

Public Prosecutor

AND

**Hj Jumat Bin Hj Jaya (D1)
Sahri Bin Jarudin (D2)
Mohammad Sediken Bin Bujang (D3)**

**(High Court of Brunei Darussalam)
(Criminal Trial No 1 of 2014)**

**Hairol Arni Majid, J.
11th February 2014.**

Criminal Law – Sentence – 13 offences of housebreaking by night with intend to commit theft – 13 offences of mischief causing damage – 2 offences of theft in a dwelling house – Defendants with previous convictions.

DPP Dk. Hazirah Bte Pg.Md.Yusof and DPP Karen Tan for the Public Prosecutor.
The Defendants Appear In Person (Unrepresented).

Cases cited in the Sentence:

Azman @Asrol bin Jaya v Public Prosecutor [Criminal Appeal No 6 of 2011]
Muhd. Joll bin Tumih v Public Prosecutor [Criminal Appeal No 5 of 2005]

Hairol Arni Majid, J.:

The Defendants between them pleaded guilty to a total of 28 charges which includes 13 counts of housebreaking by night with intend to commit theft, 2 counts of theft in a dwelling house and 13 counts of mischief by causing damage. The charges are set out as follows:

1st Charge (Against D1, D2 and D3)

That all of you, in furtherance of your common intention, sometime between 30th November 2013 and 1st December 2013, at Paduka Seri Begawan Sultan Omar Ali Saifuddin Masjid, Kg Katimahar in Brunei Darussalam, a building used for the custody of property, did commit theft of a donation box containing cash donations belonging to the said Masjid, and all of you have thereby committed an offence punishable under section 380 of the Penal Code, Chapter 22, read with section 34 of the same.

2nd Charge (Against D2 and D3 only)

That the both of you, in furtherance of your common intention, sometime between 30th November 2013 and 1st December 2013, at Paduka Seri Begawan Sultan Omar Ali Saifuddin Masjid, Kg Katimahar in Brunei Darussalam, did commit mischief by causing damage to property, to wit, a donation box cemented to the ground, amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

3rd Charge (Against D2 and D3 only)

That the both of you, in furtherance of your common intention, sometime in the early hours of 28th December 2013, at Belimbing Masjid, Kg Subok, in Brunei Darussalam, did commit housebreaking by night by entering into an office inside the said Belimbing Masjid, used for the custody of property in order to commit an offence of theft, and the both of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

4th Charge (Against D2 and D3 only)

That the both of you, in furtherance of your common intention, sometime in the early hours of 28th December 2013, at Belimbing Masjid, Kg Subok, in Brunei Darussalam, did commit mischief by causing damage to property, to wit, an office gate and door, amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

5th Charge (Against D1 and D2 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 29th December 2013 and the early hours of 30th December 2013, at Kg Serdang Masjid in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and the both of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

6th Charge (Against D1 and D2 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 29th December 2013 and the early hours of 30th December 2013, at Kg Serdang Masjid in Brunei Darussalam, did commit mischief by causing damage to property, to wit, donation boxes amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

7th Charge (Against D1, D2 and D3)

That all of you, in furtherance of your common intention, sometime between the late hours of 30th December 2013 and the early hours of 31st December 2013, at Pengiran Muda Abdul Mateen Masjid, Kg Mulaut in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

8th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 30th December 2013 and the early hours of 31st December 2013, at Pengiran Muda Abdul Mateen Masjid, Kg Mulaut in Brunei Darussalam, did commit mischief by causing damage to property, to wit, a glass door amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

9th Charge (Against D1, D2 and D3)

That all of you, in furtherance of your common intention, sometime in the late hours of 31st December 2013, at Zainab Masjid, Lumut, in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

10th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between the late hours of 1st January 2014 and the early hours of 2nd January 2014, at Pintu Malim Masjid in Brunei Darussalam, did commit housebreaking by night by entering into an office used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

11th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 1st January 2014 and the early hours of 2nd January 2014, at Pintu Malim Masjid in Brunei Darussalam, did commit mischief by causing damage to property, to wit, a donation box and a door amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

12th Charge (Against D1, D2 and D3)

That all of you, in furtherance of your common intention, sometime between the late hours 1st January 2014 and the early hours of 2nd January 2014, at Tanah Jambu Masjid in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

13th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between the late hours of 2nd January 2014 and the early hours of 3rd January 2014, in Lumapas Masjid in Brunei Darussalam, did commit housebreaking by night by entering into an office used for the custody of property, in

order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

14th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 2nd January 2014 and the early hours of 3rd January 2014, in Lumapas Masjid in Brunei Darussalam, did commit mischief by causing damage to property, to wit, a table and a metal cabinet amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

15th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between the late hours of 3rd January 2014 and the early hours of 4th January 2014, in Perpindahan Lambak Kanan Masjid in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

16th Charge (Against D2 and D3 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 3rd January 2014 and the early hours of 4th January 2014, in Perpindahan Lambak Kanan Masjid in Brunei Darussalam, did commit mischief by causing damage to property, to wit, two doors amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

17th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between the late hours of 5th January 2014 and the early hours of 6th January 2014, in Pg Anak Puteri Rashidah Sa'adatul Bolkiah Masjid, Kg Sungai Akar in Brunei Darussalam, did commit housebreaking by night by entering into an office in the said Masjid used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

18th Charge (Against D2 and D3 only)

That the both of you, in furtherance of your common intention, between the late hours of 5th January 2014 and the early hours of 6th January 2014, in Pg Anak Puteri Rashidah Sa'adatul Bolkiah Masjid, Kg Sungai Akar in Brunei Darussalam, did commit mischief by causing damage to property, to wit, the lock to a door amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

19th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between 5th January 2014 and 6th January 2014, at RIPAS Masjid, Kg Rimba in Brunei Darussalam, a building used for the custody of property, did commit theft of cash donations belonging to the said Masjid, and all of you have thereby committed an offence punishable under section 380 of the Penal Code, Chapter 22, read with section 34 of the same.

