

Public Prosecutor v Kamrul Hasan Abdul Quddus
[2010] SGHC 7

Case Number : Criminal Case No 7 of 2009
Decision Date : 08 January 2010
Tribunal/Court : High Court
Coram : Kan Ting Chiu J
Counsel Name(s) : Peter Koy and Samuel Chua (Deputy Public Prosecutors) for the prosecution;
Ang Sin Teck (Surian & Partners) and Rajan Supramaniam (Hilborne & Co) for the
accused.
Parties : Public Prosecutor — Kamrul Hasan Abdul Quddus

Criminal Law – Offences – Murder

[LawNet Editorial Note: The appeal to this decision in Criminal Appeal No 1 of 2010 was dismissed by the Court of Appeal on 5 July 2011. See [\[2011\] SGCA 52.](#)]

8 January 2010

Judgment reserved.

Kan Ting Chiu J:

1 The accused Kamrul Hasan Abdul Quddus faced a charge of murder that he:

on the 16th day of December 2007 between 2.10 a.m and 9.30 a.m. at unit #03-10 of Block 3 of the "Viz@Holland" construction site, Singapore, did commit murder by causing the death of one Yulia Afriyanti, a woman aged 25 years, and [he has] thereby committed an offence punishable under section 302 of the Penal Code, Chapter 224.

2 The accused, a Bangladeshi, is a man of many names. He acknowledged that he is known as "Raju", "Ray" and "Raydoe" [\[note: 1\]](#), and according to some prosecution witnesses he is also known as "Ray Faldo" [\[note: 2\]](#) and "Raju Ray Faldo". [\[note: 3\]](#) The deceased was an Indonesian domestic maid, who was also known as "Lia".

3 The prosecution presented evidence on the relationship between the accused and the deceased, the discovery of the deceased's body, the pathological findings and findings from the crime scene investigations, items recovered from the accused and his locker, the call records of the accused's and the deceased's mobile phones, the trip record from the accused's bus pass and the statements made by the accused after his arrest which were admitted in evidence with his consent.

4 At the close of the prosecution's case, counsel for the accused submitted that there was no case for the accused to answer. However, I found that a sufficient case was established for me to call on the accused to enter his defence.

5 After he was advised of his rights, the accused elected not to give evidence himself or call any witnesses to give evidence on his behalf.

The relationship between the accused and the deceased

6 The accused met the deceased at a social gathering two years before her death. [\[note: 4\]](#) They maintained contact thereafter and by January 2007, they had, in the accused's words "became boy and girl friend, and started a relationship" and they would check into hotels for sex. [\[note: 5\]](#)

7 They reached the stage where they planned to marry in October 2007. The plans were abandoned because the accused went back to Bangladesh in September 2007 and did not return for the wedding, and because the deceased found out that the accused was married and had two children. They broke up, but subsequently resumed their relationship and made renewed plans to marry in December 2008 [\[note: 6\]](#).

8 The deceased's mother Yulismawati and sister Leni Apriyana gave evidence that the deceased called them on 15 December 2007 and told them that she would be going to the airport with the accused on the next day to meet his mother who was coming to Singapore to discuss their wedding plans and to consent to their engagement.

9 On the night of 15 December 2007, the deceased had also informed Joseph Guerzon Corpuz ("Corpuz", who was referred to at the trial as "Joseph"), a Filipino worker who courted her during the period when the accused had returned to Bangladesh in September/October 2007, that she and the accused were going to the airport the following day to meet the accused's mother and brother.

10 The deceased had also sent a text message to her friend Nausatur Rodiyah on 15 December 2007, that "ray's" mother and younger sibling were coming to Singapore on the next day, and that she and "ray" would be picking them up at the airport. [\[note: 7\]](#)

11 Defence counsel did not dispute the prosecution witnesses' evidence that the deceased had informed them of the forthcoming marriage. In fact, counsel had put to Corpuz that the accused told him that he was going to marry the deceased, and the witness confirmed that. [\[note: 8\]](#) Defence counsel further stated in closing submissions that:

He was due to marry her in December 2008, and this intended marriage was known not only to the deceased's friends. It was also known to the deceased's employers as well as the deceased's family. Why would the Accused kill someone with whom he was going to marry? [\[note: 9\]](#)

The accused, however, took the opposite position and claimed in his investigation statement of 1 January 2008 that they had never thought of getting married. [\[note: 10\]](#)

The discovery of the body

12 At about 9.50 am on 16 December 2007, the deceased's body was discovered in a room described as a storeroom or bomb shelter of unit #03-10, Block 3 of a development named Viz@Holland along Queensway Road which was under construction (the "construction site"). The accused was working as a construction worker at this construction site.

13 The deceased's body was naked and was placed facing downward in a crouching position in a large cardboard box. Pathologist Assoc Prof Gilbert Lau examined the body at the scene and noted that there were blood stains at the nostrils, mouth, left leg, right thigh, left arm and left forearm. There was also a bruise on the left eye, bruises and abrasions on the chin, lower jaw, neck and upper chest wall. He placed the time of death at approximately 4.16 am, 16 December 2007.

