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

[2024] SGHC 123

Criminal Motion No 16 of 2024

Between

S Iswaran

… *Applicant*

And

Public Prosecutor

… *Respondent*

EX TEMPORE JUDGMENT

[Criminal Procedure and Sentencing] — [Charge] — [Joinder of similar offences]

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S Iswaran
v
Public Prosecutor

[2024] SGHC 123

General Division of the High Court — Criminal Motion No 16 of 2024
Vincent Hoong J
8 May 2024

8 May 2024

Vincent Hoong J:

Introduction

1 This is an application by Mr S Iswaran (the "Applicant") for a joinder of all his charges under ss 133 and 134 of the Criminal Procedure Code 2010 (2020 Rev Ed) ("CPC") respectively. It raises novel questions concerning the interpretation of these provisions in the context of an application by the Defence for a joinder of charges.

2 The Applicant faces a total of 35 charges. Broadly, 27 of the 35 charges relate to Mr Ong Beng Seng ("OBS") and fall into three categories (the "OBS charges"):

(a) 24 charges under s 165 of the Penal Code (Cap 224, 2008 Rev Ed) ("Penal Code") for obtaining various valuable items from OBS with no consideration as a public servant, *to wit*, a

Minister of the Government of Singapore, in connection with the Applicant's official functions as chairman of or advisor to the F1 Steering Committee respectively (the "OBS s 165 Penal Code charges"). The alleged offences occurred between November 2015 and December 2021.

(b) Two charges under s 6(*a*) read with s 7 of the Prevention of Corruption Act 1960 (2020 Rev Ed) ("PCA") for receiving various items as inducement for doing acts in relation to the Applicant's principal (the "OBS PCA charges"). Both PCA charges concern advancing OBS's business interests in matters relating to a contract with a public body, which includes the Facilitation Agreement between Singapore GP Pte Ltd and the Singapore Tourism Board ("STB") and a proposal for a contract with the STB to establish the ABBA Voyage virtual concert in Singapore. The alleged offences occurred in September 2022 and December 2022 respectively.

(c) One charge under s 204A(*a*) of the Penal Code 1871 (2020 Rev Ed) for repaying $5,700 as the cost of his business class flight ticket from Doha to Singapore on 11 December 2022 at OBS's expense, an act with tendency to obstruct the course of justice (the "OBS s 204A Penal Code charge"). The alleged offence occurred on 25 May 2023.

3 Eight of the 35 charges relate to Mr Lum Kok Seng ("LKS") which are all under s 165 of the Penal Code for obtaining various valuable items from LKS with no consideration as a public servant, in connection with the Applicant's official function as the Minister for Transport (the "LKS charges"). The alleged offences occurred between November 2021 and November 2022.

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4 The Applicant is applying for a joinder of all his 35 charges (the "Application"):

(a) Pursuant to s 133 of the CPC, the OBS s 165 Penal Code charges, the OBS PCA charges and the LKS charges ought to be tried in one trial as they are a part of or form a series of offences of the same or a similar character.

(b) Pursuant to s 134 of the CPC, the OBS s 204A Penal Code charge should be tried in the same trial as mentioned in [4(a)] as it was allegedly committed in the same transaction as one of the OBS PCA charges.

5 The Prosecution contests the Application and argues that the OBS charges should be tried separately from the LKS charges. In particular, the Prosecution's position is that the LKS charges should be tried before the OBS charges.

Issues to be determined

6 These are the issues to be determined:

(a) Is an application for joinder of charges within the sole prerogative of the Prosecution, and not open to the Defence?

(b) Is a "factual connection or nexus" in the sense of proximity in time, place and circumstances, required in order for "a series of the same or a similar character" to exist?

7 I will explain my decision in light of the answers to these two issues.

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My decision

An application for joinder of charges may be made by the Defence, and is not within the sole prerogative of the prosecution

8 I now turn to the first issue of whether an application for joinder of charges lies within the sole prerogative of the Prosecution and is not open to the Defence. On this issue, I find that an application for the joinder of charges is not within the sole prerogative of the Prosecution. As the Applicant correctly pointed out,[1] there is nothing in the language of ss 133 and 134 of the CPC which remotely suggests that *only the Prosecution* may apply for a joinder of charges.

