

ARDY SALLEH
AND
PUBLIC PROSECUTOR

(Court of Appeal of Brunei Darussalam)
(Criminal Appeal No. 7 of 2019)

Before: Burrell P, Seagroatt and Lunn JJ A.
6th November 2019

Headnote: Sentence: Plea of guilty to s.5 Misuse Drugs Act (under 50 grams). Minimum sentence of 20 years and 15 strokes passed. Appeal dismissed.

Appellant in person
DPP Hjh Suriana binti Hj Radin for Respondent

Burrell, P.:

On 9th May 2019 Chief Justice Steven Chong sentenced the appellant to 20 years imprisonment and 15 strokes after he had pleaded guilty, on 24th April 2019, to an offence of importing 49 grams of Methylamphetamine into Brunei on 29th May 2014 contrary to S.5 of the Misuse of Drugs Act CAP 27.

This was an alternative charge to a more serious charge under the same section involving a greater weight of the drug. The offence to which he pleaded guilty carries a maximum sentence of 30 years imprisonment with 15 strokes and a minimum sentence of 20 years and 15 strokes. He thus received the minimum sentence permitted by law.

Facts

The appellant had agreed the statement of facts. He was the driver of a car entering Brunei from Miri on 29th May 2014. He was stopped and searched at the Customs Control Post. He had no passengers. An initial search of the vehicle found nothing. However a second, later search discovered a quantity of drugs hidden inside the air filter underneath the bonnet. The same car had left Brunei 45 minutes earlier. The appellant has no previous convictions.

Mitigation and sentence

In deciding to impose the minimum sentence permitted by law the Chief Justice noted and took account of the mitigating factors in this case, particularly that the appellant

had plead guilty, that he was a first offender and that there had been substantial delay in bringing this matter to a conclusion. He further noted however that much of the delay had been caused by the appellant himself who on two occasions discharged the counsel who had been assigned to represent him under the Legal Aid Scheme.

Although we note these mitigating factors they can be of no further assistance to the appellant. This court has no power to make any further reduction in the sentence of imprisonment or in the number of strokes. The authorities which we have been asked to consider in which shorter sentences were passed in serious drug offences are of no avail to the appellant as they involve different provisions of the Misuse of Drugs Act which do not have a statutory minimum sentence of 20 years and 15 strokes.

Appeal

In view of the foregoing it is plain that the only course open to this court is to dismiss the appeal which we now do.

Burrell, P.

Seagroatt, J.A.

Lunn, J.A