

Md Khairolnizam Bin Alinoh

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Trial No. 17 of 2019)**

Haji Abdullah Soefri Bin POKSM DSP Haji Abidin and Muhammed Faisal Bin PDJLS Kol(B)
DSP Haji Kefli. JJC.

Date of Sentencing: 3rd December, 2025.

Headnote: Criminal law — Sentencing — Voluntarily causing hurt — Use of weapon — Unprovoked attack — Serious injuries — Theft reduced to dishonest misappropriation — Possession of stolen vehicle — First offender — Remorse — Mitigation — Limited weight

Sentencing — Consecutive sentences — Totality principle — Backdating of sentence — Time in remand — Effective sentence fully served

Sentencing — Whipping — Statutory prohibition — Accused sentenced to death — Criminal Procedure Code s.258(b)

DPP Hajah Suriana Bin Haji Radin & DPP Shamshuddin Bin Haji Kamaluddin for the Public Prosecutor.

Mr Ahmad Basuni Bin Abdullah of Messrs Abrahams Davidson & Co for the Defendant.

Case cited:

Public Prosecutor v Muhammad Aidi Syawalri [2013] BLRU 42

Statutes:

Section 324 of the Penal Code

Section 404 of the Penal Code

Section 302 of the Penal Code

Section 379 of the Penal Code

Section 258(b) of the Criminal Procedure Code

SENTENCING

Muhammed Faisal, J.C.:

I Introduction

1. The defendant Md Khairolnizam was found guilty of four charges, namely single charge under section 324 of the Penal Code and offence under section 404 of the Penal Code and two counts under section 302 of the Penal Code. He has duly been sentenced for the 3rd and 4th charges. Today is sentencing for the first and second charges.
2. The defendant was facing a charge under section 379 of the Penal Code but was found guilty of an offence under section 404 of the Penal Code
3. The defendant has been in remand since his arrest in 2017.

II Charges

4. The 1st charge and original 2nd charge (under section 379 of the Penal Code) are reproduced as follows:

1st charge:

That you, on the 4th of October 2017, between 1930 and 2007 hours, in the vicinity of a parking lot at Batu Satu, Bandar Seri Begawan in Brunei Darussalam, did voluntarily cause hurt by means of an instrument which, used as a weapon of offence is likely to cause death, to Hee Siang Hui, to wit, by cutting his neck with a knife, and you have thereby committed an offence punishable under section 324 of the Penal Code, Chapter 22

2nd charge:

That you, sometime between the 5th of October 2017 and 9th of October 2017, in the vicinity of Kg Tanjong Nangka, in Brunei Darussalam, did commit theft, to wit, one (1) Mitsubishi Mirage bearing registration number BAQ 3661, in possession of Hjh Zainah Binti Hj Hussin and you have thereby committed an offence punishable under section 379 of the Penal Code

III Background facts

5. Briefly the facts of the first charge are as follows:
6. On the evening of 4 October 2017, at about 7.30 p.m., Mr. Hee Siang Hui (PW13), an operations manager residing at 88, Spg 66-38-60-3, Kampong Bengkurong, left his home to meet his girlfriend in Bandar Seri Begawan. As he drove out, he encountered a man, later identified as the defendant, standing beside a neighbour's house and gesturing for him to stop. Although he had never seen the man before, he assumed he was a neighbour and agreed to give him a lift. The defendant first requested to be taken to Pizza Hut in Bunut and then changed his destination to Batu Satu. When they arrived at an empty parking area near the Batu Satu police post, PW13 stopped his Toyota Land Cruiser, assuming the defendant wished to alight.