9 In statutory interpretation, the court ought to have regard to the text of the provision as well as the context of the provision within the written law as a whole. In seeking to draw out the legislative purpose behind a provision, the first port of call is the express wording of the provision (*Tan Cheng Bock v Attorney-General* [2017] 2 SLR 850 at [37] and [43]). Any implication of meanings to be attributed to an enactment must not only be proper, but also necessary (Diggory Bailey and Luke Nobury, *Bennion on Statutory Intepretation* (LexisNexis, 8th ed, 2020), at Chapter 11.5, pp 404 – 405). The CPC contains provisions where the express words "on the application of" the Public Prosecutor ("PP") are used, indicating that an application may be exclusively taken out by the PP. There are no express words to the effect that only the PP may apply for a joinder under ss 133 and 134 of the CPC. In my view, there is no reason to find that any such implication is necessary or proper given the statutory context of the CPC.

1 Applicant's Reply Submissions dated 3 May 2024 at [45(c)].

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10 The Prosecution submits that their prerogative to conduct criminal proceedings extends to making a decision on the charges to be proceeded with at trial, and also "which charges to apply to be joined if there is more than one charge".[2] In the Prosecution's written reply submissions, the argument was crystallised further, *ie*, that it flows from Article 35(8) of the Constitution of the Republic of Singapore (2020 Rev Ed) (the "Constitution") that only the PP may apply for a joinder of charges.

11 Under Article 35(8) of the Constitution, the Attorney-General has the "power, exercisable at his discretion, to institute, conduct or discontinue any proceedings for any offence". Section 11(1) of the CPC provides that the Attorney-General, as the PP, "has the control and direction of criminal prosecutions and proceedings under this Code or any other written law". The PP's prerogative to conduct prosecutions is not undermined when the court maintains control over the conduct of court proceedings to avoid prejudice to the accused person and to ensure a fair trial. As I understand it, the PP's position is that it accepts that an application to the court is necessary for charges to be joined for trial. If the Prosecution's prerogative to continue prosecutions extends to determining which charges should be joined at a single trial, then an application to court would be unnecessary. Put in another way, the logical conclusion of the PP's argument must be that the *PP can unilaterally decide, without an application to court, that the charges can be joined*. Such a conclusion cannot be right. There is no dispute that an application to the court is necessary for the joinder of charges, and such applications for joinder of charges are ultimately subject to the court's control and discretion.

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2 Prosecution's Written Submissions dated 29 April 2024 at [14].

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12 In *Lim Chit Foo v PP* [2020] 1 SLR 64 ("*Lim Chit Foo*"), the Court of Appeal clarified that the court's overall control and supervision over proceedings once charges have been brought before the court (*Lim Chit Foo* at [20] and [22]) extends to oversight of the standing down of charges pending trial on other charges (*Lim Chit Foo* at [23] – [24]). In that regard, *Lim Chit Foo* at [25] is pertinent:

> Once it is accepted that the effect of standing down charges is that these charges are in effect adjourned to be dealt with at a later time, it also becomes clear that it would be unsatisfactory and, indeed, wrong in principle, to conceptualise the practice as falling purely within the Prosecution's discretion, for to do so would be to give the Prosecution unfettered control over the conduct of criminal proceedings that are before the court. Whilst applications to stand down charges are almost always uncontroversial and unlikely to cause any prejudice to accused persons in the vast majority of cases, ***it is conceivable that the Prosecution could seek to control the pace and sequence of trials by standing down charges in a manner that might objectively be oppressive to the accused person.*** This may especially prove to be an issue in cases such as the present where an accused person faces a large number of charges relating to different offences. ***In our judgment, it would be wholly unsatisfactory if the court were powerless to intervene in such cases except by resorting to narrow concepts such as abuse of process or any allegation of improper conduct on the Prosecution's part.***
>
> [emphasis added in bold italics]

13 In *Lim Chit Foo,* it was clarified that the court's oversight over the standing down of charges stemmed from its supervisory jurisdiction and statutory powers under s 238 of the CPC. It was held that the risk of prejudice would warrant judicial scrutiny without impinging on the PP's prerogative (*Lim Chit Foo* at [31]):

> 31 ***To be clear, the conclusion that s 238 of the CPC forms the statutory basis for the practice of standing down charges does not and should not in any way impinge on the Public Prosecutor's prerogative to initiate, conduct or discontinue criminal prosecutions as he deems fit.*** In a situation where an accused person faces multiple pending

