



Eugene
Thuraisingam
LLP



Jerrie Tan Qiu Lin

Partner

E: jerrie@thuraisingam.com

P: +65 6557 2436

thuraisingam.com

Legal principles in death penalty drug trafficking offences in Singapore

ANZAPPL Congress
5 December 2025

The MDA Foundation: Presumptions and the MDP

The Foundation: Misuse of Drugs Act (MDA) Presumptions

Singapore maintains a strict "zero tolerance" stance, underpinned by legal presumptions:

Mandatory Death Penalty (MDP): Trafficking controlled drugs above stipulated quantities (e.g., >15g of diamorphine) triggers the MDP.

The Burden on the Accused: To secure a conviction, the prosecution relies on two key rebuttable presumptions:

Presumption of Possession (s 18(1)): Proof of having custody or control of an item containing drugs presumes possession of the drug.

Presumption of Knowledge (s 18(2)): Proof of possession presumes the accused *knew the nature* of the drug.

Conviction Threshold: The accused bears the burden of proving, on a balance of probabilities, that they lacked the requisite knowledge to rebut the presumption.



Section 33B: The Discretionary Regime (2012)

Judicial Discretion for Drug Couriers (MDA s 33B)

The 2012 amendments introduced a discretionary sentencing regime (Life Imprisonment instead of MDP) exclusively for convicted couriers who satisfy **both** Condition 1 and Condition 2 OR Condition 3.

Condition 1: Courier Status	AND (Select One)	Sentencing Result
Involvement restricted to transporting, sending, or delivering drugs (narrowly defined).	Condition 2 (s 33B(2)): Substantive assistance certified by the Public Prosecutor.	Life Imprisonment + Caning (strokes).
	Condition 3 (s 33B(3)(b)): Abnormality of mind substantially impaired mental responsibility.	Life Imprisonment (No Caning).

Path B: Substantial Impairment (s 33B(3)(b))

Legal Principles in Diminished Responsibility (Condition 3)

The inquiry focuses on the link between a recognized disorder and the capacity for **Control**.

Limb	Focus	Key Legal Principles
First/Second Limb (Aetiology)	Can a "self-induced" condition (SUD) qualify?	Synergistic Operation: An abnormality (e.g., MDD) forming the "underlying substrate" for an escalated addiction (SUD) is considered inextricably intertwined and therefore satisfies the aetiology limb. (Roszaidi v PP [2022], Jeffery Phua v PP [2016]).
Third Limb (Impairment)	Was the capacity for <i>control</i> substantially impaired?	The Disordered Mind: The impairment must be "real and material," affecting the individual's ability to make a rational decision, turning what appears to be a calculated "error of judgment" into the " product of a disordered mind. " (Rosza v PP [2022]).



The Conviction Stage: Admissibility of Confessions

Psychological Vulnerability & The Voluntariness Test

Mental capacity is vital long before sentencing, particularly regarding the admissibility of statements used for conviction.

- **Rule of Exclusion:** A statement is inadmissible if it appears to have been caused by an **Inducement, Threat, or Promise (ITP)** sufficient to give the accused reasonable grounds for expecting an advantage/avoiding an evil.

- **The Subjective Limb:** This requires assessing the effect of the ITP on the individual's mind. It is here that cognitive deficits are paramount.

Deep Dive: The Life-Saving Defence (S K Murugan)

Case Study: S K Murugan Subrawmanian v PP [2021]

The difference between two judges' views on Intellectual Disability became a matter of life or death.

• **Emphasis:** A properly run defence highlighting the impact of mental deficits can be a case of life and death.

Procedural History	The Impact of ID/Legal Principle
2018: Murugan was convicted and sentenced to the mandatory death penalty (MDP) by the first High Court judge.	The initial process did not adequately recognize his vulnerability under interrogation.
Appeal: Conviction set aside, and a re-trial was ordered before a different High Court judge.	
Re-Trial (Voir Dire): The second judge accepted evidence of the Investigating Officer's promise to bring the (deceased) co-accused to Murugan (the Inducement).	Intellectual Deficits: The judge found Murugan had substantial deficits in intellectual and adaptive functioning (working memory/processing speed).
Outcome: The judge ruled the inducement operated on Murugan's compromised subjective mind , finding the confession statements involuntarily made and inadmissible .	Life Saved: Without the confessions, the prosecution's case was severely weakened, leading to a non-capital charge and a 12-year jail sentence .

Conviction Stage: Rebutting Presumptions

Psychological Symptoms & Lucas Lies

An adverse inference can be drawn from an accused person's lies or omissions during interrogation ("Lucas Lies"), suggesting consciousness of guilt, which solidifies the presumption of knowledge (s 18(2)).

- **Challenge to Conviction:** The accused must prove that the lie/omission was motivated by an **innocent reason** (i.e., not a realization of guilt).
- **The Innocent Explanation:** If **Post-Traumatic Stress Symptoms (PTSS)** or other psychological conditions are found to have existed during the interrogation, these conditions may provide a medically plausible innocent explanation for why the accused lied.

Psychological State	Innocent Motive for Lying
PTSD/PTSS	Gross overestimation of threat to life, fear-driven need to distance oneself from the circumstances, or persistent paranoia.

Deep Dive: The Procedural Reversal (Ilechukwu)

Case Study: Ilechukwu Uchechukwu Chukwudi v PP [2021]

Psychological evidence entered at the eleventh hour overturned a conviction, highlighting systemic gaps in evidence disclosure and recognition.

Procedural History	The Critical Medical Evidence
Conviction: Ilechukwu was convicted by the Court of Appeal based on his numerous lies (denying the luggage, etc.), which they found pointed to a guilty mind ("Lucas Lies").	
Sentencing Stage: While preparing for sentencing, the Prosecution's own psychiatrist (Dr. Sarkar) produced a medical report.	New Evidence: The report found Ilechukwu was suffering from PTSS (e.g., intense psychological distress, persistent negative beliefs) triggered by the arrest/charge.
Criminal Motion: The Court of Appeal re-opened the concluded appeal based on this new and compelling evidence.	Legal Reversal: The Court accepted that the PTSS provided a plausible innocent explanation for his lies, as his fear was rooted in a traumatic past, causing him to grossly overestimate the threat .
Outcome: The initial conviction was reversed. The court found that without the adverse inference from the lies, the defence successfully rebutted the presumption of knowledge , leading to a final acquittal .	Emphasis: It was only at the sentencing stage that a medical report produced by the prosecution came out, which then caused the Court of Appeal to reverse their decision on how post traumatic stress symptoms could have explained the Lucas lies in the statements.

Conclusion and Policy Implications

Mental Health in the Scales of Justice

Area of Impact	The Risk	The Systemic Gap
Conviction (Admissibility)	Undetected intellectual deficits lead to vulnerability to coerced confessions that wrongfully secure conviction.	The Appropriate Adult Scheme can fail where cognitive or intellectual deficits are not readily apparent to the investigating officers at the initial stage.
Conviction (Rebuttal of Presumption)	Failure to recognize that trauma-based symptoms (PTSS/PTSD) provide a valid, innocent motive for Lucas Lies .	Critical, outcome-determining medical evidence may emerge late in the judicial process , even from the opposing side's expert, demonstrating flaws in earlier findings.
Sentencing (s 33B)	The court fails to recognize the synergistic effect of co-morbid mental health conditions (MDD + SUD) on the accused's capacity for control , resulting in the MDP despite the legal avenue for life imprisonment.	

