

Public Prosecutor

AND

Muhd Addey Redaniel Nur Ashraf Bin Abdullah Sumin

**(High Court of Brunei Darussalam)
(Criminal Appeal No 12 of 2015)**

Hairol Arni Majid, J.
27th July, 2015.

Road Traffic – *Driving without valid insurance – Section 3(2) Motor Vehicle Insurance (Third Party Risk) Cap 90 – Medical emergencies – Appeal against non-disqualification.*

Dk Hazirah Pg Mohd Yusof (Deputy Public prosecutor) for Public Prosecutor.
Defendant In Person.

Case cited in the Judgment:

Public Prosecutor v Lim Jin Lee and Salina Binti Mohd Salleh [2000] JCBD 217

J U D G M E N T

Hairol Arni Majid, J.:

This is an appeal by the Public Prosecutor against a Magistrate's order for not imposing a 12 month mandatory disqualification for driving without an insurance an offence under section 3(2) of the Motor Vehicle Insurance (Third Party Risk Act) Chapter 90 (MVITPR).

The Respondent had earlier pleaded guilty to 2 counts namely for driving without a valid road tax and without a valid insurance policy offences under section 8(2) of the Road Traffic Act Chapter 68 and Section 3(2) MVITPR and was fined of \$250 in default one week imprisonment and \$500 in default 3 weeks imprisonment respectively.

The Magistrate did not however order the mandatory disqualification of 12 months from driving for the latter conviction citing special reason. It is against this order that the Public Prosecutor filed this appeal before this court.

The presiding Magistrate cited the special reason as per the note of the proceeding as “medical emergency”. Having perused the notes further, it appears the Respondent informed the court that he intended to bring his father to hospital because the latter had medical appointed that day. The Magistrate accepted this as a medical emergency and a special reason not to order the disqualification order. This cannot be correct. I fail to see how this can be termed as medical emergency given that the respondent knew this was a scheduled medical appointment which had been fixed weeks or months before. Had it been a real emergency perhaps the only tenable option for the respondent was to call the ambulance. On the fact as it stands, this was by no means a matter of life and death situation that could seriously be termed as medical emergency.

For an event to be warranted a special reason, it should be

- i. An extenuating circumstance that could be mitigate the sentence.
- ii. Secondly, it must not amount in law available as a defence.
- iii. Thirdly, it should be convicted to the commission of the offence but not with the offender.
- iv. It is a matter which the court ought to properly take into account in passing sentence. (**See also *Public Prosecutor v Lim Jin Lee and Salina Binti Mohd Salleh* [2000]JCBD 217**)

For the fore reasons, accordingly I vary the Magistrate order and impose a mandatory 12 month driving disqualification against the respondent with effect from today.

Appeal is allowed.

Dato Paduka Hairol Arni Majid
Judge, High Court