



Public Prosecutor v Ong Kian Cheong and Another [2009] SGDC 163

Suit No: DAC 16841/2008 and Ors, MA 160/2009, 161/2009
Decision Date: 06 Aug 2009
Court: District Court
Coram: Roy Grenville Neighbour
Counsel: Anandan Bala & Sharmila Sripathy Deputy Public Prosecutors for the prosecution,
Selva K Naidu, Liberty Law Practice LLP, counsel for the 1st and 2nd accused

6 Aug 09

District Judge Roy Grenville Neighbour:

1. At the commencement of the hearing, both accused persons each stood jointly charged for 4 offences. Three charges are for offences in contravention of the Sedition Act (Chapter 290) (“SA”) and one charge under the Undesirable Publications Act (Chapter 338) (“UPA”).
2. In respect of two charges in contravention of the SA, they are for distributing seditious publications an offence punishable under section 4(1)(c) read with section 3(1)(e) of the said Act and read with section 34 of the Penal Code. They sent, “The Little Bride” and “Who is Allah?” to one Irwan Bin Ariffin, Isa Bin Rafee, in contravention of the SA.
3. Furthermore, they are jointly charged for being in possession of 439 copies of 11 seditious publications in contravention of section 4(2) of the SA read with section 34 of the Penal Code.
4. In respect of the offence in contravention of the UPA they are jointly charged for distributing “The Little Bride” to one Farhati Bte Ahmad in contravention of Section 12(c) read with Section 4(1)(b) of the Act and Section 34 of the Penal Code.

The four charges against Ong Kian Cheong, the 1st accused are:-

DAC No 16841/2008 [Exhibit C1A]

You,
Ong Kian Cheong, Male 49 years
D.O.B 23.12.1958
NRIC: S1310091H

are charged that you, on or about 19th October 2007, at #19-357 Block 466D Sembawang Drive, Singapore, together with one Dorothy Chan Hieng Leng, in furtherance of the common intention of you both, did distribute a seditious publication, to wit, 'The Little

Bride ', to one Irwan Bin Ariffin, which publication has the tendency to promote feelings of ill-will and hostility between Christians and Muslims in Singapore, and you have thereby committed an offence punishable under Section 4(1)(c) of the Sedition Act, Chapter 290, read with Section 3(1)(e) of the aforesaid Act and read with Section 34 of the Penal Code, Chapter 224.

No 16842/2008 [Exhibit C2A]

You,
Ong Kian Cheong, Male 49 years
D.O.B 23.12.1958
NRIC: S1310091H

are charged that you, on or about 6th March 2007, at #07-19 Block 9 Woodlands Drive 72, Singapore, together with one Dorothy Chan Hien Leng, in furtherance of the common intention of you both, did distribute an objectionable publication, to wit, 'The Little Bride', to one Farharti bte Ahmad, having reasonable cause to believe the said publication to be objectionable as it deals with matters of religion in such a manner that is likely to cause feelings of enmity, hatred, ill-will or hostility between Christians and Muslims, and you have thereby committed an offence punishable under Section 12(c) of the Undesirable Publications Act, Chapter 338, read with Section 4(1)(b) of the aforesaid Act and read with Section 34 of the Penal Code, Chapter 224.

DAC No 19348/2008 [Exhibit C3A]

You,
Ong Kian Cheong, Male 49 years
D.O.B 23.12.1958
NRIC: S1310091H

are charged that you, sometimes on or about the first week of December 2007, at #06-186 Block 467 Segar Road, Singapore, together with one Dorothy Chan Hien Leng, in furtherance of the common intention of you both, did distribute a seditious publication, to wit, 'Who is Allah', to one Isa Bin Raffee, which publication has the tendency to promote feelings of ill-will and hostility between Christians and Muslims in Singapore, and you have thereby committed an offence punishable under Section 4(1)(c) of the Sedition Act, Chapter 290, read with Section 3(1)(e) of the aforesaid Act and read with Section 34 of the Penal Code, Chapter 224.

DAC No 19349/2008 [Exhibit C4A]

You,
Ong Kian Cheong, Male 49 years
D.O.B 23.12.1958
NRIC: S1310091H

are charged that you, on 30th January 2008, at #02-14 Maplewoods Condominium, located at No. 991 Bukit Timah Road, Singapore, together with one Dorothy Chan Hien Leng, in furtherance of the common intention of you both, did have in your possession the

sedition publications listed in 'Annex A' attached hereto, without lawful excuse, and you have thereby committed an offence punishable under Section 4(2) of the Sedition Act, Chapter 290, read with Section 34 of the Penal Code, Chapter 224.

Annex A

Serial No.	Title of Tracts	No. of Copies
1	Who is Allah?	9 copies
2	The Pilgrimage	50 copies
3	Allah Had no Son	25 copies
4	The Sky Lighter	25 copies
5	Man in Black	25 copies
6	Are Roman Catholics Christians?	25 copies
7	Back from the Dead?	7 copies
8	The Beast	100 copies
9	Why is Mary Crying?	100 copies
10	Squatters	50 copies
11	The Little Bride	23 copies

The four charges preferred against Dorothy Chan Hien Leng, the 2nd accused are:

DAC No 16843/2008 [Exhibit C5A]

You,
Dorothy Chan Hien Leng, Female 45 years
D.O.B 25.05.1963
NRIC: S1601318H

are charged that you, on or about 19th October 2007, at #19-357 Block 466D Sembawang Drive, Singapore, together with one Ong Kian Cheong, in furtherance of the common intention of you both, did distribute a seditious publication, to wit, 'The Little Bride ', to one Irwan Bin Ariffin, which publication has the tendency to promote feelings of ill-will and hostility between Christians and Muslims in Singapore, and you have thereby committed an offence punishable under Section 4(1)(c) of the Sedition Act, Chapter 290, read with Section 3(1)(e) of the aforesaid Act and read with Section 34 of the Penal Code,

Chapter 224.

DAC No 16844/2008 [Exhibit C6A]

You,
Dorothy Chan Hien Leng, Female 45 years
D.O.B 25.05.1963
NRIC: S1601318H

are charged that you, on or about 6th March 2007, at #07-19 Block 9 Woodlands Drive 72, Singapore, together with one Ong Kian Cheong, in furtherance of the common intention of you both, did distribute an objectionable publication, to wit, 'The Little Bride', to one Farharti bte Ahmad, having reasonable cause to believe the said publication to be objectionable as it deals with matters of religion in such a manner that is likely to cause feelings of enmity, hatred, ill-will or hostility between Christians and Muslims, and you have thereby committed an offence punishable under Section 12(c) of the Undesirable Publications Act, Chapter 338, read with Section 4(1)(b) of the aforesaid Act and read with Section 34 of the Penal Code, Chapter 224.

DAC No 19346/2008 [Exhibit C7A]

You,
Dorothy Chan Hien Leng, Female 45 years
D.O.B 25.05.1963
NRIC: S1601318H

are charged that you, sometimes on or about the first week of December 2007, at #06-186 Block 467 Segar Road, Singapore, together with one Ong Kian Cheong, in furtherance of the common intention of you both, did distribute a seditious publication, to wit, 'Who is Allah', to one Isa Bin Raffee, which publication has the tendency to promote feelings of ill-will and hostility between Christians and Muslims in Singapore, and you have thereby committed an offence punishable under Section 4(1)(c) of the Sedition Act, Chapter 290, read with Section 3(1)(e) of the aforesaid Act and read with Section 34 of the Penal Code, Chapter 224.

DAC No 19347/2008 [Exhibit C8A]

You,
Dorothy Chan Hien Leng, Female 45 years
D.O.B 25.05.1963
NRIC: S1601318H

are charged that you, on 30th January 2008, at #02-14 Maplewoods Condominium, located at No. 991 Bukit Timah Road, Singapore, together with one Ong Kian Cheong, in furtherance of the common intention of you both, did have in your possession the seditious publications listed in 'Annex A' attached hereto, without lawful excuse, and you have thereby committed an offence punishable under Section 4(2) of the Sedition Act, Chapter 290, read with Section 34 of the Penal Code, Chapter 224.

Annex A

Serial No.	Title of Tracts	No. of Copies
1	Who is Allah?	9 copies
2	The Pilgrimage	50 copies
3	Allah Had no Son	25 copies
4	The Sky Lighter	25 copies
5	Man in Black	25 copies
6	Are Roman Catholics Christians?	25 copies
7	Back from the Dead?	7 copies
8	The Beast	100 copies
9	Why is Mary Crying?	100 copies
10	Squatters	50 copies
11	The Little Bride	23 copies

5. At the commencement of the hearing, both accused claimed trial to the all the respective charges preferred against them.

