32/80

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. 38 of 1979

ON APPEAL

FROM THE COURT OF CRIMINAL APPEAL OF THE

REPUBLIC OF SINGAPORE

BETWEEN :

KOH CHAI CHENG Appellant

and

THE PUBLIC PROSECUTOR Respondent

RECORD OF PROCEEDINGS

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P15	Registration book of car registration No. JS 3705(in Tamil)
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AMENDED CHARGE

(Criminal Charge) 39 of 1976. PRISONER ARRAIGNED

*Name and Address * (1) KOH CHAI CHENG
(2) OOI SEE HAI,

of Singapore,

HIGH COURT,
SINGAPORE
EXHIBIT P26
in Cr.C.39/76 -Sgd-
Date: 14.3.77 f.Registrar

YOU ARE CHARGED at the instance of the Attorney-General as Public Prosecutor and the charge against you is:

That you, (1) KOH CHAI CHENG
(2) OOI SEE HAI,

on or about the 24th day of April, 1976 at Park Road, Singapore in furtherance of the common intention of both of you, and without any authorisation under the Misuse of Drugs Act, 1973 (No.5 of 1973) or the regulations made thereunder, did traffic in a controlled drug specified in Class A of Part I of the First Schedule of the Misuse of Drugs Act, 1973 (No.5 of 1973) to wit, 1,256 grams of diamorphine and you have thereby punishable under section 29 of the Misuse of Drugs Act, 1973 read with section 34 of the Penal Code (Chapter 103).

By Authority of the Attorney-General as Public Prosecutor.

DATED at Singapore this 9th day of March, 1977.

-Sgd-
SANT SINGH
DEPUTY PUBLIC PROSECUTOR
SINGAPORE.

A D.P.P.: My Lords, my next witness is Superintendent Ng Leng Hua and his evidence is found at page 9— I amsorry, my Lords, at page 10, his statement taken at page 10 in the P.I.

NG LENG HUA (Affirmed in English)

B (Examination-in-chief by D.P.P.)

"My Lords, my name is Ng Leng Hua. Since 1st of February this year I have been attached as Officer-in-charge of the Kandang Kerbau Police Station. Prior to that I was the O.C. of 'A' Division,

C Central Police Station; I was there on the12th of February, 1974, until the 31st of January, 1977."

Q. Witness, you are now a confirmed Superintendent of Police?

A. That's correct, my Lords.

D Q. That is as from the 1st of October—

A. From the 1st of October, 1976.

Q. Now, Witness, can you tell the Court what happened on the 24th of April, 1976, at about 3.15 p.m.?

A. My Lords, on the 24th of April, 1976, which is a

E Saturday, at 3.15 p.m. in the afternoon, P.C.8346, since then promoted to Corporal, Ong See Hook, informed me that he received certain information.

NG LENG HUA

(Examination-in-chief by D.P.P.) (contd.)

A A. At 7.10 the same evening, my Lords, three persons, three male Chinese approached the car JS 3705. My Lords, the driver used his bunch of keys to open the locked car to get in. He then opened for his passengers - the two passengers to join him. When the three of them were in

B this car ...

Q. Yes, can you stay there for a little while - can you identify the driver?

A. Yes.

Q. Is he in Court?

C A. Yes (points to the 1st accused in the dock).

Q. The first accused?

A. Koh ...

Q. Is he the driver of the car?

A. Yes, my Lords, the driver of JS 3705.

D Q. Can you identify the passengers?

A. Yes, my Lords, the third one is not here - the third one is Sim Chai, he is sitting next to the driver.

Q. Yes, can you identify the person sitting ...

A. Yes, I can identify him - he is sitting behind the driver.

E Rajah J.: That is accused No.2?

A. Yes, my Lord, I know him as Ooi something - I have got it in my diary.

Q. And can you identify the third person sitting next to

F the driver?

A. I can.

NG LENG HUA

(Examination-in-chief by D.P.P.) (contd.)

D.P.P.: Can you call Sim Chai please?

A. He is the one, my Lords.

(Sim Chai produced and identified).

Q. Yes, can you please tell the Court what happened when they got into the car?

A. Sim Chai sat to the left of the driver, while B2 sat behind B1. B1 was the driver. The driver started the engine. Before the car moved, we closed in - the police party closed in.

Q. How did you all close in, can you describe?

A. We were around, I arrested Sim Chai, my Lords, but before that I went over and removed the ignition key from the steering column and Sergeant Scully arrested the driver. Sergeant 593 Michael Scully, he arrested the driver and behind B2 was arrested by my senior detective officer Inspector William Lim Sai Teck or acting A.S.P. William Lim Sai Teck.

Q. And after these three persons had been arrested by your police party, what did you all do?

A. I removed the driver and B2 to another car, giving instructions to William Lim to take them back to station, whilst Sim Chai - I let him remain in the car and he sat at the back. He was sandwiched by Sergeant 7651 Lim Boon Keng and another police constable, my Lords, if I am not mistaken is 7208, he is Ng, and then seated in front of me next to me in the passenger seat was my Detective Sergeant Francis Lee 3375. I personally drove this JS 3705 back to station.

NG LENG HUA

(Examination-in-chief by D.P.P.) (contd.)

Q. That is Central Police Station?

A. Back to Central Police Station.

Rajah J.: That is the Datsun?

A. That is the orange Datsun vehicle, my Lord.

Q. And where did you park this vehicle?

A. I parked this vehicle in the officers' garage within the compound of the Central Police Station.

Q. Now was the other vehicle also in the compound of the Central Police Station?

A. NA 6103 was there also.

Q. Witness, will you please look at photograph No. P6?

A. Yes, my Lords, this is the position of the vehicles.

Q. Can you identify this photograph first?

A. Yes, my Lords, I can.

Q. This shows the officers' garage at the compound of the Central Police Station?

A. Correct, my Lords.

Q. And the Datsun which is shown on the left of this photograph, is the Datsun that you drove to the Central Police Station?

A. Yes, my Lords.

D.P.P.: My Lords, are we on the same ...

Rajah J.: Are you referring to P7?

A. P6.

Rajah J.: That is right.

NG LENG HUA

(Examination-in-chief by D.P.P.) (contd.)

A A. This garage can only take in three cars and the Datsun is in the centre. This is a small garage.

Q. And the Morris Minor is shown on the left of the Datsun?

B A. Correct, my Lords.

Q. Yes, what did you do next when both the vehicles were parked in this garage?

A. I gave instructions for the other four accused to be brought and sat in a line near the two vehicles.

C Q. Yes?

A. They were brought in earlier, two in the Morris Minor earlier and they were in the station and then I left with Sim Chai in this Datsun car while William Lim brought back the two accused, so including all five were there.

D Rajah J.: You keep on saying accused?

D.P.P.: There are only two accused.

A. These are B1 and B2.

Rajah J.: And the other persons?

A. All five were brought to where

E the vehicles were parked.

Q. And they were made to sit in a line behind the vehicles shown in P6?

A. Yes, my Lords. I then handed the keys to Mr.Ying and gave instructions to him to make a thorough search of

F both the vehicles.

NG LENG HUA

(Examination-in-chief by D.P.P.) (contd.)

Q. Can you identify the key of the Datson JS 3705?

A. Yes, my Lords - yes, this is the key to the Datsun car, my Lords.

Q. That is the one that you seized from the driver, when he was arrested at the scene at Park Road?

A. Yes.

D.P.P.: My Lords, may this key be admitted in evidence as P14?

Ex.P14. Choor Singh J.: Yes.

Q. Yes, what happened, witness?

A. My Lords, Ying Yoke Chang searched the first car NA 6103.

Q. Was anything incriminating found in the car?

A. Nothing incriminating was found in this car, my Lords.

Q. What about JS 3705?

A. Ying Yoke Chang found a quantity of drugs hidden in the boot of JS 3705.

Q. Witness, can you look at P3? Now this photograph shows the boot of JS 3705 when it is closed?

A. Correct, my Lords.

D.P.P.: P3, my Lords?

Choor Singh J.: Yes.

Q. And witness, to open the boot of this car you must use a key?

A.Correct, my Lords.

Q. It cannot be open without a key?

A. Cannot.

NG LENG HUA

(Examination-in-chief by D.P.P.) (contd.)

A Rajah J.: Was the boot locked?

A. The boot was locked - locked in the sense that you press down. The cover locks by itself but you require a key to open it.

B Q. In other words, you cannot press a button or turn a lever to open it?

A. You cannot press to open it.

Q. And when the boot is opened, it looks something like what is shown in P10?

C A. That is right, my Lords.

Q. And did you see the board which is secured by some screws on the centre of the photograph?

A. Yes, my Lords.

Q. Now this board, it is a cardboard which separates the

D boot from the seat?

A. From the seat.

Q. The back seat of the car?

A. The back seat of the Datsun car.

Q. And D.S.P. Ying Yoke Chang removed this board?

E A. He did, my Lords.

Q. And when the board is removed, the car appears to be as shown in P1?

A. Correct, my Lords.

Q. And the drugs that were found or the items that were found

F by D.S.P. Ying Yoke Chang is as shown in P1?

A. Correct, my Lords, in this same position.

A DPP : My Lords, my next witness is Mr Ying Yoke Chang and his evidence is found at page 14 of the PI deposition.

YING YOKE CHANG (Affirmed in English)

(EXAMINATION-IN-CHIEF BY DPP)

Rajah, J: PW5?

DPP : That's right.

Q Your name is Ying Yoke Chang, and you are the Officer in Charge of Organised Crime?

A That is correct, My Lord.

C Q And you are a Deputy Superintendent of Police?

A That is correct.

Q Prior to your appointment as the Officer in Charge of Organised Crime, you were the Officer-in-Charge of Criminal Investigations at the Central Police Station, from 1 Jan 76

D to 30 Nov 76?

A That is correct, My Lord.

Q And when you were the Officer in Charge of Crime, Central Police Station, you were an Ag Deputy Superintendent of Police?

E A That is correct.

2.50
28.2.77

YING YOKE CHANG

(Examination-in-chief by D.P.P.)(cont'd.)

A Q. Now, witness, on the 24th of April 1976 you were at home when you received a call to report for duty?

A. Yes, Sir.

Q. What time was it when you received this call?

A. I received the call at about 4.20 p.m.

B Q. You immediately left your home and reported for duty to the Officer-in-charge Central Police Station, Superintendent Ng Leng Hua?

A. That is correct, my Lord.

Q. That is the last witness?

C A. That is correct, Sir.

Q. And at about 5.20 p.m. you attended a briefing at the Central Police Station?

A. That is correct, my Lord.

Q. Now, witness, what did you do after the briefing at the

D Central Police Station?

A. A party of officers and I left the Central Police Station at about 6.05 p.m. for Park Road. I left with Inspector Quah and Sergeant Scully in my car.

Q. Since we are on the topic of your car, what car do you drive?

E A. I drive a Datsun 1600cc saloon car.

Q. That is 160 J?

A. 160 J.

Rajah, J.: 1,600 cc?

A. 1,600 cc, my Lord.

F Q. Witness, can you look at P.3, photograph No. 3?

A. Yes, my Lord.

Verbatim Notes.

YING YOKE CHANG

(Examination-in-chief by D.P.P.)(cont'd.)

A Q. And what did you do when you arrived at the Central Police Station?

A. On arrival at Central Police Station I began my interview with both the male Chinese.

Q. Now, witness what happened at about 7.20 p.m.?

B A. At about 7.20 p.m. whilst I was at the Central Police Station I saw Superintendent Ng Long Hua returning in Datsun car JS 3705.

Q. And was there any other person apart from the police officer present in this car JS 3705?

C A. Yes, there was a male Chinese whom I eventually came to know as Sim Chai. He was in the car.

Q. Can you identify this male Chinese whom you ascertained to be Sim Chai?

A. Yes, I can, my Lord.

D (A person is produced).

D.P.P.: What is your name?

A. Sim Chai.

A. Yes, my Lord, he is.

Choor Singh, J.: Spell it.

E D.P.P.: S-I-M C-H-A-I (spelt).

Q. This is the person you saw in motorcar JS 3705?

A. That is correct, my Lord.

Q. Now, what happened after OC 'A' had driven this Datsun car into the Central Police Station compound?

F A. Next OC 'A' handed to me a bunch of keys.

Verbatim Notes.

YING YOKE CHANG

(Examination-in-chief by D.P.P.)(cont'd.)

A Q. Can you identify this bunch of keys?

A. Yes, I can, my Lord.

(A bunch of keys is shown to witness).

A. Yes, my Lord, this is the bunch.

Choor Singh, J.: What exhibit?

B D.P.P.: P.14.

A. And OC 'A' instructed me to make a thorough search of the Datsun car.

Q. What about the Morris Minor?

A. He also gave me similar instructions to ~~make a search of~~

C the Morris Minor whose keys he also handed to me.

Q. Witness, did you search the Datsun car JS 3705?

A. I did, my Lord, I started with the Datsun car.

Q. Witness, can you look at P.6. Can you identify this photograph?

D A. Yes, my Lord, this is the garage and at the compound of the Central Police Station which shows the Morris Minor NA 6103 and the yellow Datsun---I beg your pardon---orange Datsun car JS 3705.

Q. On that day they were parked in similar fashion?

E A. That is correct, my Lord.

Q. Were any of the persons that you had detained, the 5 Chinese, the 2 Chinese that you had seen---male Chinese you had seen being detained at Park Road and that brought by OC 'A', were they present when the search was conducted?

F A. All 5 Chinese were present.

YING YOKE CHANG

(Examination-in-chief by D.P.P.)(cont'd.)

A Q. Witness, did you search the interior of the car?

A. Yes, my Lord, I began my----

Mr. Goswami: My Lords, I am objecting at this stage--- it is a leading question.

D.P.P.: Very well, my Lord.

B Q. How did you search this car witness?

A. I began the search of the Datsun car by unlocking the car boot with one of the 3 keys which were earlier handed to me. On opening the car boot cover I did not see anything of a suspicious nature. I then unscrew a cardboard panel in

C the boot of the car and removed this panel. On removing this panel I found several plastic and paper packets stack on top of the car's petrol tank.

Q. Witness, can you look at P.1, first photograph.

A. Yes, my Lord.

D Q. Now, is this how you found the drugs on the petrol tank?

