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

[2024] SGHC 91

Magistrate's Appeal No 9141 of 2023

Between

Wong Poon Kay

… *Appellant*

And

Public Prosecutor

… *Respondent*

GROUNDS OF DECISION

[Criminal Law — Complicity — Criminal conspiracy]
[Criminal Law — Offences — Property — Receiving stolen property]
[Criminal Law — Statutory offences — Companies Act]
[Criminal Procedure and Sentencing — Sentencing — Appeals]

Wong Poon Kay
v
Public Prosecutor

[2024] SGHC 91

General Division of the High Court — Magistrate's Appeal 9141 of 2023
Sundaresh Menon CJ
16 February 2024

28 March 2024

Sundaresh Menon CJ:

1 The appellant, Wong Poon Kay ("Wong"), pleaded guilty to one charge of failing to exercise reasonable diligence in the discharge of his duties as a director of Manford Pte Ltd under s 157(1) and punishable under s 157(3)(*b*) of the Companies Act (Cap 50, 2006 Rev Ed) ("CA"), and six charges of abetting, by engaging in a conspiracy with one Kassem Mohammad Chehab ("Chehab"), to dishonestly receive stolen property under s 411(1) read with s 109 of the Penal Code (Cap 224, 2008 Rev Ed) ("PC"). Wong was sentenced to 24 months' imprisonment: *Public Prosecutor v Wong Poon Kay* [2023] SGDC 187 ("*Wong Poon Kay (DC)*). Wong appealed against the sentence imposed by the learned District Judge (the "DJ") on the basis it was manifestly excessive.

2 I dismissed Wong's appeal. I gave brief reasons for dismissing the appeal at the hearing and now set out the detailed grounds for my decision.

Facts

Dramatis personae

3 Wong was a manager at Biz Corp Management Ltd ("Biz Corp") from 2008 until mid-2010. Biz Corp provided corporate and secretarial services, and part of Wong's job at Biz Corp was to help its clients incorporate companies. In that context, Wong became acquainted with Chehab, who is a British national, sometime in or about November 2008.

4 Chehab had approached Biz Corp saying he wanted to set up a number of companies in Singapore and claiming that he owned a construction company. In due course, Wong incorporated a total of six companies in Singapore for Chehab. These were: (a) Russneft Pte Ltd ("Russneft"), (b) Areba Pte Ltd ("Areba"), (c) Montreal Elegance Pte Ltd ("Montreal"), (d) Best Universal Pte Ltd ("Best Universal"), (e) Manford Pte Ltd ("Manford"), and (f) Centure Smith Pte Ltd ("Centure"). Wong also became a director of these companies.

5 Sometime in mid-2010, Wong left Biz Corp and joined another corporate secretarial services provider, Power Point Management ("Power Point"). Chehab moved with Wong and became a client of Power Point, and there Wong helped him acquire two other companies that were incorporated in Belize. They were: (a) Double Loop International Co Ltd ("Double Loop"), and (b) Goodwill International Co Ltd ("Goodwill").

6 Wong also helped to open Singapore bank accounts for all these companies. In truth, these companies were shell companies used by Chehab to receive the proceeds of criminal activities from foreign jurisdictions.

Background to the charges

7 Russneft and Areba were incorporated on 1 December 2008.

8 On 24 June 2009, Wong received a letter from United Overseas Bank ("UOB") notifying him that the remitter of a sum of US$8,968.10 to Russneft's UOB account wished to cancel the transfer. Wong consulted Chehab who instructed him to inform UOB that it was not to cancel the fund transfer. Less than a month later, on 10 July 2009, Wong received another letter from UOB stating that the remitter of a sum of US$12,092.82 to Areba's UOB account wished to cancel the payment because it was fraudulent. Once again, Chehab instructed Wong to inform UOB that it was not to cancel the transfer. After receiving these letters, Wong suspected that Chehab was using Russneft's and Areba's bank accounts to receive criminal proceeds.

9 Despite his suspicions, Wong continued to assist Chehab and incorporated more companies for him. Montreal was incorporated on 30 June 2009 and on 17 December 2009, Best Universal, Manford, and Centure were incorporated.

10 Wong was subsequently approached by the Commercial Affairs Department ("CAD") of the Singapore Police Force and on 2 March 2010, an inspector from the CAD took the first of several statements from Wong. Later that same day and on the next day (3 March 2010), Wong sent two emails to Chehab, in which he alerted Chehab to the fact that the authorities were investigating Russneft and Areba, and also intimated that he would resign as a director of the other companies – Montreal, Best Universal, Manford, and Centure. He also told Chehab not to be active with these other companies even though the police had not yet connected them with Russneft and Areba.

11 On 4 March 2010, Wong resigned from his directorships in Russneft and Areba. However, he remained a director of Montreal, Best Universal, Manford and Centure. He also continued to assist Chehab in incorporating more shell companies: on 23 June 2010 and 6 October 2010 respectively, Double Loop and Goodwill were incorporated.

12 On 6 July 2011, Wong finally resigned from his directorships in the remaining four companies, Montreal, Best Universal, Manford and Centure.

13 Between 9 February 2010 and 10 February 2011, 11 victims from seven jurisdictions were cheated into remitting a total sum of US$477,148.98 (equivalent to $640,537.79) into the bank accounts of the companies that Wong had incorporated for Chehab. Wong personally profited from the assistance he rendered to Chehab by receiving an amount of between $57,500 and $69,000.

14 Between March 2010 and August 2015, a total of 20 statements were taken from Wong by the CAD. The matter was then submitted to the Attorney-General's Chambers ("AGC") on 9 September 2016 for prosecutors to review the evidence and arrive at charging decisions. The matter underwent several rounds of internal assessments before Wong was charged in Court on 4 June 2021. Representations were then made by the Defence, before Wong indicated that he was willing to plead guilty on 17 November 2022, pending agreement over a disputed paragraph in the Statement of Facts ("SOF").

The proceedings and decision below

15 On 12 April 2023, Wong pleaded guilty to seven charges and was convicted of:

(a) one charge of failing to exercise reasonable diligence in the discharge of his duties as a director of Manford by failing to exercise supervision over the transactions in a bank account belonging to Manford (the "s 157 CA Charge"); and

(b) six charges of abetting, by engaging in a conspiracy with Chehab to dishonestly receive stolen property by assisting Chehab in incorporating the companies and opening their Singapore bank accounts, which Chehab then used dishonestly to receive property which Wong had reason to believe was stolen (the "s 411 PC Charges").

16 Wong consented to 15 other charges being taken into consideration for the purposes of sentencing:

(a) five charges of failing to exercise reasonable diligence in the discharge of his duties as a director of Russneft, Areba, Montreal, Best Universal, and Centure; and

(b) ten charges of abetting, by engaging in a conspiracy with Chehab to dishonestly receive stolen property by assisting Chehab in incorporating the companies and opening their Singapore bank accounts, which Chehab then used dishonestly to receive stolen property, and which Wong had reason to believe was stolen property.