14 Assoc Prof Lau also conducted a post-mortem examination on the deceased and certified that death was caused by asphyxia due to strangulation. Injuries to the head and neck, trunk, upper limbs, lower limbs and the external genitalia and anus were noted during the examination.

DNA examination of the body and the apartment

15 Many swabs were taken from the body for examination. Of particular significance was a rectal swab which tested positive for seminal fluid and the DNA thereon matched the DNA of the accused.

16 Swabs were also taken from the scene of the recovery of the body. Two swabs taken from the entrance to the storeroom/bomb shelter were found to contain DNA which matched the DNA of the accused. A piece of chewing gum recovered from the floor of the master bedroom was found to have DNA which matched the DNA of the accused. This evidence and the accused's finger prints found on the premises must be viewed in the context that the accused had access to the unit in the course of his work on the construction site, and that he admitted that he was at the scene, albeit after the deceased was killed and put into the box.

Recovery and DNA examination of articles recovered from the accused's locker

17 The accused was arrested at the construction site on 19 December 2007. After his arrest, he was taken to the room at the workers' dormitory which he shared with other boarders. He had his personal locker there, and after it was unlocked, some of the contents including a lady's watch, two bracelets, one ring and one chain with pendant were seized. The deceased's lady employer, Gonzalez Munoz Ruth Josefina, identified the watch to be one that she had bought and given to the deceased, and confirmed that the deceased had worn the chain and pendant. Listiyana, a friend of the deceased, identified the watch and one of the bracelets as items that the deceased had worn. Another friend, Suparti, identified a bracelet (the same one identified by Listiyana) to have been worn by the deceased. When the items were examined, DNA on the two bracelets and the ring was found to match the deceased's DNA.

18 All the items were also inspected by a forensic scientist, and it was found that:

- (i) the strap of the watch was damaged in that two of the ornamental stones set in the strap were missing;
- (ii) a strap of one bracelet was partially broken from pulling or tugging, and
- (iii) three ornamental stones were missing from the ring,

indicating that they had been used, and were not new.

19 Three mobile telephones were also recovered from the locker. They were marked by the investigating officer as AC1, AC2 and AC3 and later became court exhibits P348(a), P352, and P348(b) respectively. At the trial, a List of Relevant Telephone Numbers [\[note: 11\]](#) was admitted in evidence by consent. [\[note: 12\]](#) This list collated information on the telephones—

Telephone	Number	User
AC1/P348(a)	828XXXXX	The deceased

AC2/P352	914XXXXX	
AC3/P348(b)	826XXXXX	The accused

(Telephone 914XXXXX was the deceased's old telephone. This telephone did not work. [\[note: 13\]](#) The List also recorded that the accused was using another mobile telephone marked AC4/P394, number 902XXXXX.)

20 In the course of the trial, the deceased's friend Nausatur Rodiyah testified that the accused's telephone number was 826XXXXX [\[note: 14\]](#), and that was not disputed by the defence.

Recovery of a torn work permit from the accused

21 When the accused was brought to the police lockup on 20 December 2007, he was searched for property registration. A plastic bag was recovered from his trouser pocket. Inside the plastic bag were two pieces of a torn work permit. The work permit was subsequently established to have been issued to the deceased.

Recovery of EZ-Link cards from the accused

22 In the course of investigations, two EZ-Link cards were recovered from the accused. On examination, one card was found to have been used up to 24 July 2007 and was not used thereafter. The other card [\[note: 15\]](#), which the Defence stated was found in the accused's wallet, was used on 15 December and 16 December 2007. On 15 December, it was used on a journey on SBS bus service No 93 at 11.35 pm, starting from Eunos Link, and ending at 12.05 am on 16 December, either at a bus stop along Farrer Road opposite Tulip Garden or a bus stop along Queensway opposite Holland Hill Lodge, both of which are a short distance to the construction site.

Statements

23 After he was arrested on 19 December 2007, the accused made one cautioned statement, followed by ten investigation statements. All the statements were tendered in evidence by the prosecution and were admitted without objection from the accused.

The accused's cautioned statement

24 The cautioned statement [\[note: 16\]](#) was recorded on 20 December 2007. This statement merits to be set out in full:

