

Annex 5 – Motive Issue

1. This Annex, which has been prepared by the Attorney-General’s Chambers, sets out:
 - (a) the findings and reasoning of the High Court (“**HCT**”) on the issue of whether the Liew family had an improper motive (the “**Motive Issue**”);
 - (b) the evidence, the Defence’s case (as set out in the Case for the Defence (“**CFD**”) and submissions at trial and on appeal) and the findings of the State Court (“**SCt**”) on the three main strands of the Motive Issue:
 - (i) what Ms Parti Liyani (“**Ms Liyani**”) said about a Ministry of Manpower (“**MOM**”) complaint on 28 October 2016;
 - (ii) the “*sudden*” termination of Ms Liyani; and
 - (iii) the filing of the Police report by Mr Liew Mun Leong (“**LML**”).

A. The HCt Judgment

2. The key paragraphs in the HCt judgment (“**HCt Judgment**”) on the Motive Issue are as follows:¹

[23] Additionally, when Parti was packing her things before she left on 28 October 2016, she expressed an intention to lodge a complaint with the MOM. She did not elaborate about the details of her intended complaint. This statement was heard by both Mrs Liew and Karl. It is important to note that Parti had expressed her intention to complain to the MOM before Mr Liew filed the police report on 30 October 2016.

...

Collusion amongst the complainants

[34] I start with the Defence’s allegation of collusion amongst the complainants to fabricate the present allegations against Parti.

[35] It is undisputed that Parti was paid some token sums of money to do extra work by cleaning Karl’s office and Karl’s home at 39 CL after he and his family moved out of 49 CL. The parties dispute the regularity and time span of this extra work. On one hand, it is Mdm Ng’s testimony that she had instructed Parti to go to 39 CL to help with chores on three occasions and paid Parti a sum of \$20 each time. Parti was also instructed by Mdm Ng to clean Karl’s office on two to three occasions. It was further admitted by Mr Liew, Karl and

¹ *Parti Liyani v PP* [2020] SGHC 187.

Heather that Parti was asked to clean Karl's office. On the other hand, Parti testified that she cleaned Karl's office once a week for about a year. Karl agreed that Parti was asked to clean his office once a week or once a fortnight, though he denied that it was for a period of one year. Regardless of the frequency and the adequacy of the amount paid (if any) for the amount of work done by Parti, the undisputed fact is that Parti did perform cleaning work outside of 49 CL, namely at Karl's home at 39 CL and also at Karl's office.

[36] *This formed the factual basis for Parti's defence in relation to the complainants' motive behind framing her: in essence, the Liew family brought the present allegations against her in order to prevent her from returning to Singapore and lodging a complaint to MOM about her illegal deployment ...*

[37] *When Parti was informed about her termination on 28 October 2016, Mdm Ng testified that Parti was angry and unhappy because she was not given sufficient notice and time to send the boxes back home. **Most critically, Parti expressed an intention to lodge a complaint with the MOM. Parti uttered this threat when she was packing her things before she left on 28 October 2016. Both Mrs Liew and Karl heard the said statement.***

[38] *The Defence alleges that this formed the motivation amongst the witnesses in the Liew family to collude and stymie Parti's attempt to make a formal report to the MOM in relation to their illegal deployment of a foreign domestic helper. For a foreign migrant worker such as Parti, any documentary complaint or accusation of committing an offence (such as a police report) could seriously jeopardise any possibility of Parti's future employment. This, the Defence submits, prevents Parti from pursuing a complaint with a former employer since she is without a job.*

...

[42] *At trial, only Karl and Mr Liew were cross-examined on their alleged motives **in relation to filing a false police report** to create difficulties for Parti to secure a job in Singapore. ...*

...

[45] *Because of the omission of the Defence to cross-examine (a) all witnesses on the alleged collusion and (b) Heather and May on their improper motives for testifying, it is now not open to the Defence to allege that all members of the Liew family colluded through false testimony to level these accusations against Parti in order to prevent her from returning to Singapore and filing a complaint to the MOM. In the light of the circumstances, the Defence's specific allegation of collusion by all members of the Liew family cannot stand by virtue of the rule in *Brown[e] v Dunn*.*

[46] *That said, the rule in *Brown[e] v Dunn* does not bar this court from taking into consideration the fact that **a reasonable doubt may be raised arising from an improper motive on the part of Mr Liew and Karl to lodge a police report against Parti in order [to] prevent her from lodging a future complaint***

to MOM. After all, this aspect of the evidence was adequately surfaced at trial and was sufficiently put to Mr Liew and Karl (see above at [42]).