17 The DJ sentenced Wong to five weeks' imprisonment for the s 157 CA Charge. She found that Wong had been reckless in his behaviour. Before Wong incorporated and became a director of Manford, he had received letters from UOB in his capacity as director of Russneft and Areba. Wong already suspected by then that Chehab was using the bank accounts of these companies unlawfully to receive the proceeds of crime. Despite this, Wong went on to incorporate

more companies, including Manford, and set up more bank accounts for Chehab's use in furthering his criminal activities. Wong had chosen to take up the appointment as a director of Manford, notwithstanding his suspicion that the shell companies and their bank accounts were being used for illicit purposes. It was clearly Wong's responsibility to exercise reasonable diligence in the discharge of his duties as a director. However, he did not conduct any further inquiries or checks on the letters received from UOB, even though one of these had specifically alleged that the payment in question was fraudulent. Instead, he proceeded to incorporate Manford and acted just as he had done with the earlier companies. He failed to scrutinise the transactions in Manford's account, which was being used to receive large sums of criminal proceeds from various parties on multiple occasions during the period of his appointment. There was nothing to suggest that any of the companies involved (including Manford) conducted legitimate business activities that might account for the sums that were being paid into their bank accounts.

18 As for the s 411 PC Charges, the DJ sentenced Wong to the following:

Charge	**Company**	**Stolen property received**	**Date of receipt**	**Sentence imposed**
DAC-910276-2021	Manford	USD 60,000	6 May 2010	7 months' imprisonment
DAC-910282-2021	Manford	USD 20,552.93	20 May 2010	4 months' imprisonment
DAC-910283-2021	Centure	USD 89,975	9 Feb 2010	9 months' imprisonment
DAC-910284-2021	Double Loop	USD 20,849	18 Nov 2010	4 months' imprisonment

DAC-910286-2021	Goodwill	USD 183,300	6 Jan 2011	14 months' imprisonment
DAC-910287-2021	Goodwill	USD 25,000	10 Feb 2011	4 months' imprisonment

19 The DJ noted that the offences involved substantial amounts of money, numerous victims as well as a transnational element spanning multiple jurisdictions. The duration of the offending behaviour was long, and it revealed a pattern of repeat offending. Wong also reaped personal benefits in the way of a sizeable sum which he received directly from Chehab. As Chehab did not reside in Singapore, Wong played an integral role in this arrangement by incorporating the companies and setting up the bank accounts in Singapore. These steps were essential for Chehab's illicit scheme to operate. Even though Wong was suspicious of the illicit nature of these transactions, he did not act on this but persisted in his conduct. Additionally, Wong committed all but one of the offences which are the subjects of the s 411 PC Charges after his first statement was recorded by the CAD. Even this brush with the authorities had not deterred Wong from continuing his criminal behaviour. The DJ found that considering the gravity of the charges and the ten similar charges taken into consideration, an aggregate sentence of appropriate severity was warranted to serve the interests of specific deterrence in relation to Wong as well as general deterrence for other like-minded individuals.

20 The DJ then placed some weight on the delay in investigations and prosecution in calibrating the sentence imposed on Wong. The DJ noted that the background and circumstances of the case required time for the investigations to be concluded, statements to be recorded, evidence to be gathered and also for assessments and evaluations to be conducted by the relevant authorities. The DJ nonetheless considered that the delay in prosecution had some mitigating value

because Wong had to bear with the uncertainty in the outcome of the investigations for a prolonged period.

21 After adjusting for the delay in prosecution, an aggregate sentence of 24 months' imprisonment was imposed by the DJ, which incorporated a discount of 20% and was arrived at as follows:

Charge	Description	Initial Sentence	Adjusted Sentence (considering the delay in prosecution)
DAC-910272-2021	s 157 CA Charge	5 weeks' imprisonment (concurrent)	4 weeks' imprisonment (concurrent)
DAC-910276-2021	**s 411 PC Charge (USD 60,000)**	**7 months' imprisonment (consecutive)**	**5 months' imprisonment (consecutive)**
DAC-910282-2021	s 411 PC Charge (USD 20,552.93)	4 months' imprisonment (concurrent)	3 months' imprisonment (concurrent)
DAC-910283-2021	**s 411 PC Charge (USD 89,975)**	**9 months' imprisonment (consecutive)**	**7 months' imprisonment (consecutive)**
DAC-910284-2021	s 411 PC Charge (USD 20,849)	4 months' imprisonment (concurrent)	3 months' imprisonment (concurrent)
DAC-910286-2021	**s 411 PC Charge (USD 183,300)**	**14 months' imprisonment (consecutive)**	**12 months' imprisonment (consecutive)**
DAC-910287-2021	s 411 PC Charge (USD 50,000)	4 months' imprisonment (concurrent)	3 months' imprisonment (concurrent)

Aggregate	**30 months' imprisonment**	**24 months' imprisonment**

The parties' cases

Appellant's case

22 Before me, the Defence submitted that the global sentence of 24 months' imprisonment imposed by the DJ was manifestly excessive, and contended instead that an appropriate sentence, considering the delay in prosecution, should be an aggregate sentence of two months and one day imprisonment.

23 In respect of the s 157 CA Charge, the Defence submitted that a sentence of five weeks' imprisonment was manifestly excessive, and in its place, a sentence of two weeks' imprisonment would be appropriate. It was said that the DJ erred in finding that Wong's conduct was more egregious than that of the accused person in *Abdul Ghani bin Tahir v Public Prosecutor* [2017] 4 SLR 1153 ("*Abdul Ghani*"). As far as Manford was concerned, the Defence contended that the sums involved were less than that involved in *Abdul Ghani*. The offending duration in the present case was also slightly shorter than that in *Abdul Ghani*. Further, it was argued that the DJ failed to consider Wong's early guilty plea and his cooperation with the CAD from the outset.

24 As for the s 411 PC Charges, the Defence submitted that the starting point should have been a 21.5 months' imprisonment sentence. This should have been adjusted downwards to 18.5 months and 10 days on account of Wong's plea of guilt and remorse.

25 The principal contention of the Defence was that the DJ had failed to give adequate weight to the inordinate delays in the prosecution of the case. The

Defence contended that there was no reason why the investigations needed to have taken more than six years from the time the first statement was recorded from Wong on 2 March 2010 until the completion of the investigations on 9 September 2016. Further, it was said that the Prosecution could have charged Wong after the completion of the investigations. If, as the Prosecution contended, it was thought that the outcome of two matters then pending in court was relevant to this matter, namely *Abdul Ghani* and *Yap Chen Hsiang Osborn v Public Prosecutor* [2019] 2 SLR 319 ("*Osborn Yap*"), the Prosecution could have applied to the court for the matter to be adjourned after Wong had been charged. Instead, the Prosecution only charged Wong almost five years later, on 4 June 2021. This delay caused significant agony, suspense and uncertainty to Wong. In the intervening period, Wong's rehabilitative and reformative goals had clearly been achieved to some degree as seen in the fact that Wong was otherwise untraced and had not re-offended since investigations commenced in March 2010.