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> charges and the Prosecution applies for some of these charges to be proceeded with at a plead guilty mention or at trial and for the remaining charges to be stood down, the court will not interfere with the decision of which charges are to be proceeded with and which are to be stood down. Moreover, as we have already noted, in the vast majority of cases, the accused person will agree to such a course of action. Where both parties are agreed on a course of action, we think, somewhat differently from the court in Mohd Najib, that this should be given considerable weight unless the court reasonably apprehends a real risk of injustice. ***But in cases where the accused person contends that a particular course gives rise to a risk of injustice, then it is entirely right that this be susceptible to judicial scrutiny.***
>
> [emphasis added in bold italics]

14 In my view, judicial scrutiny over joinders of charges to ensure that they do not prejudice or embarrass the accused's defence is an aspect of *management* (as opposed to the *prosecution* of proceedings) which is necessarily within the purview of the court and subject to its supervisory jurisdiction (*Lim Chit Foo* at [24]). The court's power to order a joinder and the court's exercise of such powers, are expressly provided in ss 132, 133, 134 and 146 of the CPC. It is plain from these provisions that judicial scrutiny extends to the appropriateness of a joinder throughout court proceedings. I say this because under s 146(*a*) of the CPC, the court may order separate trials if it is "of the view that an accused may be prejudiced or embarrassed in the accused's defence" by a joinder "before a trial or at any stage of a trial".

15 Once it is accepted that the court has oversight over the joinder of charges, the Prosecution's submission that applying for a joinder of charges is within its sole prerogative must necessarily fail. There can be no argument that "criminal proceedings are afoot" in respect of the 35 charges against the Applicant. Thus, "[t]he conduct of those proceedings in respect of their *management*, as opposed to in respect of their *prosecution*, are necessarily within the purview of the court and subject to its supervisory jurisdiction" (*Lim*

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Chit Foo at [24]). Furthermore, as the Applicant has correctly pointed out, the Prosecution has confirmed that it intends to proceed with the OBS charges.[3] The Application does not seek to compel the court to direct the Prosecution to proceed on charges that it does not intend to proceed with.

16 For completeness, I note the Prosecution's own acknowledgement within its reply written submissions that in the decisions of Singapore District Courts, *PP v Tan Hor Peow Victor and others* [2006] SGDC 55 and *PP v Lim Beng Tai* [2009] SGDC 448, the courts considered the *defence's* application for a joinder of all charges in one trial and dismissed it.[4] Notably, the courts did not dismiss the defence's joinder applications on the basis that only the Prosecution may *apply* for a joinder of charges, and the Prosecution did not make any submissions to this effect in these cases.

17 To conclude on the first issue, I am of the view that an application for joinder of charges under ss 133 and 134 of the CPC is not within the sole prerogative of the Prosecution and therefore may be made by the Defence.

Factual and legal similarity, having regard to the wider characteristics of the offences, is required for "a series of the same or a similar character" to exist

18 I turn to the second issue of what amounts to "a series of offences of the same or a similar character" required by s 133 of the CPC. I accept the Applicant's submission that the identification of a series of offences of the same or a similar character is premised on similarity in law and in fact, having regard to the wider characteristics of the offences. The purpose of the inquiry is

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3 Prosecution's Written Submissions at [5] – [6].

4 Prosecution's Reply Submissions dated 3 May 2024 at footnote 16.

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ultimately to determine whether the offences, in view of their similarities, may be conveniently and practically tried together where no prejudice would be caused to the accused.

19 The Applicant referred the Court to authorities from England and Wales, which were previously referred to by the Singapore High Court and District Court:[5]

(a) In *Ludlow v Metropolitan Police Commissioner* [1971] 1 AC 29 ("*Ludlow*"), the issue before the House of Lords on appeal was whether the joinder of charges at a single trial was correct, applying Schedule 1, r 3 of the Indictments Act 1915 as amended by Criminal Law Act 1967. The language of r 3, which bears similarities to s 133 of the CPC, is set out for reference:

> Charges for any offences … may be joined in the same indictment if those charges are founded on the same facts, or form or are a part of a series of offences of the same or a similar character.

In *Ludlow*, the appellant was convicted after one trial on one charge of attempted theft and one charge of robbery with violence committed more than two weeks apart, at different neighbouring public houses and on different victims. Lord Pearson (at 39) held that in considering whether there was a series of offences of a similar character, both factual and legal similarity of the offences must be considered. The appeal was dismissed **as the charges possessed factual and legal similarity and thereby constituted a series of offences of a similar character**. *R v Kray* [1970] 1 QB 125 ("*Kray*") was cited with approval.

5 *PP v Muhammad Rahmatullah Maniam bin Abdullah and another* [1999] SGHC 252, *PP v Tan Hor Peow Victor and others* [2006] SGDC 55 and *PP v Chai Meng Teck* [2019] SGMC 16.

