtedly serious, the accusation there, in our view, did not rise to the same degree of seriousness as the present allegation.

143 Viewed together with Mr Ravi's further (and similarly baseless) allegations against the Law Society, what, in essence, sets this case apart from

Gopalan Nair (and *Nalpon*, for that matter) is that Mr Ravi's misconduct went further, both in terms of its *gravity* and *scope*. As we observed at [127] above, the nature and substance of Mr Ravi's allegations toward both the AG *et al* and the Law Society are such that Mr Ravi was attacking the *legal system as a whole*. No solicitor can be permitted to recklessly and baselessly undermine the very pillars of the legal system in which he (as well as his fellow practitioners) operates; to do so would plainly cause grave injury to public confidence in the legal profession.

144 In *Gopalan Nair*, the solicitor was not struck off but was suspended for two years. This was the maximum suspension available at the time. Although this is a close case, having regard to all the circumstances, we consider that (a) it is not necessary to strike Mr Ravi off the roll of advocates and solicitors, but (b) that imposing anything short of the maximum term of suspension that is now permitted would not be adequate to address the continuing danger that Mr Ravi, by his baseless and ill-conceived attacks, poses to public confidence in the administration of justice in Singapore.

Conclusion

145 For these reasons, we find that there is due cause for disciplinary action and impose a five years' suspension under s 83(1)(*b*) of the LPA commencing on the date of this judgment.

146 We order Mr Ravi to bear the Law Society's costs. The parties are to write to the court, within 14 days of this judgment, with their submissions on the appropriate quantum of costs, if no agreement is reached between them on this point. Each party's submissions are to be limited to eight pages.

Sundaresh Menon
Chief Justice

Tay Yong Kwang
Justice of the Court of Appeal

Belinda Ang Saw Ean
Justice of the Court of Appeal

Lin Weiqi Wendy and Teo Guo Zheng, Titus (WongPartnership LLP) for the applicant;
The respondent in person.