



Mohd Rodi Al-Iskandar bin Hj Latif

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 3 of 2014)**

**Steven Chong, Ag. C.J.
3 May 2014**

Criminal Law – Knowingly receiving a stolen car – Appropriate sentence.

Appellant unrepresented.

DPP Dk Didi-Nuraza bte Pg Hj Abd Latiff for the Public Prosecutor/Respondent.

Cases cited:

Norfazil bin Tamit v Public Prosecutor [2003] 1 JCBD 274.

Pengiran Jaafar bin Pengiran Hj Othman v Public Prosecutor [1995] 1 JCBD 84.

Public Prosecutor v Haji Kamis bin Haji Md Zain [BSB/MCCS No. 1212/2013].

Public Prosecutor v Isa bin Mohammad & Others [2000] 1 JCBD 104.

Steven Chong, J.:

On 31 December 2013 in the Magistrate's Court the appellant was convicted after a trial of knowingly receiving a stolen car contrary to section 411 of the Penal Code.

Senior Magistrate Hj Nabil Daraina bin PUKDPSSU Hj Awg Badaruddin sentenced the appellant to 12 months' imprisonment.

The appellant appeals against sentence.

Briefly stated the facts found by the court below were that on 8 May 2013 the appellant received a Suzuki Alto from Nor Hamdani Shukardi bin Hj Hamid who had earlier on



stolen the car from its owner at a shop at Kampong Pangkalan Gadong. The car was eventually recovered by the police after it was discovered parked at the defendant's house without licence plate or vehicle licence displayed.

The appellant is a 35 year old single man and was an employee in a company involved in house interior decorating. He has prior convictions for theft, drug possession and drug consumption. He says the sentence of 12 months is too long and he is anxious about the impact on his elderly mother who is dependent on him. He complains that in the case of *Public Prosecutor v Haji Kamis bin Haji Md Zain* [BSB/MCCS No. 1212/2013], a sentence of 8 months' imprisonment was imposed in respect of a similar offence.

DPP Dk Didi-Nuraza bte Pg Hj Abd Latiff submits that the appellant's sentence of 12 months is not excessive and is lower in comparison to the sentences of 18 months imposed in relation to section 411 offences in *Pengiran Jaafar bin Pengiran Hj Othman v Public Prosecutor* [1995] 1 JCBD 84 and *Public Prosecutor v Isa bin Mohammad & Others* [2000] 1 JCBD 104.

I will deal with the prosecution submission first. At first blush the two authorities cited appear to indicate that a sentence of 18 months is proper upon conviction for receiving stolen property, even when there is a guilty plea [*Pengiran Jaafar's case*], and, after a trial [*Isa's case*].

In fairness to the appellant, however, I think it is important to note that in *Pengiran Jaafar's case*, the sentence of 18 months was imposed taking into consideration three other offences of receiving stolen property and of mischief, whilst in *Isa's case*, there was evidence which the court accepted that the defendant, aside from the section 411 offence, was the ring-leader in the multiple theft offences. It is also not apparent from the judgment in *Pengiran Jaafar's case* whether the stolen property concerns a vehicle.

Turning to the issues raised by the appellant, I have sympathy for his mother. The loss of support from the appellant during the period of his incarceration will inevitably cause hardship to her.

That said the court must consider the public interest in discouraging offences of this nature. Vehicle thefts are prevalent and a sentence of 12 months as a starting point is proper where the offender has a clear record, with an appropriate deduction for pleading guilty: *Norfazil bin Tamit v Public Prosecutor* [2003] 1 JCBD 274.



I agree with the Senior Magistrate that knowingly receiving a stolen car is just as serious as stealing one, and therefore, the same punishment ought to be imposed in respect of both of these offences.

It is true that in the *Haji Kamis* case, a sentence of 8 months was imposed by the Magistrate. But there is a crucial difference. *Haji Kamis* pleaded guilty to the offence whilst the appellant contested the charge and was convicted after a trial. Consequently, the appellant was not entitled to the usual discount given for a guilty plea.

The sentence of 12 months imposed on the appellant was fully justified in the circumstances and the appeal is dismissed.

DATO PADUKA STEVEN CHONG
Acting Chief Justice