



**Zulkifli Bin Mohamad Ali**

**AND**

**Public Prosecutor**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No. 21 of 2014)**

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**Steven Chong, J.**

**9 August 2014**

Criminal law – Appeal – Multiple drug offences including possession for the purpose of trafficking of methylamphetamine – Whether sentence excessive.

Appellant unrepresented.

DPP Ms Yvonne Lim for the Public Prosecutor/Respondent.

**Steven Chong, J.:**

On 29 April 2013 in the Magistrate's Court the appellant faced 11 charges under the Misuse of Drugs Act:

- (a) 1 charge of possession for the purpose of trafficking of methylamphetamine contrary to section 3A (9<sup>th</sup> Charge);
- (b) 2 charges of possession of methylamphetamine contrary to section 6(a) (1<sup>st</sup> and 7<sup>th</sup> Charges);
- (c) 4 charges of consuming methylamphetamine contrary to section 6(b) (2<sup>nd</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Charges); and
- (d) 3 charges of possession of utensil intended for the consumption of methylamphetamine contrary to section 7 (3<sup>rd</sup>, 6<sup>th</sup> and 11<sup>th</sup> Charges).



The appellant pleaded guilty to 8 charges (1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Charges) and contested 3 charges (4<sup>th</sup>, 9<sup>th</sup> and 11<sup>th</sup> Charges) whereupon the prosecution withdrew the 4<sup>th</sup> Charge.

On 28 January 2014 the trial on the 9<sup>th</sup> and 11<sup>th</sup> Charges proceeded before Senior Magistrate Haji Nabil Daraina Bin PUKDPSS Ustaz Haji Badaruddin. The appellant was convicted of these two charges on 12 April 2014.

The Senior Magistrate sentenced the appellant as follows:

- (a) Section 3A offence (9<sup>th</sup> Charge): 5 years and 5 strokes.
- (b) Section 6(a) offences (1<sup>st</sup> and 7<sup>th</sup> Charges): 2 months on each charge.
- (c) Section 6(b) offences (2<sup>nd</sup>, 5<sup>th</sup>, 8<sup>th</sup> and 10<sup>th</sup> Charges): 3 years on each charge.
- (d) Section 7 offences (3<sup>rd</sup>, 6<sup>th</sup> and 11<sup>th</sup> Charges): 1 month on each charge.

The sentences on the 1<sup>st</sup>, 3<sup>rd</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> Charges were ordered to run consecutively but concurrently with the sentences on the remaining charges resulting in a total of 5½ years and 5 strokes.

This is an appeal by the appellant against that sentence on the ground that it is excessive.

The appellant is aged 42 and was employed as a driver's assistant. He was previously married to 2 wives but has recently divorced one of them. There are 9 children dependent on the appellant.

These offences were committed over a period of nearly 4 years in August 2007, May 2008, April 2009 and March 2011. The appellant has a prior conviction for drug consumption contrary to section 6(b) in August 2000.

The Senior Magistrate imposed the minimum sentence of 5 years and 5 strokes in respect of the charge of possession for the purpose of trafficking of 4.6109 grams of methylamphetamine contrary to section 3A (9<sup>th</sup> Charge) upon convicting the appellant after a full trial. As such, the appellant really has nothing to complain about on this sentence.



As to the overall sentence, the Senior Magistrate rightly considered the principle of totality in ordering only the sentences on 5 out of the 10 charges to run consecutively resulting in a total sentence of 5½ years and 5 strokes which can hardly be considered to be excessive.

The appeal is dismissed.

**DATO PADUKA STEVEN CHONG**  
Judge, High Court