

**Public Prosecutor**

AND

**MNHB**

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**(High Court of Brunei Darussalam)  
(Criminal Trial No. 6 of 2025)**

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Haji Abdullah Soefri bin POKPSM DSP Haji Abidin, J.C.

**Date of Sentence: 2<sup>nd</sup> August, 2025.**

*Headnote: Criminal Law – Penal Code Cap 22 – Section 376(2)(c) – 2 Charges – Pleaded Guilty – Step Daughter – Position of Trust – Young Victim – 2 Different Time Period of Commission of Offence – Protection of Young and Children – Deterrence – Consecutive Sentence.*

DPP Syaffina Abd Hadzid for the Public Prosecutor.  
Defendant In Person.

**Cases cited:**

*MZM Bin AT v Public Prosecutor* (Criminal Appeal No. 15 of 2021)

*R v Ball* (1951) 35 Criminal Appeal R.164

*Zainuddin bin Serbini* (COA) (Criminal Motion No. 44 of 2013)

**SENTENCE**

**Haji Abdullah Soefri, J.C:**

The Defendant pleaded guilty and convicted with two charges under section 376(2)(c) of the Penal Code Cap 22 on 11<sup>th</sup> June 2025. The sentence was deferred until 2<sup>nd</sup> August 2025 after the sentencing submission was submitted on the 9<sup>th</sup> July 2025.

The two charges that the Defendant is convicted of are against a victim, which is his step-daughter aged 14 years old. The offences took place twice once in November 2024 and another in December 2024.

Charges are as follows:

**1<sup>st</sup> Charge:**

*That you, on 27<sup>th</sup> November 2024, at midnight, at house No.465, Kampong Menunggol, Kota Batu, Brunei Muara, in Brunei Darussalam, being a person in a position of trust, to wit, the stepfather, to one Miss X (female, 14 years old, D.O.B : 02/09/2010), did commit rape by having sexual intercourse with the said Miss X, and you have thereby committed an offence punishable under section 372(2)(c) of the Penal Code, Chapter 22.*

## **2<sup>nd</sup> Charge:**

*That you, sometime in December 2024, at midnight, at house No.465, Kampong Menunggol, Kota Batu, Brunei Muara, in Brunei Darussalam, being a person in a position of trust, to wit, the stepfather, to one Miss X (female, 14 years old, D.O.B : 02/09/2010), did commit rape by having sexual intercourse with the said Miss X, and you have thereby committed an offence punishable under section 372(2)(c) of the Penal Code, Chapter 22.*

The Defendant admits and agreed to the Statement of Facts of the case which are as follows:

- 1. The Defendant is a 34 years old Bruneian male. He is married and has a 1 year old son. The Defendant also has 2 step-daughters from his wife's first marriage, Miss X (female 14 years old, D.O.B: 02/09/2010), is the eldest of the 2 step-daughters.*
- 2. At the material time, the Defendant resided with his wife, son and step-daughters at house No.465, Kampong Menunggol, Kota Batu, Brunei Muara in Brunei Darussalam.*
- 3. As Miss X's stepfather, the Defendant took care of Miss X's welfare and school matter. Miss X also regarded the Defendant as a father figure and refers to him as "Ayah" (father). Against this backdrop, the Defendant was in a position of trust or authority to Miss X.*

### *1<sup>st</sup> charge*

- 4. On 27<sup>th</sup> November 2024, at midnight, Miss X entered the Defendant's bedroom and sat on the bed to search for an item. At the time, the Defendant was alone in the bedroom, lying on the bed. While Miss X was searching to the item, the Defendant approached and hugged Miss X from behind. He then proceeded to lay her on the bed and pulled her trousers down to her knees. Thereafter, the Defendant turned Miss X over, positioning her on her hands and knees with her back facing him, before engaging in sexual intercourse using a condom. Miss X never consented to the act, but remained silent as she was scared to say anything. After the Defendant had ejaculated, the Defendant instructed Miss X to wash herself. Miss X then returned to her bedroom. By the said act, the Defendant had committed rape against Miss X.*

### *2<sup>nd</sup> Charge*

- 5. Sometime in December 2024, at midnight, the Defendant entered Miss X's bedroom while she was lying on the bed using her phone. The Defendant then proceeded to hug her, kiss her on the cheek, and remove her trousers. The Defendant also pulled his own trousers down to his knees and thereafter proceeded to engage in sexual intercourse with her using a condom. Similarly, Miss X never consented to the act, but remained silent as she was scared to say anything. After the Defendant had ejaculated, he left the room. By the said act, the Defendant had committed rape against Miss X.*

*All charges:*

6. *On 11<sup>th</sup> January 2025, Miss X informed her aunt, one S I @S binti M via telephone that she had been raped by the Defendant. S I then informed Miss X's mother, one S A binti B about the matter.*
7. *On 12<sup>th</sup> January 2025, the Defendant was confronted by his wife and other family members about the allegation by Miss X. During the said meeting, the Defendant admitted to raping Miss X.*
8. *On 29<sup>th</sup> April 2025, Miss X's mother decided to lodge a report against the Defendant.*
9. *On 1<sup>st</sup> May 2025, the Defendant was arrested by the police.*
10. *During investigation, the Defendant admitted to raping Miss X on the above occasions. The Defendant further admitted that at the material time he was unable to control his sexual urges as his wife was on medication to plan for pregnancy.*
11. *On record, the Defendant has no previous conviction.*

The Defendant in his mitigation pleaded for most lenient sentence and admitted that it was his mistake.

The Prosecution in their sentencing submission highlighted previous cases involving rape and also highlighted the aggravating factors of the case.

The victim also made a victim impact statement.

The Clinical Psychology report on the victim was also tendered.

