
IN THE HIGH COURT OF THE REPUBLIC OF SINGAPORE

Criminal Revision No 4 of 2007

**Amue Athu
(Charged as Meitinee Wongsa)**

v

PUBLIC PROSECUTOR

-Before-

THE HONOURABLE JUSTICE LEE SEIU KIN (COURT 4D)

Heard on:

Wednesday, 18th April 2007

Day 2

For the Public Prosecutor

Ms Janet Wang [Wang]
Mr Leong Wing Tuck [Leong]

For Petitioner

Mr Ragbir Singh s/o Ram Singh Bajwa [Bajwa]
M/s Bajwa & Co

Certification

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1 **(Resumed at 10.13am)**

2 Wang: Good morning, your Honour.

3 Court: Yes, Ms Wang.

4 Wang: First, your Honour, I just like to extend my gratitude, your
5 Honour. I'm most grateful, your Honour, that you have agreed
6 to adjourn the matter to this morning. Your Honour, I would
7 also like to inform you that my colleague, DPP Leong---

8 Leong: Please you, your Honour.

9 Wang: ---has agreed to hold the fort, your Honour, because I will have
10 to leave by 11.00, your Honour, to catch a flight, yes.

11 Court: All right.

12 Wang: But I have prepared further submissions, your Honour, on the
13 issue that your Honour had raised last Friday.

14 Court: Yes. All right.

15 Bajwa: Sorry, your Honour. What's the order of hearing this morning
16 because I've also submitted further arguments on exactly the
17 same point that your Honour has raised and perhaps I should go
18 first and let Ms Wang answer that.

19 Court: All right, why don't you do that?

20 Bajwa: Thank you.

Submissions by Bajwa**Submissions by Bajwa**

1 **Submissions by Bajwa**
2
3 Bajwa: Your Honour, I've---my further skeletal argument focuses
4 firstly in---on section 36 of the Immigration Act and the---the
5 operative words are "having been removed or otherwise legally
6 sent out of Singapore".

7 Court: Yes.

8 Bajwa: You know, the prosecution must prove by the statement of fact
9 that the---the petitioner was removed or otherwise legally sent
10 out of Singapore. The relevant references to this ingredient in
11 the SOF is as follows:

12 [Reads] "(a) AVB arrested her on 23rd of April and referred
13 her to the Immigration Department for repatriation.

14 (b) The accused was then repatriated back to Thailand on 24th
15 of April.

16 (c) Prior to her repatriation, she was served with a written
17 notice...informing her that she was permanently barred from
18 entering Singapore with effect from 24.4.04." And:

19 **"(d) She was...informed that she would only be allowed to**
20 **visit Singapore if she had made a prior application to**
21 **obtain the written permission of the Controller of**
22 **Immigration before she enters Singapore."**

23 These are the four references in the statement of facts which are
24 crucial.

25 And (e), your Honour, one more.

26 [Reads] "...she was deported to Thailand on 24.4.04."

27 Court: Yes.

28 Bajwa: Your Honour, the petitioner submits first of all that the---she
29 was never arrested by the Immigration Department and this is
30 supported by the following evidence, exhibit RA-2 of
31 prosecution's skeletal arguments.

32 Court: There's no need for arrest, you know.

10.15am

Submissions by Bajwa

- 1 Bajwa: Sorry, your Honour.
- 2 Court: Section 36 does not require an arrest.
- 3 Bajwa: Your Honour, I'm leading up to this argument of whether she
4 was lawfully removed and I'm going onto her background that,
5 first of all, she was not arrested.
- 6 Court: Well, the---the charge doesn't say "removed", the charge says
7 "lawfully sent out".
- 8 Bajwa: Yes.
- 9 Court: There are two---two limbs to that---to that---
- 10 Bajwa: Yes.
- 11 Court: ---to that part of the charge, right?
- 12 Bajwa: That's right.
- 13 Court: She must have been removed or otherwise lawfully sent out.
- 14 Bajwa: That's right.
- 15 Court: So the---the charge against her in particular---
- 16 Bajwa: Yes.
- 17 Court: ---uses the---the second part.
- 18 Bajwa: Yes.
- 19 Court: She was lawfully sent out.
- 20 Bajwa: That's right.
- 21 Court: All right.
- 22 Bajwa: I---I addressed that later on as well, your Honour.
- 23 Court: I know but---
- 24 Bajwa: I develop my argument---
- 25 Court: To the extent that you're saying that she needs to be arrested.
26 There are no requirements to be arrested.
- 27 Bajwa: No, I'm not saying she needs to be arrested.
- 28 Court: All right.
- 29 Bajwa: I'm just giving a background to say that in---
- 30 Court: Oh I see.
- 31 Bajwa: ---to begin with, she wasn't even arrested. And I'm going to
32 the point that here is a case that all that happened was that her

Submissions by Bajwa

- 1 visit pass was cancelled. Her visit pass was cancelled, she was
2 then told---she was given a special pass and she was told---
- 3 Court: Well, if that is the case then, was she lawfully sent out? I
4 mean, I---I have to determine the precondition for a charge
5 under section 36.
- 6 Bajwa: Yes.
- 7 Court: Was that she was either removed---
- 8 Bajwa: Yes.
- 9 Court: ---which is not part of the charge here---
- 10 Bajwa: Yes.
- 11 Court: ---or had been otherwise lawfully sent out.
- 12 Bajwa: That's right. Yes.
- 13 Court: All right. So if you say that the visit pass was cancelled---
- 14 Bajwa: Yes.
- 15 Court: ---then the---and---and---then she was, you know, repatriated,
16 deported or whatever as---as stated in the statement of facts.
- 17 Bajwa: Yes.
- 18 Court: Then the question whether that constitutes lawful sending out.
- 19 Bajwa: Correct, your Honour, yes.
- 20 Court: Right?
- 21 Bajwa: Absolutely.
- 22 Court: And---and---and thereby satisfying that limb of the offence.
- 23 Bajwa: **Yes. Your Honour, the argument that I'm making this**
24 **morning before you is that basically she was never lawfully**
25 **removed or sent out by the Immigration Department. She**
26 **left---**
- 27 Court: You mean, according to the statement of facts?
- 28 Bajwa: **Yes, she left---she left voluntarily on her own because her**
29 **visit pass was cancelled. She was told to report to the**
30 **airport which she did and then she left. There was no**
31 **deportation or repatriation contrary to the statement of**
32 **facts and I will develop that argument as I go along, your**

Submissions by Bajwa

- 1 **Honour.**
- 2 Court: All right.
- 3 Bajwa: Your Honour, actually RA-2, if I just quickly refer you to
- 4 RA-2. This is found in the first skeletal argument of the
- 5 prosecution.
- 6 Court: What is RA-2? The second one?
- 7 Bajwa: The first one, your Honour.
- 8 Court: Oh exhibit, I'm sorry.
- 9 Bajwa: **Exhibit RA-2. It's a---an exhibit to the affidavit of the**
- 10 **investigating officer, Ms Roslinda Binte Ahmad.**
- 11 Court: Whose affidavit?
- 12 Bajwa: **Affidavit of Roslinda Binte Ahmad.**
- 13 Court: All right, yes I have that.
- 14 Bajwa: **She's investigating officer.**
- 15 Court: Yes, exhibit RA-2.
- 16 Bajwa: **Your Honour, the first---it's at---there's a page number 2,**
- 17 **circled on top but it's a letter dated 23rd of April 04 from**
- 18 **the Anti-Vice Branch to the Commissioner of ICA where it**
- 19 **says that:**
- 20 **[Reads] "The...subject is applying to join the Medical Card**
- 21 **Scheme...her application was rejected." And,**
- 22 **"In view of her foreign status, I am now referring"---**
- 23 **you---"referring her to your department for necessary**
- 24 **action."**
- 25 Court: Yes.
- 26 Bajwa: **And there is an endorsement subsequently, your Honour, in**
- 27 **a---on a rubber stamp where she was handed over together**
- 28 **with the passport to the "Duty Officer of Enforcement**
- 29 **Command of (ICA)". And further, your Honour, at the**
- 30 **bottom, there's another rubber stamp from the ICA which**
- 31 **actually releases her and allows her to leave and says that to**
- 32 **return on 24th of April, the next morning at 1002 hours for**

- 1 further enquiries. So the point is, which I made initially,
2 your Honour, on---on the question of arrest was she was not
3 arrested, she was actually---she had come in, she has made
4 an application, application was rejected, she was referred to
5 immigration, immigration say, “Go back and come back
6 the next morning and we will make further enquiries”.
- 7 And what happened the next day, your Honour, is found in
8 the next page, exhibit RA-3. Here, your Honour, there
9 is---is the actual---this is actually how she was dealt with
10 officially by the Immigration.
- 11 Court: Now we are---
- 12 Bajwa: What happened was---
- 13 Court: We are relying on this affidavit, now, right?
- 14 Bajwa: Yes, your Honour.
- 15 Court: We’re not going on the statement of facts, right?
- 16 Bajwa: I’m coming back to the statement of fact---
- 17 Court: I know.
- 18 Bajwa: I’m showing the link, yes.
- 19 Court: But you’re saying what happened so you’re relying on this
20 affidavit.
- 21 Bajwa: Yes. That’s right, your Honour.
- 22 Court: All right.
- 23 Bajwa: **This is the aff---the prosecution’s affidavit.**
- 24 Court: **Yes. So it would---it would appear that this was what
25 happened on the 24th of April, right?**
- 26 **Bajwa: Yes, 24th of April---**
- 27 **Court: She went---she went back to ICA.**
- 28 Bajwa: Yes.
- 29 Court: **All right. And she was issued with a notice of cancellation
30 of visit pass.**
- 31 Bajwa: Yes.
- 32 Court: **Under regulation 22---**

Submissions by Bajwa

- 1 Bajwa: That's right.
- 2 Court: ---subsection, paragraph 3, right?
- 3 Bajwa: **And she was asked based on the affidavit to go to Changi**
- 4 **Airport in the evening and catch the flight. So my point,**
- 5 **your Honour, is this---**
- 6 Court: Yes.
- 7 Bajwa: Her---until this point 24th of April, she was validly in
- 8 Singapore because she had a visit pass.
- 9 Court: Yes.
- 10 Bajwa: Yes. So the visit pass was cancelled---
- 11 Court: Yes.
- 12 Bajwa: **---and she was told to leave. If she complies and she leaves**
- 13 **on that particular day, she is not subject to eviction or**
- 14 **deportation.**
- 15 Court: **No, but then there---there is this---they invoked regulation**
- 16 **17, you know. You have to---you have to look at that.**
- 17 **Bajwa: Your Honour, regulation 17 is merely an administrative act**
- 18 **by the controller to---**
- 19 **Court: Well, have you got---have you got regulation 17? I'm trying**
- 20 **to get it on my computer.**
- 21 **Bajwa: Yes, your Honour. Regulation 17---**
- 22 **Court: Of the immigration regulation, is it?**
- 23 **Bajwa: ---basically says that it's the power to cancel the pass of a**
- 24 **holder.**
- 25 Court: Has anybody submitted this in any---any bundle?
- 26 Bajwa: Sorry, your Honour, we---we have not---
- 27 Court: No. It's all right.
- 28 Bajwa: Yes.
- 29 Court: I can---I can look it up on the computer.
- 30 Wang: Sorry, your Honour. Well, do you want the Immigration
- 31 regulations.
- 32 Court: Yes.

Submissions by Bajwa

- 1 Wang: I can assist you, your Honour.
- 2 Court: It's okay, I have got it here. Right. You see, regulation 17
3 says:
4 [Reads] "If the Controller is satisfied that the holder of pass
5 issued under Regulation 9, 9A"---et cetera---"is prohibited
6 immigrant..."
7 All right.
8 [Reads] "...or that his presence in Singapore is undesirable or
9 would be prejudicial to public security...he shall cancel the
10 pass." Right?
- 11 Bajwa: Yes.
- 12 Court: So here it states that the presence of the holder of the pass in
13 Singapore is "undesirable".
- 14 Bajwa: Yes. That's a given reason, your Honour, yes.
- 15 Court: So if:
16 [Reads] "...the Controller of Immigration is satisfied that your
17 presence in Singapore is undesirable."
18 And then this Ang Siew Eng had:
19 **[Reads] "...duly authorised by the Controller...to act on his**
20 **behalf in exercise of the powers vested in the Controller...**
21 **under Regulation 17...cancel the pass."**
22 And then:
23 [Reads] "...virtue of Section 15 of the Immigration
24 Act...required to leave..." All right, what does section 15 say?
25 Bajwa: **That's in the bundle of authorities, your Honour, submitted**
26 **by the petitioner. Basically it requires a person to leave,**
27 **otherwise you'll become unlawful, your presence in**
28 **Singapore remain---become unlawful.**
- 29 Court: So is that lawfully sent out?
- 30 Bajwa: **No, your Honour. My argument is that all that happened in**
31 **her case was, the pass was cancelled---the pass was**
32 **cancelled---**

Submissions by Bajwa

- 1 Court: Yes.
- 2 Bajwa: **That---that's fine, the controller has the power to cancel the**
- 3 **pass but she complied with that and she left. Had she**
- 4 **overstayed, then she would be subject to removal, otherwise**
- 5 **she's not subject to removal because she left on her accord.**
- 6 **That's where I draw the distinction.**
- 7 Court: No, you see. When---when---when, you see the section 36 says
- 8 "removal or otherwise lawfully sent out" you see.
- 9 Bajwa: Yes. Yes.
- 10 Court: So obviously it makes provisions for the situation where
- 11 forceful removal is not necessary---
- 12 Bajwa: Yes.
- 13 Court: Right? So nevertheless, if you have been otherwise lawfully
- 14 sent out---
- 15 Bajwa: Yes.
- 16 Court: ---you re-enter Singapore without written permission---
- 17 Bajwa: Yes.
- 18 Court: I---it is an offence, you see.
- 19 Bajwa: Yes.
- 20 Court: Right. So that's why I---my---my concern was more what
- 21 appears in the statement of facts rather than what does not
- 22 appear in the statement of facts.
- 23 Bajwa: Yes.
- 24 Court: Because the statement of facts must support the charge.
- 25 Bajwa: Yes.
- 26 Court: All right. So insofar as you're trying to argue that, looking
- 27 behind the---the statement of facts, looking at the affidavits
- 28 and---and the documents that they have produced---
- 29 Bajwa: Yes.
- 30 Court: All it shows is that she has a---had her pass cancelled---
- 31 Bajwa: Yes.
- 32 Court: ---and then were essentially asked to leave, required to leave

Submissions by Bajwa

- 1 and she left of her own accord.
- 2 Bajwa: Required to leave, yes.
- 3 Court: All right. I---that is---seems to be supported by the affidavit.
- 4 Bajwa: Yes.
- 5 Court: All right. But that it would seem to me would constitute
- 6 lawfully sending out, you see.
- 7 Bajwa: Your Honour, my argument that she was not law---she was not
- 8 sent out by the Immigration Department.
- 9 Court: But that's the question, what is "lawfully sent out"---
- 10 Bajwa: Yes.
- 11 Court: ---because she was asked to leave and she left on---
- 12 Bajwa: Yes, but---
- 13 Court: ---on that, all right.
- 14 Bajwa: Yes.
- 15 Court: And I---I---I would have to interpret "lawfully sent out" as
- 16 covering the situation. Otherwise what it means is that there
- 17 will be a whole class of people whose passes have been
- 18 cancelled and asked to leave and who leave voluntarily. Right?
- 19 Bajwa: Yes.
- 20 Court: And they can return anytime without the permission of the
- 21 controller.
- 22 Bajwa: Yes.
- 23 Court: That would be defeating the purpose.
- 24 Bajwa: Unless---unless, your Honour, they---they then come under the
- 25 prohibited immigrants category where they are specifically
- 26 prohibited and then they can't come back because there's a ban
- 27 order, which is why the ban order is the second step. After
- 28 cancelling the pass---
- 29 Court: Yes.
- 30 Bajwa: ---then you---you want to make sure the person doesn't come
- 31 back, you then have to issue a ban order. That's how I read the
- 32 interpr---the---the Immigration Act. It's a step-by-step

Submissions by Bajwa

- 1 procedure.
- 2 Court: There's no---there's no provision in the Immigration Act for a
3 ban order as such, you know.
- 4 Bajwa: Your Honour, section---
- 5 Court: The word "ban" doesn't even appear in the Immigration Act.
- 6 Bajwa: Very well, your Honour, I will not use the word "ban" but
7 "permanently not allow a person to come back".
- 8 Court: Neither does that---
- 9 Bajwa: I think---
- 10 Court: Neither does that happen anywhere.
- 11 Bajwa: Your Honour---
- 12 Court: It's only in the case of a prohibited immigrant.
- 13 Bajwa: Yes.
- 14 Court: Right? Then shall not be allowed to enter. So the offence is,
15 you see the offence in section 36 covers a situation where a
16 person who has been, like I said, "removed" and there will be
17 these removal provisions under section 31, 32 and so on or
18 otherwise "lawfully sent out". So the only issue in this case is
19 whether she had been otherwise lawfully sent out because as it
20 turned out, she had voluntarily left and so there was no
21 necessity to invoke the powers of removal to get her out.
22 You---you see the case?
- 23 Bajwa: I understand, your Honour.
- 24 Court: Yes.
- 25 Bajwa: But, your Honour, I would read the---before that your Honour,
26 the prohibition, although it doesn't say a ban, section 9 of the
27 Act prohibits either for a stated period or permanently. "The
28 entry or re-entry into Singapore of any person or class of
29 persons", so there is a---the prohibition order that can be made
30 under section 9. In fact I have put in the parliamentary debates
31 towards the end of my argument where the parliament itself
32 draws the distinction between the two sections.

Submissions by Bajwa

- 1 Court: Between what?
- 2 Bajwa: Between the two sections, the prohibition of entry and the
3 section 36 which is unlawful removal---sorry, lawful removal
4 and you return after you are lawfully removed.
- 5 Court: Where is that?
- 6 Bajwa: There's---there's a clear dist---
- 7 Court: Parliamentary debate.
- 8 Bajwa: Yes, Sir. Your Honour, there's the tab number 1---
- 9 Court: Yes.
- 10 Bajwa: ---this is the sitting on 20th of November, this is my second
11 argument, your Honour.
- 12 Court: Yes.
- 13 Bajwa: Sitting on 20th November 84, Minister for Home Affairs. Now
14 when you go through the---the speech that he makes, your
15 Honour, towards the next page, second page, he talks about:
16 [Reads] "A prohibition of entry order is only issued on
17 foreigners who have committed serious offences in Singapore
18 and they have to be kept out." And then he mentions the reason
19 why they have to enhance the penalties for
20 prohibition---prohibition of entry order. He's not talking about
21 the prohibition of entry order which is a separate Act itself, he's
22 just talking about prohibiting the entry of persons who are
23 classified as prohibited immigrants. And then later on, your
24 Honour, the Bill also seeks to enhance the penalties under
25 section 36, still on page 3, well, "unlawful return after
26 removal". On page 3, the third paragraph:
27 [Reads] "The Bill also seeks to amend Section 36 of the
28 Immigration Act to increase the penalty for the offence on
29 unlawful return after removal."
30 So basically, your Honour, that a distinction is made between
31 prohibiting someone to come back and the section under
32 unlawful return. So the question is, your Honour, once a pass

10.30am

Submissions by Bajwa

- 1 is cancelled and she complies with it, she is not subject to
2 removal by the authorities---she's not subject to be lawfully
3 sent out.
- 4 Court: But are you saying that because here the speech doesn't talk
5 about unlawful sending out---I mean a lawful sending out.
- 6 Bajwa: No, your Honour. I'm saying that the---these are two separate
7 sections.
- 8 Court: Yes.
- 9 Bajwa: One dealing with prohibition of entry after you've been given
10 an order.
- 11 Court: Yes.
- 12 Bajwa: The other one is unlawful return under 36. So that the---they
13 made a clear distinction.
- 14 Court: No, no. Their---36 deals with a person who entered
15 Singapore---
- 16 Bajwa: Yes.
- 17 Court: ---who has previously been removed or otherwise lawfully sent
18 out.
- 19 Bajwa: That's right, yes.
- 20 Court: Right? And if that person re-enters Singapore without the
21 written permission of the Controller---
- 22 Bajwa: Yes.
- 23 Court: ---then an offence under Section 36 is made out.
- 24 Bajwa: That's right.
- 25 Court: Right. My---last week when you---last week when you
26 appeared before me---
- 27 Bajwa: Yes.
- 28 Court: ---my---what struck my eye was that the statement of fact does
29 not seem to disclose, all right, that the---the petitioner had been
30 lawfully sent out, just looking at the statement of facts.
- 31 Bajwa: Yes.
- 32 Court: But if you want to look at the---the affidavit and so on---

Submissions by Bajwa

- 1 Bajwa: Yes.
- 2 Court: ---right, then I mean there is this evidence of a notice of
3 cancellation and then she was required to leave and so on---
- 4 Bajwa: Yes.
- 5 Court: ---then the question is whether that constitutes lawful sending
6 out. That is one issue.
- 7 Bajwa: Yes.
- 8 Court: But then the main issue is whether the statement of fact
9 discloses---
- 10 Bajwa: Yes.
- 11 Court: ---that she had been lawfully sent out.
- 12 Bajwa: That's right, your Honour. Yes.
- 13 Court: So that's a separate issue, you see.
- 14 Bajwa: I understand, your Honour, yes.
- 15 Court: All right.
- 16 Bajwa: Yes.
- 17 Court: So---so you are trying to go on the fundamental issue---
- 18 Bajwa: Yes.
- 19 Court: ---as a fact.
- 20 Bajwa: Yes.
- 21 Court: ---whether it is statement---stated in the statement of fact or
22 not---
- 23 Bajwa: Yes.
- 24 Court: ---as a fact---
- 25 Bajwa: Yes.
- 26 Court: ---whether she had been lawfully sent out.
- 27 Bajwa: That's right.
- 28 Court: All right.
- 29 Bajwa: Whether section 36 covers her or not, that---that's the---my
30 argument. She may not---
- 31 Court: Oh yes, of course, if---as a fact, she was not---she had not been
32 lawfully sent out.

Submissions by Bajwa

- 1 Bajwa: Yes.
- 2 Court: Okay. Then of course she has not committed an offence.
- 3 Bajwa: Yes.
- 4 Court: All right.
- 5 Bajwa: Yes.
- 6 Court: But looking at this affidavit, it does appear to me that as a fact,
7 she had been lawfully sent out. Right.
- 8 Bajwa: Yes, your Honour, subject---
- 9 Court: So the only question rests whether in the statement of facts that
10 was a---that was a---that fact has been asserted---
- 11 Bajwa: Yes, your Honour, I understand that---
- 12 Court: ---which is a very technical argument.
- 13 Bajwa: Yes, I---I do appreciate---
- 14 Court: Yes.
- 15 Bajwa: ---and in fact I understand what your Honour is saying.
- 16 Court: Yes.
- 17 Bajwa: I could very well just move on to the statement of facts and
18 concentrate there.
- 19 Court: All right. If you want to go to the statement of facts, then you
20 recall that, I mean, the learned deputy had submitted a case, the
21 decision of the former Chief Justice Yong Pung How in *Sun*
22 *Hongyu v Public Prosecutor*, right? I think that is the one that
23 you would need to---to sub---I---I would---I would require---I
24 would need your submissions on.
- 25 Bajwa: Very well, your Honour. Your Honour, I think it's---
- 26 Court: Because you notice there that, right, and---and that contains
27 very similar facts, right?
- 28 Bajwa: Yes.
- 29 Court: And it was the case of a Chinese young lady who had been
30 previously arrested and deported, right---
- 31 Bajwa: Yes.
- 32 Court: ---and then she returned to Singapore under a different passport

Submissions by Bajwa

- 1 and the---and then she applied for criminal rev---for revision on
2 the basis that she was not aware of the---the ban, so to speak.
3 Right?
- 4 Bajwa: Yes.
- 5 Court: And in paragraph 15 of the grounds of decision of the learned
6 Chief Justice, he said:
7 [Reads] “Turning to the Statement of Facts, the offence under
8 Section 36 of the Act---Act was made out.”
9 Have you got that?
- 10 Bajwa: Yes, your Honour, I have that.
- 11 Court: Right?
- 12 Bajwa: Yes.
- 13 Court: Now the---the---the grounds of decision of the learned Chief
14 Justice did not reproduce the statement of facts but those
15 statement of facts were reproduced by the District Judge below,
16 right? This was in *Public Prosecutor v Sun Hongyu* in 2005
17 Singapore District Court Case No 26.
- 18 Bajwa: Yes.
- 19 Court: You have that?
- 20 Bajwa: Yes, your Honour.
- 21 Court: All right. And---and if you look at the statement of facts there,
22 it is virtually taken from the same template, so to speak?
- 23 Bajwa: Yes, your Honour.
- 24 Court: All right. I mean, I---I, presumably the Controller of
25 Immigration has many cases of this nature---
- 26 Bajwa: Yes.
- 27 Court: ---and you being a lawyer, you will know, they will just take
28 the template from one successful prosecution and just amend it
29 according to the exact facts in the---in the other case and---and
30 use it.
- 31 Bajwa: That’s right, your Honour.
- 32 Court: Right? So you---you, the same---the same---similar, very

Submissions by Bajwa

- 1 similar statement of facts there, in that case, in *Sun Hongyu*'s
2 case where the word "repatriation" was used, the word
3 "deported" was used. The word "ban" was not used but the
4 word here is "barred" I think, "permanently barred from entry"
5 but it's same sense, you know. So the---the---the learned Chief
6 Justice had held when at---at the criminal revision
7 application---petition, that the statement of facts there---the
8 offence had been made out in the---from the statement of facts.
9 So although---although it is not binding on me---
- 10 Bajwa: Yes.
- 11 Court: ---because it is with the court of coordinate jurisdiction, it is of
12 course persuasive authority.
- 13 Bajwa: Yes.
- 14 Court: That's one. But more importantly, question is whether
15 in---when---when the matter appeared before the District Judge
16 below, in---in---in your petitioner's case---in your client's case.
- 17 Bajwa: Yes.
- 18 Court: Whether the District Judge is bound by the decision of the
19 learned Chief Justice. It may not be binding on me but it's
20 binding on---on her.
- 21 Bajwa: Yes. Yes, it probably is, your Honour, yes.
- 22 Court: Yes. So when I---looking at it from the point of view of
23 criminal revision, I have to look at it to see whether it was
24 illegal or---or improper, right?
- 25 Bajwa: Propriety of it, yes.
- 26 Court: Yes, propriety and so on. So question is, in view of the fact
27 that the District Judge below was bound by statement of facts,
28 the---the finding of the---
- 29 Bajwa: Yes.
- 30 Court: ---the ruling of the learned Chief Justice insofar as the
31 adequacy of this type of statement of facts.
- 32 Bajwa: Yes.

Submissions by Bajwa

- 1 Court: She would not be in the position to say, reject it, right, and have
2 to accept that it discloses the---the---fully discloses the---the
3 offence of---under section 36.
- 4 Bajwa: Yes, in her case, yes.
- 5 Court: All right.
- 6 Bajwa: Yes.
- 7 Court: So I---I think even though I have my own reservations about
8 the adequacy, I---I---I mean, subject to what you say, the
9 question is whether on the criminal revision---revision, I can---I
10 can---I can say that that conviction is not---
- 11 Bajwa: Yes.
- 12 Court: ---legal on account of the statement of fact being inadequate.
- 13 Bajwa: Your Honour, I think you certainly can because the shackles
14 are broken when you---when you come up to the High Court.
- 15 Court: Because what?
- 16 Bajwa: The shackles are broken. Because basically, she may have
17 been bound by the Chief Justice's decision, as you have
18 correctly pointed out, you are not bound. It may be persuasive
19 but any restriction on her, if there's no restriction on you, you
20 can look at the matter afresh and if you feel that in the
21 circumstances of the case---
- 22 Court: It's not an appeal, you know.
- 23 Bajwa: Still, your Honour, revision is basically a paternalistic
24 jurisdiction where the Court looks at whether justice has been
25 done in the Court below and you can exercise your paternalistic
26 jurisdiction and the---
- 27 Court: But I have to look at the legality of it.
- 28 Bajwa: Yes.
- 29 Court: And if I am satisfied that it's legal---
- 30 Bajwa: Yes.
- 31 Court: ---then what more can I do?
- 32 Bajwa: Your Honour---

Submissions by Bajwa

- 1 Court: ---insofar as the statement of facts' point. I mean, there are
2 other points.
- 3 Bajwa: Yes.
- 4 Court: All right, just on this point.
- 5 Bajwa: Your Honour, for the statement of facts, if you feel that
6 the---the statement of facts do not disclose an offence
7 and---well, then certainly, your Honour, it's open to you to
8 quash the conviction in this case because that's essentially the
9 criminal revision jurisdiction that you are invoking---
- 10 Court: All right. All right, well, that---that is your submission on that
11 point, right?
- 12 Bajwa: Yes, your Honour. I'm sorry, your Honour, I don't have that
13 statement of facts in that other case. I only have the report to
14 the case.
- 15 Court: I thought the---
- 16 Bajwa: I don't have a copy of the statement of facts. I just---if I just
17 could compare it very quickly.
- 18 Court: Well, I can pass it---pass it to you. Or maybe Ms Wang, would
19 you have an extra---extra copy?
- 20 Wang: Your---your Honour, in fact the---the copies were given to my
21 learned friend last week, your Honour.
- 22 Court: That's what I thought, I thought he received it.
- 23 Wang: ---the lower Court decision and the statement of facts were
24 actually reflected in the lower Court decision. In any event,
25 your Honour, I have actually---
- 26 Bajwa: I see---
- 27 Wang: ---made copies of it in my latest submission as well.
- 28 Court: Oh, it's in the latest submission.
- 29 Bajwa: Sorry, your Honour. I think if you were referring to the---I
30 thought you are referring to the actual statement of facts.
- 31 Wang: I see.
- 32 Bajwa: This I have, your Honour, sorry. I thought you were---

Submissions by Bajwa

- 1 Court: Yes, it's reproduced in the---in the GD.
- 2 Bajwa: Yes. I thought you had the actual---
- 3 Court: Oh no, no, I don't have that.
- 4 Bajwa: All right.
- 5 Court: I only have the---the report.
- 6 Bajwa: Then if that---I've seen that, your Honour. You know, this case
7 also refers to another case of---a Burmese case. Sorry, is it
8 Burmese, the name of Ma---let me just check the case, your
9 Honour. It refers to the---in paragraph 13 of your---of the same
10 page, your Honour.
- 11 Court: Sorry, paragraph 13 of?
- 12 Bajwa: It refers to the elements of the offence under section 36 was set
13 out in *Ma Teresa Bebang Bedico v PP*.
- 14 Court: Where, Mr Bajwa, where---where---what are you looking at
15 now?
- 16 Bajwa: The same page, your Honour. You refer me to page 15---
- 17 Court: Paragraph 15.
- 18 Bajwa: Paragraph 15, sorry.
- 19 Court: Yes.
- 20 Bajwa: I'm referring to paragraph 13.
- 21 Court: 13, yes.
- 22 Bajwa: Yes. Where they actually considered the elements of the
23 offence under section 36 was set out in *Ma Teresa Bebang*
24 *Bedico v PP*. And these were that the accused had been
25 removed from or sent out from Singapore. He entered or
26 resided in Singapore and did not have the Controller's written
27 permission.
- 28 Your Honour, you would note that this particular point, the way
29 we are doing it, analysing the words of the thirty
30 section---thirty sect---36 whether lawfully removed or lawfully
31 sent out of Singapore was never considered even in the---both
32 these cases cited. They're just being taken as accepted that the

Submissions by Bajwa

- 1 ingredients were satisfied because whether she had been
2 removed from or sent out from Singapore. But the actual legal
3 definitions, what it entails and whether it---it satisfies the
4 statement of facts was never argued in both these cases. It's
5 probably the first time now that we're actually looking at the
6 meaning of these words and comparing them with the statement
7 of facts to see whether they do fit into it.
- 8 Court: Now---
- 9 Bajwa: So to that extent, you can---you.
- 10 Court: Yes.
- 11 Bajwa: Certainly in these cases, apart from the fact that it's not
12 binding, the point was never considered in detail.
- 13 Court: Well, the elements of the offence were---was considered, right,
14 paragraph 13 sets out the---the elements of the offence---
- 15 Bajwa: Yes.
- 16 Court: ---under section 36. What is not probably considered in detail
17 was what constitutes a removal or sent out.
- 18 Bajwa: Yes. That's right.
- 19 Court: Right?
- 20 Bajwa: Yes.
- 21 Court: But there was obviously no need for discussion there. The only
22 question is whether this kind of statement of facts, right,
23 discloses the---all the elements of the offence.
- 24 Bajwa: Yes. Your Honour, I think even in the---in---on appeal, the
25 lawyer did not argue this point. They just accepted that the
26 statement of facts were consistent with the ingredients.
- 27 Court: Yes, but there's no argument here as to what constitutes
28 removal or otherwise lawfully sent out. The only thing that, as
29 I said, that I was concerned with---
- 30 Bajwa: Yes.
- 31 Court: ---is whether the statement of facts discloses that she had been
32 otherwise lawfully sent out.