Facts

Offences under the Sedition Act

6. At the hearing, the facts with regard to the distribution of seditious and objectionable publications and the possession of seditious publications are largely undisputed. Evidence was adduced that on 30 Jan '08, acting on information received, the police laid an ambush at Singtel ComCentre at Exeter Road. At about 9.13a.m., that morning, police officers saw the 1st accused dropping a stack of brown envelopes into a post box outside the ComCentre. Thereafter, the 1st accused walked into the building to his office. The police then requested Singtel to open the mail box. In the presence of Singpost officers, 22 brown envelopes containing a publication entitled "Set Free!" by Chick Publications posted by the 1st accused were found inside the mailbox. The 22 envelopes and the publications were seized. At about 11.08 am, at the 1st accused's office, the police detained him. The 1st accused admitted that he had posted the 22 envelopes and their contents.

7. Consequently, the 1st accused led police officers to his car bearing registration number SGT791L. A search of the motor vehicle was conducted in his presence. In the glove compartment of the car were 23 copies of the publication “Doom Town” published by Chick Publications. The publications were also seized for investigations.

8. The 1st accused then led police officers to his residence where a search was conducted in his presence. At the flat, 4 laptop computers, 4 boxes containing 29 different publications by Chick Publications were seized along with two boxes of unused brown envelopes, a file, a folder, a pencil case and a luggage tag.

9. Thereafter, the 1st accused was escorted to Ang Mo Kio (“AMK”) Police Division Head Quarters for investigations. At about 2.45 pm, that same day, the 1st accused was arrested. Subsequently, the 2nd accused was also arrested.

10. Isa Bin Rafee (“Isa”) an assistant administrator at the Ministry of Home Affairs (MHA) testified that during the first week of Dec ’07, he received the publication “Who is Allah” in his mail box. The publication was in an envelope addressed to him. He stated that he received the said publication at home on a Friday after prayers. As he is a Muslim, he thought that the Muslim community group had sent the publication which was, in the form of a comic strip or tract to appeal to young Muslim readers. When he commenced to read the publication, he soon began to realize that the publication, in promoting Christianity, denigrated his religion, Islam. He pointed out 10 segments in the publication that denigrated Islam. He stated that the publication was offensive because it could provoke or incite racial hatred. He did not make a police report but his wife upon calling MUIS discovered that they had received several similar complaints from other Muslims about such publications. Later, Isa handed over the tract to Station Inspector, Peter Koh for investigation.

11. Staff Sergeant Irwan Bin Ariff (“Irwan”) testified that on or about 19 October 2007 he received the publication “The Little Bride” in his letterbox. The publication was in an envelope addressed to him. After reading the publication he lodged a police report because he found the publication offensive as it condemned his religion Islam. He too, highlighted portions in the publication he found to be denigrating Islam and offensive. He believed the sender to be a Christian and that the sender had sent him the publication to convert him to Christianity. He said he was very angry after he read the publication which he received on the morning of Hari Raya Adilfitri upon returning from the Mosque. He lodged a police report because he felt that publication could incite religious tension between Muslims and Christians.

12. In respect of the charge for being in possession of the seditious publications, it was not disputed that all the publications referred to in the charge were in the possession of both the accused persons when the police raided their flat on 30 Jan ’08 and arrested them both. In total 29 publications from Chick Publications were seized. Of these publications, 11 publications form the subject matter of the possession charges against both the accused persons. From a chest of drawers in the accused persons master bedroom, 9 loose copies of the publication “Who is Allah?” and 25 loose copies of the publication “The Little Bride” were amongst other publications seized by Assistant Superintendent of Police (ASP) Hoe Kun Yuen (“ASP Hoe”).

Offence under the Undesirable Publications Act

13. Farhati Binte Ahmad ("Farhati") testified that on 6 Mar '07 she received the publication "The Little Bride" in an envelope addressed to her. After she read the publication, that same evening she lodged a police report because she too felt the publication denigrated her religion Islam and the Prophet Muhammad. She too, thought that a Christian group had sent her the publication because it promoted Christianity. She was angry upon reading the publication and stated that if the publication had fallen into the wrong hands, feelings of ill-will and hostility could be directed by Muslims against Christians. Acting rationally, she reported the matter to the police for an investigation to be conducted.

14. In the course of investigations, the publications were examined by Senior Assistant Direct ('SAD') AR Mardeei, an officer from the Media Content Division, Media Development Authority ("MDA") to determine if they are objectionable under the UPA.

15. SAD AR Mardeei, designated a Controller under the UPA found the publication "The Little Bride" to be objectionable because it denigrates Islam. The objectionable parts of the publication according to Mr Mardeei are at pages, 5, 13, 15, 17 and 21. The portions in the publication in SAD Mardeei's opinion can cause feelings of enmity, hatred, ill-will and hostility between people of different religious groups, in particular between Protestant Christians and Muslims.

16. SAD Mardeei also found the publications namely, "Who is Allah?", "The Pilgrimage", "Allah Had No Son", "The Sky Lighter" denigrating Islam. The publications "Man in Black", "Are Roman Catholics Christians?", "The Beast" and "Squatters" denigrates the Catholic Church. The publications "Why is Mary Crying?" and "Back from the Dead" denigrates other religions and the Catholic Church. In all these publications he found more than two distinct segments expressing or dealing with matters of race or religion that is likely to cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups, particularly, between Muslims and Christians and between Protestant Christians and Catholics. He said that Chick Publications is a publisher for the Protestant Church and its publications tend to target Islam and the Catholic Church.

17. SAD Mardeei testified further that on or about 21 Nov '07, Singapore Customs stopped a consignment of publications from Chick Publications addressed to the 2nd accused. The 2nd accused had ordered a total of 7 publications totaling 1300 copies. Of these publications, two publications namely, "Man in Black" and "What's Wrong With This", were detained because they were found to be objectionable publications. The publications were destroyed. SAD Mardeei testified that when such publications are destroyed the consignee is usually told why the seized publications are objectionable and ordered to be destroyed.

18. Ms Faridah Binte A Ghani ("Faridah"), a Supervisor at the MDA, testified that sometime in late 2007, the 2nd accused came to the MDA upon being informed that a parcel addressed to her had be directed by Singapore Post to the MDA. In the 2nd accused's presence, the parcels were opened and found to contain several publications from Chick Publications. The publications were detained for examination by the MDA.

19. Ms Faridah further testified that when the 2nd accused returned to MDA to collect the publications after examination, she showed the 2nd accused the objectionable publications that were detained for destruction. The 2nd accused just said "OK" and left MDA. The 2

publications comprising 300 copies in total were destroyed on 25 Jan '08. The remaining publications were returned to the 2nd accused.

20. In the course of police investigations, ASP Hoe seized a Fujitsu laptop from the both accused person's apartment. Upon examination of the laptop, it was found to contain the names and addresses of the Isa, Irwan and Farhati. It was not disputed by both the accused that the seditious and undesirable publications were sent to them.

21. Further evidence was adduced that the 2nd accused had used her HSBC credit card to purchase publications or tracts from Chick Publications. She had been purchasing Chick tracts in bulk since 2000. In an order dated 4 August 2000 she purchased these seditious and undesirable tracts in bulk namely, "Why is Mary Crying?", "Allah Had No Son" and "Are Roman Catholic Christians?" Nine of such purchases were made between 9 to 11 August 2006. On 25 April 2007 she purchased 4 seditious tracts in bulk namely, "The Beast", "Why is Mary Crying?", "Who is Allah?" and "Are Roman Catholics Christians?". In the course of investigations, the envelopes received by Irwan and Farhati were sent to Senior Forensic Scientist Yap Bei Sing for handwriting analysis. In his report, Mr Yap opined that it is highly probable the handwriting on the envelopes is the 2nd accused's handwriting. It was not denied by the 2nd accused that she had written the names of the addressees on the envelopes.

22. Out of all the envelopes seized at the Post Office, 10 envelopes and their contents were sent to Health Sciences Authority ("HSA") for DNA analysis. Forensic Scientist, Crystal Lai, in her report stated she found no DNA on the envelopes but she found DNA on 6 publications. The DNA found on the publications matched the 2nd accused's DNA.

23. In the course of police investigations statements were recorded from both the accused. Both accused gave voluntary statements. In their statements they both admitted distributing the said publications to the public.

24. At the conclusion of the prosecution's case, the defence made no submissions. As the Court was satisfied that the prosecution had proved a prima facie case on all the charges against both the accused in accordance with the principles laid down in *Haw Tua Tau v PP* [\[note: 1\]](#), they were both called upon for their defences to the respective charges against them. Both accused elected to give evidence from the witness box.

Defence

1st accused's defence

25. In his defence, the 1st accused stated that sometime in 1987, after his marriage to the 2nd accused, he came to know about Chick Publications after reading a Christian evangelical tract entitled "This was your Life" he received in his letterbox. After sharing it with the 2nd accused they both thought that distributing such publications would be a good way of evangelizing. They then went to local bookstores to see if tracts from Chick Publications were sold in local bookstores. They found a book store at Bras Basah Complex and another at Bukit Timah Plaza. They read through some of the tracts by Chick Publications and found that they were repetitive that the stories always ended with an evangelical message. Thereafter, they began their

evangelical mission of spreading Christianity by putting Chick Publication tracts randomly into letter boxes of residents at Housing and Development Boards (HDB) flats. They also distributed free tracts published by Evangelical Tract Distributors (“ETD”) and by the Free Tract Society (“FTS”). They did this for three years.

