

Hairul Halimin Bin Haji Mohd Yusof

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 15 of 2022)**

Steven Chong, C.J.

8 September 2022

Criminal law – Theft of vehicle – Mischief – Displaying false license plate on vehicle – Sentence – ss.379 and 426 of the Penal Code – s.89(c) of the Road Traffic Act.

Appellant In Person.

PO Sabrina Haji Mahmud for the Public Prosecutor.

Case cited:

R v Ingham (3 October 1974) (Court of Appeal (Crim Div), UK)

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

On 1 June 2022 in the Magistrate’s Court the appellant was convicted after a trial of theft of a Toyota Land Cruiser II (“*the vehicle*”) contrary to section 379 of the Penal Code (1st Charge); displaying a false licence plate on a vehicle contrary to section 89(c) of the Road Traffic Act (2nd Charge); and mischief by causing wrongful damage to the vehicle contrary to section 426 of the Penal Code (3rd Charge).

Magistrate Norlelawati Binti Haji Abdul Hamid sentenced the appellant to one year’s imprisonment on the 1st Charge; one month’s imprisonment on the 2nd Charge; and 6 months’ imprisonment on the 3rd Charge. The sentences were ordered to run consecutively resulting in an aggregate sentence of imprisonment of one year 7 months.

This is the appellant’s appeal against sentence.

Shortly stated the facts were that on 11 February 2020 the appellant stole the vehicle from a workshop where it was being repaired with the intention of selling it as he needed money. After stealing the vehicle the appellant resprayed it and changed the color from black and red

mica to black. The appellant also replaced the original licence plates of the vehicle with false ones. The appellant then sold the vehicle to one “*Babeh*” for \$1,200.

Police investigations following a report of the missing vehicle by the owner led to its recovery from the buyer and the arrest of the appellant.

The appellant’s sole ground of appeal in seeking a reduction of the sentence is that his wife and five children who are dependent on him will suffer hardship without his support. The appellant having brought this situation upon himself and his family in committing the offences it cannot be one of the factors which can affect what would otherwise be the right sentence: *R v Ingham* (3 October 1974) (Court of Appeal (Crim Div), UK).

As the appellant was convicted after a trial he was not entitled to the normal discount afforded to an offender who pleads guilty to the offence at the first opportunity. The appellant was previously convicted for theft, criminal trespass and drug consumption which was an aggravating factor.

In the circumstances, the sentences considered individually and in totality are not excessive and the appeal is dismissed.

DATO SERI PADUKA STEVEN CHONG
Chief Justice