On that night, I was working until 7pm. After going back to my quarters, I took my shower and had my dinner. After which, I went to sleep. After 12am, I received a call from Yulia. She told me that she was going to the Airport with a Filipino man as the Filipino man's mother was coming to Singapore. She did not tell me where she was but asked me for my opinion whether she should go with him. I told her it was up to her. On the same day, at about 4.30am, Yulia called me and told me that the Filipino man wanted to bring her to another place instead. She wanted me to follow her to help her. She told me to meet her at my Holland work place. At about 5.30am, I took a taxi. While in the taxi, I received a call from Yulia. I heard over the phone that she was having an argument with that man. I arrived at Viz Holland at 6.00am, I searched for her but could not locate her. Everywhere I searched for her but could not find her. Prior to Blk 3, I went to other

blocks shouting for her but could not find her. I then went to Blk 3 and started looking and shouting her name from the first floor, second floor then the third floor. When I came to the third floor, inside the safety center which is a small room, I found a box. I thought it was an air-con box. I went to other floors to look for her. After searching all the floors and could not find her, I went to Blk 4 swimming pool area and club house to look for her but still could not find her. I then went back to look for Yulia at Blk 4 again but I could not find her. After Blk 4, I went to Blk 3. I felt suspicion over the air-con box on the 3rd floor. Yulia earlier told me that the Filipino man had threatened to kill her if she did not listen to him. That was why I was suspicious over the air-con box. After I opened the box, I saw something whitish inside. Out of fear, I quickly ran away. I started looking for Yulia and calling out her name. I could not find her and I went back to the 3rd floor to see what was inside the box. I opened the box again and I saw something which looked like a body. I used my hands to touch it and feel it to see it was truly a body as the place was poorly lit. I also used my hands over her face to check whether she was still alive but there was no breathing. At that time, I was planning to inform my supervisor so I waited for my supervisor to come. I waited at the swimming pool area as my supervisor will come only around 8am. However, Abhir discovered the body and informed my supervisor. My supervisor called me at my phone when I was at the canteen having my breakfast. He told me that the police was here and to go to the basement area. It was around 11.30am when I was at the canteen.

The accused's investigation statements

25 There were ten investigation statements, but only some of them refer to the events of 15 and 16 December 2007.

26 The first investigation statement was recorded on 22 December 2007 [\[note: 17\]](#). In this statement, the accused was asked to state what he knew about the body in the box and he stated:

On 16 December at about 4.30 am, I received a call from "Lia", actual name is Yulia Afrinty, who is my girlfriend at my handphone 902XXXXX when I was in my room at Kaki Bukit quarters. I can not remember the number she used to call me. Over the phone, "Lia" told me that to come down to help her and to meet her at the place I work. I quickly got up and left my quarters to Holland by taking a taxi. At that time, it was about 5.30 am when I reach the gate of my quarters.

2 While travelling in the taxi, I received another call from "Lia" which I cannot remember the number she called from. While we were trying to talk with each other over the phone, "Lia" told me that she is having an argument with her male Filipino friend and over the phone, I can hear their argument.

and he went on to explain that the male Filipino was called "Joseph" and he had been dating the deceased.

27 The accused then continued:

9 Back to when I was travelling from my quarters to my working place in Holland, I managed to reach there at about 6 am. Upon reaching my working place, a construction site of an uncompleted condominium in Holland road, I started to look for "Lia". I started to look for her along the road side and outside the condominium premise but I was not able to find her. I went into the construction site and went from block to block to look for her. There were 4 blocks within the compound and I started off with block 1. I searched the first floor units, the lift lobby, and by using the staircase, I went searching from the second to the top floor. However, all units

except 1st floor were locked up. The top floor unit was unlocked. As such, I was not able to search for "Lia" inside the units except the top floor. While I was looking for her from floor to floor and unit to unit, I was calling out for "Lia" and I was either running or walking quickly. After ensuring she was not at block 1, I came down and moved on to block 2.

10 I started from block 2 first floor and by using the staircase, I moved up, searching those units that are not locked. At the same time, I was calling "Lia's" name. I ran or walked quickly up the block while I was doing the search. After ensuring that she was not at this block, I moved down to the first level again and moved on to the third block.

11 I moved to block 3 and again, I started it off at level one. Again, I moved up the levels by the staircase and searched the unit floor by floor. After searching the second floor units, I moved to the third level. While I was at the third level, inside one room which was not lit, I saw a box which I thought it was a air-con box. I did not pay attention to it and left the room, continuing on my search. I continued my search upwards, on all units till the top most level. For this block, all the main doors to all the units were not locked. However, some of the bedrooms of the units were locked. I was only able to search those which I can enter. Again, I was not able to find her. I went down to the first level again by the staircase and moved on to the last block.

12 While I was at block 4, again, I went on searching for her from floor to floor upwards by using the staircase. All the main entrance were not locked, only a few units bedroom were locked. I searched the entire block to the top most floor but I was not able to find "Lia". I went down to the first floor and moved to the poolside, clubhouse, toilet located at the swimming pool. Again I was not able to locate her.