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(b) In *Kray,* in an application by two offenders for leave to appeal against conviction on two counts for murder and two counts for impeding apprehension and prosecution relating to the two murders, one of the issues was whether the joinder of charges was appropriate. The English Court of Appeal held that a joinder of charges was appropriate even though the two murders lacked any ostensible connection, save that the *modus operandi* appeared remarkably similar, there was no ostensible motive, and the circumstantial evidence suggested that the murders were gang-related and that witnesses were silenced by the gang's authority. It was held that all that was necessary was that the "***offences should exhibit such similar features as to establish a prima facie case that they can properly and conveniently be tried together***" (*Kray* at 131).

(c) In *R v Williams (Malachi)* [2017] 4 WLR 93 ("*Williams*"), the English Court of Appeal applied *Ludlow* and *Kray*, and further espoused the view that **the court was not concerned with legal characterisation or exact similarity. Instead, the court takes into account the wider characteristics of the offences to establish whether there was a sufficient nexus between them**. The nexus between the offences was established by the fact the defendant had committed violent acts of a very specific nature in the same day, by putting hands around the throat, against particular persons, namely his then girlfriend and former girlfriend.

20 The Applicant also cited *CGF v State of Western Australia* [2023] WASCA 187 ("*CGF*") where the Western Australian Court of Appeal was concerned with the interpretation of Cl 7(3) of Schedule 1 Division 2 of the Criminal Procedure Act 2004 of Western Australia which bears a similarity with

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the wording of s 133 of the CPC. Clause 7(3) provides the power to join one or more counts in one indictment. It states:

> (3) A prosecution notice or indictment may charge one or more persons with 2 or more offences if the offences —
>
> (a) form or are a part of a series of offences of the same or a similar character; … and may do so without alleging a connection between the offences.

21 In *CGF*, the Western Australian Court of Appeal affirmed the decision of the first instance judge, who had considered and applied *Ludlow* and *Kray*, and found that all that was necessary was a sufficient similarity and connection for a conclusion to be reached that the offences form or are part of a series of offences of the same or a similar character (*CGF* at [151]). The Court found that it was sufficient that the disparate sexual offences were committed against disparate children who were familiar to the accused, were motivated by his sexual interest and attraction to young female children, and committed under brazen circumstances that ran considerable risk of detection (*CGF* at [151]). Thus, the Court upheld the decision to join charges for a single trial, even though the offending related to different victims, in different locations and at different times.

22 The Prosecution submits that a "factual connection or nexus" among all the offences is required, in order for "a series" of offences to exist, as required by s 133 CPC. The Prosecution relies on the pronouncements in *PP v Ridhaudin bin Bakri* [2019] SGHC 105 ("*Ridhaudin*") and submits that a "close physical, temporal and circumstantial nexus" was no more than a "legal heuristic"[6] for the determination of whether there was a sufficient "factual connection or nexus" which must exist for offences to constitute "a series". The Prosecution

6 Prosecution's Reply Submissions at [4].

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also submits that ultimately, whether offences are part of a "series" is a common-sensical inquiry.[7]

23 The "factual connection or nexus" as defined by the Prosecution rings familiarly of the connections required to establish that offences were committed in one transaction. The Prosecution appears to have conflated the requirements for s 134 with that of s 133 of the CPC. To emphasise, it is a requirement of s 133 of the CPC that offences "form or are a part of a series of offences of similar character". Section 134 of the CPC sets out different requirements, that there is to be "one series of acts connected so as to form the same transaction". Accordingly, it is clear from the language of s 134 *but not s 133* of the CPC that the offences need to be *connected.* In my view, the words "form or are a part of a series" must mean something other than the offences being closely connected in time, place, and circumstances. The Prosecution's submission that offences can only be joined under s 133 of the CPC if they are so closely connected factually and temporally and arise out of a single factual matrix cannot be right. To take such an interpretation of s 133 of the CPC would effectively render s 134 of the CPC otiose.

24 Furthermore, the Prosecution's reliance on *Ridhaudin* is misplaced. In *Ridhaudin,* the High Court did not find that connections in time, place and circumstances are necessary for offences to constitute a series under s 133 of the CPC. The High Court found that there was sufficient proximity such that the offences constituted the same transaction for the purposes of the joint trial of three accused persons for sexual offences committed against the same victim under s 143(*b*) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (*Ridhaudin* at [43]). The High Court then went further to observe that *even if*

7 Prosecution's Reply Submissions at [4].

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proximity to constitute one transaction was lacking, a joint trial may nevertheless be ordered on the basis that the charges faced by the various accused persons were also of the same or a similar character for the purposes of s 143(*c*), that is to say, the charges all related to sexual offences of varying severity committed against the same complainant (*Ridhaudin* at [45]). It is difficult to understand how reliance on *Ridhaudin* advances the Prosecution's argument that s 133 of the CPC requires a "factual connection or nexus" among all the offences.