7. Once the vehicle halted, the defendant suddenly produced an unknown item from his right pocket and aimed it at PW13 neck. Without warning, he stabbed PW13 twice on the left shoulder, prompting PW13 to scream and struggle. The defendant then leapt onto him, and both men fell out of the vehicle onto the ground in front of the car. There, the defendant used both hands to strangle PW13 neck while still holding the object. PW13, gasping for air and nearly passing out, bit the defendant's fingers in an attempt to break free. During the struggle, the vehicle began reversing on its own, distracting the defendant momentarily. Seizing the opportunity, PW13 pushed him away, scrambled back to the car, discovered no one was inside, shifted the gear into "P," and fled on foot towards the Seri Complex traffic light to seek help.
8. Breathless and injured, PW13 reached a traffic police officer and reported the attack. Police personnel escorted him back to his vehicle and waited with him until an ambulance arrived. He was transported to RIPAS Hospital, where medical staff documented his injuries: two stab wounds to the left shoulder, a cut on his left middle finger, and multiple bruises across his body. He was admitted to Ward 12 for several days. In the days that followed, he provided a formal police statement at Central Police Station and later, on 18 October 2017, he participated in an identification parade where he positively identified the defendant as his assailant.
9. The facts of the 2nd charge are as follows:
10. In the days following 5 October 2017, Victim 1, Hajah Jainah binti Husain, and her adopted daughter, Victim 2, Nor Aqilah binti Abdullah, were last seen alive at their residence at No. 2, Simpang 99, Darul Ashan, Kampong Kiulap. At that time, Victim 1 was the registered owner and possessor of a Mitsubishi Mirage bearing registration number BAQ 3661. Within the period between 5 October and 9 October 2017, the vehicle was taken from her possession without her consent. This event formed the basis of the second charge against the defendant.
11. Concern over the victims' disappearance grew when, on 7 October 2017, a missing person's report was filed by Abd Mustafa bin Atma at Central Police Station. The Mitsubishi Mirage, central to the victims' movements and last known whereabouts, became an essential focus of the investigation. Hj Muhd Sa'dullah bin Hj Salleh (PW2) reached out to the general public for assistance via social media, where he posted, inter alia, images of the missing vehicle and licence plate. Zulharin bin Zulkifli (PW7) contacted PW2 back with information leading to the discovery of the vehicle and the defendant's subsequent arrest. In the early hours of 10 October 2017, at around 12:15 a.m., police recovered the Mitsubishi Mirage together with its key at the Central Police Station.
12. Following the discovery of the vehicle, police undertook further documentation and scene work. The vehicle would subsequently be repeatedly examined, photographed, and sketched in detail between 12 October and 1 November 2017 as part of the broader investigation into the disappearance and subsequent discovery of the

victims' bodies. These steps ultimately confirmed that the Mitsubishi Mirage had been misappropriated during the relevant period and had been in the defendant's possession shortly before his arrest on 10 October 2017.

IV Mitigation

13. This is his mitigation, specifically for these two charges:
14. The defendant is genuinely remorseful for his actions that led to the charges to which he has been found guilty. At the time of his plea mitigation, he was 33 years old whereas he was only 25 years old at the time of the offences. The defendant is a first offender and before these incidents he had a clean record.
15. The defendant is an only child and is a permanent resident of Brunei. He grew up and spent years away from his mother outside Brunei. He then moved to complete his secondary school in Miri staying with his aunt. Upon his return to Brunei, he devoted his time to provide for his mother's wellbeing and financial support before his arrest. He does not have any permanent job.
16. With respect to the first charge, in mitigation it was pleaded that it was a spur of a moment reaction and that there was no apparent motive for him to take out a knife and use it to cause hurt. Since the victim was his neighbour, he would have been the last person that would cause hurt to the victim as his identity would be easily recognised.
17. With respect to the 2nd charge the defendant pleaded that it was something not intended by him; the defendant just did not know what to do with the vehicle after the trauma of having committed the 3rd and 4th charge. It was submitted that it was a natural consequence of the event.

V Case Law

18. The case cited in mitigation *PP v Muhammad Aidi Syawalri* [2013] BLRU 42, for an offence under s.324 Penal Code, for causing hurt using a parasol, Dato Seri Paduka Kifrawi, then CJ, imposed a sentence of 3 years and 12 strokes, which was reduced to 2 years and 6 strokes due to the defendant entering a guilty plea.
19. In that case the defendant had attacked the victim with a parasol. The victim, as a result of the attack and had lacerated wound on his left eyebrow, right hand, swelling over forehead, left side of the head and abrasion wound on his back.
20. I believe that the injuries suffered by Mr. Hee in the 1st charge are far more serious than that of the victim in *Muhammad Aidi Syawalri*. The attack on the victim by the Defendant is an unprovoked attack.

VI Whipping

21. Any punishment of whipping shall not be imposed upon the defendant by virtue of S.258 (b) Criminal Procedure Code. Section 258 is reproduced as found below:

“258. No sentence of whipping shall be executed by installments, and none of the following persons shall be punishable with whipping —

(a) females;

(b) males sentenced to death;

(c) males whom the Court considers to be more than 50 years of age.”

VII Sentence

22. Having considered the nature and circumstances of the defendant’s case, our sentences are as follows:

1st Charge: 4 years’ imprisonment

2nd Charge: 1 year imprisonment

23. We further order that the sentences are to run consecutive and backdated to the date of the defendant first arrested in 2017. Given that the sentences are to be backdated, the total effective term of five years’ imprisonment is, for all practical purposes, now deemed fully served.

HAJI ABDULLAH SOEFRI BIN POKSM DSP HAJI ABIDIN

Judicial Commissioner

MUHAMMED FAISAL BIN PDJLD KOL(B) DSP HAJI KEFLI

Judicial Commissioner