26 Taking all this into account, the Defence submitted that a further reduction of the sentence to imprisonment for a term of two months and one day was warranted. In essence, the Defence's submissions on Wong's sentence on appeal proposed a discount of around 90% and was made up as follows:

Charge	**Starting imprisonment sentence**	**Adjusted imprisonment sentence (considering the plea of guilt and remorse)**	**Adjusted imprisonment sentence (considering the delay in prosecution)**
DAC-910272-2021 s 157 CA Charge	2 weeks (consecutive)	10 days (consecutive)	1 day (consecutive)

DAC-910276-2021 s 411 PC Charge (USD 60,000)	5 months (concurrent)	4 months (concurrent)	2 weeks (concurrent)
DAC-910282-2021 s 411 PC Charge (USD 20,552.93)	2 months (consecutive)	1.5 months (consecutive)	1 week (consecutive)
DAC-910283-2021 s 411 PC Charge (USD 89,975)	7 months (consecutive)	6 months (consecutive)	3 weeks (consecutive)
DAC-910284-2021 s 411 PC Charge (USD 20,849)	2 months (concurrent)	1.5 months (concurrent)	1 week (concurrent)
DAC-910286-2021 s 411 PC Charge (USD 183,300)	12 months (consecutive)	11 months (consecutive)	1 month (consecutive)
DAC-910287-2021 s 411 PC Charge (USD 50,000)	2 months (concurrent)	1.5 months (concurrent)	1 week (concurrent)
Aggregate	**21.5 months**	**18.5 months and 10 days**	**2 months and 1 day**

Respondent's case

27 The Prosecution submitted that the appeal should be dismissed. A lengthy sentence was necessary to give effect to the interest of general deterrence, which was the dominant sentencing consideration. The offences committed by Wong were essentially money-laundering offences, and such offences affect the integrity and reputation of Singapore's financial system and therefore called for the imposition of a deterrent sentence. It was in the public

interest for a lengthy imprisonment sentence to be meted out to deter like-minded individuals from committing such offences in Singapore.

28 The Prosecution contended that the DJ had rightly placed weight on the multiple aggravating factors, including: (a) the large amount of stolen property amounting to USD 477,148.98; (b) the fact that there were multiple victims; (c) the fact there was an overwhelming transnational element; (d) Wong's persistence in committing the offences over a long period of time; and (e) Wong's attempts to evade detection.

29 As for the mitigating factors, the Prosecution submitted that the DJ had sufficiently considered these. The DJ had placed substantial mitigating weight on the delay in prosecution and there was no basis for any further allowance to be made in favour of Wong. Further, the DJ had clearly placed sufficient weight on Wong's plea of guilt by meting out sentences more lenient than analogous precedents. In relation to the submission that Wong had fully cooperated with authorities, the Prosecution disputed this.

30 Further, the individual sentences imposed by the DJ were lenient or in line with case precedents. For the s 411 PC Charges, the sentences imposed were lenient in comparison to those in *Public Prosecutor v Ng Koon Lay* [2020] SGDC 196 and *Public Prosecutor v Lim Chih Ming John* [2018] SGDC 103. For the s 157 CA Charge, the sentence imposed was in line with the precedents, because the present case was more serious than *Abdul Ghani* and *Chai Chung Hoong v Public Prosecutor* [2023] 4 SLR 1195.

31 Accordingly, the aggregate sentence imposed by the DJ was not manifestly excessive in all the circumstances.

Issues to be determined in the present appeal

32 There were three issues before me:

(a) First, was the sentence imposed for the s 157 CA Charge manifestly excessive?

(b) Second, were the sentences imposed for the s 411 PC Charges manifestly excessive?

(c) Third, did the DJ err in failing to give adequate weight to the delays in investigation and prosecution?

The s 157 CA Charge

33 Wong was charged, convicted, and sentenced by the DJ to five weeks' imprisonment under s 157(1) punishable under s 157(3)(*b*) of the CA. That section reads in material part as follows:

> **As to the duty and liability of officers**
>
> 157.—(1) A director shall at all times act honestly and use reasonable diligence in the discharge of the duties of his office.
>
> …
>
> (3) An officer or agent who commits a breach of any of the provisions of this section shall be —
>
> …
>
> (*b*) guilty of an offence and shall be liable on conviction to a fine not exceeding $5,000 or to imprisonment for a term not exceeding 12 months.

34 The contention that the DJ erred in the sentence imposed for the s 157 CA Charge was primarily founded on the premise that Wong's conduct here was less serious than that of the accused person in *Abdul Ghani*. I did not agree.

35 In *Abdul Ghani*, the offender incorporated a company, "WEL", on behalf of one "Nadia", and agreed to be its resident non-executive director. The sole shareholder of WEL was one "Sima". Sima and the offender were registered as the only two directors of WEL. The offender opened a UOB bank account for WEL and handed the chequebook and the internet banking token to Sima to operate WEL's bank account. WEL's bank account received six illicit deposits, which were transferred out of the account within one to three days. The offender was convicted after trial and was sentenced to four weeks' imprisonment under s 157(1) of the CA for failing to supervise WEL's affairs as a result of which stolen money was received in its account.

36 In *Abdul Ghani*, the offender had been informed by the CAD that it was investigating money laundering allegations against another company that was connected to Nadia, and which the offender was a resident director of. However, the offender took no steps to ensure that WEL was not being used for similar money laundering activities, and allowed the offences to occur. UOB had also specifically alerted the offender to a probable fraudulent transaction in WEL's bank account.

37 In the present case, Wong had first been alerted, by the letters from UOB, that there may have been fraudulent activities involving Russneft and Areba's bank accounts. Wong was then notified by the CAD on 2 March 2010 that Russneft and Areba were under investigation. Although these communications pertained to companies other than Manford, Wong was plainly alive to the very real possibility that *Manford*, the very company in question, was implicated. This could be seen from the fact that he told Chehab that he would resign from Russneft, Areba and other companies, including Manford, after he gave his first statement to the CAD. Additionally, he told Chehab that the bank accounts for Manford should not be operated because the "police is

checking". It may also be noted that he actively assisted Chehab in evading detection by the authorities by tipping him off about the investigations.

38 The Defence next contended that the present case involved a smaller sum of stolen money compared to *Abdul Ghani*. The Defence relied on a table at [18] of *Abdul Ghani*, which stated that the sum of the withdrawals from WEL's UOB bank account amounted to US$637,300.00. This was contrasted with the present case, involving a total sum of US$477,148.98 (equivalent to $640,537.79). However, as the Prosecution explained, this argument was misconceived. In *Abdul Ghani* at [18] and [80], the learned judge found that the value of the comingled funds amounted to US$637,300.00, but the value of the stolen property which was the subject of the s 157 CA charge was US$321,954.51. Consequently, the amount of stolen property received in the present case (US$477,148.98) was more than that in *Abdul Ghani* (US$321,954.51).

39 The Defence also suggested that the duration of the offending behaviour was longer in *Abdul Ghani* than in the present case. In *Abdul Ghani*, the period when the offender was a director in WEL was between 14 December 2011 to 15 August 2013, which was around one year and eight months. On the other hand, the Defence submitted that the duration of offending in the present case was approximately one year and seven months, from 17 December 2009 when Wong became a director of Manford to 6 July 2011 when he resigned from his directorship in Manford. It may be noted that this was not a materially different period.

40 But beyond this, Wong had assisted Chehab by incorporating other companies that were used to receive stolen properties prior to 17 December 2009. The first two companies, Russneft and Areba, were incorporated on

1 December 2008, more than a year before the incorporation of Manford, and the charges relating to these two companies under s 157 of the CA were taken into consideration for the purposes of sentencing. In my judgment, it was inappropriate for the purposes of sentencing to consider only the period when Wong was a director of Manford, because Manford was just another one of the shell companies incorporated by Wong to perpetuate Chehab's wider scheme. These were not set up as distinct trading activities but as a series of corporate vehicles designed to facilitate Chehab's scheme and to evade detection. To ignore Wong's involvement in the other companies would have been highly artificial. In my judgment, the relevant period of offending in the present case was the entire period in which Wong was a director of the shell companies, which was around two years and seven months. This far exceeded the relevant period of time in *Abdul Ghani*.

