

Public Prosecutor

AND

Muhammad Firdaus bin Yunus

**(Court of Appeal of Brunei Darussalam)
(Criminal Appeal No. 1 of 2026)**

Before: Steven Chong, C.J.; Lunn, and Woolley, JJA.

Date of Hearing: 10th June, 2026

Date of Judgment: 29th June, 2026

Headnote: Criminal law – Kidnapping – Outraging modesty – Serious sexual assaults involving two victims – Consecutive sentences appropriate – Sentence unduly lenient – Appeal allowed.

DPP Hajah Rozaimah binti Haji Abd. Rahman and DPP Abdul Hanan bin Haji Erwan for Appellant.
Respondent in person.

Cases cited:

Public Prosecutor v Ali bin Hj Othman [2004] 2 JCBD 254

Public Prosecutor v Jahidul Islam and Md Usuf Ali [Criminal Appeal No. 12 of 2024]

Khairul Bashar v Public Prosecutor [Criminal Appeal No. 3 of 2022]

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

Steven Chong, C.J.:

Introduction

1. This is an appeal by the Public Prosecutor against sentence on the ground that it is manifestly inadequate.
2. On 12th July 2025, in the Intermediate Court, the respondent claimed trial to three charges under the Penal Code, namely: (i) kidnapping X, a minor, contrary to section 361 (1st Charge); (ii) outraging the modesty of X contrary to section 354 (2nd Charge); and (iii) outraging the modesty of Y contrary to section 354 (3rd Charge).
3. At the pre-trial conference on 28th July 2025, the respondent indicated his intention to plead guilty to all three charges and duly entered pleas of guilt to each of them. However, following the reading of the statement of facts, although he admitted to the facts underlying the 2nd and 3rd Charges, he disputed the facts in respect of the 1st Charge. In particular, he asserted that X had approached his vehicle, requested money and food, and had voluntarily entered his car to accompany him to his residence for the purpose of receiving food. In light of this qualification, the Judge declined to accept the respondent's plea of guilty to the 1st Charge and directed that the matter proceed to trial.

4. Before the trial commenced on 24th November 2025, the respondent again indicated his intention to plead guilty to the 1st Charge and, on this occasion, admitted without qualification to an amended statement of facts. He was consequently convicted on all three charges.
5. The Judge imposed an aggregate sentence of 3 years and 4 months' imprisonment, together with 4 strokes of the cane.

The facts

6. On 17th June 2025, at about 9.00 p.m., X, who was then an 11-year-old schoolboy, was in the company of three friends, including Y, then aged 18, at a parking area in the vicinity of KB Sentral, Kuala Belait. They were present at the location to access Wi-Fi services. At the material time it was raining heavily.
7. While there, X approached the respondent's vehicle, knocked on the window, and requested money or food. The respondent declined the request. X then proceeded to approach other vehicles in the vicinity.
8. Shortly thereafter, the respondent called out to X and invited him to enter his vehicle, indicating that he would give him a "treat". X accepted the invitation and got into the vehicle. The respondent then drove X to his residence at Jalan Kompleks Sukan Mumong.
9. Upon arrival at the residence, the respondent directed X to enter the house and remove his clothing. X declined to comply. The respondent persisted, instructing X to proceed to the bathroom to undress and offering him a sum of \$40 as an inducement. X again refused. The respondent then proposed that X remain overnight at the premises, which proposal X likewise rejected.
10. Thereafter, the respondent proceeded to outrage X's modesty by touching his body and penis. In an effort to dissuade the respondent, X falsely represented that his mother was a police officer and requested to be returned home. The respondent subsequently acceded to that request.
11. Between 10.00 p.m. and 11.00 p.m., the respondent drove X to Kampong Mumong and dropped him off near his residence, where X's friends, including Y, were present. Before X alighted from the vehicle, the respondent instructed him to call Y over.
12. When Y approached the vehicle, the respondent asked whether he had ever watched an "inappropriate" video. Y indicated that he did not understand the question and responded in the negative. The respondent then offered Y a sum of \$40 to accompany him to his residence. Y agreed, and the respondent thereafter drove him to his house.
13. X subsequently contacted the police to report the incident at the respondent's residence, following which a formal police report was lodged by X's mother.

