

Mohammad Kamarul bin Kamsul

AND

Public Prosecutor

**(Court of Appeal of Brunei Darussalam)
(Criminal Motion No. 7 of 2022)**

Steven Chong, C.J.; Seagroatt and Woolley JJA.

Date of Hearing: 4th June, 2024.

Date of Judgment: 15th June, 2024.

Criminal law – Gang-robbery – Sentence

Appellant In Person.

PO Syazwani Jumat for Public Prosecutor.

Case cited:

Yan Saputra v Public Prosecutor [2009] 2 JCBD 162

Steven Chong, C.J.:

Introduction

On 18 April 2022 in the Intermediate Court the appellant pleaded guilty to the charge of gang-robbery contrary to section 395 of the Penal Code.

Judge Radin Safiee Bin Radin Mas Basiuni sentenced the appellant to 6 years' imprisonment and 12 strokes.

The appellant appeals against that sentence.

The facts

Briefly summarised on the night of 21 March 2022 the appellant and four accomplices, armed with a metal rod and a broom stick, went to a house at Jalan Mulaut to rob the occupants.

Arriving in two cars the five men approached the victim who was gambling with several others outside the house at the time. The appellant used the metal rod to hit the wall of the house. Cash amounting to \$3,000 on a table and the victim's gold necklace and bag were taken by the five men.

The appellant received \$500 from the robbery.

The sentence

The Judge in sentencing referred to cases on gang-robbery including *Yan Saputra v Public Prosecutor* [2009] 2 JCB 162, where this court upheld a sentence of 7 years' imprisonment and 12 strokes imposed on a guilty plea.

Giving full credit to the appellant for his guilty plea the Judge reduced the starting point sentence of imprisonment of 9 years' to 6 years and the mandatory minimum 12 strokes was imposed.

The appeal

The appellant is aged 32 and was unemployed at the time of the offence.

He challenges the sentence on the ground that it is excessive. He contends that his mother is dependent on him and will suffer hardship without his support.

The prosecution concedes that the appellant deserves a discount in sentence for assisting the prosecution. This discount should be "minimal" as his evidence in the trial against an accomplice was that they were together at the time of the offence but he did not see him stealing anything.

Decision

The hardship to the appellant's mother as a consequence of the appellant's sentence is not so exceptional as to justify the interference of this court.

In our view the sentence imposed was within the range for offences of this nature. However, we think the appellant's assistance to the prosecution justifies a reduction of 6 months in the sentence.

The appeal is allowed to the extent that the sentence of 6 years' imprisonment is substituted with 5 ½ years' imprisonment and the 12 strokes to remain.

STEVEN CHONG, C.J.

SEAGROATT, J.A.

WOOLLEY, J.A.