26. Between 1990 and 1995, due to the birth of their daughter, the first accused stated they stopped putting tracts into letterboxes at HDB estates. In 1995 or 1996, they resumed their evangelical mission. Instead of purchasing Chick Publications tracts from local book stores, they ordered tracts directly from Chick Publications. He also resumed distributing tracts published by the ETD and the FTS. Between 1998 and 1999, both accused started distributing tracts by posting them to members of the public. They obtained the particulars of addressees from the Singapore residential directory. They did this because they could no longer insert the tracts into HDB letterboxes due to design changes of the boxes. The 1st accused testified that initially, he and the 2nd accused would write the addressees particulars on the envelopes. As there was no need to communicate at all with the addressees they did not identify themselves as senders of the envelopes. After inserting the tracts into the envelopes, he would post them.

27. By 2000, the 1st accused said he stopped writing out the names of addressees on the envelopes and would only post the sealed envelopes on his way to work. The 2nd accused assumed the task of writing out the names of the addressees and inserting the tracts into the envelopes. The 2nd accused would also affix the stamps on the envelopes. The 1st accused said he had no recollection of the envelopes sent to Isa, Irwan and Farhati. He testified that he no knowledge that the publications were objectionable. He did not have any reason to believe that any of the envelopes he posted contained publications that may cause or promote feelings of ill-will, hatred or hostility between different religious groups or between classes of people in Singapore. The 1st accused claimed that it was only on 14 Apr '08 that he knew of the Chick publication “Who is Allah?” because it was shown to him by Insp. Peter Koh at AMK Police Division. He was not aware that the said publication was in the envelope when he sent it. He was also not aware of the 11 objectionable publications that were in his residence until the time the police found them and seized them. The 1st accused maintained that it was the 2nd accused who ordered the tracts. He was unaware of the contents of these publications. The 1st accused asserted that Chick Publications had been in existence for about 20 years and thought they were reliable and reputable publishers.

28. On 30 Jan '08, when he was arrested by the police, the 1st accused stated that he admitted to the officers that he had posted the envelopes prepared by the 2nd accused. The comic tracts “Doom Town” found in and seized from his car were left there by the 2nd accused. In the course of investigations he was shown a photo copy of “The Little Bride” and stated that he was unaware of its contents. He claimed that it was the first time he was seeing it. He did not read the contents of the tracts that were sent out. He explained that by 2007, he was not reading the tracts because they were repetitive evangelical tracts. He maintained that had he known of its contents he would not have sent them out. He maintained that his sole purpose of sending out the tracts was to spread the Gospel. With regard to his statements recorded in the course of police investigations, he explained that he was able to recall some of the titles to the tracts because he saw them when they were seized and photographed by the police. When the s122(6) CPC statements was recorded from him he pleaded for leniency and was sorry for hurting the

victims because he told himself that he had done something wrong. He was unaware that not having knowledge of the contents of the tracts was a defence to the charge.

2nd Accused's defence

29. In her defence, the 2nd accused supported the 1st accused's defence. She stated that sometime in 1987, the 1st accused showed her a Chick Publications tract entitled "This is your Life" that he had received in his letterbox. They then decided that this was a good way to evangelize the saving knowledge of Jesus Christ and went about shopping for tracts. They found several evangelical tracts at local bookshops, namely Tecman at Bras Basah Road and Gospel Books Gift Centre then at Bukit Timah Plaza. When they first visited the shops they read some tracts. There were many tracts and they could not read them all. The tracts were similar in that they told a story that had a gospel message on knowing the Lord Jesus Christ and on how one could be saved. After purchasing the tracts, they deposited the tracts into the letterboxes of residents at HDB apartment blocks. They felt that they were preaching the word of God and spreading Christianity by "tracting". They did this for 3 years. Apart from distributing Chick Publications tracts, they also distributed free tracts they received from the FTS in the United States and from ETD in Canada.

30. In 1990, the 2nd accused stated that she stopped "tracting" when she gave birth to their child.

31. Between 1995 and 1996, the 2nd accused said that she and the 1st accused resumed "tracting" by placing the tracts they purchased into letterboxes of residents at HDB apartment blocks. They purchased tracts from Tecman bookstore and obtained more free tracts from the FTS and ETD. Consequently the 2nd accused wrote to Chick Publications requesting for a catalogue to place orders for tracts. She placed the orders with Chick Publications and paid for them with a bank draft the 1st accused purchased. They ordered the tracts from Chick Publications because they were 30% cheaper than the ones purchased from local bookshops. It was also convenient for them because the tracts were delivered to their residence.

32. In the late 1990's as a result of modifications to letterboxes in HDB apartment blocks, they started sending tracts by post. At this time, the 2nd accused stated that she and the 1st accused would write out the names of the recipients on the envelopes before sealing, affixing postage stamps and posting them. They picked out the names of recipients randomly from the SINGTEL residential telephone directory which was stored in their laptop computer. Over time, the 2nd accused stated that the 1st accused stopped writing the names of recipients on the envelopes and just posted them. The 2nd accused stated that 3 to 5 times a week she continued to randomly select recipients, writing the names of addressees, sealing and affixing postage stamps on the envelopes. As there was a post box near the 1st accused's office, he posted the envelopes on his way there. He did not know what tracts she had inserted into the envelopes. She elaborated that she did not disclose to the addressees that they were the senders of the tracts because there was no need for the recipients to contact them after they sent out the tracts. She also felt that that there was no need to publicize what they were doing.

33. Subsequently, with the arrival of the internet, the 2nd accused stated that she commenced

to select tracts and place orders with Chick Publications for tracts online effecting payment by her credit card. The 1st accused did not order any of the tracts online. The selection of tracts was done randomly. She would select 10 to 20 titles after reading their summaries. As each title sold is packed in a bundle containing 25 tracts, the 2nd accused said she would order 25 to 100 tracts per title. The 2nd accused maintained that the tracts were all the same in that they are evangelical gospel tracts. This was her practice till she was arrested by the police. The 2nd accused admitted that she did order the tract entitled “The Little Bride” published in 2004 by Chick Publications on the internet. She said she could not recall if she had read the short summary of the tract before she ordered it and claimed that she was unaware of the contents of the tract at the time she ordered it. She never showed the tract to the 1st accused. She asserted that she had stopped reading the contents of the tracts since 2004. She said if she had read any of the tracts she would only have read their summaries on the Chick Publication website. She maintained that did not know or have reason to believe that the tract was objectionable nor did she have any reason to believe or suspect that the tract had a tendency to promote ill-will or hostility between Muslims and Christians. She claimed that she did not know that the tracts were seditious. Like the 1st accused she believed Chick Publications to be a reputable and established publisher. Their publications have been openly sold in book shops in Singapore since 1985. To prove her point, the 2nd accused said that on 12 Nov '08 she went to Tecman bookstore at Bras Basah Road and took several photographs of Chick Publication tracts sold at the store. The photographs show copies of seditious and objectionable tracts e.g. “The Little Bride”, “The Sky Lighter”, “Squatters”, “The Beast” “Man In Black” on sale.

34. From 1987, the 2nd accused stated that she would have ordered 40 to 50 titles of Chick Publication tracts. She admitted ordering the tract entitled “Who is Allah?” published in 2006 by Chick Publications. She could not recall if she read it at the time she ordered it. She also admitted to ordering all the 11 objectionable publications from Chick Publications. She did not read the tracts and neither did the 1st accused. Upon receiving them she said she transferred them into boxes and placed them under her desk. She was puzzled that there were loose tracts in the 4th box which the police did not take photographs of because the tracts are usually in sealed packages in the boxes. She said she would usually have loose tracks on her desk or in the fifth drawer of a chest of drawers.

35. The 2nd accused stated that when she sent out the tracts, she randomly selected the recipients. With regard to the tract entitled “Who is Allah?” she said that generally she would send such a tract to a person with a Muslim name but could not exclude the possibility that she would send it to a person with a Chinese or other name. She said that she would also send tracts that do not have an obvious reference to Islam or to Muslims to persons with Chinese or other names. To prove her point, she said that when the 1st accused was arrested all the seized envelopes bore Chinese names. The 2nd accused admitted that the handwriting on the envelopes addressed to Irwan, Isa and Farharti is her handwriting. She could not recall what tracts were put into the envelopes when they were sent to the three recipients.

36. With regard to the 23 copies of the tracts entitled “Doom Town” that were seized from the glove compartment of the 1st accused’s car, the 2nd accused said that she had put them there intending to distribute them by leaving them at food courts and other public places to be picked

up and read by members of the public. She said she had left one at a food court and another at a phone booth.

37. With regard to her three visits with the 1st accused to the MDA in November 2007 upon being informed by letter that some tracts from Chick Publications were detained, she insisted that no one told her why the Chick Publications were detained. She was only allowed to take home the tracts that were not objectionable. She did know what tracts had been detained and ordered for destruction. On all the occasions she went to MDA she was accompanied by the 1st accused. Whilst she spoke to MDA officer Faridah, she said that the 1st accused was not paying attention and occupied himself looking at the posters displayed in the office.