41 The number of charges taken into consideration was also a relevant factor in determining the length of the sentence; the presence of similar charges taken into consideration would generally lead to an enhancement of the sentence for the proceeded charge (*Re Salwant Singh s/o Amer Singh* [2019] 5 SLR 1037 at [48]). I noted that there were five other similar charges relating to the other five companies that Wong was a director of, which were taken into consideration. There were no such charges taken into consideration in *Abdul Ghani*.

42 Finally, the Defence submitted that whereas the accused person in *Abdul Ghani* did not plead guilty, Wong had done so. It is trite that a guilty plea is only a mitigating factor where there is "genuine compunction or remorse on the part of the offender": *Chen Weixiong Jerriek v Public Prosecutor* [2003] 2 SLR(R) 334 at [22]. Thus, there is "[not] much mitigation value in a professional man turning himself in in the face of absolute knowledge that the game is up": *Wong*

Kai Chuen Phillip v Public Prosecutor [1990] 2 SLR(R) 361 at [14]. Wong did not come clean to the authorities promptly after the offences were committed. On the contrary, he continued to incorporate companies and set up bank accounts for Chehab over a period of nine months (until 2 December 2010, when he opened the bank account of Goodwill) after his first statement was taken by the CAD on 2 March 2010. He even warned Chehab of the pending investigations against the companies. In the circumstances, and without any other explanation offered by the Defence, the inference to be drawn was that Wong's resignation from the companies in July 2011 was only because he suspected or knew that the "game was up". I therefore declined to ascribe significant weight to Wong's plea of guilt.

43 In the result, I agreed with the DJ that Wong's conduct was more egregious than the offender in *Abdul Ghani*, and upheld the DJ's decision to sentence Wong to an imprisonment term of five weeks for the s 157 CA Charge.

The s 411 PC Charges

44 Sections 411 and 109 of the PC read as follows:

> **Punishment of abetment if the act abetted is committed in consequence, and where no express provision is made for its punishment**
>
> 109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with the punishment provided for the offence.
>
> …
>
> **Dishonestly receiving stolen property**
>
> 411.—(1) Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the property to be stolen property, shall be punished with imprisonment for a term which may extend to 5 years, or with fine, or with both.

45 In the court below and in the appeal before me, the Defence contended that the sentencing framework applicable to offences under s 411 of the PC as set out in *Public Prosecutor v Alfonso Low Eng Choon* [2023] SGDC 37 ("*Alfonso Low*") should be applied, with a downward calibration of the sentence to account for Wong's early plea of guilt and cooperation with the CAD.

The applicable sentencing framework

Whether the "multiple starting points" approach was appropriate

46 In *Alfonso Low*, the learned District Judge adopted the "multiple starting points" approach to the indicative sentencing range. Having considered multiple precedents, the District Judge adopted the following sentencing range for offences under s 411 of the PC, based on the value of the stolen property:

Value	Indicative Sentencing Range
Less than $50,000	Up to 6 months' imprisonment
$50,000 – $100,000	6 to 12 months' imprisonment
$100,000 – $200,000	12 to 18 months' imprisonment
$200,000 – $350,000	18 to 24 months' imprisonment
$350,000 – $600,000	24 to 36 months' imprisonment
Above $600,000	Above 36 months' imprisonment

47 On the other hand, in *Public Prosecutor v Pham Van Ban* [2020] SGDC 96 ("*Pham Van Ban*"), the court adopted a "sentencing matrix" approach to s 411 PC offences, although this was not referred to either in *Alfonso Low* or in

the parties' submissions in the present appeal. I declined to adopt the "multiple starting points" approach in *Alfonso Low*, and instead adopted a "sentencing matrix" framework for offences under s 411 of the PC, similar to that applied in *Pham Van Ban*.

48 Offences under s 411 of the PC can manifest in a myriad of ways. As highlighted in the Penal Code Review Committee, *Penal Code Review Committee Report* (August 2018) at pp 65–66, while s 411 of the PC was "originally created to deal with persons who 'fence' stolen property *eg* by purchasing it from thieves, in recent years it has had a new lease of life as a money-laundering offence". The section remains relevant today in a variety of settings. These include less complex cases, such as *Public Prosecutor v Dorj Enkhmunkh* [2018] SGDC 75 ("*Dorj Enkhmunkh*"), in which the offender was charged, convicted and sentenced under s 411 of the PC for receiving a handphone that he knew was stolen property. On the other hand, one also comes across complex money laundering cases, such as in *Public Prosecutor v Ambrose Dionysius* [2018] SGDC 35 ("*Ambrose Dionysius*"), in which the offender was charged, convicted and sentenced under s 411 of the PC for abetting a company to receive stolen money from foreign parties, and dissipating the money overseas thereafter.

49 In my view, there is a clear difference between one who "fences" a stolen chattel and another who sets up shell companies across many countries and helps to open bank accounts for these shell companies under the cover of a seemingly legitimate secretarial practice, even if the amounts of money that had been dishonestly received in both cases might be similar. Offences under s 411 of the PC may be committed under such a variety of circumstances and reasons that it is necessary to weigh these in assessing the overall gravity of the offence. As I explained in *Logachev Vladislav v Public Prosecutor* [2018] 4 SLR 609

("*Logachev*") at [46] and [48], even though the "multiple starting points" approach takes into consideration the different degrees of harm and culpability of the offender at a subsequent stage, "the danger is that the initial focus on the amount [involved] might eclipse or dilute the significance of those considerations".

50 I was also satisfied that the nature of the offence under s 411 of the PC was not of such a nature that it would be difficult to identify the principal elements of the offence. Had it been so, it might have made a "sentencing matrix" approach inappropriate (*Ng Kean Meng Terence v Public Prosecutor* [2017] 2 SLR 449 at [34]) or it might have required a further granulation of the "sentencing matrix" approach to be applicable only to a category of cases. Thus, in *Huang Ying-Chun v Public Prosecutor* [2019] 3 SLR 606, the High Court held that the offence of assisting another to retain benefits from criminal conduct under s 44(1) of the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Cap 65A, 2000 Rev Ed) ("CDSA") was framed so broadly that it was appropriate to apply the "sentencing matrix" framework only to cases involving the laundering of cash proceeds of offences committed in Singapore (at [47]–[48]). In my view, there is no need to do so for offences under s 411 of the PC, because there are two obviously common principal factual elements that are applicable in all cases involving s 411 of the PC, namely (a) the manner and extent of the involvement of the accused person in the act of receiving or retaining the stolen property (the primary determinant of the culpability of the accused); and (b) the property that was received by the accused (the primary determinant of the harm caused).

51 I next outline the "sentencing matrix" framework and the considerations that should be considered for s 411 PC offences using this framework.