A. It is, my Lord.

Q. And, witness, can you also look at P.3. Now, was this---w the boot of motorcar JS 3705 shown in P.3, can you point to their Lordships the keyhole for opening the boot?

E

A. Yes, my Lord, the keyhole is shown in the photograph just under---beneath the word "Datsun"; there is a round hole, that is the key hole.

Q. And can you describe the mechanism of this?

A. Yes, my Lord, the boot cover requires a key to unlock it

F and to lift it up. There is no lever or press button mechanism which can open the boot.

YING YOKE CHANG

(Examination-in-chief by D.P.P.)(cont'd.)

A Q. And witness which of the keys in the bunch of keys did you use to open up the boot?

(Relevant bunch of keys is shown to witness).

A. This key, my Lord.

Rajah, J.: How many keys are there in the bunch?

B A. In addition there are 2 more keys.

Q. And this key has got a squarish head is it?

A. Yes, my Lord.

Q. Is it different from the ignition key?

A. Yes, my Lord, it is different. This is the ignition key.

C (Witness shows the relevant key to the Court).

Q. That is the key with a circular head?

A. That is correct, my Lord.

Q. And it is also used to open the door on the driver's side?

A. No, the door to the driver's side is the same key as that

D of the boot.

Rajah, J.: Same key as that?

A. As the one of the boot.

Q. Both keys?

A. Both keys, and the door key is the same key.

E Q. And Mr. Ying, the car that you own has it got similar looking keys or similar keys, that is, one key for the door and the boot and another key for the ignition?

A. Yes, my Lord.

Rajah, J.: What is the question?

Verbatim Notes.

YING YOKE CHANG

(Examination-in-chief by D.P.P.)(cont'd.)

A Q. The car that you own, is the key for the door, the driver's side and the key for the boot one key, and the ignition key is a separate key?

A. That is correct, my Lord.

Choor Singh, J.: You have to carry 2 keys all the time?

B A. That is correct, my Lord.

Q. That is an extra safety precaution. Now, witness, are you familiar with the compartalisation of Datsun 160J?

A. I am fairly familiar with the car, my Lord.

Q. And can you look at P.10? Now, can you identify this

C photograph?

A. P.10 shows the boot of the car with the boot cover in the open position.

Q. And in the center of the photograph there is a cardboard?

A. Yes, my Lord, this cardboard is at the furthest opposite

D end of the car boot compartment and this cardboard is just behind the rear passenger seat.

Q. The back-rest of the rear passenger seat, is that right?

A. That is correct, my Lord.

Choor Singh, J.: This cover is original, this panel is

E an original fitting?

A. Yes, my Lord, it is an original fitting.

Q. The car comes from Japan with this panel fitted?

A. Yes, my Lord.

F Choor Singh, J.: That is what we are trying to find out

TAN KAI HO

(Examination-in-chief by D.P.P.) (contd.)

A Interpreter: Now he says: "The car did not pass this area but it was moving in the vicinity of this area."

D.P.P.: Mr. Interpreter, can you please tell him my question is——

B Q. Why were you taken to this place? - not whether the car went there or not.

A. I told Ng Leng Hua that should the heroin be arriving late we would be having dinner and I would be taking them to O.G. restaurant for dinner.

C Q. We don't want that. Witness, why were you driven to this place, that is the three Police officers——

A. Since we were having dinner at O.G. restaurant, chances are that the car would be parked here.

Q. So the purpose of going to this place is to park the

D cars there, is that right?

A. There was no stipulation that the car should be parked here.

Q. But around the vicinity?

A. In that vicinity.

E Q. Now, after you had passed this place, you said that arrangements were made to confifm at 6 o'clock that the drugs had arrived, is that right?

A. Information would be relayed at 6.00 p.m. one way or the other, whether the heroin had arrived or not.

TAN KAI HO

(Examination-in-chief by D.P.P.) (contd.)

A Q. And to whom, information to whom?

A. To Ong.

Q. Ong See Hock?

A. Ong See Hock.

Q. Now, after this arrangement had been made to relay this

B information to Ong See Hock, what happened?

A. Ah Yew and I then alighted from the car.

Q. And what did you do, what did you and Ah Yew do, when you alighted from this car?

A. Ah Yew and I went to my flat in a taxi.

C Q. At approximately what time did you take this taxi to your house, approximately? You don't have to give us the exact time.

A. It was between 4 and 5.00 p.m.

Q. Now what time did you arrive home?

D A. Still between 4 and 5.00 p.m.

Q. Yes, what did youdo when you got home?

A. I took a bath.

Q. Yes?

A. After my bath, at most 5.00 p.m., I heard the sound

E of car horn coming fromdownstairs. I went to the rear of my flat and looked out of the window, I saw the 1st Accused driving an orange-coloured car.

TAN KAI HO

(Examination-in-chief by D.P.P.) (contd.)

A Q. And what did you do next?

A. He waved at me to go down and I waved back indicating to him that I was going down. I told Ah Yew the 1st Accused had arrived and Ah Yew and I then went downstairs.

B Q. Yes, what happened when you went downstairs?

A. I asked the 1st Accused whether the heroin had arrived. He replied that it had, at the same time he turned his head to the back.

Q. Yes, what happened after that?

C A. I told him that his friends had already come to Singapore and they were staying at Miramar Hotel. I suggested to him that we call all his friends and go for dinner first.

Q. Yes, and what did he say to this suggestion of yours?

D A. He did not say anything but we left in his car for Miramar Hotel.

Q. Did you arrive at Miramar Hotel?

A. We went up to the room and the 1st Accused knocked at the door. The door was opened by the 2nd Accused.

E The 1st Accused went into the room first.

Q. Yes?

A. Sim Chai asked the 1st Accused, "Has it arrived?"

TAN KAI HO

(Examination-in-chief by D.P.P.) (contd.)

A Q. Yes, what happened?

A. The 1st Accused replied, "It has."

Q. Yes, what happened after that?

A. I told them to get ready to go for dinner. All of us then went downstairs.

B Q. That is these five persons and you and Ah Yew?

A. Yes.

Q. Yes, and where did you go for dinner?

A. We went to OG. restaurant for dinner.

Q. How did you go to the O.G. restaurant?

C A. We left in two cars.

Q. Which two cars, Witness?

A. A Minor, 5103——

Q. Yes, and the other car?

A. ——and a Datsun, 3705.

D Q. Can you look at P.6, please: are these the two cars that you left in?

A. Yes.

Q. And where did you park, where were these two cars parked when you arrived at O.G.?

E A. Park Road.

Q. Can you look at P.8, please?

A. Yes, my Lords, the two cars were parked here.

TAN KAI HO

(Examination-in-chief by D.P.P.) (contd.)

A Q. Sorry, where?—— I see, where the pick-up is.

Rajah,J.: He is looking at P.8?

D.P.P.: That's right.

Q. Then did you go to the restaurant for dinner, O.G. restaurant for dinner?

B A. Yes, we did.

Q. Now, did you order your dinner at the restaurant?

A. Yes, we did.

Q. Yes, what happened when you ordered the dinner?

A. After I finished my dinner I told the 1st Accused

C and the rest to wait, saying that I was leaving for a short while.

Q. Witness, did you tell them why you were leaving?

A. Yes, before we reached the restaurant for dinner I told the 1st Accused that I would be leaving after

D dinner to go and collect the deposit.

Q. That is the deposit for the heroin?

A. That is so.

Q. Witness, when you left the O.G. restaurant did you leave alone?

E A. I left with Ah Yew.

Q. And where did yougo?

A. Ah Yew and I went towards Central Police Station and outside the Police station we met Ong.

TAN KAI HO

(Examination-in-chief by D.P.Pp) (contd.)

A Q. And did you speak to Ong?

A. Yes, I did.

Q. What happened after you spoke to Ong?

A. I told him the car number——

Choor Singh,J.: What happened, what——

B Q. We don't want what you toldhim.

A. Ong then asked the two of us to leave.

Q. That is you and Ah Yew?

A. Yes.

Q. Did you leave?

C A. Yes.

Q. Where did you go?

A. Ah Yew and I then walked to People's Park building. I then asked Ah Yew to go and tell the 1st Accused and the rest that I would not be returning soon and I

D also told Ah Yew to tell them to leave first.

Q. And did Ah Yew go and see them?

A. Yes, he did.

Q. Did he rejoin you?

A. Yes.

E Choor Singh,J.: What's that?

D.P.P.: Did he, did Ah Yew rejoin you, came to join you later.

TAN KAI HO

(Examination-in-chief by D.P.P.) (Contd.)

A Q. And what happened after Ah Yew joined you?

A. Both Ah Yew and I then went to a block of flats behind People's Park. From a certain storey of the flats we looked down.

Choor Singh,J.: A block of flats?

B A. Certain storey of the block of flats we looked down.

Q. A block of flats? Where is this block of flats?

A. Behind People's Park.

Rajah,J.: From the flat you looked down?

C A. Yes.

Q. And how long did you remain at this——?

A. We observed until they were arrested.

Q. Who is they?

A. The 1st Accused and the rest.

D Q. That is the others, 1st, 2nd and the three friends?

A. Yes.

D.P.P.: My Lords, I have no further questions of this Witness.

Choor Singh,J.: I think we will stop now and resume

E at a quarter-past two.

(Court adjourns at 12.54 p.m. to 2.15 p.m.)

TAN KAI HO

(Cross-examination by Mr.Tham) (contd.)

A A. I wanted to find out from P.C. Ong what the outcome was in respect of his having seen his superior in this matter.

Q. Now Mr.Tan, when you went back to your flat after Miramar Hotel, was your wife in your flat with Ah Yew?

B A. She was in.

Q. Was there anybody else in the flat?

A. Ah Yew and my wife were in my flat.

Q. Now after you had met P.C. Ong and Superintendent Ng Leng Hua and P.C. Yap, were you the one who suggested

C to them as to what plan to lay to trap these people?

A. I can't remember.

Q. You can't remember, could you remember who suggested the car park at Park Road?

A. I can't remember.

D Q. Now could you remember who suggested the plan of bringing these people to O.G. for dinner?

A. I was the one who suggested taking these people to O.G. for dinner.

Q. You were the one and Superintendent Ng agreed to what

E you suggested?

A. Yes.

(contd.)

Miss Leong
@ 11.10 a.m.
2.3.77.

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q Now, Mr Tan, after all this, after your meeting with Ng Leng Hua, PC Yap and PC Ong, you returned to your flat with Ah Yew, isn't it?

A Yes.

Q And that was about 4.50 pm, was it not?

B A It was after 4 pm, still before 5 pm.

Q Pardon.

A After 4 but before 5.

Q Between 3 something pm when you and Ah Yew left the flat to about 4 plus pm, when you returned to the flat with Ah

C Yew, both of you did not go back to the flat at all, isn't it? Between that period.

Interpreter: That means during this one hour, they were not in the flat?

Q Yes.

D A That is so.

Q And during this period, did you or Ah Yew make use of an orange Datsun car owned by the first accused?

A No.

Q Now, Mr Tan, I am putting it to you that between that period

E of time, you and Ah Yew borrowed the first accused's car and said you needed it to see somebody.

A That is not true.

Choor Singh, J: Between 4 and 5 pm?

Mr Tham: No, My Lord, it is between past 3 pm and past

F 4 pm, about 5 pm, during that period when they were out, my case, I am putting to him, is that they used this car during that period.

TAN KAI PO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Rajah, J: The answer is no?

A That is not true.

Q I put it to you that it was Ah Yew who made the suggestion to you in the presence of the first accused tha t both of you use this car.

B Rajah, J: Who made the suggestion?

Mr Tham: Ah Yew made the suggestion to him in the presence of the first accused and said: "Why not use First Accused's car? "

A That is not true.

C Q And at that time, I am putting it to you, at that time when you asked for the loan of the car, the first accused was playing cards with your wife in the flat.

A That is not true.

Q I am also putting it to you that the first accused told you

D that the keys were on top of the refrigerator in your flat and you took the keys.

A That is not true.

Q I also put it to you that just before you took the keys away, when Ah Yew asked the first accused for the loan of the car,

E first accused told Ah Yew that he wanted to go along with both of you because he wanted to buy a racing clock for racing cycles.

Choor Singh, J: What clock?

Mr Tham: Racing clock for racing cycles.

F A That is not true.

Q I also put it to you that the first accused told both of you that he was to return to Malaysia on the same night and his purpose of coming to Singapore was to get the racing clock,

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q (ctd) and that was why he wanted to follow both of you out.

A That is not true.

Q I also put it to you in reply to this, you told the first accused that you would be going away for a short time and asked him towait for you in your flat.

B A No.

Q Now, you said you heard the horn at about 5 pm, right?

A Yes.

Q And you went downstairs with Ah Yew and met the first accused?

A Yes.

C Q Now, did the first accused tell you that he has already transported your 7 lbs of heroin?

A He did not say so, but I asked him: "Have they arrived?" He replied: "They have," and at the same time looking to the back.

D Q Were you both inside or outside the car at the time?

A If I remember correctly, both of us were in the car.

Q And where was Ah Yew, in the car also?

A If I remember correctly, he did not get into the car as soon as I did.

E Q Now, Mr Tan, when you asked the first accused, have they arrived or not, and he looked at the back, did you ask him positively whether your 7 lbs of heroin had arrived or not?

A No.

Q Did the accused ask you whether you had prepared your payment

F for this 7 lbs of heroin?

A After I asked him whether the drugs had arrived and he replied they had, straightaway I told him that his friends were already at Miramar Hotel and suggested that he go along with me to

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A A (ctd) Miramar for dinner.

Rajah, J: Go to Miramar for dinner?

A No, I told him to go alongwith me to Miramar and after that to go for dinner.

Q Now, Mr Tan, did the first accused ask you where he was

B to send this consignment of drugs to you?

A He had not asked me yet.

Q And when did he ask you?

A Therewas no chance for him to ask me.

Q Why was there no chance, Mr Tan? You were in his car; he

C was in his car; why was there no chance to ask you?

A I suggested that we go for dinner first and he did not mention about the delivery.

Q And Mr Tan, are you telling this Court that between the time you left your car park in the accused's car until the time

D you arrived at Miramar Hotel, there was no discussion at all as to where the drugs were to be conveyed, as to how payment was to be made?

A They were not mentioned yet.

Q Was there any discussion at all in the car during this trip

E to Miramar?

