

**Hj Mohd Seriwani Bin Hj Sulaiman**

AND

**Public Prosecutor**

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**(Court of Appeal of Brunei Darussalam)**  
**(Criminal Appeal No. 6 of 2006)**

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Power, P; Mortimer and Davies, JJ.A.  
**25<sup>th</sup> November, 2008.**

Possession of controlled drugs for the purpose of trafficking. Failure to give full consideration to defence evidence. Failure to allow prosecution witnesses to be recalled for cross-examination as to credit. Conviction unsafe. Conviction quashed.

DPP Zuraini Bte Sharbawi of Deputy Public Prosecutor for the Respondent.  
Mr P. Roy Rajkumar and Mr Yusof Shaikh Abdul Halim of Messrs. Cheok Sankaran Halim for the Appellant.

**Power, P.:**

The prosecution ask for an order for retrial. This application is, understandably, opposed by defence counsel.

The offence took place almost 5 years ago.

We have already in our judgment referred to the undue delay which occurred during the course of the hearing and to a number of unsatisfactory features of the prosecution evidence.

The prosecution when asking for a retrial indicate that a retrial will have to be further considered in the light of the credibility and cogency of the witnesses likely to be called.

In all the circumstances we are satisfied that justice would not be served by ordering a retrial.

The application is refused. The appellant is ordered to be discharged.

**Power, P.**

**Mortimer, J.A.**

**Davies, J.A.**