

**Public Prosecutor**

AND

**Muhammad Firdaus Bin Yunus**

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**(Intermediate Court of Brunei Darussalam)  
(Criminal Trial No. 35 of 2025)**

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Harnita Zelda Skinner, Judge

**Date of Sentence: 23<sup>rd</sup> December, 2025.**

*Headnote: Sentencing - Section 361 of the Penal Code read with Section 363 of the same - Kidnapping - Section 354 of the Penal Code - Outrage of Modesty - Subsequent Offender - Appropriate Sentence - Aggravating Factors Including Vulnerability of Child Victim and Recidivism - Mitigating Factors Including Early Guilty Plea - Totality Principle - Concurrent and Consecutive Sentences.*

DPP Abdul Hanan bin Haji Erwan for the Public Prosecutor.  
Defendant In Person and Unrepresented.

**Cases cited:**

*Public Prosecutor v Ali bin Hj Othman* [2004] JCBD 254 Vol.II

*Brahim bin Haji Kassim v Public Prosecutor* [Criminal Appeal No 2 of 2018]

*Pg Shahirul Hamadi bin Pg Hj Jaya v Public Prosecutor* [Criminal Appeal No 7 of 2018]

*Public Prosecutor v Hj Md Salleh bin Hj Md Taib* [2006] JCBD 365

*Public Prosecutor v Md Khairul bin Md Yassin* [2018] BLR 1

*Public Prosecutor v Abdul Latif bin Hj Ismail* [2015] BLR 187

*Public Prosecutor v Abdul Rahman bin Hj Md Amin* [1998] JCBD 133

*Public Prosecutor v Mohammad bin Abdullah* [2010] BLR 456

*Public Prosecutor v Mohammad Firdaus bin Yunus* [ICCT 20 of 2022]

**S E N T E N C E**

**Harnita Zelda Skinner, Judge:**

Introduction

1. The Defendant, Muhammad Firdaus bin Yunus, a 36-year-old Bruneian national who at the material time was employed as a security guard with AEGIS Secure Solutions Sdn Bhd, was initially charged with one count of kidnapping under

Section 361 of the Penal Code (Chapter 22), punishable under Section 363 of the same. He entered a plea of guilty to this amended charge, as well as to two additional charges of outraging modesty under Section 354 of the Penal Code (Chapter 22). These pleas were entered voluntarily after the charges and their respective penalties were explained to him.

2. On the day fixed for sentencing, the Prosecution tendered an Amended Statement of Facts dated 24th November 2025, which the Defendant admitted without qualification. This Statement of Facts provides a comprehensive account of the circumstances surrounding the commission of these offences. The Defendant has relevant previous convictions, including a prior conviction in 2022 for attempted kidnapping of a minor and related drug offences.

### Charges

3. Amended 1<sup>st</sup> Charge:

That you, sometime between 2000 hrs and 2300 hrs on the 17th day of June 2025, in the vicinity of KB Sentral, Kuala Belait, in Brunei Darussalam, did kidnap one Mr. X (Muhammad Adam Qamshah bin Abdullah, male, 11 years old, D.O.B: 30/10/2014), from the lawful guardianship of Mr. X's mother, to wit, Norlela binti Kamarul, and you have thereby committed an offence under Section 361 of the Penal Code, Chapter 22 punishable under Section 363 of the same.

Penalty under Section 363 of the Penal Code, Chapter 22: Imprisonment for a term which may extend to 10 years and with fine.

4. Additional 2nd Charge:

That you, sometime between 2000 hrs and 2300 hrs on the 17th day of June 2025, in the vicinity of No.5, Simpang 50-6, Jalan Kompleks Sukan Mumong, Kuala Belait, in Brunei Darussalam, did use criminal force to one Mr. X (Muhammad Adam Qamshah bin Abdullah, male, 11 years old, D.O.B: 30/10/2014), to wit, by touching his body and his penis, intending thereby to outrage the modesty of Mr. X, and you have thereby committed an offence punishable under section 354 of the Penal Code, Chapter 22.

Penalty under section 354 of the Penal Code, Chapter 22: Imprisonment for a term not exceeding 5 years and whipping.