[47] ***In my view, there was in fact ample basis for Parti to make a complaint to the MOM. It is clear to me based on the evidence at the trial below that Parti was in fact made to do illegal cleaning work at Karl's residence at 39 CL and at Karl's office. Parti's evidence is that she received \$10 for two to three days of work, and the payment was not regular. In fact, there was a prior dispute between Parti and the Liew family over the cleaning of the toilet in 39 CL: when Mdm Ng requested Parti to do so, she refused. There was also another incident where Parti refused to cook extra food for Karl. Further, when Karl told Parti that her employment was terminated, her immediate response to him was "I know why. You angry because I refused to clean up your toilet." It is significant that at some time prior to her termination, Parti had expressed unhappiness for being made to do additional cleaning work at Karl's home in 39 CL and at his office, probably without adequate compensation. It demonstrates Parti's prior unhappiness in relation to such an arrangement, which was illegal and an offence against the MOM regulations. One must bear in mind that expressly stating that she would complain to MOM about this illegal work would most likely have meant that Parti would immediately lose her job and hence she might have been in a dilemma as to whether she should make such a complaint or even tell the Liew family that she intended to do so should she be made to continue doing cleaning work outside of 49 CL. Nevertheless, it appears that Parti had given hints to the Liew family that she ought not to be doing cleaning work elsewhere beyond 49 CL.***

[48] *In my judgment, there is reason to believe that the Liew family, upon realising her unhappiness, took the pre-emptive first step to terminate her employment suddenly without giving her sufficient time for her to pack, in the hope that Parti would not use the time to make a complaint to MOM. Once she made express her desire to complain to MOM after her sudden termination on 28 October 2016, the Liew family followed up with the police report to ensure her return would be prevented. In my view, the Liew family might not have made a police report had Parti not made her express threat on 28 October 2016 to report the matter to MOM.*

[49] *I observe that no evidence was adduced of any new items that were recently discovered to be missing ie, the period around 28 October 2016, which necessitated the immediate and sudden termination of Parti by the Liew family during the period when Mr Liew was overseas. Instead, Mr Liew's decision for Parti's sudden termination was based on items that went missing "over the years". In my view, this is not believable and it is more likely that the fear of Parti's complaint to MOM rendered her termination urgent, at least in the eyes of the Liew family.*

[50] *Further, I note that after Parti's termination, Mr Liew returned to Singapore from abroad on the night of 29 October 2016 and testified having spent only a "few minutes" or "half an hour" looking through the jumbo boxes. On 30 October 2016, he was updated on the events on 28 October 2016 by his family over lunch and lodged the police report with Karl that same*

afternoon. In the First Information Report (“FIR”) dated 30 October 2016, Mr Liew identified the allegedly stolen items found in the three jumbo boxes, including hard disks worth \$500, towels worth \$100, gadgets worth \$1,000. However, these items were eventually not listed in the charges brought against Parti and no police photographs were taken of them when the police visited the Liew’s household on 3 December 2016. Some of these items were in fact items that Mr Liew had suspected Parti had stolen from him over the years (see above at [9]). The inconsistencies between the charges/police photographs and the FIR point towards the fact that Mr Liew made the police report concerning hundreds of allegedly stolen items after spending a relatively short amount of time looking through the jumbo boxes without proper documentation of the allegedly stolen items, even though there was no ostensible need for an urgent police report given that Parti had already left Singapore. There was more than sufficient time for Mr Liew to have properly documented the stolen items before making the FIR. Indeed, that would have been crucial contemporaneous evidence of the items discovered by the Liew family in the three jumbo boxes allegedly stolen by Parti. It is also curious that the police report was stated to have been made only “for record purposes as I’m afraid that her boyfriends might cause a nuisance or break into my apartment” [emphasis added].

[51] In the light of the above circumstances, the Defence has sufficiently demonstrated an underlying factual basis in support of its allegation of an improper motive on the part of Karl and Mr Liew.

[52] The Prosecution must show beyond a reasonable doubt that no such improper motive existed in relation to why the police report was made **just two days after Parti made explicit to two members of Liew’s family of her intention to lodge a complaint to the MOM about being required to work illegally at Karl’s residence at 39 CL and at Karl’s office**. Given the seriousness of the consequences that might follow from what Parti said she would do, I have reason to believe that the Liew family would be very concerned that Parti would carry out her threat to report the matter to MOM. On the totality of the evidence, I find that the Prosecution has failed to dispel the reasonable doubt raised by the Defence and show that there was no improper motive by Mr Liew and Karl in making the police report.