Submissions by Bajwa

- 1 Bajwa: Yes. But before we do that, your Honour, we also need to
2 know what exactly it means, so that---which is why all that they
3 had in their statement of facts---
- 4 Court: I---I have a good idea as to what it is.
- 5 Bajwa: Your Honour, all they---all they really have in their statement
6 of facts is words like “deportation”, repatriation” and apart
7 from that, there’s nothing that basically says---
- 8 Court: Well, actually I can anticipate that they would argue
9 deportation means “lawful, otherwise lawfully sent out”. But
10 my point is quite straightforward. In the light of the learned
11 Chief Justice’s decision---
- 12 Bajwa: Yes.
- 13 Court: ---which is binding in the Court below---
- 14 Bajwa: Yes.
- 15 Court: All right, can I say that the---the---the conviction was wrong
16 and therefore quash it?
- 17 Bajwa: Yes, your Honour. I---adding on to what I’ve just said, your
18 Honour, may I just read a---a section from section 266 under
19 Criminal Revision of the Criminal Procedure Code. There’s a
20 commentary that I would like to read.
- 21 Court: You see the words---
- 22 Bajwa: In fact, your Honour, I think it’s a---yes, may I just---
- 23 Court: Words are “correctness, legality or propriety”.
- 24 Bajwa: Yes. I would come to those words but your Honour, there’s
25 another---a general note of the object of the section. May I just
26 read:
27 [Reads] “An object of this Revisional Legislation is to confer
28 upon the High Court...”
- 29 Court: Yes, what are you looking at? What’s the---
- 30 Bajwa: It’s---your Honour, it’s a book by---from Butterworths on
31 Criminal Procedure.
- 32 Court: All right.

Submissions by Bajwa

- 1 Bajwa: I---I miss---I just maybe refer it to you,but let me just read it.
2 With your leave, your Honour.
- 3 Court: Yes, all right.
- 4 Bajwa: It says:
5 [Reads] “General object of the section. The object of this
6 Revisional Legislation is to confer upon the High Court a kind
7 of paternal or supervisory jurisdiction in order to correct
8 miscarriage of justice arising from misconceptions of law,
9 irregularity of procedure, neglect of proper precautions or
10 apparent harshness of treatment which has resulted on the one
11 hand in some injury to the due maintenance of law and order
12 and on the other hand, in some undeserved hardship to the
13 individual.”
14 So, your Honour, it’s basically to correct a miscarriage of
15 justice which is very wide.
- 16 Court: Yes. I---I---you see, Mr Bajwa, if in fact she had been removed
17 or otherwise lawfully sent out---
- 18 Bajwa: Yes.
- 19 Court: All right. And it is only the statement of fact that fails to
20 disclose it.
- 21 Bajwa; Yes.
- 22 Court: Then there would be no real miscarriage of justice but
23 technically it is wrong.
- 24 Bajwa: Yes.
- 25 Court: You understand?
- 26 Bajwa: Irregularity, your Honour, yes.
- 27 Court: Right? So if the statement of fact shows it, this---shows it
28 clearly, but in fact there was no removal or otherwise lawful
29 sending out.
- 30 Bajwa: Yes.
- 31 Court: All right. Technically the conviction is right. But if you can
32 show that it factually was wrong---

Submissions by Bajwa

- 1 Bajwa: Yes.
- 2 Court: ---that would be the miscarriage of justice.
- 3 Bajwa: Yes.
- 4 Court: You see, you're---you're putting the cart before the horse.
- 5 Bajwa: Yes, I accept that, yes.
- 6 Court: I---when---when I saw the statement of facts and I queried
7 whether it was adequate, right, it was purely from a technical
8 point of view---
- 9 Bajwa: Yes.
- 10 Court: ---without deciding whether in fact it is true or not.
- 11 Bajwa: Yes.
- 12 Court: Because as we know, the charge must carry out, must be---must
13 be complete, must state, you know, the---the---the offence, the
14 time, the place and so on, right? That's the technical part and if
15 any of that is missing, then the charge is def---defective.
16 Similarly, the statement of fact, if he pleads guilty, the
17 statement of fact must contain, must disclose all the elements of
18 the offence and if it doesn't disclose, then technically, there is
19 not---whether or not she is guilty or not.
- 20 Bajwa: Yes, I understand.
- 21 Court: So---so it becomes a very technical thing. So to tell me that
22 because of that, I have the jurisdiction to go on miscarriage of
23 justice, that I think is a---is a---going a bit far.
- 24 Bajwa: Your Honour, I'm actually going to submit, in fact
25 you---you---you have asked me to move forward to the
26 statement of facts.
- 27 Court: Yes.
- 28 Bajwa: But I would also like to go back and pursue my point and show
29 you that throughout from---from the word "Go", from the time
30 she arrived in Singapore, the way her case was handled right to
31 the point and before you this morning---
- 32 Court: Right, right.

10.45am

Submissions by Bajwa

- 1 Bajwa: ---there is a miscarriage of justice.
- 2 Court: Right. If---that is probably---
- 3 Bajwa: But if I come back to your point, your Honour---
- 4 Court: Yes.
- 5 Bajwa: ---this technical point. Although you say it's technical,
6 it's---it's---it's nice to use the word "technical" but it is very
7 substantive as well, because it goes to the root of the ingredient.
- 8 Court: If---if---like I said, if the statement of fact fails to disclose---
- 9 Bajwa: Yes.
- 10 Court: ---then whether or not she is actually guilty is irrelevant
11 because the prosecution have failed to make their case---
- 12 Bajwa: Yes.
- 13 Court: ---and I would quash it.
- 14 Bajwa: Yes.
- 15 Court: Right. But you cannot come to me and tell me that it is to
16 correct a miscarriage of justice---
- 17 Bajwa: Yes.
- 18 Court: ---all right, on the basis of this technicality when in fact---
- 19 Bajwa: I accept that, your Honour.
- 20 Court: So you have to show---I think---I think it will be probably more
21 productive if you proceed on the facts---
- 22 Bajwa: Yes.
- 23 Court: ---right, rather than this case. Because as I said, I was prepared
24 to consider this so-called technicality, but in the light of the
25 decision in *Sun Hongyu*---
- 26 Bajwa: Yes.
- 27 Court: ---it would seem to me that it's not possible for me to say that
28 this is a technicality and therefore on the basis of the statement
29 of facts, the failure of the statement of facts to---to disclose an
30 element of offence, quash the conviction on that technicality.
- 31 Bajwa: Well, your Honour, I think all that the two cases start---that you
32 refer to, they basically say that the statement of facts---based on

Submissions by Bajwa

- 1 the statement of facts, in fact they never examined the
2 statement of facts. They said that these are the ingredients;
3 ingredients are made up from the statement of facts. They did
4 not do a thorough analysis to say that there's each of this
5 ingredient that we talked about, lawfully sent out or removed
6 from Singapore, was satisfied by which particular item or
7 statement in the statement of facts.
- 8 Court: But you---you don't need to do a thorough analysis.
- 9 Bajwa: But we are doing that.
- 10 Court: No, just because he didn't do a thorough analysis---
- 11 Bajwa: Yes.
- 12 Court: ---doesn't mean that that was not the holding.
- 13 Bajwa: No, that was the holding. But the holding was arrived at
14 without a proper reference point and---and looking at the
15 statement of facts, to see---
- 16 Court: Okay.
- 17 Bajwa: ---whether it actually supported the ingredients.
- 18 Court: Yes.
- 19 Bajwa: So on---by on that basis, both these cases do not add too much
20 of a---
- 21 Court: I mean I---I hear you on that. I hear you on that.
- 22 Bajwa: It doesn't---it doesn't really fetter you.
- 23 Court: Right.
- 24 Bajwa: I mean I think---I think basically if---if they had said that,
25 "Look, we have examined the statement of facts, we are
26 satisfied that on the limited---discovery given in the statement
27 of facts, we are satisfied that that still constitutes lawfully sent
28 out, then I guess it's even more highly persuasive. But it didn't
29 say that.
- 30 Court: Well, it's not that the statement of facts is totally devoid of
31 references to it, right?
- 32 Bajwa: Yes.

Submissions by Bajwa

- 1 Court: The repatriation, deportation, permanent ban and so on, right?
- 2 Bajwa: Yes.
- 3 Court: And it---it---it---skirts at the periphery of---of that lawful
4 sending out.
- 5 Bajwa: Yes.
- 6 Court: All right. But the point is this being a criminal revision and
7 there being a decision of the High Court which is binding on
8 the Court below, bearing on really almost exactly the same type
9 of statement of facts, the question is whether on a criminal
10 revision, I can say that it was a illegal---not correct or not legal
11 to---to---to make a conviction on the basis of those statement of
12 facts.
- 13 Bajwa: Your Honour, at the risk of repeating myself, I understand
14 where you are coming from. But at the risk of repeating
15 myself, your Honour, basically these two cases don't say much.
16 They basically said these are the ingredients and they went on
17 other points of law. But this particular point was never
18 canvassed. So on that basis, I think your hands are free.
19 You---you are not bound by the decisions at all, not in fact, not
20 in law. Had they of course gone on and said that there is no
21 requirement to go beyond a certain point and just using words
22 like "banishment" and---and "repatriation" is sufficient to show
23 that it's lawfully sent out. Then I think your---your concerns
24 are extremely valid, but in the absence of that, your Honour, I
25 think if you look at it from a very unfettered point of view and
26 if you come to the conclusion that the particular ingredient of
27 lawfully sending out is lacking in the statement of facts, then
28 even though it's technical, it's substantively technical, not just
29 a mere technicality that can be overlooked---
- 30 Court: Yes.
- 31 Bajwa: ---in which case I---I would urge you to quash it. And then of
32 course if you take into account everything else that I'm going

Submissions by Bajwa

1 to say from the beginning of the case including the question of
2 human trafficking, including the fact that she was never sent
3 out and not subject to removal and she actually left and, you
4 know, the substantive point that I'm raising based on the
5 affidavits that they have produced, in the absence of any ban or
6 prohibition order, if you like, if you add all that into the
7 equation, then I'm going for a total miscarriage of justice.

8 Court: All right, perhaps you could do that now.

9 Bajwa: Very well, your Honour. Your Honour, I have to come back to
10 my central point which I started to try and show you that
11 actually---this was not a situation of removal or lawfully
12 sending out. If I may move on to my third page, your Honour.
13 In fact I've already covered the distinction between
14 section---but I'll read it, your Honour, the paragraph (d).
15 [Reads] "The Immigration Act makes a distinction between
16 persons who are prohibited from entry or re-entry and those
17 who unlawfully remain in Singapore are liable to be removed.
18 Amue did not unlawfully remain in Singapore and so did not
19 require to be removed or otherwise lawfully sent out of
20 Singapore."
21 That's the point I make, your Honour. She did not unlawfully
22 remain here. So this question of removing her or sending her
23 out does not even arise in law. And they cannot just say that,
24 "Oh, we deported her or we---we repatriated her," because
25 that's not what happened. Now, your Honour, for example, at
26 the end of the day, after---now that she's been convicted, she
27 will now be deported. Now she's liable to be removed but at
28 that time when she---her pass was cancelled, she was not
29 subject to removal, or being sent out or repatriated.
30 Under the Act, a person who unlawfully remained in Singapore
31 is one who, after cancellation of any permit, remains in
32 Singapore. Under section 33 of the Act, persons who remain in

Submissions by Bajwa

1 Singapore under section 15 or 62 are liable to be removed from
2 Singapore by order of the Controller.

3 In fact, your Honour, the---once you are a person who is liable
4 to be removed, you require an order under section 33. Amue
5 was not such a person. Those who are ordered to be removed
6 from Singapore may also be detained in custody. She was
7 never detained in custody for purposes of removal.

8 The Immigration Act empowers persons reasonably believed to
9 be persons liable to removal from Singapore to be arrested
10 without a warrant and detained pending a removal order, see
11 section 35.

12 Petitioner submits quite clearly that she was not removed from
13 out of Singapore. The next issue is whether she was otherwise
14 lawfully sent out of Singapore. Petitioner submits that the
15 phrase “otherwise lawfully sent out of Singapore” should be
16 read together with “having been removed” indicating that the
17 person was sent out of Singapore by the ICA and not a situation
18 where the person’s visit pass is cancelled and she leaves on her
19 own accord as a result of such cancellation.

20 Court: Could it be a situation where, if the person does not leave of his
21 or her own accord---

22 Bajwa: Yes.

23 Court: ---then they would have powers to remove her?

24 Bajwa: Yes.

25 Court: That means the persons liable to removal but that person
26 voluntarily leaves.

27 Bajwa: Yes.

28 Court: It could be, right?

29 Bajwa: No. Sorry, your Honour.

30 Court: In fact otherwise lawfully sent out, must be, that must be the
31 situation. In other words, if you don’t leave of your own
32 accord---

Submissions by Bajwa

- 1 Bajwa: Yes.
- 2 Court: ---then we have the powers to effect a removal.
- 3 Bajwa: Yes. That only---yes, only that---only that default will then
4 make you a person liable to be removed.
- 5 Court: Right. So in this case, was she a person liable to be removed?
- 6 Bajwa: No.
- 7 Court: But then she---she sort of made it unnecessary by---by
8 voluntarily leave---leaving.
- 9 Bajwa: No, your Honour. She---she---she did not---she did not
10 overstay. It was cancelled, she left. So she was not liable to be
11 removed thereafter.
- 12 Court: If it was cancelled and she didn't leave, would she be liable to
13 be removed?
- 14 Bajwa: Sorry, your Honour?
- 15 Court: After cancellation-----
- 16 Bajwa: Yes.
- 17 Court: ---if she didn't offer to leave of her own accord---
- 18 Bajwa: Yes.
- 19 Court: ---would she be liable to removal?
- 20 Bajwa: Yes, if she did not leave. Yes. If she stayed on till the 25th,
21 she was liable to be removed. Then they would have arrested
22 her and removed her and satisfied the first ingredient of section
23 36. She was lawfully removed and sent out of Singapore.
- 24 Court: No, but if---if they removed her, there's a removal limb, you
25 see. So the question is what is "otherwise lawfully sent out".
- 26 Bajwa: I read it together, your Honour. I---I think that---because there
27 is no---there is no case law that has interpreted this particular
28 provision.
- 29 Court: I know but you---you have to---
- 30 Bajwa: I restrict it to the earlier words "removal or lawfully sent out".
31 Lawfully sent out must necessarily also mean that there is some
32 legal power to send you out. It cannot be that---

Submissions by Bajwa

- 1 Court: But it asked you to leave, right?
- 2 Bajwa: Yes.
- 3 Court: And you complied?
- 4 Bajwa: Yes.
- 5 Court: And let's say the---the---the direction for you to leave, the
6 order for you to leave is lawful, right, and you complied with it.
- 7 Bajwa: Yes.
- 8 Court: Does it become lawfully send out?
- 9 Bajwa: Your Honour, I---my---my argument would be that to be
10 lawfully sent out, you must first of all be liable to be removed.
- 11 Court: Yes, which you agreed on. Right?
- 12 Bajwa: But she is not liable to be removed. She's only liable to be
13 removed---
- 14 Court: But you said "liable to remove only if she doesn't go out".
- 15 Bajwa: Yes.
- 16 Court: So it's a catch-22, you know. From what you say, it's a
17 catch-22. So long as you go out, you will never be liable to
18 be---to be removed.
- 19 Bajwa: Your Honour, ambiguity has to be---has to be construed in the
20 favour of the petitioner in this case.
- 21 Court: It's not ambiguity, you know. I mean I don't see it as an
22 ambiguity, you know. I see it as a---a---a---you see, the law
23 must make sense, right. If on your interpretation---
- 24 Bajwa: Yes.
- 25 Court: ---right, a person who voluntarily leaves will never be liable to
26 removal.
- 27 Bajwa: Because he hasn't done anything wrong.
- 28 Court: No, it's not a question of whether you have done anything
29 wrong. Immigration Act, is---it's not a wrong based thing,
30 right. Immigration is a---a---a privilege, right. Every country
31 has a right to control who comes in, right, so privilege. And it
32 doesn't mean---doesn't mean that you only have to do

Submissions by Bajwa

- 1 something wrong before I prohibit you from entering, refuse
2 you entry, right?
- 3 Bajwa: Yes, that's---that's correct. Yes.
- 4 Court: Right. Because every---every nation is sovereign. I mean it's
5 not that---everybody has a right to come to Singapore---
- 6 Bajwa: Yes.
- 7 Court: ---right. So it doesn't---there's no wrong as such. I mean it can
8 be the most innocent person in the world, can be the most
9 pitiful person in the world, right. If---if---if the Immigration
10 policy does not permit the person entry, then the person has no
11 right to enter.
- 12 Bajwa: Your Honour, I see it differently. With respect, your Honour, I
13 see the Immigration as a---Act as a---they have created for a
14 situation where you can ban, you can prohibit someone. I don't
15 want to use the word "ban". You can prohibit someone from
16 coming to Singapore from day one. You can make a
17 declaration, an order and say, "I'll have these people out. If
18 they come in, they face section 9". There is an offence. Then
19 there's a situation of those who come in, we give you a valid
20 pass, a social visit pass.
- 21 Court: Yes.
- 22 Bajwa: And then after some time if we find that you are not desirable
23 for any reason, we cancel your pass, you go back. So at that
24 point, this particular person in my argument is not subject to
25 being removed or lawfully sent out at that point of time. She
26 only becomes lawfully sent---subject to being removed or
27 lawfully sent out after she overstays and there are provisions in
28 the Act which I referred you to, section 35 et cetera, where an
29 overstayer can be arrested, detained, a removal order made and
30 sent out.
- 31 Court: Look at section 31.
- 32 Bajwa: Yes, your Honour.

Submissions by Bajwa

- 1 Court: [Reads] “If during the examination of any person arriving in
2 Singapore”---right---
- 3 Bajwa: Yes.
- 4 Court: ---“that person is found to be a prohibited immigrant, the
5 Controller shall,...prohibit him from disembarking or may,...
6 detain him at an immigration depot or other place designated by
7 the Controller.
8 The person shall be liable to be removed from Singapore...”
9 So simply on the ground that you are a prohibited immigrant
10 and “prohibited immigrant” is defined in, I think, section 8.
11 Anybody belonging to that class of persons is a prohibited
12 immigrant.
- 13 Bajwa: Yes.
- 14 Court: Right. So if the Controller is of the opinion that you belong to
15 that class of person---
- 16 Bajwa: Yes.
- 17 Court: ---and you are therefore a prohibited immigrant---
- 18 Bajwa: Yes.
- 19 Court: ---right---
- 20 Bajwa: Yes.
- 21 Court: ---you are liable to be removed.
- 22 Bajwa: Yes. But you first---you must first be declared a prohibited
23 immigrant or---
- 24 Court: You don’t have to be declared as such. All it requires is for
25 the---in section 31, all is---that is required is for the Controller
26 to be of that opinion.
- 27 Bajwa: Yes. They can prohibit him from disembarking or detain him
28 in the---
- 29 Court: Yes, but if---but if he has already---at his discretion, you see.
30 Okay. He can be removed to a---detained at the Immigration
31 depot and then liable to be removed from Singapore.

Submissions by Bajwa

- 1 Bajwa: Yes, your Honour, this is when---this is when he's coming in,
2 your Honour. This section 31, I believe is when a person is
3 coming in and he can be detained.
- 4 Court: Right.
- 5 Bajwa: He's stopped from disembarking and detained and then he can
6 be removed. These are very clear provisions of stopping
7 someone from coming in and then removing him. So it is
8 section 9, your Honour, with due respect, where the Minister
9 may order. Of course he can delegate to the Controller and he
10 can prohibit permanently the entry or re-entry. So re-entry
11 provisions are only found in---in section 9 where once you are
12 here, you are prohibited. You can't come back under section 9.
13 So when you come back, you are charged under section 9.
- 14 Court: Yes.
- 15 Bajwa: Your Honour, alternatively my argument is that to be otherwise
16 lawfully sent out, it also requires an order for her to be sent out.
17 That's an alternative argument that I'm posing.
- 18 Court: All right.
- 19 Bajwa: Otherwise it becomes very arbitrary, your Honour. If
20 somebody just says, "Okay, now I want you to leave and you
21 go", you know, that should not be the way an act of Parliament
22 should be enforced. You want someone to be lawfully
23 removed or lawfully sent out, you should make an order.
- 24 Court: Yes, okay.
- 25 Bajwa: Your Honour, I move on then to a---the actual, the
26 so-called---the statement of facts itself, your Honour.
- 27 Court: Yes.
- 28 Bajwa: Your Honour, paragraph (h) at page 5, whilst the SOF uses
29 words like "repatriation" and "deportation", there was no
30 evidence before the lower Court to support any fact of
31 repatriation or deportation. There was nothing in the SOF to
32 indicate that there was any order for removal of Amue or that

11.00am

Submissions by Bajwa

- 1 she was lawfully removed or otherwise sent out of Singapore.
2 At exhibit RA-3, which is the cancellation of the work permit,
3 sorry, cancellation of the visit pass being placed before the
4 lower Court, the Court will realise that all that happened to her
5 was that her visit pass was cancelled pursuant to section 16,
6 thereby she ought not to remain in Singapore which she duly
7 complied with and left. It would have been plain to the learned
8 DJ that the ingredient of having been removed or otherwise
9 lawfully sent out of Singapore would not have been satisfied.
- 10 Court: Yes.
- 11 Bajwa: Your Honour, my---my next argument, I'm sure your Honour
12 has already gone through, so I will not labour the point too
13 much, but I'm---I'm talking about justice in this case and
14 fairness and justice in this case. I raised these issues of human
15 trafficking. My argument basically is that at the point of entry
16 in April, on 23rd of April 04, no one recognised her as a
17 possible victim of human trafficking. And we have submitted
18 affidavits from her fiancé and from certain NGOs indicating
19 that there is evidence that she was in fact a victim of human
20 trafficking.
- 21 Court: Yes.
- 22 Bajwa: We have referred you to two conventions of the United Nations
23 which placed a duty on member states to enforce the---the
24 protocol in the convention regarding human trafficking.
25 Essentially I think it's commonsense. If there is a---a UN
26 convention, I know we are signatory, I know we have ratified
27 one, we have not ratified the other but the---
- 28 Court: I'm not sure we have ratified any.
- 29 Bajwa: Your Honour, we have ratified the older one. I---I have
30 submitted it in my further submissions.
- 31 Court: Which older one?
- 32 Bajwa: Yes, your Honour. At tab number 3, sorry, tab number 2.

Submissions by Bajwa

- 1 Court: Tab number 2 of your---
- 2 Bajwa: Tab number 2 is a convention for the suppression of traffic in
3 persons and of exploitation of the prosecution of others. This
4 was approved by general assembly in 2nd December 1949,
5 came into force in July 1951 and this particular convention had
6 been ratified by Singapore and I submitted a---at tab number 3,
7 Singapore's initial report to the UN Committee for the
8 convention where under article 6 at page 2, your Honour-----
- 9 Court: Yes.
- 10 Bajwa: ---they say:
11 [Reads] "Singapore is a party to the following international
12 convention which is the real issue of prostitution."
13 And they make reference to---
- 14 Court: Hang on. Which---which paragraph?
- 15 Bajwa: Your Honour, are you at tab 3 as well?
- 16 Court: Article 6 below, is it?
- 17 Bajwa: Tab 3, article 6 below. Yes.
- 18 Court: Right.
- 19 Bajwa: It's just an extract, your Honour, because it's a very---it's a
20 very long convention., sorry, very long article, report.
- 21 Court: Right.
- 22 Bajwa: The point being, your Honour, that---
- 23 Court: I see, I see, all right. Okay. And what---what does this
24 convention do?
- 25 Bajwa: Your Honour, the---the point---in fact I---before I move on,
26 your Honour, I have also exhibited at tab 4, just to complete my
27 submissions. Parliamentary debate on human trafficking---
- 28 Court: Yes.
- 29 Bajwa: ---on the sitting on 8th of July 02, where apparently Singapore
30 was downgraded to a "Tier 2" country and there were some
31 concerns and these were articulated and discussed during the
32 parliamentary debates. And what comes out from this debate

Submissions by Bajwa

- 1 essentially is that we are committed to enforcing laws again to
2 prevent human trafficking.
- 3 Court: Yes, but this deals with use of Singapore as a staging post
4 for---for human trafficking, right?
- 5 Bajwa: Your Honour, I---I think essentially the commitment by
6 the---by the Minister and parliamentarians to making sure
7 that---that human trafficking is not a problem and is detected, is
8 very clear by these Parliamentary debates.
- 9 Court: I see. In fact at page 2, your Honour of tab 4, the Minister says:
10 [Reads] “Sir, this House and Singaporeans know very well
11 Singapore’s tough stance, as reflected in concrete measures
12 against illegal immigration, including trafficking of persons.”
- 13 Court: Yes.
- 14 Bajwa: So the point that I---I really want to make, your Honour, is that
15 with some vigilance perhaps her plight would have been
16 detected, that she was indeed a victim of human trafficking.
17 And if you add that to the final submissions which may be
18 subject to cross-examination of the fact that she didn’t really
19 quite understand the Court proceedings, overall, your Honour,
20 looking at the technicality of the statement of facts---
- 21 Court: Yes.
- 22 Bajwa: ---the plight that she was in, I would urge you to consider
23 quashing this conviction.
- 24 Court: All right.
- 25 Bajwa: Thank you, your Honour.
- 26 Court: Yes, Ms Wang.

Submissions by Wang**Submissions by Wang**

- 1
2
3 Wang: With your leave, your Honour. Your Honour, I'll just address
4 the two issues pointedly, your Honour, that you raised last
5 Friday. First, of course is the legal issue of whether the
6 Controller is legally empowered, your Honour, to lawfully send
7 out a foreigner, your Honour. Your Honour was concerned
8 about that, your Honour.
- 9 Court: Yes.
- 10 Wang: Last Friday, was concerned as to the existence of the requisite
11 provisions. Do you wish me to address you on this legislative
12 framework?
- 13 Court: Yes.
- 14 Wang: I can do that.
- 15 Court: No. I don't need the legislative framework but what was the
16 fact in this case?
- 17 Wang: Yes, your Honour. Your Honour, I'll just touch on the---how
18 the Controller is legally empowered to do so, your Honour,
19 before I move on to the statement of facts, your Honour
- 20 Court: All right.
- 21 Wang: Your Honour, I have done a very simplistic depiction of the---a
22 flow chart, your Honour, in the form of a flow chart, your
23 Honour. First of all, your Honour, pursuant to---and, your
24 Honour, if I may also at the same time, your Honour, refer you
25 to my submissions, further submissions, your Honour.
- 26 Court: The---the---the latest one?
- 27 Wang: Yes. That's right, your Honour. Page 2.
- 28 Court: Yes.
- 29 Wang: Paragraph 1, your Honour. Section 55(1)(d), your Honour, the
30 Immigration Act, your Honour.
- 31 Court: Yes.

Submissions by Wang

- 1 Wang: Essentially, the Minister is empowered to make regulations to
2 provide for the removal from Singapore of any person under
3 the provisions of the Act.
- 4 Court: All right.
- 5 Wang: And in particular, your Honour, it's sub-section (d) providing
6 for, your Honour, the emphasised phrase, "will remove from
7 Singapore of any person under the provisions of the Act."
8 Your Honour, I have reproduced the relevant provisions.
- 9 Court: Yes.
- 10 Wang: Now, your Honour, in this case what happens is that the
11 Controller is empowered under regulation 12, your Honour, of
12 the---
- 13 Court: Regulation 12?
- 14 Wang: Immigration Regulations, your Honour. Your Honour,
15 unfortunately---sorry, your Honour. I have not enclosed this in
16 my submissions, your Honour, but a copy of the Immigration
17 Regulations---
- 18 Court: Yes, I've got a copy.
- 19 Wang: ---have been given to you. Essentially, your Honour, this is the
20 issuance of a social---of a visit pass, whether it is a social---this
21 is a social visit pass.
- 22 Court: Yes.
- 23 Wang: And in this case on the 23rd of April 2004, the applicant was
24 issued a visit pass.
- 25 Court: Yes.
- 26 Wang: Yes. Now, what happened is that the---from the statement of
27 facts, your Honour, the applicant was stated to be---to have
28 come or entered Singapore on 23rd of April 2004, your
29 Honour, to solicit, your Honour. So section 8(1) of the
30 Immigration Act would kick in---
- 31 Court: Yes.
- 32 Wang: ---thereby making her or rendering her a prohibited immigrant.

Submissions by Wang

- 1 Court: Sorry, 8(1) what?
- 2 Wang: 8(1) of the Immigration Act, your Honour.
- 3 Court: Yes.
- 4 Wang: Your Honour, if you refer to page 3 of my submissions.
5 Paragraph 3.
6 [Reads] “The applicant first arrived in...”
- 7 Court: Wait, wait. 8(1), how---how does it---how did it come in in
8 this case?
- 9 Wang: Your Honour, because she was here to solicit, your Honour,
10 and by virtue of that, your Honour, 8(1) and 8(3), your Honour,
11 any prostitute. So that would make her a prohibited immigrant
12 under the Act.
- 13 Court: No. When---when she entered, what happened? Let’s look at
14 the affidavit of Mr Lim, the immigration officer, right?
15 That---that is what we have, right, the facts?
- 16 Wang: Yes, or in fact, your Honour, if you just look at the statement of
17 facts, your Honour---
- 18 Court: Just look at the statement of facts, yes. Yes.
- 19 Wang: Paragraph 2, your Honour.
- 20 Court: Yes.
- 21 Wang: It states:
22 [Reads] “Investigations revealed that the Accused previously
23 entered Singapore on”---23rd of April 2004---“to solicit in
24 Singapore,” your Honour.
25 So by virtue of that, your Honour, section 8 kicks in.
- 26 Court: Oh, I see, to solicit in Singapore.
- 27 Wang: Yes. Yes, that’s right, your Honour. So---
- 28 Court: So that would make her fall within the class of prohibited
29 immigrants.
- 30 Wang: Yes, That’s right, your Honour. 8(3)(e), your Honour, “any
31 prostitute living in Singapore or entering Singapore”, et cetera,

Submissions by Wang

- 1 your Honour. So under 8(1), your Honour, she is a prohibited
2 immigrant, your Honour.
- 3 Court: Oh, I see.
- 4 Wang: And then, following that, your Honour, regulation 17 kicks in,
5 your Honour. If you just refer to the---
- 6 Court: Regulation what?
- 7 Wang: Regulation 17 of the Immigration---
- 8 Court: 17.
- 9 Wang: ---Immigration Regulations on page 2, your Honour. Paragraph
10 2, your Honour, I have also reproduced the section, your
11 Honour. And, your Honour, if you may just refer to the flow
12 chart, your Honour. Basically Controller is satisfied that the
13 person's or pass holder's presence is undesirable by virtue of
14 the fact that she is a prohibited immigrant, your Honour.
- 15 Court: So, okay. Regulation 17 says:
16 [Reads] "If the Controller is satisfied that the holder of pass
17 issued under regulation---
- 18 Wang: Yes. So---
- 19 Court: ---12," is it, in this case?
- 20 Wang: "The Controller shall", your Honour, it's mandatory, "cancel
21 the pass".
- 22 Court: Is a prohibited immigrant, right---he shall cancel the pass.
- 23 Wang: Yes. Your Honour, so it's mandatory, your Honour. It's---it's
24 not a question of exercise your discretion, yes.
- 25 Court: So the cancellation was under regulation 17, is it?
- 26 Wang: Yes. Your Honour, if you just look at the---again at the flow
27 chart, your Honour, and I will explain as I go along, your
28 Honour.
- 29 Court: Right.
- 30 Wang: So, your Honour, upon cancellation of the pass, quite clearly,
31 the applicant is---would be deemed an illegal---an illegal
32 immigrant, your Honour.

