



Public Prosecutor

AND

Haji Masirman Bin Mazlan

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 27 of 2016)**

**Steven Chong, J.
19 September 2016**

Criminal law – Theft of car – Previous theft convictions – Higher starting point sentence warranted.

DPP Kamaliah Fadhilah Binti Hj Ibrahim and PO Pg Hjh Nor'azmeena Binti Pg Hj Mohiddin for the Public Prosecutor/Appellant.
Respondent unrepresented.

Case cited:

Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138.

Steven Chong, J.:

On 4 August 2016 in the Magistrate's Court the defendant pleaded guilty to the theft of a car contrary to section 379 of the Penal Code and was sentenced to 8 months' imprisonment.

The Public Prosecutor appeals against that sentence on the ground that it is inadequate.

Theft of cars is treated very seriously by the court because of the prevalence of the offence. The primary sentencing consideration must be deterrence. The starting point sentence is 12 months' imprisonment where the offender has a clear record with an appropriate deduction for pleading guilty. A higher starting point sentence is justified for an offender with previous convictions depending on the nature of the offences: *Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin* [2003] BLR 138.



Looking at the notes of proceedings it would appear the Magistrate considered the defendant to be a first offender; he took a starting point of 12 months' imprisonment and reduced it to 8 months' imprisonment. In this the Magistrate was mistaken.

The Deputy Public Prosecutor says that the defendant has three prior convictions for theft, in 2004, 2013 and 2015. The record of convictions was put before the Magistrate. The present offence was committed on 29 July 2016, not long after the defendant had served his sentence of 4 months' imprisonment for the last offence.

Having regard to the defendant's three previous theft convictions a higher starting point sentence is warranted. I think a starting point of 18 months' imprisonment would be proper, reduced to 12 months' imprisonment to give credit for the guilty plea. The sentence of 8 months' imprisonment is unduly lenient.

I therefore allow the appeal to the extent that the sentence is increased to 12 months' imprisonment.

DATO PADUKA STEVEN CHONG
Judge, High Court