

**Public Prosecutor**

AND

**Chin Chee Vun**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No. 19 of 2023)**

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Haji Abdullah Soefri bin POKSM DSP Haji Abidin, J.C.  
**24<sup>th</sup> September 2024**

*Criminal Law – Section 6(b) Prevention of Corruption Act, Cap 131 read with Section 13 of the same – Acquittal – Appeal – Instigation runs and continues in accordance of purpose – Magistrate decision is against the weight of evidence – appeal allowed - Magistrate decision reversed - Sentence*

**Cases cited:**

*Liew Say Koo (D2) v Public Prosecutor* (High Court Criminal Appeal No. 3 of 2019)  
*Supt Hj Khairur Rijal bin Abu Salim (D1) v Public Prosecutor* (Criminal Appeal No. 4 of 2019)  
*Public Prosecutor v Supt Hj Khairur Rijal bin Abu Salim (D1) & Liew Say Koo (D2)* (Criminal Appeal No. 6 of 2019)

PO Hajah Atiyyah standing in for DPP Hajah Rozaimah for the Public Prosecutor/Appellant.  
Mr Chin Chee Vun In Person and Unrepresented/Respondent.

**SENTENCE**

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

**INTRODUCTION**

Chin Chee Vun, hereafter known as the Defendant was convicted after the acquittal was reversed by this Court upon Appeal by the Public Prosecutor. The Defendant was convicted on the following charge:

**2<sup>nd</sup> Charge (Against D2)**

*“That you, sometime between September 2021 and the 4<sup>th</sup> day of October 2021, did instigate one Argel Sanchez David to corruptly give monies to an agent, a Customs Inspection Officer with the Royal Customs and Excise Department, Ministry of Finance and Economy, as an inducement or*

*reward for doing an act in relation to her principal's affairs, to wit, not to take any action against the said Argel Sanchez David for any violations pertaining to customs declaration, and in pursuance of that instigation an act took place on the 4<sup>th</sup> day of October 2021, at the Payment Counter of the Customs Guardhouse and Muara Port Post Office, Muara, in Brunei Darussalam, in which the said Argel Sanchez David did corruptly give gratification of BND\$20.00 (Twenty Brunei Dollars) to an agent, one **Dyg Nor Ameizalina binti Mohd Zulazri**, a Customs Inspection Officer with the Royal Customs and Excise Department, Ministry of Finance and Economy, which is an offence under Section 6(b) of the Prevention of Corruption Act, Chapter 131, was committed in consequence of your abetment, and you have thereby committed an offence punishable under section 6(b) of the Prevention of Corruption Act, Chapter 131 read with Section 13 of the same."*

The penalty for the said charge:

***Penalty under Section 6(b) of the Prevention of Corruption Act, Chapter 131***

*Fine of \$30,000 and to imprisonment for 7 years*

***Penalty under Section 13 of the Prevention of Corruption Act, Chapter 131***

*Whoever abets, within the meaning of the Penal Code (Chapter 22) -*

*(a) the commission of an offence under this Act*

*.....shall be liable on conviction to be punished provided for such offence.*

Section 284(c) of the Criminal Procedure Code states as follows:

*"284. In an appeal from an order of acquittal, the High Court may -*

*(c) find the accused guilty of the charge any offence of which the lower Court might have convicted him and pass sentence on him in accordance to law."*

Section 237A, The Criminal Procedure Code (Amendment) Order, 2016, provides as follows:

*"(1) Before a Court passes sentence on a person convicted of an offence, the officer or other person conducting the prosecution may address the Court with respect to that sentence.*

**DEFENDANT'S SUBMISSION/MITIGATION**

The Defendant in his mitigation pleaded for leniency. He told the Court that he is looking after his old father who is staying in Miri and the Defendant will go to Miri every week to take care of his

father. He told the Court that he had cooperated with the enforcement agency. He is married and has two children who are 24 and 27 years old. He pleaded for the Court to impose a fine.

