

Kuan Kok Yin

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 23 of 2018)**

Steven Chong, C.J.

7 November 2018

Hiring out a woman for the purpose of prostitution – Appropriate sentence.

Appellant unrepresented.

PO Sabrina Binti Haji Mahmud for the Public Prosecutor/Respondent.

Cases cited:

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

Lai Oei Mui Jenny v Public Prosecutor [1993] 2 SLR (R) 406

Mohammad Ezam Bin Tuah v Public Prosecutor [2015] 2 JCBD 185

Lim Ang Ang v Public Prosecutor [2009] 1 JCBD 23 at p.24

Steven Chong, C.J.:

On 9 August 2018 in the Magistrate’s Court the appellant pleaded guilty to hiring out a woman (“the woman”) for the purpose of prostitution contrary to section 3(1)(a) of the Women and Girls Protection Act.

Magistrate Pg Hazirah Binti Pg Mohd Yusof sentenced the appellant to 8 months’ imprisonment.

The appellant appeals against that sentence.

Shortly stated the facts were that on the afternoon of 7 August 2018 the appellant was arrested by police officers of the Anti-Vice and Gambling Suppression Unit in his flat where he had arranged for the woman to offer sexual services to a customer who had paid him \$150.

Police investigations after the appellant’s arrest revealed that the woman who is foreign had been staying in the appellant’s flat since her arrival in Brunei Darussalam from Kuala Lumpur on

a social visit pass on 26 July 2018. The mobile phone of the appellant showed that he had been offering the sexual services of the woman to customers on “WeChat”.

The appellant is a permanent resident aged 43. He has a wife and two children who are still in school and elderly parents dependent on him. He appeals for his sentence to be reduced on the ground that his family will suffer hardship without his support. Whilst the court has sympathy for the appellant’s family, none of the factors mentioned by him is so unusual as to justify a more lenient sentence: see *R v Ingham* (3 October 1974)(Court of Appeal (Crim Div), UK), cited with approval in *Lai Oei Mui Jenny v Public Prosecutor* [1993] 2 SLR (R) 406; and *Mohammad Ezam Bin Tuah v Public Prosecutor* [2015] 2 JCB 185.

In determining sentence the Magistrate was guided by the observations of this Court in *Lim Ang Ang v Public Prosecutor* [2009] 1 JCB 23 at p.24:

“It must be made clear to anyone minded to engage in this sort of activity, which is injurious to the public interest because it encourages vice, that a prison sentence is likely to be imposed even for a first offender.

In the absence of any evidence of coercion, whether physical or mental, or corruption, on the woman involved in prostitution, I think a starting point of imprisonment for one year and one stroke is proper in a contested case. An appropriate reduction should be given for pleading guilty.”

A more severe sentence would be warranted where the following aggravating features are present: (i) exploitation by coercion or trickery into prostitution; (ii) abuse and corruption of minors through prostitution; (iii) connection with a crime syndicate; (iv) large scale activity evidenced by the number of prostitutes and the amount of profits made; (v) activity carried out over a long period; and (vi) involvement in the international trafficking of women for prostitution.

The sentence of the court below is in accordance with the guidelines laid down in *Lim Ang Ang v Public Prosecutor* and is unassailable.

I therefore dismiss the appeal.

DATO PADUKA STEVEN CHONG
Chief Justice