

PC5953 Mohamad Azri Al Azhar Bin Edham Khalid

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 4 of 2023)**

Steven Chong, C.J.
8th July, 2023

Criminal law – Cheating – Money laundering – Sentence

Appellant In Person.
DPP Dk Didi-Nuraza Pg Latiff for Public Prosecutor/Respondent.

Case cited:

Sahlan Bin Haji Mat Sahat v Public Prosecutor [Criminal Motion No. 23 of 2022]

Steven Chong, C.J.:

This case provides another useful reminder of the adage that if something sounds too good to be true it probably is.

On 4 March 2023 in the Magistrate’s Court before Senior Magistrate Hjh Ervy Sufitriana Binti Haji Abdul Rahman the appellant was convicted after a trial of 12 charges of cheating contrary to section 420 of the Penal Code and 3 charges of money laundering contrary to section 3(1) of the Criminal Asset Recovery Order 2012.

The Senior Magistrate sentenced the appellant to a total term of 4 years’ imprisonment for the cheating offences and a total term of 2 years’ imprisonment for the money laundering offences consecutive. The aggregate sentence was therefore 6 years’ imprisonment.

Additionally, the appellant was ordered to pay compensation amounting to \$29,100 to the three victims or 2 months 2 weeks’ imprisonment in default of payment.

This is an appeal against sentence by the appellant on the ground that it is excessive.\

The facts

Briefly summarized the facts on the findings of the Senior Magistrate were that over a period of two months between April and June 2018 the appellant who was a policeman using his Facebook account under the name "Golden FX" convinced three victims to give him sums of money ranging from \$100 to \$10,000 totalling \$30,700 to "invest" in fictitious schemes including "Diamond Weekly Investment" promising extraordinary returns of up to \$6,000 per week with an "investment" of \$10,000.

With the exception of one victim who received a "profit" of \$1,600 the other two lost all their money. The appellant gave various excuses for non-payment when the victims asked for the return of their money.

On three separate occasions in June 2018 the appellant transferred sums of money totaling \$15,600 swindled from the victims to his wife's bank account.

Police investigations following complaints by the victims led to the appellant's arrest.

The sentence

The appellant is 31 years old and had served as a policeman for six years.

The central ground of appeal is that the sentence will cause hardship to the appellant's wife and children who are dependent on him.

There is no merit in the appeal.

It is often the case that the imprisonment of an offender will cause hardship to his family but it cannot be one of the factors which can affect what would otherwise be the right sentence.

At trial there was evidence from the victims that one of the reasons why they fell for the appellant's scam was because he was a policeman.

The misuse by the appellant of his position as a policeman in committing the offences; the degree of planning; the duration of the offending; and the multiple victims cheated, cumulatively warranted a severe sentence.

I reiterate what I said in *Sahlan Bin Haji Mat Sahat v Public Prosecutor* [Criminal Motion No. 23 of 2022] which also concerned a policeman convicted of cheating:

"There is no room for such disgraceful criminal conduct by a police officer entrusted to prevent crime. Public trust and confidence in the police can be corroded if the criminal acts of its officers

are left unchecked. Deterrence must be the dominant consideration in sentencing and severe sentences imposed in the public interest.”

Conclusion

The sentence is not excessive and the appeal is dismissed.

DATO SERI PADUKA STEVEN CHONG
Chief Justice