

**Lilawati binti Musa (D3)**

AND

**Public Prosecutor**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No.15 of 2023)**

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Haji Abdullah Soefri, JC  
**24<sup>th</sup> August 2023**

*Criminal Law – In furtherance of common intention to commit theft under Section 379 read with Section 34 of the Penal Code – pleaded not guilty – convicted – sentenced to fine of \$2500 in default of 2 months imprisonment – appeal to pay fine by instalment – seriousness of offence and need to deter supersede family hardship – appeal dismissed*

Appellant in person and unrepresented  
DPP Hajah Siti Mu'ezzah binti Haji Sabli for the Respondent

**Cases cited in the Ruling:**

*Norkidah binti Abu Bakar v Public Prosecutor* (High Court Criminal Motion No.10 of 2014)

**RULING**

**Haji Abdullah Soefri, JC:**

**Introduction**

On 19<sup>th</sup> June 2023, Lilawati binti Musa (D3) (hereinafter known as the Appellant), was convicted with a charge under section 379 of the Penal Code read together with section 34 of the same.

Senior Magistrate Hajah Ervy Sufitriana convicted the Appellant and imposed a fine of \$2,500 in default of 2 months' imprisonment against the Appellant and ordered the Appellant to pay the fine by the 20<sup>th</sup> of July 2023.

**Grounds of Appeal**

The Appellant is appealing for the fine imposed to be paid by monthly instalments at \$100 per month.

Her grounds for this application is that she has two children aged 7 years and 5 years and that her husband is currently serving imprisonment sentence.

She and her children are being taken care of by her father-in-law who is a pensioner and receiving a pension of \$1,019.79 and old aged pension of \$250 per month. Her father-in-law also takes care of the household expenses.

### **Prosecution (Respondent) Submission**

The Prosecution objected to the said application on the ground amongst others that if extension of time is granted, it will diminish the deterrent element and will also cause an administrative burden to both the Appellant and the Court.

The case of *Norkidah binti Abu Bakar v Public Prosecutor (High Court Criminal Motion No.10 of 2014)* was cited and quoted Justice Dato Seri Paduka Hj Kifrawi, the Chief Justice then, as follows:

*“To give her more time to pay would be a further financial burden to her. She still has to find the means to pay. This would also cause a further administrative burden to the Court to monitor whether she has made the payment as ordered by the Court.”*

The offence that she was convicted of was an offence against property which is theft. The nature of the offence is a serious offence and the deterrent effect of the sentence must not be diluted by giving a more lenient sentence.

I am agreeable with the Prosecution that by extending the grace period would not only diminish the deterrent element, it would also be an administrative burden to both the Appellant and the Court.

Having had said all the above and taking into account of the seriousness of the offence and the need to give a deterrent effect, the family situation and financial hardship that the Appellant is facing are not grounds that can supersede the seriousness of the offence and the need to give a deterrent effect, the appeal to have the fine to be paid by instalments is surely to be dismissed. The Appellant was given until today to pay the fine and if she fails to pay the fine by 3 pm, the Appellant is to serve the default sentence.

I would like to warn the Appellant that if she commits this offence or any other offence again, I do not think that she will be as lucky again to get away with a fine. Appeal is dismissed.

**HAJI ABDULLAH SOEFRI BIN POKSM DSP HAJI ABIDIN**  
Judicial Commissioner