20th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between 5th January 2014 and 6th January 2014, at RIPAS Masjid, Kg Rimba in Brunei Darussalam, did commit mischief by causing damage to property, to wit, donation boxes and a door amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

21st Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime in the early hours of 7th January 2014, in Kg Kapok Kanan Masjid in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

22nd Charge (Against D2 and D3 only)

That the both of you, in furtherance of your common intention, sometime in the early hours of 7th January 2014, in Kg Kapok Kanan Masjid in Brunei Darussalam, did commit mischief by causing damage to property, to wit, a door amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

23rd Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between the late hours of 7th January 2014 and the early hours of 8th January 2014, in Kg Bukit Udal Masjid, Tutong, in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

24th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 7th January 2014 and the early hours of 8th January 2014, in Kg Bukit Udal Masjid, Tutong, in Brunei Darussalam, did commit mischief by causing damage to property amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

25th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between the late hours of 7th January 2014 and the early hours of 8th January 2014, in Hj Abdul Azim Masjid, Kg Luagan Dudok, Tutong, in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

26th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between the late hours of 7th January 2014 and the early hours of 8th January 2014, in Hj Abdul Azim Masjid, Kg Luagan Dudok, Tutong, in Brunei Darussalam, did commit mischief by causing damage to property amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

27th Charge (Against D1, D2 and D3 only)

That all of you, in furtherance of your common intention, sometime between in the early hours of 9th January 2014, in Beribi Masjid, Jalan Bunga Jasmin, in Brunei Darussalam, did commit housebreaking by night by entering into the said Masjid, a building used for the custody of property, in order to commit an offence of theft, and all of you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22, read with section 34 of the same.

28th Charge (Against D1 and D3 only)

That the both of you, in furtherance of your common intention, sometime between in the early hours of 9th January 2014, in Beribi Masjid, Jalan Bunga Jasmin, in Brunei Darussalam, did commit mischief by causing damage to property amounting to above \$25 and the both of you have thereby committed an offence punishable under section 427 of the Penal Code, Chapter 22, read with section 34 of the same.

The Defendants admit to the statement of facts put to them, which is, reproduce here which are in the following terms.

Statement of Facts

1. *D1 is a 39 year old male citizen of Brunei Darussalam and is currently unemployed.*
2. *D2 is a 45 year old male citizen of Brunei Darussalam who is also unemployed.*
3. *D3 is a 32 year old male citizen of Brunei Darussalam who was unemployed at the time of the offence.*

1st Charge: (Against D1, D2 and D3) (Section 380 of the Penal Code)

4. On 1st December 2013 at about 5.25 a.m, Sengkurong Police Station had received a report stating that there was a theft at the Paduka Seri Begawan Sultan Omar Ali Saifuddien Masjid in Kg Katimahar in Brunei Darussalam.
5. Police personnel were dispatched to the Paduka Seri Begawan Sultan Omar Ali Saifuddien Masjid immediately where they met with Haji Hassan bin Haji Taha, one of the Imams of the said Masjid.
6. Imam Haji Hassan stated that he arrived at the Masjid at 4.50 a.m. He then performed his prayers and after completion of the morning prayers at about 5.42 a.m, he then discovered that a donation box containing cash donations had been damaged. He then lodged a police report.
7. Police investigations eventually showed that D₁, D₂ and D₃ were involved in this case. D₂ drove D₁ and D₃ using a white Hyundai Accent bearing registration number BAA 7585 to the Paduka Seri Begawan Sultan Omar Ali Saifuddien Masjid in the early hours of 1st December 2013. D₁ stayed in the car whilst D₂ and D₃ alighted the car and entered the Masjid bringing along a screw driver and a saw.
8. D₂ and D₃ entered the Masjid using a back door that was not locked. They then headed for the prayer hall where they saw a donation box, which was placed in the centre of the prayer hall by a pillar. D₂ and D₃ then used a screwdriver to try and remove the donation box that was cemented to the pillar. After they managed to remove the donation box. D₂ and D₃ brought the donation box to the car, where all three Defendants then headed to a vacant area in Kg. Katok.
9. There, all of them carried out the donation box from the car and used a screwdriver and saw to open the door to the donation box. They managed to open the door to the said donation box and removed all the cash contained within. The donation box was then thrown in a nearby area.
10. The proceeds were divided between the three Defendants and used by each of them for their personal expenses.
11. During police investigations, D₂ showed the police where they had disposed of the donation box at Kg Katok. The police managed to recover a metal door to a donation box.
12. Imam Haji Hassan bin Haji Taha identified the door of the donation box as the one belonging to the Masjid.