13 I moved back to block 4 and try to look for her again, starting from the first to the top most level. I only searched some of the units on my way up as I was starting to feel tired. Nevertheless, I kept calling out her name, level to level. I moved back to the first floor again and went over to block 3. I went up the stairs but this time round, I did not check the units but instead, I called out her name level to level, until I reached the top most level. While I was at the top most floor, I was feeling very tired and as such, I rested a while at the lift lobby. While I was resting, I was wondering what could possibly be in the box which I have seen earlier in the room of level 3, block 3. I came down to the third level and proceeded to the room to check on the box I seen earlier on. As I entered into the room, the box was still there and was closed. I tried to move the box but it was too heavy to be moved. I opened the box and saw something white inside which does not appear to look like an air-con. I became frightened and I ran out to the lift lobby area. Again I went to the other units on the third floor to look for "Lia". I was still calling out her name. I checked the toilets and rooms to see if there is anyone around as I felt suspicious after discovering the white thing in the box. But I was not able to find anyone. As such, I went back to the room where the box was. As the room was dimly lit, I used one of my hands to feel what was inside. Thereafter, I used both of my hand to feel the thing inside the box. After my left hand felt some hairs, I then realised that it was a human body. I suddenly thought that maybe the human body could be "Lia". I wanted to check if "Lia" was still alive so that if she is still alive, I can bring her to the hospital. However, as it was quite dark, I was not able to confirm that if the human body is "Lia". After using my hands to check on the body, I was not able to tell if the body is still alive. I closed up the box in the same manner before I opened it.

14 At this point of time, I did not know what to do and my mind was blank. I left the unit and went to the swimming pool and sat there aimlessly. I wanted to inform my supervisor but I do not have his contact number. Knowing that my supervisor will have to pass through the swimming

pool after dropping all the workers at the main entrance, I decided to wait for him with the intention of informing him about the matter.

15 I continued sitting at the swimming pool area until at about 8 am, my supervisor "Ah Kwang" was no where to be seen. As such, I went on to commence my work alone at the swimming pool area, carrying out grouting work, plastering the cement in between the tiles. While I was working at the swimming pool, I became very hungry and at unknown time, I went to the canteen to eat something. While I was eating at the canteen on the second floor, my supervisor "Ah Kwang" called me and told me to come to basement quickly. Thereafter, I supposed "Ah Kwang" must have given my number to a worker whom I address as "Abir". "Abir" called me and also told me to come down to basement at once as the police is there. Without finishing my food, I left for the basement. On reaching the basement, there were many workers around and I also observed that there were also uniform and plain clothes police officers. All of us were made to queue up according to our company we work for and to hand over our work permit.

28 In his second investigation statement recorded on 24 December 2007, [\[note: 18\]](#) the accused expanded on the first call he received from the deceased early in the morning on 16 December 2007. He narrated:

3.4 At about 1 am to 1.30 am, "Lia" called me at my handphone but I was not able to see the number she called from. "Lia" told me that "Joseph's" mother will be coming to Singapore for Christmas and "Joseph" wanted her accompany him to airport. "Lia" asked me for opinion. I told her that it is up to her to make a decision. We talked for about 1 to 2 minutes over the phone and thereafter I went back to sleep. On the same morning, 16 December 2007, I received another call from "Lia" at about 4.30 am and that was when I woke again.

29 In his fourth investigation statement of 26 December 2007, the accused recounted his last meeting with the deceased on 15 December 2007: [\[note: 19\]](#)

11.2 At about 8.10 pm, I arrived at the building with Singtel wordings and we have food together. After food, "Lia" made a short call to her mother and sister in Indonesia and I was not able to understand what they were saying. After ending the call, I asked "Lia" if her mother and Sister asked about me and she informed yes. They were asking how is "Raju", which is how they address me. About 9 plus in the night, we walked towards "Lia's" work place and on reaching the small road leading up a slope, we parted. I took a bus, 139 and transferred to 65 near to Mustafa and reached my quarters at about 10.30 pm.

30 In his sixth investigation statement of 31 December 2007, the accused referred to the last meeting again: [\[note: 20\]](#)

74.1 On 15 December 2007, at about 8.10 pm, I met up with 'Lia' at the Singtel building near to her work place. On meeting her, she requested for the pink colour handphone which we normally used to call overseas. I gave her the pink colour handphone and she placed her handphone, a black colour 'Nokia' handphone into my pocket. We went to the garden near to the Singtel building and sat at the bench. 'Lia' brought along some food and we ate together. After eating, 'Lia' used the pink colour phone that I had given her to call her mother and sister in Indonesia. She was talking to her sister while still pulling the dog, 'Edy' with her. While she was talking over the phone with her sister, 'Lenny', I was sitting next to her, holding and kissing her on face and neck. She told 'Lenny' she will call back in a short while and hang up the phone. After ending the call with 'Lenny', 'Lia' tied 'Edy' to a plant near to her. We then hold each other and had sexual

intercourse. I did not use a condom. While we were having sexual intercourse, we did not remove our clothing. 'Lia' was wearing a skirt and she merely just lift it up and pull her under garment down. I also did not remove my pants as well. I was seated and 'Lia' went on top of me. *I ejaculated inside her vagina.*

74.2 Thereafter, we dressed up and sat there for a while. 'Lia' took the pink phone from me and called her mother. She managed to reach her mother over the phone and while she was talking to her, we started to walk towards the bus stop off Rivervalley Road. While walking, 'Lia' passed the phone to me and I talked to her mother. We spoke in English and I greeted her, "Asallamalaikum" in muslim. 'Lia' mother knew that I was her boyfriend when 'Lia' was still working in Tanjong Rhu and she always called me 'Raju'. As she was not able to speak English well, I passed the phone back to 'Lia' in a short while and she continued on the conversation with her.