Q Were you talking about eating or what?

A I can't remember.

Q Now, I am putting it to you, Mr Tan, that you are telling a lie. If in fact the accused had come with this amount of goods in

F his car, his main concern was to dispose of it immediately, and not food.

A I don't know.

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q I am also putting it to you that the first accused never, never transported these drugs from Malaysia to Singapore on that day.

A My report was he told me the drugs had already arrived and I provided the number of the car to the Police.

B Q I am putting it toyou, Mr Tan, you were the one, you and Ah Yew were the ones who planted these drugs in the accused's car during the time you borrowed the first accused's car.

A That is not true.

Q And this is the reason why, I am putting it to you, the

C first accused had the heart to go around with you and the other friends for dinner at OG. If in fact there were drugs, if in fact he knew there were drugs in the car at that time, he would not have gone to OG at all.

Choor Singh, J: These are arguments and not questions of facts

D Mr Tham: I will have this.

Choor Singh, J: You can mention this in your address.

Q You arrived at Miramar Hotel with Ah Yew and the first accused. All 3 of you went to the room of Sim Chai and the 3 others?

A Yes.

E Q Now, in the room itself, was there a discussion among all of you about the drugs?

A I can only remember that whilst we were in the room, Sim Chai asked the first accused whether the goods had arrived and he replied in the positive. I can't remember anything else other

F than this.

Q You can't remember other things. Do you remember hearing the accused telling the other people in the room how much goods he has conveyed to Singapore?

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A A I did not pay attention to their conversation.

Q How long did you stay in this room before you moved off to OG?

A Some were dressing up, some were talking - I did not pay attention to the time.

Q Would it be around 15 minutes to 20 minutes?

B A Yes, about that.

Q During this period of time, did the first accused ask you as to where the goods would be conveyed to?

A He did not ask me that.

Q Did the accused also ask you about the question of payment

C of the drugs?

A No.

Q Did you inform him as to where-- He did not ask you. Did you inform him as to where the drugs were to be brought to and how he would be paid?

D A I had not told him all these things yet.

Q So you would agree in Miramar Hotel, there is a total blank on the discussion of the drugs?

A That is so.

Q You were the one who suggested going to OG, isn't it?

E A Yes.

Q Now, when you left Miramar Hotel, which car-- You went in 2 cars, isn't it?

A Yes.

Q Which car did you go with?

F A The Datsun car.

Q And how about Ah Yew?

A The Minor.

TAN KAI HO

(CROSS-EXAMINATION BY MR TYAM) (ctd)

A Q Mr Tan, isn't it a fact that when the 2 of you had come down from Miramar Hotel, you and Ah Yew were avoiding the orange Datsun car?

A No.

Q I am putting it to you, Mr Tan, that you were avoiding,

B you and Ah Yew were avoiding sitting in the Datsun car because both of you were the only persons who knew that there were drugs in the car at that time.

A Both Ah Yew and I were not trying to avoid this car.

Q I am putting it to you that it was only after somebody

C remarked why nobody sat in the new car that you walked back and joined the first accused in his car.

A That is not true.

Q Now, we come to OG. Before we go to OG. From Miramar Hotel to OG, were you sitting in front and the first accused

D driving his car?

A Yes.

Q During that trip, did you discuss with the first accused about the drugs that he had conveyed to Singapore?

A I only remember telling the first accused that after

E dinner, I would be taking leave of them to go and collect the $2,000.

Q And what did the accused say to this?

A He agreed.

Q He did not suggest going to see your friend first and get

F the $2,000 deposit before going for the dinner?

A No.

Q Now, how long were you away from OG after you told the first accused that you would be leaving to see your friend? How

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

Q (ctd) long were you away?

A From OG Restaurant?

Q From OG Restaurant. Did you come back to OG Restaurant subsequently?

A I did not return. I only asked Ah Yew to return to OG Restaurant.

Q Would you agree that at the time you left OG, it was about 5.30?

A Yes.

Q And when you left, did you tell the first accused what time you would be back?

A No.

Q He never queried you as to what time you would be back?

A I told him to wait for a while.

Q Now, you passed this information to PC Ong at about 6 pm?

A Yes.

Q After that, you and Ah Yew came back to People's Park and you instructed Ah Yew to go and see the first accused, to leave first, isn't it?

A Yes.

Q Do you agree with me that by the time you had given information and come back to People's Park, it would be about 6.10, latest 6.15?

A Yes, probably 6.10 pm.

Q And it was around that time that Ah Yew went upstairs to inform the first accused and the party to leave for the hotel first?

A Yes.

TAN KAI HO

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q And at that time, Mr Tan, would you agree with me that the Police party had not arrived yet at Park Road?

A By that time the Police party should have arrived.

Q But, Mr Tan, you didn't know, isn't it?

A I remember after telling PC Ong, Ah Yew and I stood at the B coffee shop next to the Police Station for a while and after seeing the Police party leaving, we left.

Q So your earlier evidence is incorrect, Mr Tan, when you said after you informed PC Ong, you went back to People's Park? This is incorrect, isn't it?

C A Immediately after I told PC Ong, PC Ong went into the police station. Ah Yew and I stood at the coffee shop for a while and after seeing the police party leaving, we left.

Q So it would be incorrect to say that you arrived again at People's Park at about 6.15 pm because you had spent some D time standing there waiting?

A At the material time, I did not look at the watch, I did not know the time.

Q Now, you said after that, you and Ah Yew stood at the block of flats and looked at the car park. Could you tell us after how E long had you stood there when the first accused appeared at his car?

A I can't remember the time.

Q But I put it to you that it was as long as one hour, isn't it, from the time Ah Yew went up and came back to where you stood, F until the time you saw the first accused. That lapse of time was about an hour.

A Approximately.

12.35
2.3.77

TAN KAI HO

(Cross-examination by Mr. Tham)(cont'd.)

A Q. And did you not see the 1st accused approaching his car with the 2nd accused and Sim Chai?

A. From where I was it was too far away. I did not see clearly.

Q. Now, but did you see any of them carrying any paper baskets when they were approaching the car——paper bags, I am sorry,

B paper bags?

A. I could not see clearly.

Q. And after that did you go to the Central Police Station?

A. I cannot quite remember.

Rajah, J.: You can't remember? The question is after

C that did you go to the Police Station?

A. I can't remember.

Q. Now, Mr. Tan, I am putting it to you that the whole case against the 1st accused is a frame-up by you.

A. That is not true.

D Q. And I am also putting it to you that the 1st accused did not have any dealings with you on drugs.

A. He has this dealing with me in respect of the 7 pounds of heroin.

Q. And I am also putting it to you that you knew that the accused

E had an unpleasant past with your wife Goh Kah Noi.

A. That is not true.

Q. And you and your wife were introduced to the 1st accused sometime in April or May 1975, I put it to you that you and your wife were introduced to 1st accused sometime in April

F or May 1975 by Ah Yew.

LEE CHING CHUAN @ AH YU

(Examination-in-chief by D.P.P.)(cont'd.)

A D.P.P.: My Lords, P.W. 10, that is , Tan Kai Ho has just left the court for a short while to go to the gents, my Lord.

Q. Now, witness, after you were introduced to P.C. Yap and Ng Leng Hua did you go anywhere?

B A. Yes, he drove us to a car park at Park Road near the Subordinate Courts.

Q. Who is he witness?

A. Superintendent Ng Leng Hua.

Q. Now, witness, can you look at P.8. Can you identify this

C photograph? (Relevant photograph is shown to witness).

A. Yes, I can identify P.8.

Q. Is this the car park at Park Road near the Subordinate Courts Complex that you went with the 3 police officers on that day?

A. Yes.

D Q. Now, why did you go to this car park, do you know why you were taken to this car park?

A. Superintendent Ng Leng Hua had arranged for us to go to the car park, to the vicinity of the car park.

Q. What time did you leave the car park witness?

E A. We left the car park at 4.30 p.m.

Q. And what did you and Tan Kai Ho do after leaving the car park at 4.30 p.m.?

A. Tan Kai Ho and I returned to his flat.

Q. Was anybody at Tan Kai Ho's flat when you returned to his flat?

F A. Yes, his wife was in.

Verbatim Notes.

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.)(cont'd.)

Q. Was any other person present apart from his wife?

A. No, my Lords.

(cont'd.)

John @ 12.25 p.m.
7.3.77.

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Q. Now, Witness, what happened at Tan Kai Ho's flat?

A. Tan Kai Ho then went for his bath. At about 5.00 p.m. I heard the sound of a car horn coming from downstairs.

Q. Yes, what happened when you heard the sound of the car horn coming from downstairs?

B A. Tan Kai Ho, he stretched out his neck to have a look at the car park.

Q. To look out through what, Witness, stretched his neck to have a look through what?

A. Through the window at the kitchen.

C Q. Witness, what happened after Tan Kai Ho looked out through the window of the kitchen?

A. Tan Kai Ho told me that the 1st Accused had arrived and he told me to go down.

Q. And did you go down?

D A. Yes, we went down.

Q. With Tan Kai Ho?

A. Yes, with Tan Kai Ho.

Q. Now, Witness, what happened when you went to the ground floor of the block of flats with Tan Kai Ho?

E A. I went to a provision shop to buy some cigarettes before getting into the car, and I was subsequently driven to Miramar Hotel.

Q. Can you look at P.3——

LEE CHING CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Rajah,J.: You and Tan Kai Ho, is it?

A. Yes.

Q. Can you look at P.3, Witness? is this the car that you saw driven bythe 1st Accused?

A. Yes, my Lords, this is the car I saw and was driven

B by the 1st Accused.

Q. Witness said you went to buy some cigarettes; when did you go and buy some cigarettes?

A. I bought some cigarettes from provision shop on the ground floor.

C Q. And after buying the cigarettes you walked towards the car, is it?

A. Yes.

Q. And where was Tan Kai Ho when you went to buy the cigarettes?

D A. Tan Kai Ho was then walking towards the car when I went to buy cigarettes.

Q. And when you arrived at the car, where was Tan Kai Ho, after buying the cigarettes that is?

A. Tan Kai Ho was already in the car.

E Q. And you then went to Miramar Hotel in the car with Tan Kai Ho, driven by the 1stAccused?

A. Yes.

Q. Did anything transpire in the car?

A. No, nothing transpired in the car. I did not know what

F had transpired in the car before I got into it.

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Q. Now, did you arrive at the Miramar Hotel with the 1st Accused and Tan Kai Ho?

A. Yes.

Q. What did the three of you do when you arrived at the Miramar Htel?

B A. On arriving at Miramar Hotel all the three of us went to look for the 2nd Accused and three of his friends in the room at Miramar Hotel.

Q. Now, did you find the room where the 2nd Accused and the three friends were in the Miramar Hotel?

C A. Yes, we found the room where they lived.

Q. And did you meet them?

A. Yes, I met them.

Q. Now, can you tell what happened in the room of this hotel?

D A. In the roomthe 1st Accused introduced the three other persons to me.

Q. That is the three persons you have identified earlier?

A. Yes.

Q. Yes, what happened after the 1st Accused had intro-

E duced these three persons to you?

A. I heard someone asking the 1st Accused whether the 'goods' had been ready.

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Choor Singh, J.: Whether the goods——?

A. ——the goods had been ready.

Q. Had been ready?

A. Yes.

A.(ctd.) And I heard the 1st Accused saying, "ready".

B Q. Now, what happened after this, after this remark?

A. Sometime after 5.00 p.m. all of us left for O.G. restaurant in two cars for dinner.

Q. That is the two accused persons, their three friends, the three persons, and Tan Kai Ho and you?

C A. Yes.

Q. Now, these two cars were the Datsun and the other was a Morris Minor?

A. Yes.

Q. Where did you go for dinner that evening, Witness, all

D of you?

A. We went to O.G. restaurant for dinner.

Q. And where were these two cars parked?

A. The two cars were parked at the car park at Park Road.

Q. Can you look at P.8, please: is this the place where

E you parked, where the two cars were parked?

A. Yes, the two cars were parked at the car park as shown in P.8.

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Q. Now after you had parked the cars you went to dinner at the O.G.restaurant?

A. Yes.

Q. Witness, do you know who was driving JS.3705, the Datsun?

A. I t was the 1st Accused who drove JS.3705.

B Q. Now, what happened at the O.G. restaurant?

A. We finished dinner at about 5.30 p.m. when Tan Kai Ho told the 1st Accused that he would be leaving to collect the deposit from the buyer.

Q. Deposit for what, Witness, did he specify deposit for

C what?

A. The deposit for the herein.

Choor Singh,J.: Tan Kai Ho told——?

A. ——told the 1st Accused that he would be——

Q. That 'he' or 'we'?

D A. ——that he would be leaving with me.

Q. After saying that, did he leave?

A. Tan Kai Ho and I then left the restaurant.

Q. Where did you go?

A. We went straight to Central Police Station.

E Q. Did you meet anybody?

A. At the coffee-shop near the Central Police Station we met P.C. Ong.

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Q. Did you or Tan Kai Ho speak to P.C. Ong?

A. Yes.

Q. We don't want to know what youtold him or what Tan Kai Ho told him, but what happened after that?

A. Tan Kai Ho then passed over the car number, JS.3705,

B to P.C. Ong.

Q. We don't want to know that. What happendd after you had spoken, you and Tan Kai Ho had spoken to P.C. Ong or not P.C. Ong?

A. We left the coffee-shop.

C Q. Where did you go?

A. We went to the Park Road car park.

Q. And what did you do?

A. We waited until Superintendent Ng came to the car park.

Q. Now, before that, Witness, what did you do?

D A. After getting in touch with P.C. Ong in the coffee-shop P.C. Ong told us that he would be going back to Central Police Station to see his superior officer.

Q. No, No, you left the coffee-shop next to the Central Police Station, you walked back to the car park. But

E did you do anything after arriving at the car park in Park Road?

A. I went to O.G. Restaurant alone.

LEE CHANG CHUAN & AH YU

(Examination-in-chief by D.P.P.) (contd.)

A Rajah,J.: After Superintendent Ng came to the car park?

A. After the Superintendent had come to the car park.

Q. Why did you go to the O.G. restaurant?

B A. Tan Kai He told me to go back to O.G. restaurant and inform the 1st Accused that the buyer was not free and he would be coming some time later, in the meantime the 1st Accused to go anywhere he liked.