Submissions by Wang

- 1 Court: Where? Where does it say that?
- 2 Wang: Because, your Honour, under section 15 of the Immigration
3 Act, your Honour, and I may just refer you to page 3 again
4 under paragraph 4:
5 [Reads] “By virtue of regulation 17 of the regulations, the
6 Controller is empowered to cancel the pass of a holder whose
7 presence he is satisfied is undesirable. Upon the cancellation of
8 such a pass, the prohibited immigrant would be required to
9 leave Singapore under section 15 of the Act”---because section
10 15 of the Immigration Act states that, “Nobody shall remain in
11 Singapore after the cancellation of any permit”, your Honour.
12 And if he does, your Honour, he will---would be guilty of an
13 offence of overstaying, your Honour.
- 14 Court: Yes, okay.
- 15 Wang: So pursuant to that, your Honour, what happens is that it must
16 follow, your Honour, that the Controller, upon cancellation of
17 the pass, would then issue a special pass, your Honour, to
18 enable this person to remain in Singapore and while at the same
19 time the entire process of sending this person or lawfully
20 sending out this person kicks in, your Honour.
- 21 Court: I’m sorry.
- 22 Wang: Your Honour, under 6---section 15 of the Immigration
23 Regulations, regulation 15, your Honour.
- 24 Court: Regulation 15 now?
- 25 Wang: Yes.
- 26 Court: All right, yes. Special pass?
- 27 Wang: Yes, your Honour. I do apologise this was not included in
28 the---in the flow chart, your Honour. Now, what happens, your
29 Honour, is that upon cancellation of the actual visit pass, the
30 Controller can by virtue of regulation 15, your Honour, of the
31 Immigration Regulations issue this person a special pass. That

Submissions by Wang

- 1 comes under section---or rather regulation 15 sub-section (1)
2 subsection (c), your Honour.
- 3 Court: Yes. 11.15am
- 4 Wang: And your Honour, this would then trigger the entire process of
5 sending out this person in a lawful way.
- 6 Court: So, that was what happened in this case, she has the special
7 pass---
- 8 Wang: Yes, your Honour.
- 9 Court: ---to enable her to make preparations to leave?
- 10 Wang: Yes, your Honour.
- 11 Court: And that constitutes lawful sending out?
- 12 Wang: Your Honour, that is only the start, your Honour, because after
13 that, your Honour, she has to leave before the special pass
14 expires, your Honour---
- 15 Court: Yes.
- 16 Wang: ---failing which, your Honour, she would then be guilty of
17 another offence, your Honour, of overstaying in Singapore. So,
18 it's not an issue of her voluntarily leaving Singapore, your
19 Honour, no, not at all, your Honour. She would have to leave
20 before her special pass expires, your Honour, and that's
21 where---
- 22 Court: But all---every person who is---
- 23 Wang: ---the whole process of repatriation kicks in, your Honour.
- 24 Court: ---every person who is issued with a social visit pass---
- 25 Wang: That's for---
- 26 Court: ---right---
- 27 Wang: ---14 days.
- 28 Court: ---14 days---
- 29 Wang: Yes.
- 30 Court: ---right? So, would have to leave by the 14th day, otherwise
31 she would commit an offence.
- 32 Wang: Yes, your Honour.

Submissions by Wang

- 1 Court: Does it mean that the person is lawfully sent out?
- 2 Wang: No, your Honour, in this case---
- 3 Court: Somebody from Malaysia who come to Singapore, he'll get a
4 social visit pass 14 days, right, so he has to leave by
5 the---before the expiry of the---of the social visit pass,
6 otherwise he would be overstaying or whatever, right? So, he
7 leaves within that period. Does that constitute---does it mean
8 that he had been lawfully sent out?
- 9 Wang: No, your Honour, this is a little different, your Honour, because
10 you have to take the context in which this applicant was first
11 apprehended, your Honour, and the circumstances and the
12 manner in which she was arrested and the reason why she was
13 sent out---repatriated, your Honour. I---we have to look at it in
14 that context, your Honour, because, first of all, she was a
15 prohibited immigrant and the rest of the processes kicked in
16 and it must follow then that the controller is empowered to then
17 sent---your Honour, if I may just refer you to my argument,
18 your Honour, in paragraph 5, your Honour.
- 19 Court: Yes.
- 20 Wang: Your Honour, it---it is our submission that it must be in tandem
21 with the spirit of the Act, your Honour, that the controller is
22 empowered and has the right discretion, your Honour, to sent
23 out or---or---or remove foreigners who have unlawfully
24 returned to Singapore, your Honour. But in this case, she had
25 contravened the ban order, she had then entered Singapore.
- 26 Court: No, we are still talking about the original sending out.
- 27 Wang: Yes, yes.
- 28 Court: We're not talking about the return now.
- 29 Wang: Your Honour, in this case, your Honour, she was---if I may just
30 use the word, she was earmarked, your Honour, because she
31 was, in the first place, a prohibited immigrant, your Honour,
32 because her social visit pass was cancelled.

Submissions by Wang

- 1 Court: Yes. Okay. She was a prohibited immigrant by virtue of her
2 being---
- 3 Wang: Yes.
- 4 Court: ---a member of the---
- 5 Wang: Yes.
- 6 Court: ---prohibited clusters.
- 7 Wang: Your Honour, in your example of someone who has overstayed
8 the 14-day social visit pass period, your Honour, that is
9 different, your Honour, that person will be guilty of overstaying
10 in Singapore and that person would be guilty of that offence,
11 your Honour.
- 12 Court: No, no, no---
- 13 Wang: So---
- 14 Court: ---I was only following up from your argument that the special
15 pass---if she didn't leave before expiry, she would have
16 committed an offence. So, that---the same applies for any pass,
17 you know, that any person enters into Singapore, you see. The
18 question is, if you are looking at whether she had been lawfully
19 sent out, right, so then the question is: what is lawfully sent
20 out? Had she at any stage been, let's say, required to leave? If
21 you tell me the special pass is to facilitate---give her the time to
22 prepare for departure, you know, I---I---I---seems a reasonable
23 thing to do, but was she at any time required to leave?
- 24 Wang: Your Honour, if---if she has already been deemed a prohibited
25 immigrant under section 8(1), your Honour, and quite clearly,
26 your Honour, the controller is satisfied that her presence in
27 Singapore is not desirable, so---in other words, your Honour,
28 she has to leave and that in turn entailed---
- 29 Court: No, 8(1)---8(1)---
- 30 Wang: ---the cancellation of her visit pass, your Honour.
- 31 Court: No, 8(1) just says that---it is a definition of prohibited
32 immigrant, you know.

Submissions by Wang

- 1 Wang: So, your Honour, a special pass in this situation is---well, is
2 eponymous, your Honour, it's---it's being issued for special
3 circumstances. Now, your Honour, if you'll just look at
4 regulation 15, your Honour, of the Immigration Regulations on
5 Special Pass. A special pass other than a special pass issued
6 under section 6(a) of the Act may be issued by the Controller to
7 any person if the Controller considers the issue of such a pass
8 desirable for any other special reason.
- 9 Court: And what's the special reason?
- 10 Wang: So, clearly in this case, your Honour, if a special pass were not
11 issued, the applicant will be guilty of another offence and that
12 would be of overstaying, your Honour, because her original
13 social visit pass had been cancelled.
- 14 Court: Yes.
- 15 Wang: So, in the meantime, your Honour, that is also to allow the
16 controller, your Honour, to carry out the administrative process,
17 your Honour, of sending her back and hence the words
18 "repatriation", "deportation". Yes, your Honour, I know those
19 are just terms of art, your Honour. I think we are not just
20 relying on those two words to say that she had been lawfully
21 sent out. In fact, your Honour, I'll just bring you to the
22 statement of facts to show that just looking at that paragraph,
23 your Honour, the whole processes, your Honour, must not be
24 taken piece-meal, it must not be looked at in isolation but it's
25 the entire process.
- 26 Court: Wait. Wait. We are in the statement of facts stage now.
- 27 Wang: Yes, your Honour. I'll---I'll just come to that later---
- 28 Court: We are---
- 29 Wong: ---your Honour, but---
- 30 Court: ---we are actually in the facts stage---
- 31 Wang: Your Honour---
- 32 Court: ---whether as re---

Submissions by Wang

- 1 Wang: ---or rather the law, yes.
- 2 Court: ---whether it's reflected in the statement of facts or not is
3 another matter.
- 4 Wang: Yes. We're---
- 5 Court: Whether she was---
- 6 Wang: ---just talking about the law, yes.
- 7 Court: ---in fact lawfully sent out as alleged in the statement of facts,
8 as alleged in the charge.
- 9 Wang: As in whether the controller was empowered to send her
10 out---lawfully send her out in this case.
- 11 Court: I'm not saying the controller is not empowered to lawfully send
12 her out. Did the controller actually sent her out?
- 13 Wang: Yes, your Honour, it---
- 14 Court: Right.
- 15 Wang: ---it must be the case, your Honour---
- 16 Court: Then, then, you'll show me.
- 17 Wang: ---that he is empowered, your Honour---
- 18 Court: You got to show---
- 19 Wang: ---as---as I have just explained.
- 20 Court: No, I'm not saying he's not empowered, Ms Wang. I'm---I've
21 never said he's not empowered---
- 22 Wang: Yes.
- 23 Court: ---okay? Of course, he has the power so long as the---the law is
24 complied with. Where is the---the actual act of sending her
25 out? Not the special pass. The special pass is to enable her to
26 get out, right?
- 27 Wang: Yes. Your Honour, if I may just venture this---this argument
28 before I leave, your Honour and my colleague would have to
29 take over, your Honour.
- 30 Court: Yes, okay.
- 31 Wang: Yes, I do apologise---
- 32 Court: Yes.

Submissions by Wang

- 1 Wang: ---your Honour. Yes, your Honour. Your Honour will note,
2 your Honour, that nowhere in the Act is the word “otherwise
3 lawfully sent out” being defined.
- 4 Court: Yes.
- 5 Wang: In fact, what is really defined, your Honour, or provided for is
6 that of the other limb which is removed---
- 7 Court: Is it?
- 8 Wang: ---and that is provided for in part 5---
- 9 Court: Yes, yes.
- 10 Wang: ---and a removal order. Now, in this case, quite clearly, we
11 have a precedent on the limb of otherwise lawfully sent out, i.e.
12 it’s not a case of removal because in the case of removal or an
13 order of removal would---
- 14 Court: I---I---I’m with you on that point, Ms Wang.
- 15 Wang: ---had been given, yes, as in the case of *Ma* which---
- 16 Court: The question is---
- 17 Wang: ---my learned friend had referred to.
- 18 Court: ---what is the meaning of “otherwise lawfully sending out”?
- 19 Wang: Now---now---now, your Honour, it’s not defined and I have
20 stated in paragraph 5 of our submissions---sorry, page 5, your
21 Honour, paragraph 6.
- 22 Court: Yes.
- 23 Wang: Unlike the process of removal which an order is provided for in
24 part 5 of the Act, your Honour, the phrase “lawfully sent out or
25 otherwise lawfully sent out” is not defined in the Act. Be that
26 as it may, your Honour, it is pertinent to know that section 9 of
27 the Interpretation Act allows a purposive interpretation of the
28 provision with the use of extrinsic materials. In this regard,
29 legislative intent,---your Honour, there is a typo error---as
30 gleaned from parliamentary reports, your Honour, which I have
31 enclosed at tab 1, must be that it is in tandem in the spirit of the
32 Act that the Controller is empowered and has wide discretion to

Submissions by Wang

- 1 remove or sent out foreigners who have lawfully---unlawfully
2 returned to Singapore. Now, in this case, your Honour, if it is
3 not a case of a removal order, your Honour, it---it must be then
4 that otherwise lawfully sent out, it must be that in a wide and
5 purposive approach.
- 6 Court: Ms Wang, Ms Wang, hold your horses. “Who have unlawfully
7 returned to Singapore” that is not the issue there, you know?
8 That was the first entry.
- 9 Wang: Sorry, your Honour. Can I just ditch[sic] that your Honour?
- 10 Court: Yes. All right.
- 11 Wang: Yes. Thank you.
- 12 Court: Now, are you saying---it would seem to me that what you are
13 saying is that she had---was given a social visit pass, right?
- 14 Wang: Yes.
- 15 Court: I suppose as a Thai passport, you will be given a---
- 16 Wang: Yes.
- 17 Court: ---the usual 14-days’ social visit pass. And then, the controller
18 was of the view that she was a prohibited immigrant and
19 cancelled the social visit pass---
- 20 Wang: Yes.
- 21 Court: ---thereby making her stay in Singapore illegal and all---
- 22 Wang: Yes, that’s right.
- 23 Court: And then gave her a special pass---
- 24 Wang: No, she had cancelled---
- 25 Court: ---to facilitate---
- 26 Wang: Yes, that’s right.
- 27 Court: ---to enable her to make preparations---
- 28 Wang: To stay on---
- 29 Court: ---to leave.
- 30 Wang: ---yes. That’s right.
- 31 Court: So, you’re saying that that constitutes the lawful sending out?
- 32 Wang: No, your Honour, that is just the cusp[sic], your Honour, we are

Submissions by Wang

- 1 at the outset of the whole process of sending out, your Honour.
- 2 Court: Yes, that---that is the---yes, I---I mean, taken in---
- 3 Wang: You---we---we can't take it piece-meal, your Honour, we---
- 4 Court: ---taken in the---taken into it is look at---look at in---in its
- 5 entirety, that would be the---that would be the---
- 6 Wang: To be the start, your Honour, the---
- 7 Court: ---process---
- 8 Wang: ---that precipitates the entire process of sending out, your
- 9 Honour.
- 10 Court: All right. When she left, that will be finally sent out, right?
- 11 But that would be the start of the process of lawfully sending
- 12 her out.
- 13 Wang: Yes or the trigger, yes, yes. That's right, your Honour.
- 14 Court: All right.
- 15 Wang: Sorry, your Honour, if I---with your leave, your Honour---
- 16 Court: That---where is the---the cancellation? I've read, I'll just
- 17 need---maybe---I need to satisfy myself that---of the
- 18 cancellation, that would be in the affidavit, right?
- 19 Wang: Yes, your Honour. If you refer to the first bundle, your
- 20 Honour, the---my earlier submissions, your Honour.
- 21 Court: Yes.
- 22 Wang: It is at tab 5, your Honour, the notice of cancellation of visit
- 23 pass under regulation 22(3). It sets out the---
- 24 Court: Right.
- 25 Wang: ---entire process of the cancellation and in fact, this notice was
- 26 actually read to the applicant and---your Honour---
- 27 Court: Right.
- 28 Wang: ---informing her that the---the pass was cancelled.
- 29 Court: So---
- 30 Wang: Tab 5.
- 31 Court: ---there was the power to cancel. The basis of cancellation was
- 32 that she was a member of the prohibited class---prohibited

Submissions by Wang

- 1 immigrant, is it?
- 2 Wang: Yes. And---
- 3 Court: And so, the---
- 4 Wang: ---and pursuant to---yes.
- 5 Court: ---controller has exercised his discretion to cancel Order---
- 6 Wang: Under regulation 17.
- 7 Court: ---or person acting on his behalf?
- 8 Wang: Yes. And upon cancellation of the pass, pursuant to regulation
- 9 17, section 15 of the Immigration Act kick in---
- 10 Court: Yes.
- 11 Wang: ---such that the person's presence in Singapore would be
- 12 illegal, your Honour, and therefore---
- 13 Court: All right.
- 14 Wang: ---you need the issuance of a special pass.
- 15 Court: All right.
- 16 Wang: And that would kick-start the entire lawfully sending out
- 17 process, your Honour.
- 18 Court: All right.
- 19 Wang: Your Honour, with your leave, your Honour---
- 20 Court: Move on to the next point.
- 21 Wang: I'm so sorry, I have to leave now.
- 22 Court: All right, you may, ask Mr Leong to---
- 23 Wang: Yes. Thank you, your Honour.
- 24 (Wang confers with Leong)
- 25 Court: Yes, Mr Leong.
- 26 Leong: Yes, your Honour.
- 27 Court: You move to the next point.
- 28 Leong: Your Honour, I can---yes.
- 29 (Wang confers with Leong)

Submissions by Leong**Submissions by Leong**

2

3 Leong: Your Honour, I can do no better than to come back to the
4 further submissions---further skeletal arguments that is largely
5 put together by my colleague, DPP Janet Wang.

6 Court: Yes.

7 Leong: Your Honour, my learned friend---my---my colleague had
8 taken your Honour through the legislative framework broadly.
9 And your Honour, I wish to visit the statement of facts---

10 Court: No, we don't need to do that, Mr Leong. What I want to move
11 on now---want to do is move on now to the other two points:
12 the issue of---that she was a victim of human trafficking and
13 finally that she did not understand the proceedings in the Court.

14 Leong: Yes, your Honour.

15 Court: All right. So, I think, insofar as the third point is concerned, is
16 that---which I see---is he going to cross-examine---

17 Bajwa: Yes, your Honour.

18 Court: ---the witnesses? All right. So, we do---we'll move on to
19 cross-examination but what about the point on human
20 trafficking?

21 Leong: Your Honour, human trafficking, from what I understand to be
22 the position, my learned friend had set out in his bundle of
23 authorities the two conventions. Now, your Honour, as far as I
24 understand, we are---we have not---we may be the signatory to
25 the first but we are---we have not rectified that.

26 Court: All right.

27 Leong: And we are not---

28 Court: But I think---

29 Leong: ---basically---

30 Court: ---Mr Bajwa concedes that but you says that we are signatory to
31 the---the old one, the 1949 convention.

32 Bajwa: That's right. Yes.

Submissions by Leong

- 1 Leong: Yes, your Honour, I---although I---
- 2 Court: Yes, we are sorry, we have---we have---we are---we are party
3 to the 49 convention.
- 4 Leong: Yes, your Honour. I---I do of course agree with what my
5 learned friend had read out in the---insofar as what was
6 reproduced on what the members of parliament have
7 asked---concerns that have been stated in parliament. Your
8 Honour, notwithstanding that, insofar as the human trafficking
9 issue, your Honour, the 5-page long statement that has been
10 recorded from the applicant in this case did not reveal human
11 trafficking. So, insofar as the facts that was placed before the
12 investigating agencies---
- 13 Court: She did not allege that she was a victim of trafficking---
- 14 Leong: Yes, your Honour.
- 15 Court: ---that she was coerced into coming to Singapore, is it?
- 16 Leong: Nothing of that sort. So, basically, my point is that when the
17 investigation agencies or the authority was dealing with her that
18 led up to her being lawfully sent out of the jurisdiction---
- 19 Court: All right.
- 20 Leong: ---there is no allegation or claim was---or assertion that she's a
21 victim of any human trafficking effort. Yes, I think in that
22 statement, it records quite clearly the---the---the humble
23 background and certain struggles that she---she and
24 the---the---the family background but nothing to suggest that
25 she was any victim of any human trafficking effort.
- 26 Leong: Your Honour, if I may just take some time to try and clear up
27 the papers left behind by my colleague. Your Honour, is your
28 Honour with me on the statement?
- 29 Court: Yes, I'm---I'm at the statement.
- 30 Leong: Yes, your Honour. Okay, paragraph 1 of the statement, very
31 briefly, sets out that:
32 [Reads] "The family of---the father and two younger siblings

11.30am

Submissions by Leong

1 reside in Chiang Rai, Thailand, no family roots in Singapore
2 and received no formal education and went to Hadyai at about
3 5 years ago to work as seamstress while the rest of my family
4 stayed behind in Chiang Rai. However, I arrived at Hadyai and
5 was tricked into prostitution, was later brought to Singapore to
6 solicit. But Anti-Vice did not allow me to work in Singapore
7 and I was sent back to Thailand with a permanent ban. Once
8 back in Hadyai, I had to continue working as a prostitute to pay
9 off my debt to a brothel owner. After I had finished paying off
10 my debt, I worked as seamstress in Hadyai. I'm fit. I've no
11 illness. I affirm that passport number I'm presently using is a
12 lawfully issued passport from passport office in Songkla,
13 Thailand"---and so on and so forth, your Honour.

14 Your Honour, it's my submissions that even before
15 the---the---the authorities in his---in his---in her statement, it
16 doesn't reveal in so many words that she was a victim of
17 human trafficking and she was under any form of, you know,
18 special---special assistance is required of them and the---

19 Court: But she says she was tricked into prostitution.

20 Leong: Yes, your Honour. But---but insofar as that is concerned, your
21 Honour, the authority was exercising its powers under the
22 provision which my learned---my---my colleague has already
23 addressed your Honour with. She is a prohibited immigrant by
24 virtue of the status that she is coming in for prostitution.

25 Court: No, we are talking of the human trafficking angle now.

26 Leong: Yes, your Honour.

27 Court: Yes.

28 Leong: Now, in---insofar as that angle is concerned, your Honour, that
29 was perhaps in---even if it was true, I'm not accepting that that
30 was the case. Even that---even if that was true in 2004, but it
31 was very clearly communicated---that is the prosecution's
32 case---that it was very clearly communicated to her that, "You

Submissions by Leong

- 1 are not supposed to come back, there is a ban order on you and
2 if you do come back, it carries a minimum 1-year mandatory
3 imprisonment”. She is fully aware of that---
- 4 Court: No, this is the statement recorded---
- 5 Leong: ---those obligations, your Honour.
- 6 Court: ---last year, you know? No?
- 7 Leong: Yes, your Honour. But---
- 8 Court: Not---not in 04. Is it 04 or last year, 06?
- 9 Leong: 06, but the---
- 10 Court: 06, right?
- 11 Leong: ---06 statement---
- 12 Court: 04, there’s no statement, right? 04, there is no statement.
- 13 Leong: 04, there is no statement, your Honour.
- 14 Court: Yes, because she was not arrest---I mean she was not charged
15 for any offence, right?
- 16 Leong: Yes.
- 17 Court: 06, charged for offence, so she recorded this statement.
- 18 Leong: Your Honour, yes. In 06, that’s first time this thing came out
19 but in 04, there was no statement recorded of her.
- 20 Court: Right.
- 21 Leong: It was a case whereby they tried to put in some licence
22 application for---for---for that special permission to---to work
23 here in a special capacity, all right and that was denied and she
24 was then classed as trying to solicit for the purpose of
25 prostitution and under the Immigration Act provisions, she is a
26 undesirable---she’s deemed undesirable and she’s deemed
27 prohibited immigrant, she has to leave, and that was all that
28 happened in 2004. Now, the first time there is this semblance
29 of any trafficking only came out in 2006 when this particular
30 statement was recorded. I stand guided by your Honour, I think
31 on---on---on the earlier---on earlier point that pointing out that
32 this statement was recorded in 2006. So, insofar as 2004, what

Submissions by Leong

- 1 appeared before the authority was it's just another case, nothing
2 that sends any sirens or flashing lights that, "Hey, this is a
3 victim, we got to handle her in a---in a totally different way".
- 4 Court: All right. Yes, go on.
- 5 Leong: Yes, your Honour. So, your Honour, my---my point is insofar
6 as the---the---the point that my learned friend try to buttress on
7 the human trafficking is really a non-starter. In 2004, before
8 the authority, there is nothing before the authority. What do
9 you---what would we expect the authority to act? How would
10 we expect the authority to act? The authority acted in what it
11 would have done in every case that went before it where there
12 is a person who is in Singapore for the purpose of vice, for
13 prostitution. And the process then flowed logically from one
14 step to the other in, first of all, cancelling the visit pass, issuing
15 a special pass to allow her at least that lawful window to---to
16 depart.
- 17 Court: Yes, all right.
- 18 Leong: Yes, your Honour. Now, I---I think that is really the main
19 thrust of my submission in---insofar as my reply to the learned
20 counsel's point on trafficking.
- 21 Court: All right.
- 22 Leong: Now, on the second point, the follow-on point that was she
23 aware of that ban order? Was she aware of the effect of that
24 ban order? Your Honour, it is the prosecution's case that the
25 procedure administered in 2004 by Mdm Ang has clearly
26 communicated in the Thai language to---
- 27 Court: Yes, okay.
- 28 Leong: ---the applicant.
- 29 Court: Well, we'll have to test that---
- 30 Leong: Yes, your Honour.
- 31 Court: ---by cross-examination, right?
- 32 Leong: And that is the prosecution's point.

Submissions by Leong

- 1 Court: Yes.
- 2 Leong: And the clarity of what it entailed basically in the prosecution's
3 point is that---
- 4 Court: Yes.
- 5 Leong: ---even when she went back to Thailand, when she met the
6 husband-to-be or the suitor, she was fully aware and she
7 actually even made known to the---the boyfriend of this
8 impediment of her if she should set foot back into Singapore
9 again.
- 10 Court: Yes.
- 11 Leong: And the prosecution's case also go on to---that when she was
12 brought in for investigations, when she was arrested at the ICA
13 Building, the statement reveals very clearly what
14 she---what---what her status was.
- 15 Court: Yes.
- 16 Leong: And by no stretch of imagination can she now turn back and
17 say that she doesn't know what's going on in 2004 and what's
18 going on in 2006 before the authority---
- 19 Court: All right.
- 20 Leong: ---as well as before the Court.
- 21 Court: Well, I guess it's a question of whether---
- 22 Leong: Yes, your Honour.
- 23 Court: ---she understands the language, right? All right. So, Mr
24 Bajwa, anything to say?
- 25 Bajwa: Sorry, your Honour, can I just rebut some of the points made
26 earlier and save the balance of the rebuttal on the question of
27 whether she understood until after the cross?
- 28 Court: Yes, okay.

Reply submissions by Bajwa**Reply submissions by Bajwa**

- 1
2
3 Bajwa: Your Honour, just a couple of points, your Honour. I don't
4 think my learned friend is correct when she says that she was
5 classified as a prohibited immigrant simply because if you look
6 at cancellation, your Honour, of the---look at the cancellation
7 of the visit pass.
8 Court: Where can I find it?
9 Bajwa: This is at---the affidavit.
10 Court: Yes.
11 Bajwa: RA-3, your Honour.
12 Court: Yes, okay.
13 Bajwa: All right. You look at the cancellation and you compare it to
14 regulation 17. Regulation 17, you can cancel if the person is a
15 prohibited immigrant or considered---
16 Court: Presence in Singapore undesirable.
17 Bajwa: ---sorry---17---or undesirable. So what they have done is, if
18 you look lower down, your Honour, on the pass cancellation, it
19 says:
20 [Reads] "It is cancelled because Controller is satisfied your
21 presence in Singapore is undesirable."
22 So it was on the ground of undesirableness that she was---it
23 was cancelled---
24 Court: Yes.
25 Bajwa: ---and not on the ground of prohibited immigrant.
26 Court: Okay.
27 Bajwa: So, to that extent, that is not correct.
28 Court: Where is the provision on undesirability?
29 Bajwa: That would be in the sections---regulation 17 itself, your
30 Honour.
31 Court: Reg 17, is it?
32 Bajwa: Yes, Controller can cancel if presence is undesirable.

Reply submissions by Bajwa

- 1 Court: Does it make a difference?
- 2 Bajwa: Sorry, your Honour.
- 3 Court: Does it make a difference?
- 4 Bajwa: No, your Honour, just to point out that---
- 5 Court: Just that the---
- 6 Bajwa: Yes, that---that is not correct.
- 7 Court: Technically, she was a---
- 8 Bajwa: So---so that---
- 9 Court: ---her pass was cancelled because her presence was deemed to
10 be undesirable, right?
- 11 Bajwa: That's right, but---yes, so the only difference is that they
12 take---they take that as a starting point, that moment she
13 came---
- 14 Court: Yes, okay.
- 15 Bajwa: ---she was already a prohibited immigrant, that is not true.
16 Secondly---
- 17 Court: Yes.
- 18 Bajwa: ---your Honour, statement of facts say she came to solicit.
19 Now, that's also not entirely correct as we can tell from
20 the---from the evidence in this case. She actually came and
21 made an application which was rejected. Now, there is a
22 difference between coming and---
- 23 Court: But it was---if it was given, then she would be---she would be
24 doing the---
- 25 Bajwa: Yes. But---
- 26 Court: ---soliciting?
- 27 Bajwa: Yes.
- 28 Court: Right.
- 29 Bajwa: But she didn't come to solicit. There is a no-trigger point.
30 They are trying to say that there is a trigger point. "To solicit"
31 means that she had come here as a prohibited immigrant. What
32 they are trying to say is that the---

Reply submissions by Bajwa

- 1 Court: No, no, no.
- 2 Bajwa: ---learned Judge---
- 3 Court: “Prohibited immigrant” applies to prostitutes.
- 4 Bajwa: Yes, it---
- 5 Court: So if she was a prostitute, then you’re[sic] a prohibited
6 immigrant.
- 7 Bajwa: Yes, but the---but you may be---you may belong to that class of
8 prohibited immigrant but---
- 9 Court: Yes.
- 10 Bajwa: ---in this case, the trigger point was not that. The trigger point
11 was that she was---
- 12 Court: Well, if you---
- 13 Bajwa: ---found undesirable after the application was rejected. Yes,
14 Sir. So---
- 15 Court: Well, anyway---
- 16 Bajwa: ---so that’s just a technical point, your Honour.
- 17 Court: ---that was cancelled because she was deemed undesirable, all
18 right?
- 19 Bajwa: Yes.
- 20 Court: Because controller was satisfied that her presence in Singapore
21 was undesirable, all right.
- 22 Bajwa: And then, your Honour, now for the special pass, your Honour,
23 my understanding of the special pass is that your visit pass is
24 cancelled, but we are giving you a special pass to allow you to
25 continue to remain in Singapore lawfully.
- 26 Court: But for the purpose of---well, it says there for any other reason,
27 right?
- 28 Bajwa: Yes.
- 29 Court: So the reason would be, as I understand their practice, to enable
30 the person to---I know you have to book a ticket and---and so
31 on---book an air ticket or whatever, so gives it to you up to a
32 certain time, then you have to leave.

Reply submissions by Bajwa

- 1 Bajwa: Yes.
- 2 Court: Yes.
- 3 Bajwa: But your presence here is still lawful at that point. If you can
4 choose to make it unlawful---
- 5 Court: But the only question is---
- 6 Bajwa: ---subsequently.
- 7 Court: ---whether---what is---what is “lawfully sent out”?
- 8 Bajwa: Yes.
- 9 Court: Right?
- 10 Bajwa: Yes.
- 11 Court: When we have to look at what is “otherwise lawfully sent out”.
- 12 Bajwa: That’s right.
- 13 Court: So, the DPP’s submission is that she was---her presence was
14 undesirable, so they cancelled her social visit pass---
- 15 Bajwa: Yes.
- 16 Court: ---all right? And to enable her to leave, they gave her a special
17 pass, presumably valid only until the next day or until such
18 time that they are satisfied that, for whatever period they are
19 satisfied that she needs to---to make arrangements to leave and
20 they will give her that special pass.
- 21 Bajwa: Yes.
- 22 Court: So the question is whether the step constitute---
- 23 Bajwa: Yes.
- 24 Court: ---otherwise lawfully sent out---
- 25 Bajwa: Yes, my---
- 26 Court: ---is an issue.
- 27 Bajwa: ---my submission is no. My submission is that it just enables
28 you---enables her to stay her and then she leaves and
29 not---that---that act of issuing the special pass was not an act
30 that was lawfully sending her out. In fact, it was---on the
31 contrary, it’s an act of making her lawfully stay here because
32 the pass has been cancelled.