5. Additional 3rd Charge:

That you, sometime between 2000 hrs and 2326 hrs on the 17th day of June 2025, in the vicinity of No.5, Simpang 50-6, Jalan Kompleks Sukan Mumong, Kuala Belait, in Brunei Darussalam, did use criminal force to one Mr. Y (Muhammad

Hafiz Haziq bin Musa, male, 18 years old, D.O.B: 05/10/2006), to wit, by forcing him to stroke your penis, suck your penis and your nipples, intending thereby to outrage the modesty of Mr. Y, and you have thereby committed an offence punishable under section 354 of the Penal Code, Chapter 22.

Penalty under section 354 of the Penal Code, Chapter 22: Imprisonment for a term not exceeding 5 years and whipping.

6. All the charges and their respective penalties were read to the Defendant. The Defendant informed the Court that he understood all the charges and their penalties and he pleaded guilty to all the charges.

#### Statement of Facts

7. The Defendant also admitted to the following facts of the case, as set out in the Amended Statement of Facts.
8. The Defendant is a 36-year-old, male, Bruneian national. At the material time, he was working as a Security Guard for AEGIS Secure Solutions Sdn Bhd. The Defendant is divorced and has one child.
9. Mr X is an 11-year-old, male, Bruneian National. At the material time, he is a student in year 6.
10. Mr. Y is an 18-year-old, male, Bruneian National.

#### In relation to the Amended 1st Charge:

11. On the 17th day of June 2025, at about 9:00 p.m., Mr. X was with his three (3) friends including Mr. Y, Syafiq and Haikal. They were hanging out in the vicinity of KB Sentral, in Kuala Belait, a shopping centre, at a parking lot in order to access WiFi. While in the said area, Mr. X approached the Defendant's vehicle bearing registration number KG5867 by knocking on the vehicle window and asking whether the Defendant had any money or food. The Defendant did not give anything to Mr. X, so Mr. X proceeded to approach other vehicles asking for the same. As it was raining heavily at that time, the Defendant then driving a white Pajero vehicle bearing registration number KG5867 called out to Mr. X and invited him to enter the vehicle, stating "*Lai kemari lai. Uncle mau belanja*" which loosely translates to "*Come here dear, uncle will treat*" in order to kidnap Mr. X from the lawful guardianship of Mr. X's mother, to wit, Norlela binti Kamarul. Due to Mr. X's tender age, he entered the said vehicle without suspecting anything wrong at that time.
12. The Defendant then drove Mr. X to his house or residence addressed at No. 5, Simpang 50-6, Jalan Kompleks Sukan Mumong, Kuala Belait, Brunei Darussalam.

In relation to the Additional 2nd Charge:

13. Upon arrival at the Defendant's house or residence addressed at No. 5, Simpang 50-6, Jalan Kompleks Sukan Mumong, Kuala Belait, Brunei Darussalam, the Defendant instructed Mr. X to enter the house. Inside the house, the Defendant told Mr. X to undress. However, Mr. X refused. The Defendant persisted and instructed Mr. X to go to the bathroom and again asked him to undress, promising BND \$40.00 if he complied. Mr. X again refused to comply. The Defendant then suggested that Mr. X sleep over at his house. Mr. X also refused. The Defendant then outraged the modesty of Mr. X, to wit, by touching his body and his penis. Mr. X then informed the Defendant that his mother was a Police officer in order to scare off the Defendant. Mr. X then requested to be sent home, to which the Defendant agreed.
14. Not long later, sometime between 10:00 p.m. and 11:00 pm, the Defendant drove Mr. X and dropped him off in the vicinity of Barek 772, Mumong Bypass, Kampong Mumong, Kuala Belait, Brunei Darussalam which is near Mr. X's home. When they arrived at the said area, Mr. X's friends including Mr. Y was at the said location. The Defendant then instructed Mr. X to call Mr. Y. Mr. Y then approached the Defendant and the Defendant subsequently took Mr. Y into the vehicle and drove away with him. Mr. X then called the Police to inform regarding what happened. A formal police report was then lodged by Mr. X's mother.

