



Harpal Singh

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 28 of 2015)**

**Steven Chong, Ag. C.J.
9 November 2015**

Criminal law – Sentence – Outraging modesty.

Appellant unrepresented.

DPP Hajah Zuraidah Bte POKPIDP Awang Haji Sidek for the Public Prosecutor.

Cases cited:

Jumat Bin Hassan v Public Prosecutor [1994] JCBD 345.

Public Prosecutor v Narmajili Bin Napir [2010] 2 JCBD 144.

Steven Chong, Ag. C.J.:

On 9 July 2015 the Appellant pleaded guilty to outraging the modesty of Ms X contrary to section 354 of the Penal Code.

The Senior Magistrate Pg Masni Binti Pg Hj Bahar sentenced the Appellant to one year's imprisonment and 2 strokes corporal punishment.

This is an appeal against sentence by the Appellant.

Shortly stated the admitted facts are that on the afternoon of 18 June 2015 the Appellant, a shop assistant employed in a sports equipment store in Seria, sexually molested the cashier, Ms X (aged 23), by poking his penis on her lower back. A police report was made by Ms X the next day.

The Appellant is a 28 year old Indian national. He urges the court to reduce his sentence of imprisonment so that he can return to India to see his grandmother who recently suffered a heart attack.



In *Jumat Bin Hassan v Public Prosecutor* [1994] JCBD 345, Roberts, C.J. said at 346 that “any act of outraging modesty must necessarily be taken as a serious one”.

Generally, a custodial sentence of 6 months would be appropriate in cases of outraging modesty involving any intrusion on the private parts of the victim even when the offender pleads guilty and has a clear record: *Public Prosecutor v Narmajili Bin Napir* [2010] 2 JCBD 144.

Returning to the present case, the facts reveal a serious sexual assault on a young woman and deserves severe punishment. The sentence of one year and 2 strokes is well-deserved.

However, the Deputy Public Prosecutor submits that in fairness the sentence of imprisonment should be backdated to the date when the Appellant was remanded i.e. on 20 June 2015. I agree and order accordingly.

DATO PADUKA STEVEN CHONG
Acting Chief Justice