Reply submissions by Bajwa

- 1 Court: Well, okay.
- 2 Bajwa: Okay.
- 3 Court: Yes.
- 4 Bajwa: Now, your Honour, then this issue of human trafficking, my
5 learned friend originally said that there was nothing in the
6 statement but then when he read it, it was so obvious that the
7 first paragraph, she mentioned that she was tricked into coming
8 the first time---
- 9 Court: No, she said that she was tricked into prostitution---
- 10 Bajwa: Yes.
- 11 Court: ---in Hadyai.
- 12 Bajwa: Yes.
- 13 Court: And then she said she was later brought to Singapore to solicit.
- 14 Bajwa: Yes.
- 15 Court: All right.
- 16 Bajwa: I think the connection with Singapore is once---once you are
17 tricked into prostitution in Thailand and then you are
18 brought---brought here, you can read it reasonably to mean that
19 it is a continuing transaction that she is also the---
- 20 Court: But it didn't seem that she was coerced into coming here, you
21 know? At---the second paragraph said that, "My agent
22 accompanied...to Singapore, but my application was turned
23 down, I was repatriated. I was served with written notice"---
- 24 Bajwa: Your Honour, not---
- 25 Court: Of course, if Mr Leong's---
- 26 Bajwa: ---everything, yes.
- 27 Court: ---main point is that this is what was disclosed to them in 2006.
- 28 Bajwa: That's right.
- 29 Court: In 2004, there was no evidence that immigration had any
30 inkling. I mean---
- 31 Bajwa: That's right.
- 32 Court: ---she certainly didn't say that she told them that, "I was forced

11.45am

Reply submissions by Bajwa

- 1 into coming to Singapore” or anything---
- 2 Bajwa: Yes.
- 3 Court: ---right?
- 4 Bajwa: But I think, your Honour, if---if an investigator who has
5 received such information and---and it has been recorded down,
6 I think it’s obligatory to check further to see that whether this
7 person is indeed a victim of human trafficking and not just
8 ignore that and go on to the other questions and place more
9 emphasis on that.
- 10 Court: Yes.
- 11 Bajwa: Now, whether it is 2006 or 2004, your Honour, it is---is to my
12 mind, your Honour, 2004 when she came, it was very clear why
13 she was here because there was an application.
- 14 Court: Yes, but whether she came voluntarily or not?
- 15 Bajwa: That’s right. So, whoever was in the ICA at that time, my
16 learned friend said they just took it for granted that it’s just
17 another case, but is it not also obligatory on them, when they
18 are faced with the situation of a young girl, she is barely 20
19 years old, before them and she is saying that she is coming for
20 this particular purpose to also have another question for her and
21 said, “Have you come here voluntarily? Are you being
22 forced?” Not forgetting that, in her affidavit, she has said that
23 there was---she was brought---accompanied by a certain
24 individual, met by another man in Singapore, how does she
25 know how to apply---make these applications? She wouldn’t
26 know how to make these applications.
- 27 Court: I---I---I must confess I’m not familiar with this aspect of---
- 28 Bajwa: That’s right, your Honour.
- 29 Court: ---life. Perhaps, it’s best if you ask the---
- 30 Bajwa: Yes.
- 31 Court: ---immigration officer concerned---
- 32 Bajwa: Yes, your Honour.

Reply submissions by Bajwa

- 1 Court: ---since she is here. She is here today, right, Mr Leong?
- 2 Leong: Yes, your Honour.
- 3 Court: Yes.
- 4 Bajwa: That is all, your Honour, I've nothing further to add---
- 5 Court: Yes.
- 6 Bajwa: ---I will reserve---
- 7 Court: Okay. So what is the sequence of---
- 8 Bajwa: Your Honour, could we have it stood down for a---
- 9 Court: ---sequence of witnesses?
- 10 Bajwa: Your Honour, I think the---we'll go back to 04 and ask Mdm
- 11 Ang to give evidence on the---on what happened in 04 and then
- 12 subsequently the statements in 06. I believe they have thrown
- 13 in another person into the equation.
- 14 Court: And also we have a couple of interpreters, right? Or Mdm Ang
- 15 will be one---
- 16 Leong: Your Honour, we would---
- 17 Court: ---and then, the 06 will be---
- 18 Leong: ---principally have four. One is Mdm Ang.
- 19 Court: Yes.
- 20 Leong: One is the---the---that was insofar as 2004 was concerned. And
- 21 we have the interpreter, the Thai interpreter, who assisted in the
- 22 interpretation of the---
- 23 Court: 06, in the 06 statement, right?
- 24 Leong: ---06. There was the recording officer and there was also one
- 25 other officer who happened to chance by---
- 26 Court: All right.
- 27 Leong: ---Mr Chew.
- 28 Court: What about the Court interpreter in---in---in the trial?
- 29 Leong: Your Honour, that---the same interpreter also interpreted in
- 30 Court.
- 31 Court: All right. All right. So, we'll have them first.
- 32 Bajwa: Your Honour, is it possible to stand down for about 10 minutes

Reply submissions by Bajwa

- 1 so that we can rearrange everything and---
- 2 Court: All right.
- 3 Bajwa: ---just focus on the---
- 4 Court: We stand down for 10 minutes.
- 5 Bajwa: Yes, thank you, your Honour.
- 6 **(Adjourned at 11.47am)**
- 7 **(Resumed at 12.00pm)**
- 8 Bajwa: Your Honour, thank you for the time given. Perhaps Mdm Ang
9 can be the first witness.
- 10 Court: Yes.
- 11 Bajwa: Your Honour, can I ask for the other witnesses, your Honour,
12 just to be absent from Court just---
- 13 Court: To be---to leave the Court?
- 14 Bajwa: ---outside?
- 15 Leong: Yes, your Honour.
- 16 Court: Yes.
- 17 Leong: Your Honour, I have an application to make. Okay, Roslinda is
18 the investigating officer. To---one of---the witness---
- 19 Court: Yes.
- 20 Leong: ---whose affidavit has also been affirmed and submitted to
21 Court. She's also the investigating officer and she's also giving
22 witness testimony.
- 23 Court: Can you---can you speak nearer to the mike, Mr Leong?
- 24 Leong: Oh, yes, your Honour. Your Honour, Roslinda Binte Ahmad---
- 25 Court: Yes.
- 26 Leong: ---she's one of the four witnesses that would be testifying---
- 27 Court: Yes.
- 28 Leong: ---to the effect insofar as the recording of the statements and
29 other aspects of the case. In the usual case of trial the
30 prosecution normally would have the IO with the prosecutor for
31 assistance. I do not know whether my learned friend has any
32 objections in this instance?

Reply submissions by Bajwa

- 1 Bajwa: Your Honour, because there's a---
- 2 Court: This is not the prosecution, you know, Mr Leong.
- 3 Leong: Yes, your Honour.
- 4 Court: This is a---we are just taking the evidence of the witnesses to
5 ascertain certain facts. So I don't think it's strictly necessary
6 for that. Unless you need some assistance or anything. You
7 think you need some assistance?
- 8 Leong: Maybe not at the present point, your Honour.
- 9 Court: Yes, okay. Yes.
- 10 Bajwa: Yes. May an oath be administered to her?

PW1 ANG SIEW ENG (F)

1 **PW1 ANG SIEW ENG (F)**
2 **(Affirmed and speaking in English)**

3

4 Court: So, Ms Ang---

5 Witness: Yes.

6 Court: ---you are here to give evidence on the events of 2004, is it?

7 Witness: Yes.

8 Court: Yes, 24th April 2004, right? So, you've just taken an oath.

9 You are the senior immigration and checkpoint specialist, is

10 it---

11 Witness: Yes.

12 Court: ---at ICA?

13 Witness: Yah.

14 Court: All right. All right, Mr Bajwa, you can ask---ask questions.

15 Bajwa: Very well, your Honour.

1 **Cross-examination by Bajwa**

2

3 Q Do you have a copy of your affidavit with you?

4 A No.

5 Q No?

6 Bajwa: Your Honour, could an extra set be provided to her?

7 Q Now, witness, you confirm that is your affidavit?

8 A Yes.

9 Q Yes. All right, now, before you affirmed this affidavit, did you have sight of
10 the ban notification that you refer to in the affidavit?

11 A I beg your pardon?

12 Q Did you have sight? Did you look at the ban notification before?

13 A Oh, yes, yes, yes.

14 Q You did?

15 A Yes.

16 Q Now, as at 24th of April 04 you would have been a serving officer with the
17 ICA for almost about 14 years, is that correct?

18 A Yes.

19 Q So, Ms Ang, you would have dealt with numerous situations where you have
20 to interpret the ban notification to foreigners?

21 A Yes.

22 Q Now, would you agree with me that your affidavit that you have draft---you
23 have affirmed, you seem to remember everything that took place between you
24 and a person called Amue Athu. You seem to be able to remember
25 everything.

26 A Okay. Er, I can't remember, er, what on that day I told her. But I read
27 according to the content of the (indistinct).

28 Q Okay.

29 A Ah, that is my practice.

30 Q All right, that's your practice. Yes.

31 A Mm.

32 Q So you can't remember exactly what you told her?

PW1 ANG SIEW ENG(F)
XXN by Bajwa

- 1 A Yah, I have to go according to the---you know, like now you are asking me
2 I'm looking---
- 3 Q Yes.
- 4 A ---at the---the affidavit that you ask me.
- 5 Q All right.
- 6 A Mm.
- 7 Q So, in other words, a more reasonable affidavit that you should have affirmed
8 for this Court would have been to say that, "Look, I can't remember exactly
9 what I said to her. But I usually will follow a certain practice when I get
10 persons to sign the notification".
- 11 A Yes, I could show her the---
- 12 Q Right?
- 13 A ---you know, the ban notification.
- 14 Q That would have been a fairer way of--
- 15 A Yes.
- 16 Q ---presenting your affidavit, right?
- 17 A I have to show her, yes.
- 18 Q So, specifically whether this particular petitioner in the---could---could
19 remember---sorry, could---sought any corrections or clarifications from you,
20 you would not know, isn't it, specifically in relation to her?
- 21 A Er, what you mean by---
- 22 Q Assuming during the recording, before you signed this---
- 23 A Ah-huh.
- 24 Q ---before she signed this---
- 25 A Ah-huh.
- 26 Q ---particular---
- 27 A Yes.
- 28 Q ---notification---
- 29 A Ah-huh.
- 30 Q ---if she had asked you any questions or sought any clarification, you would
31 not be able to remember, right?

PW1 ANG SIEW ENG(F)
XXN by Bajwa

- 1 A They showed me this form, this notification form and they showed me the
2 photo of this girl and then they asked me regarding this, er, ban notification.
- 3 Q You said “they showed” you. Who are these people who are showing you all
4 these?
- 5 A Huh?
- 6 Q Who showed you? Who is “they”?
- 7 A Because I’m the person who signed on this paper. My name is, er, on the ban
8 notification.
- 9 Q I see.
- 10 A That’s why---
- 11 Court: Can we---can we look at the document in question?
- 12 Bajwa: All right, yes. Your Honour, I think it’s an attachment to
13 the---to the notes of evidence; I only have a loose copy. Is
14 there extra copy?
- 15 Court: It’s in the other affidavit, I think.
- 16 Bajwa: Is it in the second affidavit?
- 17 Court: It’s in the---Roslinda’s affidavit.
- 18 Bajwa: No, your Honour, it’s not in the---her affidavit. This one I
19 believe there was an attachment with the notes of evidence that
20 your Honour has given us. It appears in the copy---
- 21 Court: No, it was attached in the---Roslinda’s affidavit. It’s marked as
22 RA-3.
- 23 Bajwa: Your Honour, RA-3 is the cancellation of pass. I’m talking
24 about the notification of the---of the ban.
- 25 Court: Yes, that’s Ang Siew Eng’s name there. This is in 04. Isn’t
26 that the document you are holding, Mr Bajwa? The loose
27 sheet?
- 28 Bajwa: Yes, your Honour, but it’s a---sorry, your Honour, I’m just a bit
29 confused now. Your Honour, Ang Siew Eng’s affidavit there’s
30 no exhibit.
- 31 Court: Not Ang Siew Eng, Roslinda’s affidavit.
- 32 Bajwa: Roslinda is RA-2 and RA-3.

PW1 ANG SIEW ENG(F)
XXN by Bajwa

- 1 Court: RA-3, look at RA-3.
- 2 Bajwa: RA-3 is the cancellation of visit pass.
- 3 Court: Yes, that's Ang Siew Eng's name there.
- 4 Witness: Yes, me.
- 5 Bajwa: Your Honour, I'm not asking her about the cancellation. I'm
6 asking her about the ban notification.
- 7 Witness: Yes, also me.
- 8 Bajwa: The other one, your Honour. The question regarding the---the
9 ban notification which is an attachment to the notes of evidence
10 that were received by the Court.
- 11 Court: Ah, I see. Does anybody have a spare copy? Otherwise you
12 make a photocopy.
- 13 Bajwa: All right, now it doesn't matter, your Honour.
- 14 Court: Why don't we get---you have a copy there?
- 15 Bajwa: I have a copy, your Honour.
- 16 Court: Why don't you go and make a photocopy? Then you can show
17 it to her.
- 18 Bajwa: Perhaps I can go on, your Honour, asking other questions.
- 19 Q Now, witness, when you have to take a statement from a Thai national
20 concerning facts of the case, would you use a Thai interpreter---an
21 independent Thai interpreter?
- 22 A I'm sorry, er, I don't---your ans---your question is not relevant to me. I don't
23 take statement.
- 24 Q You don't take statements?
- 25 A I don't take statement.
- 26 Q All right. Is there a practice---is that a practice---
- 27 A I'm not the case---
- 28 Q ---in the immigration---
- 29 A ---invest---
- 30 Q Let me---let me complete the---
- 31 A Okay, sorry.
- 32 Q ---question, then you can answer.

- 1 A Mm-hm.
- 2 Q Is there a practice in the immigration department that before they take a
3 statement from a foreign person, to get an independent interpreter?
- 4 A Statement, er---
- 5 Q Is there a practice?
- 6 A No, it's not, er, it's not the practice.
- 7 Q Not a practice or you're not aware?
- 8 A Pardon, what you mean?
- 9 Q Are you aware or there is no such practice or?
- 10 A Er, you mean for interpret---er, interpreter?
- 11 Q Yes.
- 12 A To ask for a interpreter?
- 13 Q Yes.
- 14 A Er, no.
- 15 Q "No" meaning you don't know?
- 16 A We don't, er---
- 17 Q No such practice?
- 18 A Er, no such practice.
- 19 Q Okay. Now, you---you are familiar with the Thai language, is it?
- 20 A Yes.
- 21 Q You speak and write Thai?
- 22 A I don't write Thai.
- 23 Q I see.
- 24 A Yes.
- 25 Q And how do you become---
- 26 A Oh---
- 27 Q How did you learn how to speak Thai?
- 28 A Okay, I learn it through my experience, er, during my 30 years of a---as a---a
29 inspector of immigration and, er, during these, er, 10 years, er, I was, er,
30 interested in Thai language and my department arranged for, er, for us to
31 attend Thai course---basic Thai course. And, er, during this Thai course, er, I
32 have picked up, you know, the training for three months. And that is, er, basic

PW1 ANG SIEW ENG(F)
XXN by Bajwa

1 Thai. And then how to speak to them, how to listen to them, okay, that is
2 basic Thai. And then, er, during my 30 years of experience, I have
3 communicate with them and they understand, er, what I have been spoke, er,
4 er, what I had speak to them during this thir---30 years lah. But I only, er, get
5 to, er, get in touch with Thai is, er, er---that's why I write there 16 years.
6 First---

7 Q Okay. You say---you said you attended a course for---

8 A Yes.

9 Q ---for 3 months.

10 A Mm.

11 Q Do you have a certification?

12 A Er, I don't have a certificate because, er, this is just a---the---the lady---I was
13 sent to the, you know, the---just like a class where the department just
14 arranged we all to attend. So we are not given any certificate for the course.

15 Q Have you ever been called upon to interpret in Court?

16 A Erm, interpret in Court, er, because I'm only the serving officer, I'm not the
17 interpreter.

18 Q No, no, "Yes" or "No"? Have you been?

19 A No, no, no.

20 Q Now, so just to be very absolutely clear about your evidence, there's no
21 confusion, you cannot remember the details of the conversation you had with
22 the petitioner?

23 A Ah-huh---

24 Q Right?

25 A ---I cannot remember.

26 Q So if the petitioner had---had difficulty understanding you on that particular
27 day, you will not be able to tell the Court whether that's true or not?

28 A Er, I cannot remember because it happens 2 years ago.

29 Q Yes. Now, did you ascertain---I suppose if you don't remember, I will not ask
30 you that question.

31 Bajwa: I've got no further questions, your Honour.

32 Court: All right, Mr Leong.

PW1 ANG SIEW ENG(F)
XXN by Bajwa

1 Leong: Grateful, your Honour.

1 **Re-examination by Leong**

2

3 Q Now Mdm Ang, okay, you have told the Court that you cannot specifically
4 remember this occasion, all right, where you served this ban order on the
5 petitioner, all right? And you have also stated that if you---if the petitioner
6 had difficulty understanding you, you will not be able to tell the Court, right?

7 A Yes.

8 Q That's your evidence, right?

9 A Mm, mm.

10 Q In essence that's your evidence. Now, the question is this: What would you
11 do if the foreigner before you, when you have you administer the ban order,
12 does not understand what you are trying to convey to her? What would you
13 do?

14 Bajwa: That's a hypothetical question, your Honour. I don't think
15 that's admissible. It's purely a hypothetical question;
16 speculating what she would do. She may have done it for 20
17 people, it doesn't mean she did it for this particular person. I
18 don't think that should be allowed; it's purely speculative, how
19 would you handle a situation where somebody cannot
20 understand.

21 Court: Isn't that relevant? I would have thought that's relevant.

22 Bajwa: But, your Honour, her---her position is: "It all based on what
23 I---my practice would be".

24 Court: Yes.

25 Bajwa: In fact, she didn't say that in her affidavit.

26 Court: Yes, I know.

27 Bajwa: To be honest, she should have just said "That I can't
28 remember". So now we have got it from her that---

29 Court: Right.

30 Bajwa: ---actually she is of no use.

31 Court: Yes, I agree with you, right.

32 Bajwa: Not of any help.

PW1 ANG SIEW ENG(F)
RXN by Leong

1 Court: But surely it's a legitimate question to ask in view of the fact
2 that she deals with many, many of these cases. So you're quite
3 right to get it from her that she can't recall this particular case.

4 Bajwa: Yes.

12.15pm

5 Court: But then it's a question of what is the practice, I---I think it's
6 relevant.

7 Bajwa: Even if she says that, your Honour, right, the value is very---

8 Court: Well, I would say it's relevant, Mr Bajwa.

9 Bajwa: Very well, your Honour.

10 Court: Go on, Mr Leong.

11 Q Now, madam---Mdm Ang, now, if the foreigner that's before you when you
12 have to administer this ban order does not understand you, right, what you
13 were trying to convey to her, what would you do?

14 A Okay. If suppose the foreigner does not understand me, okay, I will make it,
15 er, in a simplified way to see the content, because sometime the content is too
16 difficult for them to understand, I will make it simplified and I re---will repeat
17 again. I will repeat which part---and I ask which part he don't
18 understand---she don't understand. If she don't understand on that part, then
19 she will ask again. And then I will repeat again. Because I find that this ban
20 notification is very important. So I have to repeat regardless, until she
21 understand, then I will let her go. If she don't understand, I will stand down
22 there and I will tell her to tell me which part she don't understand me, then I
23 will try my best to present it to her in a way that she understand me. And I
24 will ask her to reverse and speak again so that I know that what I have
25 conveyed to her is correct.

26 Q Now, how, Mdm Ang, all right, since you have done so many cases, now,
27 how---what is your practice, right, to ascertain for yourself whether the
28 foreigner that is before you when you were administering the ban order
29 understand you? How do you ascertain for yourself if the person understand
30 what you were trying to convey?

31 A Okay, I will look at her expression. Okay, if she look at me confused her
32 expression, I know that she don't understand me. If she nod her head

PW1 ANG SIEW ENG(F)
RXN by Leong

1 one---when I go for the first paragraph if she nod her head, then I understand
2 that she know the first part; that's why she nod her head. Then I will proceed
3 to the second part. If on the second part she still understand me, then I will go
4 to the third paragraph. So all---overall I will ask her, okay, whether she have
5 understand what I had told her on the content and will point to her on the form
6 that I've explained to her first, second, third whether she understand
7 everything or not. If she understand, she will---she will reply me. Some they
8 choose not to reply me, er, by saying, er, yes or no, they just nod their head.
9 They nod their head, and then I say, "You nod your head it means to show that
10 you understand me. Yah, is it correct?", then they will nod again. So if I see
11 their expression there's no confusion on her expression, I---I---I take it that
12 she have understand me, then I will ask her whether she's willing to put her
13 thumbprint there. Then she will nod her head and say she okay, then I will
14 take her hand and put her thumbprint there. And I will tell her that the, er,
15 "The content I have read you---to read to you is what I have told you and you
16 have nod your head, you understand that I have told you in this language".
17 Then they will put their hand on the---right thumbprint. Then I will tell her
18 that I'm going to put my, er, my name there, signature there to say that, "I'm
19 the serving officer today, I'm telling you about this content". If she agreed,
20 then the process will be, er, er, you know, I will end the process here. If she
21 still don't understand; I don't mind, I can repeat to her again.

22 Q Now, in this case you take a look at the ban order served on the 24th of April
23 2004---

24 A Mm-hm.

25 Q ---for Meitinee Wongsaa.

26 A Mm-hm.

27 Q Right, does it appear, okay, on that occasion that the petitioner did not
28 understand what you tried to convey to her in that ban order? Did it appear to
29 you on that occasion that the petitioner did not understand what you tried to
30 convey to her in that ban order?

31 A Er, no.

PW1 ANG SIEW ENG(F)
RXN by Leong

- 1 Bajwa: Your Honour, I think that he's asking specifically by looking at
2 the document, you know, because she has already said she can't
3 remember what happened that day. So I---I---I believe that
4 the---specifically just looking at it, whether she can tell there
5 was---whether she understood or not.
- 6 Court: And what's the question, Mr Leong?
- 7 Leong: Your Honour, I---I---I was going to that as to how---
- 8 Court: Now, which---which one is it now? This is the one that is
9 attached to the---
- 10 Leong: 24th of April 2004.
- 11 Court: There are two, both are 24th April.
- 12 Leong: Yes, your Honour. The---the actual ban order; the one---
- 13 Court: The notification?
- 14 Leong: Yes, the---
- 15 Court: [Reads] "You are hereby informed that you are banned."
- 16 Leong: That is so, your Honour.
- 17 Court: All right.
- 18 Leong: That is the one.
- 19 Court: It will be exhibit B in the---in the---in the Court below, right?
20 Now, what's the question?
- 21 Leong: "Did it appear on that occasion that the petitioner did not
22 understand what you tried to convey to her in the ban order?",
23 her answer is, "No".
- 24 Court: She can't remember.
- 25 Leong: Yes, your Honour, I---she had said, "No" and I'm going to ask
26 her, "What is the basis of your answer 'No'?"
- 27 Court: Okay.
- 28 Leong: Because I can't lead, your Honour, I'm---I'm re-examining her.
- 29 Court: I know.
- 30 Leong: Yes, your Honour.
- 31 Court: So you want her to look at this document?
- 32 Leong: Yes.

PW1 ANG SIEW ENG(F)
RXN by Leong

- 1 Court: And what? Is there anything in the document?
- 2 Leong: Yes.
- 3 Q Is there anything in the document that suggests that she did not understand
- 4 you?
- 5 A Pardon? I think---
- 6 Q Is there anything on this document---
- 7 A Mm.
- 8 Q ---all right, the---the ban order which starts with:
- 9 [Reads] “You are hereby informed that you are banned from entering
- 10 Singapore with effect from 24th of April 2004.”
- 11 Was there anything on this document that suggests to you---
- 12 A No.
- 13 Q ---that she did not understand what you tried to convey to her?
- 14 A No.
- 15 Q Now, if in the normal case, in a normal case if there was really difficulty in the
- 16 foreigner before you understand what you are trying to convey to her, what
- 17 would be your follow-on action if she really---if the person before you really
- 18 cannot understand? Would you proceed with the rest of the procedure?
- 19 A Okay, if they really don’t understand, then I will ask her whether she needs
- 20 someone, you know, fluent in Thai language to explain to her. If there is
- 21 someone, you know, they tell me that, “I don’t understand what you say”, then
- 22 I will---I will ask her, er, okay, whether she needs someone who is able to talk
- 23 to her in---in Thai language.
- 24 Q Now, what do you mean by your answer when you said that someone who can
- 25 talk to her in Thai language?
- 26 Bajwa: Fluent.
- 27 A That means if she---whether she need, er, someone is like a---such as, er, call
- 28 for an interpreter.
- 29 Q To call for?
- 30 A Interpreter.
- 31 Leong: Your Honour, I have no further.
- 32 Court: Right.

PW1 ANG SIEW ENG(F)
RXN by Leong

- 1 Bajwa: Your Honour, arising out of the last answer, can I just ask her
- 2 one question with your leave?
- 3 Court: Go ahead, go ahead.

1 **Further cross-examination by Bajwa**

2

3 Q So, when you said that you needed---you will call for an interpreter and
4 someone who is fluent, you are conceding that you are not very fluent in Thai,
5 right?

6 A Er, if you say I'm not fluent, doesn't mean fluent means the---if a person who
7 can speak fluent, doesn't mean that the person can understand. Because I get
8 to communicate with them.

9 Q Yes.

10 A It doesn't mean fluent the person can understand. If a person can speak very
11 fluent Thai, the person might not understand. Because I have been through
12 the---er, as a inspector I know this people sometime they are not educated, if
13 you put them in---in a very, er, hard, I mean, very difficult bombastic language
14 they do not---they don't understand. So you have to put it in a way that
15 will---they understand you better. If that is---

16 Q Yes, but you are talking---

17 A ---not---

18 Q Sorry.

19 A ---whether you are fluent or not. As long as they understand you, they can
20 convey back to you, that is the way that I want them to understand. Not---it
21 doesn't mean fluent or not fluent.

22 Bajwa: All right, I have no---I've no questions to add to that, your
23 Honour.

24 Court: Maybe I have a couple of questions for her.

PW1 ANG SIEW ENG(F)
Questions by the Court**Questions by the Court**

- 1
2
3 Court: In---in your work---
- 4 Witness: Yes.
- 5 Court: ---are you---do you sort of deal with Thai---Thai visitors---
- 6 Witness: Yes, a lot.
- 7 Court: ---deal a lot with Thai visitors?
- 8 Witness: Yes, a lot.
- 9 Court: Any---any visitor---I mean, what about other visitors? Do you
10 speak other languages?
- 11 Witness: Er, other languages, Mandarin, English.
- 12 Court: You deal with Chinese visitors also?
- 13 Witness: Yes.
- 14 Court: All right. But you---so mainly Chinese and Thai---Thai
15 visitors?
- 16 Witness: Yes.
- 17 Court: Did you ever have problem with people who come from
18 Thailand---
- 19 Witness: Ah-huh.
- 20 Court: ---did you have ever had problem communicating with
21 any---any Thai---
- 22 Witness: Er, so far during my, er, er, my work, I have no problem.
23 Because---
- 24 Court: You never encountered problem?
- 25 Witness: Yah. Because I---I---I try to communicate with them and want
26 to know the way they speak, because all these people they are
27 from the village. And then I speak is Thai language, they speak
28 is their, you know, the---their local language. So when they
29 speak to me, I understand what they are trying to tell me. I ask
30 them to go and, you know, buy ticket. They know how to go
31 and come back. I ask them what time to go out and come back,
32 they did---they do what as I told. Whereas when my colleague

PW1 ANG SIEW ENG(F)
Questions by the Court

- 1 communicate with them, they don't understand and they
2 never---they never come at all. But when I tell them, they
3 know what I'm talking; they will come back according to what
4 I tell them.
- 5 Court: So you said these people are from the village?
- 6 Witness: Er, sometime they are---they---
- 7 Court: So they don't speak the---
- 8 Witness: They---they---
- 9 Court: ---Thai that you speak, is it?
- 10 Witness: Yes. You have---
- 11 Court: "Yes" or "No"?
- 12 Witness: Yes. They speak like, er, er, some language they speak I try to
13 take the important things, you know, the---the---
- 14 Court: You mean, you can understand---you can understand---
- 15 Witness: Yes, can understand.
- 16 Court: ---a little bit of what they say?
- 17 Witness: Yes. I---I must understand what they tell me. So I can convey
18 to them like---
- 19 Court: But you don't speak to them in the---in that language or the
20 dialect or whatever?
- 21 Witness: No, no, no.
- 22 Court: You speak to them in the---
- 23 Witness: Yes, because I---
- 24 Court: ---standard Thai?
- 25 Witness: ---I---I learn Thai language, the teacher said I have to---Thai
26 language is a national language where everybody know,
27 understand, it's a Thai language, you know. English we have
28 English, you know, it's a---it's our national language. He say
29 you don't go and speak to the native, whereby this person stay
30 here and you don't understand the person when they speak in
31 Thailand, like Bangkok they have a city type of a slang, you
32 know, they have a different slang, you know. So I have to

PW1 ANG SIEW ENG(F)
Questions by the Court

- 1 speak as long as they understand me, they know how to come
2 back and, er, like, for example, I ask them to buy ticket, er,
3 leaving on which day which day. I have to tell them that you
4 have to go and buy ticket and leave on that day and come back
5 at what time. They---they have to do. And then they---
- 6 Court: So when they---when they---when they talk to you, they use
7 their---their dialect? They use their local Thai?
- 8 Witness: Er, they will respond to me. And then they will ask me.
- 9 Court: They will respond to you in what language? In their local
10 language?
- 11 Witness: In Thai---Thai---Thai.
- 12 Court: In Thai, is it?
- 13 Witness: Thai language, yes.
- 14 Court: I see. But this of course is general case, right?
- 15 Witness: Yes, it's like general where they know what is ticket, you
16 know, because this is the main point of what I have learned. I
17 must learn the relevant of my work. I don't learn like, er, you
18 know, fish or market, you know.
- 19 Court: All right, all right.
- 20 Witness: This is not my work.
- 21 Court: Right.
- 22 Witness: I---I have to learn the things that concern me so that I can
23 communicate with these people.
- 24 Court: All right.
- 25 Witness: I---don't tell me you---I learn all the things like---like
26 bas---basket lah, bus lah, all these nothing concern with my
27 work, you know, it's not relevant.
- 28 Court: Okay.
- 29 Witness: So I have to learn like the person, er, like he go to airport. So
30 airport is very important because they need to go to airport. So
31 I have to learn the word airport, like, *sanam*---*sanam bin*, you

PW1 ANG SIEW ENG(F)
Questions by the Court

- 1 see. Oh, so I know it's airport. So they know it's air---airport,
2 you see. So I don't learn---
- 3 Court: All right, Ms Ang.
- 4 Witness: Ah.
- 5 Court: Thank you. Mr Bajwa, you want to ask anything?
- 6 Bajwa: Just one, your Honour.
- 7 Court: Right.
- 8 Bajwa: I think she answered and then she went on to another answer.

1 **Further further cross-examination by Bajwa**

2

3 Q Now, you said that some of---most of them are from the village and they talk
4 their own local language, right?

5 A Yes.

6 Q Yes? They talked their own language and you don't understand their local
7 language; you, you?

8 A Me?

9 Q Yes.

10 A I understand because---

11 Q No---

12 A ---the---the---the slang is a little bit different.

13 Q Have you---apart from going for the Thai basic course, did you go for
14 indigenous languages courses like, for example, Akha language course? Did
15 you go for Akha language course?

16 A No.

17 Q No?

18 A Because the---the---the teacher is a Thai teacher what.

19 Q Okay.

20 A I don't ask his background whether she's from---

21 Q Never mind, never mind, just answer. You have not learnt---

22 A Yah.

23 Q ---anything apart from Thai?

24 A No, no.

25 Q Not the indigenous language?

26 A We learn is Thai language.

27 Q Yes.

28 Bajwa: Thank you. Right.

29 Court: Mr Leong. No?

30 Leong: Nothing further, your Honour.

31 Court: All right. Thank you, Ms Ang. You are released.

32 **(Witness stood down and released)**

12.30pm

PW1 ANG SIEW ENG(F)
FXXN by Bajwa

- 1 Court: Can we have our second witness?
- 2 Leong: Yes, your Honour. The next witness is Mr Lee Zee Loon.
3 Your Honour, the affidavit, I believe, was filed only I believe
4 yesterday.
- 5 Court: Filed when?
- 6 Leong: Yesterday.
- 7 Court: Yesterday?
- 8 Leong: Yes. Do you have a copy of that, your Honour?
- 9 Court: Oh, Lee Zee Loon, is it?
- 10 Leong: Yes, Lee Zee Loon, your Honour.
- 11 Court: Yes, he can come. Come forward. Where is he, Mr Leong?
- 12 Leong: Yes, your Honour, coming in.