2nd Charge: (Against D₂ and D₃) (Section 427 of the Penal Code)

13. Damage caused in this case is estimated at BND\$150.

3rd Charge: (Against D₂ and D₃) (Section 457 of the Penal Code)

14. On 28th December 2013 at about 5.05 a.m, Central Police Station had received a report of theft at the Belimbing Masjid in Kg Subok, Brunei Darussalam.
15. Police personnel were dispatched immediately to the scene where they met with Ak Mohammad Ismail bin Pg Ismail, an officer with the said Masjid. Ak Mohammad Ismail stated that at about 4.35 a.m, as he wanted to open the door to his office, he found that the metal grill gate to his office was opened and the door to his office had been damaged.
16. The lights to his office were also switched on. Ak Mohammad Ismail found six donation boxes scattered on the floor and one of the metal cabinets had been opened. Cash amounting to BND\$897 kept in the donation box were stolen.
17. Police investigations eventually showed that D1, D2 and D3 were involved in this case. D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 in the early hours of 28th December 2013. D2 then parked the vehicle near the Belimbing Masjid and entered the Masjid compound by jumping over the gate.
18. D2 and D3 then gained entrance into the Masjid by entering through a back door. The two of them then used a screwdriver to pry open the door to the Imam's office causing damage to the door. Once inside, the two of them looked for cash to steal. They then saw a metal cabinet and again they used a screwdriver to pry the metal cabinet open. Once the metal cabinet was opened and they saw that there was money inside, the two of them then took the money contained within.
19. The money was divided equally between the two of them and used by each of them for their own personal expenses.

4th Charge: (Against D2 and D3) (Section 457 of the Penal Code)

20. Repairs to the office metal grill gate and door cost BND\$400 to repair **5th Charge (Against D1 and D2) (Section 457 of Penal Code)**
21. On 30th December 2013 at 5.15 a.m, Central Police Station received a report that there was a theft at the Kg Serdang Masjid in Brunei. Police personnel were dispatched immediately where they then met with Pg Mohd Sallehin Pg Tejudin, one of the Imams of the Masjid.
22. According to Imam Pg Mohd Sallehin, when he entered the office in the morning, he found items scattered and damage caused to doors and to the donation box in the prayer hall.
23. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the early hours of 30th December 2013, D1 and D2 were driven by D2 in a white Hyundai Accent bearing registration number BAA 7585 headed to the Kg Serdang Masjid. Once there, D2 parked by the side of the road. They then climbed up the fence and entered the Masjid compound. They then pried open one of the back doors using a screwdriver in order to obtain access into the Masjid.

24. Once inside, they pried open the door leading to the Imam's office and D2 pried open a donation box but it had no money inside. They then left the Imam's office where D2 saw a donation box by the pillar. The two of them then pried open the donation box using an axe splitting the door from the donation box but again there was no money in the box so the two of them then left the Masjid.

6th Charge: (Against D1 and D2) (Section 427 of the Penal Code)

25. The donation box placed in the prayer hall cost BND\$219 as per the receipt NO: B01105 issued by Franmix Sdn Bhd on 16th January 2004.

7th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

26. On 31st December 2013 at about 5.15 a.m, Sengkurong Police Station received a report of theft at the Pengiran Muda Abdul Mateen Masjid. Police personnel were dispatched immediately to the scene where they met with Hj Selamat bin Mohd Salleh.
27. According to Hj Selamat, at 4.30 a.m, he arrived at the Masjid and performed his prayers. After prayers, he went to the office and saw that the donation box for the orphans of Kg Mulaut was open. He then checked the surrounding rooms and found that all the rooms in the Masjid had been ransacked and one other donation box had also been pried open. He then lodged a report. The amount of money contained in one of the donation box was BND\$252.10.
28. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the early hours of 31st December 2013, D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA7585 to the Pengiran Muda Abdul Mateen Masjid. D2 had dropped D1 and D3 off by the side of the road and waited for them.
29. D1 and D3 gained access into the Masjid by prying open the glass sliding door using a screwdriver. In the Masjid, the two of them headed to an Imam's office and pried open the door using a screwdriver. There, D3 found coins lying on a cream coloured metal cabinet. The money was then placed in a black bag, being the bag where they kept the tools for breaking into the Masjid.
30. The money was divided equally between the three of them and used by each of them for their own personal expenses.

8th Charge: (Against D1 and D3) (Section 427 of the Penal Code)

31. Damage to the glass sliding door in this case is estimated at BND\$30.

9th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

32. On 1st January 2014 at 9.05 a.m, Sungai Liang Police Station received a report of theft from Zainab Masjid in Lumut.

33. Police personnel were dispatched immediately to the scene and met Aminorddin bin Hj Md Yussof, an officer with the said Masjid. According to Aminorddin, at about 6.06 a.m on 1st January 2014, he had been informed that there had been a theft at Zainab Masjid. He then went over and checked the Masjid and found that in the prayer hall, two donation boxes had their padlocks cut open and the money contained within was stolen. Aminorddin also checked the rest of the Masjid and found that an Acer projector, an AIFA water jet, drill, toolbox and grinder were also missing.
34. Police investigations eventually showed that D1, D2 and D3 were involved in this case. D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 to Zainab Masjid and arrived there at about 11p.m. on 31st December 2013. D2 had dropped off D1 and D3. D1 and D3 gained access into the Masjid by prying open the back door with a screwdriver and a steel rod. The steel rod was left behind in one of the rooms
35. Once inside, the two of them saw two donation boxes in one of the rooms which they then pried open revealing BND\$800 which they removed. They also stole an AIFA water jet, which was kept by D1. After they stole the money and the water jet, the items were kept in a bag and they called D1 to pick them up.
36. The money was divided equally between the three of them and used by each of them for their own personal expenses.
37. During police investigations, D1 showed the police where he had kept the water jet, which he stole, from Zainab Masjid. Aminorddin has identified the recovered water jet as belonging to Zainab Masjid.