The two-stage, five-step framework for offences under s 411 of the PC

52 I considered it appropriate to adopt a "sentencing matrix" framework modelled on the two-stage, five-step framework in *Logachev* for offences under s 411 of the PC. As I noted in the foregoing section, there is significant diversity in the circumstances in which such an offence may arise. Examining the features of each case through an evaluation of offender-specific and offence-specific factors under the two-stage, five-step framework provides a clearer and more systematic method of analysis and one that is likely to promote consistency between cases (see *Tan Siew Chye Nicholas v Public Prosecutor* [2023] 4 SLR 1223 at [58]–[59]).

53 As helpfully summarised in *Ching Hwa Ming (Qin Huaming) v Public Prosecutor and another appeal* [2023] SGHC 310 at [77]–[78], the framework is as follows. The first stage is to arrive at an indicative starting point sentence for the offender upon considering the intrinsic seriousness of the offending act. This involves three steps as follows:

(a) first, identify, by reference to the factors specific to the particular offence under consideration, the level of harm caused by the offence and the level of culpability of the offender;

(b) second, identify the applicable indicative sentencing range by reference to the level of harm caused by the offence and the level of the offender's culpability; and

(c) third, identify the appropriate starting point within the indicative sentencing range that was identified in the second step.

In the second stage, the court makes adjustments to the starting point sentence identified under the first stage. This stage consists of two steps as follows:

> (d) fourth, adjust the identified starting point as may be necessary to take into account factors personal to the offender's particular circumstances (these are offender-specific factors); and
>
> (e) where an offender has been convicted of multiple charges, consider whether further adjustments are needed in respect of each individual sentence to take into account the totality principle.

54 I turn to consider the first two steps under this framework, which are specific to the particular offence.

55 In the first step of the framework, I was of the view that it was appropriate to adopt and develop the offence-specific factors set out in *Huang Ying-Chun*. In this regard, I agreed with the learned District Judge in *Pham Van Ban* (at [24]) that there are some broad similarities between the offence under the CDSA for assisting another to retain stolen property and the s 411 PC offence of dishonestly receiving stolen property. Additionally, I was also of the view that whether the offender's method of operation made it easier to evade detection by the authorities was a relevant offence-specific factor going towards culpability. The considerations can conveniently be presented in tabular form as follows:

Offence-specific factors	
Factors going toward harm	Factors going toward culpability
(a) the amount that was dishonestly received (b) involvement of a syndicate (c) involvement of a transnational element (d) the seriousness of the predicate offence (e) harm done to confidence in public administration	(a) the degree of planning and premeditation (b) the level of sophistication (c) the duration of offending (d) the offender's role (e) abuse of position and breach of trust (f) the mental state of the offender (g) whether the commission of the offence was the offender's sole purpose for being in Singapore (h) the offender's knowledge of the underlying predicate offence (i) the prospect of a large reward (j) whether the offender's method of operation made it easier to evade detection by the authorities

56 At the second step, I declined to adopt the indicative sentencing range used by the learned District Judge for s 411 PC offences in *Pham Van Ban*. Having perused the precedents on s 411 PC, I considered that the following indicative sentencing range is appropriate instead:

Harm / Culpability	**Low**	**Moderate**	**Severe**
Low	Fine and/or short custodial sentence	3 months' to 6 months' imprisonment	6 months' to 12 months' imprisonment
Moderate	3 months' to 6 months' imprisonment	6 months' to 12 months' imprisonment	12 months' to 36 months' imprisonment
High	6 months' to 12 months' imprisonment	12 months' to 36 months' imprisonment	36 months' to 60 months' imprisonment

57 I set out some of the precedents to illustrate the application of the indicative sentencing range in the foregoing paragraph.

(a) **Low culpability and low harm:** In *Public Prosecutor v Muhammad Nazir bin Abdul Rahman* [2018] SGDC 150, a sum of $800 was withdrawn from the offender's sister-in-law's bank account at various Automated Teller Machines by the offender's friends without the victim's consent, and this was handed over to the offender who spent it on illicit drugs. The court found that there was a breach of trust but did not find any premeditation. The court also noted that if there was any planning, it would only be some "very low level planning to avoid detection". The offender was sentenced to a fine of $3,000.

(b) **Moderate culpability and low harm:** *Public Prosecutor v Robin Lim Wee Teck* [2016] SGDC 236 ("*Robin Lim*") and *Dorj Enkhmunkh* are examples of this category.

(i) In *Robin Lim*, the offender befriended one "Patricia", a purported antiques dealer in Malaysia through a social

networking website, and agreed to Patricia's request to remit money to him. The offender received stolen money amounting to $25,991.70 and remitted it to various beneficiaries in Malaysia on Patricia's instructions. The court did not find that the offender had actual knowledge but instead found he was wilfully blind to the truth and/or that he had reason to believe that the money was stolen property. No substantial benefits were obtained by the offender, and he was sentenced to five months' imprisonment for the charge under s 411 of the PC. He was also convicted of five charges under s 47(1)(*b*) of the CDSA for removing property from the jurisdiction which represented the benefits of his criminal conduct. The aggregate sentence imposed on the offender for all six charges was six months' imprisonment. The offender's conviction and sentence were upheld on appeal to the High Court.

(ii) In *Dorj Enkhmunkh*, the offender was charged under s 411 of the PC for receipt of a handphone that he knew had been stolen by his accomplice. The court noted that the offender was a foreign national who came to Singapore with his accomplice with the plan to commit crimes, and that the offences were premeditated. The offender was sentenced to three months' imprisonment for the s 411 PC charge. He was also convicted of two charges under s 420 read with s 109 of the PC for abetment by conspiracy to cheat, and the aggregate sentence imposed on the offender was one year and 10 months' imprisonment. The offender's sentence was upheld on appeal to the High Court.

(c) **Moderate culpability and moderate harm:** In *Public Prosecutor v Karunanithi s/o Alagasamy* [2020] SGDC 134, the offender had received $39,000 from his elder brother and $30,000 from one Sheramu, a friend of his brother. These sums had been stolen from a victim by Sheramu, and the money had been kept with the offender because Sheramu knew that the police would be looking for them. The offender claimed trial. The court found that the offender had reason to believe on both occasions that he had received stolen money, even though he may not have had actual knowledge of this fact. The court noted that the total value of the stolen property was more than twice the amount in *Robin Lim* and sentenced the offender to five months' imprisonment for the charge involving $39,000 and four months' imprisonment for the charge involving $30,000, with both sentences to run consecutively for a total of nine months' imprisonment. The offender's conviction and sentence were upheld on appeal to the High Court.

(d) **High culpability and moderate harm:** *Public Prosecutor v Ngiam Kok Min* [2012] SGDC 438 ("*Ngiam Kok Min*") and *Public Prosecutor v Ong Kim Chuan* [2016] SGDC 58 ("*Ong Kim Chuan*") are examples of this category.

(i) In *Ngiam Kok Min*, the offender was approached by one "Chua" to open bank accounts to receive payments from overseas, and was promised a 3% commission for each transaction. He was informed that these were proceeds from illegal activities, but nonetheless agreed to assist. A total of $1,249,829.23 was received in these bank accounts from various entities and from various countries, and the offender personally

received a total of $10,451.94. The two proceeded charges against the offender under s 411 of the PC related to two stolen amounts of $178,079.50 and $175,032.85 respectively. He was sentenced to 30 months' imprisonment for each charge under s 411 of the PC. He was also convicted of transferring benefits from criminal conduct to Chua under s 47(1)(*b*) of the CDSA, and the aggregate sentence imposed on him was 54 months' imprisonment.

