

Mohammad Shukri Bin Jabat
AND
Public Prosecutor

(High Court of Brunei Darussalam)
(Criminal Appeal No. 11 of 2019)

Suhaili Bin Sujong
AND
Public Prosecutor

(High Court of Brunei Darussalam)
(Criminal Appeal No. 12 of 2019)

Mohammad Shahrizan Bin Haji Miya Omar
AND
Public Prosecutor

(High Court of Brunei Darussalam)
(Criminal Appeal No. 13 of 2019)

Steven Chong, C.J.
29 October 2019

Theft of electrical cables from government electrical substation – Appropriate sentence.

Appellants unrepresented.

DPP Raihan Nabilah Bte Hj Ahmad Ghazali and Hajjah Siti Mu'izzah Binti Hj Sabli for Public Prosecutor/Respondent.

Case cited:

Public Prosecutor v Zaine Bin Hj Rasit [2007] 2 JCBD 24

Steven Chong, C.J. (ex tempore):

These are appeals by the Appellants against sentence.

On 13 July 2019 in the Magistrate's Court the Appellants were convicted after a trial on two counts under the Penal Code: theft contrary to section 379 (1st Charge) and mischief by causing wrongful damage contrary to section 427 (2nd Charge).

Magistrate Kamaliah Fadhilah Binti Hj Ibrahim sentenced the Appellants as follows:

1st Appellant ("Shukri"): 12 months' imprisonment on the 1st Charge and 6 months' imprisonment with 2 strokes on the 2nd Charge.

2nd Appellant ("Suhaili"): 15 months' imprisonment on the 1st Charge and 6 months' imprisonment with 2 strokes on the 2nd Charge.

3rd Appellant ("Shahrizan"): 12 months' imprisonment on the 1st Charge and 6 months' imprisonment with 2 strokes on the 2nd Charge.

The sentences of imprisonment were ordered to run concurrently.

In brief the facts found by the Magistrate were that in the early hours of 20 September 2018 the Appellants went to the Beribi VIP Housing Complex where they cut and stole the electrical cables from the electrical substation located there.

All three Appellants complain that the sentence is excessive and ought to have been backdated to the date when they were remanded pending trial.

Shukri is 44 years old and was a used car salesman. He says his wife and children need his support and he has bank loans to repay.

Suhaili is 27 years old, single and unemployed.

Shahrizan is 21 years old and says he wants to continue his education.

There is no merit in these appeals. The sentences are not excessive. They are lenient. In *Public Prosecutor v Zaine Bin Hj Rasit* [2007] 2 JCBd 24, this court laid down guidelines on sentences in cases of this nature:

"Generally, unless there are exceptional circumstances, . . . a starting point of at least 18 months' imprisonment upon conviction after a trial should be imposed for such offences even for a first offender. On a guilty plea a discount of up to 6 months resulting in a sentence of one year's imprisonment would be appropriate. Where there are multiple offences a more severe sentence would be justified."

A deterrent sentence is necessary because of the prevalence of electrical cable thefts from government electrical substations. Aside from the cost to the government of repairing the damage caused when electrical cables are cut, there is also the loss and inconvenience suffered by public, commercial and private consumers from power disruptions.

Suhaili had previously been convicted of a theft offence in 2017. The Magistrate was right to impose a higher starting point sentence on him compared to his two accomplices since he did not have a clear record.

The Appellants were remanded because they were in breach of their bail conditions in relation to an earlier offence which is before the Intermediate Court. There is no basis for backdating their sentences in relation to these offences.

For the foregoing reasons the appeals are dismissed.

DATO SERI PADUKA STEVEN CHONG
Chief Justice