10th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

38. On 2nd January 2014 at about 5.01 a.m, the Central Police Station had received a report stating that there was a theft at the Pintu Malim Masjid in Brunei Darussalam. Police personnel were dispatched to the Pintu Malim Masjid immediately where they met with Md Idris bin Hj Samad, an officer of the said Masjid.
39. Md Idris stated that when he arrived at the said Masjid that morning at about 4.30 a.m, he discovered that the door to the office had been damaged and that the office had been ransacked. Upon inspecting the other areas of the said Masjid, he found that one of the donation boxes had been pried open. Cash donations amounting to a total of BND\$260 kept in the donation box were stolen.
40. Police investigations eventually showed that D1, D2 and D3 were involved in the above case. D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 in the early hours of 2nd January 2014. D2 then parked the vehicle near the Pintu Malim School and the three of them then walked towards the Pintu Malim Masjid.
41. Whilst D2 waited outside of the said Masjid, D1 and D3 went into the Masjid by entering through a sliding door, which they pried, open using a screwdriver. Once

inside, they pried open the door leading to the Imam's office and searched the room but did not find any money. They then went outside of the Imam's office where they saw a donation box. The two of them then pried open the donation box using a saw and an axe. Once they managed to pry open the door to the donation box, they took the money contained inside.

42. The money was divided equally between the three of them and used by each of them for their own personal expenses.

11th Charge: (Against D1 and D3) (Section 427 of the Penal Code)

43. Repairs to the office door and the donation box in this case cost BND\$278 to repair.

12th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

44. On 2nd January 2014 at about 7.00a.m, Muara Police Station had received a report of theft from Tanah Jambu Masjid in Brunei Darussalam. Police personnel were dispatched immediately to the scene where they met with Awg Hj Hamdan bin Hj Bakar, one of the Imams of the said Masjid.
45. Imam Awg Hj Hamdan stated that he arrived at the Masjid at 4.40a.m. It was when he went into the women's prayer room to switch on the lights that he found that one of the glass sliding windows was opened and that there was now an aluminum donation box which had never been there, with its padlock cut open. He then lodged a police report.
46. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the early hours of 2nd January 2014, D3 drove D1 and D2 using a white Hyundai Accent bearing registration number BAA 7585. D3 then dropped off D1 and D2 outside Tanah Jambu Masjid and waited for them.
47. D1 and D2 gained access into the Masjid by prying open the glass sliding door using a screwdriver. In the Masjid, they headed to an Imam's office and cut open the padlock to the door using a saw. They then entered the room and found an aluminum donation box. They then took the aluminum donation box to the room they first entered] and cut open the padlock using a saw. They found that it did not contain any money.
48. The two of them then went out of the Masjid and headed towards a small building next to the Masjid. They then pried open one of the glass sliding windows and took off the glass windows. They went inside the small building and searched the rooms inside for money but did not find any. They then left the premises with D3.

13th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

49. On 3rd January 2014 at 6.39a.m, Kampong Ayer Police Station received a report of theft from Lumapas Masjid in Brunei Darussalam. Police personnel immediately went to the scene and met with one of the Imams of the said Masjid, Haji Abdullah bin Haji Ahmad.

50. Imam Haji Abdullah stated that he had arrived at the Masjid that morning at 4.40a.m. After he performed his prayers, he went to the office and found that one of the drawers to his desk was damaged. He then went to check the CCTV recording and saw that at 11.35p.m on 2nd January 2014, two men had come into the Masjid and they had taken money amounting to BND\$30.
51. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the late hours of 2nd January 2014, D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 and headed towards Lumapas Masjid in Brunei Darussalam. D1 and D3 entered the Masjid. They were unable to open the door to enter the Imam's office as it was locked so they used a screwdriver to pry it open. According to D1, he stated that he noticed the CCTV camera in the Imam's office and in the office next to it. D1 then moved the CCTV camera to look downwards whilst he and D3 continued to look for money to steal. Once inside the Imam's office, D3 opened all the drawers of the desk and he saw several envelopes containing money. D1 and D3 then took the envelopes and left the place.
52. The money was divided equally between the three of them and used by each of them for their own personal expenses.
53. The CCTV footage obtained from Lumapas Masjid showed two men entering the office in the late hours of 2nd January 2014

14th Charge: (Against D1 and D3) (Section 427 of the Penal Code)

54. Repairs to the table and the metal cabinet cost BND\$400

15th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

55. On 4th January 2014 at about 5.20 a.m, Berakas Police Station received a report of theft at Perpindahan Lambak Kanan Masjid in Brunei Darussalam. Police personnel were dispatched immediately to the scene where they met with Muhammad Hanafi bin Hj Zaini, a Religious Affairs Officer.
56. Muhammad Hanafi stated that at 5.00a.m that morning, he headed to Perpindahan Lambak Kanan Masjid where he saw that a donation box set up for orphans under the Pg Muda Al-Muhtadee Billah Fund had been stolen. He then checked the rest of the Masjid and found that the Imam's office had been ransacked and CCTV equipment set up in the Masjid had been stolen.
57. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the early hours of 4th January 2014, D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 and headed towards Perpindahan Lambak Kanan Masjid. D1 dropped off D2 and D3 near the gate to the Masjid whilst D1 remained in the car.
58. D2 and D3 entered the Masjid through a gate, which was unlocked. In order to gain access into the Masjid, D2 and D3 had to pry open the main door using a screwdriver

and axe. Once inside the Masjid, they then headed towards the Imam's office. As the door was locked, the two of them pried it open using a steel rod. They ransacked the office looking for cash to steal. In the office, D2 stole a jumper cable for vehicles.