PW2 LEE ZEE LOON
XN by Leong

1 **PW2 LEE ZEE LOON**
2 **(Sworn and speaking in English)**

3
4 **Examination-in-chief by Leong**

5
6 Leong: Your Honour, would your Honour require me to take---to read
7 out the affidavit since it's---

8 Court: No, no, no. I think, Mr Bajwa, you have the affidavit?

9 Bajwa: Yes, I will refer to that.

10 Court: Just get him to confirm it.

11 Q Now, Mr Lee, right, before you is---you have a copy of the affidavit?

12 A Don't have. I should have bring mine.

13 Q I have a copy here.

14 A Thank you.

15 Q Now, Mr Lee, now this affidavit comprising five pages. It's your affidavit
16 affirmed on the 16th of April 2007. Now, do you confirm the contents to be
17 true to the best of your knowledge and belief?

18 A Yes.

19 Q Now---

20 Leong: Now your Honour, with your Honour's leave, I would just like
21 to ask Mr Lee just a few short questions.

22 Court: Yes.

23 Leong: Grateful, your Honour.

24 Q Now, Mr Lee, now, when you interpreted that five-page statement, right, when
25 the statement was recorded at the ICA, now, can you describe generally how
26 was Ms Wongsu? Was she reserved, was she forthcoming along that line?

27 A I think when the---the first thing that I noticed about---

28 Court: Mr Lee, can you sit a bit nearer the microphone so that we can
29 pick up your voice?

30 Witness: Right, okay, okay.

31 A The first thing I noticed about her that she was, er, she was quite young, right,
32 and, er, she was a bit nervous, right, yah. And then usually, er, when er,
33 accused come in, I will just take a look at their passport and just try to read the

PW2 LEE ZEE LOON
XN by Leong

1 name inside, right, because I don't trust the---the name in English. So I found
2 that, hey, why her name is doesn't sound Thai to me. So I just asked,
3 commented to her, "Hey, your name doesn't sound Thai" in Thai to her and
4 she said she's from a tribe lah. So I asked her which tribe is that? She said
5 Akha. Right. So after that, er, I don't really remember what happened after
6 that, then we just---I think the IO start on the statement thing.

7 Q Yes. Now, during this preliminary conversation with her before the actual
8 statement was recorded, now, when she---when you just told the Court that
9 you saw that her name was not---didn't appear Thai to you and then you asked
10 and she told you she was from Akha?

11 A Yah.

12 Q Now, what language did she converse with you?

13 A In Thai. I only understand, I mean, Thai, English, that's all and some Chinese.

14 Q Now, apart from, right, your interpretation role in the recording of the
15 statement, now, did you have other conversations with Ms Wongsas?

16 A I think I---I---I have. I had a personal one but not on the beginning stage.

17 Q Can you describe briefly what was discussed?

18 A She's always trying to tell me that she come from a very, er, very poor family,
19 right. She said she---she has a father, right, who is bedridden because of an
20 accident lah. And because of that, the mother in a way deserted them, so she
21 has to look after the father and another two siblings, younger sibling. So this
22 is basically the gist I remember now.

23 Leong: Your Honour, I've no further. I'm grateful.

24 Court: Right, Mr Bajwa.

25 Bajwa: Please your Honour.

PW2 LEE ZEE LOON
XXN by Bajwa

1 **Cross-examination by Bajwa**

2

3 Q Now, Mr Lee, according to your affidavit, you have been a freelance
4 interpreter---

5 A Yes.

6 Q ---in the Thai language for some time, is it?

7 A Yah, yah.

8 Q How many years?

9 A 2003.

10 Q How many years?

11 A 2003 since---since 2000. 2002 - I was doing part-time but I don't consider
12 that. 2003 - I've already started out.

13 Q And you also said that you can only understand Thai?

14 A Thai, English, Mandarin---

15 Q Yes.

16 A ---some Hokkien and Hainanese. I speak Hainanese also.

17 Q This particular person that you mentioned in your affidavit, you did not
18 converse her---with her in Hokkien?

19 A No.

20 Q You had absolutely no idea during the course of the conduct---of the recording
21 of this statement whether she could speak Hokkien?

22 A Yes, I didn't know in the beginning.

23 Q No, I'm not asking you beginning. I'm saying throughout the course of the
24 conduct---recording of the statement, you had---

25 A No, I didn't.

26 Q ---absolutely no idea---

27 A No.

28 Q ---whether she could speak Hokkien?

29 A Oh, there was one idea when the IO, Ms Roslinda asked her, "How do you
30 converse with your, I think, husband-to-be in what language?" Then she said
31 in Hokkien. Sir, I interpreted for her. That's---that the only time that I know
32 she can speak Hokkien.

PW2 LEE ZEE LOON
XXN by Bajwa

1 Q Okay. Nothing else transpired during the recording of the statement to lead
2 you to believe that she could speak Hokkien?

3 A Okay, there was one, er, okay, when---when she mentioned that she can speak
4 Hokkien, right, and then, er, because that time, the IO, Ms Roslinda, she was
5 trying to, er, to confirm the fact that she's, er, she's already aware of the ban
6 notice and understand the---the details thing, right. So we have been going
7 through that question and understand all this kind of thing for a few times, a
8 few round because I understand the IO, this is their standard procedure. They
9 want to charge a person, they must know that they really understand the whole
10 thing first. So---so because of that, when she mentioned that she can speak
11 Hokkien and then this IO, Ms Roslinda called an officer. The officer was
12 passing by or he was in the room doing photostatting or collecting file, I
13 forgot. So she asked this, this another colleague of hers, said, hey, er, so
14 she---she asked me, right, "You asked this, er, subject to say, er, to speak
15 Hokkien to this IO", right. And then there was some exchange of Hokkien
16 words with them, that's all.

17 Q What was the exchange in Hokkien---

18 A Okay.

19 Q ---since you can understand Hokkien?

20 A Yah, yah, exchange that one, to confirm the---the---the things that we are
21 going through just now whether she understand the ban notice, she's aware of
22 it, right, and, er---

23 Q Go on slowly, some more?

24 A Yah, and then she said yes, she's aware of it. And then I think Ms Roslinda
25 also again asked her does---asked her again in Hokkien, er, asked her whether
26 the boyfriend---not, not for me to ask Hokkien, asked---asked her, right, right,
27 to tell the IO---the---the person who can speak Hokkien, er, whether did she
28 inform her boyfriend that he's aware of the ban also and---and she affirmed it.

29 Q All right, so whether she could understand the ban notice was also asked of
30 her in Hokkien?

31 A Yah, correct. Basically, these are the---the---the two facts that the IO asked,
32 that's all because it was a very short exchange.

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Q Now, sorry, sorry, sorry. You've answered the question, yes.
- 2 A Yah.
- 3 Q Let me ask the question, then you answer it. Now, you are already
4 interpreting to her in the Thai language---
- 5 A Yes.
- 6 Q ---which you say she understands. Why was it necessary to also interpret to
7 her in Hokkien?
- 8 A Yah, you asked---
- 9 Q The fact---the fact that she was aware of the ban notice?
- 10 A Okay, that---this is the reason why---
- 11 Leong: If I may just object to that? The questioning was according to
12 the witness's answers, the evidence---
- 13 Court: I think---I think, let Mr Bajwa ask the question. The witness
14 can answer by himself.
- 15 Leong: Yes, your Honour.
- 16 Court: What's your question again?
- 17 Bajwa: Yes.
- 18 Q Why was it necessary considering you have already explained---
- 19 A Yah, correct, correct.
- 20 Q Sorry, can you just listen first? Why was it necessary, considering that you
21 have already explained to her in Thai that she was aware of the ban notice---
- 22 A Correct.
- 23 Q ---for there to be an interpretation in Hokkien of the same fact?
- 24 A I also don't understand lah.
- 25 Court: Not interpretation, hang on, hang on. Not interpretation. He is
26 saying that Roslinda asked you, is it, to tell her---
- 27 Witness: Er, to speak Hokkien.
- 28 Court: ---to speak to the other person.
- 29 Witness: Yah.
- 30 Court: I think in your affidavit, you say his name is Mr Chew, is it---
- 31 Witness: Yes, correct.
- 32 Court: ---to speak to him in Hokkien?

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Witness: Okay.
- 2 Court: So it's not an interpretation?
- 3 Witness: Not interpretation.
- 4 Bajwa: No, but I think he un---when he answered earlier, he said there
5 were three things. One, she was asked whether she understood
6 the ban notice.
- 7 Court: Oh, you mean in the Hokkien language?
- 8 Bajwa: Yah, in the Hokkien language.
- 9 Court: Well, maybe you start again and make sure---make sure---make
10 clear.
- 11 Bajwa: That's what he said earlier. He said three things and finally,
12 was asked about---
- 13 Court: All right. So your question now, "Why was it necessary to
14 interpret?"
- 15 Witness: Correct.
- 16 Bajwa: Yes. Why was it necessary to interpret in Hokkien something
17 that already been interpreted in the Thai language?
- 18 Witness: Mm.
- 19 Court: It's not interpret in Hokkien. She was asked to speak in
20 Hokkien.
- 21 Witness: In Hokkien.
- 22 Court: What do you mean by interpret in Hokkien?
- 23 Bajwa: No, she was asked to confirm whether she understood---
- 24 Court: In Hokkien.
- 25 Bajwa: ---in Hokkien. In Hokkien, there was a conversation between
26 the---the person who spoke Hokkien.
- 27 Court: She was---she was asked to speak in Hokkien, right?
- 28 Bajwa: Correct.
- 29 Court: She was asked to speak in Hokkien?
- 30 Bajwa: No, your Honour. In Hokkien, she was---the formally spoke to
31 her in Hokkien and asked her, "Do you understand that you
32 were banned before?" Sorry, sorry, Sir.

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Court: Maybe---maybe, Mr Lee, you explain---
- 2 Witness: Okay.
- 3 Court: ---again exactly what happened?
- 4 Witness: Okay, exactly what happened is that, okay, Ms Roslinda asked
5 me to tell Meitinee, right, “You speak Hokkien to this officer
6 here?”
- 7 Bajwa: Okay.
- 8 Witness: So then there was an exchange of Hokkien words.
- 9 Court: No, what do you do then?
- 10 Witness: I just listen.
- 11 Court: No, no, no, Roslinda asked you to ask her?
- 12 Witness: Yah.
- 13 Court: Then what did you do?
- 14 Witness: Then I told her, “Yah, er, you speak Hokkien to this person”. I
15 speak to her in Thai to tell to speak Hokkien.
- 16 Q All right. Now, there was this conversation in Hokkien---
- 17 A Yah, exchange.
- 18 Q ---between that third person and Meitinee?
- 19 A Yah.
- 20 Q What---what were the questions asked in Hokkien?
- 21 A Basically, because, er, Ms Roslinda also tell me, right, okay, er, “To tell her in
22 Thai also, right, what, er, what does she know about the ban notice in Hokkien
23 to this third person there?”
- 24 Q Okay.
- 25 A Yah, so the exchange is concerning about that.
- 26 Q So she spoke---so she spoke in Hokkien to the third person---
- 27 A Yah.
- 28 Q ---and say that she knew about the ban notice?
- 29 A Yah, correct.
- 30 Q And then---
- 31 A There’s a exchange there. And then another further ques---
- 32 Q And---and Ms Roslinda wanted that confirmation to be done in Hokkien?

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 A Correct.
- 2 Q Right.
- 3 A I don't know why she want the---the Hokkien thing, I don't know.
- 4 Q Okay, okay, you don't know why, all right. So now I'm coming back to my
5 question, since you already interpreted---
- 6 A Correct.
- 7 Q ---to her in Thai which she answered, what was the need to have it explained
8 in Hokkien as well.
- 9 A That's why, I asked the same question to myself, I say, "Why does she want
10 that for?" Yah, I felt a bit insulted, you know, why, I've been telling her all
11 the time there, so I don't know what's the reason, so I just keep quiet. My job
12 is just to do what she told me to do.
- 13 Q Now, you also said that this part about when they were explaining the ban,
14 it---it went on repeatedly, right?
- 15 A Of course, because it's not only IO, Ms Roslinda, because I did interpretation
16 for many IO. That's their procedure. When they want to charge someone,
17 they must be sure, make sure that this---they---they---they understood what is
18 their offence, so it's not only Ms Roslinda. Most IO will---will do this thing
19 to affirm that and if they are sure then they move on to---to various question.
- 20 Q All right, all right. So my question is this thing about the ban notification
21 needed repeated explanation?
- 22
- 23 A Correct.
- 24 Q You agree?
- 25 A Yah.
- 26 Q And one reason why it required repeated explanation is because the accused,
27 sorry, the person, Meitinee, had difficulty understanding?
- 28 A It's not. In fact, I find her case very unique. When the first question was
29 asked to her, "Do you understand the ban notice?" She understand it.
30 She---she replied very straight then, she understand. That---that makes me
31 very puzzled. Most accused won't do that. They will deny it first, they will
32 defend it first. But hers is quite unique in that sense. So it's---yah.

12.45pm

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Q Then why did it take repeated explanation if it was so simple?
- 2 A Yah, that's why. Maybe Ms Roslinda also find that it's, right, whether she
3 really understand, why so fast make that---that---that reply so she want to
4 make sure that she really understand. That's why I think, er, I read---I read
5 about but I don't know what's her---her reason for that.
- 6 Q Now, witness, you have interpreted on many occasions for the ICA, right---
- 7 A ICA, police, everybody.
- 8 Q ---prior to---prior to---prior to the 6th of October 06?
- 9 A Correct.
- 10 Q Yes?
- 11 A Yah.
- 12 Q Okay. Now, were you shown the notes of evidence of the case below before
13 you drafted your affidavit?
- 14 A What evidence that?
- 15 Q The notes of evidence of the proceedings in court below before this affidavit
16 was drafted?
- 17 A Before this affidavit, then the procedure---
- 18 Q Yes, your affidavit. Did you refer to any document?
- 19 A No, no, no.
- 20 Q Now, when you are present as an interpreter, do you make any notes of any
21 difficulties that are encountered by the person being interviewed? Do you
22 make any notes anywhere?
- 23 A No, I don't make any notes, yah.
- 24 Q Yah.
- 25 A But---
- 26 Q But so---so in order to be able to recall whether there was any need for
27 clarification of certain points in the statement, you won't have any---
- 28 A No, I don't have.
- 29 Q No, you were not be able to refer to any document?
- 30 A Yah.
- 31 Q Just entirely on memory?
- 32 A Correct.

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Q But there are so many cases you do, how do you specifically remember the
2 accused---
- 3 A Okay.
- 4 Q ---or the petitioner in this case.
- 5 A Yah, because at first, when, er, Ms Roslinda told me that we might be called
6 up for some kind of a hearing, right, so---so then she mentioned this name,
7 then she tried to describe to me. Then okay, from there, I slowly recall lah,
8 right. Yah, because her---
- 9 Q What was so---what was so unique about this particular person that you could
10 just recall---
- 11 A Yah.
- 12 Q ---from thousand---from hundreds of other cases?
- 13 A Okay. Because I follow her case, she was quite young and then she's, er, her
14 name and then her background, right. Right, and she was quite talkative also
15 in a sense, she's trying to tell me many things, right. And also in the sense
16 that I---I have a sense of pity for---so---so the case was---
- 17 Q Why do you have a sense of pity for her?
- 18 A Well, she's such a young girl and she's been going through all this kind of, er,
19 right, hardship.
- 20 Q Now, in your affidavit, Mr Lee, you mentioned that---in paragraph 2, you
21 mentioned that when you write her name in the passport:
22 [Reads] "...it did not sound Thai to me. I then commented to her in the Thai
23 language that her name "Athu Amue" did not sound Thai, she replied in the
24 Thai language that she was from the Akha tribe."
25 So when she said that to you, you---you were aware that she was actually from
26 the Akha tribe?
- 27 A Correct.
- 28 Q Correct?
- 29 A Correct.
- 30 Q And you had no reason to doubt that Amue Athu---Athu Amue was her
31 new---was her real name?
- 32 A This, I do not know, because, er, I just read from her passport.

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Q Yes.
- 2 A Yah.
- 3 Q But you were satisfied that the person before you was someone from the Akha
4 tribe?
- 5 A Yes. She just---she told me that.
- 6 Q And Meitinee Wongsas will not---will not be an Akha name, is it?
- 7 A No, that's the Thai. That's, er, I can interpret what's the meaning of this
8 name, Meitinee.
- 9 Q All right, that's the Thai name?
- 10 A Yah---
- 11 Q Now, when you were aware---
- 12 A ---Wongsas; Meitinee Wongsas, yah.
- 13 Q All right. Now, you---you did this entire interpretation in Thai---
- 14 A Yes.
- 15 Q ---and not in the Akha language?
- 16 A No, I don't---because I don't speak Akha.
- 17 Q Now, why is it that despite being aware of the fact that she was in fact
18 someone from the Akha tribe, why did you not have the interpretation done in
19 Akha instead of Thai?
- 20 A This not my concern because when she can speak Thai to me, I---I---I never
21 think of any other thing. The---the---that will be the concern of the IO that
22 will ask her what language she want.
- 23 Q Now, if you look at the statement itself which is at exhibit RA1. Do you have
24 a blue bundle, respondent's skeletal argument?
- 25 A Yah, the blue one?
- 26 Q I think it's that one, yes. Can you look at RA1, look towards the back?
- 27 A RA1?
- 28 Q Exhibit where you find the statement.
- 29 A Skeletal argument, Sir? Yah.
- 30 Q No, no, carry on to the exhibit.
- 31 Court: Perhaps he can step forward and---
- 32 Q Is that the second one or the first one? Do you have a---

PW2 LEE ZEE LOON
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1 Court: ---Mr Bajwa, you can step forward and help him out.

2 (Bajwa assisting witness with documents at witness box)

3 Q Right. You take a look at the top right-hand column of the statement where it
4 says "Race and dialect". Now, despite knowing the fact that she was an Akha,
5 the dialect is also put as Thai. Should it not have been put as Akha - her
6 dialect?

7 A Because the---the passport is, er, Thai.

8 Q All right. So, witness, essentially, what happened is that because you looked
9 at the passport and it's Thai---and it's Thai.

10 A Yah.

11 Q And even though somebody---even though you know that the person actually
12 belongs to a special dialect group, you are not concerned, doesn't matter, "I
13 will still carry on in Thai." Is that your evidence?

14 A I didn't think in such a way but because I find her speaking in Thai is very
15 normal, I speak to---I spoke to her in Thai so I didn't---it didn't come across to
16 me to say, "Oh, this is dialect."

17 Q Now, witness, I would put it to you that in fact this person, Meitinee Wongsu,
18 also known as Amue Athu had difficulty understanding Thai language when
19 she was---when the statement was being recorded from her?

20 A I don't think so, no. In fact, her state---

21 Q I also---I also would suggest to you that in the event that this---this incident of
22 a Hokkien person coming into the room, I would suggest to you that that
23 was---that happened because she had difficulty understanding Thai, which is
24 why Hokkien was introduced halfway down the statement.

25 A I---I don't think so. I don't understand why the IO want that.

26 Bajwa: Your Honour, at this point, I just want to inform the Court that
27 I've not taken instructions on this latest affidavit which came in
28 only this morning for my client, so I'm not able---in a position
29 to put to---

30 Court: Why don't we adjourn now? You can take instructions and
31 then---

32 Bajwa: Yes, your Honour.

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 Court: ---we can resume in the afternoon. Mr Leong, you are
2 available in the afternoon?
- 3 Leong: My entire day is before your Honour.
- 4 Court: Right. So shall we resume at 2.15 then?
- 5 Bajwa: Very well, your Honour.
- 6 Court: All right, so then you can continue the cross-examination of Mr
7 Lee?
- 8 Bajwa: Yes, your Honour. Can I have permission to speak to her in
9 the---
- 10 Court: Yes, you can. Mr Lee, you should not discuss with anybody
11 over the lunch break.
- 12 Witness: No, er.
- 13 Court: You should not---you should not discuss with---this evidence
14 with anybody over the lunch break.
- 15 Witness: Yes, your Honour.
- 16 Court: Right. All right, so we resume at 2.15.
- 17 **(Adjourned at 12.54pm)**
- 18 **(Resumed at 2.19pm)**
- 19 Bajwa: Mr Lee, can you please take the stand again?
- 20 Your Honour, we have a slight problem because the interpreter
21 apparently has to go back this evening by a 6 o'clock flight, so
22 we are trying to finish as quickly as we can.
- 23 Court: Well, we try to get on as fast as possible, yes.
- 24 Q All right, you are just on---on your former oath. Now, witness, I'm instructed
25 and I put it to you that what happened when the Hokkien---when the Hokkien
26 interpretation was done was that she was only---
- 27 Court: There was no Hokkien interpretation. They had the
28 conversation in Hokkien, according to him anyway.
- 29 Bajwa: Right, right.
- 30 Q When the conversation in Hokkien took place, all that the Meitinee Wongs
31 was asked at that time was how---why she came to Singapore? That was all
32 she was asked, why she came to Singapore?

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 A I don't remember. I don't think so. I don't remember that.
- 2 Q Okay. All right, now let me move on, witness. Now, you would agree that
- 3 after having acted as the interpreter for the statement, by the time it ended in
- 4 the evening, you would have become familiar with the---her---the version of
- 5 Meitinee Wongsa as to what---what took place?
- 6 A Yah, I think in the sense, yah, in a way.
- 7 Q Right, in the sense, yah. In fact, there was even a cautioned statement taken
- 8 from her when she said she pleads guilty to the offence?
- 9 A Yes.
- 10 Q You recall that?
- 11 A Yah, I recall that. This is the procedure.
- 12 Q Now, I'll come back to that later but I just want to ask you. Now,
- 13 subsequently, you also acted as the interpreter in the Court when she was
- 14 charged in Court on---in---on the 12th of October. Is that correct?
- 15 A Yes.
- 16 Q Did you inform the Court below that you actually acted as an interpreter
- 17 previously for ICA---
- 18 A No.
- 19 Q ---with regards to her case? All right. Now, don't you think it would have
- 20 been prudent for you to have informed the Court that you actually, already
- 21 acted as an interpreter for ICA?
- 22 A I didn't know I need---
- 23 Q Who are the---who are the---who are the investigative authority in this case?
- 24 Don't you think you have been prudent to tell the Court that?
- 25 A I---I didn't know about this procedure because the---when the case is
- 26 adjourned, it was---it was the Court who called us. They have a roster for this
- 27 interpreter. The first time I did for her was a fresh case, so fresh case, usually
- 28 the---usually but it's not all the time. The investigator will appoint the
- 29 interpreter to do it the next day. So her case was adjourned and then the
- 30 adjournment is the Court who---who handled the---who were to call the
- 31 interpreter.
- 32 Q All right. Witness, I put it to you that you should have told the Court that you

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 have acted as an interpreter previously in the recording of the statement from
2 her. I think you should have told the Court.
- 3 A Er, I don't know about this procedure. If I know, I would---I would do that.
- 4 Q Okay. Now, in fairness to the person you were interpreting, since you already
5 knew the facts of the case and she had actually said she was guilty, you should
6 have allowed an independent interpreter to come and interpret other than you?
- 7 A I---I don't know about this.
- 8 Q All right. Now, I take it that no---her consent was not sought. That means the
9 consent of the person in the dock at that time, Meitinee Wongs, her consent
10 was not sought for you to be the interpreter in the Court below?
- 11 A I think so, yah. I don't know about all this.
- 12 Q All right. Now, witness, I want to show you the 122(6) statement. This is
13 found in the further affidavit of Roslinda. It was served, I mean, this morning.
14 I don't think you have it, do you?
- 15 Bajwa: Is there an extra copy available?
- 16 Q All right. I also want you to look at a copy of my skeletal arguments where
17 I've enclosed the 122(6) charge and I don't think you have that and I'd like to
18 show you my copy. Now, if you compare the two---
- 19 Bajwa: Your Honour, I take it you have both the copies with you.
- 20 Court: Both copies of what?
- 21 Bajwa: The one in the affidavit of Roslinda and the one in my skeletal
22 arguments.
- 23 Court: I see.
- 24 Bajwa: Right.
- 25 Court: The one in yours is from your client, right? You got yours
26 from your client?
- 27 Bajwa: Yes, we got it from the prison authority that she was given a
28 copy.
- 29 Court: Oh, I see. You are talking of the 122(6) statement?
- 30 Bajwa: Yes, your Honour, 122(6) statement.
- 31 Court: All right.
- 32 Q Now, would you agree that if you look at the one that I have tendered and you

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 compare it to the one that Roslinda has tendered in Court, there's a difference
2 in the sense that the one tendered by Roslinda, there are the words:
3 [Reads] "I plead guilty. I ask for leniency."?
- 4 A Yes, yes.
- 5 Q Whereas in the other one---
- 6 A Nothing.
- 7 Q ---it's empty?
- 8 A Yah.
- 9 Q All right.
- 10 Court: The one in your skeletal, is it?
- 11 Bajwa: Yes, in my skeletal.
- 12 Court: The latest one or what?
- 13 Bajwa: No, your Honour.
- 14 Court: Earlier one, the first one?
- 15 Bajwa: The one that we submitted, the first one. That is found at tab
16 number 3, your Honour.
- 17 Court: Yes, okay.
- 18 Bajwa: Yes.
- 19 Q So, by comparison, the one I've shown---
- 20 Court: Which page are you comparing? Oh, I see, I see, I see.
- 21 Bajwa: Yes, your Honour, the first page.
- 22 Court: The first page, right?
- 23 Bajwa: Yes, in fact, all few pages is similar.
- 24 Court: Except for the:
25 [Reads] "I plead guilty. I ask for leniency."
- 26 Bajwa: Yes. So that appears in Roslinda's affidavit. It doesn't appear
27 in the one that we have.
- 28 Court: All right.
- 29 Q Now, witness, I suggest to you that what happened here was that this person,
30 Meitinee Wongsu, was asked to sign in blank. It's possible that she was asked
31 to sign in blank and the words "I plead guilty. I ask for leniency" added
32 subsequently. Is that possible?

PW2 LEE ZEE LOON
XXN by Bajwa

- 1 A I don't---no, it's not that. Usually, er---this one depend on the IO. Sometime
2 the interpreter who wrote it. The IO would say, the interpreter write it.
3 Sometime the IO will write it herself, right, okay. So I---I believe the---the
4 other copy, it might be left out, that's all, forgotten, but usually we written first
5 then they sign, signature.
- 6 Q Okay. Witness, I just want to put---put this to you that there is no reason why
7 Meitinee Wongsa would have to sign in the column where it says---under the
8 column, it says, "Do you wish to say anything in answer to the charge?" that
9 she has to sign that in blank. That is supposed to be a statement then she
10 signs.
- 11 A Correct.
- 12 Q She didn't sign first and then the statement enters, correct?
- 13 A Should have a statement there then she signed.
- 14 Q Yes. But here she has signed without a statement?
- 15 A That---that's another copy. I don't know about that.
- 16 Q Right.
- 17 A Usually, there were two copies. One for the IO, then the other copy for the
18 subject.
- 19 Q All right. If you put it this way, the way that I've---the copy that I have, then
20 you agree that this statement, the way it's recorded can be subject to abuse. In
21 other words, the IO can always fill it up later, make the person sign first and
22 then squeeze in the statement.
- 23 A I---I don't know about this.
- 24 Q All right. All right. Now, witness, I am also going to put it to you that apart
25 from the fact that you should not have acted as an interpreter in the Court
26 below, when you interpreted the proceedings to Meitinee Wongsa as she was
27 then known, she did not understand the proceedings that were being
28 interpreted to her.
- 29 A What do you mean she don't---
- 30 Q She did not---she did not understand what was---what was being interpreted to
31 her by you.
- 32 A In Court?

PW2 LEE ZEE LOON
XXN by Bajwa

1 Q Yes.

2 A I don't think so because he even can tell me what to tell for the mitigation and
3 all this.

4 Q All right.

5 Bajwa: I've no further question, your Honour, for this witness.

6 Court: Mr Leong.

PW2 LEE ZEE LOON
RXN by Leong

1 **Re-examination by Leong**

2

3 Q Now, Mr Lee, right, in your answer to the learned defence counsel, you
4 have---you have agreed, right, to the put that you should have told the Court
5 that you acted as an interpreter?

6 A No, I don't agree because I don't know the procedure that I did---do I need to
7 tell the Court or not.

8 Q All right. Now are you aware or have you been briefed, all right, in your
9 duties as an interpreter, all right, for Court proceedings---

10 A Yah, we have every year they will send us a kind of procedure so thick.

11 Q Now are you aware of any instructions where you---that you have to inform
12 the Court that if you had dealt with the accused person when she was---

13 Court: He's already said he's not aware. He's already said that he was
14 not aware.

15 A Yah, I said I'm not, yah, correct.

16 Court: Yes.

17 Q You're not aware.

18 Court: And he said that if he had known it, he would have told the
19 Court.

20 Q Now coming to this---the exhibit that was referred, all right, the cautioned
21 statement.

22 Leong: Your Honour, I must---I must apologise, I'm not totally au fait
23 with which are the exhibits.

24 Court: Are you talking about the two 122(6) statements?

25 Leong: Yes, that's right, your Honour.

26 Court: There's one with Roslinda's second affidavit and the other one
27 with---in the petitioner's skeletal argument, first, the bound
28 copy.

29 Q Now, Mr Lee, do you know the reason for the apparent differences between
30 what was the two exhibits that were shown to you? Do you---do you know
31 the---do you know why it's different?

32 A I believe is my---might be overlooked, right. Because that---I was quite tired

2.30pm

**PW2 LEE ZEE LOON
RXN by Leong**

- 1 when I, you know---
- 2 Court: Mr Lee---Mr Lee, you are not aware, is it?
- 3 Witness: Yah, no.
- 4 Court: All right, that's enough.
- 5 Leong: Your Honour, I think I have no further questions.
- 6 Court: All right, Mr Lee---
- 7 Leong: Thank you.
- 8 Court: ---thank you. You are released.
- 9 **(Witness stood down and released)**
- 10 Court: You may call your---who's the next witness?
- 11 Leong: Your Honour, it would be Mr Chew.

PW3 CHEW ENG HUAT
XN by Bajwa

1 **PW3 CHEW ENG HUAT**
2 **(Affirmed and speaking in English)**

3
4 **Cross-examination by Bajwa**

5
6 Q All right, now, Mr Chew, there's an affidavit that you have affirmed in this
7 case. Is that copy before you? Your affidavit? No, I don't think that is yours.

8 A Yah, I know.

9 Q That---that's just a two-page affidavit.

10 A It's not---

11 Bajwa: Do you have an extra copy on that, Mr Leong?

12 Leong: Yes, I do.

13 A Thank you.

14 Q Now you agree that this case involving a person named Meitin---Meitinee
15 Wongsu was not your case but Roslinda's case?

16 A Ah, your Honour, yes.

17 Q Yes. So by that, we can take it that you were not particularly interested in that
18 case because you---you are not the IO, right?

19 A Ah, your Honour, yes.

20 Q Yes, okay. And your evidence is that you just happened to walk into a room
21 on that particular day---on---on a particular day, 6th October 2006 where you
22 then had a conversation with the---with the person whose statement was being
23 recorded, correct?

24 A Yah, I was---yah, I was called by this Roslinda to verify something, yah.

25 Q Yes. So since you were not involved, not your case, you agree that you cannot
26 really recall with precision what happened on the 6th of October 06, right?

27 A I can't really remember. I only remember the statement as what I've given in
28 the affi---affidavit.

29 Q All right, yes. You have no notes to refer to in your pocket diary or any other
30 piece of paper that you wrote?

31 A (No reply).

32 Q Yes. Now also you would agree that exactly in detail what the conversation
33 that took place you would not know, each and every word that was exchanged

PW3 CHEW ENG HUAT
XN by Bajwa

1 between you and the person named Meitinee Wongsa?

2 A I only remember the---your Honour.

3 Court: Can you speak nearer the microphone?

4 A I only can remember what she said that “*Wah chai wah beh sai lai*”. That’s
5 all.

6 Q Now witness, I put it to you that you could be mistaken when you said you
7 could remember these exact words. I put it to you that you could be
8 mis---mistaken.

9 A Mm, I---your Honour, I don’t get what you mean.

10 Q Yes.

11 A I don’t get what you mean.

12 Q You---when you say that you heard her say these words that you just
13 mentioned, you could be mistaken that---whether she actually said those
14 words or said other words.

