



Ibrahim Bin Haji Daim

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 31 of 2015)**

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

Criminal law – Payment of fine by monthly instalments.

Appellant unrepresented.

DPP Kamaliah Fadhilah Bte Haji Ibrahim for the Public Prosecutor.

Cases cited:

Aisah Binti Mohd Zaini v Public Prosecutor (A1) and Sepinah Binti Haji Sa'at (A2) v Public Prosecutor [2011] 2 JCBD153.

Suzeyana Binti Haji Sabtu v Public Prosecutor [2011] 2 JCBD 170.

Steven Chong, Ag. C.J.:

On 31 August 2015 in the Magistrate's Court the Appellant pleaded guilty to two offences under the Excise Order 2006: (i) possession of cigarettes contrary to section 146(1)(d); and (ii) possession of eggs contrary to section 140(1)(d).

The Magistrate imposed a fine of \$28,000 or 6 months' imprisonment in default of payment on the 1st Charge and a fine of \$250 or one week's imprisonment in default of payment on the 2nd Charge.

Briefly stated the admitted facts are that on the night of 16 June 2015 customs officers at the Sungai Tujoh Control Post, upon searching the Appellant's car on entry from Miri, found 74 cartons of cigarettes and 30 trays of eggs. The Appellant told the customs officers he bought the cigarettes and eggs for his family.



The Appellant is aged 57 and he has a wife and 9 children. He earns his living as a fishmonger and has an income of above \$1,400 per month. He says he can pay the fine by monthly instalments of \$700.

DPP Kamaliah does not object to payment of the fine by monthly instalments. She suggests the Appellant be given a period of 2 years to pay \$1,200 per month. Relying on the decisions of this court in *Aisah Binti Mohd Zaini v Public Prosecutor (A1) and Sepinah Binti Haji Sa'at (A2) v Public Prosecutor* [2011] 2 JCBD153 and *Suzeyana Binti Haji Sabtu v Public Prosecutor* [2011] 2 JCBD 170, she submits that his would give the Appellant the opportunity to pay and not suffer imprisonment but, at the same time, be reminded over the months ahead that what he did was wrong and so, the deterrence objective of the sentence is preserved.

Balancing the need to preserve the deterrence objective on the one hand and the personal circumstances of the Appellant on the other hand, I consider payment of \$785 per month (with a final payment of \$775) over 3 years to be reasonable and I so order.

The appeal is allowed to that extent.

DATO PADUKA STEVEN CHONG
Acting Chief Justice