In relation to Additional 3rd Charge:

15. On the 17th day of June 2025, sometime between 10:00 and 11:00pm, in the vicinity of Barek 772, Mumong Bypass, Kampong Mumong, Kuala Belait, Mr. Y was called by the Defendant who was in a white Pajero vehicle bearing registration number KG5867. Mr. Y then approached the Defendant who asked Mr. Y "*kau pernah melihat video lucah?*" which loosely translates to "*have you seen an appropriate video?*". Not fully understanding the question, Mr. Y informed the Defendant that he had never seen such thing. The Defendant offered Mr. Y BND \$40.00 to follow him to his house. Intrigued by the BND \$40.00 offer, Mr. Y complied and entered into the vehicle.
16. The Defendant then drove Mr. Y to his house or residence addressed at No. 5, Simpang 50-6, Jalan Kompleks Sukan Mumong, Kuala Belait, Brunei Darussalam. Upon arrival, the Defendant instructed Mr. Y to enter the house. Inside the house, the Defendant asked Mr. Y to accompany him to cook rice in the kitchen. Not long later, the Defendant instructed Mr. Y to apply toothpaste in his mouth and provided a beverage to Mr. Y. The Defendant then instructed Mr. Y and forced Mr. Y to go to the toilet.

17. The Defendant then went into the toilet with Mr. Y. Inside the toilet, the Defendant locked the door. The Defendant then outraged the modesty of Mr. Y, to wit, by instructing and forcing Mr. Y to stroke his penis, suck his penis and suck his nipples. Out of fear and due to the Defendant's persistence, Mr. Y complied.
18. While they were in the toilet, a few Police personnel arrived at the said location at about 11.26 p.m. L/Cpl 5249 Md Aeamyjam bin Jamil then knocked on the main door of the house. After hearing the knock, the Defendant then informed Mr. Y to remain quiet and to stay in the toilet. The Defendant, only wearing boxers, went to meet with the Police. Police investigations led to the arrest of the Defendant. Mr Y was then discovered and rescued by the Police.

In relation to all charges:

17. The Defendant admitted to committing the above offences during Police investigations.
18. On record, the defendant has previous convictions.

#### Aggravating Factors

19. The primary aggravating factor in this case is the vulnerability of Mr. X, who was only 11 years old at the time, a student in Year 6 and thus incapable of fully appreciating the dangers posed by the Defendant's deceptive luring tactics. The Defendant exploited this vulnerability by using promises of treats and money, taking advantage of the heavy rain and the child's naivety to remove him from the safety of his friends and lawful guardianship. Such predatory behavior towards children is viewed with the utmost seriousness.
20. Further aggravating the matter is the Defendant's persistence in his criminal conduct despite clear refusals from the victims. In the case of Mr. X, the Defendant repeatedly instructed the child to undress, first in the house and then in the bathroom, offering a bribe of BND \$40.00, and proceeded to touch the child's body and penis even after multiple refusals. Similarly, with Mr. Y, the Defendant locked the toilet door to ensure confinement and forced compliance through persistence and fear, compelling acts of a more invasive sexual nature. This demonstrates a calculated and premeditated intent to outrage modesty, escalating the culpability.
21. The involvement of another victim within a single evening further heightens the gravity of the offending, indicating an opportunistic and escalating pattern of behavior where the Defendant, undeterred by his actions with the first victim, immediately targeted a second individual upon returning Mr. X. This serial nature of the offences suggests a lack of impulse

22. Of particular concern is the Defendant's second offence involving kidnapping-related conduct targeting a minor. In 2022, the Defendant was convicted in *Public Prosecutor v Mohammad Firdaus bin Yunus* (ICCT 20 of 2022) for attempted kidnapping of an 8-year-old girl under Section 363 read with Section 511 of the Penal Code, alongside drug consumption offences, for which he received a total custodial sentence of 5 years. This prior conviction, which also involved approaching a minor, establishes a clear pattern of predatory behavior towards children, indicating a failure to learn from his lesson despite previous custodial sentence and serving as a strong aggravating factor that necessitates a deterrent sentence to protect the public.

#### Mitigating Factors

23. In mitigation, the Court acknowledges the Defendant's early guilty plea, which was entered at the earliest opportunity, thereby sparing the young victims, particularly the 11-year-old Mr. X, the additional trauma of reliving these distressing events through a full trial.
24. The Defendant had asked for leniency and consideration.