15 A These were the exact words because, erm, Roslinda was asking, er, her
16 in---because she said she knows how to speak Hokkien. So through the
17 interpreter she speaks in Hokkien, so I---for me to verify because I’m a dialect
18 Hokkien.

19 Q All right. Would you agree that you were brought in to assist in the
20 interpretation process?

21 A No.

22 Q So why were you brought in? Explain to us clearly.

23 A All right. I---to what I can recall, I just happened that I went in, I think I have
24 to do some photostatting, so by chance I was called because I am---my dialect
25 is Hokkien. So I think, erm, I was there, so by chance I was asked, er, to
26 verify the thing, that’s all.

27 Q Verify what?

28 A Whether she can talk Hokkien, then her meaning, that’s all.

29 Q So in order for her to verify that she can talk Hokkien, she can say any words
30 in Hokkien would---would have been sufficient, isn’t it?

31 A No. According to the---to the statement that she said---she said “*Wah chai,*
32 *wah beh sai lai*” because it’s through the interpreter, then she interpret, talked

PW3 CHEW ENG HUAT
XN by Bajwa

- 1 to me in Hokkien, so I verified the words, "*Wah chai wah beh sai lai*" then I
2 just confirmed the statement. That's all.
- 3 Q All right, witness, I put it to you that you're mistaken and that this person
4 Meitinee Wongsas did not say those words to you in Hokkien.
- 5 A I don't---I don't understand what you mean.
- 6 Q She did not---she did not---she did not say these words to you, you're
7 mistaken.
- 8 A She can say what she wants but that is what I heard.
- 9 Q Yes. And I suggest to you that the reason why you were involved in the---in
10 the room on that day was because there was a difficulty in interpreting in Thai
11 to the person named Meitinee Wongsas and you were roped in to help interpret
12 in Hokkien.
- 13 A Erm, not do I know of.
- 14 Q You know, witness, you also said that apart from these words, you are unable
15 to recall if she said anything else.
- 16 A That is what---to what I understand.
- 17 Q All right. So she did say something else.
- 18 A She did say the word, "*Wah chai, wah beh sai lai*".
- 19 Q No, no, something else apart from that word.
- 20 A Er, that one I would---cannot. Other than that I can't really recall.
- 21 Bajwa: I have no further questions for this witness, your Honour.
- 22 Court: All right. Mr Leong.
- 23 Leong: Sorry, your Honour. With your Court---with your Honour's
24 leave, I just---or perhaps through your Honour I would just like
25 to ascertain from the witness perhaps how long was his
26 involvement in this process.
- 27 Court: You are welcome---welcome to---oh, you want to ask him
28 what?
- 29 Leong: How long was he involved with---
- 30 Court: How long did this---this---
- 31 Leong: Interaction, yes.
- 32 Court: ---transact---this interaction take, is it?

PW3 CHEW ENG HUAT
XN by Bajwa

- 1 Leong: Yes, your Honour. Because it---
- 2 Court: Yes, okay.
- 3 Leong: ---it didn't quite---it wasn't addressed in the affidavit and I
4 should have ascertained it right from the beginning.
- 5 Court: Well, Mr Chew, the question is, what was the time, you know,
6 from the---
- 7 Witness: The timeframe was that---
- 8 Court: ---from the---from the time you were first asked to, you know,
9 get involved in it to the time you presumably left the room, is it
10 or by---by the time it was over between you and---and the---the
11 young lady there.
- 12 Witness: Your Honour, I think I---it's a short while only lah. I can't
13 really remember how long but it's a short while only.
- 14 Court: Short while. All right.

PW3 CHEW ENG HUAT
RXN by Leong

1 **Re-examination by Leong**

2

3 Leong: Perhaps, your Honour, just to clarify that.

4 Q Perhaps did he stay on till the end of the recording process of the statement.

5 A Your Honour, erm, after the verification, straightaway after that I---I will just
6 move off because and the, er, the case is not mine, I'm not interested with their
7 thing also.

8 Court: All right.

9 Leong: I'm grateful for your Honour's indulgence. I've no---

10 Court: No question.

11 Leong: Nothing further.

12 Court: Mr Bajwa, you---you're all right.

13 Bajwa: No questions, your Honour.

14 Court: All right. You have a question?

15 Bajwa: No, your Honour. I've got no questions.

16 Court: No. All right, Mr Chew, thank you. You are released.

17 Witness: Thank you, your Honour.

18 **(Witness stood down and released)**

19 Court: All right. Yes, you can call the fourth witness.

20 Leong: Yes, your Honour. The---the investigating officer Roslinda
21 Binte Ahmad.

22 Court: Yes. So there are two affidavits, is it, that she's given?

23 Leong: Yes, your Honour. One appears in our skeletal arguments.

24 Court: One filed on 13th and one filed on 17th April.

25 Leong: Yes, your Honour.

26 Court: Right. Mr Bajwa, you only have the petitioner as a witness,
27 right?

28 Bajwa: Yes, your Honour. Only her.

PW4 ROSLINDA BINTE AHMAD (F)
XN by Leong

1 **PW4 ROSLINDA BINTE AHMAD (F)**
2 **(Affirmed and speaking in English)**

3
4 **Examination-in-chief by Leong**

5
6 Leong: Your Honour, I'll just take the witness through the formality of
7 the two affidavits first.

8 Court: Yes, just get her to confirm it.

9 Leong: Yes, your Honour.

10 Court: I think we can---we can save time. Mr Bajwa, you---

11 Bajwa: Yes, your Honour.

12 Court: ---you don't need, yes.

13 Bajwa: Just affirm it.

14 Q Witness, you are Roslinda Binte Ahmad, right, assistant superintendent of
15 ICA?

16 A Yes, Sir.

17 Q Now in the course of this case, you had given---affirmed two affidavits, one
18 on the 13th of April 2007 and one on the 17th of April 2007. Do you confirm
19 that?

20 A I confirm.

21 Q Now do you confirm that the contents of these two affidavits are true to the
22 best of your knowledge and belief?

23 A I confirm.

24 Leong: Your Honour, with your Honour's leave, I would like to lead
25 some evidence that is not covered in the two affidavits.

26 Court: All right.

2.45pm

27 Q Now Ms Roslinda, right, the first issue. In your affidavit, in your---now in
28 your further affidavits dated 17th of April 2007, okay, at the exhibit marked
29 RA-4. Now it's a cautioned statement of the accused Meitinee Wongsu in
30 relation to the first charge, second charge as well as the third charge, right,
31 followed by the fourth page of it which sets out with her signature as well as
32 your signatures and then the words printed out, "I plead guilty, I ask for
33 leniency". Right, you're following me?

PW4 ROSLINDA BINTE AHMAD (F)
XN by Leong

- 1 A Yes, Sir.
- 2 Q Now, I---I want to refer you to the petitioner's---
- 3 Bajwa: Skeletal argument.
- 4 Q ---skeletal arguments. Okay, in the petitioner's skeletal arguments, if you look
5 at the very last exhibit, okay, there's also a cautioned statement under section
6 122(6) of the Criminal Procedure Code, okay. There are two pages and then it
7 just stops there, all right, and then after that there are also second charge and
8 then the third charge. Now can you comment---
- 9 A Mm-hm.
- 10 Q ---why is that first set of exhibit which I referred to you earlier and this set,
11 why is it different---
- 12 Court: You have to explain to her, Mr Leong---
- 13 Leong: Yes, your Honour.
- 14 Court: ---that according to the petitioner, this was a copy given to her.
15 Am I right, Mr Bajwa?
- 16 Bajwa: Yes, that's right.
- 17 Court: This was a copy that was given to her.
- 18 Leong: Right.
- 19 Q Now according to the learned defence counsel, this was a copy that was given
20 to the defence, right.
- 21 A Mm-hm.
- 22 Q Now in the exhibit that is exhibited at---as RA-4 in your further affidavit
23 appears to be different. Can you comment on the two?
- 24 A They are actually the same, save for he---her---her reply to the charge. Er, for
25 her copy which I gave to her, I have inadvertently left out---left out her
26 response, okay. But in my own copy which is the one I submitted to Court,
27 okay, I did state that she---she---she stated ah, "I plead guilty. I ask for
28 leniency".
- 29 Court: This is not a carbon copy that you gave to her, is it?
- 30 Witness: No.
- 31 Court: These are two separate---
- 32 Witness: I produced two separate sets. She hold one set, I hold one set

PW4 ROSLINDA BINTE AHMAD (F)
XN by Leong

1 so that as---

2 Court: And then she would sign separately. All---all of you would
3 sign separately, signed twice.

4 Witness: As we go down the page, yes.

5 Court: I know. Each time there's a signature, you have to sign on both
6 copies?

7 Witness: Yes.

8 Court: I see. Go on, Mr Leong.

9 Q Now---

10 Leong: Your Honour, I will leave that for my learned friend, I'm sure
11 he'll cover that area as well.

12 Court: All right.

13 Leong: Okay. Your Honour, I will, okay, I'm moving on on another
14 area.

15 Q Now Ms Roslinda, now in the five-page statement that was recorded from
16 the---Ms Wongsa, right at ICA, in the afternoon about 600---1600 hours. Now
17 when the---when the peti---the petitioner was brought to you, please tell the
18 Court what are the background facts or what materials do you have about her
19 case? What was before you when the statement commenced?

20 A Okay, when I received a---was and---when I was a---assigned this case, er, I
21 looked through the IP, okay, IP before me and I saw that she was previously
22 referred to the ICA by AVB. Okay, so I saw that there was a referral we need
23 from AVB, okay. In the minute I understood that she had contravened section
24 83(e) all right, and therefore her visit pass was cancelled as evident in the, er,
25 cancellation of Visit Pass Notice, yah. And because of that fact, she had to be
26 repatriated with a ban. So that is the background of her, I had, right, in my IP.
27 And the next thing I knew how the case landed on my desk was that she was
28 detected at the Visitors Services Centre when, er, thumbprint screening traced
29 her to an adverse record. So that is all that I know about her. So subsequently
30 during the statement recording, whatever details she had that---that is recorded
31 in the statement was told to me by her. Okay, what I knew was basically what
32 I saw in the IP subseq---the rest are all from her.

PW4 ROSLINDA BINTE AHMAD (F)
XN by Leong

1 Q May I refer you to the five-page statement recorded, all right, from the
2 petitioner, okay, on the 6th of October 2006? Right, you have a copy of that
3 before you?

4 A Yes.

5 Q Now---now a very quick scan of the document, perhaps you can just take us
6 through what were some things that you never---you never knew when she
7 was brought before you at the time the statement was recorded. That means
8 what are some of the things that could only have come from her.

9 A Okay, things I wouldn't have known, yah, based on what I have from the
10 IP---in the IP are things such as, all right, erm, that they---

11 Q You can take us through perhaps paragraph by paragraph, I mean very broadly
12 and briefly.

13 A All right. First paragraph, okay, you can say that I can get this information
14 from the IP even though I can confirm that they did not come from me, okay.
15 And same with paragraph 2, but I confirm again here that it did not come from
16 me, from this. From the very beginning, it's all from her, all this information,
17 okay. Then paragraph 3, she said that she was working, she continued
18 working as a seamstress, right. Now how would---how would I know that,
19 right? And then she met this particular person who came---who became her
20 boyfriend. Now how would I know that also, right? And this boyfriend, what,
21 persuaded her to come to Singapore and what not and eventually she did.
22 Now I wouldn't know that also, right, unless she told me. And in paragraph 4,
23 she made a mention of this name called "Ja---Jason". She referred to a person
24 called "Jason". Now I wouldn't know who Jason is, right? And if you could
25 refer to paragraph 6, she stated that she lived with her boyfriend at this
26 particular address, hah, this particular unit in Serangoon area. This unit
27 number is 03-127. She cannot remember the block number but she can
28 remember the door---the---the unit number. How would I know that also, all
29 right. And she made a---

30 Court: Well, don't ask us how, just tell us that you don't know that.

31 Witness: Yes, okay.

32 Court: All right.

PW4 ROSLINDA BINTE AHMAD (F)
XN by Leong

- 1 Witness: I---I do not know this fact, yah---
- 2 Court: All right.
- 3 Witness: ---from the IP.
- 4 Court: All right.
- 5 Witness: And then she said that this house belongs to, er, the boyfriend's
- 6 friend called "Ayan", all right. And that she is staying at this,
- 7 er, location with the boyfriend and the boyfriend's friend lah, at
- 8 this place. And then paragraph 7, she explained how she end
- 9 up---ended up being arrested at the Visitors' Services Centre.
- 10 She stated that it's because the solemnisation date is after the
- 11 expiry of her visit pass, so that is why they wanted to get an
- 12 extension of their visit pass. And then they sent her for
- 13 fingerprints scanning and she was traced and referred to
- 14 the---she was detained in the lock-up for investigation.
- 15 Q Well---now and so, Roslinda, question is this, at the---on the day of the 6th of
- 16 October, that was the day she was arrested at I---ICA, correct?
- 17 A Yes.
- 18 Q Would that be correct?
- 19 A Yes, confirm.
- 20 Q On the 6th of October she was arrested there.
- 21 A That's right.
- 22 Q Did you know who she was with at that time---
- 23 A No, I don't know.
- 24 Q ---when she was at ICA?
- 25 A Okay. Erm, based on the internal incident report, okay, that I have, I knew
- 26 that she was being---her extension, uh, visit pass extension was being
- 27 sponsored by her boy---boyfriend, this person called "Wai Keen Weng", all
- 28 right. So I only know that this, er, person, Wai is the sponsor, okay.
- 29 Q Do you know if she was in the building---he was in the building at that time?
- 30 A I have no idea.
- 31 Leong: Your Honour, I have no further questions.
- 32 Court: All right. Mr Bajwa.

PW4 ROSLINDA BINTE AHMAD (F)
XN by Leong

1 Bajwa: Please you, your Honour.

PW4 ROSLINDA BINTE AHMAD (F)
XXN by Bajwa

1 **Cross-examination by Bajwa**

2

3 Q All right, witness, I'll start first of all with the 122(6) statement. Now would
4 you agree with me that the column where she signed which you say is an
5 inadvertent mistake, she would only sign after she has given---her statement
6 has been recorded there, then only she will sign and not before.

7 A You mean the long statement?

8 Q The 122(6) statement.

9 A Okay.

10 Q You say it was inadvertent, the mistake that you made.

11 A All right.

12 Q But isn't it correct, don't you agree with me that she would only sign there
13 after her statement is put down there, "I plead guilty and ask for leniency",
14 only then she will sign, not before.

15 A Correct lor.

16 Q Yes.

17 A So---

18 Q So why is it that she had signed without her statement being there?

19 A Her statement was reflected in my copy lah.

20 Q Doesn't matter, I'm not asking you about your copy.

21 Court: He's asking you about her copy---

22 Q Her copy.

23 Court: All right.

24 Q Why should she sign?

25 Court: His point is that she would have signed only after the statement
26 is recorded. So when she signed in her copy, how is it that the
27 statement was not recorded. You understand?

28 Witness: Okay. Like I say, it could be an oversight. You see, after the
29 long statement, it's been sometime already, right, I may have
30 suffered from fatigue, right. But as far as I know, I've already,
31 you see ah, on my copy stated that I've already reflected her---

32 Court: Yes---

PW4 ROSLINDA BINTE AHMAD (F)
XXN by Bajwa

- 1 Witness: ---er, her response.
- 2 Court: ---but Mr Bajwa's point is---
- 3 Witness: Correct. So I may have---
- 4 Court: ---before signing her copy.
- 5 Witness: Mm-mm.
- 6 Court: You---you listen to the question. Before signing her copy, I
7 mean she---it's not that she---you asked her to sign everything
8 in one go, right?
- 9 Witness: Mm.
- 10 Court: Every step, she had to sign separately, right? So when it comes
11 to the, "Do you wish to say anything?" then she, I mean from
12 what you said, she said whatever she said, "I plead guilty and
13 ask for leniency". Then you wrote it down, then he she signed
14 there, right?
- 15 Witness: Mm.
- 16 Court: Then you move on to her copy, right, the other copy, right?
- 17 Witness: Yes. I will always start with my copy first.
- 18 Court: Right. So why is it that she signed there before you---you
19 wrote the same words in that copy? I think that's Mr Bajwa's
20 question.
- 21 Bajwa: Yes.
- 22 Witness: Mm. I don't know, the copy, her copy, is being held by her,
23 okay, and the interpreter lah. So they'll be referring to their
24 copy, this second copy and I'll be ref---referring to my copy.
25 Okay, now what do you---I would ask her question, "Okay, so
26 you understand the charge?" The interpreter will explain to her
27 the punishment, everything, right, then I would ask her, "Okay,
28 what---now that you understood the charge and you understood
29 the punishment, okay what do you have to say in response?"
30 Right. She would say something and I would record down
31 accordingly. So, yes, it was my mistake when I write---wrote
32 down here. I didn't quickly refer to her copy, but I---after I

PW4 ROSLINDA BINTE AHMAD (F)
XXN by Bajwa

1 write down here, I just must have passed it over to them,
2 “Okay, please, er, acknowledge that you have been served this
3 notice, er, this charge and you understood the charge and the
4 punishment, then please append.” So when they---I---I---I may
5 be wrong, but this is what I think it happened. When they write
6 here, right, they signed together, after this and then signed on
7 that one. So I---I---I must have---have overlooked because the
8 thing is being held by them also. I just signed and---on my
9 copy and then on her copy.

10 Court: Yes. Mr Bajwa.

11 Q Well, witness, if you look at the question that is specifically asked in the
12 charge and you are an experienced officer, it says, “Do you wish to say
13 anything in answer to the charge? If there is any fact in which you intend to
14 reply, you are advised to mention it now”. Now, when you read that, it’s only
15 in response to that she will then say something, you will write down and then
16 she will sign. But here we have clear evidence that she has signed without the
17 statement even being recorded there. Why would she do that?

18 A The statement was read to her. She understood.

19 Q No, no. The statement was not recorded. The words “I plead guilty, I ask for
20 leniency,” was not even written there but she has signed.

21 A Correct. But I read to her exactly the same thing as what is printed on her
22 copy. So as far as I am concerned, I have served the charges to her. She
23 understood the charges and I have explained the punishment to her and she
24 understood the punishment and thereby I asked her to acknowledge on
25 the---on the 122(6).

26 Q All right. Witness, I suggest to you that you in fact got her to pre-sign the
27 charge---the document and subsequently you put in the words, “I plead guilty.
28 I ask for leniency.”

29 A Not true. This came from her words, from her mouth.

30 Court: Can I just ask these words, “I plead guilty. I ask for leniency”
31 on your---your copy, whose handwriting is that?

32 Witness: This is mine---mine.

PW4 ROSLINDA BINTE AHMAD (F)
XXN by Bajwa

1 Court: So you---you wrote this down, is it?

2 Witness: Mine.

3 Q I also suggest to you that the fact that we have a copy that is signed by her
4 with no statement written down there shows that you had made her pre-sign
5 documents without even the statement being recorded on the document.

6 A Not true.

7 Q All right. Now, I want to take you to the five-page statement that's being
8 referred by my learned friend to you earlier. In fact, it's a six-page statement.
9 Now, the very first paragraph, do you agree that basically it has been brought
10 to your attention that she was tricked into prostitution and later brought to
11 Singapore to solicit?

12 A She was tricked into prostitution in Hadyai.

13 Q Yes, and brought to Singapore. Now, when you are---

14 A What---whatever happened in between in Hadyai, the incident when she was
15 tricked and in Singapore, that is something else, I think. It's not related.

16 Q All right. So would you agree that this particular statement by her that she
17 was tricked into prostitution and later brought to Singapore to solicit, did not
18 make any difference to your investigation?

19 A No.

20 Q All right. So in other words, you did not---it did not register in you that
21 perhaps this could be a case of human trafficking?

22 A Like I have said, the---she was tricked into prostitution, right. It happened in
23 Thai---in Thailand, Hadyai, right, and that was when I---I wouldn't know
24 which---which year, right. But at the point when she entered in 2004, right, if
25 I could give---if---if, you know, as an IO investigating the case in 2006, there
26 is no evidence in the IP to suggest that she was a---a victim of human
27 trafficking.

28 Q All right. Now, witness, did you make any efforts to contact whoever was the
29 investigating officers in 2004, to find out more information as to whether she
30 was indeed a victim of human trafficking?

31 A No.

32 Q All right.

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- 1 A There is nothing attached to AVB's minute.
- 2 Q So just to conclude this point of my cross on you, as far as you are concerned,
3 the issue of human trafficking did not even arise in the instant case that you
4 were handling?
- 5 A No.
- 6 Q Right. Now, do you recall that the interpreter that you used, Mr Lee, had
7 actually ascertained that this person from her name, Athu Amue, was actually
8 from an Akha tribe?
- 9 A Not that I could remember. I don't believe so.
- 10 Q Sorry?
- 11 A I don't believe so. I wouldn't---I---I don't know that she was from the Akha
12 tribe.
- 13 Q So the interpreter who has given evidence already that---he did ascertain
14 that---did not inform you that, "Look, this person is a---from the Akha tribe."
- 15 A No.
- 16 Q All right. And you yourself made no efforts to try and find out exactly where,
17 in which village, this particular person had come from. In other words, you
18 just accepted the fact that she's from Thailand and you didn't probe further. Is
19 that correct?
- 20 A She said her family members are residing in Chiang Rai, right. So she must be
21 from Chiang Rai.
- 22 Q No. I'm not asking you for suppositions now.
- 23 A And then they---and then she went to Hadyai.
- 24 Q I'm asking you at that time but cast your mind back to that time. Did you ask
25 yourself where is this person from, which indigenous part of Thailand or you
26 just said, "This is a Thai girl, that's it. Let me deal with her now"?
- 27 A No. She said from Chiang Rai, her family members were from
28 Chiang---Chiang Rai, so she has to be from Chiang Rai.
- 29 Q So did you not try to establish what her real dialect is?
- 30 A No. As far as I---I---I'm concerned, okay, I have already checked in what
31 language she would like to have her statement recorded in and she affirmed

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- 1 she would like to have it in Thailand---in Thai. That is why I proceeded, I
2 commenced to record her statement.
- 3 Q Now, we have evidence from an earlier witness, Mdm Ang, who said that she
4 actually looks at the body language of the person. If the person nods the head
5 or looks confused, she takes that as a cue that she doesn't understand. Do
6 you---do you also do the same? Do you look at the person and see whether the
7 person is nodding or showing expressions of confusion?
- 8 A Yes.
- 9 Q Yes. So assuming that this particular person had nodded her head, you would
10 take that as a sign that she understood, right?
- 11 A No. I will expect her to say yes or no.
- 12 Q All right. Now, I---I would put it to you that in this particular instance, this
13 person, Meitinee Wongsas or Amue Athu, actually nodded several times during
14 that interview. Can you recall?
- 15 A No. She was always talking. Whatever I got from her was not through body
16 language or anything. It was her talking and I record down accordingly. She
17 was very forthcoming in her statement, if I may add.
- 18 Q Now, if you look at the statement under "Dialect", you have put---it has been
19 typed there as "Thai".
- 20 A Mm-hm.
- 21 Q Now, that's not correct, isn't it? Is it correct?
- 22 A No.
- 23 Q No.
- 24 A Now that I know if she---now that I know, she has this, er, what you called
25 Akha tongue---
- 26 Q Yes.
- 27 A ---Akha language, then it should have been put as "Akha", but I don't believe I
28 was made aware at that point in time.
- 29 Q So part of the problem really in this case was that nobody brought to your
30 attention at that time that this particular person was from the Akha tribe.
- 31 A Does it matter?

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- 1 Q No, no, I never asked---do not---do not ask me questions. I'm asking you the
2 question. Part of the problem was nobody brought this to your attention. Is
3 that yes or no?
- 4 A I wouldn't call it a problem because she still---still can give me her statement.
- 5 Q All right. Just on a supposition that if it had been brought to your attention
6 that she's from the Akha tribe, what would you have done differently?
- 7 A Ask her whether she wants to speak in Akha or in Thai.
- 8 Q So you would have offered her a choice. That's what you are saying. Now,
9 do you agree that some of the information that is inside this statement, you
10 could have always also obtained from her boyfriend named Wai who
11 was---who was also arrested around about the same time?
- 12 A He was never arrested on---on this date, 6th October, never.
- 13 Q Was he interviewed by anybody?
- 14 A He was subsequently interviewed by my colleague. I think his statement---his
15 statement started somewhere about 2135 hours, 9.35pm, his statement was
16 recorded, start recording.
- 17 Court: Same day, that day?
- 18 Witness: Same day. Actually I didn't know that he was in the building
19 until I learnt that he and his friend one, er, one friend---oh, I'm
20 sorry. Mr Wai's statement started at about 7.30pm. The
21 boyfriend's statement started about 7.30pm. I didn't know that
22 he was in the building until I learnt, er, that he and his friend,
23 name, er Low Wei Teck, they were, er, downstairs outside our
24 enforcement branch. If I may say so, I think they were creating
25 a scene down there. That's how we got to know that they were
26 down there and my colleagues, er, voluntarily went down to
27 attend to them and subsequently recorded a statement from
28 them.
- 29 Q Right. You said the statement---started recording 7.30pm but were they in
30 the---in the custody of any of your officers---
- 31 A No.
- 32 Q ---during the time when you were recording the statement from the accused?

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- 1 A No, they were never put under arrest. They were invited to give a statement, I
2 suppose, because they wanted to know what happened to this girl. They
3 demanded to know what happened to this girl. So as a matter of, you know, to
4 explain to them what is happening to the girl, to make it clear to them what is
5 happening, so they---my colleagues put it in a form of a statement.
- 6 Q All right. Now, you remember you gave evidence? You said that she did not
7 even know the block number but she only knew the unit number, 03-127,
8 right?
- 9 A Mm-hm, yes, yes.
- 10 Q That is during the course of the recording of the statement?
- 11 A Correct.
- 12 Q She didn't even know that. But if you look at the first page of the statement
13 under "Address in Singapore", it's stated there "Care of Block 225 Serangoon
14 Avenue 4." Now, how do you know the block number "225" if she didn't
15 know it?
- 16 A Okay. This one is as per declared, er, in her appli---the---apa---Form 14 in her
17 application for visit pass extension.
- 18 Q So in other words, there---there's other information that you had obtained
19 from other sources?
- 20 A I---I think it was attached together with her referral minute from VSC. VSC
21 referred to---referred her, detained her and provided the internal incident
22 report as well as the Form 14 which she used to---which she had completed or
23 either signed to apply for her visit pass extension.
- 24 Q All right. I'm interested in particular on paragraph 2 which talks about the
25 repatriation and a permanent ban. Now, obviously, you---this information
26 regarding the fact that she was banned on a certain date came from you to her.
27 Is that correct?
- 28 A I believe I must have shown her the---, er, ban notice and she could recognise
29 the ban notice and her thumb print on it and she affirmed that this is a ban
30 notice served to her.
- 31 Q Yes. That's very important evidence, isn't it, witness? Nowhere in the
32 statement is it mentioned that you showed her the ban notice.

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1 A Yah, I did put it down on the---er, in the statement.

2 Q No, no. Putting it down in the statement is one thing now. Don't you think
3 it's important enough a fact for you to pause and say, "I'm now showing her
4 the ban notice and she understands and she confirms that this was explained to
5 her." Wouldn't that be important enough to put in the statement?

6 A Yes. On hindsight, yes.

7 Q But it is not there.

8 A Yes.

9 Q Now, in your further affidavit, you will for the first time disclose that you
10 actually had to have her have a conversation in Hokkien by the introduction of
11 one Mr Chew, all right. You mentioned that in your further affidavit. Now, I
12 suggest to you that the reason why you did that was because there was
13 difficulty in interpreting to her in Thai, so you called in Mr Chew to help
14 interpret in Hokkien.

3.15pm

15 A Not true. I---it's---it's just---it was just by chance that, er, this Mr Chew
16 walked into the room, okay. And then I happened to be asking her the
17 question because she was mentioning her boyfriend. So I---I happened to ask
18 her the question, "How did you communicate with your boyfriend?" She said,
19 "In Hokkien," and then she went on to elaborate that there were---she had
20 informed this boyfriend that she was banned from entering Singapore, that she
21 cannot enter Singapore anymore. So as an---a person recording the statement,
22 yah, an investigator, it's---it's one thing to claim you know this particular
23 language, Hokkien, but when you start implicating people, right, as having
24 aware---as being aware of your prohibited status and he yet persuaded you and
25 facilitate you to come into Singapore, then it's a very serious allegation. So I
26 wanted to be sure first thing, do---can she really speak the Hokkien language,
27 er, dialect. And second thing I want to be sure, is it really---does the
28 boyfriend---did the boyfriend really know that she was banned. Okay. If---if
29 you say that you had informed him, how did you inform him in Hokkien.
30 Okay. Now, okay, then just so happened this Mr Chew walked into the room.
31 So I asked---I take the opportunity. "Mr Chew, she claimed she can speak
32 Hokkien and then she said---she informed the boyfriend that he---that she was

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1 banned. Can you”---now then I spoke to Mr Lee. “Mr Lee, can you please
2 now tell her to---to speak Hokkien to my---my colleague here”. Okay, then
3 he---does he know she was banned? Tell him now in Hokkien.” Then she
4 spoke in Hokkien to this Mr Lee, right. I---I remember also. “Now, okay,
5 now you say you informed your boyfriend you cannot enter. Okay. Can you
6 please, er, tell this Mr Chew in Hokkien?” So she said in Hokkien and
7 Mr---this Mr Chew just tell me, “Okay, she knows she is banned. She knows
8 she cannot enter. Then, okay, yah, the boyfriend know. She is saying now in
9 Hokkien that the boyfriend know she---she---she cannot enter and then, that’s
10 all.” Mr Chew went---went off to do---to attend to his own, er, matter and I
11 proceeded. Once I’m---I’m convinced that this person can really converse in
12 Hokkien, okay, I have no problems putting---putting it down in my statement
13 already. At least---because I---I---I’m convinced that she’s telling me the
14 truth. Because it’s very serious to implicate somebody else like this, you see.

15 Q All right. Now do you know that Mr Lee, the Thai interpreter, also could
16 speak Hokkien?

17 A I was not aware. I never knew that he could speak Hokkien. In fact I have---I
18 barely---in fact I never heard him speak Mandarin. All I know is that he’s a
19 Thai interpreter and I---I---wanted to keep it that way, just strictly Thai.

20 Q Now, this entire episode or event involving Mr Chew coming in and talking in
21 Hokkien and establishing certain other matters regarding the boyfriend is not
22 found in the statement. Do you agree?

23 A Yes.

24 Q Once again, these are very important facts that could have arisen out of your
25 investigation for them to be placed in the statement, but you have not put
26 them. Why?

27 A On hindsight, yes, it, er, is important evidence. I didn’t put it down because
28 I’m very convinced that whatever she’s telling me now in Thai is more than
29 sufficient. It is the truth. As far I am con---concerned, I was very satisfied
30 that she is telling me the truth.

31 Q Now, how about the question of her name, Amue Athu? Were you satisfied
32 that that is her real name and Meitinee Wongsu was not her correct name?

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1 A She couldn't provide me any evidence, right. She---she---she could insist that
2 Amue Athu was her, er, is her real name but if Meitinee Wongsas was really
3 a---a false name, then why didn't she make it known during the first arrest to
4 AVB and to our repatriation section? Why didn't reveal this fact at that time?
5 Why only now? So for me, if you declare at the---during your---during the
6 first instance that Meitinee Wongsas is your name, I would take it that it is your
7 name.

8 Q All right. So the interpreter never told you that he had confirmed with her
9 concerning her name because he---he realised that that was not a Thai name
10 and so he confirmed with her and she said, "Yes, that's my name and I'm from
11 Akha tribe." He didn't tell you that?

12 A I didn't know about that she was from Akha tribe.

13 Q Now, were you in Court when the proceedings took place against her on the
14 12th of October?

15 A No, no.

16 Q Now, witness, I'm going to put it to you that this particular person from whom
17 you took a statement on the 6th of October, Meitinee Wongsas, was not able to
18 fully understand the Thai language and the interpretation that was being made
19 to her by the interpreter.

20 A I disagree.

21 Q Now, I also put it to you that the fact that it appears that you had made her
22 pre-sign her 122(6) statements without even the statement being there, is
23 indicative of the fact that you had a very nonchalant attitude towards the
24 recording of the statement from her.