14. Upon arriving at the residence with Y, the respondent directed Y to enter the house and accompany him to the kitchen to cook rice. The respondent then instructed Y to apply toothpaste to his mouth and provided him with a beverage. Thereafter, the respondent directed Y to the toilet and followed him inside, locking the door behind them.
15. While in the toilet, the respondent outraged Y's modesty by compelling him to stroke the respondent's penis, to perform oral sex on him, and to suck his nipples. Y complied out of fear and due to the respondent's persistence.
16. During the commission of these acts, police officers arrived at the residence and knocked on the main door. Upon hearing the knock, the respondent instructed Y to remain silent in the toilet. The respondent, clad only in his underpants, went to answer the door. Y was subsequently discovered in the toilet and rescued by the police. The respondent was thereafter arrested and, in the course of investigations, admitted to the offences.

Previous conviction

17. The respondent has a relevant antecedent record. In 2022, he was convicted of one offence of attempted kidnapping of an 8-year-old girl and two offences of drug consumption. He also has an earlier conviction for drug consumption in 2018.

The sentence

18. In determining the appropriate sentence for the kidnapping offence under the 1st Charge, the Judge considered a number of relevant authorities, including *Public Prosecutor v Ali bin Hj Othman* [2004] 2 JCB 254. In that case, the High Court adopted a starting point of 3 years' imprisonment for the kidnapping of a 5-year-old girl, which was reduced to 2 years' imprisonment in recognition of the offender's plea of guilty.
19. In relation to the offences of outraging modesty under the 2nd and 3rd Charges, the Judge observed that the authorities generally indicate a sentencing range of between 2 and 4 years' imprisonment, together with caning, for offences involving acts committed against minors.
20. Having regard to the circumstances of the present case, the Judge imposed a sentence of 3 years' imprisonment on the 1st Charge, which was reduced to 2 years' imprisonment on account of the respondent's plea of guilty. For each of the 2nd and 3rd Charges, the Judge imposed a sentence of 2 years' imprisonment, which was similarly reduced to 16 months' imprisonment following the respondent's plea of guilty, together with 2 strokes on each charge.
21. The Judge ordered the sentences of imprisonment imposed on the 2nd and 3rd Charges to run concurrently with each other, but consecutively to the sentence imposed on the 1st Charge. The caning sentences were ordered to be cumulative. The resulting aggregate sentence was therefore 3 years and 4 months' imprisonment and 4 strokes.

The appeal

22. The Deputy Public Prosecutor (“DPP”) submits, in broad terms, that both the individual sentences imposed on the respective charges and the aggregate sentence were manifestly inadequate.
23. In relation to the kidnapping offence under the 1st Charge, the DPP submits that the Judge placed undue reliance on *Ali bin Hj Othman*. It is contended that the decision is materially distinguishable from the present case, not least because of the respondent’s antecedent conviction for attempted kidnapping. The DPP argues that a starting point of 4 years’ imprisonment would have been more appropriate, which, after allowing the customary reduction for the respondent’s plea of guilty, would have resulted in a sentence of 2 years and 8 months’ imprisonment. In support of that submission, reliance is placed on *Public Prosecutor v Jahidul Islam and Md Usuf Ali* [Criminal Appeal No. 12 of 2024], where this Court upheld a sentence of 4 years’ imprisonment following a trial in respect of the kidnapping of a 14-year-old girl.
24. As regards the offences of outraging modesty under the 2nd and 3rd Charges, the DPP relies on *Khairul Bashar v Public Prosecutor* [Criminal Appeal No. 3 of 2022], where this Court held that a starting point of 3 years’ imprisonment, reduced to 2 years’ imprisonment on account of the offender’s plea of guilty, was appropriate for an offence involving the outrage of modesty of a 12-year-old schoolgirl. The DPP submits that by parity of reasoning, a starting point of at least 3 years’ imprisonment ought to have been adopted in the present case.
25. Turning to the application of the totality principle, the DPP further submits that the Judge erred in ordering the sentences imposed on the 2nd and 3rd Charges to run concurrently. Those offences involved two separate victims, namely X and Y, and therefore warranted the imposition of consecutive sentences. It is argued that, having regard to the seriousness of the respondent’s sexual offending against two different victims, one of whom, X, was only 11 years old at the material time, the aggregate sentence of 3 years and 4 months’ imprisonment and 4 strokes was unduly lenient. The DPP submits that the proper approach was to order the sentences imposed on all three charges to run consecutively, which would have resulted in an aggregate sentence of 6 years and 8 months’ imprisonment.
26. In response, the respondent, who was 36 years old at the time of the offences and was employed as a security guard, submits that he is genuinely remorseful and regrets his conduct. He also points to his personal circumstances, including the fact that he is divorced and has one child. On that basis, he urges this Court not to interfere with the sentence imposed by the Judge.

