

**MUHAMMAD SHARIN BIN MUHAMMAD NORADAM**

**AND**

**PUBLIC PROSECUTOR**

---

**(Court of Appeal of Brunei Darussalam)  
(Criminal Appeal No. 7 of 2020)**

---

Before: Burrell P, Seagroatt and Lunn JJ A.

**3 June 2021**

*Headnote: Sentence – Housebreaking by night – Multiple offences – 4 years and 3 strokes upheld.*

Appellant in person

DPP Hjh Suriana binti Hj Radin and DPP Siti Mu'izzah binti Hj Sabli of Public Prosecutor for Respondent

**Burrell, P.:**

The appellant was named as the first of four defendants on a charge sheet listing a total 12 charges. He was jointly charged with the second defendant on charges 1 and 2 which were offences of housebreaking at night, contrary to S.457 of the Penal Code and theft contrary to S.379, both committed in January 2019. He was further charged on his own on charges 8-11 inclusive for offences contrary to S.457 (housebreaking by night in November 2018), S.454 (housebreaking in January 2019), S.451 (house trespass in December 2018) and S.379 (theft in January 2019).

On 29 February 2019 he was convicted of all 6 charges after a trial before Judge Faisal in the Intermediate Court. He was sentenced to a total of 4 years imprisonment and 3 strokes. The sentences on each charge were as follows:- 1<sup>st</sup> charge, 3 years and 3 strokes; 2<sup>nd</sup> charge, 1 year; 8<sup>th</sup> charge, 3 years and 3 strokes; 9<sup>th</sup> charge, 2 years; 10<sup>th</sup> charge, 2 years and 11<sup>th</sup> charge, 1 year.

Applying the principle of totality the judge directed that the sentences on charges 1, 8, 9 and 10 be served concurrently but consecutive to the 2 sentences of 1 year on charges 2 and 11 which themselves would be concurrent with each other. Thus, the final sentence was 4 years and 3 strokes.

The appellant now appeals against his sentence.

### Facts

In each case the properties broken into were residential premises, except charge 8 which was a school. A variety of domestic items were stolen such as lap-tops, mobile phones, kitchen utensils and jewellery. The vast majority of the stolen items have not been recovered.

In his written statements to the police he said that some of the goods were sold in order to purchase drugs.

### Mitigation

Both in a written statement and orally to this Court the appellant pleads for a reduction in sentence because of the hardship caused to his wife and daughter as a result of his imprisonment. It is an unfortunate but inevitable fact that the incarceration of the family breadwinner causes much financial and family hardship.

These Courts have consistently stated that it is rarely a matter that can properly be taken into account when sentencing.

The appellant is now 30 years of age. He has been to prison twice before. In 2009 he was sentenced to one year in prison for an offence of dishonesty and in 2015 for 3 months for possession of drugs.

### Appeal

Sentences for housebreaking by night in Brunei are frequently in the range of 4-5 years imprisonment. In the present case, 2 of the charges (charges 1 and 8) were such offences. The sentences passed on these offences of 3 years and 3 strokes may be regarded as being at the lower end of an acceptable range.

Having considered the principle of totality the judge considered 4 years and 3 strokes as a proper final sentence to reflect the appellant's overall criminality. Bearing in mind that 4 of the 6 offences upon which he was convicted involved breaking into people homes and a school, it is again, at the lower end of the appropriate range of sentence.

### Order

Appeal dismissed.

**Burrell, P.**

**Seagroatt, J.A.**

**Lunn, J.A**