25 In *PP v BZT* [2022] SGHC 91 (*"BZT"*), upon the prosecution's application, the court allowed a joinder of eight sexual charges to be tried at a single trial committed by the accused against two young victims when he was the boyfriend of the victims' mother. These included offences for outrage of modesty under s 354 of the Penal Code (Cap 224, 1985 Rev Ed) ("Penal Code 1985"), attempted rape under s 376(2) read with s 511 of the Penal Code 1985, and carnal intercourse under s 377 of the Penal Code 1985. The defence had conceded that the charges were similar as they were sexual in nature (*BZT* at [45]) and [47]) and thus s 133 of the CPC was satisfied. While the High Court also found that there was a nexus in time and location (*BZT* at [48]), the court's inquiry proceeded on the basis that s 133 of the CPC had been satisfied, and thus it was necessary to examine whether a joinder would prejudice the defence. On this question, the court answered in the negative as multiple separate trials would in fact be more prejudicial (*BZT* at [58] – [59]):

> 58 In this case even if one charge was proceeded against the accused, both the Victims would have to testify. If there was a joinder of charges against the accused, it is critical that the court ensures that each of those charges is proven beyond a reasonable doubt. If the accused is convicted of one charge, it cannot necessarily follow that the accused is also guilty of the other charges, unless the evidence in the other charges is also proven beyond a reasonable doubt.

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> 59 The parties agreed that s 133 of the CPC allows joinder of similar charges against the accused. The most pertinent consideration was whether the accused would be prejudiced or embarrassed in his defence by the joinder of charges. If the court was of the view that the accused would be prejudiced or embarrassed, then s 146 of the CPC empowers the court to disallow the Prosecution's application for a joinder of charges against the accused. I was of the view that the accused would not be prejudiced or embarrassed by the Prosecution's application to proceed on the first to third, fifth, sixth and ninth to eleventh charges against the accused. ***Furthermore, it would be perceived to be an abuse of the process to charge and try the accused on each of the similar charges separately and repeatedly on the basis that he has denied committing them. Besides, a joinder of charges would be an efficient and fair disposal of the charges against the accused.***
>
> [emphasis added in bold italics]

26 I agree with the Prosecution that considerations such as proximity of time and place as well as unity of design and purpose indeed operate as legal heuristics when one considers whether offences were committed in "one transaction" (see *Mohamed Shouffee bin Adam v PP* [2014] 2 SLR 998 at [28] – [31] in the context of sentencing of offences committed in one transaction). However, in my view, while it may be defensible to have regard to similar considerations in applying s 134 of the CPC, the wording of s 133 does not require a temporal, physical or circumstantial nexus as characterised by the Prosecution.

Application to the facts

The OBS s 165 Penal Code charges, OBS PCA charges and LKS charges form or are a part of a series of offences of a similar character

27 Applying the legal test in *Ludlow* and *Kray*, the court should consider the wider characteristics of the various offences and examine whether they exhibit sufficient legal and factual similarities. In the present case, the OBS

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s 165 Penal Code charges and LKS charges are legally identical in so far as they are all brought under s 165 of the Penal Code. Moreover, at the hearing before me, the Applicant's counsel confirmed that the legal defences likely to be raised for those charges, particularly as it concerns the Applicant's *mens rea*, are materially similar. In terms of factual similarity, all these charges allege that they arose in the course of the Applicant's functions as a public servant, *to wit*, a Minister of the Government of Singapore, over his period of service. The fact the OBS s 165 Penal Code charges and the LKS charges concern different givers, different items received and that different witnesses will be called to prove the charges does not indicate that the offences are factually dissimilar. To recapitulate, the court is not concerned so much with the connectedness of the factual circumstances, but with the wider similarity of the facts alleged in the charges. In the same vein, the fact that the Applicant had allegedly obtained items in connection with more than one of his official functions does not, in and of itself, signal factual dissimilarity.