38. The 2nd accused reiterated that after Mr Mardeei testified, she had made comparisons of extracts from some of the seditious tracts with the popular novel the “Da Vinci Code” by Dan Brown and three other books entitled “God Is Not Great”, “The End of Faith” and “The God Delusion”. She did this to question why these books were not seditious or objectionable because all the books had content or tone which could be deemed similar to the seditious and objectionable tracts. All these books are available in book shops in Singapore. Linking extracts from the tract “The Little Bride” to the book “God Is Not Great”, she asserted that both publications criticized Islam and that anyone reading these two books would not know that such criticisms are not allowed in Singapore. She also compared extracts from “Why is Mary Crying?” a Chick Publication tract critical of the Virgin Mary and the Catholic Church to Donald Grey Barnhouses’s (DD) summary in “The Two Babylons or Papal Worship” by Reverend Alexander Hislop a book also available in Singapore.

39. With regard to her statements recorded in the course of police investigations she complained that ASP Hoe was untruthful when he stated that he did not refer to the 1st accused’s statement when he was recording her statement. In support of this allegation the 2nd accused said she made comparisons between her statement and the 1st accused’s statements and highlighted 18 very similar or identical sentences in both the statements that clearly indicate that ASP Hoe must have referred to the 1st accused’s statement when he recorded hers. She contended that the grammar and expressions used in her statement (P93) were not hers. She explained that the statement should not read that she and the 1st accused purchased the tracts. Correcting the statement she said she alone ordered and purchased the tracts. Further, she pointed out that a sentence at paragraph 4 of the statement which reads “I could recall the exact time we started doing.” should read “I could not recall the exact time we started doing.....” She complained that she only signed the statement after being told by ASP Hoe that she was not co-operative. As a result she dare not change her statement too much and decided to go along and sign it. No one told her then what she had been arrested for.

40. On 14 Apr ’08, when she proceeded to AMK Police Division to renew her police bail, three additional charges were slapped on her. Consequently statements (D5, D6 and D7) in compliance with section 122(6) of the Criminal Procedure Code (CPC) were recorded from her. She refused to acknowledge receipt of the charges because she and the 1st accused wanted to consult their counsel. She had not expected that three additional charges would be preferred against her. Subsequently, she was released on bail and was charged in court the following day.

41. In summary, both accused who are Protestant Christians stated that more than twenty

years ago, they embarked on this evangelical mission after receiving a Chick Publication tract entitled “This was your life” in their letterbox. They both thought that sending out such tracts would be a good way to evangelize so that people will come to realize the saving grace of Jesus Christ. The 1st accused admitted that he wrote to the Evangelical Tract Distributors and the Free Tract Society for free tracts to distribute to share the Gospel. Both the accused undertook this evangelical exercise together by ordering the tracts, writing out the names of the recipients on the envelopes, sticking postage stamps and posting them. When their daughter was born in 1990 they stopped “tracting”. Approximately five or six years later, they resumed tracting and have been doing so since they were arrested.

42. With regard to the charge of being in possession of seditious publications in contravention of Section 4(2) of the Sedition Act it was contended by the defence that both the accused had no knowledge that the publications had a seditious tendency and therefore, they should be acquitted of the charges. They claim that they are ignorant of the contents of the tracts because they did not read them as the tracts had the same evangelical message.

43. It was not disputed that both the accused were in possession of the 11 seditious publications. An issue to be determined is whether both the accused had the requisite knowledge or had reason to believe that the publication had a tendency to promote feelings of ill will or hostility between different races or classes of the population in Singapore. At the time of their arrest, the seditious publications were found in several boxes in their master bedroom. Both the accused claim that they are ignorant of the contents of the publications that were ordered in good faith and distributed. It was contended that it was the 2nd accused who ordered the publications and prepared them for posting by the 1st accused. During this period spanning almost two decades, thousands of tracts had been posted to members of the public in Singapore. Tracts were also openly left at food courts and at telephone booths.

Conviction

44. It was contended by counsel that the SA creates offences of libel against the government and that for a conviction to stand under Section 3(1)(e) of the Act the prosecution had to prove that the publications in question are directed against the maintenance of government. As the prosecution had failed to prove that the maintenance of government or public order is endangered both the accused ought to be acquitted of the charges against them.

45. Further, as it stands, Section 3(1)(e) is widely framed in so far as it predicates that all instances of promotion of ill-will and hostility between different classes necessarily has a direct tendency to promote the use of unlawful means by and on members of the public. The section ought to conform with Article 14(2) of the Singapore Constitution, in that, it must be read as if it contained the additional words “productive of public disturbance or disorder” or “with the effect of producing public disorder”. In other words, an offence under Section 4(1)(c) read with Section 3(1)(e) is designed to protect the public against attack on public order. Therefore, for a publication to have a seditious tendency it must expressly or implicitly incite public disorder by encouraging unlawful action. It was argued too, that both the accused by primarily distributing the publications have not contravened the SA because the publication privately distributed had no direct effect on public order. It was submitted that on the totality of the evidence all the principal actions were undertaken by the 2nd accused in that she had ordered the tracts, collected them when they arrived in Singapore, stored them, wrote out the names of the addressees on the

envelopes and placed the tracts into them. The 1st accused only posted the envelopes to the addressees on his way to work. The 1st accused however, had no knowledge of the contents of the tracts. He played no part in selecting ordering or stored the tracts. All he did was to post the tracts and had no knowledge of their contents or that they had a seditious tendency. The 2nd accused too claimed that she had no knowledge that the tracts had a seditious tendency. The tracts were on sale and freely available in Singapore and the 2nd accused said she had bought them from Tecman bookstore and other bookstores. She had no means to believe or suspect that the books had a seditious tendency. Hence, both accused are entitled to be acquitted of the sedition charges by virtue of the defence provided Section 6(2) of the SA.

46. The prosecution argued that Section 3(1)(e) of the SA should be accorded a plain and literal interpretation of the section and that the contention by the defence to interpret the section in accordance with common law i.e that for seditious libel to be proved it must be founded on an intention to incite violence or create public disturbance or disorder against the sovereign or the institutions of government is unfounded. The prosecution referred to the case of *Wallace*

[\[note: 2\]](#)
Johnson and the King, an appeal from the West African Court of Appeal to the Privy Council to determine whether the appellant's seditious writing published in a newspaper concerning the government of the Gold Coast (now Ghana) was contrary to sub section 8 of section 326 of the Gold Coast Criminal Code, there being no evidence of any outbreak of violence or manifestation of hostility to the government of the Colony as a result of the article. Sub section 8 of the Criminal Procedure Code is *pari materia* to our section 3 of the Sedition Act. It was contended by the appellant's counsel that the prosecution could not succeed unless the words complained of were themselves of such a nature as to be likely to incite violence and unless there was positive extrinsic evidence of seditious intention. The Privy Council held that the law of a particular country should always prevail and not the common law.

47. It is clear that if Parliament had intended to include the additional requirement for a seditious tendency to be directed against the maintenance of government it would have expressly legislated to that effect in the SA. I have considered all the cases referred to by the defence and the prosecution in their submissions and conclude that there is nothing to support the contention by the defence that Parliament intended to embody the common law of seditious libel into the interpretation of Section 3(1)(e). I agree with the prosecution's argument that the provisions of the SA should be given a plain and literal interpretation. There is no requirement in the section that proof of sedition requires intent to endanger the maintenance of the government. It would be clearly wrong to input such intent into the section. All that is needed to be proved is that the publication in question had a tendency to promote feelings of ill will and hostility between different races or classes of the population in Singapore.

48. Further, it was argued that the subject publication namely "The Little Bride" and "Who is Allah?" do not identify the two classes of the population of Singapore which are brought into or likely to be brought into enmity. I disagree. I have read the two publications and it clear that the tracts refer to Christian and Muslims, Protestant Christians and Roman Catholics and Christians and other religions. In the Singapore context, the Muslim population mainly comprises people of the Malay race and peoples of other races may either free thinkers, atheists, Christians or worshippers of other religions. Though a name does not reveal a person's religion but in our multi-racial society, it would give rise to an inference of a person's religious beliefs. As both the accused have admitted in their statements to the police that they would send a tract

entitled “Who is Allah?” to a person they thought was a Muslim, I disbelieve their defence that they randomly sent out the tracts to members of the public.

49. On the evidence it was not disputed that the objectionable publications were found and seized from both the accused person’s flat. It was not disputed that the three envelopes addressed to Irwan, Isa and Farhati bore the 2nd accused’s handwriting. It was not denied that the publications entitled “The Little Bride”, “Who is Allah?” and the 11 objectionable tracts were found in the possession of the 1st and 2nd accused and that they had been ordered from Chick Publications and paid for by the 2nd accused.