74.3 We continued to walk until we reached the bus stop along Rivervalley Road. At that time, she was still on the line with her mother and it was about 9.10 or 9.15 pm. We were at the bus stop and the bus which I am waiting for, Number 139 was approaching. As such, 'Lia' cut the line with her mother in a hurry and handed over the pink colour phone to me. I took over the phone and boarded the bus. It was only when I reach my quarters then I realised that 'Lia' personal handphone, the black colour 'Nokia' phone which she placed in my pocket earlier on was still with me.

74.4 I reached back my quarters at about 10 to 10.30 pm. I placed all the 3 handphone, 'Lia's' phone, my phone and the pink colour handphone on my bed to charge the batteries. I took a shower and ate some food. Then I watched television programme for a short while and I went to bed at about 12.30 am on 16 December 2007. I slept and was awakened by 'Lia's' phone call to my handphone at 1.30 am. She was calling from a unknown number and over the phone, she asked me about her phone which I told her it was with me. We talked for about 2 to 3 minutes and we left the line. I went back to sleep later and was woken up by 'Lia's' call again at 4.30 am.

[emphasis added]

and he also expanded on his movements at the construction site on the morning of 16 December 2007 when he looked for the deceased:

57.1 As I was not able to find 'Lia' around, I was thinking to myself that was that an air-con box or 'Something' else. After I was not able to find her, I suspected something was wrong as I did not see any similar boxes in any of the units I had searched. As it was dark, my intention of moving the box is to see what is behind the box just to ensure 'Lia' is not the behind the box.

[\[note: 21\]](#)

...

61.1 After I found the white thing inside the box, I ran to the 3rd floor lift lobby and think to myself if the white thing I saw in the box was 'Lia'. Just in case if the white thing is 'Lia' and since 'Lia' was with 'Joseph', I decided to look around the other units. I want to look for 'Joseph'. [\[note: 22\]](#)

...

63.1 As I used both my hands to feel what was inside the box. Again, I was only able to see it

was a white thing. After I used my hands to feel the white thing, I realised that it was a human body as I felt some hairs. I only felt that it was soft and I also felt plastic bags inside the box. [\[note: 23\]](#)

...

64.1 I was not able to tell if it was a male or female body. The hairs that I felt were not long or short. I remember that 'Lia's' hair was neither long nor short and I think that maybe it could be 'Lia'.

64.2 From the beginning when both my hands touched the white thing, it should be the back of the neck. I moved down to the shoulder and then moved both my hand to the face. I turned the face but I could not really see if it was 'Lia'. But in my heart I felt that the person was 'Lia'. I touched the face, the neck and I moved down to the chest and I felt the breast of a female. It was then I realised that the body was indeed a female body. I then shifted both my hand to the mouth and nose region to check if she was breathing. I also touched her neck to check if she was breathing. Thereafter I removed my hands from the body and did not touch the body any further. [\[note: 24\]](#)

31 In his eighth investigation statement of 1 January 2008, [\[note: 25\]](#) the accused was asked why he did not report the finding of the box and the body to his supervisors or the police, and his explanation was:

107.1 This is because the police had found the body and investigating into the case. I do not know what to say or how to say if I were to approach the police. [\[note: 26\]](#)

...

108 I did not tell the police as I am afraid. [\[note: 27\]](#)

...

111 I did not know what to say and how to say. I do not know if I will get myself into trouble. After I saw her in that condition, my mind got all mixed up. [\[note: 28\]](#)

He must have believed that the body was the deceased when he said "I saw *her* in that condition." (emphasis added)

32 In the same statement, the accused answered questions about the articles recovered from his personal locker. His explanation for the watch was:

123.1 I bought this watch in Singapore before I went back to Bangladesh and it was meant as a gift for my wife. I gave the watch to my wife when I was back in Bangladesh but as she already have 2 to 3 watches, she ask me to bring it back with me to Singapore. My wife told me to wear it or if not, I can just keep it. By keeping it, when I see the watch, I will think of her.

123.2 When I came back to Singapore, I kept the watch inside my locker. Once in a while I will take it out to have a look. [\[note: 29\]](#)

33 The accused also referred to the torn work permit recovered from him:

132.1 On 19 December 2007 at about 7.30 pm to 8 pm, while I was working at the construction site, I found this two pieces of work permit on the ground near to block 3 and the swimming pool. When I found the work permit, I actually did not know it was a work permit as it was placed in a blue plastic bag. When I picked it up, I did not open the plastic bag to see what was inside. I just feel something hard and I placed the blue plastic bag into my trouser pocket.

132.2 I did not know what was in the blue plastic bag which I found until when I was arrested by the police and when they searched my belonging, they managed to find it in my pocket. On opening, I then saw it was actually broken pieces of a work permit. [\[note: 30\]](#)

without explaining why he would pick up a plastic bag and keep it without knowing its contents.