59. They then saw a donation box, which they removed and placed it in the boots of the vehicle and the three of them left the Masjid. A few minutes later, D2 instructed D1 to return to the Masjid where he and D3 again entered the Masjid. D3 waited for D2 by the door to the Masjid whilst D2 entered to remove CCTV equipment set up in the Masjid. The three of them left the area.
60. D2 disposed of the CCTV equipment in the vicinity of Kebajikan Field. They then headed to D1's residence. The donation box was then carried to D2's flat where they pried open the donation box using a saw. The money was then divided equally between the three of them and used by each of them for their own personal expenses.
61. Thereafter, the donation box was carried back into the vehicle where they then drove to Sg Akar to dispose of it.
62. During police investigations, D2's car was searched and police recovered a jumper cable for vehicles. The jumper cable has been identified by Muhammad Hanafi as belonging to the Masjid as the metal part of the jumper cable has the words 'Masjid Lambak Kanan' scratched onto its surface
63. Also during police investigations, D2 showed the police where he had disposed of the donation box, which he stole from the Perpindahan Lambak Kanan Masjid. Police recovered the safe deposit box from Sg Akar opposite Lot 39616. The safe deposit box has been identified by Muhammad Hanafi as belonging to the Masjid.

16th Charge: (Against D2 and D3) (Section 427 of the Penal Code)

64. Cost of damage to the doors amount to BND\$180.

17th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

65. On 6th January 2014 at 5.50a.m, the Berakas Police Station received a report of theft from Pg Anak Puteri Rashidah Sa'adatul Bolkiah Masjid in Kg Sungai Akar in Brunei Darussalam. Police personnel were immediately dispatched to the scene where they met with Hj Sulong bin Bagol, a committee member of the said Masjid.
66. Hj Sulong stated that he had arrived at Pg Anak Puteri Rashidah Sa'adatul Bolkiah Masjid at 4.46a.m to open the doors to the Masjid and to switch on the lights. When he entered the Masjid, he noticed that the Imam's office door was open. After performing his prayers, he then looked inside the Imam's office and found that it had been ransacked. He immediately informed the Imam.
67. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the late hours of 5th January 2014, D1 drove D2 and D3 using a white Hyundai Accent bearing registration number BAA 7585 and headed towards Pg Anak Puteri Rashidah

Sa'adatul Bolkiah Masjid in Kg Sungai Akar. D1 dropped D2 and D3 off near the junction to the said Masjid whilst D1 remained in the car.

68. *D2 and D3 entered the said Masjid through an unlocked door and headed towards the Imam's office. The two of them then pried the Imam's office door open using a screwdriver, an axe and a chisel rod. Inside the office, they found an aluminum donation box, which they then proceeded to open by cutting off the padlock using a screwdriver. They then took the money contained inside the aluminum donation box.*
69. *The money was divided equally between the three of them and used by each of them for their own personal expenses.*

18th Charge: (Against D2 and D3) (Section 427 of the Penal Code)

70. *Cost of damage to the lock to the door in this case amounts to BND\$232.*

19th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

71. *On 6th January 2014 at 5.01 a.m, Central Police Station received a report of theft from RIPAS Masjid in Kg Rimba in Brunei Darussalam. Police personnel were dispatched to the scene immediately where they met with Hj Tarmiji Hj Daud, one of the Imams at RIPAS Masjid.*
72. *According to him he arrived at the Masjid at 4.45a.m and wanted to make a donation. As he made his way towards the donation box, he saw that the door of the donation box was lying on the floor. He then saw some devotees who informed him that a further three donation boxes had been damaged. Imam Hj Tarmiji then went to his office and found that it had been ransacked and BND\$10 which he had kept in this drawer was stolen. He looked into his colleague's room and found that it too had been ransacked.*
73. *Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the early hours of 6th January 2014, D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 towards RIPAS Masjid. There, D1 and D3 alighted and entered the Masjid via the gate which was unlocked. The entrance to the Masjid was not locked and D1 and D3 entered through a glass sliding door. The two of them then entered the Imams offices and ransacked it. They then moved to the prayer hall where they pried open four donation boxes using an axe, screwdriver and a saw.*
74. *They removed the money from the donation boxes and left the Masjid.*

20th Charge: (Against D1 and D3 only) (Section 427 of the Penal Code)

75. *The cost of damage inflicted by D1 and D2 whilst at RIPAS Masjid amounted to BND\$180.*