50. On the issue of whether both the accused had knowledge of the contents of the publications, in *Tan Kiam Peng v PP*, the Court of Appeal in recognizing that the finding of actual knowledge is likely to be rare refers to the legal equivalent of actual knowledge i.e the doctrine of wilful blindness when knowledge can be inferred from all the facts and circumstances of the case. In explaining what would amount to wilful blindness, the Court drew distinctions between recklessness gross negligence and constructive knowledge. The court held that the doctrine of wilful blindness far from being a form of constructive knowledge is (in law) a form of actual knowledge. The Court in considering the case law on wilful blindness stated:-

“given the practical reality that a finding of actual knowledge is likely to be rare, we turn, now to what, as we have mentioned, is the legal equivalent of actual knowledge viz the doctrine of wilful blindness.... The doctrine of wilful blindness is in fact not a novel one in the Singapore context. It has been applied in many decisions in the context of the operation of the Act [\[note: 3\]](#) itself...

Indeed several central principles in our view emerge from the relevant case law, as follows. The fact is that wilful blindness is treated in law as being equivalent to actual knowledge (see above at [106] as well as *Koo Pui Fong* (seat [104] above); *Ropes* (see[116] above); *Leslie George Griffiths* [115] supra at [18] and *Westminster City Council* [115] supra at 744. Indeed we are of the view that given that both actual knowledge and wilful blindness are more often than not inferred from the facts and circumstances of the case, the line in practice between the two is a fine one and may on occasions at least, be blurred. However, it bears repeating that wilful blindness is not opposed to actual knowledge.

However, if he does in fact turn a blind eye that could on that facts, be taken to be wilful blindness. If so, this could be tantamount to actual knowledge in law and the accused would have failed to have rebutted the presumption of knowledge under Sec 18(2) of the Act...

The second central principle is that suspicion is legally sufficient to ground a finding of wilful blindness provided the relevant factual matrix warrants such a finding and the accused deliberately decides to turn a blind eye. However that suspicion must as Lord Scott perceptively points out in *Manifest Shipping* see [113] above, be “firmly grounded and targeted on specific facts. Mere “untargeted or speculative suspicion is insufficient”. (see also Hor [75] supra at 73. A decision in this last mentioned instance not to make further inquiries is as the learned law lord correctly points is tantamount to negligence perhaps, even gross negligence and is as such insufficient to constitute a basis for finding

wilful blindness... suspicion is a central as well as integral part of the entire doctrine of wilful blindness. However, the caveat is that a low level of suspicion premised on a factual matrix that would not lead to a person to date further inquires would be insufficient to ground a finding of wilful blindness when the person concerned did not in fact make further inquiries. What is of vital significance in our view is the substance of the matter which (in turn) depend heavily upon the precise facts before the Court. It is equally important to note that in order for wilful blindness to be established, the appropriate level of suspicion (as just discussed) is a necessary but not sufficient condition, in as much as the level of suspicion must then lead to a refusal to investigate further, thus resulting in “blind eye knowledge. (see also the second quotation from the article by Wasik & Thompson at [127] below)....”

In venturing to state a third central principle to make a clear distinction between wilful blindness and recklessness, the court stated:-

“To elaborate it is clear that wilful blindness being (as we have seen) the equivalent of actual knowledge is distinct from recklessness which theoretically at least falls short of actual knowledge. Indeed wilful blindness necessarily entails an element of deliberate action in as much as to the extent that the person concerned has a clear suspicion that something is amiss but then embarks on a deliberate decision not to make further inquiries in order to avoid confirming what the actual situation is, such a decision is necessarily a deliberate one. Looked at in this light, wilful blindness and recklessness are *ex hypothesi*, incompatible with each other. It is imperative, in order to avoid any unnecessary confusion, that we emphasise, once again that wilful blindness is a combination of suspicion coupled with a deliberate decision not to make further inquiries, whereas the recklessness that has been referred to by Prof Williams refers to recklessness in terms of the accused conduct in the context of circumstances which would not have otherwise have aroused suspicion on the part of the accused. We think that it is important to reiterate this point because it is possible, on another interpretation, to argue that the decision by the accused not to make further inquiries when faced with suspicious circumstances may be characterized as reckless conduct. We do not agree with such an argument and characterization. Such conduct is wilful blindness that entails a deliberate action not to make further inquiries when faced with suspicious circumstances. Semantical confusion must be avoided especially when an accused’s life or liberty is at stake. Indeed Prof Williams himself put it (again in his textbook *supra* 125):

[the doctrine of wilful blindness] is meant to deal with those whose philosophy is : where ignorance is bliss,” tis folly to be wise”. To argue away inconvenient truth is a human failing. If a person deliberately “shuts his eyes” to the obvious because he “does not want to know” he is taken to know. [emphasis added].

It was emphasized by the Court that:-

“a key threshold element in the doctrine of wilful blindness itself is that suspicion is followed by (and coupled with) a deliberate decision not to make further investigations. To be sure, the level of suspicion ought to be properly grounded (see above at [125], this being an intensely factual issue. Wilful blindness cannot be equated with virtual certainty for as already explained above, this would be to equate wilful blindness with actual knowledge in its purest form.”

51. In the instant case, evidence was adduced that both the accused were aware, as at November 2007 that something was amiss with the consignment when it was detained by the MDA. Thereafter, the both of them went to MDA. As the 2nd accused had ordered and purchased the publications she was formally informed that her order of two publications namely “Man in Black” and “What Wrong With This?” were detained for being undesirable or objectionable publications. Though the 2nd accused denied that she was told what tracts were detained and destroyed the fact remains is that though her suspicions were aroused she did nothing to ascertain which publications were detained and why they were detained. Furthermore, there were in possession of 25 copies of “Man in Black” and both the accused had every opportunity to thoroughly examine and read them if they hadn’t. Furthermore, both the accused made no effort at all to surrender the offending publications to MDA or even to ascertain from the MDA why the publications were objectionable. Both accused also made no attempt to take the other publications to MDA to determine whether they could be seditious or objectionable. Both accused, having their suspicions firmly grounded and targeted on specific facts made a conscious and deliberate decision not to investigate further, despite being in possession of 25 copies of “Man in Black” which they knew was detained for being an undesirable publication. The 1st accused who was appraised of the facts and whose suspicions were similarly aroused did nothing to investigate further to determine whether he would be infringing the law by being in possession of the objectionable and seditious publications. Their subsequent failure to go through the offending publications and do anything about them is a clear indication that both the accused were wilfully blind to the contents of the 11 seditious publications making it reasonable to infer that they knew that the publications were objectionable and seditious.

52. Appointed a Controller under the UPA, SAD Mardeei testified that the all the publications in question are objectionable under the UPA. This is a requirement laid down clearly by section 4(3) of the Act. Section 4(3) provides that:-

“The question whether or not a publication is objectionable is a matter for the expert judgment of any person authorized or required by or pursuant to this Act to determine it, and evidence as to or proof of any of the matters or particulars that the person is required to consider in determining that question is not essential to its determination except that if such evidence or proof of such matters or particulars is available, that person shall take that evidence or proof into consideration”

53. Section 4(3) is clear. SAD Mardeei is clearly an authorized person under the UPA to decide whether or not a publication is objectionable or not. The matters that a Controller has to take into consideration in determining whether or not a publication is objectionable or not, is provided under Section 4 subsection 2 (a) to (e) of the UPA.

54. SAD Mardeei said in his expert judgment determined that 11 publications namely, “The Little Bride”, “Who is Allah?”, “The Pilgrimage”, “Allah Had No Son”, “The Sky Lighter”, “Man in Black”, “Are Roman Catholics Christians”, “Back From The Dead”, “The Beast”, “Why Is Mary Crying?” and “Squatters” are objectionable publications under section 4(1)(b) the Act. Section 4(1)(b) of the Act stipulates that:

(1) For the purposes of this act, a publication is objectionable, if in the opinion of any controller, it or (where the publication comprises 2 or more distinct parts or items) any

one of its parts or items describes, depicts, expresses or otherwise deals with –

(a)

(b) matters of race or religion in such a manner that the availability of the publication is likely to cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups.

55. Clearly highlighting all the objectionable parts in the 11 publications, SAD Mardeei further explained that in determining whether the contents of the publications are objectionable or not, the offending sentences and paragraphs must be considered in context of the whole publication. He considered too, the impact of the medium in which the publication is presented, a requirement stipulated by section 4(2)(b) of the UPA. The tracts in question are comic tracts. One just has only to flip through the tracts to determine the aim of the publication and the language used. He considered the character of the publication in the context of religion, a requirement under section 4(2)(c) and the standards of propriety that are generally accepted by reasonable members of the community, a requirement under section 4(2)(d). He also considered the classes of persons or age groups of the persons to whom the publication is intended or likely to be made available, a requirement under section 4(2)(e). He pointed out that the tracts entitled “The Little Bride”, “Who is Allah?”, “The Pilgrimage”, “Allah Had No Son” and “The Sky Lighter” denigrates Islam and the Prophet Mohammed. The tracts entitled “Man In Black”, “Are Roman Catholics Christians?”, “The Beast”, and “Squatters” denigrate the Catholic Church portraying the Catholic Church amongst other things as a creation of Satan. The tract entitled “Why Is Mary Crying?” denigrates the Catholic Church and Islam. The tract entitled “Back From The Dead” denigrates other religions. SAD Mardeei opined that not only are the tracts objectionable and contravene the UPA, the tracts too are likely to cause feelings of enmity, hatred, ill-will or hostility between different racial or religious groups. He further explained that publications in the form of comic tracts are easily read and have a greater impact on vulnerable minds especially the young because tracts are pictorial and easier to comprehend. Comic tracts have a greater impact on the reader and therefore, there is greater potential for harm if a seditious or objectionable tract is distributed and read by members of the public. He explained that a clear distinction must be made between a comic tract and a book. A book has to be read. It requires a greater intellectual ability to digest the contents of a book and to reach a conclusion on an issue. The contents in books usually discuss issues eventually leaving the reader to make up his own mind on the matter whereas the tracts in question state outright conclusions.