### **PROSECUTION'S SENTENCING SUBMISSION**

The Prosecution submits as follows:

*“Corruption undermines trust in public institutions, damages the economy, and harms society at large. Severe penalties for corruption serve not only as a punishment but also as a strong deterrent to those contemplating similar offences. They send a clear message that corruption will not be tolerated and that those involved will face significant consequences.”*

The Prosecution submitted the case of ***Liew Say Koo(D2) v Public prosecutor (High Court of Brunei Darussalam (Criminal Appeal No. 3 of 2019), Supt Hj Khairur Rijal Bin Abu Salim (D1) v Public Prosecutor (Criminal Appeal No. 4 of 2019), Public Prosecutor v Supt Hj Khairur Rijal Bin Abu Salim (D1) Liew Say Koo(D2) (Criminal Appeal No. 6 of 2019)*** remarked that following the case of ***Wong Kai Fen v Public Prosecution (2008) 2 BLR 264***, a sentence of 18 months' imprisonment was considered to be appropriate where a person is convicted after a trial of a corruption offence under Section 6 of the Act.

However, the Honourable Chief Justice Dato Seri Paduka Steven Chong also highlighted that:

*“It is important to note, however, that the court in Wong Kai Fen made that comment having referred to Hamid Bin Ibrahim V Public Prosecutor [1965-1986] 2 BLR 64 and Bong Fook Jing @ Bak Jin V Public Prosecutor [1991] 1 JCBD 149, where Roberts CJ suggested a minimum sentence of 12 months' imprisonment upon conviction for uncontested corruption offences under section 6 of the Act. Whilst sentencing benchmarks are important to achieve consistency in sentences in the interest of fairness they are not meant to hamper judicial discretion to adjust the sentence according to the gravity of the offence in a particular case. Each case must be decided on its own facts and sentence much higher than minimum sentence suggested in Wong Kai Fen's have been imposed in the other section 6 corruption cases, for e.g, in YAM Pengiran Indera Wijaya Pengiran Dr Hj Ismail (D1), Wong Tim Kai (D2) (supra), a sentence of 7 years' imprisonment was imposed.”*

The Prosecution further submits that *“the act of the Respondent (Defendant) which led to the commission of the corrupt act his Co-Defendant, Argel Sanchez David, did indeed pose a risk to Brunei Darussalam's national economy and security.”*

The Prosecution submitted, *“the Respondent be imposed with a custodial sentence of not less than 18 months' imprisonment. It is humbly submitted that a lower sentence of 12 months' imprisonment would not adequately reflect the gravity of the offence that the Respondent has committed.”*

## CONCLUSION

I would like to cite Dr Marcin Swiecicki, the Coordinator for the office of Economic and Environment Activities, who wrote in the article “Best Practices in Combating Corruption”:

*“..... corruption is a social ill that will destroy national economies, undermines social stability and erodes public trust”.*

I agree with the Prosecution’s submission that *“Severe penalties for corruption serve not only as a punishment but also as a strong deterrent to those contemplating similar offences. They send a clear message that corruption will not be tolerated and that those involved will face significant consequences.”*

This Court has taken into account in favour for the Defendant that he has no record for any criminal convictions except this conviction. This Court also takes into account of his cooperation with the enforcement agency.

This Court would like to stress again that Corruption offences are serious offences and that it is of paramount importance for the Court to pass a deterrent sentence so that it will serve as a warning to others to not commit this kind of offence or any other offences.

Even though the amount is negligible, but what the defendant has done not only involved another Defendant but also has eroded the public trust and credibility of the Customs Department. Not only that, the government will be losing its income, in taxes and also it will pose a risk to the national security.

The Honourable Chief Justice Dato Seri Paduka Steven Chong, has highlighted in the abovementioned case that *“Whilst sentencing benchmarks are important to achieve consistency in sentences in the interest of fairness, they are not meant to hamper judicial discretion to adjust the sentence according to the gravity of the offence in a particular case.”*

The Prosecution has submitted that for the Defendant to be imposed with a sentence ranging from 12 to 18 months.

Having had scrutinized all the submissions and the mitigating factors of the case, the gravity of the offence whereby he has instigated the other defendant to corrupt the Customs officers for smooth clearance of the goods at the Customs gate. By doing so he has eroded the public trust and credibility of the Customs Depart as the gatekeeper for entry of goods from the port. This has caused economic loss and will pose a risk to the national security of this Country. This will also serve as a message to people out there that the Court will not tolerate corruption. Having had said all the above, I am satisfied that a custodial sentence is the most appropriate and a starting point of 36 months is justifiable. The starting point is to be reduced by 12 months as he has a clean

record and therefore total sentence is 24 months' imprisonment. The imprisonment sentence is to take effect from 11<sup>th</sup> September 2024.

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