[emphasis added]

3. In summary, the HCt Judge (the “**Judge**”) found that the Prosecution had failed to prove beyond reasonable doubt that LML and Karl had no improper motive in terminating Ms Liyani’s employment and filing the Police report. The Judge found that the fact of Ms Liyani’s illegal deployment was undisputed, and she had expressed unhappiness about working outside 49 Chancery Lane (“**49CL**”). The Liew family had therefore pre-emptively dismissed her and, after Ms Liyani stated that she wanted to make a MOM complaint, filed the report to prevent her return to Singapore.²
4. The Motive Issue therefore has three main strands:

² HCt Judgment at [47]–[52].

- (a) what Ms Liyani said about a MOM complaint on 28 October 2016;
- (b) the “*sudden*” termination of Ms Liyani; and
- (c) the filing of the Police report by LML.

B. What Ms Liyani said on 28 October 2016

B1. CFD

- 5. Under the Criminal Case Disclosure Conference regime, which applied to this case, parties are to file their respective Cases before trial. The CFD must contain, among other things, a summary of the defence and the facts in support thereof.³ An adverse inference may be drawn against the accused if the Defence (1) fails to serve a CFD that fully complies with these requirements or (2) puts forward a case at trial which differs from or is inconsistent with the CFD.⁴
- 6. The CFD in this case *did not state or suggest that Ms Liyani had mentioned a MOM complaint at any time*. The Defence also did not raise this issue in the pre-trial conferences for this case.
- 7. The Prosecution was not apprised of this issue, prior to the commencement of the trial, and did not set out to lead any evidence on this point.

B2. The evidence at trial

- 8. The Prosecution had objected to, and the SCt judge (the “**trial judge**”) disallowed, some questions by the Defence relating to the Motive Issue.
- 9. However, the Prosecution did not generally object to questions about *facts relevant to the Motive Issue* (unless they had been asked and answered).⁵ The objections were to questions relating to the MOM *investigations*, or specific questions that appeared irrelevant / had already been answered. Thus, the Defence was able to, and did, elicit evidence from the Prosecution’s witnesses regarding Ms Liyani’s deployment to work at Karl’s home and office, which formed the “*factual basis*” of its case on the Motive Issue (see [36] of the HCt Judgment at [2] above).

³ Section 165(1) of the Criminal Procedure Code (Cap 68, 2012 Rev Ed) (“**CPC**”).

⁴ Sections 169(1)(b) and (1)(c) of the CPC.

⁵ For example, the Prosecution did not object to the Defence’s questions to Karl about Ms Liyani’s deployment to work at Karl’s office, including the frequency of such deployment, what Ms Liyani was tasked to do, the allowance paid to her, and her mode of transport to the office. However, the Prosecution objected when the Defence asked Karl about the features of his office (on the basis of relevance), and when the Defence raised the MOM investigations: see ROP, pp 553–560. See also ROP, pp 571–573.

B2-1. NLP

10. The evidence that Ms Liyani had mentioned a MOM complaint on 28 October 2016 first arose incidentally at trial, during the examination-in-chief (“**EIC**”) of Ng Lai Peng (“**NLP**”).
11. **EIC:** During EIC, NLP was asked whether there was “*anything else that Parti said*” on 28 October 2016 (after her employment was terminated). NLP answered that Ms Liyani had said “*she wanted to go to MOM ... [t]o talk about us. To complain*”.⁶
12. **Cross-examination:** Subsequently, in cross-examination of NLP:⁷
 - (a) NLP confirmed that Ms Liyani had said on 28 October 2016 “*that she was going to complain to MOM*”;
 - (b) it was suggested to NLP that Ms Liyani had “*wanted to complain about*” the following matters: (1) working outside 49CL; (2) having been asked to cook pork; and (3) living in a house with rats and snakes – NLP refuted (1) and (2), and did not reply to (3) because the trial judge found, upon an objection by the Prosecution, that this question was irrelevant and not part of the Defence’s case;
 - (c) it was then suggested to NLP that she was “*visibl[y] disturbed by this issue about making a complaint to MOM*” – NLP rejected this; and
 - (d) finally, it was suggested to NLP that she had told her family about Ms Liyani wanting to make a MOM complaint – NLP rejected this, and explained that there was no need for her to do so, because those present (including Karl) should have heard Ms Liyani say that she wanted to make a MOM complaint.
13. The Prosecution did not consider at that stage, the issue of Ms Liyani wanting to make a MOM complaint, to be relevant because (1) this point was not raised in the CFD (see [6] above), and (2) was just one of many points raised in cross-examination. Defence Counsel Mr Anil Narain Balchandani (“**DC**”) had asked NLP about a variety of issues, such as Ms Liyani being allegedly made to (a) cook pork and (b) live in a house with rats and snakes. The Prosecution objected to the latter allegation on the basis that it was irrelevant, and the trial judge sustained the objection. It appeared that the Defence did not have a clear position on motive and, in any event, the key issue was whether Ms Liyani had stolen from the Liews, not whether the Liews had a possible motive to falsely accuse her of theft.