Q. Witness, what did you do after telling the 1st Accused

C that?

A. After that I also sought excuse and left the restaurant by saying that I would be going to Amoy Street to ascertain whether there was going to be any work to do.

D Q. Yes, and where did you go after leaving the restaurant?

A. I went to see Tan Kai He and both of us then went to a block of flats near People's Park complex.

Choor Singh,J.: Both of us went——?

A. ——to a block of flats near the People's

E Park complex.

Q. Now, why did you go to this block of flats near the People's Park complex?

LEE CHANG CHUAN @ AH YU

(Examination-in-chief by D.P.P.) (contd.)

A A. We went there intending t' see whether the Accused would be coming to the car park and how they were going to be arrested.

Q. And how long did you remain at this block of flats?

A. We remained there until they were arrested.

B Q. That is the 1st and 2nd Accused?

A. Yes.

D.P.P.: I have no further question of this Witness.

Chaor Singh, J.: I think we'd better resume—— We will adjourn now and resume at a quarter-past

C two.

(Court adjourns at 12.52 p.m. to 2.15 p.m.)

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q I am putting it to you that after that you and Kai Ho then left the flat for about 15 to 20 minutes, leaving the first accused still playing cards with Kai Ho's wife.

A No.

Q And I am putting it to you that on your return, you also

B joined in the card game.

A No.

Q I am putting it to you that at about 3.10 pm or so, both of you, both you and Kai Ho indicated tothe first accused that you were leaving the flat to visit a friend.

C A That is not true. The first accused was not in his house at the time.

Q Can you drive, Mr Lee?

A Yes, I do.

Q You possess a driving licence, isn't it?

D A Yes.

Q I am putting it to you that at that time when both of you told the first accused that you were looking for a friend, you made the remark: "Want to borrow the car or not?" You made the remark to Kai Ho: "Want to borrow the car

E or not?"

A No.

Q I am putting it to you then Kai Ho said: "Yes."

A No.

Q And Kai Ho then asked the first accused to loan his car

F to him for a short while.

A No.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q I am putting it to you the first accused told him that he wanted to go with both of you as he wanted to buy a racing clock.

A No.

Q And I am putting it to you that to this Kai Ho replied that B both of you would be going for a short while and asked him to wait until his return.

A No.

Q And it was under these circumstances that the first accused finally agreed and told Kai Ho to get the keys himself from C the top of the fridge.

A No.

Q And it was then that you left with Kai Ho with the keys of the car?

A No.

D Q Would you agree that you returned to the flat at about 4.50pm that afternoon?

A No, I returned to Kai Ho's flat at about 4.30 pm.

Q I am putti ng it to you that on your return to the flat, the first accused was then sleeping on the floor next to the bed in the flat.

A No.

Q And you awakened him, and Kai Ho said: "Get up quick. Go for dinner. Wash your face."

A No.

F Q And I am putting it to you that the first accused got up and he then left the flat with you and Kai Ho, and that was about 5 pm.

A At about 5 pm, I heard a car horn and we went down and left

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A A (ctd) together with the first accused.

Q You said you have been informed by the second accused that the drugs would be arriving between 4 to 6 pm. Now, when you left the flat with Kai Ho at about 3 something pm or so, did you leave word with thewife that if somebody were to

- call at say 4 pm, ask him to wait? Did you leave such words with the wife?

A No, I didn't.

Q But, Mr Lee, you know as a fact that the drugs would be arriving, from your evidence, between 4 to 6 pm, and you

C were keeping an appointment at 4 pm, were you not, with PC Ong? Why didn't you leave word with Kai Ho's wife when leaving the flat?

A I seldom talk to her.

Q But why didn't you tell Kai Ho to inform the wife

D if sombbody comes between this time, wait for us to come bac

A It is something between Kai Ho and his wife.

Q But, Mr Lee, would you agree with me if this arrangement is not made, and this somebody comes at 4 pm, and you were not found, he would have gone away and all your plans would be

E futile.

DPP : My Lord, I must object to this question. Nowhere has this witness stated that the drugs would be coming to Tan Kai Ho's flat between 4 and 6. The question presupposes that the drugs would be arriving

F at Kai Ho's flat between this time.

Mr Tham: If I may clarify.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q Now, in your mind, Mr Lee, is it not true that you were expecting the drugs to be arriving at the car park at Kai Ho's house?

A I did not know about that.

Q Then where is the place of contact?

B A In fact I did not know how were the drugs to be transported and where were the drugs also was not known to me.

Q But where was theplace of contact? Where was this person going to meet either you or Kai Ho if the drugs had in fact arrived? Was it in Kai Ho's flat?

C A Yes, he would come to Kai Ho's flat.

Q And from your evidence, would you not agree with me that the person who would be contacting you would be the first accused because, as from your evidence, you said he told you to go to Singapore to inform Kai Ho th e following morning, isn't it?

D A Yes.

Q And you also knew as a fact, from your evidence, that the second accused told you: "Coming, 4 pm to 6 pm." Is it not in your mind that this person who is going to contact you would come around that time?

E A The second accused merely told me that the drugs would be arriving between 4 and 6 pm.

Q We know that, but the person who will contact you or Kai Ho about the drugs would be someone who would be calling around that time, beween 4 and 6 pm?

F A I can't say whether that person would be looking for me or Kai Ho or someone else.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q Who is this someone else, Mr Lee?

A I would not know where he would bring the drugs to.

Q Now, I am putting it to you, Mr Lee, that if in fact there was such an appointment, that the drugs would be arriving between 4 and 6 pm, as a reasonable man, either you or Kai He would

B leave word with the wife for this person to wait for both of you.

A I seldom talk to Kai He's wife and it was not necessary for me to leave word with her. Furthermore, I would not know who would be coming to Kai He's flat.

C Choor Singh, J: You are again speculating, Mr Tham. That is your thinking.

Mr Tham: But from this thinking, this certain person would be arriving between a certain period of time. He has got an appointment at 4 pm.

D Choor Singh, J: It is speculation.

Mr Tham: Then I will put a direct question to him.

Q I am putting it to you that the fact that both of you have not left word with Kai He's wife clearly shows that there was no discussion at all about drugs arriving between 4 to 6 pm

E on that day.

Choor Singh, J: That is a matter for submission. Why ask him?

Mr Tham: I will leave it to Your Lordship.

Choor Singh, J: Thatis a matter for argument, for submiss

F Mr Tham: Now I would refer to page 24 of the deposition, second sentence, My Lord, at page 24. I will read it, My Lord.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

Q ow, Mr Lee, you said in the Court below that Ooi See Hai told Tan Kai Ho that Koh Chai Cheng would be arriving later in the afternoon between 4 and 6 pm. The name was mentioned here. How do you explain this discrepancy?

Mr Tham: My Lord, itis quite specific in page 24 itself. The name has been mentioned; Koh Chai Cheng is the first accused.

Choor Singh, J: That is a question you should first ask him. You have never asked this witness so far whether No 2 accused told Tan Kai Ho that the first accused would be arriving later. That question has not been put to him.

Mr Tham: I shall ask him this.

Choor Singh, J: Yes.

Q Did you hear the second accused telling Tan Kai Ho that Koh Chai Cheng would be arriving between 4 to 6 pm on that day?

DPP : Perhaps he should be given the time as well when he is supposed to have made the statement.

Mr Tham: That is the time when they met at the car park.

Choor Singh, J: 2.30 pm.

Mr Tham: About 2.30 pm.

Choor Singh, J: Do you understand the question?

A I don't quite understand.

Choor Singh, J: After your lunch with PC Ong, when you and Tan Kai Ho came back to his flat, in the carpark you met No 2 and some friends of his, and then there was conversation. In that conversation, did you hear No 2 accused tell Tan Kai Ho that the first accused Koh Chai Cheng would be coming that afternoon between

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Choor Singh, J: (ctd) 4 and 6 pm.

A I did not hear him saying this.

Choor Singh, J: You did not hear No 2 accused tell Tan Kai Ho that Koh Chai Cheng would be arriving later that afternoon between 4 to 6 pm?

A It was I who asked the second accused when would the goods be arriving.

Choor Singh, J: The answer is yes or no. Did you hear No 2 telling Tan Kai Ho that No 1 would be arriving later between 4 and 6 pm?

C A I didn't.

Choor Singh, J: Well, in the Court below, you said you did. It was recorded in the Preliminary Inquiry that you di

A This took place about one year ago.

Choor Singh, J: So you don't remember?

A I can't remember.

Choor Singh, J: All right.

Mr Tham: I shall leave this for submission, My Lord.

Q Now, as you said, you heard the horns at 5 pm. Were both Kai Ho and you waiting for horning of cars?

A Both Kai Ho and I were sitting in thekitchen when we heard the car horn.

Q And both of you went downstairs where you saw the first accused, isn't it?

A Yes.

F Q Both of you then went into the car?

A Kai Ho got into the car first.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q Andthis car took both of you to Miramar Hotel?

A Yes.

Q You were seated at the back of the car, were you not?

A Yes.

Q Whilst the 3 of you were in the car, did you ask the first accused or not whether the goods had arrived?

A I did not ask him.

Q Did Kai Ho ask him whether the drugs had arrived or not?

A I don't know.

Q You were so near, you were just behind them. If he had aske youwould have heard it.

A While we were in the car, Kai Ho did not ask the first accused. When the 3 of us were together, Kai Ho did not ask the first accused about this.

Q But the 3 of you, did you all discuss about the drugs that Kai Ho was about to buy from the first accused?

A No, not in the car.

Rajah, J: That is in the Datsun car?

A Yes.

Q You also did not hear the first accused asking Kai Ho where the drugs were to be sent to in the car?

A I didn't.

Q Did you find out whether the drugs were in fact in that car which you were inside?

A No.

Q You were not interested at all?

A It is not that.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

Q Then why? You took the trouble to ask the second accused when the drugs would be arriving. Here somebody has come in. Why didn't you ask him: Is the drug here?

A I asked the second accused these questions because the second accused has something to do with the first accused. That was the reason why I raised this question with the second accused.

Q But here, Mr Lee, you took so much pains and troubles going to Malaysia to get news when the drugs were coming down and then come back to Singapore to inform Kai Ho about the drugs. Somebody has arrived at about 5 pm. You are telling this Court that you never asked this person whether the drugs had arrived or not:

A That was something between the buyer and the seller.

Rajah, C: Just answer the question: Did you ask him or not?

A I didn't.

Q On that day even at Miramar Hotel, you never asked the first accused whether the drugs had arrived or not?

A I didnot ask him this.

Q Even at OG when you had your dinner there, you again never asked the first accused whether the drugs had arrived or not.

A I didn't.

Q Now, you have not asked the first accused whether the drugs had arrived or not. Did you know as a fact whether the drugs had arrived or not?

A In my mind since he had come to Singapore, I presumed that the drugs must have arrived.

LEE CHANG CHUAN @ AH YU

(CROSS-EXAMINATION BY MR THAM) (ctd)

A Q Whilst in the Miramar Hotel, did you hear any discussion on the question of drugs?

DPP : My Lord, the question is vague - discussion between whom?

Mr Tham: Between anybody.

Choor Singh, J: You should ask him: Did you hear drugs being mentioned?

Q Did you hear drugs being mentioned while you were at Miramar Hotel?

12.35
8.3.77

LEE CHANG CHUAN @ AH YU

(Cross-examination by Mr. Tham)(cont'd.)

A A. Whilst at the Miramar Hotel I heard someone asking the 1st accused whether the drugs were ready and the 1st accused answered in the affirmative.

Q. And there were no other questions, only one question "Were the drugs ready?" and the 1st accused replied "Ready" and that

B is that?

A. Apart from this the 1st accused also introduced Sin Chai, Sin Jin Thean and Li Thong Ewi to me.

Q. Now, you did not hear anybody asking the 1st accused "Has the goods arrived?"

C A. I only heard someone asking the 1st accused whether the goods were ready.

Q. The word was "ready"?

Rajah, J.: What did you understand by the word "ready".

A. I understood that to be whether the goods

D had arrived safely.

Q. I am putting it to you Mr. Lee that there was no such conversation at Miramar Hotel.

A. This is a fact.

Q. Now, when you left the Miramar Hotel for OG restaurant which

E car did you sit? There were 2 cars, isn't it? Which car did you sit?

A. I travelled in the Morris Minor.

Q. At that time is it not a fact you knew there may be drugs in JS 3705?

F A. I did not expect that the goods would be in JS 3705.

LEE CHANG CHUAN @ AH YU

(Cross-examination by Mr. Tham)(cont'd.)

A Q. You did not expect goods to be in JS 3705 then why did you and Kai Ho take the trouble to give information to P.C. Ong at about 6.00 p.m. that the goods had arrived?

D.P.P.: My Lords, I must object to this question. It is from the evidence quite clear that

B Tan Kai Ho has asked the 1st accused "Are the goods here" and he said "Yes" and he looked into the back of the car indicating with his head; and this witness has said that he was not there;

C at that point of time he had gone to buy some cigarettes. So it is not fair to ask this question of this witness.

Mr. Tham: But, my Lord, in this case from his earlier reply he said he did not expect.

Choor Singh, J.: That is he——

Mr. Tham: What I would like to press on further——

Q. Now, if you did not expect drugs to be found in the 1st accused's car why did you go with Kai Ho to see P.C. Ong.

Choor Singh, J.: He is the man with the information - Tan

E Kai Ho is the man with the information.

Mr. Tham: Then I will put a direct question to this witness.

Q. Now, Mr. Lee I am putting it to you that you took the Morris Minor car because you knew as a fact——you and Kai Ho knew that

F there were drugs in JS 3705.

Choor Singh, J.: What is the point you are trying to make?

LEE CHANG CHUAN @ AH YU

(Cross-examination by Mr. Than)(cont'd.)

A Mr. Than: I am putting it to him——

Choor Singh, J.: Of course at that time Tan Kai Ho knew that the goods were in the car, he would in the car, so what? Does that show that your man is innocent? I don't

B understand why you are putting this to him. You are now putting the same thing to this witness. What is the logic behind this?

Mr. Than: I am saying that he was the——he and Kai Ho

C were the only persons who know at that time that the drugs were in the car and that is why they were avoiding JS 3705 because they were the only persons who know at that time that there was drug and the next question that

D I would follow is that "You planted these drugs there - you and Kai Ho planted these drugs there."

