

J.C.

AND

Public Prosecutor

(Court of Appeal of Brunei Darussalam)
(Criminal Appeal No. 9 of 2022)

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

Date of Hearing: 4th June, 2024.

Date of Judgment: 12th June, 2024.

Criminal law – Outraging modesty by a person in a position of trust – Sentence

Appellant In Person.

DPP Hjh Rozaimah Hj Abd Rahman for Public Prosecutor.

Case cited:

PS Bin PHM v Public Prosecutor [Criminal Appeal No 20 of 2017]

Steven Chong, C.J.:

Introduction

On 20 July 2022 in the Intermediate Court the appellant pleaded guilty to three charges of outraging modesty when he was in a position of trust towards the victim who was under 18 years of age contrary to section 354B of the Penal Code.

Judge Hajah Hazarena Binti POKSLDP Haji Hurairah sentenced the appellant to a total of 7 years' imprisonment and 4 strokes.

The appellant appeals against that sentence.

The facts

The appellant aged 27 was a teacher at a school and the three victims ("A", "B", and "C"), one aged 6 and the other two aged 7, were his students for science classes.

On the morning of 13 July 2022 the appellant whilst teaching a science class approached A at her desk, grabbed her hand and forced her to “*stroke and squeeze*” his penis. After that he proceeded to sexually assault B and C in the same manner.

After school A immediately told her mother what the appellant had done to her and B in class. A’s mother alerted B’s mother and both of them reported the incident to the school authorities and the police on the same day.

On investigation by the school authorities the next day it was discovered that C had also been sexually assaulted by the appellant and her parents made a police report.

The appellant admitted the offences when interviewed by the police.

The sentence

The Judge considered a deterrent sentence was necessary having regard to the “*repulsive nature*” of the appellant’s acts; the young age of the victims; and the offences were committed “*openly*” in the classroom.

A notable case which the Judge referred to for guidance in sentencing was *PS Bin PHM v Public Prosecutor* [Criminal Appeal No 20 of 2017], in which this court upheld an overall sentence of 6 years’ imprisonment and 4 strokes imposed on the appellant who pleaded guilty to four offences of outraging modesty contrary to section 354B of the Penal Code.

The Judge sentenced the appellant to 3 years 6 months’ imprisonment and 2 strokes on each charge with two of the sentences of imprisonment to run concurrently and the strokes non-cumulative; and the third sentence of imprisonment to be consecutive and the strokes cumulative.

Thus, the total sentence imposed was 7 years’ imprisonment and 4 strokes.

The appeal

The appellant contends that the sentence is too long considering his guilty plea and clear record.

Decision

This was an egregious violation of trust by the appellant being the teacher of the victims. The aggravating factors collectively warranted a severe sentence. First, the sexual assaults were of a serious nature. Second, the victims were young and vulnerable girls. Third, the victims were targeted by the appellant. Fourth, the sexual assaults occurred in the classroom during a lesson when the victims should have been safe.

In the circumstances, notwithstanding the appellant's guilty plea and clear record, we find no arguable basis for contending that the sentence is too high.

The appeal is therefore dismissed.

STEVEN CHONG, C.J.

SEAGROATT, J.A.

WOOLLEY, J.A.