Corpuz's suspected involvement

34 Corpuz who was suspected by the accused to be with the deceased on the morning of 16 December 2007 was a witness at the trial. He confirmed that he had spoken with the deceased over the telephone on the night of 15 December 2007 when she told him that she was going to the airport with the accused the next day to meet his mother and brother. He testified that he was at his lodging during the night of 15 December 2007 and the morning of 16 December 2007. This was corroborated by four of his roommates, and I accept the evidence as truthful.

Close of prosecution case

35 When the prosecution closed its case, counsel for the accused submitted that there was no case for the accused to answer.

36 Had the prosecution established a sufficient case? The test is set out by the Court of Appeal in *Tan Siew Chay v PP* [1993] 2 SLR 14 ("*Tan Siew Chay*") at 38 that at this stage of the case:

In considering whether the prosecution has made out a case against the accused, we have to adopt the approach as laid down by Lord Diplock [in *Haw Tua Tau v PP* [1980–1981] SLR 73], which we have set out earlier. We assume (a) that the evidence on the primary facts is true, unless the evidence is inherently incredible, and (b) that there will be nothing to displace the inferences as to further facts or the state of mind of the accused which would reasonably be drawn from the primary facts in the absence of any further explanation. The application of limb (b) necessarily involves the court drawing inferences from the primary facts, and in drawing such inferences the court looks at the totality of the evidence and consider what inference, if any, that can reasonably be drawn therefrom. But, in considering any inference to be drawn the court at this stage does not apply the test whether the evidence looked at in its totality would inevitably and inexorably lead to only one inference or inferences for establishing the essential elements of the charge.

37 The relevant primary facts in this case are:

- (i) the deceased's death on 16 December 2007 was caused by asphyxia due to strangulation,
- (ii) the deceased had informed her family and friends on 15 December 2007 that she would be going with the accused to the airport to meet his mother,
- (iii) the accused was at the construction site where the deceased's body was discovered on

16 December 2007,

(iv) the accused's EZ Link card shows that a trip was made on SBS bus service No 93 to a bus stop near the construction site at 12.05 am on 16 December 2007,

(v) although the accused knew of the body in the box and suspected that it was the deceased, he kept silent about the deceased, Joseph and the box until after his arrest,

(vi) swabs taken from the deceased's groin, vagina and external genitalia yielded DNA that matched the accused's DNA. (Of particular significance is that DNA from a swab of the deceased's rectum which tested positive for semen under the presumptive acid phosphatase test matched the accused's DNA),

(vii) items belonging to the deceased were recovered from the accused's locker,

(viii) the deceased's torn work permit was in his possession, and

(ix) the accused lied

(a) that he and the deceased had never thought of marriage, [\[note: 31\]](#)

(b) that the deceased was planning to go to the airport with Joseph on 16 December 2007 (see [\[24\]](#) & [\[28\]](#)),

(c) that he had bought the watch recovered from his locker for his wife (see [\[32\]](#)),

(d) that he had possession of the deceased's mobile phone when they parted company on the night of 15 December 2007. [\[note: 32\]](#) (The call tracing records of his telephone number 826XXXXX record calls between this telephone number and the deceased's telephone number between 10.50 pm on 15 December 2007 and 2.10 am on 16 December 2007 [\[note: 33\]](#)). This shows that he was not in possession of both phones at the same time), and

(e) that he received a call from the deceased on 16 December 2007 at about 4.30 am on his telephone 902XXXXX while he was in his room in the dormitory. [\[note: 34\]](#) (The call tracing records of telephone number 902XXXXX [\[note: 35\]](#) have no record of such a call.)

38 There should be a note to fact (vi). The accused had, in his sixth statement of 31 December 2007 [\[note: 36\]](#), stated that on the evening of 15 December 2007, he met the deceased at the SingTel building near her work place, and they had sexual intercourse. He did not use a condom and ejaculated into her vagina. The prosecution cast doubts over this disclosure because the accused had referred to the events of 15 December 2007 in his second and fourth statements of 24 and 26 December 2007 [\[note: 37\]](#) with no mention of any sexual activity. Moreover, the late disclosure of vagina intercourse did not account for the presence of DNA in the deceased's rectum which matched his DNA.

39 From the primary facts it can be inferred that the accused had arranged to meet the deceased on the night of 15 December 2007 on the pretext that they were going to the airport to pick up his mother and brother, and the falsehood would be exposed because his mother and brother were not coming. Instead of going to the airport, however, the accused strangled and had sex with the

deceased (in either order), removed and kept her watch, bracelet, chain and pendant, and ring and tore and kept her work permit. He then placed her naked body into the box and left the scene.

40 On that basis, there was a case for the accused to answer, and he was called on to enter his defence.

The accused's election to remain silent

41 The accused elected not to enter his defence. He remained silent, and did not call any witnesses to give evidence on his behalf. In these circumstances, the case was to be determined on the evidence adduced by the prosecution.

