

Public Prosecutor

AND

Pengiran Ali Bin Pengiran Mohammad (D1)

Raubanizam Bin Hj Raub (D2)

Harisin Bin Hj Raub (D3)

(Intermediate Court of Brunei Darussalam)
(Criminal Trial No.56 of 2023 & No.58 of 2023)

Pg Hjh Norismayanti binti Pg Hj Ismail, Judge

Date of Sentence: 18th October 2025

Criminal law – Sentence – D2 and D3 only – house breaking by night with intent to commit theft - common intention - Jointly charged with D1 under s. 457 of the Penal Code, Cap 22 read with section 34 of the same – trial – conviction – previous convictions – deterrent sentence.

PO Mohammad Kamal Ariffin bin Ismail for Public Prosecutor.

D2 and D3 In Person and Unrepresented.

Cases cited:

PP v Awang Mohd Saifullah bin Hj Ahmad (Criminal trial No.1 of 2010)

PP v Muhammad Joll bin Tumih (Criminal Appeal No.5 of 2005)

PP v Rosman bin Abdullah Nyambong (Criminal Appeal No.16 of 2021)

Shamsuddin bin Mohammad v PP (Criminal Motion No.4 of 2014)

PP v Rari Kaka @ Purnomo (JCBD – Criminal Trial No.7 of 2008)

PP v Ikas Sunaryo & 8 others (HCCT No.4 of 2014)

PP v Mohammad Adini bin Awang Nazri and others (Criminal Trial No.55 of 2019)

S E N T E N C E

Pg Hjh Norismayanti, Judge:

Brief introduction

1. Both Defendants were found guilty under section 457 of the Penal Code, Cap 22, after a lengthy trial on the 16th October 2025. I refer to the Judgment handed down on the 16th October 2025 for the full facts of this case. The court will now consider the sentencing.

Charge

2. As mentioned in the judgment, the charge against the Defendants are as stated below:

“That all of you, on the 12th day of December 2023, at about 0200 hours, at house addressed at No. 3, Simpang 38-22, Jalan Pengasing, Kampung Sengkarai Tutong, in Brunei Darussalam, in furtherance of

your common intention, did commit housebreaking by night, by entering into the said house, in the possession of Hj Shahrani bin Hj Manan, used a human dwelling after the hour of sunset and before the hour of sunrise, in order to commit an offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under Section 457 of the Penal Code, Chapter 22, read with section 34 of the same."

Penalty

3. The penalty prescribed under section 457 is imprisonment which may extend to 5 years and with whipping, and if the offence intended to be committed is theft, the term of imprisonment may extend to 15 years.

Facts of the case

4. The facts of the case are straightforward. All Defendants were found guilty of breaking into a house at Kg Sengkarai in Tutong (as charged). D2 pried open a window, causing damage, and entered through it. He then opened the main door to allow D1 and D3 to enter. After searching for items to steal, all three Defendants heard a shout from inside the house and fled the scene through the main door. None of them managed to steal anything from the house. The complainant then lodged a report and police investigations then led to the arrest of all three Defendants.

Mitigation by D2 and D3

5. Both Defendants have pleaded for a lenient sentence. D2 and D3 have accepted the court's decision and respectfully requested that their previous criminal records not be taken into account in determining the current sentence.

Sentencing considerations

6. Housebreaking at night with the intent to steal is considered a serious offence. The court has consistently emphasized the severity of this type of offences through its sentencing, as reflected in the penalty provided (paragraph 3 above). Additionally, repeat offenders typically receive harsher sentences to serve as a deterrent. This current case follows the same principle.
7. In determining the appropriate sentence, the court's primary consideration is the public interest. The seriousness of the offence is highlighted in **PP v Awang Mohd Saifullah bin Hj Ahmad (Criminal Trial No.1 of 2010)**, where the court emphasized the gravity of the crime by stating:

"The residence of any occupant is private where the general public is kept out unless granted permission to enter. It offers him or her security from the throes of the world. If any one breaks an entry into a home, that harmony and peace in the house has been breached, leaving its inhabitants a permanent indelible apprehension as to whether the place he or she calls home is safe anymore. That is one of the reasons why this court takes a serious view of offences involving house trespasses or housebreaking".

