Public Prosecutor

AND

Nur Sabihah Binti Haji Zulfikri

(High Court of Brunei Darussalam)
(Criminal Appeal No. 12 of 2020)

Steven Chong, CJ
30 June 2020

Criminal law – Multiple thefts by defendant from her mother's bank savings account – Sentence

DPP Muhammad Qamarul Affyian Bin Abdul Rahman for the Public Prosecutor/Appellant.
Respondent unrepresented.

Steven Chong, CJ:

This is a case of a young woman who clearly mislaid her moral compass and began stealing from her elderly mother's savings to fund a luxury lifestyle.

On 20 April 2020 in the Magistrate's Court the respondent pleaded guilty to twenty four counts: fifteen counts of theft contrary to section 379 of the Penal Code (1st to 15th Charges) and nine counts of money laundering contrary to section 3(1)(b) of the Criminal Asset Recovery Order 2012 (16th to 24th Charges).

The Magistrate imposed concurrent sentences of 8 months' imprisonment on the theft charges and concurrent sentences of 2 years' imprisonment on the money laundering charges. These two sets of concurrent sentences were ordered to run consecutively resulting in an aggregate sentence of 2 years 8 months' imprisonment.

In the Notice of Appeal of the Public Prosecutor it is contended that the Magistrate erred in passing a manifestly inadequate sentence.

The respondent is a 25 year old single woman who was employed as a teacher at the time of the commission of the offences. Sometime in September 2019 the respondent was approached by her cousin, Khadizah, who needed a loan. The respondent suggested to Khadizah to borrow the money from her mother ("the mother"). But Khadizah was reluctant to do so. The respondent then persuaded Khadizah to obtain the mother's TAIB account details. This would enable the respondent to register the mother's TAIB account for online banking and transfer money to Khadizah.

Enlisting the help of a friend Khadizah secured the mother's account details from TAIB and gave this information to the respondent. On 28 October 2019 the respondent registered the mother's account for online banking with TAIB and immediately transferred $1,000 to Khadizah's BIBD account followed by another transfer of $2,500 later that day to her own BIBD account.

Over the next five months the respondent made a further thirteen withdrawals from the mother's TAIB account. In total the respondent siphoned of a sum of $67,960.

The withdrawals came to light after the mother went to TAIB to update her account book and was informed of the money transfers by bank staff. She decided to make a police report.

After the respondent's arrest the police found $8,200 and Rp16 million in her possession. The respondent had spent the rest of the money on extravagant shopping sprees buying luxury goods such as designer shoes, handbags, watches and clothes; holidays in Indonesia; and lavish gifts for her friends including five units of iPhone 11, an iPad and a Huawei P30 Pro.

The gravity of the offences is apparent from the facts recited. The respondent was both rapacious and selfish. A substantial amount of money was stolen by the respondent on fifteen separate occasions over a span of five months which was spent extravagantly by her at the expense of the mother. The court is informed by the Deputy Public Prosecutor that the mother kept her life savings in the TAIB account.

In the circumstances I agree with the Public Prosecutor that the overall sentence of the court below is unduly lenient. I think a starting point sentence of 5 years is appropriate reduced to 3 years and 4 months for the guilty plea.

I therefore allow the appeal and order as follows:

1. Sentences on the 1st to 5th Charges are to run consecutively and the remaining sentences are to run concurrently.
2. Sentence of 2 years 8 months is quashed and substituted with a sentence of 3 years 4 months.

DATO SERI PADUKA STEVEN CHONG
Chief Justice