25 A Not true. If I have such an attitude, I would have ended the statement very
26 early in the, er, very early. You must understand, ah, I start work very early,
27 about 8.30. This statement started at 4.00pm and lasted through until 9.00pm.
28 If I have such an attitude, I think I would have ended before the---the break
29 time. She was so forthcoming. I just let her have the free will to say whatever
30 she wanted to say and I record accordingly. I could have stopped the
31 statement of course.

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- 1 Q All right. I finally put it to you that throughout the recording of this statement,
2 you failed to ensure that the person before you was from an Akha tribe and
3 thereby you failed to make sure that the person who interpreted for her was
4 properly qualified to do so---
- 5 A She has---
- 6 Q ---in a language that she could understand, fully understand.
- 7 A Before I commenced---commenced recording the statement, she had already
8 affirmed she wanted to give her statement in Thai. So I was just fulfilling her
9 request to have it recorded in Thai.
- 10 Bajwa: I have no further questions, your Honour.
- 11 Court: Mr Leong.
- 12 Leong: Your Honour, I have no questions for re-examination.
- 13 Court: All right. Thank you, Ms Roslinda, you are released.
- 14 Witness: Thanks.
- 15 **(Witness stood down and released)**
- 16 Court: Yes, Mr Bajwa, you want to call your client?
- 17 Bajwa: Yes, your Honour. I only have the petitioner to give evidence
18 and I will be touching only on the evidence concerning the
19 interpretation. So my question to her would be basically
20 whether she understood.
- 21 Court: Yes, okay.
- 22 Bajwa: Could she be affirmed and---
- 23 Court: (To Witness) You can come to the stand. Oh, she's---I'm
24 sorry---I'm sorry. She will give her witness evidence
25 from---from the dock---
- 26 Bajwa: From there.
- 27 Court: ---where she is. Yes.
- 28 Leong: Your Honour, with your Honour's indulgence, perhaps if I may
29 have the assistance of the investigating officer to sit behind
30 me---
- 31 Court: Yes, yes, Ms Roslinda can---can remain.
- 32 Leong: ---just in case I need to take instructions.

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- 1 Court: She has to take affirmation. Is---is she a Christian? Is she a
2 Christian?
- 3 Interpreter: Yes.
- 4 Court: She's a Christian?
- 5 Interpreter: Yes.
- 6 Leong: Yes.
- 7 Court: Then she has to swear on the bible. Mr Bajwa, are you going to
8 admit her affidavit or you are going to just ask her?
- 9 Bajwa: Your Honour, her affidavit actually encompasses a lot of
10 things.
- 11 Court: So you are not going to use that?
- 12 Bajwa: I'm not going---I'll just lead her by oral evidence.
- 13 Court: So you only use---leading oral evidence from her?
- 14 Bajwa: Yes.
- 15 Court: All right. So---so---so what do I do in relation to the assertions
16 made in her affidavit? Do I take it as evidence---oh, you are
17 only just going to talk about whether she understood the
18 proceedings in Court---
- 19 Bajwa: And the ban.
- 20 Court: ---and the ban.
- 21 Bajwa: I'm starting with the ban and then moving on to---
- 22 Court: All right. Yes. (To Interpreter) Miss, can I have your name
23 again?
- 24 Interpreter: Yah, my name, Isariya.
- 25 Court: Can you speak into the microphone? You may sit down. Give
26 us your name---your name.
- 27 Interpreter: My name?
- 28 Court: Yes.
- 29 Interpreter: Isariya.
- 30 Court: How do you spell it?
- 31 Interpreter: I-S-A-R-I-Y-A.
- 32 Court: I-S-A?

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- 1 Interpreter: R-I---
- 2 Court: R-I?
- 3 Interpreter: Y-A.
- 4 Court: Oh, Is---Isariya?
- 5 Interpreter: Isariya. Yes.
- 6 Court: All right.
- 7 Bajwa: Your Honour, full name is Isariya Ar-Ngee, A-R (dash) N-G-E-
- 8 E.
- 9 Court: A-R-S?
- 10 Bajwa: A-R dash---
- 11 Court: Dash---
- 12 Bajwa: ---N-G double E.
- 13 Court: N-G?
- 14 Bajwa: Double E.
- 15 Court: E?
- 16 Bajwa: Yes.
- 17 Court: Double E?
- 18 Bajwa: Double E, your Honour.
- 19 Court: Ar-Ngee?
- 20 Bajwa: Ar-Ngee.
- 21 Court: All right. Isariya Ar-Ngee. All right. You have to tell us did
- 22 she take the oath to tell the truth, the whole truth and nothing
- 23 but the truth? No. Did you---did you do it to her just now?
- 24 Did you translate it to her just now?
- 25 Interpreter: Yah.
- 26 Court: Did she agree to swear to tell the truth?
- 27 Interpreter: Yah.
- 28 Court: All right. And what language is she using?
- 29 Interpreter: Er, Akha.
- 30 Court: Akha, all right. Yes, Mr Bajwa.
- 31 Bajwa: Thank you, your Honour.

DW1 AMUE ATHU
[Charged as Meitinee Wongsa] (F)[PETITIONER]
XN by Bajwa

1 **DW1 AMUE ATHU**
2 **[Charged as Meitinee Wongsa] (F)[PETITIONER]**
3 **(Sworn and speaking in Akha)**
4 **(Interpreter: Ms Isariya Ar-Ngee)**

5
6 **Examination-in-chief by Bajwa**
7

8 Q All right. Now, can you recall that sometime on the 23rd of April 2004, you
9 had come to Singapore for the first time?

10 A The first time.

11 Q All right. Now, can you tell us very briefly what happened after you came to
12 Singapore?

13 Interpreter: Okay. She said that she went to police, right, and then the
14 police do everything and then she just follow what they did.

3.30pm

15 Q All right. Now, before I go on, is your name Meitinee Wongsa or Amue
16 Athu? What is your name? Is it Meitinee Wongsa or Amue Athu?

17 A Amue Athu.

18 Q Okay. On that day when you came in---in the---in the first time, what was the
19 name that was used in your passport?

20 A Meitinee Wongsa.

21 Q Now, how long did you stay in Singapore or did you have to leave?

22 Interpreter: Okay. She said that she arrived today, right, and then leave
23 tomorrow.

24 Q Okay. All right. Now, I want to show you a document dated 20th---sorry, it's
25 not dated---it's supposed to be a letter informing you that you are banned from
26 entering Singapore, can you please look at it? Just look at it first, I haven't
27 asked my question. Just look at it first. All right. Now, did you understand
28 this document at that time---at that time?

29 Interpreter: Okay. She said that she didn't understand English. She just
30 followed what they tell her to do.

31 Q All right. And you've already given evidence that you went back the next
32 day---left Singapore. Now, the next time you came back to Singapore, can
33 you tell us what happened?

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- 1 A I come to marry my boyfriend and then, well---
- 2 Interpreter: ---and then she has to extend the visa when she went to---to the
3 office and then---and then, she was like that.
- 4 Bajwa: And then she was?
- 5 Interpreter: And then she---sorry, sorry.
- 6 Bajwa: All right.
- 7 Interpreter: Okay. She---she's saying that, okay, she came here to marry
8 her boyfriend and then Ah Wai, her boyfriend, took her to
9 extend passport.
- 10 Q All right. And what happened at the passport office? What happened at the
11 passport office?
- 12 A Okay. So, when she extend passport and then police arrest her.
- 13 Bajwa: All right. I want to show her a statement that was purportedly
14 recorded from her on 6th of October by Roslinda Ahmad, the
15 investigating officer.
- 16 Q All right. Now, first of all, this statement was interpreted to you in Thai
17 language, is that correct?
- 18 A In Thai.
- 19 Q Do you understand Thai?
- 20 Interpreter: She did understand a bit.
- 21 Q In what language would you have preferred to speak on that day?
- 22 A Akha.
- 23 Q All right.
- 24 Bajwa: Now, just show her the---the statement, it's about 6-page
25 statement.
- 26 Q Did you understand what was being recorded in the statement on that day?
- 27 A No.
- 28 Interpreter: She under---she---she did understand a bit but she understand
29 Thai better---no, Akha better.
- 30 Bajwa: All right.
- 31 Q Now, subsequently, you were taken to Court, do you recall that - went to

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1 Court? Subsequently, you were produced in Court on the 12th of October 06.

2 Do you recall going to Court? Did you go to Court---subordinate court?

3 Interpreter: Okay. Yes, she understand a bit---no, she, yah, remember a bit.

4 Bajwa: She went to Court, right?

5 Interpreter: Yah, go to the Court.

6 Bajwa: Now in the Court, the same interpreter, Mr Lee, interpreted to
7 her the proceedings that took place in the Court. Okay. Can
8 she confirm that that it was interpreted by Mr Lee who gave
9 evidence earlier?

10 A Yah, Mr Lee.

11 Q All right. My question is did you understand the---the interpretation and
12 understand the proceedings that were taking place in Court?

13 Interpreter: Okay. He---he's---she is saying that no, she understand but that
14 she don't---she don't understand the language as well.

15 Court: Sorry, again?

16 Interpreter: She---she say that she understand a bit and then she didn't
17 understand the language really.

18 Bajwa: All right. I want to show her what is called the "statement of
19 facts" that were produced in Court that day. Just ask her
20 whether she understood the statement of facts.
21 Answer---answer, please?

22 A No.

23 Q Yes.

24 Interpreter: But say that---she say that, okay, she did---she did understand a
25 bit but didn't really understand what is meant.

26 Bajwa: All right. I also want to show her the charges that were
27 interpreted to her. There were altogether three charges: 1st,
28 2nd and 3rd charge. They're all found her---found here, ask
29 her whether she understood the charges.

30 A No.

31 Bajwa: Now, in particular, I want to read her the 3rd charge. In the 3rd

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- 1 charge, it is said that when she filled up the application form, it
2 contained facts which were false, namely, her name is Athu
3 Amue and her date of birth is 1/1/84. Read---read---read to her.
- 4 Interpreter: Okay.
- 5 Bajwa: The 3rd charge says that the particulars she gave in the---in the
6 form which she filled up says her name is “Amue Athu” and
7 that’s false, that’s not true. All right. Is it true or false that her
8 name is Amue Athu?
- 9 Interpreter: Can---can you say that again?
- 10 Bajwa: It’s---the---is her name Amue Athu? If I say that her name is
11 Amue Athu, is that true or is it false?
- 12 Interpreter: Okay.
- 13 A Yes.
- 14 Q It’s true?
- 15 A Yah.
- 16 Bajwa: She must answer, please? You must---you must say what
17 she---so she say it’s true, is it?
- 18 Interpreter: Yes.
- 19 Bajwa: Okay. So, why is it that in Court, she admitted to the charge to
20 say that it’s false? To---this is the 3rd charge, she has admitted
21 in Court that it is---that the---that the charge is correct, that
22 means the statement was false. You see, the 3rd charge---she
23 was---she was charged with three charges. The 3rd charge says
24 that she gave false information on the card. She’s---she said
25 that name the Amue Athu is not a correct name. She admitted
26 that in Court, but now she’s saying she is actually Amue Athu.
- 27 Interpreter: Okay.
- 28 Bajwa: So, the question is why did she tell the Court that she was
29 guilty of the 3rd charge when her name is actually Amue Athu?
- 30 Interpreter: Okay, can I---repeat your question again?
- 31 Bajwa: All right. Now---

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- 1 Interpreter: Can---can---
- 2 Bajwa: ---if you look at the 3rd charge---
- 3 Interpreter: Yah.
- 4 Bajwa: ---the 3rd charge says that she has given false particulars, that
5 mean she lied to the Immigration when she said that her name
6 is Amue Athu, all right? But in actual fact, she has given
7 evidence now that she is Amue Athu, but in Court she admitted
8 that she is not Amue Athu---
- 9 Interpreter: Okay.
- 10 Bajwa: ---why is that so?
- 11 Interpreter: Okay. She said that police tell her to use as---to---to---to use as
12 Amue Athu. Your Honour, okay, sorry. Oh, oh, okay, sorry.
13 She---okay, she said that she just using what the police tell her
14 to do.
- 15 Bajwa: All right. No further questions, your Honour.
- 16 Court: All right. Mr Leong.
- 17 Leong: Yes, your Honour.
- 18 Court: Yes.
- 19 Leong: Your Honour, I'll do my level best to allow the interpreter to
- 20 Court: Pardon?
- 21 Leong: I'll do my level best to allow the interpreter to catch her flight.
- 22 Court: Yes, okay.

3.45pm

DW1 AMUE ATHU
[Charged as Meitinee Wongsa] (F)[PETITIONER]
XXN by Leong

1 **Cross-examination by Leong**

2

3 Q Now, petitioner, I'll---I'll call you Ms Wongsa. Whatever your name may be,
4 I'll just call you Ms Wongsa.

5 Court: Well, you better call her by the name that she wants to be
6 called.

7 Leong: Okay.

8 Court: And I think it doesn't make an iota of difference.

9 Leong: Yes. Yes, your Honour.

10 Q Now, what---what name would you like to be addressed?

11 A Amue Athu.

12 Q Now, Ms Amue Athu, okay, you've stated that you understand or rather you
13 know Thai, a bit of it.

14 A Yes, she understand Thai a bit.

15 Q Now, we---we try to understand you, all right, as to how much of Thai you
16 understand. Simple conversation like, "sit down", "have a meal", "go to the
17 toilet", would you understand those?

18 A Yah, understand a bit.

19 Q Understand. Now, you said un---"yes, understand a bit", what do you mean
20 by "yes, understand a bit"? Do you understand or you don't understand
21 simple Thai, like "sit down", "go to the toilet"?

22 Interpreter: Okay. She say that she understand, okay, "sit down", "go to
23 bathroom---toilet", but if the conversation come along more
24 than that, she don't understand.

25 Q Now, you also remembered you were here today and then you left next day,
26 right, in 2004?

27 Interpreter: Yes, she remember.

28 Q Now following, this Madam, you know, who made you thumbprint certain
29 documents---do you remember that---that afternoon where you on---on the
30 second day, that you had to thumbprint that document in the---the ban letter
31 that it was shown to you? Do you remember that document that you thumb
32 printed it?

DW1 AMUE ATHU
[Charged as Meitinee Wongsu] (F)[PETITIONER]
XXN by Leong

- 1 Interpreter: Okay. She remembered that she did a thumbprint.
- 2 Q And then, do you remember the---the official stamp in your passport?
- 3 Interpreter: Okay, she remembered that the officer stamped but didn't know
- 4 why.
- 5 Q Now, after you had thumb-printed the document and after the officer had
- 6 made some stamps in your passport, you left the building, did you?
- 7 Interpreter: Yes, she left.
- 8 Q Where did you go after leaving the building? Where did you go after leaving
- 9 that building?
- 10 Interpreter: Okay. So, she---she went back to Thailand and then worked
- 11 with the brothel because she has to pay debt.
- 12 Q Now, when you left the building, what did you understand---
- 13 Interpreter: Okay.
- 14 Q ---was required of you? When you left the building, what would---did you
- 15 understand to be required of you?
- 16 Interpreter: Okay, she said that when she left the building, she didn't
- 17 understand anything. She just left.
- 18 Q Now, Ms Amue Athu, I want to refer you to the ban letter again, all right,
- 19 which the learned defence counsel showed you a while ago. Please tell us
- 20 how it came to pass that you imprinted your thumbprint on this document.
- 21 Interpreter: How come?
- 22 Leong: Yes, how did it happen?
- 23 Interpreter: Okay, she say that because people told her to do that and then
- 24 she didn't understand why she has to do that, but because she
- 25 has to follow what people tell her to do - that what she say.
- 26 Q You said "people", who are these people?
- 27 A I mean---
- 28 Court: Mr Leong, are you on the issue of whether she understood Thai
- 29 and whether it was properly interpreted to her or you are on the
- 30 issue of---
- 31 Leong: Yes, your Honour, I---

DW1 AMUE ATHU
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XXN by Leong

- 1 Court: ---whether she had been warned and so on.
- 2 Leong: ---I think related---related to that. I'm still on whether she
3 understood Thai.
- 4 Court: Well, I---I get the feeling that you are on the issue of whether
5 she had been served with the warning and so on, whether she
6 was aware of---
- 7 Leong: No, no, I---it's related, your Honour, it's related.
- 8 Court: All right, yes.
- 9 Leong: To what extent she understood Thai and what extent---
- 10 Court: I---I'm just---
- 11 Leong: ---she understood what went on in that room---
- 12 Court: That's not in Thai, that's in English.
- 13 Leong: Yes, your Honour. I---I---I perfectly understand that
14 this---these in---these---the words---the wordings are in
15 English, but how she came to affixing her thumbprint and what
16 was communicated was---
- 17 Court: Well, she just said she was just told to do it and she did it---just
18 follow instructions.
- 19 Leong: Yes, your Honour. So, I'm establishing who are these people,
20 she said "people told her to do it".
- 21 Court: You're asking her who are these people?
- 22 Leong: Yes, your Honour, because in her answers, she is saying that:
23 "people told her that, people told her to do".
- 24 Court: But we have evidence that it was Ms Ang Siew---what's her
25 name? Ang Siew Eng, right?
- 26 Leong: Yes, your Honour. That---that is from the testimony of Mdm
27 Ang---
- 28 Court: Yes---
- 29 Leong: But we want---
- 30 Court: ---you are challenging her?
- 31 Leong: Your---your Honour, I---I---

DW1 AMUE ATHU
[Charged as Meitinee Wongsu] (F)[PETITIONER]
XXN by Leong

- 1 Court: You are not happy with Ang Siew Eng's testimony?
- 2 Leong: Yes, I'm trying to understand what she mean by "people".
- 3 Court: Well, it's---it's translated, so, you know, are we going into the
4 fine detail? I mean, you know Ang Siew Eng, whatever---I
5 mean, for Ang Siew Eng---from her evidence---from Ang Siew
6 Eng's evidence, she invited her to put the thumbprint on it to
7 acknowledge that she understood, right? So, now she said:
8 "No, somebody told her to do it".
- 9 Interpreter: Yah.
- 10 Court: Whether you want to quarrel---whether are you going to do it,
11 whether it is singular or plural or what? I mean what's the
12 point in---
- 13 Leong: Yes, your Honour.
- 14 Court: ---going into the details?
- 15 Leong: I---I take your Honour's guidance on this. I'll---I'll move on,
16 your Honour.
- 17 Court: Because Mr Bajwa basically is putting her up to show that she
18 did not understand Thai and therefore, she did not---you know,
19 was not aware of the nature of the charge, the consequences of
20 her plea and---and statement of facts and so on because the
21 language of Akha and as it---her evidence that she understood
22 very little Thai.
- 23 Leong: Yes, your Honour, I---I move on from there.
- 24 Court: Yes.
- 25 Q Now, Ms Amue Athu, okay, when this---when the Madam---Mdm Ang, whom
26 you saw this morning, who gave evidence, all right, when she was in the room,
27 when she was conveying to you, you know, what was in that letter, what did
28 you understand?
- 29 Interpreter: Okay, she said that she---she---she didn't understand because
30 she---because she didn't know how to read, how to write.
- 31 Q While you may not be able to read but what do you understand from what

DW1 AMUE ATHU
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XXN by Leong

1 Mdm Ang told you that day?

2 Interpreter: Okay. She---she said she don't understand, right, and then, she
3 just followed what they told her to do.

4 Q So, you do understand something, right---

5 Interpreter: No.

6 Q ---in Mdm Ang's presence, you do understand something? You followed what
7 they told you to do.

4.00pm

8 Interpreter: Okay, she keeps saying that, okay, like she---she don't
9 understand what she has to do what they told her to do.

10 Q Now, what did they tell you to do?

11 Interpreter: Okay, she keeps saying that she had---she followed what
12 the---they told her to do.

13 Q Now, did you at any time when you were with Mdm Ang indicate to her, "I
14 don't understand what you are talking about"?

15 Interpreter: Okay, she said that she don't understand.

16 Q No, the question is: Did you tell Mdm Ang that you don't understand her?

17 Interpreter: Yes, she did.

18 Q You did? How did you tell Mdm Ang? What did you tell her?

19 Interpreter: Can you say that again, please?

20 Q What did you tell Mdm Ang?

21 Interpreter: Okay, she just said that, well, she don't understand because she
22 don't---because she have no education; she don't know how to
23 say.

24 Q Now, Ms Amue Athu, now I'm going on to 2006. All right, the day when you
25 were detained at the ICA building. Right? Now, on that day, you remember
26 the statement was taken from you by the investigating officer with the help of
27 Mr Lee the gentleman---the second gentleman who testified this morning. Do
28 you remember? I mean, the first gentleman who testified this morning.

29 Interpreter: Yes, your question is?

DW1 AMUE ATHU
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XXN by Leong

1 Q My question is: Do you remember that you gave a statement recorded by the
2 investigating officer and interpreted to you by Mr Lee, the first gentleman who
3 testified this morning?

4 Court: Mr Lee is in Court. I mean, sorry, at the back.

5 Interpreter: She said she didn't remember that much because she don't
6 speak Thai.

7 Q Now, in that room where this statement was recorded, what language were you
8 spoken to by the officers in the room?

9 Interpreter: Okay. She said that she spoke Thai and then she answered a bit
10 like what they questioned her.

11 Leong: Again.

12 Interpreter: She spoke Thai, yes, and then answered them.

13 Court: Sorry, who spoke Thai?

14 Interpreter: She speak a bit of Thai.

15 Court: She spoke? All right.

16 Interpreter: Yes, she spoke.

17 Q Now, do you agree, all right, that afternoon, okay, when the investigating
18 officer interviewed you with the help of Mr Lee---

19 Interpreter: Can you say that again, please?

20 Q Now, do you agree that that afternoon when the investigating officer
21 interviewed you with the help of Mr Lee and your statement was recorded,
22 you gave a lot of information about yourself?

23 Interpreter: Yes, she did.

24 Q All right, and the information pertained to your family background, where and
25 how you worked in Hadyai, how you met with your boyfriend and the plans to
26 come to Singapore to get married, a lot of details, yes?

27 A Yes.

28 Q Now, you agree with me that based on those information that you gave as it
29 appears in the statement, would you agree with me that the interpreter had no
30 difficulty understanding you?

31 Interpreter: Sorry, Sir, can you repeat the question again?

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XXN by Leong

- 1 Leong: Sure, not a problem.
- 2 Q Now, the statement comprising of five pages, right, sets out a lot of
3 background.
- 4 Court: Why don't you ask her a short segment at a time rather
5 than---because the interpreter may have difficulty interpreting
6 such a big question. To break up your question into---
- 7 Leong: Yes, your Honour, I---I---I will take on your---
- 8 Court: Yes, just take one paragraph or one---one fact at a time.
- 9 Leong: Yes, your Honour.
- 10 Court: Just, I mean, take a few. You don't have to go through
11 everything.
- 12 Leong: Yes. Perhaps---you have a---Mdm Interpreter, do you have a
13 copy of the statement? Now, Mdm Interpreter, I need to
14 trouble you, all right, to at least just quickly just read through to
15 the first paragraph of the statement to her. Ask her to confirm
16 if it's accurate or which aspect of the paragraph that she doesn't
17 agree with.
- 18 Interpreter: Okay, you want me to translate the first paragraph to her, right?
- 19 Leong: Yes.
- 20 Interpreter: Okay.
- 21 Court: What's her answer?
- 22 Interpreter: Yes.
- 23 Court: It's the truth, isn't it?
- 24 Interpreter: It's the truth---yes---
- 25 Court: All right.
- 26 Interpreter: ---it's true. But this---yes, this fact is true but here this
27 is---some sentence say that she like ban---where is it?
- 28 Court: Permanent ban, is it?
- 29 Interpreter: Yes, permanent ban. She---she didn't know that.
- 30 Court: She didn't know that? All right.
- 31 Interpreter: Yes.

4.15pm

DW1 AMUE ATHU
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XXN by Leong

- 1 Court: Mr Leong, you have to pick up your pace, you know.
- 2 Leong: Yes, your Honour, I will---I will---
- 3 Court: Otherwise---
- 4 Leong: I will jump a bit more. Yes.
- 5 Court: Yes.
- 6 Q Now, the---you have heard in evidence, right, from Mr Lee who took the
7 stand, right, that he understood from you very clearly and which was reduced
8 into the statement that you understood that you were banned from coming
9 back after 2004.
- 10 Interpreter: She said that she didn't understand.
- 11 Court: What?
- 12 Interpreter: She didn't understand.
- 13 Court: All right.
- 14 Q I put it to you---you that you fully understood, right, that in 2004, before Mdm
15 Ang, you were communicated that you are banned from entering Singapore
16 with effect from the 24th of April 2004.
- 17 Interpreter: Okay, she didn't fully understand. She don't understand.
- 18 Court: She what?
- 19 Interpreter: She didn't understand.
- 20 Court: She didn't understand. All right.
- 21 Q And I also put it to you that when you gave the statement, all right, on the 6th
22 of October 2006, you admitted in the statement that you knew that when you
23 were sent back to Thailand in 2004, you were permanently banned from
24 coming back to Singapore.
- 25 Interpreter: She didn't understand.
- 26 Q And I put it to you that Mdm Ang, when she explained the contents of this ban
27 letter to you, all right, you did not in any way indicate that you did not
28 understand her.
- 29 Interpreter: Can you repeat that again?

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1 Q I'm putting it to you that when Mdm Ang interpreted and explained the ban
2 letter to you in 2004, you did not in any way indicate you didn't understand
3 what she was telling you.

4 Interpreter: Okay, because she didn't understand what's going on and then
5 what people tell or what they tell her to do, she just follow it
6 what is said.

7 Q Now, I put it to you that this complaint that you did not understand the ban
8 letter is an afterthought.

9 Court: You don't need to put this to her.

10 Leong: Yes, your Honour, I will---I will withdraw that.

11 Court: Yes.

12 Q Now, when the five-page statement---I want you to take a look at the five-page
13 statement. Your signature appears at the---at least the bottom and at the end of
14 every paragraph of that statement. Yes?

15 Interpreter: Which---

16 Q On the five-page statement, your signature---Ms Amue Athu, your signature
17 appears at the margin---left margin, right? Your signature appears on the
18 left-margin of every page of that statement, do you agree?

19 Interpreter: Okay, can I say something? This is not "Amue Athu"; it's
20 saying "Meitinee". It's signed as "Meitinee".

21 Q It was your signature. Did you sign those?

22 Interpreter: Well, okay. Yes, she did sign.

23 Q And you---would it be correct to say that when you signed it, you understand
24 that you are signing a statement?

25 Interpreter: Okay. She said that she understand a bit of Thai. But she don't
26 fully understand, but she understand a bit.

27 Q Now, do you remember Mr Lee reading back the statement to you in Thai
28 before you signed the statement after it's printed out?

29 Interpreter: She said that when he was saying to her to do this, to do that,
30 she just followed it.

DW1 AMUE ATHU
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XXN by Leong

- 1 Q Now, in paragraph 3 of the statement, right, you stated that, right, in
2 the---ninth line, okay, eighth line:
3 [Reads] “My boyfriend then suggested that we register our marriage in
4 Singapore.”
5 Is that correct? Is that correct?
6 A Yes.
7 Q And the next sentence reads:
8 [Reads] “I told him that I am not allowed to come to Singapore as I previously
9 wanted to work in Singapore as a prostitute, but I was not allowed to do so and
10 was sent back to Thailand with a permanent ban.”
11 Interpreter: She didn’t told her boyfriend.
12 Q You did not tell your boyfriend that? Now, then the next sentence it goes on
13 to say:
14 [Reads] “As such, I was permanently banned from entering Singapore.”
15 Did you tell him that?
16 Interpreter: She didn’t told him anything.
17 Q What about the next sentence”
18 [Reads] “I also told him that the Singapore Authority would surely discover
19 my ban status as they have my fingerprints and ban records.”
20 Bajwa: Your Honour, sorry. Sorry, to interrupt, your Honour. I think
21 that---
22 Court: Yes, Mr Leong---
23 Bajwa: ---the issue is really not---
24 Leong: Yes, your Honour.
25 Bajwa: ---so much as---
26 Court: Mr Leong, you’re repeating the same thing, you know. She
27 already given the answer to the first part. What do you expect
28 her to say for the rest?
29 Bajwa: And also whether she---in relation whether---
30 Court: Yes, and---
31 Bajwa: ---she understands it.

DW1 AMUE ATHU
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XXN by Leong

- 1 Court: And---
- 2 Leong: I think, your Honour, I think I've proved my points sufficiently;
- 3 I think---
- 4 Court: Well, it's up to you.
- 5 Leong: Yes, yes.
- 6 Court: But all I'm saying is that you---if you want to go further, you
- 7 better pick up a bit. But if you have enough, then we'll let Mr
- 8 Bajwa proceed with the re-examination, all right?
- 9 Leong: Yes, your Honour.
- 10 Court: All right, Mr Bajwa.
- 11 Leong: I will just see if I have any---anything else. Your Honour, I'll
- 12 move on to the court proceedings.
- 13 Court: Okay.
- 14 Q Now, Ms Amue Athu, right, on the 12th of October 2006, you were brought
- 15 before the court? Yes---
- 16 A Yes.
- 17 Q ---you remember that? Now, do you know that you were brought there to be
- 18 charged for an offence?
- 19 Interpreter: For---
- 20 Court: Did you know that you were brought to Court to be charged for
- 21 an offence? A crime, to be charged for a crime? No?
- 22 Interpreter: I didn't---I didn't explain to her crime in Akha because we
- 23 don't have that but explained to her in Thai.
- 24 Court: Oh!
- 25 Interpreter: And she said that she didn't know. I'm sorry.
- 26 Court: She didn't know?
- 27 Interpreter: Yes.
- 28 Court: Right. Oh, in Akha, there's no word for crime?
- 29 Interpreter: We don't even have like "judge". We don't even have like
- 30 you. We just have to and just have to tell him that you are
- 31 uncle or---

4.30pm

DW1 AMUE ATHU
[Charged as Meitinee Wongsa] (F)[PETITIONER]
XXN by Leong

- 1 Court: So what if somebody steals money or kill somebody,
2 what---what's the word for that?
- 3 Interpreter: Yes, yes, we have "kill somebody". We have a "killer",
4 something like that, yes.
- 5 Court: Right.
- 6 Interpreter: Yes.
- 7 Court: Mr Leong.
- 8 Leong: Yes, your Honour.
- 9 Q Now, the records of---correction. Now, when you were brought to Court on
10 the 12th of October 2006, right, what do you understand was going on?
11 What---
- 12 Interpreter: No, she said that somebody called her to come here and then
13 she just came.
- 14 Q And do you remember that there was punishment explained to you that you
15 may be sent to jail? Was it communicated to you?
- 16 Interpreter: Can you repeat your question again?
- 17 Leong: Yes.
- 18 Q Do you remember if the fact that you would be sent to jail communicated to
19 you?
- 20 Interpreter: Okay. Yes, someone told her that she would be sent in the jail
21 and then she just did what they told her.
- 22 Q Do you know why that person told you that you would be sent to jail?
- 23 A No.
- 24 Q Could it be correct that Mr Lee was the one who told that to you?
- 25 Interpreter: Okay. She is saying that she just been told that she has to be in
26 the jail.
- 27 Q Now, and you were---you were asked whether you plead guilty to the offence,
28 right? You were asked if you would plead guilty to the offence, do you
29 remember?
- 30 Court: Can you translate that? Do you think it's possible to translate
31 that into Akha?

DW1 AMUE ATHU
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XXN by Leong

- 1 Interpreter: I don't know how much I can, but I will---
- 2 Court: Were you asked whether you were guilty of the crime of
3 coming to Singapore although you were banned from coming
4 to Singapore?
- 5 Interpreter: I have to try understand the question again.
- 6 Court: Mr Leong, how long more you are going to take?
- 7 Leong: Not much more, your Honour. I'll just wrap up.
- 8 Court: Is it necessary this question because the interpreter obviously
9 has problems trying to translate it?
- 10 Leong: Your Honour, I'll just put it to her then.
- 11 Court: You don't need to put anything to her. I mean she knows the
12 case against her.
- 13 Leong: Yes, your Honour. In that case, I have nothing further.
- 14 Court: All right. Mr Bajwa.
- 15 Bajwa: No re-examination.
- 16 Court: No re-examination.
- 17 **(Witness stood down and released)**
- 18 Court: All right, do you wish to submit?