B2-2. Ms Liyani

⁶ ROP, p 1167.

⁷ ROP, pp 1570–1578.

14. **EIC:** During EIC of Ms Liyani, the following exchange occurred:⁸

*Q ... Let me now just wrap up with a few areas. We heard from Mrs. Liew that you---as you were going out of the house on the 28th of October, you wanted to complain. **What did you want to complain about?***

A I wanted to report the Liew family to MOM because I'm asked to work in his office. Also, to work in Karl's house. ...

[emphasis added]

15. In short, Ms Liyani:

(a) gave evidence of what was in her mind on 28 October 2016 – the intended subject of the complaint she alluded to on 28 October 2016 was her deployment to work at Karl's home at 39 Chancery Lane (“**39CL**”) and Karl's office; but

(b) did not testify that:

(i) she had *communicated* this to the Liews; or

(ii) the Liews *understood* that Ms Liyani intended to complain about being deployed to work at Karl's home and office.

16. The Prosecution did not consider the issue relevant, for the reasons set out at [13] above. Further, Ms Liyani's evidence did not appear material (being limited to what was in her mind at the time).

17. Further investigations suggest that on 28 October 2016:

(a) Ms Liyani had stated that she wished to make a MOM complaint about *the short notice given to her for the termination of her employment*; and

(b) Ms Liyani did not mention her deployment to work at Karl's home and office.

B3. Defence's trial submissions

18. In the Defence's closing submissions, the Defence submitted that on 28 October 2016, Ms Liyani had stated that she wanted to file a MOM complaint.⁹ The Defence did not submit that:

(a) Ms Liyani had stated what she wanted to complain about; or that

⁸ ROP, pp 1787–1788.

⁹ Defence's closing submissions, para 439.

(b) the Liewes understood that Ms Liyani intended to complain about being deployed to work at Karl's home and office.

19. In the Defence's reply closing submissions, the Defence reiterated that on 28 October 2016, Ms Liyani had stated that she wanted to file a MOM complaint.¹⁰ This was similar to the evidence.
20. In the next paragraph in the reply closing submissions, the Defence stated that it was undisputed that "*Parti was illegally deployed by the Liew family*". The Defence then set out the potential consequences of such a complaint for the Liew family. One can infer from this that the Defence did suggest in submissions that Ms Liyani's complaint would have been about her deployment to work at Karl's home and office.

B4. Prosecution's trial submissions

21. In the Prosecution's trial submissions, the Prosecution did not address the evidence that Ms Liyani had mentioned a MOM complaint on 28 October 2016 at all. This evidence was not considered material for the reasons set out at [13] and [16] above.

B5. SCT's findings

22. The trial judge made the following relevant observations in her judgment:¹¹

[60] There was no reason why the Liew family and the driver Robin would conspire to frame the accused for the theft, especially when they had employed her for a number of years. They had in fact compensated her for the termination and Karl was even willing to pay for the shipping of her items ...

...

[74] Counsel for the defence accused Karl of being a habitual liar, accused Mr Liew of trumping up the charges against the accused, when Mr Liew had unequivocally stated that there was no motivation for a person like him to go against a maid and that his purpose in making a police report was to protect other families in Singapore from becoming victims of the accused.

B6. Defence's written appeal submissions

23. In the Defence's appeal submissions, the Defence similarly submitted that on 28 October 2016, Ms Liyani had stated that she wanted to file a MOM complaint.¹²
24. In another part of the appeal submissions:

¹⁰ Defence's reply closing submissions, para 58.

¹¹ *PP v Parti Liyani* [2019] SGDC 57.

¹² Defence's appeal submissions, para 356.

