



Public Prosecutor

AND

Siti Roziah Binti Omar

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 37 of 2013)**

**Steven Chong, J.
7 August 2014**

Criminal Law – Abetment in the use of forged “sick certificates” – Defendant pregnant and close to delivery - Whether sentence of fine manifestly inadequate.

DPP Dk Didi-Nuraza Bte Pg Hj Abd Latiff for the Public Prosecutor/Appellant.
Defendant/Respondent unrepresented.

Cases cited:

Choo Mui v Public Prosecutor [MA 47/2000].
Jayne Kamal Oules (1986) 8 Cr App R(S) 124.
Public Prosecutor v Tan Hui Lim [1991] SG DC1.

Steven Chong, J.:

This is an appeal by the Public Prosecutor against sentence.

On 3 September 2013 in the Magistrate’s Court the defendant was convicted after a trial of four counts of abetment in the use of forged “*sick certificates*”.

Senior Magistrate Muhammed Faisal Bin PDJLD DSP Hj Kefli imposed a fine of \$1,500 or 3 months’ imprisonment on each of the charges.

In brief the material facts found by the Senior Magistrate were that within a period of two months in December 2012 and January 2013 the defendant filled in four forged “*sick certificates*” purportedly issued by the A & E Medical Officer of



RIPAS Hospital which she sold at \$5 each to four persons who then used the certificates to obtain medical leave.

DPP Dk Didi-Nuraza Latiff submits that the sentence is manifestly inadequate. She emphasizes that a deterrent sentence is necessary because the forged certificates were purported to be issued by the Department of Health Services and such offences “*could lead to organizational shutdown as its abuse and widespread use could promote unproductivity and lack of human resources*”. It is contended that a custodial sentence is warranted or at least a fine of about \$20,000.

I think the prosecution has overstated the case for a deterrent sentence on the speculative ground that such offences could lead to “*organizational shutdown*”. There is no evidence of the widespread abuse of forged “*sick certificates*” or of an increasing trend in the use of such certificates.

Nevertheless, I agree that the offences are of a serious nature as they involve the forgery of government documents and in general a custodial sentence should be imposed even for a first offender.

The question is whether the court below was right to impose a fine because of the personal circumstances of the defendant.

At the time of sentence it was not in dispute that the defendant was pregnant and due to deliver in 3 weeks. This was clearly a factor which carried weight with the Senior Magistrate, and rightly so in my view, in deciding on an appropriate sentence.

Reference was made by the Deputy Public Prosecutor to cases where the court declined to interfere with custodial sentences imposed on offenders who were pregnant or had a young child: *Public Prosecutor v Tan Hui Lim* [1991] SG DC1; *Choo Mui v Public Prosecutor* [MA 47/2000]; and *Jayne Kamala Oules* (1986) 8 Cr App R(S) 124, cited in *Sentencing Principles in Singapore*, Kow Keng Siong, p.720, 721.

Each case must be decided on its own facts. Considering that the defendant was close to delivery at the time of sentence, that although she contested the charges she did not challenge the evidence adduced by the prosecution (but put forward the absurd defence that she did not know it was wrong for her to issue the forged certificates), that she was a first offender, I think this is one of those rare cases where the court is justified as an act of mercy to depart from the usual sentence.



In my view the total fine imposed of \$6,000 is not insubstantial having regard to the defendant's means. She is unemployed and relies upon her husband for financial support.

For the reasons I have given the appeal is dismissed.

DATO PADUKA STEVEN CHONG
Judge, High Court