Submissions by Bajwa**Submissions by Bajwa**

- 1
2
3 Bajwa: Yes, your Honour. Just very shortly, your Honour. I mean, the
4 witness, Mdm Ang has basically given evidence that she's just
5 basing on a practice that she normally practises. There's no
6 concrete evidence that in this particular case, she did explain
7 the ban in detail. We're just going on practice.
- 8 Court: I'll tell you where my concerns are. I think that---that might
9 help rather than going on.
- 10 Bajwa: Yes, your Honour.
- 11 Court: The main issue in this evidence is whether she had understood,
12 right, Thai, particularly in the Court, right?
- 13 Bajwa: Yes.
- 14 Court: But of course, looking at the evidence of the---of the
15 interpreter, Mr Lee, in particular---
- 16 Bajwa: Yes.
- 17 Court: ---right. He says that he was able to converse with her but
18 more importantly, what he has recorded. Of course, he says
19 that this came from her.
- 20 Bajwa: Yes.
- 21 Court: But if you look at the details of the long statement---
- 22 Bajwa: Yes.
- 23 Court: ---those are details that, well, can only come from her. It's
24 difficult for them to make it up on the spot and when they---the
25 minute they arrested her, they got it---
- 26 Bajwa: Yes.
- 27 Court: And then they come up with, you know, what did she say? I
28 mean, the fact of her family and all that. I mean, that's---they
29 couldn't have known all these, right. And---and I don't think
30 she is saying that this information is wrong, right?
- 31 Bajwa: Yes.
- 32 Court: Right. So---and the thing about tricking her, I mean, it's

Submissions by Bajwa

- 1 actually consistent with her affidavit in the---in this application,
2 right?
- 3 Bajwa: Yes.
- 4 Court: And of course the thing about permanent ban and so on. But
5 even other details, you know, returning to Hadyai, how she met
6 Mr Wai---
- 7 Bajwa: Yes.
- 8 Court: ---and how he asked her to come to Singapore and, you know,
9 and how---how he came, the day she came, what happened.
10 These are all little details.
- 11 Bajwa: Yes.
- 12 Court: That they are going to submit and---and---and I think with
13 some justification that could only have come from her which
14 meant---which meant that Mr Lee was able to communicate
15 with her and able to, you know, she was able to communicate
16 to Mr Lee who didn't understand Akha---
- 17 Bajwa: Yes.
- 18 Court: ---who---who---who understood Thai and the Thai was good
19 enough to get these details from her---
- 20 Bajwa: Yes.
- 21 Court: ---to the degree of accuracy that it's in accord with what she
22 says in her affidavit, circumstances.
- 23 Bajwa: Yes. Yes.
- 24 Court: Of course, there are other things she didn't say in her affidavit
25 but the major facts, right, the main facts in the Court. So the
26 only question is whether this thing about permanent ban and so
27 on---
- 28 Bajwa: Yes.
- 29 Court: ---could have come from her. But the understanding---insofar
30 as understanding of the Thai language, right, even though she
31 said she's very little Thai, was sufficient to---for them to get
32 these details in the long statement.

Submissions by Bajwa

- 1 Bajwa: Yes, your Honour. Your Honour, I concede that. In fact, our
2 position is this, she does understand some basic Thai.
- 3 Court: If that is the case, to the extent that she was able to
4 communicate this level of details---
- 5 Bajwa: Yes.
- 6 Court: ---accurately, right, and Mr Lee could be able to get it from her
7 accurately.
- 8 Bajwa: Yes.
- 9 Court: Then the next question is whether in Court, Mr Lee could
10 communicate to her---
- 11 Bajwa: Yes.
- 12 Court: ---the proceedings in Court and the statement of facts.
- 13 Bajwa: Yes. But---but the crucial areas, your Honour, basically, the
14 ban. She may have been able to converse with him in simple
15 language for family matters, she could have explained all that,
16 all the background information, how she met the boyfriend
17 which would be fairly simple, straightforward matters.
- 18 Court: Yes.
- 19 Bajwa: But when it comes to the actual complexity of the matter, the
20 real crux of the case, which is the explanation of the ban,
21 whether she knew that she was banned.
- 22 Court: Yes, you see---
- 23 Bajwa: There would be a problem there.
- 24 Court: If you look at---if you look at---if you look at paragraph 3 of
25 the statement, right?
- 26 Bajwa: Yes.
- 27 Court: It's not just her saying that "I was banned", you know.
28 There's---there's a bit of back---a bit of follow on from there,
29 you see. When---when Mr Wai told her that---asked her
30 to---to---to come to Singapore to marry, to---to---to register the
31 marriage or whatever, right, and---or to register the marriage,
32 that's right, then she said that she told him she's not allowed to

Submissions by Bajwa

1 come to Singapore as she had previously wanted to work in
2 Singapore as a prostitute and was not allowed to do so and was
3 sent back to Thailand with a permanent ban. So, I mean, if you
4 tell me, well, she couldn't have said that, I can understand that.
5 But the next sentence, when---what---what happens afterwards?
6 Right, "I also told him the Singapore authority would surely
7 discover my ban status. However, my boyfriend checked with
8 his friend over the phone." You see, this checking can only
9 come about if she understood that there were some problems
10 with her return to Singapore, right. And that's why he would
11 check. I mean, otherwise why would he check? So she must
12 have communicated something to him about her problem with
13 coming---about the problem that she would have coming to
14 Singapore and what happens? The friend told him, "It would
15 be okay as long as my boyfriend explains to the Singapore
16 authorities." Then she even said, "I was under the impression
17 that his friend is a policeman, so it would be all right, explain to
18 the police the reason. And since he was confident, he decided
19 to go along." So that---that is I think what you need to
20 persuade me.

21 Bajwa: Yes. Your Honour, could I just take a pause here because---

22 Court: Yes.

23 Bajwa: ---the interpreter has asked whether she can leave now or she'll
24 never make it to her flight.

25 Court: All right.

26 Bajwa: I think we can do without her because it'll only be submissions.

27 Court: If you are happy to do that, then, yes. Okay, thank you very
28 much, Ms Ar-Ngee.

29 Bajwa: Thank you.

30 (Interpreter leaves the Courtroom)

31 Your Honour, the problem with looking at a statement like this,
32 which is a long statement, is that we do not really know in the

Submissions by Bajwa

- 1 actual context in which it was taken, because whether it was a
2 question and answer form, whether it was a narrative form,
3 whether there were pauses, there were explanations, you know.
- 4 Court: You are---you are right and we only have their words for it.
- 5 Bajwa: That's right.
- 6 Court: But like I said, the---the amount of information that is given---
- 7 Bajwa: Yes.
- 8 Court: ---whether it is question, narrative form or whatever, the
9 information and they are going to submit can only come from
10 her, you see.
- 11 Bajwa: Yes, I accept that, I accept that reading it myself.
- 12 Court: Right, if that is the case---
- 13 Bajwa: Yes.
- 14 Court: ---right, and if that is the case, that means the level of Thai that
15 she had---
- 16 Bajwa: Yes.
- 17 Court: ---was such that she could effectively communicate the
18 message because if any of this information here is wrong or
19 whatever reason, right, or inconsistent with what she had said
20 in her affidavit, the---the---the---I mean, of course, it has to
21 relate to the material information, apart from her denial of the
22 ban, because we know that in her affidavit, she denies that she
23 knew---
- 24 Bajwa: Yes.
- 25 Court: ---that she was banned, right. But insofar as the background,
26 how she met her boyfriend and all these things, these are
27 exactly---
- 28 Bajwa: I think, I agree, your Honour. It---this shows that there was a
29 certain level of communication---
- 30 Court: Yes.
- 31 Bajwa: ---between her and the interpreter and they obviously
32 understood each other up to a certain point.

Submissions by Bajwa

- 1 Court: Yes.
- 2 Bajwa: But when it came to certain critical areas where there is a
3 dispute, she says, “I did not say these things.” What happened
4 there? Was that---was that because of a communication
5 problem? Was that because if she was---she didn’t understand,
6 the concept of a ban would have been explained to her in the
7 Akha language, she would have understood it. And did it just
8 get into---written down on the basis of whatever transpired
9 between the parties without understanding. That is the crux of
10 the matter. Well, I certainly concede that there must have been
11 a certain level of communication between the parties before all
12 these things.
- 13 Court: That is what struck me, you see, about this statement and yes.
- 14 Bajwa: That’s basically my submission, your Honour. Yes.
- 15 Court: All right.
- 16 Bajwa: And only on the point of interpretation. But I have another
17 submission to make on the overall case, your Honour.
- 18 Court: Yes, what is it? What is it?
- 19 Bajwa: Your Honour, back to the earlier point that we have, I looked at
20 the case, the two case authorities, in particular the case of *Sun*
21 *Hongyu* and the other one on which they write *Ma Teresa*
22 *Bebango Bedico*. I just wanted to point out, your Honour, that
23 in that case, *Sun Hongyu* relied on the ingredients of offence as
24 found in *Ma Teresa*’s case.
- 25 Court: As found in?
- 26 Bajwa: In the *Ma Teresa Bebango Bedico*’s case.
- 27 Court: Yes, yes.
- 28 Bajwa: There’s where they got the ingredients from.
- 29 Court: Right.
- 30 Bajwa: Now, in that case, your Honour, the---a very clear ingredient
31 there was that the petitioners there had actually been convicted
32 of an offence under section 36 and has been deported and

4.45pm

Submissions by Bajwa

- 1 removed from Singapore. So the fact of having been removed
2 and lawfully sent out as an ingredient was very obvious there.
- 3 Court: Oh, I see.
- 4 Bajwa: It wasn't a case---it wasn't a case where she was arrested whilst
5 soliciting. So if you look at the---it's found in tab 5---sorry.
6 Yes, your Honour, it's tab 5.
- 7 Court: Yes, this is the High Court, the criminal revision before former
8 Chief Justice, right?
- 9 Bajwa: That's right.
- 10 Court: Page, paragraph?
- 11 Bajwa: At tab 6, your Honour, sorry.
- 12 Court: Never mind, I got the case. Paragraph?
- 13 Bajwa: Paragraph---the facts itself, your Honour. "The petitioner had
14 been previously" in the headnotes.
15 [Reads] "The petitioner had previously been convicted of an
16 offence under s 36 of the Immigration Act...After she had
17 served her sentence, she was deported and her passport
18 endorsed with an entry ban."
19 So she was clearly---a situation where she was deported.
- 20 Court: Well, here also it alleges that she was deported, so I don't know
21 what is deported.
- 22 Bajwa: Yes, but---here is an allegation but it was---this is not proven
23 on the facts whereas on her facts---
- 24 Court: No, is there---is there a---is there a specific meaning of the
25 word "deported"?
- 26 Bajwa: Prosecution has used it. They have used it but---
- 27 Court: I know but you are saying that "deported" must mean
28 "removed" under section---you know, under the provision of
29 the Immigration Act. Deported is deported.
- 30 Bajwa: Yes, but the fact---
- 31 Court: I don't know what. Is there---is there a specific meaning of
32 deported under the Interpretation Act or under some---some

Submissions by Bajwa

- 1 act?
- 2 Bajwa: Well, your Honour, I think---
- 3 Court: It could be a general word that is used to encompass various
4 situations, you see.
- 5 Bajwa: Yes.
- 6 Court: And as I said, in this case, they used the word “deported” in the
7 statement of facts as well.
- 8 Bajwa: Was that enough?
- 9 Court: No, no, no.
- 10 Bajwa: Yes.
- 11 Court: You are saying she was deported. All I’m saying is that the
12 word seems to have been used loosely, you see.
- 13 Bajwa: Yes, your Honour, but in this case, there was a removal, a very
14 clear removal.
- 15 Court: Is it, where? Where did it say?
- 16 Bajwa: Because she was convicted---
- 17 Court: She didn’t voluntarily depart as in your client’s case.
- 18 Bajwa: No, your Honour. She had---she had previously been convicted
19 of an offence under section 36.
- 20 Court: Yes, I know, the word here was “deported”. You said that---
- 21 Bajwa: After she had served the sentence, she would have served the
22 sentence and the order would have been based on the section.
23 The section also allows you to order that the person be removed
24 and sent out of Singapore as in the case---in this case as well.
- 25 Court: Did it say that she was removed?
- 26 Bajwa: I would imagine so, your Honour. It doesn’t say specifically
27 there but because it’s a---the section allows you. The
28 magistrate is empowered to also make an additional order.
- 29 Court: But how do you know? I mean, I don’t know. How do you
30 know that she didn’t also issue a special pass to get out?
- 31 Bajwa: Point taken, your Honour. It’s not in the report.
- 32 Court: Yes, I know. That’s the problem. Well, all I’m saying is that

Submissions by Bajwa

- 1 it's the same charge and in fact the charge also lawfully sent
2 out, you know, not removed, you know.
- 3 Bajwa: Yes.
- 4 Court: If you look at the charge, right. It's also on the same---same
5 sub-limb if you like, lawfully sent out and not removed, you
6 see, so we can't tell, you see.
- 7 Bajwa: Well, the point really, your Honour, I---I---I draw to your
8 attention is that in this particular case which *Sun Hongyu* is
9 relying on basically, I think, can be distinguished on the ground
10 that it was actually a case where she was arrested in prison and
11 then sent out, which is more likely than not that she was
12 actually lawfully removed---
- 13 Court: Yes.
- 14 Bajwa: ---from Singapore.
- 15 Court: All right.
- 16 Bajwa: That's all, your Honour.
- 17 Court: Okay. I don't need to hear from you, Mr Leong. I won't need
18 to trouble you.
- 19 Leong: Yes, your Honour.
- 20 Court: I can give my decision on---on the matter. You can sit down,
21 Mr Bajwa.

Judgment**Judgment**

Court:

I think the petitioner's situation, if what she has said in her affidavits is true, is of course a sad---a sad plight and---and again if true, then we fully sympathise with her. But what---the application before me pertains to a conviction on the charge under section 36 and my duty in this application, which is an application under---for criminal revision of proceedings before the Subordinate Courts under section 266 of the Criminal Procedure Code is to satisfy myself as to the correctness, legality or propriety of any findings---of---of the---of the conviction and sentence passed by the Court below.

Of course, insofar as sentence is concerned, there is no question. Once there's a conviction, the minimum sentence is 1 year imprisonment which was what was imposed on her. So the question is whether the conviction is legal or correct.

So the first issue is whether as I said a very technical one, whether the statement of facts fully sets out the elements of the charge and I would hold that in view of the decision of the former Chief Justice Yong Pung How in *Sun Hongyu v the PP*, I would hold that the district judge below was not incorrect, was correct, in other words in convicting her on the basis of the statement of facts.

Of course, I also need to examine whether she was in fact lawfully sent out in view of the evidence before me. I have perused the affidavits of the various actors in the whole---in the events and I'm of the view that the cancellation of the visit pass that had been issued to her when she first came in in April 2004 and subsequent issue of the special pass to facilitate the departure constitutes the process of lawful sending out for the purpose of section 36 and therefore, the elements of the charge are made out in fact insofar as what appears from the evidence

Judgment

1 before me.

2 The third point of course is the---the international law point.
3 The point---the---the---the point that the petitioner's counsel
4 urged me to take cognisance of, that is Singapore's obligations
5 under international law. A short answer to that is that certainly,
6 when she came in in October 2006, it was at the behest of her
7 fiancé Wai, so it was---it came in of her volition. She was not a
8 subject of human trafficking when she entered Singapore in
9 2006. So then the question was what about 2004? From the
10 evidence before me, it would appear that certainly, she did not
11 allege that she had indicated that to the ICA that she was forced
12 to come to Singapore and---and also the evidence of the ICA
13 officer who dealt with her, Mdm Ang Siew Eng, also appears
14 that she did not have any inkling that this was the case, if it was
15 a case. So that disposes of the human trafficking point. There
16 was nothing that the ICA could act on in any event.

17 I think the crucial issue is whether she had understood the
18 proceedings in Court. This is because in our system of justice,
19 every accused person must understand the nature and
20 consequences of the charge and the plea that he or she makes in
21 Court.

22 The main ground of the petitioner was that she had not
23 understood the proceedings as the interpreter has spoken to her
24 in Thai language, a language that she was not conversant in as
25 she was a member of the Akha tribe who speak a different
26 language. So the question is whether when she appeared before
27 the District Judge at the trial, she had understood one, the
28 charge; two, the nature and consequences of her pleas of---plea
29 of guilt; and three, the statement of facts that she had admitted
30 to without question, without qualification. So the
31 whole---this---this whole question turns on whether she
32 understood Thai as that was by common agreement, the

Judgment

1 language that was used in the interpretation to her of the
2 proceedings.

3 She has testified before me that she understood very little Thai
4 and therefore did not know what was going on. And all she did
5 was to comply with the instructions given to her by the various
6 people around her. This of course is contradicted by the
7 evidence of the interpreter, Mr Lee Zee Loon and the
8 investigating officer, Ms Roslinda Ahmad.

9 In my view, the crucial point is that the evidence of Mr Lee and
10 Ms Roslinda is corroborated by the facts recorded by Ms
11 Roslinda on that day that she was arrested at ICA on October
12 6th, 2006. Because in that statement, she had given a lot of
13 detailed information about her circumstances, for example, that
14 she---her family comprised of her father and two younger
15 siblings and they reside in Chiang Rai and she had no formal
16 education. She went to Hadyai 5 years earlier to work as a
17 seamstress, leaving her family behind in Chiang Rai. When she
18 arrived in Hadyai, she was tricked into prostitution, that she
19 was later brought to Singapore to solicit but the Anti-Vice did
20 not allow her to work in Singapore and that she was sent back
21 to Singapore[sic]. And that once back in Hadyai, she had to
22 continue working as a prostitute to pay off her debt to the
23 brothel owner and after paying off her debt, she worked as a
24 seamstress in Hadyai.

25 She also in her statement---in that statement described how she
26 came to meet up---meet her present boyfriend or fiancé and
27 how she---they wanted to get married and planned to solemnise
28 the marriage in Singapore on the 13th of November which was
29 the week---1 or 2 weeks after that date the statement was to be
30 taken---was taken and how her boyfriend arranged for her to be
31 brought to Singapore by another Singaporean---I'm afraid
32 another friend, a friend of his called Jason and how Jason came

Judgment

1 to bring her to the airport. Went to Hadyai, brought her to the
2 airport and upon arrival, details on---on how they---how they
3 entered Singapore and also the details of the boyfriend's home
4 in Serangoon and how that the flat belongs to his friend and
5 how he has been sharing the house with the friend.

6 In the statement, of course, it's a crucial revelation that she was
7 aware of that she was under a permanent ban and indeed she
8 follows it up by saying that she had already impressed upon the
9 boyfriend that she has a permanent ban and that she was
10 permanently banned from entering Singapore and that this
11 would be discovered and she described how her boyfriend
12 checked with his friend over the telephone about this and---and
13 how that friend had advised that it could be done, that it was
14 okay so long as he explained to the Singapore authorities. And
15 she said---described that since he was so confident about it, she
16 decided to go along with his idea to go to Singapore to register
17 the marriage.

18 So these are---these are crucial facts which could not have been
19 known by the investigating officer or the interpreter and so they
20 would, in my view, a very important corroborative evidence of
21 the veracity of the evidence that they have given that the
22 information that she had given was entirely voluntarily
23 and---and that she understood the communication between
24 herself and Mr Lee, the interpreter, in Thai.

25 And also importantly, these facts---the major facts in the
26 statement corroborates with the information that she had
27 provided in the affidavit that she had filed in support of this
28 petition. I should note---I also note that this information came
29 from her on the same day that she---she was arrested and---and
30 she gave that statement very shortly afterwards in---from 4
31 o'clock to about 9 o'clock and therefore all the more
32 corroborating the---the evidence of the interpreter and the IO.

5.00pm

Judgment

- 1 I therefore find that she has sufficiently und---sufficient
2 understanding of the Thai language such that the interpreter, Mr
3 Lee, had---was able to communicate to her the nature of the
4 proceedings in the Court below and therefore the conviction
5 was legally made. Therefore I would, having---having
6 reviewed all the---all the facts I am satisfied that the conviction
7 was correct and legally made and---and with the---and therefore
8 I would decline to make any order in relation to this petition.
- 9 Bajwa: Your Honour---
- 10 Court: Anything else, Mr Bajwa?
- 11 Bajwa: Yes. Thank you, your Honour. Just one point, your Honour,
12 the---
- 13 Court: Yes.
- 14 Bajwa: ---the section itself, there's a discretionary element---
- 15 Court: Which section? You mean section 266?
- 16 Bajwa: ---after conviction, 36.
- 17 Court: 36?
- 18 Bajwa: Yes, your Honour. Under which she has been found---
- 19 Court: The Immigration Act?
- 20 Bajwa: Immigration Act, yes.
- 21 Court: Yes.
- 22 Bajwa: The last part, there's a discretion, whether she should also be
23 ordered to be removed from Singapore after serving the
24 sentence. That is actually discretionary.
- 25 Court: Yes. And the---the Judge did make an order for removal, right?
- 26 Bajwa: Yes. She did make an order for removal which is also the---the
27 subject of the---of this particular---
- 28 Court: So you're saying it was wrong?
- 29 Bajwa: No, I'm saying that you are in a position to exercise your
30 discretion in not asking her to be removed, especially if there is
31 some merit in the fact that she was a victim of human
32 trafficking. Perhaps instead of removing her from Singapore

Judgment

- 1 and the---and everything just disappears altogether, if you can
2 leave this part out, then it's in the discretion of the immigration
3 authorities to deal with her whether they want to investigate
4 further.
- 5 Court: You mean---you mean to say that if---if---if the immigration
6 authorities with the Order of Court, the immigration authorities
7 cannot but remove her from Singapore?
- 8 Bajwa: That's right, your Honour, yes. Because it's Order of Court.
- 9 Court: So help---
- 10 Leong: Your Honour, if I may just very briefly visit section 396 of the
11 Criminal Procedure Code.
- 12 Court: Can you---can you either---
- 13 Leong: Yes.
- 14 Court: ---speak nearer to the mike or speak louder, yes.
- 15 Leong: Yes. My apologies, your Honour.
- 16 Court: Yes.
- 17 Leong: Now if I may just draw your Honour's attention to section 396
18 of the Criminal Procedure Code.
- 19 Court: Pag---section---
- 20 Leong: 396 of the Criminal Procedure Code.
- 21 Court: 396. Yes?
- 22 Leong: Now your Honour, very---very quickly, the section sets out that
23 [Reads] "Subject to the provisions hereinbefore contained, no
24 finding, sentence or order passed or made by a court of
25 competent jurisdiction shall be reversed or altered on account
26 of..."
- 27 Court: This relates to a court of competent jurisdiction?
- 28 Leong: Yes, your Honour.
- 29 Court: All right, okay.
- 30 Leong: Now,
31 [Reads] "...should be reversed or altered on account of:
32 (a) Any error, omission...irregularity in the complaint,

Judgment

- 1 summons, warrant, charge, judgment or other proceedings
2 before or during trial or in any inquiry or other proceedings
3 under this Code;
4 (a) the want of any sanction...
5 (c) the improper admission or rejection of any evidence, unless
6 the error, omission, improper admission or rejection of
7 evidence, irregularity or want has occasioned a failure of
8 justice.”
- 9 Court: So I have no jurisdiction, is it, to---to---to---
- 10 Leong: Your Honour---
- 11 Court: ---to alter the discretion---
- 12 Leong: Your Honour---
- 13 Court: ---unless it's on appeal, I suppose.
- 14 Leong: Yes, your Honour. Or upon finding that, your Honour, there is
15 nothing appears in the proceedings of the lower Court, after
16 arriving at the finding, your Honour---
- 17 Court: But once the lower Court finds her guilty, they have to convict.
- 18 Leong: Yes.
- 19 Court: I mean, they---once they convict her, finds her guilty and
20 convicts her, they have to sentence her for one year, right?
- 21 Leong: Yes. And then the low---
- 22 Court: “Shall in addition to be liable to be removed from Singapore.”
- 23 Leong: Yes, your Honour.
- 24 Court: That means what, that means the lower---the Court can---
- 25 Leong: Can order---
- 26 Court: ---make an order for her to be removed from Singapore.
- 27 Leong: Yes, your Honour. Your Honour, my---my submission, very
28 quickly is that the learned District Judge had exercised the
29 discretion---
- 30 Court: Right, right, so that was a discretion.
- 31 Leong: ---correctly. There's nothing wrong, there's nothing erroneous
32 about that order made. Well, my learned friend is perhaps

Judgment

- 1 appealing from a humanitarian viewpoint and all, but that's
2 quite beside the point, your Honour.
- 3 Court: Yes, but the---the issue then is if the ICA can be persuaded, all
4 right, to---to take a sympathetic view of her case, right, let's say
5 they are---they are---they are convinced that the---it is a
6 genuine marriage and---and so on, right, right. With this Court
7 Order, can they do anything other than removing her from
8 Singapore?
- 9 Leong: Your Honour, if I may just take a very quick moment on this.
10 Your Honour, I would still come back to the power as---that is
11 vested in this Court when hearing a criminal revision.
- 12 Court: Well, I understand all that.
- 13 Leong: Yes, your Honour.
- 14 Court: I only ask a simple question.
- 15 Leong: Yes.
- 16 Court: Does it mean that they will have to remove her from
17 Singapore?
- 18 Leong: Your Honour, I think to play back to its logical conclusion,
19 section 36, once the order has been made and when she has
20 been---completed serving the sentence of one year---
21 Court: Yes.
- 22 Leong: ---ordered at---by the learned District Judge, then the order
23 would then follow that she---
24 Court: No, not necessary what---there was no fine what, and shall be
25 liable to a fine, shall in addition---addition to be liable, are you
26 saying that---
27 Leong: No, your Honour, what---what I am saying is that it follows
28 then if the order of removal is made, then of course---
29 Court: She would have to be removed, right?
- 30 Leong: ---she would have to be removed.
- 31 Court: Yes. All right. Mr Bajwa---
- 32 Bajwa: Yes, your Honour.

Judgment

- 1 Court: Problem is this is a criminal revision?
- 2 Bajwa: Yes.
- 3 Court: That pertains to the exercise of a discretion.
- 4 Bajwa: Yes.
- 5 Court: Now are you saying that discretion was exercised wrongly
- 6 because all these facts were not before the Distri---District
- 7 Judge.
- 8 Bajwa: Yes.
- 9 Court: I think all she had was mitigation, right? If you look at it---
- 10 Bajwa: That's right, your Honour, yes.
- 11 Court: All right. So unless you can say that the---well, she said, came
- 12 to Singapore because registering marriage with fiancé. Given
- 13 date 13th November, fiancé can verify this.
- 14 Bajwa: Also the plight, your Honour, that---that you are aware of the
- 15 issue.
- 16 Court: I know, looking at the fact now but---
- 17 Bajwa: Yes, Sir.
- 18 Court: ---and I am assuming---
- 19 Bajwa: That is true.
- 20 Court: ---that what she said in her affidavit is correct.
- 21 Bajwa: Yes.
- 22 Court: ---because I have no means to---to verify it, you see.
- 23 Bajwa: Yes.
- 24 Court: But it would appear to me that even if she's liable to---even if
- 25 she's removed---
- 26 Bajwa: Yes.
- 27 Court: Okay, first of all, I don't see that I have any power in this
- 28 criminal revision because unless you can show me that the
- 29 Judge was wrong in exercising the discretion to order her
- 30 removal, right, that I should---I should quash that part of the
- 31 order. All right.
- 32 Bajwa: No, your Honour, I think that's a---

Judgment

- 1 Court: Because it's not an appeal, if you had appealed, that would
2 have be---would have been a different story, all right. But---
- 3 Bajwa: Your Honour, I stand corrected, but actually you have the same
4 powers as the Appellate Judge when looking at the criminal
5 revision. And in the---the section that has been quoted by my
6 learned friend---
- 7 Court: I think you are right.
- 8 Bajwa: ---those are only irregularities and errors and omissions. We're
9 not dealing with irregularities, errors and omissions.
- 10 Court: That will be 255, right?
- 11 Bajwa: Er---
- 12 Court: Yes, yes.
- 13 Bajwa: Yes, your Honour. So, if you look at 266---
- 14 Court: No, I've---I have all the powers in 25---251, 255, 256, 257,
15 right?
- 16 Bajwa: Yes, your Honour.
- 17 Court: That's what you're talking to---talking about, right?
- 18 Bajwa: Yes.
- 19 Court: All right, 251. 251 is stay of execution, 255. 256, I think.
20 [Reads] "At the hearing of the appeal..."
21 Right?
- 22 Bajwa: Yes.
- 23 Court: So I can treat it like an appeal?
- 24 Bajwa: Yes.
- 25 Court: [Reads] "...if it considers there is no sufficient ground for
26 interfering..."
- 27 Bajwa: You can alter the finding.
- 28 Court: So what---what, are you saying that even if I find the
29 conviction to be correct---
- 30 Bajwa: Yes.
- 31 Court: I can find that the Judge had not exercised her discretion or
32 rather I can alter the thing---

Judgment

- 1 Bajwa: Yes.
- 2 Court: ---based on the information before me.
- 3 Bajwa: You don't have to find that she has not this---exercised
4 discretion, basically on the basis of justice of the case. You can
5 actually say, all right, for this particular limb of the order, I can
6 revoke it and perhaps the Immigration or---can actually look at
7 it and consider whether in fact what she says is true and maybe
8 deal with her differently. To me it's the end of justice at the
9 end of the case, especially if you feel that perhaps there's some
10 truth in it.
- 11 Court: But you accept that she---you---up to ICA anyway---
- 12 Bajwa: Yes.
- 13 Court: ---they would have to---
- 14 Bajwa: It would be up to ICA.
- 15 Court: Of course they are in a position to investigate the matter---
- 16 Bajwa: That's right.
- 17 Court: ---better position than I am to investigate the---
- 18 Bajwa: I think they should in this case---
- 19 Court: ---the matter.
- 20 Bajwa: ---with all due respect. Because even the officer had
21 acknowledged that she was not aware of this claim---
- 22 Court: But whether she---they should or not is---is a matter---
- 23 Bajwa: Yes.
- 24 Court: ---for---for---for you to take up with them---with them---
- 25 Bajwa: Yes, your Honour.
- 26 Court: ---and not in this criminal revision. But what you are saying is
27 that I have the powers---
- 28 Bajwa: Yes.
- 29 Court: ---under 268 of the CPC read with 256, is it?
- 30 Bajwa: Yes, your Honour.
- 31 Court: Alter the---
- 32 Bajwa: The sentence.

Judgment

- 1 Court: ---the sentence or the order or whatever. Mr Leong, question
2 only whether I have the power, not whether I should---
- 3 Leong: Your Honour, from literal reading of 256, subsection (d) read
4 with section 268 is your Honour's power on revision. It would
5 appear that your Honour has that power.
- 6 Court: Yes, I should think so, right.
- 7 Leong: Yes.
- 8 Court: Yes.
- 9 Leong: However, since your Honour is stopping me from going
10 further, I shan't.
- 11 Court: Yes. In---in any event it would be---the discretion would be
12 left to ICA and as I said, they would be in the best position to---
- 13 Bajwa: Yes, your Honour.
- 14 Court: ---investigate, consider, apply and also apply those facts to their
15 immigration policy, whatever policies that they have because
16 this Court is a court of law, it does not implement policy.
- 17 Bajwa: Yes.
- 18 Court: And---and also it's not equipped to---to investigate these
19 matters. So I think in view of the petitioner's allegations as to
20 the situation that she's in and---and I cannot see any evidence
21 to the contrary or in the evidence before me, I cannot see any
22 evidence that---that contradicts her, you know, her---her
23 allegations as to the plight that she was in anyway, I shall
24 exercise my powers under 268, read with 256, and alter only
25 the---the---that order of the Distri---District Judge below where
26 he has ordered for the petitioner to be removed from Singapore
27 after serving sentence. So that order is quashed. That order
28 and that order alone is quashed. The imprisonment would still
29 stand.
- 30 Bajwa: Yes, your Honour.
- 31 Court: All right.
- 32 Bajwa: Much obliged, your Honour. Thank you very much.

Judgment

- 1 Court: Anything else?
- 2 Bajwa: That's all, your Honour.
- 3 Court: All right, I'm obliged to counsel and to---and to Ms---Ms Wang
4 for your assistance before me. And the Court is adjourned.
5 **(Concluded at 5.15pm)**
6
7 **Hearing Dates: 13 & 18 April 2007**