56. When challenged by the defence whether, the 4 books namely, “God Is Not Great”, “Da Vinci Code”, “End of Faith” and “The God Delusion” contained objectionable material, he explained that he could not state with certainty if they were because the statements have to be judged in the context of the entire book, i.e. the a greater work in order to determine whether they are objectionable or not. SAD Mardeei further explained that the contents of the 4 books invite the reader to draw conclusions on religious matters. In his expert opinion, the 4 books are not objectionable. He read and classified the tracts “The Little Bride”, “Who Is Allah?” and the seized 11 publications to be undesirable publications and specifically pointed out the portions in them that are objectionable.

57. With regard to the publications contravening the provisions of the SA, Section 2(e) of the Act specifically defines seditious tendency as a tendency to “promote feelings of ill-will and

hostility between different races or classes of the population in Singapore”. Furthermore, the court also considered the presumption under sub-section (3) of the Act which stipulates that for the purpose of proving the commission of any offence under the Act, the intentions of the accused persons shall be deemed to be irrelevant. Sub section (3) reads:-

“For the purpose of proving the commission of any offence under this Act, the intention of the person charged at the time he did or attempted to do or made any preparation to do or conspired with any person to do any act or uttered any seditious words or printed, published, sold, offered for sale, distributed, reproduced or imported any publication or did any other thing shall be deemed to be irrelevant if in fact such act had, or would, if done, have had, or such words, publication or thing had a seditious tendency”.

Both accused relied on the defence provided by section 6(2) of the Act which provides:

“(2) No person shall be convicted of any offence referred to in section 4(1)(c) or (d) if such person proves that the publication in respect of which he is charged was printed, published, sold, offered for sale, distributed, reproduced or imported (as the case may be) without his authority, consent and knowledge and without any want of due care or caution on his part or that he did not know and had no reason to believe that the publication had a seditious tendency.”

58. I considered the defence of both accused that they had no reason to believe or suspect that the tracts they distributed were objectionable or had a seditious tendency because they were openly sold in Singapore and hence ought to be acquitted of the charges. During the hearing, the 2nd accused tendered photographs evidencing that some of the offending tracts were sold in Tecman bookstore. This revelation in court led to the seizure of the offending tracts by the police the same day [\[note: 4\]](#). The 2nd accused stated that she had purchased the objectionable tracts from the store and had distributed them without having read them. Thus, she had no reason to believe the publications were seditious or objectionable. It is pertinent to note that in their statements both accused did not mention from which bookstore they purchased the tracts from. Reference to Tecman bookstore was made only during the trial. It is obvious that this defence is clearly an afterthought to lend credence to their claims. Both accused testified that they had been purchasing tracts for many years directly from Chick Publications because they were cheaper than tracts sold in local bookstores. They ordered and purchased in bulk from Chick Publications over the years, at times make re-orders of the same objectionable and seditious publication. It was also admitted by the 2nd accused that “The Little Bride” and “Who is Allah?” were purchased and imported from Chick Publications.

59. SAD Mardeei explained that generally publications sold to the public are not objectionable and that it is only in an exceptional case that a publication is found to be objectionable. MDA conducts training and briefings for importers to be familiar with MDA’s guidelines and criteria for publications. Importers are informed that when they are in doubt they are to refer the doubtful publication for advice and a decision. Furthermore, importers have access to MDA’s database to determine whether a publication is objectionable or not. There is no evidence that either of the accused did any of these things. Generally, customers can confidently purchase a publication from a bookseller without its contents being considered objectionable. Even if both the accused had purchased the tracts from Tecman bookstore, this does not absolve them from guilt. SAD Mardeei further explained that any normal or reasonable

person who reads a publication will know whether it is objectionable or not. It is part of the learning and educational process. The tracts in question level a pointed attack by one religion on another. Any reasonable person reading the tracts will clearly know the difference and will have no doubt in his mind that the tracts have a seditious tendency i.e. a tendency to promote feelings of ill will and hostility between races or classes of the population of Singapore. Irwan, Isa and Farharti are all Muslims who have read the tracts they received from the both the accused. They have all stated that the tracts have a tendency to promote feelings of ill-will and hostility between Muslims and Christians. They were angry after they read the tracts which they felt have been sent by Christians to convert them. Their evidence clearly proves that the publication have a seditious tendency as well as being an objectionable publication under the UPA.

60. I do not believe that the 2nd accused's defence that she purchased the copies of "The Little Bride" and "Who Is Allah?" from Tecman Bookstore because she did not in any of her statements mention that she had purchased Chick Publications tracts from local bookstores, in particular Tecman bookstore. The 1st accused in his statement only mentions the purchase of tracts in the early years. If that is true, then this surely must refer to the period prior to 2000. From August 2000 the 2nd accused had been consistently placing orders for tracts directly from Chick Publications. The records (P85A, P85B, and P85C) prove this to be so. Furthermore, the 2nd accused had ordered 100 copies of "Who Is Allah?" from Chick Publications as recently as 25 Apr '07. By the 2nd accused's own admission she admitted that she purchased and imported such tracts from Chick Publications because they were 30% cheaper. Hence, copies of "The Little Bride" must have been purchased from Chick Publications prior to March 2007 because copies of the tracts were sent to Irwan and Farhati in March and October 2007. It is pertinent to note that 23 loose copies of "The Little Bride" and 9 loose copies of "Who is Allah?" were found in both the accused's flat. It was also not denied by both the accused that they had sent out relevant tracts like "Who is Allah?" to persons they thought were Muslims.

61. The 2nd accused claimed that she only read the summary and not entire contents of the tracts she ordered. The 1st accused too, maintained that he did not read the tracts that the 2nd accused purchased. Both the accused said that they had read some tracts when they first started "tracting" but in the years following, they both did not read the tracts because the tracts were all similar in that they told a story that had a gospel message at the end. I do not believe that both the accused persons did not read or know the contents of the tracts they distributed to the public. Both the accused are educated and intelligent people. The 1st accused is a Technical officer and the 2nd accused is an Associate Director. The 2nd accused strikes me to be an intelligent and analytical person. She was able to compare her statement with that of the 1st accused to show portions in the statements that are similar that suggested that ASP Hoe had referred to the 1st accused statement when he recorded hers. After the trial commenced she ably analysed the contents of 4 books to question why the contents of the seized publications are considered seditious and objectionable by the MDA. As a couple, both accused appear to be close and pious Christians. I do not believe that the 2nd accused who had been "tracting" for more than 20 years did not read any of the tracts and was totally unaware of the contents. I do not believe that when the 2nd accused ordered and purchased the tracts she had done so without the 1st accused's knowledge. At all times the 1st accused knew what the 2nd accused was doing and consented to her actions. In their statements they have both admitted that they read some tracts after they

ordered them. The tracts are simple and easy to read. A quick flip of the pages would easily give one a gist of the story and gospel message conveyed to the reader. They would have known that the tracts had a seditious tendency because the tracts are not only highly critical but denigrate Islam, the Roman Catholic Church and other religions. Even the characters depicted in the tracts react with hostility [\[note: 5\]](#) when Islam is criticised. This should have served as a warning to both the accused. On all the occasions when the 2nd accused went to MDA to inquire and eventually collect the released tracts the 1st accused went with her. Even though the 1st accused was not privy to the conversations the 2nd accused had with Ms Faridah, the 1st accused must have known the purpose of the visit to MDA. He knew that the 2nd accused had received a letter to see the Controller of Undesirable Publications regarding the detention of some tracts because they contained objectionable material. I do not believe that the 1st accused was merely the “postman” in the distribution of the tracts having no knowledge of what was being distributed to members of the public. Ms Faridah testified that when the 2nd accused was at MDA to collect the tracts, she showed the 2nd accused the detained publications. Therefore, the 2nd accused knew that the detained tracts were “Man in Black” and “What’s Wrong With This” and that they were detained because of objectionable religious content. Though the 2nd accused has denied this, I have no reason to doubt Ms Faridah’s evidence that she showed the 2nd accused the detained tracts.