8. Both Defendants have prior convictions for property related offences and drug related offences. D2 was convicted of theft under sections 379 and 380 of the Penal Code for theft in October and December 2001, respectively, and again under section 379 in November 2010. Additionally, D2 was

convicted of housebreaking by night under section 457 of the Penal Code in December 2014. Most recently, D2 was sentenced to (i) 7 years' imprisonment with 12 strokes and (ii) 7 years' imprisonment with 7 strokes, respectively, for two counts of gang robbery under section 395, to be served concurrently. D3 has a previous record for housebreaking by night under section 457, dated 30 July 2016. Referring back to the Defendants' plea to disregard their past convictions, the court considers these past convictions as aggravating factors that will heavily influence the sentencing decision.

Case Authorities

9. In further consideration of the sentence, the court refers to the case of *PP v Muhammad Joll bin Tumih* (Criminal Appeal No.5 of 2005) whereby the court in reference to charges under s.457 of the Penal Code stated that “...An appropriate starting point for each of these for D2 when they are not isolated offences but the convicted person is of previous good character would have been 5 years reduced to 3 years for the plea with 2 strokes on each charge.” Further, in the case of *PP v Rosman bin Abdullah Nyambong* (Criminal Appeal No.16 of 2021) the appellate Judge stated ‘it is well established that a sentence of 5 years with strokes is not excessive for a single offence contrary in s.457 by an offender with a clear record.’ Accordingly, a single offence contrary to section 457 by an offender with a previous record would naturally attract a higher starting point than 5 years, having regard to all the facts and circumstances of the case.
10. The prosecution also submitted several case authorities as guidance and they are as follows:
 - (i) *Shamsuddin bin Mohammad v PP* (Criminal Motion No.4 of 2014) – The Honourable Burrell JA stated “Housebreaking at night are serious crimes, in a typical case a sentence of up to 5 years imprisonment may be upheld by the court because of the distress and the potential fear caused to the home owners.”
 - (ii) *PP v Rari Kaka @ Purnomo* (HCBD – Criminal Trial No.7 of 2008) where the Honourable Dato Paduka Steven Chong, J. then held “Sentences of housebreaking must therefore have a deterrent effect. In the circumstances, I think a starting point of 5 years and 5 strokes is appropriate. Giving credit to the defendant for his admission to the police and guilty plea at the first opportunity, and being a first offender, I consider a sentence of 3 years and 3 strokes on each count appropriate.”
 - (iii) *PP v Ikas Sunaryo & 8 others* (HCCT No.4 of 2014) – the case involved the Defendants stealing gold jewelry, iPad, electronic items and mobile phones under section 457 of the Penal Code, Cap 22. The presiding judge sentenced started with a 6 years' imprisonment which he reduced to 4 years and 5 strokes following their clean record and early guilty plea.
 - (iv) Lastly, *PP v Mohammad Adini bin Awang Nazri and others* (Criminal Trial No.55 of 2019) involving D1 who had two previous convictions for property related offences. D1 broke into premises used for custody of property and stole. D1 financially benefitted by selling off two of the stolen items and another remained unrecovered. The court started with a sentence of 4 years' imprisonment and 2 strokes and reduced it to 2 years and 8 months on the count of D1's guilty plea.
11. The court adopts the approach taken in the cases of *Mohammad Joll*, *Rosman bin Abdullah Nyambong* and *Shamsuddin bin Mohammad* where it was accepted that for a s.457 offence, a 5

years' imprisonment sentence was appropriate for a first offender with a guilty plea. Considering that the present case involves Defendants with previous convictions on housebreaking and other related property offences, the court finds that an appropriate sentence would be within the range of 5 ½ years to 7 years' imprisonment, depending on the facts and circumstances of the case.

Final Sentence

12. After careful consideration of the facts and circumstances of the case and the Defendants' criminal past for similar offences, the court sentences both D2 and D3 to 6 years' imprisonment and 3 strokes of the whip. The sentences are to take effect from their first date in remand.


DK HJH NORISMAYANTI PG HJ ISMAIL
Judge