(ii) In *Ong Kim Chuan*, the offender received sums of money that were cheated from foreign parties into bank accounts that were either owned by him or the accounts of companies of which he was the only authorised signatory. He then transferred a portion out of jurisdiction on the instructions of an unknown individual, "Angie". The offender had clear suspicions that the sums of money were "not legitimate" but did not act on his suspicions. When the bank requested the offender to return certain amounts of money, the offender did not do so despite his suspicions and Angie's inability to explain the transactions in question. The offender was also warned by a friend that this was not how normal business should be conducted but he ignored the warnings. The court found that: (a) the magnitude of the crime was significant as the accused had received a total of $850,817.79 into his bank accounts for the charges under s 411 of the PC; (b) the losses were high and no restitution was made by the accused; (c) the offences were committed over a period of 22 days; (d) the offender's role was critical for this international fraudulent scheme; (e) the offender gained a substantial personal benefit of $41,881.79 and was driven by self-interest and greed;

and (f) the offender should not be treated as a first offender. For the s 411 PC charge involving property of $231,767.90, the offender was sentenced to 16 months' imprisonment, and for the charge involving property of $504,377.39, he was sentenced to 32 months' imprisonment. He was also convicted of one charge of transferring benefits of criminal conduct under s 47(1)(*b*) of the CDSA, and the aggregate sentence imposed on the offender was 48 months' imprisonment. The offender's sentence was upheld on appeal to the High Court.

(e) **High culpability and severe harm:** In *Ambrose Dionysius*, the offender was a director of a company. As a result of an email spoofing scam, the Royal Bank of Canada (Trinidad & Tobago) transferred around $4.4 million to the bank account of the company. Around $1 million was then transferred to the offender's own bank account and subsequently dissipated to one "Wendy" in Malaysia. The offender was charged under s 411 of the PC for two counts of abetting the company to dishonestly receive a total of around $4.4 million (comprising two transactions of around $1.1 million and $3.3 million respectively), and two counts of dishonestly receiving stolen property amounting to about $1 million (comprising two transactions of $100,000 and $885,217.35 respectively). The court found that the offender had facilitated the inward remittances by aiding the company to receive the moneys into its account despite having reason to believe this was stolen property. The offender had also prepared a sham contract with Wendy as a cover to explain the remittances to her. For the charges in which the offender had abetted the company to receive around $1.1 million and $3.3 million, the offender was sentenced to 40 months' imprisonment and 44 months' imprisonment respectively. For the charges of dishonestly receiving

> $100,000 and $885,217.35, he was sentenced to 8 months' and 38 months' imprisonment respectively. He was also convicted of three charges under s 47(1)(*b*) of the CDSA, and two charges of failing to report the movements of physical currency exceeding $30,000 out of Singapore under s 48C of the CDSA. The aggregate sentence imposed on the offender was 60 months' imprisonment. On appeal to the High Court, the offender was acquitted of the three charges under s 47(1)(*b*) of the CDSA, but the aggregate sentence of 60 months' imprisonment was upheld.

58 Finally, the offender-specific factors mentioned at [53(d)] above are well-established and I need not deal with these in detail. In broad terms, I thought the summary of these factors in *Huang Ying-Chun* (at [98]) as follows, was a good guide:

Offender-specific factors	
Aggravating factors	Mitigating factors
(a) offences taken into consideration for sentencing purposes (b) relevant antecedents (c) evident lack of remorse	(a) a guilty plea (b) voluntary restitution (c) cooperation with the authorities

Applying the framework

59 Having set out the applicable legal principles and the sentencing framework applicable to s 411 PC offences, I apply them to the facts before me.

The first stage

60 I start with the offence-specific harm factors. First, the amount that was involved was significant. For the six proceeded charges under s 411 of the PC, the amount that was dishonestly received ranged from $27,087.02 to $237,080.22, and the total amount of money that was dishonestly received, including the charges that were taken into consideration for the purposes of sentencing, totalled $640,537.79. Second, the present case involved a transnational element: Wong worked together with Chehab, a British national, and the stolen money came from seven foreign jurisdictions. Third, against the backdrop of Singapore as a major financial centre in the Asia-Pacific region, such acts of money laundering undermine public confidence among investors in Singapore as a trusted and legitimate financial hub (see *Singapore Parliamentary Debates, Official Report* (3 October 2023) vol 95; *Ang Jeanette v Public Prosecutor* [2011] 4 SLR 1 at [73]).

61 As for the offence-specific culpability factors applicable in this case:

(a) there was a significant amount of planning and premeditation involved. There was nothing suggesting that the companies and the bank accounts set up by Wong were used for anything other than receiving stolen assets. Further, Wong incorporated the companies over a span of around one year and ten months (between 1 December 2008, when Russneft and Areba were incorporated and 6 October 2010, when Goodwill was incorporated).

(b) Second, there was a significant degree of sophistication in the criminal offence. The stolen money was received by *multiple* shell companies, which included both Singapore-incorporated companies and Belize-incorporated companies that opened bank accounts in Singapore.

(c) Third, Wong played a crucial role in this operation. He was the one who incorporated the multiple shell companies and opened the bank accounts for Chehab. He was also the local director for the Singapore-incorporated shell companies. Further, even when Wong was alerted by the CAD, he did not take any steps to remedy the situation and instead helped Chehab to set up more companies to receive criminal proceeds, and even tipped him off about the police investigations.

(d) Fourth, Wong had known, or at the very least, had strong reasons to believe that the bank accounts of the companies would be used to receive stolen properties. He was informed by UOB twice that the remitter of funds to Russneft and Areba had sought to cancel them, and on one occasion, this was because the payment "was fraudulent". He also had his statement taken by the CAD subsequently regarding Russneft and Areba. Yet he did not cease his criminal activities and continued to assist Chehab.

(e) Fifth, Wong had obtained significant personal benefits amounting to between $57,500 and $69,000 from this arrangement.

(f) Finally, I regarded it as highly culpable that Wong had used a legitimate corporate secretarial services provider in this illicit manner. By doing this, he used a cloak of legitimacy to mask the offending activities in order to evade detection. This made it much more difficult for the authorities to investigate and uncover the same.

62 In the round, I considered that the culpability of Wong for the s 411 PC Charges was high, and the harm caused by the offence to be medium or low, depending on the amounts. To be precise, for the s 411 PC Charges involving sums of $31,895 and below, I considered the harm caused by the offence to be

low. As for the rest of the s 411 PC Charges, I assessed the harm caused by the offence to be medium. I then made further adjustments to the appropriate starting points and arrived at an appropriate starting sentence as follows:

Charge Number	**Amount of money involved**	**Indicative sentencing range**	**Appropriate starting point sentence**
DAC-910276-2021	USD 60,000 ($83,466.00)	12 months' to 36 months' imprisonment	12 months' imprisonment
DAC-910282-2021	USD 20,552.93 ($28,753.55)	6 months to 12 months' imprisonment	8 months' imprisonment
DAC-910283-2021	USD 89,975 ($127,917.46)	12 months' to 36 months' imprisonment	14 months' imprisonment
DAC-910284-2021	USD 20,849 ($27,087.02)	6 months to 12 months' imprisonment	8 months' imprisonment
DAC-910286-2021	USD 183,300 ($237,080.22)	12 months' to 36 months' imprisonment	18 months' imprisonment
DAC-910287-2021	USD 25,000 ($31,895.00)	6 months to 12 months'	8 months' imprisonment

The second stage

63 I turn to the offender-specific factors and note, first, that there were ten other similar charges under s 411 PC that were taken into consideration for sentencing purposes. This is an aggravating factor. Next, while Wong did plead guilty, I did not think that significant mitigating weight should be afforded to this factor for the reasons canvassed above at [42]. Wong also did not make any

restitution to the victims. While the Defence submitted that Wong readily cooperated with the authorities, I did not place much weight on this for the same reasons I declined to give significant weight to Wong's guilty plea.