(a) The Defence referred to “*possible innocent infection of the family’s attempt to stymie [Ms Liyani from] making a formal report to the Ministry of Manpower for illegal deployment of a foreign domestic helper*” [emphasis added];¹³ and

(b) upon stating that Ms Liyani had stated, on 28 October 2016, that she wanted to file a MOM complaint, the Defence submitted: “*It had been verified in court that Parti had been deployed illegally*” [emphasis added].¹⁴

25. These passages suggest that (1) Ms Liyani’s complaint would have been about her deployment to work at Karl’s home and office and (2) the Liewes knew this.

26. It was nevertheless insufficiently clear from the Defence’s submissions whether the Defence was claiming that the Liewes knew what Ms Liyani wanted to complain to the MOM about.

B7. Defence’s oral appeal submissions

27. At the hearing of the appeal on 1 November 2019, DC submitted that: “*They realised that after Parti was asked to leave in this hurried manner, Parti wanted to make a complaint to the MOM for illegal deployment*” [emphasis added].¹⁵

28. Thus, DC expressly submitted that the Liewes knew that the subject of the complaint Ms Liyani mentioned on 28 October 2016 was her illegal deployment. As set out at [12] and [15] above, there was no evidence of this.

B8. Prosecution’s written appeal submissions

29. In the Prosecution’s written submissions for the appeal, the Prosecution did not address the evidence that Ms Liyani had mentioned a MOM complaint on 28 October 2016.

B9. Prosecution’s oral appeal submissions

30. Similarly, in oral submissions at the appeal hearing, the Prosecution did not address the evidence that Ms Liyani had mentioned a MOM complaint on 28 October 2016. Again, this evidence was not considered material.

B10. Observations

31. To recapitulate, the CFD did not allude to any MOM complaint. There was also no evidence that Ms Liyani had said what she wanted to complain to the MOM about, or that the Liewes otherwise knew this.

32. For these reasons, the Prosecution did not consider the evidence on what Ms Liyani had said about a MOM complaint on 28 October 2016 to be material. The Prosecution

¹³ Defence’s appeal submissions, para 230.

¹⁴ Defence’s appeal submissions, para 231.

¹⁵ Notes of Evidence of appeal (“NEs”), 1 Nov 2019, p 61.

therefore did not set out to adduce evidence to address this point, or address the evidence that unfolded at trial in their submissions at trial or on appeal.

C. The “sudden” termination

C1. CFD

33. The CFD did not suggest:

- (a) that the termination of Ms Liyani’s employment was sudden; or
- (b) that the Liews had an improper motive in terminating Ms Liyani’s employment.

34. The CFD did not refer to the termination of Ms Liyani’s employment at all.

C2. The evidence at trial

35. The relevant evidence was as follows:

- (a) It was undisputed that Ms Liyani had expressed unhappiness about working outside 49CL.
- (b) Ms Liyani testified that after working at Karl’s home for some time, NLP asked her to return to Karl’s home again to work. Ms Liyani then refused to do so, and told NLP that she was “*not allowed to work in another house*”.¹⁶

However, this evidence was disputed. In cross-examination of NLP, it was put to her that when Ms Liyani informed NLP that she no longer wished to work at 39CL, Ms Liyani had mentioned that it was “*not legal for her to work in another house*”. NLP disagreed and stated that when Ms Liyani said she did not want to work at 39CL, she “*did not mention anything else*”.¹⁷

- (c) There was no evidence that Ms Liyani had told the Liews (or any other person), prior to 28 October 2016, that she wanted to make a MOM complaint.

36. Further, it was not put to LML or his family that they had an improper motive in terminating Ms Liyani’s employment.

C3. Defence’s trial submissions

37. The Defence’s trial submissions did not suggest that the Liews had any improper motive in terminating Ms Liyani’s employment. Rather, the submissions stated as follows:¹⁸

¹⁶ ROP, p 1736.

¹⁷ ROP, p 1567.

¹⁸ Defence’s closing submissions, paras 437–438. See also para 248.

[437] ... In October 2016, when Karl’s family had no domestic worker, Parti was required to clean his house, 39 Chancery Lane. After about a week of complying, Parti refused to continue.

