

NORHAMNI BTE HJ AHMAD

AND

PUBLIC PROSECUTOR

(High Court of Brunei Darussalam)
(Criminal Appeal No 40 of 2014)

Hairol Arni Majid, J.

3rd March 2016

Criminal Case – Appeal – Sentence – Section 6(b) of MDA – 3 years custodial sentence.

Appellant in person

DPP Hjh Atiyyah Azzahra POKLSDSLJ Awg Hj Abas (Public Prosecutor) for Respondent

Cases cited:

Ng Poh Seng v Public Prosecutor Criminal Appeal No 40 of 2014,

Rosli Hj Minggas vs Public Prosecutor [2006] JCBD51

Matusin Hj Abd Rahman vs Public Prosecutor [Criminal Appeal 51 of 2010]

Mohd Rosdy Abdullah vs Public Prosecutor [2001] 1 JCBD 186

J U D G M E N T

On the 2nd of October 2014, the appellant pleaded guilty to a charge under section 6(b) of the Misuse of Drugs Act Cap 27 before the magistrate Court. She was represented by Mr. Sheikh Noordin Sheikh Mohammad then. She was sentenced to 3 years imprisonment for being a second offender. The court ordered a stay of the execution of the sentence after the appellant's counsel indicated to court of her intention to appeal. The Notice of Appeal was filed on the 4th October 2014.

On the day of the appeal i.e. 12th March 2015, the appellant was not present and her counsel informed the court that he had no contact with his client and had not received any instruction of sort pertaining to the appeal and sought leave to be discharged from representing the appeal which was granted.

Warrant of Arrest was issued against the appellant and was eventually executed on the 20th February 2016 when she was produced before this court. I ordered for her to be remanded pending the date of the appeal.

Before me today she pleaded for her custodial sentence to be substitute to a fine. She said she has young children sitting for exam this year.

On record, the appellant is a second offender for this offence. The sentence passed was the minimum provided by the Act. On records, there appear to be no extenuating circumstances that justify the court not to invoke the minimum custodial sentence under section 29(3) A of the MDA (*see the following cases for reference*)

Ng Poh Seng v Public Prosecutor Criminal Appeal No 40 of 2014,
Rosli Hj Minggas vs Public Prosecutor [2006] JCBD51,
Matusin Hj Abd Rahman vs Public Prosecutor [Criminal Appeal 51 of 2010] and
Mohd Rosdy Abdullah vs Public Prosecutor [2001] 1 JCBD 186.

The magistrate is correct to impose the sentence given that this is her second conviction. Accordingly, this appeal is dismissed.

Dato Paduka Hairol Arni Majid
Judge, High Court