21st Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

76. On 6th January 2014 at 5.00 a.m, the Muara Police Station received a report of theft from Kg Kapok Kanan Masjid in Brunei Darussalam.
77. Police personnel were immediately dispatched to the said Masjid and met with the Head Imam, Hj Shahbirin Hj Matnor. Imam Hj Shahbirin Hj Matnor stated that he arrived at Kg Kapok Kanan Masjid at 4.30 a.m. When he entered the Masjid, he discovered that one of the donation boxes inside one of the prayer rooms was damaged and the money inside it was gone. He then went to the office and found that the door to the office was opened and the office had been ransacked.
78. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the early hours of 7th January 2014, D1 drove D2 and D3 using a white Hyundai Accent bearing registration number BAA 7585 and headed towards Kg Kapok Kanan Masjid. D1 dropped off D2 and D3 nearby the said Masjid whilst D1 waited in the car. D2 and D3 then went into the compound of the said Masjid gained access into the Masjid by prying open a door using a screw driver. They then went towards the Imam's office where they pried open the door to the Imam's office using a screwdriver.
79. Inside the office they found a safe, which the two of them then pried open, using a saw. After they found that the safe was empty, they then went to one of the prayer halls, which had a donation box, placed on the side. They then pried open the donation box and took the money contained inside.
80. The money was divided equally between the three of them and used by each of them for their own personal expenses.

22nd Charge: (Against D2 and D3 only) (Section 427 of the Penal Code)

81. Cost of damage to the door in this case amounts to BND\$300.

23rd Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

82. On 8th January 2014 at 5.45 a.m, Tutong Police Station received a report of theft at kg Bukit Udal Masjid, Tutong in Brunei Darussalam. Police personnel were dispatched immediately to the scene where they met with Hazman bin Haji Hussin, one of the Imams of the said Masjid.
83. According to Imam Hazman, when he arrived that morning at 4.49a.m, he noticed that the gate to the Masjid was open and the door to the storeroom was wide open. He felt suspicious and as he entered the Masjid itself, Imam Hazman saw that the frame, which encapsulates the donation box, which was supposed to be by a pillar, was now in the men prayer hall. Imam Hazman then went to the Imam's office and found that it had been ransacked.
84. Police investigations eventually showed that D1, D2 and D3 were involved in this case. D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 and headed towards Tutong. They went to Kg Bukit Udal Masjid first where D1

and D3 entered the Masjid via the back through a wire fence, which they pried, open. D2 remained in the vehicle.

85. They then entered the Masjid through the sliding door, which was not locked. In the Masjid, D1 headed for the donation box, which was chained to a pillar in the Masjid. He broke the chain using a saw, which he obtained, from the storeroom in the Masjid prior to entering the prayer hall. D1 then removed the donation box and removed it from the frame, which encapsulates it. The donation box was taken to the Imam's office and pried open using a screwdriver, which he brought. There was no money in the donation box so D1 and D3 left. D1 took the saw, which he stole, from the storeroom with him.

86. They then left the Masjid and headed for D2's vehicle.

24th Charge: (Against D1 and D3) (Section 427 of the Penal Code)

87. The cost to replace the damage property amounts to BND\$41.

25th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

88. In the morning of 8th January 2014, Tutong Police Station received a report of theft from Hj Abdul Azim Masjid in Kg Luagan Dudok, Tutong, in Brunei Darussalam.

89. Police personnel were immediately dispatched to the scene where they met with Kamaruddin bin Mohammad Ali, one of the Imams of the said Masjid. He stated that he arrived at the Masjid at 4.40a.m, and found that the grill gate leading to the second floor was damaged. He quickly went upstairs and found that the office had been ransacked. He went back downstairs and realized that the door to one of the prayer rooms had been opened and the said prayer room had also been ransacked.

90. Police investigations eventually showed that D1, D2 and D3 were involved in this case. D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585. D2 dropped D1 and D3 off in front of the gate to Hj Abdul Azim Masjid in Kg Luagan Dudok, Tutong, in Brunei Darussalam.

91. Whilst D2 waited in the car, D1 and D3 went into the said Masjid using an unlocked door. They then went towards the grill gate and pried it open using a screwdriver. The two of them then proceeded to go upstairs towards the Imam's office where they searched for money but could not find any. The two of them then went back downstairs and headed towards one of the prayer rooms. They looked for money but could not find any so they then left the Masjid.

26th Charge: (Against D1 and D3 only) (Section 427 of the Penal Code)

92. The repairs as a result of the damage caused by D1 and D3 at Hj Abdul Azim Masjid cost BND\$85

27th Charge: (Against D1, D2 and D3) (Section 457 of Penal Code)