Decision

27. A sentence will be regarded as unduly lenient if it falls outside the range of sentences which a sentencing judge, properly directing his or her mind to all the relevant circumstances, could reasonably have considered appropriate.

28. In relation to the kidnapping offence, in *Brahim bin Haji Kassim v Public Prosecutor* [Criminal Appeal No. 2 of 2018], the appellant was convicted after trial of one offence of kidnapping a 10-year-old girl and a further offence of outraging her modesty. The Intermediate Court imposed sentences of 4 years' imprisonment for the kidnapping offence and 3 years' imprisonment for the offence of outraging modesty, with the sentences ordered to run concurrently. On appeal, the conviction for outraging modesty was quashed. In reducing the sentence for kidnapping to 9 months' imprisonment, this Court observed:

"Of all the offences, kidnapping must be one that varies most in its gravity, and sentence depends upon its particular facts. In the instant case, once the outraging modesty has gone, the nature of the kidnapping is radically changed."

29. Having regard to the facts of the present case, and notwithstanding the respondent's antecedent conviction for attempted kidnapping, we are not persuaded that the sentence imposed for the 1st Charge fell outside the range of sentences reasonably open to the Judge. In our judgment, the Judge was entitled to adopt a starting point of 3 years' imprisonment and to reduce that sentence to 2 years' imprisonment in recognition of the respondent's plea of guilty. We are satisfied the Judge took into account all the relevant considerations and we do not consider the sentence imposed on the 1st Charge to be unduly lenient.

30. We take a different view, however, in relation to the sentences imposed for the offences of outraging modesty and the resulting aggregate sentence. In our judgment, insufficient weight was accorded to the youth of X and the seriousness of the sexual assaults perpetrated against both victims, particularly Y. These were significant aggravating factors which, in our view, warranted greater recognition in the sentencing exercise and should have been more fully reflected in the sentence imposed.

31. In all the circumstances, we consider that a starting point of 3 years' imprisonment and 3 strokes was appropriate for each of the 2nd and 3rd Charges. Giving due credit for the respondent's plea of guilty, the appropriate sentence on each charge is 2 years' imprisonment and 2 strokes.

32. Turning to the totality principle, the sentencing court must ensure that the overall sentence is just and proportionate to the entirety of the offending conduct. In the present case, the respondent engaged in deliberate and predatory conduct over the course of a single night. He first offered a "treat" to X in order to entice him into his vehicle before taking him to his residence and sexually assaulting him. Thereafter, he targeted Y, offering him cash to induce him to accompany him to his house, where he likewise subjected him to a sexual assault.

33. Having regard to the fact that the offences comprised in the 2nd and 3rd Charges involved different victims and constituted distinct criminal acts, we are satisfied that the sentences imposed on those charges ought properly to run consecutively. In contrast, we consider it appropriate that the sentence imposed on the 1st Charge run concurrently with that imposed on the 2nd Charge. Both offences were committed against the same victim, X, and

formed part of a single transaction. In these circumstances, concurrent sentencing for those charges appropriately reflects the overall criminality involved.

Conclusion

34. For these reasons, we allow the Public Prosecutor's appeal. The sentences imposed on the 2nd and 3rd Charges are set aside and substituted with sentences of 2 years' imprisonment and 2 strokes on each charge. The terms of imprisonment imposed on those charges shall run consecutively, with the strokes to be cumulative.
35. The sentence imposed on the 1st Charge shall run concurrently with the sentence imposed on the 2nd Charge.
36. Accordingly, the aggregate sentence imposed by the Judge is also set aside and substituted with a sentence of 4 years' imprisonment and 4 strokes. In our judgment, that sentence appropriately reflects the gravity and overall criminality of the respondent's offending conduct.



DATO SERI PADUKA STEVEN CHONG, C.J.



LUNN, J.A.



WOOLLEY, J.A.