[438] *The following week, Parti was summarily dismissed because of this insubordination, and given two hours to pack. ...*

[emphasis added]

38. Separately, the Defence’s submissions stated that Ms Liyani had been “*abruptly terminated*”.¹⁹ However, the Defence did not submit that the Liewes had an improper motive in (1) terminating Ms Liyani’s employment or (2) doing so “abruptly”. The Defence’s reference to Ms Liyani being “abruptly terminated” pertained to the termination being “*a shock and... a complete surprise*” to Ms Liyani as she had “*never been forewarned of dissatisfaction by the Liewes about her conduct, or work, or that they had suspected her of stealing anything: items or money*”.²⁰

C4. Prosecution’s trial submissions

39. In the Prosecution’s submissions at trial, the Prosecution did not address the issue of whether the Liewes had any improper motive in *terminating Ms Liyani’s employment*. This is unsurprising because, as set out at [33]–[38] above, it was not the Defence’s case that the Liewes had an improper motive in *terminating Ms Liyani’s employment*.

C5. SCT’s findings

40. The trial judge did not make any findings as to the circumstances of the termination of Ms Liyani’s employment.

C6. Defence’s written appeal submissions

41. The Defence’s appeal submissions did not suggest that the Liewes had any improper motive in terminating Ms Liyani’s employment. The Defence submitted that Ms Liyani was dismissed for *insubordination* (her refusal to work at 39CL).²¹

C7. Defence’s oral appeal submissions

42. At the hearing of the appeal on 1 November 2019, the Defence did not submit that the Liewes had an improper motive in terminating Ms Liyani’s employment:
- (a) As noted above (see [27] above), DC submitted that the Liewes “*realised that after Parti was asked to leave in this hurried manner, Parti wanted to make a complaint to the MOM for illegal deployment [emphasis added]*”.

¹⁹ Defence’s closing submissions, para 399.

²⁰ Defence’s closing submissions, para 402.

²¹ Defence’s appeal submissions, paras 354–355.

(b) DC also stated: “*what I am about to submit is a theory called “Scenario fulfilment”. [LML] had it in his mind that Parti was a thief. The opportunity presented itself on the 29th of October and he filled in the blanks with the rest of the information in his head [emphasis added]*”.²²

43. These submissions indicated that the Defence was *not* taking the position that the Liewes had an improper motive in terminating Ms Liyani’s employment.

C8. Prosecution’s written appeal submissions

44. In the Prosecution’s written submissions for the appeal, the Prosecution did not address the issue of whether the Liewes had any improper motive in *terminating Ms Liyani’s employment*.

C9. Prosecution’s oral appeal submissions

45. At the hearing of the appeal on 17 February 2020, the Prosecution pointed out that the allegations of an improper motive put to Karl and LML *only pertained to the filing of the Police report*.²³

46. The Prosecution did not address the issue of whether the Liewes had any improper motive in *terminating Ms Liyani’s employment*.

C10. Further investigations

47. Further investigations suggest that the termination of Ms Liyani’s employment was not sudden:

(a) Sometime in end-2015, NLP had informed an employment agent, Leo Meng Koon (“**LMK**”), that she might want to get a new helper. NLP had then visited LMK’s agency two or three times to look at the biodatas of various helpers. Significantly:

(i) NLP visited LMK’s agency years after Ms Liyani had worked in Karl’s office, and before Ms Liyani worked at 39CL in March or April 2016, *ie*, before the possibility of a complaint about Ms Liyani’s working at 39CL could have even arisen; and

(ii) NLP informed LMK that she was looking for a new helper because LML suspected Ms Liyani of stealing his items.

(b) Sometime in September 2016, LML made a firm decision to dismiss Ms Liyani. A few days later, NLP visited LMK’s agency to choose a replacement for Ms Liyani. The replacement helper arrived in Singapore on 25 October 2016. Ms Liyani’s employment was terminated on 28 October 2016 because the new helper (whom

²² NEs, 1 Nov 2019, p 136.

²³ NEs, 17 Feb 2020, p 77.

the Liew family had chosen earlier) had arrived in Singapore by then. The new helper started work at 49CL in the evening of 28 October 2016, soon after Ms Liyani had left 49CL.

- (c) The decision to terminate Ms Liyani therefore appears not to have been taken suddenly. The termination of Ms Liyani's employment had been planned for some time, but was only effected when her replacement became available.

C11. Observations

48. Thus, the Prosecution did not adduce evidence that the Liew family had no improper motive in terminating Ms Liyani's employment, or make submissions on this point.
49. Following the HCt's finding that the Liew family had an improper motive in terminating Ms Liyani's employment, further investigations have been conducted on this issue. These have disclosed that Ms Liyani's dismissal was not "sudden" (see [47] above).

D. The filing of the Police report

D1. The CFD

50. The CFD did not suggest that the Liew family had an improper motive in filing the Police report.

D2. The evidence at trial

51. During the trial, the Defence suggested at various points that the Police report was filed with an improper motive. This was clear from (1) DC's explanations of the questions he posed to the Prosecution's witnesses and (2) the allegations he put to the Liew family.

