

**Public Prosecutor**

AND

**Pengiran Yunos Pengiran Damit**

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**(High Court of Brunei Darussalam)  
(Criminal Appeal No. 25 of 2024)**

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

**Date of Ruling: 9<sup>th</sup> July, 2025**

*Headnote: Criminal Case – Section 354 of Penal Code – Convicted – Sentence – Prosecution’s Appeal against Sentence – Allowed – Sentence Enhanced.*

DPP Hajah Attiyah Azzahra POKLSDSLJ Awg Hj Abas for the Public Prosecutor/Appellant.  
Mr Pg Muhd Khairul Nizam Bin Pg Hj Mohd Yassin of Messrs Yusof Halim & Partners for the Defendant/Respondent.

**Case cited:**

*Kunasekaran s/o Kalimutu Somasundara v Public Prosecutor* (2018) SGHC 9

**RULING**

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

This is an appeal by the Prosecution (Appellant) against the sentence imposed upon the Defendant (Respondent) by the Magistrate.

The Respondent was convicted after a trial for an offence under Section 354 of Penal Code on 26<sup>th</sup> November 2024.

The Charge that the Defendant was convicted of is as follows:

**The Charge**

That you, sometime between 1100hours and 1130hours on the 25<sup>th</sup> day of March 2023, in the foyer of the Seria Health Centre, in Brunei Darussalam, did use criminal force onto one Miss X (F48) to wit, by touching her buttocks with your left hand, intending thereby to outrage or knowing it likely that you will thereby outrage the modesty of the said Miss X, and you have thereby committed an offence punishable under Section 354 of the Penal Code, Cap 22.

Imprisonment for a term not exceeding 5 years and whipping.

The Magistrate imposed an imprisonment sentence of 7 months to be backdated from the date of his conviction. In reaching the sentence, the Magistrate took into account in the Defendant's favour that he has a clear record and also all the mitigations that were advanced by his counsel.

As an aggravating factor, the Magistrate took into account that the Defendant took advantage of the victim's position as a cleaner. As a medical record officer of a public clinic, the Defendant should have displayed proper respectable conduct to the others particularly, persons like the victim, whom was put in a vulnerable position. The Defendant did not do so and created an uncomfortable work environment. The protection of women must be preserved from any form of sexual harassment and this should be observed, particularly in workplaces. Hence, in this light and the factors mentioned earlier, the Magistrate was of the view that a starting point of 9 months is warranted in the circumstances of the case.

The Prosecution filed an appeal against the sentence on the grounds that it was manifestly inadequate considering the aggravating factors.

The Prosecution in their submission, highlighted several case laws in Brunei and Singapore. They submitted the '*two-step sentencing bands*' as enunciated in *Kunasekaran s/o Kalimutu Somasundara v Public Prosecutor* (2018) SGHC 9.

The Respondent amongst others submitted in paragraph 4 of the submission:

*"The allegation was that he walked past the complainant and touch her buttocks. The fact that the Appellant only had one paragraph under this heading indicates the relatively minor action. It was one touch and that's it, he did not accost her, he did not rub his genital area at her, he did not squeeze her buttocks, he did not physically imposed himself on her..."*

Having had heard and read both parties and their submissions, it is well established that outrage of modesty is a serious offence.

The Magistrate has correctly stated that it is in the public interest that women are to be protected from those who are minded to misbehave.

The degree of sexual exploitation in this manner is not relatively minor action. Being one touch is not a minor incident. It might be a minor incident or just a '*joke*' or '*gurauan*' to the Defendant but not to the victim.

The question now is whether the 9 months starting point is appropriate to show that it is a serious offence, and will this be enough to protect women from being sexually harassed and will it be enough to deter others from committing such offence?

The Defendant was a government servant and the victim was a cleaner. Being a government servant, the Defendant regardless of his position, must show respect to others.

I am satisfied that even though that the Magistrate has highlighted the aggravating and mitigating factors before reaching her sentence, she has failed to really appreciate the need of a higher starting

point so that it will act as a deterrent to others from committing such offence. This will also send messages to others that women must be respected and touching of others is not permissible and touching as part of '*gurauan*' is also not permissible.

With this in mind, I am satisfied that the 9 months starting point is inadequate and will increase it to 15 months.

This Court will reduce the starting point by 3 months taking into account of his clear record and increased the sentence of imprisonment from 7 months to 12 months.

It is noted that the Defendant has fully served the 7 months' imprisonment and now he has to serve an additional 5 months' imprisonment with effect from today.

Appeal is allowed. Imprisonment sentence is increased from 7 months to 12 months. The additional 5 months' imprisonment sentence is to take effect from today.



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