62. The 2nd accused in her defence also stated that she randomly selected the tracts and sent them out to recipients. I do not believe this to be true because in a multi-racial society like Singapore, a name can reveal a person’s race and possibly religion, eg a person with an English name could either be European or Eurasian and possibly Christian or a person with a Malay name could probably be Muslim. In respect of the tracts “The Little Bride” and “Who Is Allah?” sent out to Isa, Irwan and Faharti it is obvious that the tracts were sent to them in the hope that they, being Muslims, would read them and be sufficiently convinced by the contents to convert to Christianity. Thus, what both accused stated in their police statements must be true. I do not believe that the 1st accused, only posted the tracts and was unaware which tract had been sent. Like the 2nd accused, he had been “tracting” for the same period of time as the 2nd accused. In his statements he admitted that he and the 2nd accused would order tracts from Chick Publications and send them out persons they thought a tract was appropriate. He admitted that they had been tracting for almost two decades. Tracts were purchased in large quantities over the years from Chick Publications. Loose tracts were found in their home on the dining table, in drawers and in boxes in their bedroom and also in their car. Clearly both accused were actively engaged in “tracting”. Feigning knowledge is an all too convenient excuse when one is confronted with incriminating evidence. It is plain that both accused in their defence were watering down their roles in the commission of the offences.

63. I do not believe that in their fervor to spread the gospel truth they did not read the publications. The publications were ordered regularly and in bulk for over two decades. They ordered a variety of publications. These publications compare Christianity with other religions and also draw attention to differences between Protestants and the Roman Catholic Church. I also do not believe that they did not know the contents of the tracts in the pursuit of their evangelical cause because the contents of the tracts are aimed at Muslims, Roman Catholics and worshippers of other religions. The titles clearly attract and arouse the interest of readers to at

least peruse and flip through the contents. I also do not believe that the 1st accused was unaware of the contents of the tracts some of which were found in his bedroom in a chest of draws and in his car. I do not believe that he did not know the kinds of tracts that were being sent to Roman Catholics and persons of the Islamic faith. He is a fervent Protestant and consciously undertook this evangelical exercise to convert persons of other faiths to become Protestant Christians. Therefore, he must have known the contents of the tracts he was distributing to members of the public. I find that there is no truth in this defence.

64. Accordingly, I find that both the accused, by virtue of their mere denials, have not satisfactorily proved that they did not know that the publications had a seditious tendency. Insofar as the 2nd accused is concerned, she selected the publications from Chick Publications. I do not believe that she did not know the contents of the publications. Over the years she repeatedly purchased and imported the same objectionable and seditious tracts from Chick Publications e.g. “Who is Allah?”, “Are Roman Catholics Christians?”, “Allah Had No Son” and “Why is Mary Crying?”. From the phone book she selected members of the public albeit, randomly and had the 1st accused post them. Being an educated person she should have known that these Christian publications, in criticizing other religions, promote feelings of ill will and hostility between races or classes of the population of Singapore. The 1st accused was well aware that the 2nd accused spent her time sending tracts to members of the public. He knew that the 2nd accused ordered the publications. He knew that she prepared the tracts for him to mail. In giving his seal of approval, he clearly acted in concert with the 2nd accused in the purchase of these tracts from Chick Publications. With loose tracts left lying about in the flat he would have been aware of the contents of the publications. They were found in his flat and also in his car. Several loose copies of the tract “Who is Allah?” were found in a cabinet in his bedroom by the bed. Several loose copies of the tracts were also found on the dining table. In his statement, he stated that normally after work, he and the 2nd accused used the residential phone directory software programme installed in a Fujitsu laptop computer to select addressees for the tracts. They discussed before they differentiated the tracts to be sent to persons of Chinese and Malay descent. Therefore, in order to make this selection they must have known the contents of the tracts to be sent to the recipients. Thus a tract entitled “Who is Allah?” sent to a person with a Malay name or a tract entitled “Set Free” to a person with a Chinese name must have been done with a view to informing them about Christianity in the hope of conversion. Accordingly, I find that it is not mere coincidence that the tracts entitled “Who Is Allah” and “The Little Bride” were sent to Isa, Irwan and Farhati persons of the Islamic faith.

65. After considering all the evidence adduced and the defences of both accused, I am satisfied that the prosecution proved, beyond a reasonable doubt, all the respective charges against both the accused under the UPA and the SA and that they had, in the commission of the offences, acted in furtherance of the common intention to distribute the seditious publications. Accordingly, I reject the 1st and 2nd accused’s defences that they had no knowledge and that they had no reason to believe or suspect that the publications in question are seditious or objectionable.

66. Accordingly, both the accused are found guilty and are convicted on their respective charges.

Mitigation

67. Both the accused are husband and wife aged 50 years and 45 years respectively. They have been married for 24 years and have a teenage daughter. The first accused is a Technical Officer and the 2nd accused is an Associate Director. They both hold responsible positions with their respective employers. They are both Protestant Christians and first offenders. It was submitted that at no point in time did either of them realize that they were doing anything wrong. Their only intention was to spread the Gospel and had been doing so for approximately 20 years. They had no malice in distributing the publications. Out of the all the tracts seized by the authorities only 11 out of 29 publications were found to be objectionable by the MDA. The tracts, printed by Chick Publications a reputable publisher, were freely available for sale to the public and this may to some extent, may have contributed to their complacency in assuming that there was nothing wrong to distribute them to the public. They did not target any specific religious or racial group as evidenced by the seized publications on the day of their arrest. It was canvassed that no doubt ignorance of the law is no excuse, it might afford some ground for mitigation.

68. The distributed tracts did not cause public disorder. After they were interviewed by the police they threw away or shipped out to Churches overseas all their books on Christianity with reference to other religions.

69. It was highlighted by counsel that the 2nd accused, in mentioning in her defence the fact that MDA did not warn her that she might be breaking the law, is not unrepentant or shifting the blame but only pointing out that she would not have contravened the law if she had known that being in possession of the publications was an offence.

70. Both the accused have apologized to the recipients of the tracts for their wrongdoings and are relieved and thankful that Isa, Irwan and Farhati have not become hostile or formed any ill-will or fostered any hatred for Christians. Isa stated that his feelings towards Christians have not changed after reading the seditious and offensive tract.

71. It was submitted that the court only sentences the accused for the acts mentioned in the charges and to distinguish in sentencing the different roles played by each of them. Counsel urged the Court to consider the imposition of fines rather than a custodial sentence. Alternatively, should the court be minded to impose custody, a short custodial term would suffice. It was argued that the formulation of general deterrence in *PP v Koh Song Huat Benjamin & Anor* [\[note: 6\]](#) is contrary to the High Court's decision in *Angliss Singapore Pte Ltd v PP* [\[note: 7\]](#) that held that the fact that the offences in question are not prevalent is an argument against deterrence and not an argument for it. Counsel, in distinguishing *PP v Koh Song Huat Bernjamin & Anor* [\[note: 8\]](#) urged the Court to consider the fact that the distributed tracts did not spark off a widespread and virulent response.

72. In addition, the upholding of public policy concerns engendered by the especial sensitivity of racial and religious issues in Singapore are already reflected in the framing of the offences under s4(1) and section 3(1)(e) of the SA and are, in its protective intent, sufficiently strict. In conclusion counsel submitted that both accused are unlikely to repeat such conduct.

Sentence

73. The prosecution in its address on sentence argued that an appropriate sentence be imposed on the accused persons to reflect the gravity of the offences and their culpability. The court was urged to consider a sentence range of 2 to 6 months' imprisonment as opposed to imposing a fine or a nominal custodial term. The prosecution reasoned that a fine or a nominal term of imprisonment is inappropriate for the following circumstances, namely:-

- (i) That the racial and religious complexion of the case are issues that are fundamental to the long term stability of Singapore;
- (ii) the offences committed by both the accused persons were committed over a long period of time and not isolated ones;
- (iii) the surreptitious manner of the distribution of the tracts made it difficult for the authorities to trace the accused;
- (iv) in claiming trial to the charges both accused demonstrated a lack of remorse;
- (v) their actions were such that they would have known that religious sensitivities would be hurt; and
- (vi) they must have foreseen the risks posed to race and religious relations and yet elected to be indifferent to the potential harm and unrest that could have resulted from their actions.

74. It was submitted that counsel's interpretation of the application of general deterrence in *Angliss Singapore Pte Ltd v PP* [\[note: 9\]](#) is incorrect. In that case, it is clearly stated by Hon VK Rajah JA that "the principle of general deterrence is premised on the upholding of certain statutory or public policy considerations or *alternatively*, upon judicial concern over the prevalence of particular offences and the attendant need to prevent such offences from being rampant". The sentence is phrased in the alternative. Therefore, when public policy considerations figure prominently in a case, the principle of deterrence should apply. In *PP v Law Aik Meng* [\[note: 10\]](#) Hon VK Rajah JA in poignantly commenting on general deterrence and citing examples stated:-

"General deterrence aims to educate and deter others like-minded members of the general public by making an example of a particular offender: *Meeran bin Mydin v PP* [\[1998\] 2 SLR 522](#) at 525, [9] ("Meeran bin Mydin"). Premeditated offences aside, there are many other situations where general deterrence assumes significance and relevance [...]. Some examples of the types of offences, which warrant general deterrence are:-

[..] (f) Offences involving community and/or race relations: Community or racial harmony form the bedrock upon which peace and progress in Singapore are founded. This is often taken for granted but the courts must remain constantly vigilant in ensuring that all offences that jeopardize such a foundation be firmly and resolutely dealt with."