D2-1. DC's explanations of questions posed

52. During cross-examination of Karl, DC explained a put to Karl as follows:²⁴

This is to put or to suggest that he wanted to prevent Parti from returning so that she could not file a complaint for illegal deployment as a maid in Karl's office or his office and or his home at 39 Chancery Lane. So this is one of the motives that we believe he filed the report. [emphasis added]

53. During cross-examination of NLP, DC stated as follows:²⁵

Your Honour, as we had heard, this very Witness saying my client wanted to make a complaint and we had made it clear that one of the reasons why the Police Report was made was to shut her out from coming back to Singapore. [emphasis added]

²⁴ ROP, p 635.

²⁵ ROP, p 1571.

D2-2. DC's cross-examination of Karl and LML

54. DC put to Karl that:

- (a) Karl was “*in favour of making [the Police report] to falsely accuse [] Parti of theft of several items*”; and
- (b) in relation to the Police report, Karl had intended to prevent Ms Liyani “*from returning to Singapore and filing a complaint for illegal deployment as a maid at your office or at your home*”.²⁶

55. Karl disagreed with these allegations.

56. The cross-examination of LML was less clear. While the Defence appeared to suggest that LML wanted to prevent Ms Liyani from returning to Singapore to lodge a complaint with the MOM, the questions asked also suggested that LML may have *genuinely* (but perhaps erroneously) believed that Ms Liyani had stolen from his family. DC put the following to LML:

- (a) DC suggested to LML that he “*believe[d] items [were] stolen from [him] ... [he] saw ... a whole bunch of things and ... presume[d] they were stolen because others in the family said, “These are mine” ...*”. DC further suggested to LML that he had never considered whether NLP had given or thrown away the items in the three jumbo boxes (the “**3 Boxes**”), and that LML “*could be wrong*” as to whether the items were stolen.²⁷

In response to these questions, LML replied that he was “*very confident*” that the items in the 3 Boxes identified by his family were stolen.²⁸

- (b) DC suggested to LML that there was “*no need for anybody to encourage [LML] to make a Police report*”.

LML agreed, stating that he did not want Ms Liyani “*to come back and ... possibly steal from another family*”.²⁹

- (c) DC also suggested to LML that he had “*trumped-up certain parts of [the Police report]*”.³⁰

LML categorically denied this.³¹

²⁶ ROP, p 634.

²⁷ ROP, p 1318.

²⁸ ROP, p 1318.

²⁹ ROP, p 1330.

³⁰ ROP, p 1350.

³¹ ROP, pp 1350–1351.

- (d) Finally, DC put to LML that he “*did not want Ms Liyani to come back to Singapore and possibly make a complaint against [his] family*”.

In response to this put by DC, LML disagreed and asked: “*Why she launch a complaint against my family*”.³²

D3. Defence’s trial submissions

57. The Defence’s closing submissions did not clearly indicate that their case was that the Police report had been filed with an improper motive.
58. The Defence submitted as follows:³³
- (a) On 28 October 2016, after her dismissal, Ms Liyani had threatened to make a MOM complaint. Then, on 29 October 2016, the Liew family had discovered “*some items that had formerly belonged to the Liew family*” in the 3 Boxes. This discovery “*presented itself as a convenient avenue to prevent Parti from finding future employment in Singapore, and to pre-empt any complaint against the Liew family by her*”.
- (b) In the alternative, the Liew family “*had simply forgotten what they had previously discarded*”.³⁴
59. The Defence’s primary submission (at [58(a)]) can be read in two ways:
- (a) First, the Liew family genuinely believed that the items in the 3 Boxes were stolen, and decided opportunistically to use that against Ms Liyani.
- (b) Second, the Liew family knew the items were not stolen, and falsely accused Ms Liyani of theft.
- (c) It was unclear to the Prosecution which of these two theories the Defence was advancing. The cross-examination of LML (at [56(a)] and [56(c)] above) indicates that the Defence was advancing the first, and not the second theory. If LML had genuinely believed that Ms Liyani had stolen items, it would not have been “*improper*” for him to file the Police report, even if he had been spurred to do so by Ms Liyani’s threat of a MOM complaint on 28 October 2016. LML could only have been said to have acted opportunistically.
- (d) In the light of the Defence’s alternative submission (at [58(b)]), it was additionally unclear to the Prosecution whether the Defence was alleging that the Police report had been filed with an improper motive.