42 Although the evidence remains the same, it has to be dealt with more stringently. The Court of Appeal ruled in *Tan Siew Chay* at 37 that at the close of the trial:

the court will have to consider whether the evidence, looked at in its totality, would lead inevitably and inexorably to the one conclusion, and one conclusion only, that the accused has committed the offence with which he was charged.

43 At this stage, I have to reevaluate the evidence without the two assumptions, (a) that the evidence on the primary facts is true and (b) that there is nothing which displaces inferences as to further facts or the state of mind of the accused which would reasonably be drawn from the primary facts.

44 The primary facts (except facts (iv) and (ix)) are not disputed. For fact (iv) it was not disputed that the EZ Link card was recovered from the accused and that it was used for the trip. However, the defence did not admit, and the prosecution had no direct proof that the accused made that trip. The fact that the card was in the accused's possession is circumstantial evidence that he made that trip. For fact (ix), I have already set out the basis for my conclusion that the accused was lying when he made those statements.

45 When the accused remained silent and did not call any witnesses, there was nothing to disprove the primary facts or to displace the inferences that were drawn from them.

46 There was no direct evidence that the accused strangled the deceased. But there was circumstantial evidence of that. He claimed that he found a body which he believed or suspected to be the deceased, his girlfriend and lover, but he did not report that to his supervisor or the police. His DNA was found on her body, and her belongings and work permit were in his possession.

47 In addition to that, the lies listed in [\[37\]](#) may also be taken into consideration. The applicable rules were set out by the English Court of Appeal in *Regina v Lucas (Ruth)* [1981] QB 720 ("*Lucas*") where Lord Lane CJ ruled at p 724 that:

Statements made out of court, for example, statements to the police, which are proved or admitted to be false may in certain circumstances amount to corroboration.

...

To be capable of amounting to corroboration the lie told out of court must *first* of all be deliberate. *Secondly* it must relate to a material issue. *Thirdly* the motive for the lie must be a realisation of guilt and a fear of the truth. The jury should in appropriate cases be reminded that

people sometimes lie, for example, in an attempt to bolster up a just cause, or out of shame or out of a wish to conceal disgraceful behaviour from their family. *Fourthly* the statement must be clearly shown to be a lie by evidence other than that of the accomplice who is to be corroborated, that is to say by admission or by evidence from an independent witness.

[emphasis added]

For convenience, I will refer to a lie which satisfies the four conditions as a *Lucas* lie.

48 In *PP v Yeo Choon Poh* [1994] 2 SLR 867 ("*Yeo Choon Poh*"), our Court of Appeal endorsed and applied those rules (substituting "the judge" for "the jury") and explained at 876 that:

the mere fact that an accused tells lies should not be taken as evidence of his guilt, but that lies can in certain circumstances amount to corroboration because it indicates a consciousness of guilt.

49 In *Lucas*, the court was dealing with a case where the prosecution had relied on the evidence of an accomplice. In England an accomplice's evidence requires corroboration, and the Court of Appeal held that the accused's lies can constitute corroboration.

50 Corroboration is required or is considered desirable for some forms of evidence, e.g. evidence of victims of sexual offences and children, and evidence on identification. However, any form of evidence can be strengthened by corroboration.

51 For any lie to be taken as corroborative evidence, the four conditions in *Lucas* must be met, whether or not corroboration is required. However, there is a statement in *PP v Lau Boon Huat* [1997] SGHC 148 at [53] that:

In *R v. Lucas*, Lord Lane CJ laid down 4 tests to decide whether a lying statement amounted to corroboration. These tests were laid down in a case where corroboration was a special requirement in that the nature of that case made it incumbent to make a special effort to look for corroboration or consider the lack of corroboration. In the present case there is no special requirement for corroboration of the accused's guilt. I have already considered the effect of all the lies of the accused on the rest of his evidence and came to the conclusion that because of the lies he could not be believed and that some of them demolished his own case. The lying statements of the accused did not call for a special consideration.

This should not be taken to mean that the tests only apply in situations where there is a special requirement for corroboration. The tests have been applied in cases where there were no special requirements for corroboration eg, *Yeo Choon Poh*. Lies which satisfy the tests may amount to corroboration in any sort of case.

52 When a lie offers corroboration, it does that by corroborating some existing evidence, as was made clear in *PP v Chee Cheong Hin Constance* [2006] 2 SLR 24 at [92] that:

An accused's deliberate lies on material issues can corroborate *other evidence* against him.

[emphasis added]

53 Statements appear in some judgments that lies can corroborate guilt. In *PP v Manogaran s/o R Ramu (No.2)* [1997] SGHC 121 at [62], the court held that person's lie "can amount to corroboration

of his guilt". In *Bala Murugan a/l Krishnan v PP* [2002] 4 SLR 289, it was ruled at [22] that an accused person's lies "could be relied on as corroborating evidence of his guilt". In *Jagatheesan s/o Krishnasamy v PP* [2006] 4 SLR 45 at [83], it was stated that a "lie may very well be used by the Prosecution as corroboration of the [accused] witness's guilt".

