

Pengiran Abd Kiflee Bin Pg Bungsu

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 9 of 2018)**

Steven Chong, C.J.

28 August 2018.

Attempt to smuggle gasoline – Whether appellant should be given more time to pay fine.

Appellant unrepresented.

DPP Muhammad Qamarul Affyian Bin Abd Rahman and DPP Nur Eleana Bte DP Hj Hairol Arni
for the Public Prosecutor.

Steven Chong, C.J.:

On 9 April 2018 in the Magistrate's Court the appellant pleaded guilty to an attempt to smuggle gasoline from Temburong to Lawas, Sarawak, Malaysia contrary to section 140(1)(g) of the Customs Order 2006.

Magistrate Dewi Norlelawati Binti Haji Abdul Hamid imposed a fine of \$10,000 or 10 months' imprisonment in default of payment. The appellant was given a period of 6 months to pay.

The appellant seeks more time to make payment.

Shortly stated the admitted facts were that on the morning of 5 April 2018 at the outward bound lane of Labu Control Post customs officers stopped the appellant's car to carry out inspection. Four jerrycans containing 124.66 litres of gasoline were found in the boot of the car. The defendant purchased the gasoline in Temburong for \$47.00 which was intended for transport to Lawas.

The appellant is 52 years old and he earns his living selling vegetables. He says his income is about \$100 per month and he has six children to support. He proposes to pay the fine by monthly instalments of \$50 to \$100. When the defendant was asked how he could afford to pay that amount having regard to his means the reply given was ambiguous. The defendant said he would make an effort to pay.

Be that as it may, the proposal for payment is unreasonable considering the amount of the fine which is the minimum prescribed under section 140(1)(iv) of the Customs Order 2006 for this offence. A monthly payment of \$100 would mean a payment period of over 8 years. Allowing such a long time to pay would dilute the objective of deterrence in the sentence.

The appeal is dismissed accordingly.

DATO PADUKA STEVEN CHONG
Chief Justice