#### Sentencing consideration

25. In determining the appropriate sentence, the Court is guided by several authorities involving kidnapping and outrage of modesty offences against children.
26. For the offence of kidnapping under Section 361 punishable under Section 363, which carries a maximum of 10 years' imprisonment and a fine, authorities establish a tariff that varies based on the circumstances, particularly when involving minors and linked to sexual intent. In *Public Prosecutor v Ali bin Hj Othman* [2004] JCBD 254 Vol.II, a sentence of 3 years' imprisonment (reduced to 2 years on appeal) was imposed for kidnapping a 5-year-old child with accompanying molestation, highlighting a baseline for cases where no extreme violence occurs but sexual elements are present. In *Pg Shahirul Hamadi bin Pg Hj Jaya v Public Prosecutor* [Criminal Appeal No 7 of 2018], an 18-month sentence was upheld for attempting to kidnap an 11-year-old girl from school premises, supporting starting points of around 3 years for non-violent but intentional removals, escalated for recidivism. Similarly, in *Brahim bin Haji Kassim v Public Prosecutor* [Criminal Appeal No 2 of 2018], a 9-month sentence post-trial was maintained for kidnapping without further harm, but the Court of Appeal emphasized flexibility based on facts, warranting an uplift for patterns of offending. In *Public Prosecutor v Abdul Rahman bin Hj Md Amin* [1998] JCBD 133, 3 years was imposed for kidnapping a 7-year-old boy without additional harm and in *Public Prosecutor v Mohammad bin Abdullah* [2010] BLR 456, 5 years for kidnapping

with intent to confine. Given the Defendant's prior similar conviction and the child victim, a starting point of 3 years before discount is justified, reduced by one-third to 2 years for the plea.

27. For outraging modesty under Section 354, with a maximum of 5 years' imprisonment and whipping, sentences for acts against minors typically range from 2 to 4 years' imprisonment and whipping, adjusted for the explicitness of the acts and mitigation. In *Public Prosecutor v Hj Md Salleh bin Hj Md Taib* [2006] JCBD 365, the defendant received 4 years' imprisonment and 4 strokes for touching the private parts of a 9-year-old girl, illustrating the seriousness accorded to child victims. In *Public Prosecutor v Md Khairul bin Md Yassin* [2018] BLR 1, a sentence of 5 years and 5 strokes was imposed for kissing and touching the breasts of a 13-year-old girl, emphasizing escalation for invasive contact. In *Public Prosecutor v Abdul Latif bin Hj Ismail* [2015] BLR 187, 3 years and 3 strokes were given for touching the thigh of a 14-year-old girl, supporting lower terms where acts are less severe. In a 2021 Intermediate Court case involving outraging the modesty of a 12-year-old girl with low cognitive ability, a combined sentence of 6 years and 6 months with 3 strokes was imposed, reflecting heightened protection for vulnerable minors. These authorities justify a starting point of 24 months for each charge in this case, where the acts involved touching and forced oral contact without penetration, reduced by one-third to 16 months per charge for the early plea, with whipping.
28. The Court also considers the Defendant's prior conviction in *Public Prosecutor v Mohammad Firdaus bin Yunus* [ICCT 20 of 2022], where similar predatory intent towards a child was evident, reinforcing the need for an uplift in the current sentences to address recidivism.

#### Sentence Imposed

29. Having weighed all factors and authorities and applying the totality principle to ensure the overall sentence is just and proportionate, the Court imposes the following sentences, with a one-third discount on custodial terms for the guilty plea:
30. Amended 1<sup>st</sup> Charge (Kidnapping): A starting point of 3 years reduced to 2 years' imprisonment.
31. Additional 2<sup>nd</sup> Charge (Outrage of Modesty): A starting point of 2 years reduced to 16 months' imprisonment and 2 strokes of whipping
32. Additional 3<sup>rd</sup> Charge (Outrage of Modesty): A starting point of 2 years reduced to 16 months' imprisonment and 2 strokes of whipping

33. The sentences for the additional 2<sup>nd</sup> and additional 3<sup>rd</sup> charge shall run concurrently with each other but consecutively to the amended 1<sup>st</sup> charge, resulting in a total effective sentence of 3 years and 4 months' imprisonment and 4 strokes of whipping.
34. Total sentence to take effect from date of his remand, 26<sup>th</sup> June 2025.



**HARNITA ZELDA SKINNER**  
Judge, Intermediate Court