54 These statements were not intended to be extensions of or departures from *Lucas*, which was cited as authority in each case. In all three cases, the court acted on evidence (other than the lies) that the lies corroborated. *Lucas* is not to be construed to mean that an accused person can be convicted because he had lied. The true effect of *Lucas* is that a person's lies may corroborate other evidence against him, and the corroborated evidence may establish his guilt. Lies are not evidence of guilt.

55 Reverting to the present case, the question remains whether the accused's lies are *Lucas* lies. The five lies identified in [37] satisfied the four conditions in *Lucas*. All five lies were deliberate. They have been contradicted by clear evidence. They related to material issues in the investigation, ie, his relationship with the deceased, whether they were in each other's company on the morning of 16 December 2007, how the deceased's belongings came to be in his possession, and his whereabouts at about 4.30 am on 16 December 2007. When he told these lies, he must have realised that if he told the truth, it would link him to the deceased's death.

56 The result is then that the lies corroborated the circumstantial evidence that the accused had killed the deceased.

57 In addition to that, the accused's election not to enter his defence is to be taken into consideration. Section 196(2) of the Criminal Procedure Code (Cap 68 1985 Rev Ed) ("CPC") provides that:

If the accused —

(a) after being called upon by the court to give evidence or after he or the advocate representing him has informed the court that he will give evidence, refuses to be sworn or affirmed; or

(b) having been sworn or affirmed, without good cause refuses to answer any question,

the court, in determining whether the accused is guilty of the offence charged, may draw such inferences from the refusal as appear proper.

58 When the accused was called on to enter his defence, he must have known that if he gave evidence he would be asked to explain the presence of his DNA in the deceased's rectum, vagina and external genitalia, his actions (eg the taking of the deceased's possessions) and his inaction (eg not reporting his discovery of the body). It can be inferred that he chose not to give evidence, not even to confirm, explain or expand on the contents of his cautioned statement and investigation statements, because he could not offer any explanation.

59 While he did not provide answers, he asked in the closing submissions why he would kill someone he was intending to marry. That intention is probably as real as his mother's visit to Singapore. He could have killed the deceased to avoid having to confess that he had lied about his mother coming to Singapore, or he may have done it after the deceased found out about the lie, and became angry at him.

60 The case against the accused rests on circumstantial evidence. It is strong circumstantial evidence, and that is corroborated by his *Lucas* lies and reinforced by the inference drawn from his election to remain silent. All this leads inevitably and inexorably to the conclusion that the accused had strangled the deceased.

61 The prosecution has proved its case against the accused beyond reasonable doubt. The accused is found guilty and convicted on the charge against him, and shall suffer the mandatory death sentence.

[\[note: 1\]](#) P385 Answer 86

[\[note: 2\]](#) PS67 para 3

[\[note: 3\]](#) PS29 para 3

[\[note: 4\]](#) P381 Ans 8.1

[\[note: 5\]](#) P382 Ans 10.10

[\[note: 6\]](#) Evidence of the deceased's mother Yulismawati, the deceased's sister Leni Apriyana, the deceased's employers Reboller Gustavo and Gonzalez Munoz Ruth Josepfina, Roslindah Binte Mohamed from the deceased's maid agency, and the deceased's friends Suparti and Nausatur Rodiyah

[\[note: 7\]](#) P277 item 80, translation at P286A, p 13

[\[note: 8\]](#) Notes of Evidence 17 February 2009 page 17 lines 22 – 26

[\[note: 9\]](#) Defence Submission At the Close of The Case para 11

[\[note: 10\]](#) P385 Ans 103

[\[note: 11\]](#) Exhibit 'C'

[\[note: 12\]](#) Notes of Evidence 9 February 2009 pages 2 – 4

[\[note: 13\]](#) Notes of Evidence 16 February 2009 page 57 line 10

[\[note: 14\]](#) Notes of Evidence 10 February 2009 page 119 line 9

[\[note: 15\]](#) Defence's Submissions at the close of the case, para 4(b)

[\[note: 16\]](#) P281

[\[note: 17\]](#) P379

[\[note: 18\]](#) P380

[\[note: 19\]](#) P382

[\[note: 20\]](#) P384 Answer 74

[\[note: 21\]](#) Answer 57

[\[note: 22\]](#) Answer 61

[\[note: 23\]](#) Answer 63

[\[note: 24\]](#) Answer 64

[\[note: 25\]](#) P386

[\[note: 26\]](#) Answer 107

[\[note: 27\]](#) Answer 108

[\[note: 28\]](#) Answer 111

[\[note: 29\]](#) Answer 123

[\[note: 30\]](#) Answer 132

[\[note: 31\]](#) P385 Ans 103

[\[note: 32\]](#) P384 Ans 74

[\[note: 33\]](#) P266

[\[note: 34\]](#) P379, Ans 1

[\[note: 35\]](#) P405

[\[note: 36\]](#) P384 Ans 74.1

[\[note: 37\]](#) P380 Ans 3.3 and P382 Ans 11