[25] Examples of particular circumstances of an offence which may attract general deterrence include:

(a)....

(b)....

(c) Public disquiet: Certain crimes, in addition to harming immediate victims, also have the wider-felt impact of triggering unease and offending the sensibilities of the general public. A deterrent sentence is therefore necessary and appropriate to quell public disquiet and the unease engendered by such crimes”

75. I considered all these submissions and the mitigation. In determining an appropriate sentence for the both the accused, I duly considered that both accused have no antecedents. I have also considered that both accused have apologised to the recipients for sending the seditious and objectionable tracts to them.

76. However, the offences upon which they are found guilty and convicted are serious ones in that they have the capacity to undermine and erode the delicate fabric of racial and religious harmony in Singapore. The seriousness of the offences are also reflected in the prescribed punishments for the offences. In respect of the offence under 12(c) of the UPA for distributing an objectionable publication, the maximum prescribed punishment is a term of 12 months imprisonment. In respect of the offence for distributing any seditious publication in contravention of section 4(1) (c) of the SA, the maximum prescribed penalty is a term of imprisonment of 3 years for a first offence. For a subsequent offence, the maximum prescribed punishment is 5 years imprisonment. For an offence under section 4(2) of the SA for being in possession of any seditious publication, the maximum prescribed punishment is a term of 18 months’ imprisonment. The maximum prescribed punishment is 3 years imprisonment for a subsequent offence. The prescribed terms of imprisonment provided for such offences and increases in punishment for subsequent offences clearly reflects the serious view that Parliament takes of such offences.

77. Furthermore, the publications both the accused were in possession of and to have distributed are not only offensive for religious content but also have a tendency to promote feelings of ill-will or hostility between different races or classes of the population particularly, between Muslims and Christians in Singapore because the tracts were sent to Muslims resulting in a complaint responsibly made to the police to investigate the matter. It is well known in Singapore that persons of the Malay race are Muslims or followers of Islam. Christian publications or tracts denigrating Islam, its followers or the Catholic Church and other religions will undoubtedly promote feelings of ill-will or hostility between Muslims, Malays, Roman Catholics and people of other religions. The tracts also denigrate the Roman Catholic Church and other faiths. Roman Catholics and followers of other religions do comprise people of different races and classes of the population in Singapore. I agree with the prosecution that as the offences in question affect the very foundation of our society, public policy dictates that the Court apply the principle of deterrence in sentencing the both the accused.

78. In *PP v Koh Song Huat Benjamin Anor* [\[note: 11\]](#), Senior District Judge, Richard Magnus (as he then was) in sentencing the offenders in respect of an offence punishable under section 4(1)(a) of the Sedition Act clearly laid down the approach to be taken for such offences. In that case, the appellants, posted anti-Malay and anti-Muslim remarks on the internet. They

were charged for contravening section 4(1)(a) of the Sedition Act. The Senior District Judge stated:-

“The sentencing approach of general deterrence is because of three main reasons: section 4(1)(a) offence is *mala per se*; the especial sensitivity of racial and religious issues for our multi-cultural society; particularly given our history of the Maria Hertog incident in the 1950’s and the July and September 1964 race riots; and the current domestic and international security climate. The Court will therefore be generally inclined towards a custodial sentence for such an offence.”

He added:-

“The Court will not hesitate to impose appropriate salutary and stiffer sentences in future cases.”

79 Religion is a sensitive issue. A person is free to choose his religion and to practice it. In the instant case, when ASP Hoe searched the accused persons’ apartment he found many tracts published by Chick Publications. Among the publications seized were numerous copies of seditious and objectionable tracts. In total, there were 439 copies of 11 seditious and objectionable tracts. The tracts were imported into Singapore and distributed by both the accused in a sustained and deliberate effort over a period of almost two decades because they evangelized by “tracting”. They hoped that the evangelical tracts they sent out to members of the public would open the minds of the readers to accept Christianity. Both accused, in spreading the Gospel by posting the seditious and offensive tracts, namely “The Little Bride” and “Who is Allah?” to Muslims and to the general public clearly did so with the intent of convincing the Muslim reader to convert to Christianity.

80. It is foreseeable that the faithful have desires to profess and spread their faith. Besides worship, some Christians might even see evangelism as their paramount Christian duty. The distribution of tracts and Christian literature is done in good faith to inform unbelievers in the hope of stirring up interest to accept Christianity and be converted. In ***PP v Koh Song Huat Benjamin & Anor*** the court poignantly pointed out that the right to propagate an opinion cannot be an unfettered right. The court stated:-

“The right of one person’s freedom of expression must always be balanced by the right of another’s freedom from offence, and tampered by wider public interest considerations. It is only appropriate social behavior, independent of any legal duty, of every Singapore citizen and resident to respect the other races in view of our multi-racial society. Each individual living here irrespective of his racial origin owes it to himself and to the country that nothing is said or done which might incite the people and plunge the country into racial strife and violence. These are basic ground rules. *A fortiori*, the Sedition Act statutorily delineates this redline on the ground in the subject at hand. Otherwise, the resultant harm is not only to one racial group but to the very fabric of our society”.

81. The observations the court made with regard to race in ***PP v Koh Song Huat Benjamin*** apply equally to making insensitive and denigrating remarks about religion or religious beliefs. In our multi-racial and multi-religious society, distributing tracts with callous, denigratory, offensive and insensitive statements on religion with aspersions on race do have a tendency to cause social unrest thereby jeopardizing racial and religious harmony.

82. As citizens of Singapore, both the accused cannot claim to be ignorant of the sensitivity of race and religion in our multi-racial and multi-religious society. Common sense dictates that religious fervor to spread the faith, in our society, must be constrained by sensitivity, tolerance and mutual respect for another's faith and religious beliefs. Both the accused by distributing the seditious and objectionable tracts to Muslims and to the general public clearly reflected their intolerance, insensitivity and ignorance of delicate issues concerning race and religion in our multi-racial and multi religious society. They both acted on their own accord without ensuring that the tracts were suitable for distribution to the general public.

83. Furthermore in distributing the seditious and offensive tracts to spread their faith, the accused persons used the postal service to achieve their purpose and so were shielded by anonymity until the time they were apprehended. There is no doubt that this must have made it difficult for the police to trace them.

84. In view of the facts and circumstances, a custodial sentence is clearly warranted for both the accused. It is apparent from all the evidence that in the commission of the offences, both of them, in the furtherance of the common intention, acted in concert to distribute the seditious and objectionable publications. They were also found to be in possession of a large quantity of tracts published by Chick Publications that are seditious and objectionable for having offensive and denigratory content dealing with religion or race in such a manner as to promote feelings of enmity, hatred, ill-will or hostility between different racial or religious groups. Accordingly, the 1st accused is sentenced on

DAC No 16841/2008 – 4 weeks imprisonment

DAC No 16842/2008 – 4 weeks imprisonment

DAC No 19348/2008 – 4 weeks imprisonment

DAC No 19349/2008 – 4 weeks imprisonment

85. In compliance with section 18 of the Criminal Procedure Code, the sentences of imprisonment in DAC No 19348/2008 and DAC No 19349/2008 are to run consecutively. The remaining sentences of imprisonment are to run concurrently. In total, the 1st accused is to serve 8 weeks imprisonment.

The second accused is sentenced on

DAC No 16843/2008 – 4 weeks imprisonment

DAC No 16844/2008 – 4 weeks imprisonment

DAC No 19346/2008 – 4 weeks imprisonment

DAC No 19347/2008 – 4 weeks imprisonment

86. The sentences of imprisonment in DAC No 19346/2008 and DAC No 19347/2008 are to run consecutively. The remaining sentences of imprisonment are to run concurrently. In total, the 2nd accused is to serve 8 weeks imprisonment.

87. Furthermore, I also order the forfeiture of all the objectionable and seditious publications in compliance with section 9 of the UPA and under section 4(1)(c) and section 4(2) of the SA.

88. Dissatisfied, both accused have appealed against their convictions and sentences.

[\[note: 1\]](#)
[\[1981\] 2 MLJ 149](#)

[\[note: 2\]](#)
[\[1040\] AC 231](#)

[\[note: 3\]](#)
Misuse of Drugs Act (Cap 185)

[\[note: 4\]](#)
The Straits Times – dated 29 January 2008

[\[note: 5\]](#)
See: Who is Allah? at pages 2,3,6 and The Little Bride at pages 8,9,11

[\[note: 6\]](#)
[\[2005\] SGDC 272](#)

[\[note: 7\]](#)
[\[2006\] 4 SLR 653](#)

[\[note: 8\]](#)
Supra

[\[note: 9\]](#)
Supra

[\[note: 10\]](#)
[\[2007\] 2 SLR 814](#)

[\[note: 11\]](#)
[\[2005\] SGDC 272](#)