64 In the round, I considered that it would have been appropriate to increase the starting point sentence by one month for each charge to account for the offence-specific factors.

65 I next considered whether there was a need to order more than two sentences to run consecutively (*Logachev* at [108]). While the fact that there were multiple victims involved in the s 411 PC offences may have justified an order that more than two sentences run consecutively, I did not think this was necessary given that the overall criminality of Wong's conduct could be adequately encompassed by two consecutive sentences. Running the sentences for DAC-910283-2021 and DAC-910286-2021 (which are the two longest sentences) consecutively, I derived a total of 32 months' imprisonment with an additional two months for the adjustment at the second stage, as set out in the foregoing paragraph. This would give rise to an aggregate sentence of 34 months' imprisonment which I consider would have been proportionate to the totality of Wong's criminal behaviour. Consequently, I did not agree with the Defence that the sentence of 30 months' imprisonment imposed by the DJ was manifestly excessive.

Delay in investigation and prosecution

66 I turn to the final issue which pertains to the submission of the Defence that I should nonetheless reduce the sentence on account of the alleged delay in concluding the investigation and commencing the prosecution. As a matter of principle, the court may extend leniency in the sentencing of an offender on

account of a significant delay in investigation and/or prosecution. This is a nuanced inquiry which first requires the court to be satisfied that there has been an *inordinate delay that is attributable to the Prosecution* and that the accused person has suffered *unfair prejudice* as a result. The principle is founded on the desire, where possible, to mitigate the unfairness that comes from the undue and prolonged agony, suspense and uncertainty experienced by the accused person where matters are unreasonably delayed. It may also be invoked where undue delay in the prosecution of the matter may undermine the offender's rehabilitation and reintegration into society: *A Karthik v Public Prosecutor* [2018] 5 SLR 1289 at [51].

67 Even where it is possible to establish inordinate delay and unfair prejudice, the accused person may not succeed in getting the sentence reduced if there are countervailing reasons not to take into account the delay (such as if the offence is particularly heinous, or if the offender is recalcitrant): Kow Keng Siong, *Sentencing Principles in Singapore* (Academy Publishing, 2nd ed, 2019) at [24.008], citing *Tan Kiang Kwang v Public Prosecutor* [1995] 3 SLR(R) 746 and *Chan Kum Hong Randy v Public Prosecutor* [2008] 2 SLR(R) 1019 ("*Randy Chan*").

68 Turning to the question of delay, I reiterate that only *inordinate* delay would warrant considering leniency in sentencing. This means the delay must have been unusually long and not explicable by reasonable grounds. As the court in *Ang Peng Tiam v Singapore Medical Council and another matter* [2017] 5 SLR 356 ("*Ang Peng Tiam*") at [113] explained, whether there is an inordinate delay is "not measured in terms of the absolute length of time that has transpired, but must always be assessed in the context of the nature of investigations". This is obviously a fact-sensitive inquiry.

69 The DJ discounted the putative aggregate sentence by 20% on account of a delay in prosecution. As against this, the Defence submitted that the delay in the investigation and prosecution of these offences justified a downward adjustment of around 90% of the global sentence. The Defence contended that there had been a delay of around 11 years after CAD commenced investigations which warranted this significant discount. I disagreed with the Defence. It seemed to me the Defence was doing the very thing that was cautioned against in *Ang Peng Tiam* by focusing on the absolute length of time and ignoring the underlying facts.

The alleged delay

70 The alleged delay was said to be around 11 years. In fact, this was the full period of time that passed between the time Wong's first statement was taken to when he was charged. It is self-evidently the case that this period of time cannot in and of itself be termed a "delay". In fact, it comprised two portions. The first was a period of around six and a half years between 2 March 2010, when the first statement was taken from Wong, and 9 September 2016, when the matter was referred to the AGC (the "Investigation Phase"). The second was a period of less than five years between 9 September 2016, from the end of the Investigation Phase, and 4 June 2021, when Wong was charged in court (the "Prosecution Phase").

The Investigation Phase

71 It should be evident from the many shell companies, some of which were not incorporated in Singapore, and the multiple victims who were from various jurisdictions (see [13] above) that investigating and uncovering this criminal scheme was a complex operation that required significant cooperation between the CAD and their foreign law enforcement counterparts. This was a case where

it was plain to see that considerable time would be required to investigate the matter.

72 The task of investigating the matter was made much more difficult by Wong's deliberate actions. As I have noted at [61(f)] above, Wong had corrupted the operations of legitimate corporate secretarial services providers and set up an elaborate network of companies incorporated here and abroad, precisely in order to make it difficult to track and uncover what was being done. And he continued these activities even after the start of the Investigation Phase. To recapitulate, the first statement was taken from Wong on 2 March 2010 by the CAD, after which he sought to further evade detection from the authorities by tipping Chehab off on the ongoing investigations. Wong then resigned from his directorship in Russneft and Areba on 4 March 2010, but continued to be a director of Montreal, Best Universal, Manford and Centure. Additionally, a few months after the first statement was taken from Wong, Wong assisted Chehab by incorporating Double Loop and Goodwill. The bank accounts of these companies continued to be used to receive stolen property until 6 July 2011 when Wong finally resigned from his directorships in Montreal, Best Universal, Manford and Centure. In fact, all but one of the charges under s 411 of the PC that was either proceeded against Wong or taken into consideration occurred *after* the first statement recorded by the CAD and these involved a stolen sum that amounted in total to US$387,173.98.

73 In my judgment, it was clear that the length of time that it took for the Investigation Phase was a reasonable one due to the complexity of the operation, and the fact that the very essence of the offences committed by Wong, was to hide the criminal behaviour and make it difficult to be detected. In these circumstances, it simply did not now lie in his mouth to say that the investigations had taken an inordinately long period of time; to conclude

otherwise would be to "perversely incentivise would-be offenders to devise even more complex and difficult-to-unravel criminal schemes": *Public Prosecutor v Soh Chee Wen and another* [2023] SGHC 299 at [1348].

74 The Defence submitted that such a long investigation period was not required because Wong had come clean to the CAD. There was initially some lack of clarity as to when, if at all, Wong disclosed the full details of his criminal activities to the CAD. Given that Wong had persisted in his criminal activities until he resigned from all the companies in July 2011, it was unlikely that he had made the relevant admissions to the CAD before then (see also [42] above). And even giving Wong the benefit of the assumption that full details were disclosed by July 2011, it would have taken the CAD a considerable time to obtain the details of the victims who were abroad, secure the documentary trail pertaining to the transactions, and get the assistance of their foreign counterparts. In these circumstances, it could not possibly be seen to constitute an inordinate delay that the CAD needed a few years thereafter to complete its investigation of this complex criminal operation.