93. On 9th January 2014 at 12.10 a.m, Central Police Station received a report of theft at Beribi Masjid, Jln Bunga Jasmine in Brunei Darussalam. Police personnel were dispatched immediately to the scene where they met with Jeffry B Metassim, one of the Imams of the said Masjid.
94. According to Jeffry, he had received a text message from Ubedillah, a helper in the said Masjid at about 11.15 p.m on 8th January 2014 informing him that there had been a theft in the Masjid. Jeffry went immediately to the Masjid where he saw that a toolbox was missing, a camera, five silver rings, two watches and seven fuse.
95. Ubedillah stated that he had gone round to check that all the doors to the Masjid were locked. He then rested in the prayer hall at the back. Late at night, he heard a noise, which sounded as if someone was trying to open the door to the Masjid. Ubedillah then checked the vicinity of the Masjid inside but did not see anyone. Soon after he heard some noises again and saw a person holding a steel rod. Ubedillah saw that it was 11.45p.m.
96. Ubedillah was scared and ran to hide within the Masjid and contacted Imam Jeffry. Soon after, one man came towards the hiding place of Ubedillah and another came soon after dressed in black and had a black balaclava on. They did not see Ubedillah. Ubedillah heard one of the men saying, "Ting Ting Ting" and soon after he heard the donation box being pried open and a door being damaged. After about thirty minutes, Ubedillah heard the sound of a car outside driving away. It was only when the police came in and his name was called that Ubedillah came out from this hiding place.
97. Police investigations eventually showed that D1, D2 and D3 were involved in this case. In the late hours of 8th January 2014, D2 drove D1 and D3 using a white Hyundai Accent bearing registration number BAA 7585 and headed towards Beribi Masjid. D1 and D3 entered the Masjid via the sliding door. D2 remained in the car. D3 had brought with him a black bag, which contained an axe, a screwdriver, a chisel and cutting equipment. Once inside the Masjid, D1 and D3 headed to the office where they pried open the door. They removed a toolbox from the office and headed to the prayer hall thereafter where they broke open one donation box using a saw and axe. Another donation box was pried open using a screwdriver. One other donation box was also pried open
98. After they stole the items, they left the Masjid. They headed to the same place where they were dropped off to wait for D2. Whilst waiting, a number of people had walked past and D1 and D3 then decided to go into the nearby jungle to hide. D1 kept the cash they stole in his trouser pocket and as he ran into the jungle area nearby some of the money dropped out. D3 was separated from D1 when they were in the jungle.
99. D3 contacted D2 to collect him from ABID convenience store as he was being chased by the police. D3 threw the black bag away in the vicinity of Beribi.
100. At 12.30 a.m on 9th January 2014, D2 had received a phone call from D3 asking to be picked up from. They arrived at their residences at about 3.00 a.m in the morning.

101. Before dawn on 9th January 2014, police personnel saw a man coming out from the jungle area near the Beribi Masjid. This aroused their suspicion and they approached the man to try and arrest him. However, the man ran away and the police had to give chase. The man resisted arrest and had fought back. He was eventually subdued and arrested in the vicinity of Spg 36, Jln Bunga Jasmine, Beribi at 6.00 a.m. The man was later identified to be D1.
101. Nearby to where D1 was arrested, the police had also come across cash scattered on the ground and a t-shirt. The exhibits were identified by D1.
102. In the morning of 9th January 2014, police personnel went to No. A6, Block A, Kebajikan Flat to arrest D2. D2 had resisted arrest but was eventually arrested at 8.15 a.m.
103. In the morning of 9th January 2014, police personnel went to No. C12, Block C, Kebajikan Flat to arrest D3. D3 was hiding in a room when the police came. He was arrested at 8.25 a.m.
104. In the morning of 9th January 2014 at about 11.40a.m, the police received a report of a suspicious black bag found in the vicinity of Simpang 47 in Jalan Beribi. Police personnel were immediately dispatched to the scene where they met with Mohd Sapto Jiwo, an employee of Heng Thai Company.
105. Mohd Sapto Jiwo stated that he found a black bag containing various tools including the head of an axe, a saw, a screwdriver and other cutting equipment in the compound of an empty house at the stated address which did not belong to the company or any of the workers working in the area. The black bag has been identified by D3 as the bag, which he threw away

28th Charge: (Against D1 and D3 only) (Section 427 of the Penal Code)

106. Cost of damage in this case amounts to BND\$570.
107. On record, D1 has previous convictions for theft.
108. On record, D2 has previous convictions for theft.
109. On record, D3 has previous conviction for housebreaking.

In their short mitigation before the Court, all the Defendants pleaded for lenient sentences. The 1st Defendant informed the Court that his mother is old and in need of his care. He said he still has one child studying. The 2nd Defendant informed the Court he has five children who are still very young. The 3rd Defendant said he has six children, the youngest being two months old.

On record, the 1st Defendant has two previous convictions on theft related offences under section 379 and section 380 of the Penal Code committed in 1991 and 1994 respectively. The 2nd Defendant also has two theft related convictions for section 380 and section 379 of the Penal Code

in 1993 and 1995 respectively. Whilst, the 3rd Defendant appears to have only one previous conviction albeit being a more serious conviction under section 457 of the Penal Code which appear to be a recent one namely in 2009.

Sentence

These are perhaps the worst offences of housebreaking with intend to commit theft, theft in dwelling and mischief causing damage on a place of worship, in this case Masjid, ever brought before this Court. The damages on the Masjid's entrance and the doors within the Masjid as well as the donation boxes are substantial and testament to how ruthless these offences were committed.

The offences were committed between the 30th November 2013 and 9th January 2014 but the full story reveals that only the 1st and 2nd offences were committed on the 30th November 2013 whilst the other 26 offences were committed within a space of 10 days culminating from the 28th December 2013 to the 9th January 2014 when the Defendants were eventually arrested. I believe that the Defendant would have continued these venture if they had not been caught.

Thus in a spree of 11 days within a two month period, these offences were committed. These are relentless attack on Masjid. These were premeditated and well planned, if not ruthless in its execution. The facts before this Court clearly suggest that the Defendants were devoid of conscience when they committed these offences given these are places of worship and all the monies collected are meant for various permanent and temporary charitable donations.

The modus operandi is simply to attack the Masjid at the early hours when they are vulnerable when no Masjid officials were working and the publics were not around the places. The statement of facts clearly reveals that these breakings were reported to the police and these had been going on for almost daily and I am surprised that no precautions were taken by Masjid officials or for that matter other relevant enforcement agencies to stand guard to secure the safety of these Masjid.

