

Didiman Bin Jaya

AND

Public Prosecutor

(High Court of Brunei Darussalam)
(Criminal Appeal No 2 of 2014)

Hairol Arni Majid, J.
3rd July, 2014.

Appellant In Person.
DPP Lisa Chan for Public Prosecutor/Respondent.

Hairol Arni Majid, J.:

The Appellant pleaded guilty to two counts under section 12 (1) of the Passport Act Chapter 146. The charges are as follows:-

1st Charge

That you on 18th day of May 2013 at about 1630 hours, at the departure clearance counter of the Kuala Lurah Immigration Control Post, in Brunei Darussalam, prior leaving Brunei Darussalam for Limbang, Sarawak, Malaysia, did personate yourself to be one **EIRAESVANDE BIN ABD RAHMAN**, to whom a Brunei General Certificate Identity Number 00285223 has been duly issued and thereby you have committed an offence punishable under section 12(1) (c) of the Passports Act. Chapter 146

2nd Charge

That you on 18th day of May at about 2045 hours, at the arrival clearance counter of the Kuala Lurah Immigration Control Post, in Brunei Darussalam, prior entering Brunei Darussalam from Limbang, Sarawak Malaysia, did personate yourself to be one **EIRAESVANDE BIN ABD RAHMAN**, to a Brunei General Certificate Identity Number 00285223 has been duly issued and thereby you have committed an offence punishable under section 12(1) (c) of the Passports Act. Chapter 146

The Magistrate sentenced the Appellant to a custodial sentence of two weeks each to be served consecutively. Therefore totally 4 weeks.

The facts before the Court below states that on 18th May 2013, the Appellant was stopped by Immigration Officers at Kuala Lurah, Immigration Control Post upon his arrival from Limbang for suspected used of a passport belonging to another person. Upon further investigation, he admitted to using a passport duly issued to one Eiraesvande Abd Rahman and had used the same to depart Kuala Lurah without being detected.

It appears that his passport was being held by his employer, the Ministry of Defence, after having disciplinary action taken against him. He informed the Court below that he had used his friend's passport to go to Limbang to visit his sick brother.

Before me, he reiterated what he had said in his letter to the Court. He pleaded for a lesser sentence. He said the Ministry of Defence had handed him a disciplinary action by demoting him and had his passport detained from leaving the country without the Ministry's permission.

Offences against Passport Act is viewed by the Court to be of serious offences which warrants in almost all cases custodial sentence despite there being penalty provision of a fine. In this case, the appellant had used his friend's passport to exit the country despite prohibition being placed against him by the Ministry of Defence to do otherwise. Whatever reason he had for doing so, does not excused him from using another person's passport, which is a serious offence here.

As regards the sentences imposed by the Magistrate despite it being on a lenient side, there can be no doubt that it was by no means inadequate or manifestly excessive. He had considered the facts before him and given full right of the circumstance of the offence. Accordingly, I dismiss this appeal.

Dato Paduka Hairol Arni Majid
Judge, High Court