75 In any event, during the hearing, the Prosecution disclosed the dates on which the statements from Wong were recorded by the CAD. 17 statements were recorded between 2 March 2010 and 16 April 2012, and three statements between 30 March 2015 and 14 August 2015. The Prosecution explained the gap of about three years between 16 April 2012 and 30 March 2015 by pointing to the fact that the CAD had to wait for documents from Interpol, and also because the Investigation Officer ("IO") originally assigned to the matter had left the CAD, and some time was needed to re-assign the case to another IO. The Prosecution also stated that the IO then assessed that further evidence was needed and this led to the three statements being taken in 2015, which is when Wong came clean that he was receiving benefits from Chehab. In my judgment,

the Prosecution's timeline sufficiently explained why such a long time was required to complete the Investigation Phase, and why there was no inordinate delay as alleged by the Defence.

76 I make two further observations in this connection. First, one of the reasons for the gap in time between 2012 and 2015 was the change of personnel working on the matter. I emphasise that such occurrences are part of the normal operational realities of an organisation like the CAD and will not render any delay inordinate barring exceptional circumstances. While such delays may not be ideal for the accused person, these sorts of delays should reasonably be anticipated in the course of an extended investigation. Unlike the present case, *Randy Chan* was an exceptional case where the court found that there had been a "failure [of the police authorities] to co-ordinate their offences so as to discharge their duties diligently and in good time" (at [48]).

77 Second, while it is ordinarily for the defendant to show an inordinate delay in prosecution when dealing with matters that had occurred some time ago in the past, it would promote the expeditious conduct of proceedings if the Prosecution provided such information to the Defence and to the court at an earlier stage of the proceedings. The Defence had raised the lapse of time between 2 March 2010 when the first statement was taken and when the matter was referred to the AGC on 9 September 2016, and this could have been addressed if the Prosecution had provided the dates on which the statements were recorded earlier. Instead, this was only forthcoming at the hearing.

The Prosecution Phase

78 I turn next to the Prosecution Phase, which spanned from the end of the Investigation Phase, until and 4 June 2021, when Wong was charged in court.

79 A short chronology of the AGC's internal assessments and decisions between the Investigation Phase and 4 June 2021 was provided by the Prosecution as follows:

Date	Event
9 September 2016	The matter was referred to the AGC.
February 2017 to 26 May 2017	The Prosecution decided to await guidance from the High Court on the liability of corporate money mules from *Abdul Ghani*.
June 2017 to August 2018	Assessments by the CAD and AGC continued.
August 2018	The Prosecution decided to await guidance from the Court of Appeal in *Osborn Yap*, which would clarify the law on whether the Prosecution's practice of charging secondary offenders under s 411 PC read with s 47(1) CDSA for cross-border money laundering cases was sound.
12 July 2019	The Court of Appeal delivered its decision in *Osborn Yap*, which necessitated a re-evaluation of the case by the CAD.
October 2020	A new charging recommendation for the case was submitted to the Deputy Public Prosecutor for assessment.
4 June 2021	Wong was charged in Court.

80 The Defence took issue with two aspects of the Prosecution Phase. The first was the Prosecution's decision to await guidance from the High Court in *Abdul Ghani* (from February 2017 to May 2017) and from the Court of Appeal in *Osborn Yap* (from August 2018 to 12 July 2019). The second was that the Prosecution took more than a year to review the matter after *Abdul Ghani* was

decided in the High Court, instead of charging Wong expeditiously thereafter. The Defence contended that it had already been over seven years between the time when the first statement was taken from Wong on 2 March 2010 and the decision in *Abdul Ghani* on 26 May 2017, and the Prosecution should not have waited any longer to charge him.

81 In my view, these submissions did not justify *any* reduction in the sentence that was to be meted out to Wong.

82 It was a reasonable course of action for the Prosecution to have awaited guidance from the courts in *Abdul Ghani* and *Osborn Yap* before charging Wong, especially since these decisions were relevant to the present case to the extent that they both raised questions of law concerning money-laundering offences. In *Abdul Ghani*, the High Court had to determine the circumstances in which a resident non-executive director of a Singapore-incorporated company that was used to transfer stolen assets could be convicted and sentenced to imprisonment under s 157(1) of the CA, and whether the company had to first be convicted before an officer of the company could be convicted under s 59(1) of the CDSA. That section provides that where an offence committed by a body corporate is proved to be attributable to any neglect on the officer's part, the officer and the body corporate shall be guilty of the offence. The High Court found that the prior conviction of the company was not necessary. The factual matrix in *Abdul Ghani* and the relevant legal questions there were clearly pertinent to the present case and concerned the liability of a director where the company in question has been used for money laundering activities.

83 In *Osborn Yap*, the crucial issue that arose was whether secondary offenders for money-laundering offences could be liable under s 47(1) of the

CDSA when the secondary offender had been convicted of an offence under s 411 of the PC. This had been the Prosecution's practice when charging such offenders. However, the Court of Appeal held that when secondary offenders dealt with foreign criminal proceeds, the charges brought against them should be under s 47(2) of the CDSA, which required the Prosecution to prove a foreign predicate offence. The Prosecution also explained that this clarification in the law necessitated a re-evaluation of the present case by the CAD.

84 In my judgment, taking more than a year to review the matter after *Abdul Ghani* was decided in the High Court was not an inordinate delay. First, it would have taken some time for the Prosecution to determine the approach to be taken for the present case after the court's decision in *Abdul Ghani*, which raised questions of law relevant to this case. Second, even though the criminal reference in *Osborn Yap* was filed only on 6 July 2018, the questions of law relating to money-laundering offences under the CDSA in *Osborn Yap* arose as early as 23 November 2017, when the applicant there first applied to obtain leave from the Court of Appeal to refer these questions for determination. This was less than six months after the decision in *Abdul Ghani* was delivered. After the questions of law in *Osborn Yap* were raised, it would have been reasonable for the Prosecution to wait for the proceedings in *Osborn Yap* to conclude and to then assess the significance of the outcome there to the present case.

85 In any event, I would not have found that this was an inordinate delay. At most, this accounted for one to two years of delay, and given the long period of time that the entire process had taken, in large part due to the very nature of Wong's offending behaviour, this was hardly inordinate.

86 I was therefore satisfied that there had been *no* inordinate delay, and hence no basis to reduce the sentence that should be imposed. For the same

reason, it was unnecessary for me to consider whether Wong had in fact been prejudiced by any delay.

87 The DJ had imposed a sentence of 30 months' imprisonment and adjusted it downwards to a term of 24 months' imprisonment on the basis of delay. While I did not agree with this part of the DJ's decision, as there was no cross-appeal by the Prosecution, I did not interfere with the sentence that was imposed by the DJ.

Conclusion

88 For these reasons, I dismissed the appeal and upheld the DJ's decision to sentence Wong to 24 months' imprisonment.

Sundaresh Menon
Chief Justice

Mato Kotwani, Chua Ze Xuan and Wong Min Hui (PDLegal LLC)
for the appellant;
Edwin Soh (Attorney-General's Chambers) for the respondent.