

Nurul Furqan Bin Awang Morshidi

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 24 of 2021)**

Steven Chong, CJ
17th March 2022.

Criminal law – Theft of a car – Theft from a building – ss.379 and 380 of the Penal Code.

Appellant In Person.

DPP Raihan Nabilah Bte Hj Ahmad Ghazali for Public Prosecutor.

Cases cited:

Haris Bin Akil v Public Prosecutor [1992] JCBD 248

Public Prosecutor v Md Zulani Bin Hj Sani

Public Prosecutor v Raddyman Bin Awg Hj Radin [2005] 2 JCBD 8

Steven Chong, C.J.:

On 2 December 2021 in the Magistrate's Court the appellant was convicted after a trial on three counts under the Penal Code: one of theft of a car contrary to section 379 and two of theft of items from a building contrary to section 380.

The Senior Magistrate sentenced the appellant to 18 months' imprisonment on each count to run concurrently.

This is an appeal by the appellant against that sentence on the ground it is excessive.

In brief the facts in chronological order were that on the night of 8 October 2019 the appellant and an accomplice went to a shop in Kampong Lumapas in a car in order to commit theft. Arriving at the scene the accomplice entered the shop through a sliding window and stole seven dart boards, a power drill, a gas cylinder and a backpack which the appellant, who acted as a lookout, carried into the car.

On the same night the appellant himself also went to the garage of a house in Kampong Pintu Malim and stole a Toyota Kijang car.

Subsequently, in the early hours of 11 October 2019, the appellant and an accomplice went to a convenience store at Jalan Subok in a car intending to steal from it. The accomplice broke into the storeroom of the convenience store by using a “*cutter*” on the door and both men then loaded 17 boxes of soft drinks, seven boxes of potatoes and three boxes of vitamin-C into their car.

The appellant is aged 31 and was unemployed at the time of the commission of the offences. He was previously convicted of three theft offences. The present offences were committed within one year of his release from prison after serving a sentence of 13 months’ imprisonment imposed for the theft conviction in 2017.

Clearly, the appellant has not been deterred by that sentence from committing further offences. A more severe sentence is therefore necessary to discourage him from this criminal behavior.

The sentences imposed in the court below for these three offences, individually, are in accordance with the guidelines set out by this court in *Haris Bin Akil v Public Prosecutor* [1992] JCBD 248 (*theft of cars*) and *Public Prosecutor v Md Zulani Bin Hj Sani and Public Prosecutor v Raddyman Bin Awg Hj Radin* [2005] 2 JCBD 8 (*theft from a building*).

In totality, since the three sentences were ordered to run concurrently resulting in a sentence of 18 months’ imprisonment, the sentence far from being excessive erred on the side of leniency. In the *Haris Bin Akil* case Roberts, CJ upheld consecutive sentences imposed on two separate acts of theft of cars. Considering these three offences were committed on separate occasions I think the imposition of consecutive sentences in relation to two of the offences resulting in an aggregate sentence of 3 years’ imprisonment would have been entirely appropriate.

For the foregoing reasons the appeal is dismissed.

DATO SERI PADUKA STEVEN CHONG
Chief Justice