Choor Singh, J.: Very well, put it to him then.

Q. Mr. Lee, I put it to you that you and Kai Ho were the only

E persons who knew that there were drugs in JS 3705 because you and Kai Ho were the ones who planted these drugs there.

A. That is not true.

Q. And I am putting it to you that these drugs were planted in the car when you and Kai Ho borrowed the car away from the 1st accused at about 3.10 p.m. or so.

A. That is not true.

LEE CHANG CHUAN @ AH YU

(Cross-examination by Mr. Tham)(cont'd.)

A Q. Now, Mr. Lee after the dinner when you left with Kai Ho did you mention or did either you or Kai Ho mention to the persons who were still there what time you would be coming back?

A. We told them that we would try and get in touch with the buyer before giving them a reply.

B Q. So you told them the intention was to get in touch with the buyer and not to get a deposit isn't it?

A. To get in touch with the buyer and to collect deposit were under the same circumstances.

Q. Now I am putting it to you Mr. Lee that when you and Kai Ho C left the party at OG restaurant both of you only mentioned to these people that you were going for a short while to look for a friend. Nothing was said about collecting deposit for these goods.

A. I deny that.

D Q. Now, up to this date Mr. Lee has Kai Ho promised you a share of the reward——I withdraw this question——now, Mr. Lee do you know whether you would get a reward or not for being a Police informer in this case?

A. At that time I did not know that I would get a reward.

E Q. Now?

A. Yes, now I know that I would be given a reward.

Q. When did you find out that you would get a reward for this case?

A. When I was at Amoy Street where all sorts of people used to gather together I heard someone mentioning about Police having F recovered a large quantity of drugs and that the informer would be given a reward. That was the time I came to know that I would be given a reward.

Choor Singh, J.: You call him out.

D.P.P.: Yes, my Lord. The second witness, my Lord, is Li Tong Ewi; the last and third witness is Sim Chai. My Lords, I have also informed my learned friends by letter dated 22nd February 1977 that they could interview these 3 witnesses, my Lords.

(Three witnesses produced).

Choor Singh, J.: Now, Mr. Tham do you require them?

Mr. Tham: I may require these witnesses if defence is called.

Choor Singh, J.: You require them?

Mr. Tham: I will require them.

Choor Singh, J.: Mr. Ram?

Mr. Goswami: I also require them but I do not know which of the 3 I will be calling.

Choor Singh, J.: Well, they can remain where they are; ask them to go back to the witness room.

D.P.P.: My Lords, I would appreciate if my learned friends could indicate when definitely they would require these witnesses as a considerable amount of arrangements have been made to transport these witnesses to court.

Choor Singh, J.: Well, you discuss this with them.

Mr. Tham: Yes, I will discuss it.

D.P.P.: My Lords, I also wish to tender in an amended charge and copies of these charges have been given to my learned friends. This amendment relates only to the deletion of the words——

Verbatim
Notes.

D.P.P.: (ctd.)——"7.10 p.m.". My Lord, apart from that the charge remains substantially the same.

(ctd.)

John @ 11.10 a.m.
9.3.77.

A Choor Singh,J.: What is the deletion?

D.P.P.: The time is deleted, the time 7.10 p.m. is deleted, and the words 'unlawful' has also been deleted. But otherwise the Charge is substantially the same.

B Choor Singh,J.: So your application is to amend the Charge, your application is to amend the Charge?

D.P.P.: That is so.

Choor Singh,J.: Well, any objections?

Mr. Tham: I am afraid I have no objection, but I

C believe my learned friend has.

Mr. Goswami: My Lords, by this amendment the Charge becomes vague, it doesn't tell us when exactly my client is supposed to have committed the offence?

Choor Singh,J.: Well, obviously on the 24th of April—

D on or about the 24th of April.

Mr. Goswami: My Lord, only the day is specified, but in a charge involving a capital sentence we should be told at what time the crime was committed, because otherwise it's very vague?

E Choor Singh,J.: Yes, any other objection?

Mr. Goswami: No other objection.

Choor Singh,J.: Allright, so your objection is over-ruled. Your application is allowed.

A D.P.P.: My Lords, may the amended Charge be read to the accused persons?

Choor Singh,J.: Yes. Ask the Interpreter to explain the Charge.

D.P.P.: Mr. Interpreter, will you please explain the

B amended Charge?

Interpreter: The amended Charge has been read to the Accused. They claim trial.

Choor Singh,J.: Yes, what do they say, do they claim trial or what?— Yes, say so.

C Do you wish to recall any witnesses?

Mr. Tham: No, my Lord.

Mr. Goswami: I do not wish to recall any witness.

Choor Singh,J.: Have you any submissions to make?

Mr. Tham: Yes, my Lord.

(Court resumes at 12.05 p.m. on 16.3.1977.)

Closing Addresses.

Mr. Tham	...	...	12.05 p.m. to 1.08 p.m. 2.15 p.m. to 3.15 p.m.
D.P.P.	...	...	3.15 p.m. to 4.05 p.m.

(Court adjourns at 4.05 p.m., 16.3.77 to 10.30 a.m. on 17.3.1977.)

(Court resumes at 10.30 a.m. on 17.3.1977.)

Closing Addresses(ctd.)

D.P.P.(ctd.)	...	...	10.30 a.m. to 11.50 p.m.

(Court adjourns briefly at 11.50 p.m.)

Philip @ 12.15 p.m. (Court Resumes) Verbatim Notes.
17.3.77.

FINDING OF THE COURT:

A Choor Singh, J.: The court finds the accused guilty of the charge on which he has been tried. He is accordingly convicted on the said charge.

(SILENCE IS CALLED)

(DEATH SENTENCE IS PASSED)

B D.P.P.: My Lords, I have an application under section 25 of the Misuse of Drugs Act for the forfeiture of the vehicle JS 3705. Mr. Lim is acting on behalf of the Finance Company.

Mr. Lim : I am acting on behalf of the Finance company.

C Choor Singh, J.: The car is registered in his name, we will hear Mr. Tham first then we will hear you.

Mr. Tham : I have nothing to say.

Choor Singh, J.: What have you got to say Mr. Lim? We will assume for purposes of this inquiry that the

D company is innocent. Do you still say that the car should not be forfeited?

Mr. Lim : The disposal inquiry, my Lord——

Choor Singh, J.: What is that?

Mr. Lim : The disposal inquiry, my Lord.

E Choor Singh, J.: We will deal with it right now. What have you got to say? What is your reason? On what grounds should the car not be forfeited? You have no grounds?

Mr. Lim: I have no grounds.

F Choor Singh, J.: Well, then, the order is that it will be forfeited to the State.

IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Criminal Case No. 39 of 1976

Public Prosecutor

v.

1. Koh Chai Cheng
2. Ooi See Hai

Coram: Choor Singh J.
A.P. Rajah J.

A GROUNDS OF JUDGMENT

The accused were charged before us on the following charge:

> "That you on or about the 24th day of April 1976 at about 7.10 p.m. at Park Road, Singapore, in furtherance of the common intention of both of you, did unlawfully traffic in a controlled drug specified in Class A of Part I of the First Schedule of the Misuse of Drugs
> B Act, 1973 (No. 5 of 1973) to wit, 1.256 grams of diamorphine without authorisation under the said act or regulations made thereunder and you have thereby committed an offence under section 3(a) and punishable under section 29 of the Misuse of Drugs Act, 1973 read with section 34 of the Penal Code (Cap. 103)"

The case for the prosecution centred around and was mainly dependent on the evidence of two witnesses, namely, Tan Kai Ho (P.W.10) and Lee Chang
C Chuan @ Ah Yu (P.W.25), who acknowledged that in this case they had been acting as Police informers and had helped the Police in laying a trap for the arrest of the accused on 24th April 1976 at 7.10 p.m. or thereabouts.

Tan Kai Ho was born in Singapore and as a child went to Batu Pahat where he remained until he

A returned to Singapore when he was 18 years old. He first met the 1st accused some six years prior to the events which led to the arrest of both the accused. Tan Kai Ho was married to Goh Kah Noi (P.W.17) on 1st March 1974. He was an odd job labourer. He claimed that he had no other income other than his wages as an odd job labourer. In
B April 1976 he was living with his wife at Block 63 652E Havelock Road.

Sometime in February 1976 Tan Kai Ho went to Batu Pahat for a holiday and there met the first accused, Koh Chai Cheng @ Lau Sai. First accused told him that he was in possession of heroin and requested his assistance in the finding of a
C buyer for him for the heroin in Singapore. He told the first accused that he would see what he could do in this matter and that if he was able to find a purchaser he would then contact him. He told the Court that when he said this he did not have any intention of looking for a buyer. He then returned to Singapore on the following day.

D In Singapore, he knew a person by the name of Lee Chang Chuan @ Ah Yu (P.W.25) whom he had known since his boyhood days in Batu Pahat. Ah Yu is a Malaysian citizen but he now lives at 191-B Zion Road, Singapore and works in Singapore as a stevedore on a work permit. His family, however, live in Batu Pahat. Ah Yu was in the habit of visiting him from time to
E time. Sometime in 1975 Ah Yu had approached Kai Ho and told him that he had the intention of doing heroin---

A business. Kai Ho told him that he was not interested and advised him against it. However, when Ah Yu visited him again in late February 1976 he remembered what Ah Yu had told him previously about doing the heroin business and told him that he could buy as much as 7 lbs. of heroin.

Now, sometime in 1975 Ah Yu had met the
B first accused in a gambling den in Batu Pahat for the first time. He owed the first accused $1,000/- as a result of gambling in the den. First accused pressed him for payment but he had no money to pay the debt. The first accused then suggested to him that he would recommend to him one way in which he could make money to settle the debt. Initially he
C did not say in what way he (Ah Yu) could settle the debt but later first accused told him that if he could dispose of some heroin in Singapore he (Ah Yu) was to let him know. Ah Yu agreed to find the first accused a purchaser for the heroin in Singapore.

Kai Ho saw the first accused again in Singapore in late March 1976 with Ah Yu who had
D brought the first accused with him to Kai Ho's flat in Havelock Road with a view to effecting a sale of the heroin of the first accused to Kai Ho. At that time Ah Yu did not know that the first accused and Kai Ho were friends. The first accused then asked Kai Ho if he had found a buyer for his heroin. He told the first accused that he had already found
E one and that he was then negotiating with the buyer in regard to this matter.

A Sometime in the afternoon of 12th April 1976 the first accused brought the second accused to Kai Ho's flat in Havelock Road and introduced him to Kai Ho. The three of them adjourned to a coffee shop where the first accused asked Kai Ho whether he had already finalised the negotiations with the buyer. Kai Ho told him that he could buy up to 7 lbs of
B heroin from him

First accused told Kai Ho that he would require a deposit of $2,000/-. Kai Ho told the first accused that he would pay him the deposit asked for the moment the "goods" reached Singapore. First accused agreed to this. Kai Ho then told the first accused to get Ah Yu to inform him before the "goods"
C arrived in Singapore. First and second accused then returned to King's Hotel where they were staying. After the first and second accused had left, Kai Ho went to see Ah Yu and both of them then went to King's Hotel where he introduced the second accused to Ah Yu. They then (all four of them) went out to dinner and a movie. After the movie first and
D second accused returned to their hotel and Ah Yu and Kai Ho to their respective homes.

Kai Ho and Ah Yu met both the accused on the following day, i.e. 13th April 1976. Both the accused then checked out of the King's Hotel and with the help of Kai Ho and Ah Yu booked themselves in the New Serangoon Hotel.

E On 17th April 1976 Kai Ho and Ah Yu went to Batu Pahat with the intention of finding out from

A the first accused when the "goods" would be arriving in Singapore. However, Kai Ho did not see the first accused as was the original intention. Instead Ah Yu saw him in connection with the question of when the heroin would come into Singapore. First accused told Ah Yu that the heroin would be arriving in Batu Pahat in a week's time and that he (Ah Yu) would B either stay in Batu Pahat to receive the heroin or return to Singapore. Ah Yu passed on this information to Kai Ho and they returned to Singapore on the following day, 18th April 1976.

When in Singapore on 18th April 1976 Kai Ho told Ah Yu that he had not in fact found a buyer for the heroin and that his idea was to inform the C Police about this at the appropriate time. Ah Yu was surprised when he heard this but he was willing to go along with Kai Ho with his idea about informing the Police about t is affair.

Ah Yu went again alone on 21st April 1976 to Batu Pahat to await news from the first accused regarding the heroin. On the night of 23rd April 1976 D the first accused called at Ah Yu's house and told him that the heroin would be arriving in Batu Pahat either on that night or the following morning. The first accused then instructed Ah Yu to return to Singapore on the following morning and inform Kai Ho that the heroin would be arriving in Singapore on the morning of 24th April 1976.

