

Muhammad Hafiz Bin Abdullah Ugorji@Chimere Charles

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 1 of 2019)**

Steven Chong, C.J.

18 May 2019

Attempt to commit extortion – Sentence.

Appellant unrepresented.

DPP Sharon Yeo for the Public Prosecutor/Respondent.

Case cited:

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

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

This case serves as a reminder of the risks of online affairs.

On 27 December 2018 in the Magistrate’s Court the appellant was convicted after a trial of attempting to commit extortion contrary to section 385 read with section 511 of the Penal Code.

Magistrate Hjh Ervy Sufitriana Binti Hj Abdul Rahman sentenced the appellant to 3 years and 8 months’ imprisonment and one stroke corporal punishment.

This is an appeal against sentence.

In summary the facts found by the Magistrate were that sometime in May 2015 the appellant and the complainant, who were both married, began an extramarital relationship after contacting each other through a social media website. The online affair escalated into a sexual affair between them and they would meet in a hotel to have sex.

Unfortunately for the complainant, when she decided to end the illicit relationship after the appellant became increasingly domineering and possessive, he threatened her with disclosure

of a video recording showing them engaged in sexual intercourse unless she paid him \$5,000 in cash. The appellant was arrested after the complainant made a police report.

The appellant is a national of Nigeria. His wife is a citizen of Brunei Darussalam. He complains that the sentence is excessive and it has caused hardship to his wife who is diabetic and his elderly mother who lives in Nigeria as they have been deprived of his support.

It is often the case that the imprisonment of an offender will cause hardship to his family but “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), per Lord Widgery CJ.

Extortion is invariably a serious offence because of the mental anguish it causes to the victim. Deterrence is an important element in the sentence in a case such as this.

The mandatory minimum sentence for this offence is 3 years’ imprisonment with whipping. Considering the gravity of the threat made and the conviction was after a trial the sentence imposed by the court below is not excessive.

I therefore dismiss the appeal.

DATO PADUKA STEVEN CHONG

Chief Justice