³² ROP, p 1367.

³³ Defence’s closing submissions, paras 439–440.

³⁴ Defence’s closing submissions, paras 442–444.

D4. Prosecution’s trial submissions

60. In its trial submissions, the Prosecution submitted that the Liew family had no reason to frame Ms Liyani, emphasising the following points:³⁵

- (a) it was highly unlikely that the Liew family would have made false statements to the Police and committed perjury, which are serious offences attracting substantial imprisonment terms, just to avoid the risk of being charged for illegal deployment of Parti, which attracts a maximum financial penalty of \$10,000;
- (b) LML had unequivocally refuted the suggestion that he had sought to fix Ms Liyani, making clear that there was no motivation for him to do so;
- (c) it was undisputed that the Liew family’s relationship with Ms Liyani was generally cordial (she had no disputes with any of them apart from Karl); and
- (d) the family’s conduct in taking the Video on 29 October 2016, upon discovering that the 3 Boxes contained their belongings, was more consistent with them having been victims of a crime, rather than conspirators who had banded together to frame Ms Liyani.

D5. SCT’s findings

61. The trial judge made the following relevant observations:

[74] Counsel for the defence accused Karl of being a habitual liar, accused Mr Liew of trumping up the charges against the accused, when Mr Liew had unequivocally stated that there was no motivation for a person like him to go against a maid and that his purpose in making a police report was to protect other families in Singapore from becoming victims of the accused.

D6. Defence’s appeal submissions

62. The Defence’s appeal submissions repeated the points in their closing submissions (see [58] above).³⁶ The observations at [59] above are repeated.

D7. Defence’s oral submissions on appeal

63. At the hearing of the appeal on 1 November 2019, DC submitted as follows:

- (a) *“They realised that after Parti was asked to leave in this hurried manner, Parti wanted to make a complaint to the MOM for illegal deployment”*.³⁷

³⁵ Prosecution’s trial closing submissions dated 1 March 2019, paras 83–89.

³⁶ Defence’s appeal submissions, paras 354 to 360.

³⁷ NEs, 1 Nov 2019, p 61.

- (b) *“this ability to contain Parti from coming back to Singapore to make a report, may have manifested. And that manifestation was in the product of a police report”*;³⁸
- (c) *“This is a FIR under calculated conditions ... the FIR was calculated to keep Parti out. ... Liew was successful in achieving that goal because he wanted to keep her out. Maybe this idea in Court was “I keep her out because I don't want her to steal from other places”, but what is in the mind of Mr Liew isn't that simple”*.³⁹

D8. Prosecution’s written appeal submissions

64. In the Prosecution’s written submissions for the appeal, the Prosecution emphasised the following points:⁴⁰
- (a) the allegation of an improper motive was (1) not adequately put to the Liew family at trial and (2) not raised by Ms Liyani during investigations – it was an afterthought; and
- a. the evidence showed that the Liew family (in particular, NLP) had a cordial relationship with Ms Liyani and would not have framed her.

D9. Prosecution’s oral appeal submissions

65. At the hearing of the appeal on 1 November 2019 and 17 February 2020, the Prosecution repeated the points made in its written submissions (see [64] above). In this connection, the Prosecution also pointed out that:
- (a) allegations of an improper motive (in relation to the filing of the Police report) were only put to LML and Karl;⁴¹ and
- (b) LML had explained why he had terminated Parti’s employment around October 2016 despite having suspected her of stealing his items for years – the loss of his power bank was the final straw.⁴²

D10. Observations

66. A key plank of the Judge’s finding that (there was reason to believe that) LML and Karl had an improper motive in filing the Police report was the fact that Ms Liyani had mentioned a MOM complaint on 28 October 2016. The Judge stated that this was *“most critical[.]”* (at [37] of the HCt Judgment).

³⁸ NEs, 1 Nov 2019, p 65.

³⁹ NEs, 1 Nov 2019, pp 137–138.

⁴⁰ Prosecution’s appeal submissions, paras 23–29.

⁴¹ NEs, 17 Feb 2020, p 77.

⁴² NEs, 1 Nov 2019, pp 148–150.

67. For the reasons given at [7] and [31]–[32] above, the Prosecution did not set out to adduce evidence to address this point, or address the evidence that unfolded at trial in their submissions at trial or on appeal. Hence, the evidence obtained from further investigations (see [17] above) on this key premise of the Judge’s findings regarding the filing of the Police report was not adduced at trial.