In passing sentence, this Court has taken into consideration of the facts that the Defendants had pleaded guilty at the very earliest opportunity when the charges were put to them. No doubt that by pleading guilty, the Defendants are afforded discounts in sentences as this saves the Court considerable time without having to call the witnesses to give evidence in a full trial. Having said that however, I failed to see any positive aspect of the Defendants character given their previous conviction for theft related offences.

Cases of housebreaking with intend to commit theft and theft in a dwelling house is considered by the Court to be of serious offences. This is reflected in the sentences passed in cases that comes before the Court namely in ***Muhd. Joll bin Tumih v Public Prosecutor*** [Criminal Appeal No 5 of 2005] and ***Azman @Asrol bin Jaya v Public Prosecutor*** [Criminal Appeal No 6 of 2011].

After careful consideration of the facts of this case and having considered the principles enunciated and the sentences passed in the above cases, I believe that the circumstances of this offence were so serious that it warrants a deterrence sentence to appropriately represent the

criminality and overall culpability of the Defendants. I note that no restitution of the money was made.

The most serious of the charges were offences under section 457 of the Penal code (Housebreaking with intend to commit theft), which carries a maximum sentence of 15 years imprisonment and whipping. Section 380 of the Penal (theft in a dwelling house) in itself carries an imprisonment term, which may extend to 7 years and with fine. Whilst, Section 427 of the Penal Code carries an imprisonment terms which may extend to 5 years with not less than two imposition of the strokes.

I hereby sentence the Defendants as follows.

The housebreaking charges under section 457 are charges 3, 5, 7, 9, 10, 12, 13, 15, 17, 21, 23, 25 and 27. All the three Defendants have previous conviction on theft related offences and this appear to be the 3rd Defendant second offence under this section. However in passing sentence for this offence I do not intend to separate the degree of culpability between the Defendants but instead I consider all of them similarly culpable given the serious of offences they had committed.

Had this been an isolated incident I would have minded to put a starting point of 6 years with a 1/3 discount, reduced to 4 years for a plea of guilty with 3 strokes. But the fact that they had committed 13 similar offences is a series, I believe an additional 3-year sentence each and an additional 2 strokes is justified. Therefore I impose a sentence of 7 years imprisonment and 5 strokes, I hereby so ordered.

As regards the offence under Section 380 of the Penal Code, between them the Defendants committed 2 offences under this count namely Charges 1 and 19. I believe an appropriate starting point in 3 years; reduce to 2 year each for plea of guilty is justified here. Accordingly I so ordered.

Section 427 of the Penal Code charges (mischief causing damages) are listed under charges 2, 4, 6, 8, 11, 14, 16, 18, 20, 22, 24, 26 and 28, altogether 13 charges. All the Defendants are 1st offender for this offence. Had this been an isolated charge by itself, I would have minded to impose a 6-month imprisonment sentence with the minimum of 2 strokes of whipping. But between them, the Defendant had committed 13 offences in a series.

Having considered the facts before me, I believe an imprisonment of 2 years each and 3 strokes of whipping are justified for the 1st and 2nd Defendant. As regards, the 3rd Defendant, he has in fact committed 12 offences under this heading compare to only 7 each committed by the 1st and 2nd Defendant. I believe an imposition of additional 1 year and 1 stroke is justified to reflect this. Accordingly the 3rd Defendant will serve 3 years and 4 strokes.

Having considered the totality of the sentences, I order that all sentences for charges under Section 457 to be served concurrently. As for the charges under Section 427 of the Penal Code, I order the sentences to be served concurrently between them. Also, the sentence for charges under Section 380 to be served concurrently to each other but to be served consecutively to sentences imposed for offences under Sections 427 and 457 of the Penal Code and the whipping to be cumulative.

In summary, the sentences against the Defendants are as follows:

1st Defendant

Section 457 of Penal Code

Charge 5, 7, 9, 10, 12, 13, 15, 17, 21, 23, 25 and 27 **7 years and 5 strokes each**

Section 427 of Penal Code

Charges, 6, 8, 11, 14, 20, 24, 26 and 28 **2 years and 3 strokes each**

Section 380 of Penal Code

Charges 1 and 19 **2 years each****2nd Defendant**

Section 457 of Penal Code

Charges 3, 5, 7, 9, 10, 12, 13, 15, 17, 21, 23, 25 and 27 **7 years and 5 strokes each**

Section 427 of Penal Code

Charges 2, 4, 6, 16, 18, 22 and 20 **2 years and 3 strokes each**

Section 380 of Penal Code

Charges 1 and 19 **2 years each****3rd Defendant**

Section 457 of Penal Code

Charges 3, 7, 9, 10, 12, 13, 15, 17, 21, 23, 25 and 27 **7 years and 5 strokes each**

Section 427 of Penal Code

Charges 2, 4, 8, 11, 14, 16, 18, 20, 22, 24, 26 and 28 **3 years and 4 strokes each**

Section 380 of Penal Code

Charges 1 and 19 **2 years each****Total sentence -****The 1st Defendant: 11 years and 8 strokes****The 2nd Defendant: 11 years and 8 strokes****The 3rd Defendant: 12 years and 9 strokes**

The imprisonment sentence is to take effect from the date of their remand.

DATO PADUKA HAIROL ARNI MAJID
Judge, High Court