

**PG RONI FERRA BIN PG RAMLI**

**AND**

**PUBLIC PROSECUTOR**

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**(Court of Appeal of Brunei Darussalam)  
(Criminal Appeal No. 9 of 2016)**

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**MOHAMMAD ALI AKBAR BIN JUFRI**

**AND**

**PUBLIC PROSECUTOR**

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**(Court of Appeal of Brunei Darussalam)  
(Criminal Appeal No. 11 of 2016)**

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Before: Mortimer P, Burrell and Seagroatt JJ A.  
**23<sup>rd</sup> May 2016**

*Headnote: Multiple offences of dishonesty – Thefts, housebreaking – Importance of consideration of starting point for sentence after trial to reflect overall criminality.*

**Criminal Appeal No 9 of 2016 and Criminal Appeal No 11 of 2016**

Appellant in person  
DPP Dk Hazirah Pg Mohd Yusof for Respondent

**Burrell, JA.:**

This is an appeal against sentence by two appellants who, when they pleaded guilty in the Intermediate Court were two out of three defendants. All three defendants pleaded guilty to a number of offences of dishonesty on a charge sheet containing a total of 17 offences. HHJ Hanani sentenced the first appellant, who had pleaded guilty to all 9 of the charges he faced, to a total of 7 years and 8 months imprisonment and 6 strokes. She sentenced the second appellant, who had pleaded guilty to all 15 of the charges he faced, to a total of 8 years and 8 months and 4 strokes.

On 7 occasions the two appellants had committed offences together. On the other occasions they either committed the offences alone or with the 3<sup>rd</sup> defendant.

We shall consider the merits of each appellant's case in turn.

**1. Pg Roniferra bin Pg Ramli, the 1<sup>st</sup> defendant**

This appellant is a 38 year old married man with two children. He has 3 previous convictions for dishonesty. Between 25<sup>th</sup> December 2015 and 16<sup>th</sup> March 2016 he committed 3 offences of housebreaking by night, one offence of housebreaking, one offence of house trespass, two of thefts from dwelling places and two of theft.

He, usually with one to two others and usually in his car, embarked on a spree of dishonest criminal activity over 10 weeks in which he invaded people's houses, businesses and motor cars to steal valuable items which were frequently sold for cash. In the more serious offences, charges 16 and 17, he forced entry into business premises at night and stole cash and other items. This conduct had commenced in December 2015 when he and others, entered through an unlocked door the official residence of the ambassador of Pakistan and stole electrical equipment such as a television, a DVD player and laptops. He sold the television for \$250.

When sentencing the judge carefully referred to the relevant details of each case which we consider unnecessary to repeat on appeal.

In each case she selected a starting point for sentence and, correctly, reduced it by one-third to reflect the pleas of guilty. Given the appellant's background, his involvement in each offence and the multiplicity of offences her starting points were all within an appropriate range for sentencing. For the more serious housebreakings at night the sentence was 3 years and 3 strokes reduced to 2 years and 2 strokes. For the simple thefts contrary to s.379 when property was stolen from unlocked cars 12 months reduced to 8 months was passed. The remaining offences all involved unlawful entries into people's houses from which mainly electrical items were stolen. The sentences passed ranged between 11 and 20 months for each offence.

The judge then had the difficult task of deciding on a final sentence which reflected the overall criminality involved. She rightly observed that there was "little to recommend" the appellant save for his early pleas of guilty. He had previous convictions for dishonesty and this was a particularly serious spate of criminal activity. She ordered that the 4 most serious offences, for which sentences of 20 months and 3 for 24 months should be served consecutively making a total of 92 months, that is 7 years and 8 months with 6 strokes. This represents a sentence, had there been a trial, of 11 ½ years and 9 strokes.

Unfortunately, she did not then consider whether or not 11 ½ years was an appropriate starting point after trial for the overall criminality. We think that even though the appellant had previous convictions and even though he had committed 9 offences including 2 of housebreaking at night, it was too high and manifestly so. We regard 9-10 years after trial as the correct sentence, reduced to 6 years and 4 months for the pleas of guilty. In order to give effect to this sentence we order that the sentences on charges 4, 12, 16 and 17 be served consecutively 6 years and 4

months imprisonment. The judge's order with regard to strokes remains unchanged.

## 2. **Mohd Ali Akbar bin Jufri**

This appellant is 25 years old and although the youngest of the 3 defendants charged, pleaded guilty to the most offences, 15 in all. The pattern of his offending was similar to but more extensive and more prolonged than the previous appellant. He is single, he has no previous convictions and was unemployed at the time of these offences having lost his job as a waiter due to his gambling. He played an active role in all 15 of the offences to which he pleaded guilty.

His spate of dishonesty spanned 7 months. There were 3 thefts contrary to s.379, 8 thefts from dwellings contrary to s.380, 2 offences of s.451 house trespass and 2 offences of housebreaking by night contrary to s.457 of the penal code. The s.379 thefts were from unlocked motor vehicles, all other offences were thefts from buildings. Usually electrical equipment was stolen which was sold. Very little property was recovered. On one occasion, charge 13, he discovered a pin number to a card contained inside a wallet that he had stolen and withdrew \$4,000 on it from an ATM machine. 12 months imprisonment was passed for this particular, more serious, theft.

In short, after appropriate discounts were made for the pleas of guilty the judge passed sentences of 6 months for the s.379 offences, 12 months for the s.380 offences 16 months for the s.451 offences and 20 months and 2 strokes for the two s.457 offences.

Her approach to totality was to make 4 of the s.380 offences consecutive (4 x 12 months), plus one s.451 offences (16 months) and both of the s.457 offences (2 x 20 months). The total therefore, was 104 months (8 years and 8 months) and 4 strokes (although the written judgment incorrectly states 6 strokes).

This represents a sentence of 13 years and 6 strokes had there been convictions after trial.

In the case of both appellants the public prosecutor has filed for our consideration a detailed and thorough written submission. With regard to the second appellant, although guilty of 15 offences, being a younger man, aged 25, with no previous convictions, the public prosecutor acknowledges that a starting point after trial of 13 years imprisonment was too high. We agree. We think the correct starting point for the appellant is 10 years imprisonment, reduced to 6 years and 8 months after pleas of guilty.

To give effect to this reduced sentence we order that the sentences on charges 2, 3, 4, 16 and 17 shall be served consecutively. The number of strokes shall remain the same, namely 4.

***Order*****Roniferra bin Pg Ramli**

Appeal allowed. Sentence of 6 years and 4 months imprisonment and 6 strokes substituted. Individual sentences to remain unchanged for each charge. Sentences on charges 4, 12, 16 and 17 to be served consecutively to the other terms which shall be concurrent.

**Mohd Ali Akbar bin Jufri**

Appeal allowed. Sentence of 6 years and 8 months and 4 strokes substituted. Individual sentences unchanged for each offence. Sentences on charges 2, 3, 4, 16 and 17 shall be served consecutively to the other terms which shall be concurrent.

**Mortimer, P.**

**Burrell, J.A.**

**Seagroatt, J.A**

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