E Ah Yu left Batu Pahat for Singapore alone on the morning of 24th April 1976 and arrived at Kai Ho's flat at about 10.30 a.m. Ah Yu told him that

A the first accused had visited him on the previous night at Batu Pahat and had told him that the "goods" would be arriving in Singapore on the 24th. Ah Yu and Kai Ho remained in the flat till about 12.00 noon. Both of them then went to Block 79 Indus Road to the flat of a Police Constable one Ong See Hok (P.W.26) with whom Kai Ho was acquainted. The
B three then left for the O.G. Restaurant where they took lunch. Kai Ho knew that P.C. Ong See Hok was from the Police Force. During the course of the lunch Kai Ho told P.C. Ong that a consignment of heroin would be arriving that day and that he would contact him again if it in fact did arrive. P.C. Ong informed Kai Ho that he would have to inform his
C superior about this matter and that he would give Kai Ho a reply at 4.00 p.m. After finishing their lunch P.C. Ong left. Ah Yu and Kai Ho then took a bus to Kai Ho's flat and reached it at about 2.30 p.m. when on the ground floor of his block of flats they met the second accused. He was with 3 other persons, namely, Sim Jin Thean, Li Tong Ewi @ Li Ooi Song and
D Sim Chai. They had arrived in an orange coloured Morris Mi or bearing registration No. NA 6103. Kai Ho then spoke to the second accused and asked him whether the "goods" had arrived. He replied that they had not and said that they would be arriving in another car. Second accused did not give him the registration number of the other car. Second
E accused and the 3 others were then taken by Kai Ho to Hotel Miramar where they booked into a room on the 10th floor. Ah Yu did not accompany them on that

A occasion. Kai Ho remained in the room with the second accused and his friends till about 3.00 p.m. After that he walked back to his flat where he met Ah Yu who was then in his flat. He asked Ah Yu to accompany him to see P.C. Ong at Block 79 Indus Road. When they reached the flat they found that P.C. Ong was not in his flat so they went downstairs to wait
B for him there. At about 4.00 p.m. they met P.C. Ong who was in a car. They then got into the car with P.C. Ong and were introduced to one Ng Leng Hua (P.W.4) the superior officer of whom P.C. Ong had spoken earlier and another person by the name of Yap Siew Hua (P.W.24). The car was then driven to a car park shown in Ex. P8 and Ng Leng Hua
C instructed Kai Ho and Ah Yu to bring the party of persons and their cars to that car park should the heroin arrive on that day. Ng Leng Hua arranged with Kai Ho to meet P.C. Ong See Hok at a coffee shop near Central Police Station for him to tell P.C. Ong when the heroin had arrived. After this Kai Ho and Ah Yu got out of the car and returned to
D Kai Ho's flat in a taxi. This was sometime between 4.00 and 5.00 p.m. At about 5.00 p.m. Kai Ho heard the sound of a motor car horn coming from downstairs. He then went to the rear of his flat and saw the first accused in an orange coloured Datsun JS 3705, of which the latter was the registered owner. First accused beckoned to him to come downstairs. Ah Yu
E and Kai Ho then went downstairs. Kai Ho then asked

A the first accused whether the heroin had arrived. The first accused turned his head to the back of the car by which Kai Ho understood that the heroin was at the back of the car. Kai Ho informed the first accused that the second accused and 3 others were already in Singapore and that they had booked into Hotel Miramar. Kai Ho suggested that they all
B go for dinner and all of them left in the first accused's car for Hotel Miramar. They went up to the room of the second accused and Sim Chye then asked the first accused "Has it arrived?" First accused replied that it had. Kai Ho then asked them to get ready to go for dinner. All of them then went downstairs, that is to say the two accused, Sim Jin
C Thean, Li Tong Ewi, Sim Chai, Ah Yu and Kai Ho. They then went to the O.G. Restaurant for dinner in two cars, i.e. the Morris Minor NA 6103 and the Datsun car JS 3705 which was driven by the first accused. The two cars were parked in the car park indicated in Ex. P8. After they had finished their dinner Ah Yu and Kai Ho left them because before
D dinner Kai Ho had told the first accused that he would be leaving after dinner to collect the deposit of $2,000/- for the heroin. Ah Yu and Kai Ho then went towards the Central Police Station and near the Police Station in a coffee shop they met P.C. Ong and told him that the heroin had arrived in an orange coloured Datsun JS 3705 and that both the cars
E (NA 6103 and JS 3705) were parked as previously arranged in the car park shown in Ex. P8. Ah Yu and

A Kai Ho then returned to the car park. Kai Ho then asked Ah Yu to return to the Restaurant and inform the others that he would not be seeing them again that evening as he was unable to make contact with the buyer and asked Ah Yu to inform them that they could leave the restaurant. Ah Yu saw them, passed on the message, and rejoined Kai Ho. Both of them
B then went to a block of flats behind the car park and from a flat they looked down on the scene (Ex.P8) and awaited events.

In the meantime P.C. Ong had returned to the Central Police Station and had passed on the information given him by Kai Ho to Superintendent Ng Long Hua at about 6.05 p.m. Superintendent Ng Long
C Hua left the station immediately with a party of 11 officers and proceeded to the car park as in Ex.P8. There they saw the two cars, NA 6103 and JS 3705, parked one behind the other and took up ambush positions in the car park. At about 6.30 p.m. Sim Jin Thean and Li Tong Ewi were seen to approach
D the Morris Minor car No. NA 6103 and as soon as they had got into it both of them were arrested by the Police and taken to the Central Police Station with car No. NA 6103. At about 7.10 p.m. the first and second accused and Sim Chai were seen to approach Datsun car No. JS 3705. The first accused seated himself in the driver's seat, Sim Chai beside the
E driver and the second accused immediately behind the driver on the back seat. Before the car could move

A off the Police party moved in on them and arrested all three of them. The three together with car No. JS 3705 were then taken to the Central Police Station. These two cars were then parked in one of the garages of the station as shown in Ex. P6. Immediately on arrival at the station all the five arrested persons were brought to the two vehicles

B and in the presence of the five arrested persons a thorough search was made of the two cars. Car No. NA 6103 revealed nothing incriminating. The boot of the Datsun car No. JS 3705 which was locked was opened with one of the three keys on the key ring holding the ignition key to the car. On opening the boot nothing incriminating was found in the exposed

C part of the boot (Ex. P10). However, on unscrewing the bolts and removing the panel in the rear of the boot as shown in Ex. P10, it was found that there were a number of plastic and paper packets eleven in all stacked on top of the car's petrol tank as shown in Ex. P1. The 11 packets containing brownish substance found in the Datsun car No. JS 3705 where

D then seized by the Police and on 26th April 1976 these 11 packets were handed by the Police to the Chief Chemist, Mr. Lim Han Yong of the Department of Scientific Services, for analysis. Lim Han Yong (P.W.3) having carried out the usual tests on the contents of the said 11 packets certified as follows (Ex. P13):-

E "On examination I found the exhibits to contain the following:-

'QWK1 - Six paper packets containing a total of 2,744 grams of brownish solids which I analysed and found to contain diamorphine (heroin) hydrochloride and to have an average diamorphine content of 24.5 percent weight by weight. The diamorphine content of this exhibit is therefore 672.2 grams.

'QWK2' - Five paper packets containing a total of 2,204 grams of brownish solids which I analysed and found to contain diamorphine (heroin) hydrochloride and to have an average diamorphine content of 584.0 grams.

The total diamorphine content of the exhibits 'AWK-1' and 'QWK-2' is therefore 1,256 grams.

Diamorphine hydrochloride is a salt of diamorphine and is a Class A controled drug listed in the First Schedule to the Misuse of Drugs Act, 1973."

The prosecution produced evidence that in April 1976 the price of heroin No. 3 in Singapore was $14,000/- per kilogram.

The prosecution did not call Sim Jin Thean, Li Tong Ewi (D.W.4) and Sim Chai but offered them as witnesses for the defence.

The prosecution then made application to amend the charge which the Court allowed. The amended charge which reads as follows was put and explained to both the accused:-

"That you, on or about the 24th day of April 1976 at Park Road, Singapore, in furtherance of the common intention of both of you and without any authorisation under the Misuse of Drugs Act, 1973 (No. 5 of 1973) or the regulations made thereunder, did traffic in a controlled drug specified in Class A of Part I of the First Schedule of the Misuse of Drugs Act, 1973 (No. 5 of 1973) to wit, 1,256 grams of diamorphine and you

A have thereby committed an offence under section 3(a) and punishable under section 29 of the Misuse of Drugs Act, 1973 read with section 34 of the Penal Code (Cap.103)."

They both claimed trial on the amended charge and did not wish to recall any witnesses. The prosecution then closed its case whereupon counsel for each of the two accused submitted that neither B accused had a case to meet. Counsel for the first accused submitted that (1) the evidence of the two informers, Kai Ho and Ah Yu, should be scrutinised carefully and that corroboration was most important; (2) the discrepancies in the case were such that the evidence taken as a whole after discounting the discrepancies was not strong enough to warrant the C first accused being called upon to defend himself; (3) it was not incumbent on the defence to explain the presence of heroin in the boot of car No. JS 3705 and that the statutory presumptions raised against the first accused had been sufficiently rebutted by by the evidence of unreliable and lying witnesses such as Kai Ho, Ah Yu and the wife of Kai Ho (Goh Kah D Noi P.W.17) called by the prosecution. Counsel for second accused associated himself with the submissions of counsel for first accused and submitted further that there was no evidence of common intention so far as the second accused was concerned and that very little or no incriminating evidence had been adduced which could connect the E second accused with the offence of trafficking in drugs.

A We considered the two submissions of counsel for the two accused and those of counsel for the prosecution in reply carefully. We accepted defence counsel's submission with regard to the second accused but rejected those of counsel for the first accused as we were satisfied that on the amended charge a case had been made out against the
B first accused which if unrebutted would warrant his conviction. We accordingly acquitted and discharged the second accused and called upon the first accused to enter upon his defence. We further informed him that he would be called upon by us to give evidence in his own defence and told him in ordinary language what the effect would be if when so called
C upon he refused to be sworn or affirmed. Thereafter we called upon the first accused to give evidence. He elected to give evidence on oath. Five others also gave evidence for the defence.

The first accused, a resident of Batu Pahat, West Malaysia, was by occupation a shop-assistant in a motor accessory shop. He deposed thathe was
D introduced to Tan Kai Ho (P.W.10) and Kai Ho's wife (P.W.17) sometime in April 1975 by Ah Yu (P.W.25) whose acquaintance he had made sometime in early 1975. However, he went on to say that he had already met Kai Ho's wife sometime in 1970 or 1971 when she was working as a bar waitress at the Blue Swan Bar in Batu Pahat and had been intimate with her.
E Sometime in November/December 1975 the first accused together with Ah Yu and Kai Ho went to a gambling club

A in Batu Pahat where they lost money gambling. At their request first accused made available to Ah Yu $1,000/- worth of chips which sum of money Ah Yu promised to repay him sometime in the future. In connection with the $1,000/- he denied that he had ever spoken to him (Ah Yu) about heroin or that he had ever suggested or told Ah Yu that the debt could
B be discharged by Ah Yu finding him a purchaser for heroin.

He said that since his first meeting with Tan Kai Ho he had been to the latter's flat in Singapore on more than 10 occasions and that on most of those occasions Kai Ho's wife was present. Kai Ho and Ah Yu took him round Singapore as he was not
C familiar with the place and also assisted him in his shopping for canned food and motor spare parts. They also went out to movies at night and on such occasions Kai Ho's wife accompanied them. He denied that he had ever asked in February 1976 or at any other time either in Batu Pahat or in Singapore to find him a buyer for heroin.

D He deposed that he knew the second accused (Ooi See Hai) having met him at Taiping on 9th April 1976. The second accused was introduced to him by one Sim Chye, also of Taiping. The first accused told them that he would be returning to Batu Pahat and on hearing this second accused requested a lift from him to Batu Pahat. The first accused also told them
E that from Batu Pahat he would be going to Singapore in a day or two. Second accused accompanied him to

A Batu Pahat.

On the following day, that is 10th April 1976 first accused had to go to Johore Bahru on some business. So he took second accused along with him. After completing his business at Johore Bahru he drove the second accused in his orange coloured Datsun car No. JS 3705 into Singapore and arrived
B at Kai Ho's flat at about 3.00 p.m. Kai Ho and his wife were in. He introduced second accused to Kai Ho. Kai Ho and the first accused then took second accused to King's Hotel where the second accused booked himself a room. The first accused requested Kai Ho to take the second accused shopping and sightseeing. He also told Kai Ho that he would, if he were free, be
C returning to Singapore in two or three days' time. He then returned to Batu Pahat on the same day. However, he came again to Singapore the following day, i.e. 11th April 1976. He reached Kai Ho's flat at 11.00 a.m. and with him went to King's Hotel to look up second accused. All three of them then went to the O.G. Coffee House for lunch.

D After spending the 11th and 12th April in Singapore the first accused returned to Batu Pahat on the afternoon of the 13th April alone. First accused deposed that on none of these occasions did he mention or discuss with anyone the sale or purchase of drugs. He again brought up with them the question of the repayment of the loan and was told that Ah Yu would
E be receiving some money in 3 or 4 days' time and was asked to come up then if he were free.

A On the 17th April the first accused came to Singapore again and went to Kai Ho's flat when he asked him about the $1,000/- Kai Ho told him that Ah Yu had gone to Batu Pahat and expressed surprise that Ah Yu had not paid the money at Batu Pahat. First accused told Kai Ho that he had not met Ah Yu at Batu Pahat. Kai Ho and the first accused then B left together on that same day for Batu Pahat in the first accused's car JS 3705. They reached Batu Pahat at about 7.00 p.m. but could not find Ah Yu that night. On the following day (18.4.76) he did not see Kai Ho or Ah Yu. He denied that he had told the latter on that day that the drugs would be arriving in Batu Pahat in a week's time or that he (Ah Yu) C could either wait for the drugs in Batu Pahat or go back to Singapore.

The first accused met Ah Yu on the night of the 22nd April 1976 in Batu Pahat. Ah Yu told him that he would be returning to Singapore on the morning of 23rd April 1976. The first accused then told him that he would be going to Singapore on the D 24th April. On hearing this Ah Yu said that he would delay his departure and return to Singapore with the first accused. First accused asked Ah Yu about the repayment of the gambling debt. But no payment was made; Ah Yu told him that the money intended for the repayment of the loan had been lost by him in gambling. However, Ah Yu promised him that he would E pay the debt at a later date.

A On the morning of the 24th April 1976 a little after 8.00 a.m. the first accused, Ah Yu and the wife of the first accused, Foo Soo Lye (D.W.3), left Batu Pahat in car No. JS 3705. First accused's wife got off at Ayer Itam to visit her parents; Ah Yu and the first accused proceeded to Singapore. The first accused said his purpose in going to
B Singapore was to buy a 12-inch racing clock which was a device for clocking racing cars and which was not available in Batu Pahat. They arrived at the Woodlands checkpoint sometime between 10 and 11.00 a.m. After Customs and Immigration clearance they drove to Ah Yu's flat in Zion Road. They parked the car in a car park nearby and went up to Ah Yu's
C flat where they remained for about 20 minutes. They then left for Kai Ho's flat. The first accused parked his car in a car park at the foot of Kai Ho's flat. Kai Ho came down from his flat and joined them whilst they were having porridge at a nearby stall. They then went up to Kai Ho's flat at 11.55 a.m. There first accused saw Kai Ho's wife and all four
D of them remained in the flat for a while. Then Kai Ho said he wanted to buy earth-worms and left the flat. A short while later Ah Yu saying that he wanted to buy cigarettes left leaving the first accused and Kai Ho's wife in the flat. Ah Yu returned after a lapse of more than one hour. Ah Yu told the first accused that See Hai and his friends had come to
E look for him and that Kai Ho was talking to them

A downstairs. Ah Yu asked him to go downstairs. They then went down and saw that Kai Ho was with three persons namely the second accused, Sim Chye and another whom the first accused did not know then. First accused then asked Sim Chye, "How come you are found here?" Sim Chye told him that he had had a friend staying in Singapore a few days ago and that
B his friend had then driven him to Kai Ho's flat.