28 The charges under s 165 of the Penal Code (relating to both OBS and LKS) and the OBS PCA charges share a common *actus reus*, which is that of obtaining items of value in his position as a Minister of the Government of Singapore.[8] While the *mens rea* requirements for the charges under s 165 of the Penal Code and the PCA charges differ, these differences do not render the charges so legally dissimilar that it is not practical and convenient for the charges to be tried together. The broad similarities relate to the awareness that the Applicant is alleged to have of the connection between the obtaining of valuable items and his official functions. In any event, the Applicant has also drawn to my attention that it was the Prosecution's own position at the Criminal

[8] Applicant's Written submissions dated 29 April 2024 at [45] – [49].

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Case Disclosure Conference on 2 April 2024 that it would be appropriate for the OBS s 165 Penal Code charges to be joined with the OBS PCA charges for trial.[9]

The OBS s 204A Penal Code charge and one of the OBS PCA charges form the same transaction

29 In relation to the OBS s 204A Penal Code charge, s 134 of the CPC provides for a joinder on the basis that the offences were committed as part of the same transaction. The alleged act constituting the aforementioned charge (*ie*, the re-paying of the cost of the Applicant's flight from Doha to Singapore) has a clear continuity of action with the alleged obtaining of the said flight, which is the subject matter of one of the OBS PCA charges. Hence, as per *Tse Po Chung Nathan and another v PP* [1993] 1 SLR(R) 308 at [31], these two charges form part of the same transaction and may be joined.

30 It would not be unprecedented for charges under s 204A of the Penal Code to be tried with the offences to which the alleged obstruction of the course of justice relates (see *Rajendran s/o Nagarethinam v PP* [2022] 3 SLR 689 and *PP v Soh Chee Wen and another* [2023] SGHC 299). Illustration (*d*) to s 134 of the CPC is also analogous, in that a subsequent offence of perjury to justify a false accusation would constitute the same transaction:

> Illustrations
>
> The separate charges referred to in illustrations (a) to (g) below respectively may be tried at one trial.
>
> (d) Intending to cause injury to B, A falsely accuses B of having committed an offence knowing that there is no just or lawful basis for the charge. At the trial, A gives false evidence against B, intending thereby to cause B to be convicted of a capital offence. A may be separately charged with offences under sections 211 and 194 of the Penal Code 1871.

[9] Notes of Evidence, 2 April 2024 at p 12 lines 20 – 24.

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No prejudice suffered by the Applicant if the Application is granted

31 In light of my conclusion that it would be appropriate to order a joinder of charges under ss 133 and 134 of the CPC at a single trial, the inquiry shifts to s 146(*a*) of the CPC, where the applicable test is whether the joinder of the charges will prejudice or embarrass the accused's defence on the facts. To underscore the point, the test is *not* whether separate trials will prejudice or embarrass the accused. The Applicant has confirmed on oath that a joinder of all 35 charges causes no prejudice or embarrassment to the Defence.[10] In fact, the Applicant argues that he will be prejudiced if the Application is dismissed, which all the more shows that a joinder will not prejudice or embarrass the Applicant. This suffices to dispose of the matter.

32 For completeness, if I had to consider the prejudice that would be occasioned to the accused if a joinder was not ordered, I would find that the Applicant raised reasonable concerns, including the time, expense and pressure associated with defending two separate trials which will inevitably arise, regardless of whether the two trials proceed concurrently or sequentially.

Conclusion

33 In summary, I am of the view that:

(a) Section 133 of the CPC is satisfied in light of the legal and factual similarity of the OBS s 165 Penal Code charges, OBS PCA charges and the LKS charges, which makes it convenient and practical for them to be joined at one trial.

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10 Applicant's Affidavit dated 12 April 2024 at [88].

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(b) There is continuity of action of the OBS s 204A Penal Code charge and one of the OBS PCA charges such that they form the same transaction for the purposes of s 134 of the CPC.

(c) Where the Applicant is himself raising prejudice on the bases of delays and costs among others, there are strong reasons to order a joinder of all charges. Furthermore, the Applicant himself takes the position that a joinder of all 35 charges causes no prejudice or embarrassment to the Defence.

34 The Application is therefore allowed.

Vincent Hoong
Judge of the High Court

Davinder Singh s/o Amar Singh SC, Navin Shanmugaraj Thevar, Rajvinder Singh Chahal and Sheiffa Safi Shirbeeni (Davinder Singh Chambers LLC) for the Applicant;
Deputy Attorney-General Tai Wei Shyong SC, Tan Kiat Pheng, Jiang Ke Yue, Kelvin Chong and Goh Qi Shuen (Attorney-General's Chambers) for the Respondent.