### **Prosecution's Submission**

The Prosecution in their sentencing submission highlighted the aggravating factors of the case which are as follows:

- a) The Defendant, as a stepfather held a position of authority and trust. He is entrusted with the victim's care, protection and upbringing but he has violated the trust by exploiting the role for his own gratification.
- b) Defendant committed the act twice which occurred less than a month after the first.
- c) Defendant committed the acts within the confine and sanctity of his own home, where the victim should have felt safest.
- d) A certain degree of premeditation and opportunity as the Defendant had the time, privacy and control over the environment which he used to perpetrate the acts without immediate detection.
- e) Victim was only 14 years old at the time of both incidents, making her particularly vulnerable. Her young age and dependence on the Defendant as a parental figure made her an easy target for the Defendant's exploitation.

### **Victim Impact Statement**

In her Victim's Impact Statement, she stated that she is worried about herself, she is ashamed and pity herself. She is scared of the Defendant if he will hurt her family one day in the future.

Because of the incident, she could not focus on her studies and failed her SSRU exam.

### **Clinical Psychology Report**

The report indicated that she has very low self-concept, extreme anxiety, extreme depression, mild anger, and her self-destructive behaviour is within normal limit.

She was recommended to be seen for review to monitor and help manage her psychological distresses.

### **Sentencing Consideration**

This is yet another case of sexual abuse of a young girl by a person who is supposed to be protecting her.

The Court has stated over and over again that young person and children must be protected. The victim's interest and welfare is the most paramount important. The psychological effect on the victim is long lasting and sometimes irreversible. The victim sometimes will not be able to lead a normal life.

I agree and adopt with the Prosecution's aggravating factors that they have submitted, which I have highlighted earlier.

I take note of the cases that the Prosecution had highlighted and their submission that for this Court to impose an overall custodial sentence of not less than 20 years' imprisonment which they submit as proper in the circumstances, to reflect the overall criminality involved.

This Court has noted the mitigation submitted by the Defendant.

It is important to note that the Court understand and take seriously the importance of the protection of the young and children.

Children and the young are vulnerable and in need of protection especially by those who are close to them. Those who are close to them are the protector of these people and they have the responsibility as they are the people whom children and young person trust the most.

These people must not abuse the trust and responsibility that has vested to them. If they abused the trust and failed in their responsibility, who else will protect them and others?

That is the reason why one of the main objectives of punishment is to send message to the public that serious offenses such as this is not acceptable and this Court will not hesitate to pass a heavy sentence so as to serve as a deterrent not only to the Defendant so that he will not reoffend but also to the public at large not to commit such offense.

The Defendant faced with two charges of the same at two different occasions. Not only that he committed the offence on his stepdaughter who was 14 years of age but he also committed the offence against her twice over a period of less than one month. Not only that he had failed in his responsibility to protect her, he had taken advantage of his authority over her to abuse her sexually.

As stated earlier these offenses are serious offenses and this Court will impose a sentence that will reflect its abhorrence on such offenses.

In the case of *R v Ball (1951) 35 Criminal Appeal R.164*, Hillberry, J., laid out the guiding consideration which this Court also took into consideration. Learned Hillberry, J., state:

*“In deciding the appropriate sentence, a court should always be guided by certain considerations. The first and foremost is the public interest. The criminal law is publicly enforced, not only with the object of punishing crime, but also in hope of preventing it.*

*A proper sentence, passed in public, serves the public interest in two ways. It might deter others who may be tempted to try crime as seeming to offer easy money on the supposition, that if the offender is caught and brought to justice, the punishment will be negligible. Such sentence may also deter the particular criminal from committing crime again, or, induce him to turn from a criminal to an honest life”.*

Rape is a serious offence. A deterrent sentence should be imposed in order to show to the public that the Court has no tolerance to sexual offenders.

The Court has no hesitation that a deterrent sentence must be passed to demonstrate abhorrence to such perverted acts. As such, the Court Of Appeal in *Zainuddin bin Serbini (Criminal Motion No. 44 of 2013)* stated that:

*“Long sentences of imprisonment must be passed for offences such as these to mark the gravity and seriousness of the applicant’s conduct and the traumatic consequences to the young and vulnerable victim”.*

### **Conclusion**

In *MZM bin AT v Public Prosecutor*, the Court held that:

*“a rape contrary to Section 376(2) of the Penal Code the starting point should be 18 years imprisonment and 15 strokes reduced to 12 years imprisonment and 12 strokes on a guilty plea.*

*As to rape contrary to Section 376(3) of the Penal Code, the starting point should be 27 years imprisonment and 15 strokes reduced to 18 years imprisonment and 12 strokes on a guilty plea.*

*A higher sentence may be imposed where there are multiple offences.”*

This Court takes 18 years as a starting point and taking into account that he has pleaded guilty, reduced it to 12 years and 12 strokes.

As to the 2<sup>nd</sup> Charge, since he repeated the offence again on the same victim within a short period of time, this Court believes and is certain that in order to send a message to all, a starting point of 27 years is justifiable as it is a second time. As in the 1<sup>st</sup> Charge that since he has pleaded guilty, the starting point is reduced and imposed a sentence of 18 years’ imprisonment and 12 strokes.

This Court takes into account of the totality principle and that these two offences were committed at different transactions and to ensure that the deterrent effect will not be diluted, this Court orders for the sentences to run consecutively with each other.

1<sup>st</sup> Charge: Imprisonment of 12 years and 12 strokes.

2<sup>nd</sup> Charge: Imprisonment of 18 years and 12 strokes.

Total sentence imprisonment of 30 years and 24 strokes, with effect from the 3<sup>rd</sup> May 2025.

**HAJI ABDULLAH SOEFRI BIN POKSM DATO SERI PADUKA HAJI ABIDIN**  
Judicial Commissioner