The five of them then went to Mirama Hotel in two cars, JS 3705 driven by the first accused and a Morris Minor Registration No. NA 6103. The second accused and the other two persons checked into the hotel. The first accused then told Sim Chye that he would be taking them out for dinner that evening
C sometime between 5.00 and 6.00 p.m. He and Kai Ho then left the hotel and went back to Kai Ho's flat. Ah Yu and Kai Ho's wife were in the flat. A short while later Ah Yu and Kai Ho left the flat saying that they wanted to see a friend. Kai Ho's wife and the first accused were there playing poker. Ah Yu and Kai Ho were away for a long time and returned at
D about 2.50 p.m. while they were still playing poker. Ah Yu joined in the poker game. At about 3.10 p.m. Kai Ho asked the first accused for the loan of his car as he and Ah Yu wanted to see a friend. First accused then told him that in that case he would accompany them, that it was then about 3.00 p.m. and that he was afraid that if left till later he
E might not be able to buy his racing clock. Kai Ho

A told the first accused he was not going into the city but to Bukit Timah. He asked the first accused to wait in the flat as he would be away only for a short while. Whereupon the first accused agreed that Kai Ho and Ah Yu could make use of his car. The car keys were on top of the refrigerator and Kai Ho took them from there. Kai Ho and Ah Yu left the flat
B in the Datsun JS 3705 (Ah Yu had a driving licence) at about 3.10 p.m. and did not return till about 5.00 p.m. Soon after Kai Ho and Ah Yu returned they left for the Mirama Hotel in JS 3705. There they met second accused and three others: Li Wee Seng, Sim Jin Theam and Sim Chye. All six of them went
C to dinner in two cars, the orange coloured Datsun JS 3705 and the Morris Minor NA 6103 at the O.G. Restaurant at Upper Cross Street sometime after 5.00 p.m. They finished their dinner before 6.00 p.m. Then Kai Ho and Ah Yu left them as Kai Ho wanted to see a friend and asked them to wait. He denied that Kai Ho had told him that he was going out with a
D view to getting the $2,000/- deposit for the heroin. The other five remained in the Restaurant. A short while later, Li Wee Seng and Sim Jin Theam left the restaurant leaving behind the first accused, second accused and Sim Chye. Second accused said he wanted to go down to buy cigarettes. He then left leaving first accused and Sim Chye behind. At about 6.30 p.m.
E Ah Yu returned and said that he and Kai Ho were not free that night and he asked the first accused to take the four of them for a walk around People's Park or go to the movies. Ah Yu left the restaurant again.

A Second accused returned having bought the cigarettes. First accused then took second accused and Sim Chye for a stroll around People's Park. Sim Chye bought a pair of shoes and a pair of socks. After this they went to the Chung Khiaw Emporium to buy canned food and preserved titbits. After these purchases they went to the first accused's car at about 7.10 B p.m. and while they were in their car about to drive off they were arrested by a party of Police and taken to Central Police Station.

First accused said that it was not true that he was a trafficker in opium, that he did not know that there was heroin in the boot of his car Datsun JS 3705, that he did not place the heroin C discovered by the Police in the boot of his car, that he did not transport the heroin into Singapore from Johore Baharu and that on the several occasions when he met Kai Ho or Ah Yu in Singapore or in Batu Pahat there was never any discussion on heroin either with Kai Ho or Ah Yu or with both of them and that he had never agreed to supply Kai Ho 7 lbs. of D heroin or at all.

The wife of the first accused (D.W.3) confirmed his evidence that she had accompanied him and Ah Yu from Batu Pahat to Ayer Itam to visit her parents on the morning of t e 24th April 1976, and that she had got off at Ayer Itam.

Lee Ooi Seng alias Li Yong Ewe (D.W.4) a E fishmonger living in Perak, West Malaysia substantially

A confirmed the evidence of the first accused on all such matters in which he was involved and on which he could give evidence. He deposed that before the 24th April 1976 he did not know Kai Ho (P.W. 10), or Ah Yu (P.W. 25) or the first accused. He came to Singapore for a holiday and that his visit had nothing to do with drugs and his purpose B and that of his friends' in going to Kai Ho's flat on 24th April 1976 was to solicit his help in obtaining cheap accommodation. He had heard no talk or any reference to drugs.

Png Chui Oon (D.W.2) a female carpark attendant gave evidence that on 24th April 1976 she issued a parking ticket in respect of Datsun JS 3705 C and that the checking-in and checking-out times were 11.20 and 12.20 respectively.

Abdul Rahim Shariff (D.W.5) gave formal evidence as to the practice prevailing on 24th April 1976 with regard to the checking of cars arriving at the Woodland Customs Checkpoint.

Tay Ah Bah (D.W.6) gave evidence that he was D an odd job labourer and that he was acquainted with the accused, Kai Ho and Ah Yu and that Ah Yu and he were classmates in Batu Pahat in 1962 or 1963. He testified that he came to know Kai Ho through Ah Yu sometime in 1975. He said that in 1975 he did not consume drugs and that he started on drugs sometime in January 1976. He bought his supply of E drugs from Ah Yu at Amoy Street and that he had done

A this on many occasions. He said that sometimes Ah Yu would be alone and sometimes with 2 others and that one of these two was Kai Ho. Sometime in March 1973 Ah Yu came to Amoy Street and asked him whether he wanted to buy heroin. He then asked Ah Yu to wait for a while as he had to find out from one of his friends whether he was interested in so
B buying. His friends agreed to buy from Ah Yu whereupon he asked him for a sample. Ah Yu agreed to produce the sample and asked him to wait in a coffee shop. Half an hour later he came with the sample. He tasted the sample and found it was not good. He told Ah Yu that he did not want the heroin and that he could sell to others.

C This in brief was the case for the defence.

There was clear evidence before the Court that 1,256 grams of diamorphine were found in the boot of the first accused's car JS 3705. This car was owned by him, he was in charge of it at the material time and he had the key to the boot of the car. There was no evidence that some other person
D also had a key to the boot of his car. By virtue of s.16(1)(b) and s.19 of the Act, the first accused was, until the contrary was proved, to be presumed to have had such drug in his possession. And s.16(2) provides that "any person who is proved or presumed to have had a controlled drug in his possession shall, until the contrary is proved, be presumed to have
E known the nature of such drug.". But quite apart from these statutory presumptions, the factual evidence clearly raised the inference that the drug found in

A the boot of his car was in the possession of the first accused and that he had been transporting it by the use of his car.

It was also proved that the first accused's car JS 3705 arrived from Johore and entered Singapore through the Woodlands check point between 10.30 a.m. and 2.00 p.m. on the day in question. The first B accused admitted this and claimed that he passed through the check point "before 11 a.m." on that day. There was also the evidence of Ah Yu which we accepted that the first accused had told him at Batu Pahat on the night of the 23rd April 1976 that the drug would be coming to Singapore on the morning of the 24th April 1976. And when arrested in Park Road, Singapore at C 7.10 p.m. on the 24th April 1976 the first accused was in charge of his car in which were found 1,256 grams of diamorphine concealed in the boot of the car. In the light of all this evidence it is clear that the first accused had on the 24th April 1976 transported 1,256 grams of diamorphine and thereby trafficked therein within the meaning of s.2 of the D Act and was guilty of an offence under s.3(a) of the Act.

The first accused's defence was that he had no knowledge that there was diamorphine in the boot of his car; that he did not put it there; that he did not know who put it there; that Kai Ho and Ah Yu had possession of his car between 3 p.m. and 4.p.... E on that day; that he did not know what they did with his car and that he presumed that they must have put

A the diamorphine in the boot of his car because there was no one else who could have done it. But when asked as to why they should plant such a large quantity of diamorphine in his car he could not advance a single reason. He stated that he did not know why they did so.

Kai Ho and Ah Yu both denied putting the
B diamorphine in the first accused's car. They denied borrowing his car between 3 and 5 p.m. on that day in question. They were both daily rated labourers. The 1,256 grams of diamorphine found in the first accused's car was worth a large sum of money. According to Mr. Ronald Naidu the Assistant Director of the Central Narcotics Bureau, in April
C 1976 a kilogram of diamorphine (Heroin No.3) was worth $14,000. The 1,256 grams would require a large sum of money for two labourers to invest in a very risky operation. It was most improbably that they could afford to buy such a large quantity of diamorphine in view of the very large amount of money involved. And having bought it, why should they put it in the
D first accused's car? It was suggested that they were unable to sell it because the quality was poor and by putting it in the first accused's car they could collect a reward. In our opinion, this was a very tall story and totally unbelievable. The reward is based on the value of the drug seized and is never equal to the full value of the drug. By planting
E the drug on the first accused in order to collect a

A reward, Kai Ho and Ah Yew would thus suffer a loss. Why should they undergo a loss on their investment? There was no answer to this question.

The first accused maintained that on the day in question when he drove into Singapore through the Woodlands check-point, Ah Yu was in his car; that they went straight to Ah Yu's room which is in a flat B at Zion Road; that he parked his car in the car park; that they went up to Ah Yew's room where they spent 20 minutes; that there after they went to Kai Ho's flat and arrived there at "almost 11.55 a.m." First accused stated that he was sure of the time because he had looked at his watch. Ah Yu denied all this. He stated that he arrived alone from C Batu Pahat on the morning of the 24th April; that he reached Singapore at about 10.30 a.m. and went straight to Kai Ho's flat; that he arrived at Kai Ho's flat alone at about 10.30 a.m. was confirmed not only by Kai Ho but also by his wife Goh Kah Noi.

The fact that the first accused had parked his car in the car park at Zion Road near Ah Yu's flat D was confirmed by the car park attendant Png Choi Oon who stated that car No. JS 3705 arrived at the Zion Road car park at 11.20 a.m. and that she issued a carparking ticket. She could not say at what time the car left the car park. Much was made of this evidence by counsel for the defence. He submitted that this proved that the first accused's version E was the true version. We were unable to accept this

A submission. In our opinion this evidence proved nothing more than the fact that the car JS 3705 was parked in the car park in question. It did not prove that Ah Yu arrived from Batu Pahat in the first accused's car; it did not prove that they gogether went up to Ah Yu's room and it did not prove that the first accused went with Ah Yu to Kai Ho's flat

B at 11.55 a.m. as claimed by the first accused.

It was the first accused's case that he was in Kai Ho's flat from 11.55 a.m. up to 5.00 p.m. on 24th April 1976. This was denied by Ah Yu, Kai Ho and his wife Goh Kah Noi. It was proved beyond a reasonable doubt that at 12 noon on that day Kai Ho and Ah Yu went to see P.C. Ong See Hok at his

C flat and with him went to the O.G. Restaurant for lunch. This was confirmed by P.C. Ong, a totally independent witness. Now, if it was true that the first accused had in fact arrived at Kai Ho's flat at 11.55 a.m. it is inconceivable that Kai Ho and Ah Yu would leave him in the flat with Kai Ho's wife and quietly go away to have lunch with P.C. Ong

D and inform him that a consignment of heroin would be arriving on that day and yet not give him the number of the first accused's car. Kai Ho in fact told P.C. Ong during the course of the lunch that he was not certain whether the heroin would arrive or not and that he would contact him if it arrived. This was confirmed by P.C. Ong in his evidence. If

E Kai Ho and Ah Yu wanted to plant the heroin on the first accused they could have borrowed his car

straightaway planted the heroin in it and then gone to P.C. Ong and informed him that heroin had in fact arrived and given him the number of the first accused's car. Again, if the first accused had in fact arrived at Kai Ho's flat at 11.55 a.m. as claimed by him, and Ah Yu and Kai Ho had intended to plant heroin in the first accused's car, they would at least have given the number of the first accused's car to P.C. Ong and told him that the heroin would be arriving in car No. JS 3705. They did not do this and it shows that the first accused did not arrive at Kai Ho's flat at 11.55 a.m.

There was further support for the view that the first accused did not arrive at Kai Ho's flat at 11.55 a.m. There was evidence that Kai Ho and Ah Yu met Superintendent Ng Leng Hua, P.C. Ong and P.C. Yap at 4 p.m. on that day. According to the first accused, his car JS 3705 was in the possession of Kai Ho and Ah Yu and if his story is to be believed, they must have by then either already planted the heroin in his car or were about to do so. In those circumstances they would have given Superintendent Ng the number of the first accused's car as the vehicle in which the heroin had arrived or would be arriving. They did not do this. Instead, it was arranged that they would inform P.C. Ong by 6 p.m. in a coffee shop near the Central Police Station whether or not the heroin had arrived. And they went back to see P.C. Ong at 4 p.m. at the coffee shop specifically to tell him that the heroin had arrived

A and gave him the number of the first accused's car. This shows that the first accused's claim that he arrived at Kai Ho's flat at 11.55 a.m. could not be true. It also shows that it was not Kai Ho and Ah Yu who put the heroin in his car because if they did or were about to do it, they would have at 4 p.m. given the number of the first accused's car

B to Superintendent Ng.

The first accused claimed that his sole purpose of coming to Singapore on the day in question was to buy a 12" racing clock. In his exam-in-chief the first accused said that he wanted this racing clock for the grand prix to place bets. When asked whether he was a racing driver, he said that

C he was not and that he needed this clock for the Malaysian Grand Prix. In cross-examination he further added that he wanted it for the Malaysian Grand Prix to be held in Kuala Lumpur at Batu Tiga in 1976. When confronted with the fact that the Malaysian Grand Prix for the year 1976 was on the 24th and 25th April 1976 i.e. on the very day that

D he was arrested, he did a complete about turn and said that he wanted the racing clock for himself to place bets. In answer to the question posed by the Court as to how he was going to place bets he said that he and his friends were going to race around a circuit and then record the time by using this clock and the bets would be determined on the time taken

E by them. Unfortunately for the accused he had earlier told the court that he was not a racing driver and

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or not he was guilty of the charge we took this factor

E into consideration together with all the other relevant

A evidence.

The first accused called Tay Ah Bah to give evidence on his behalf. This witness was a self-confess criminal. We did not believe a single word of what he told the court. It was quite obvious to us that he was called to paint Ah Yu and Kai Ho as black as possible and to support the
B defence theory that they had planted the heroin in the first accused's car because it was of poor quality and unsaleable. We rejected his evidence because we were convinced from his demeanour and the manner in which he gave evidence that he was not a witness of truth.

We accepted the evidence of Kai Ho and
C Ah Yu that the first accused arrived at Kai Ho's flat in his car JS 3705 at 5 p.m. on that day and rejected the first accused's version that he arrived there at 11.55 a.m. We also rejected the first accused's claim that Kai Ho and Ah Yu had borrowed his car and had used it between 3 p.m. and 5 p.m. and during that period had planted the heroin in his car.

D We were aware that Kai Ho and Ah Yu were no angels. Although they denied it strenuously, they were clearly out to get a reward. They were clearly participants as procurers in the offence charged. They had not only instigated but also encouraged the first accused to commit the offence. It could be said that they had a purpose of their own in giving
E false evidence against the first accused because they

were out to get a reward. As both were accomplices, the evidence of one could not corroborate the other. We were aware of the danger of acting on their uncorroborated evidence but having considered all the evidence in this case we were convinced that both of them were speaking the truth and we therefore accepted their evidence as true. There was also the evidence of Kai Ho's wife Goh Kah Noi who was not an accomplice. Her character was attacked and she was cross-examined at great length but she came out of it entirely unshaken. In our judgment she was a witness of truth and we accepted her evidence as true.

Upon a full review of all the evidence in this case and the submissions made by both counsel, we had no doubt at all that the first accused was guilty of the charge on which he was being tried. We therefore convicted him and passed sentence of death.

JUDGE

JUDGE

SINGAPORE,
15th August, 1977

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Filed this 2nd day of Nov. 1978

IN THE COURT OF CRIMINAL APPEAL OF THE REPUBLIC OF SINGAPORE

CRIMINAL APPEAL No. 7 of 1977.

Between

KOH CHAI CHENG

... Appellant/Applicant

And

THE PUBLIC PROSECUTOR

... Respondent

PETITION OF APPEAL

TO: THE HONOURABLE THE JUDGES OF THE COURT OF CRIMINAL APPEAL, SINGAPORE.

Your Petitioner, having given notice of appeal against conviction for the offence of unlawful trafficking in diamorphine and sentence of death passed on him by the Honourable Mr. Justice Choor Singh and the Honourable Mr. Justice A.P. Rajah in the High Court of the Republic of Singapore on the 17th March 1977 in Criminal Case No. 39 of 1976 states the following Grounds for his appeal :

A. The learned Trial Judges erred in law:-

1. In holding that the Appellant had been trafficking in controlled drugs.

2. By misdirecting themselves as to the true interpretation of "transport" in the definition of "traffic" in section 2 of the Misuse of Drugs Act 1973.

3. In admitting the evidence of Tan Kai Ho or of Lee Chan Chuan alias Ah Yu since both were admitted agents provocateurs.

4. By relying on the evidence of Tan Kai Ho and of Lee Chan Chuan without corroboration or without finding that any other material evidence provided corroboration.

5. By misdirecting themselves as to the proper approach to be made to the evidence of Tan Kai Ho and of Lee Chan Chuan.

6. By failing to exercise the same caution in refusing to rely upon the evidence of Tan Kai Ho and of Lee Chan Chuan as they exercised in holding that there was no case for the Second Accused to answer.

7. By relying on the evidence of Tan Kai Ho and of Lee Chan Chuan after finding that they had given untrue reasons for being police informers.

8. By accepting the evidence of Goh Kai Noi as establishing the prosecution case alternatively by placing excessive weight upon such evidence.

9. By failing to give proper weight to the evidence of Png Choi Oon and to draw correct inferences therefrom.

B. The conviction was against the weight of the evidence and the probability of the case.

The Appellant above-named therefore prays that the conviction and sentence may be set aside and that such order may be made thereon as justice may require.

Dated this 2nd day of November, 1978.

Solicitors for the Appellant

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(10)

CERTIFICATE OF RESULT OF APPEAL

CRIMINAL APPEAL NO 7 OF 1977

(In the Matter of High Court Criminal Court No 39 of 1976)

BETWEEN

KOH CHAI CHENG .. Appellant

AND

THE PUBLIC PROSECUTOR .. Respondent

In accordance with the provisions of Section 57(1) of the Supreme Court of Judicature Act (Chapter 15), I hereby certify that the abovementioned Appeal was called on for hearing on the 19th day of February, 1979 and after reading the transcript of the evidence and adjudication and conviction and after hearing Mr Dennis Tan Counsel for the abovenamed Appellant and Mr E.C. Foenander Deputy Public Prosecutor, Counsel for the Respondent:

IT WAS ORDERED that the Appeal be dismissed.

Given under my hand and the seal of the Supreme Court this 19th day of February, 1979.

R E MARTIN
REGISTRAR
SUPREME COURT, SINGAPORE

/sp

IN THE COURT OF CRIMINAL APPEAL IN SINGAPORE

Criminal Appeal No 7 of 1977

(In the Matter of High Court Criminal Case No 39 of 1976)

Between

Koh Chai Cheng ... Appellant

And

The Public Prosecutor ... Respondent

Coram: Wee Chong Jin, C.J.
Sinnathuray J.
Chua J.

J U D G M E N T

The appellant was found guilty by the High Court of the offence of unlawfully trafficking in diamorphine, a controlled drug, in contravention of section 3(a) of the Misuse of Drugs Act, 1973 (the Act). As the quantity of heroin in which he trafficked exceeded 15 grams, he was sentenced to death. We dismissed the appeal against conviction, and indicated that we will give our reasons in writing at a later date. We do so now.

The relevant facts can be stated shortly. On the 24th of April 1976 the appellant came from Johore Bahru to Singapore in his Datsun car, JS 3705. Two witnesses for the prosecution, Tan Kai Ho and Lee Chang Chuan who were agents provocateurs to the commission of the offence, gave information to the police, as a result of which the police laid an ambush for the car.

At about 7 p.m. that evening the car was in the car park at the People's Park at Havelock Road. The appellant came, entered his car and sat in the driver's seat. Before the car could move off, the police arrested him. The car was taken to the Central Police Station and searched. The boot of the car which was locked was opened with one of the three keys on the key-ring holding the ignition key to the car. Nothing incriminating was found. However, on unscrewing the bolts and removing the panel in the rear of the boot, the police found 11 plastic and paper bags containing brownish substance stacked on top of the petrol tank of the car. When examined by the Chief Chemist of the Department of Scientific Services, they were found to contain 1,256 grams of diamorphine.

The appellant in his defence admitted that on the material day he came in his car from Johore to Singapore. His defence was that he had no knowledge of the diamorphine in the boot of his car; that that day the two witnesses for the prosecution, Tan Kai Ho and Lee Chang Chuan, had borrowed his car between 3 p.m. and 5 p.m.; and that he presumed that they must have put the diamorphine in the car as no one else could have done it. When asked at the trial as to why they should put such a large quantity of diamorphine in his car he did not advance a single reason. Both Tan Kai Ho and Lee Chang Chuan denied having borrowed the accused's car. The trial Judges disbelieved the appellant's story.

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They held that he was not speaking the truth and rejected his defence.

At the hearing of the appeal, a submission of counsel for the appellant related to the admission of and the reliance had by the trial Judges of the evidence of the self-confessed accomplices, Tan Kai Ho and Lee Chang Chuan. It was submitted that there was no corroboration of their evidence, and that the trial Judges had misdirected themselves on the proper approach to be had on their evidence. We held that there was no merit in the submission.

The trial Judges were well aware that the two witnesses were "no angels" and were "Police informers". They were clearly participants in the offence, and had not only instigated but also encouraged the accused to commit the offence. The Court held: "As both were accomplices, the evidence of one could not corroborate the other. We were aware of the danger of acting on their uncorroborated evidence but having considered all the evidence in this case we were convinced that both of them were speaking the truth and we therefore accepted their evidence."

The trial Judges have in their Grounds of Judgment considered at length the evidence of the two witnesses. The acceptability of the evidence of the two witnesses is a matter for the trial Judges, and, in our judgment, no criticism can be made of the approach they took of that evidence.

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Two police officers, P.C. Ong and Superintendent Ng Leng Hua, gave evidence that on the day the offence was committed, the two witnesses gave information to them that a consignment of heroin would be arriving that day. Superintendent Ng Leng Hua then instructed, one of them, Tan Kai Ho, to inform P.C. Ong of the arrival of the heroin, and to arrange for the car to be parked in the car park of People's Park. Later that evening, the two witnesses met P.C. Ong in a coffee-shop and told him that the heroin had arrived in a Datsun car, JS 3705, and that the car was parked as previously arranged in the car park. It was thus that when the accused entered and sat in the driver's seat that the police arrested him. No complaint was made or could be made of the evidence of P.C. Ong and Superintendent Ng Leng Hua.

The only other submission was that the trial Judges erred in law in holding that the appellant had been trafficking in a controlled drug in that they had misdirected themselves as to the true interpretation of "transport" in the definition of "traffic" in section 2 of the Act.

Here again, as we understood the submission, it was that, but for the evidence of the two witnesses who had told the police of the arrival of diamorphine from Johore, there was no evidence before the trial court that the appellant had "transported" the drugs. We found the submission untenable for three reasons.

Firstly, the submission disregarded material facts found by the trial court which we have already set out. The appellant's car was parked in the car park. It followed that the car must have come from somewhere. When arrested, the appellant was seated in the driver's seat. He was therefore in control of the car. Then again, he had with him the key to the boot of the car where 1,256 grams of diamorphine were subsequently found. The manner in which the diamorphine was hidden in the boot of the car could only have been done by the person who had control of the car. Taking the evidence together, the clear inference was, and the trial Judges so held, that the accused had transported (in the dictionary sense of the term) the diamorphine and thereby trafficed therein within the meaning of section 2 of the Act.

This brings us to the second reason. This Court has held in Wong Kee Chin v The Public Prosecutor (1979) 1 MLJ 157 that -

> " When it is proved that the quantity of diamorphine which the accused person was transporting (in the dictionary sense of the term) was two or more grams, a rebuttal presumption arises under section 15(2) that the accused had the said controlled drug in his possession for the purpose of trafficking. Proof of the act of transporting plus the presumption under section 15(2) would constitute a prima facie case of trafficking which if unrebutted would warrant his conviction. In those circumstances the burden of proof would clearly shift to the accused and he would have to rebut the case made out against him. "

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Clearly, therefore, in law, the trial Judges had ample evidence before them to hold at the close of the prosecution case that a prima facie case had been made out against the appellant which, if unrebutted, would warrant his conviction on the charge.

The third reason we rejected the submission was because when the appellant went into the witness box, he admitted that on the material day he came in his car, JS 3705, from Johore to Singapore. And, except for one alleged event, he could offer no explanation as to how the drugs came to be concealed in the boot of the car. As regards that event, he said that the two witnesses, Tan Kai Ho and Lee Chang Chuan, had borrowed his car in Singapore, between 3 p.m. and 5 p.m., and suggested that it could have been them who had placed the diamorphine in the boot of the car. Having heard the appellant, the trial Judges found as a fact that the two witnesses never borrowed the appellant's car that day. In their Grounds of Judgment the trial Judges had considered all the matters that had been raised by the appellant and rejected them. In our judgment it cannot be said that the trial Judges had erred in their findings. For these reasons, we dismissed the appellant's appeal, ~~on his conviction.~~ /

Dated this 25th day of July 1979.

.....
Wee Chong Jin, C.J.

.....
Sinnathuray J.

.....
Chua J.

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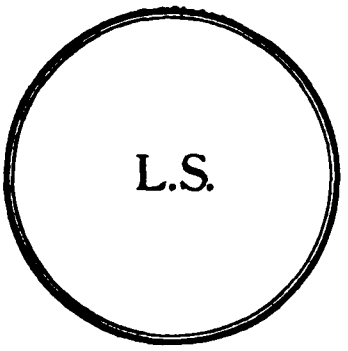

At the Council Chamber Whitehall

The 19th day of December 1979

BY THE RIGHT HONOURABLE THE LORDS OF THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL

WHEREAS by virtue of the Republic of Singapore (Appeals to Judicial Committee) Orders 1966 and 1969 there was referred unto this Committee a humble Petition of Koh Chai Cheng in the matter of an Appeal from the Court of Criminal Appeal of the Republic of Singapore between the Petitioner and The Public Prosecutor Respondent setting forth that the Petitioner prays for special leave to appeal *in forma pauperis* to the Judicial Committee from a Judgment of the Court of Criminal Appeal dated the 25th July 1979 which dismissed the Petitioner's Appeal against his conviction in the High Court in Singapore of unlawfully trafficking in a controlled drug contrary to section 3(a) of the Misuse of Drugs Act 1973: And humbly praying Their Lordships to grant the Petitioner special leave to appeal *in forma pauperis* against the Judgment of the Court of Criminal Appeal dated the 25th July 1979 and for further or other relief:

THE LORDS OF THE COMMITTEE in obedience to the said Orders have taken the humble Petition into consideration and having heard Counsel in support thereof and in opposition thereto Their Lordships do grant special leave to the Petitioner to enter and prosecute his Appeal *in forma pauperis* against the Judgment of the Court of Criminal Appeal of the Republic of Singapore dated the 25th July 1979.

AND THEIR LORDSHIPS do further order that the copy of the Record produced by the Respondent be accepted (subject to any objection that may be taken thereto by the Appellant) as the Record proper to be laid before the Judicial Committee on the hearing of the Appeal.

E. R. MILLS

Registrar of the Privy Council

Printed by Burrup, Mathieson & Co., Ltd., for Her Majesty's Stationery Office

S662728/w Dd 119991 1/80

IN THE JUDICIAL COMMITTEE OF THE PRIVY COUNCIL NO. 38 of 1979

ON APPEAL

FROM THE COURT OF CRIMINAL APPEAL OF THE

REPUBLIC OF SINGAPORE

BETWEEN :

KOH CHAI CHENG — Appellant

and

THE PUBLIC PROSECUTOR — Respondent

RECORD OF PROCEEDINGS

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