

Public Prosecutor

AND

Suwande Bin Supri

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 19 Of 2025)**

Pg Masni Pg Hj Bahar, Judge

Date of Sentence: 3rd September 2025

*Headnote: Section 323 PC- punishment for voluntarily causing hurt- Plead guilty- first
Offender- Domestic Violence-Deterrence sentence- Protect victim*

DPP Abdul Hanan Hj Erwan for the Public Prosecutor.
Defendant In Person and Unrepresented.

Case cited:

Mohammad Noor Hazwani bin Joini v Public Prosecutor (Criminal Appeal No.48 of 2014)

SENTENCE

Pg Masni, Judge:

INTRODUCTION:

1. The Defendant was initially charged with three (3) counts of charges, of which two (2) of the charges are charges under section 323 PC (1st and the 3rd charges) and one charge under section 506 PC (2nd charge).
2. This case was remitted to the Intermediate Court due to the penalty prescribed under the 2nd charge. This case was brought before this court on the 7th May 2025.

Charge:

3. The three (3) charges faced by the Defendant are as follows:

1st Charge:

That you, on the 21st day of April 2024, at about 1545 hrs, at No.8A, Jln Sungai Besar, Bukit Bendera, Tutong, in Brunei Darussalam, did voluntarily cause hurt to one Noor Reanty binti Haji Bakir (Female, 45 years old) to wit, by chocking her,

kicking her, pulling her hair, striking her head against the wall and floor, and you have thereby committed an offence punishable under Section 323 of the Penal Code, Chapter 22.

2nd Charge:

That you, on the 22nd day of April 2024, at about 1100 hrs, in the vicinity of No.8A, Jln Sungai Besar, Bukit Bendera, Tutong, in Brunei Darussalam, did commit criminal intimidation by threatening one Muhammad Qhairum Mushawwir bin 'Abdussalam (Male, 13 years old), with an injury to him, to wit, by uttering words to him *"ku bunuh kau karang, kau ni punca semua ani kau yang mahu cemani suka kau melihat aku berkelahi sama mama mu atu"*, (*"I will kill you later, you are the cause of all this, you are the one who wanted this, you like to see me fight with your mother"*) with intent to cause death to him, and you have thereby committed an offence punishable under Section 506 of the Penal Code, Chapter 22.

3rd charge:

That you, on the 6th day of December 2024, at about 1130 hrs, at No.8A, Jln Sungai Besar, Bukit Bendera, Tutong, in Brunei Darussalam, did voluntarily cause hurt to one Noor Reanty binti Haji Bakir (Female, 45 years old) to wit, by kicking her, jumping on her, choking her and striking her head with a water bottle, and you have thereby committed an offence punishable under Section 323 of the Penal Code, Chapter 22.

Penalty:

4. The penalty for offence under section 323 PC, (1st and the 3rd charge) warrants for an imprisonment for a term not exceeding 3 years and fine,
5. The penalty for offence under section 506 PC (2nd charge) is an imprisonment for a term which may extend to 3 years, fine or both, If the threat is to cause death or grievous hurt, imprisonment for a term not exceeding 7 years, fine or both.

Chronology Event:

Plea recording:

6. The three (3) charges were read and explained to the Defendant in Malay by Dk Khajidah.
7. The Defendant informed the court that he understood all the charges and the penalty and pleaded guilty to the 3rd charge, which is the charge of assault under section 323 PC.

Statement of facts to the 3rd charge:

8. The Statement of facts to the 3rd charge was read and explained to the Defendant. The Defendant agreed and admitted to the facts to the 3rd charge. The Defendant understood and admitted to the following:
9. On the morning of the 6th of December 2024, the Complainant dropped their adopted son, Mushawwir to a friend's house somewhere in Tutong, while the Defendant was asleep. On her way back home, the Defendant telephoned the Complainant enquiring her whereabouts. The Complainant informed the Defendant that she had just dropped Mushawwir off at a friend's house. This caused the Defendant to be angry because the Complainant did so without informing him. He demanded that Mushawwir to be brought home immediately.
10. When the Complainant reached home, the Defendant took the car key and left to collect Mushawwir. The Defendant admitted that he was still angry with the complainant when he reached home and he went into a fit of rage that he kicked and choked the Complainant. He further admitted that he jumped on to the Complainant, struck her head with a water bottle and assaulted her without any provocation.
11. During the assault, the Defendant admitted uttering the following words" "*belum kau matikah?*" (You are not dead yet?). Mushawwir witnessed the Defendant's assault on the Complainant. As a result of the Defendant's actions, the Complainant suffered pain.
12. Fearing for her safety, the Complainant informed Mushawwir to call for help, who then reached out to a family member to lodge a Police report via 993 on the same day.
13. The Defendant agreed with the Medical Report in Appendix B prepared by Dr. Ameena Parveen who stated that the Complainant had suffered injuries that constitutes "hurt" caused by alleged assault.

S175 CPC:

14. I was satisfied that the Defendant understood the nature and the consequences of his plea to the 3rd charge. The Defendant was thereby guilty and convicted of the 3rd charge, as I am satisfied that S175 CPC was duly complied with.
15. The court reserved the sentencing pending the conclusion of the remaining charges which the Defendant claimed trial. The remaining charges was fixed for hearing September 2025.

Mention 27th August 2025:

16. The Defendant was brought to court on the 27th August 2025. The Defendant indicates that he wishes to change his plea to the 1st charge.

1st charge:

17. The 1st charge was read and explained to the Defendant in Malay by Dk Khadijah. The Defendant informed the court that he understood the 1st charge and its penalty and pleaded guilty to the 1st charge. The Defendant also confirmed that he maintained his plead of guilty to the 3rd charge.
18. For the said reason, this court accepts the Defendant's guilty plea to the 1st charge. Section 175 CPC is duly complied. The Defendant is hereby convicted of the 1st charge.

Statement of Facts to the 1st charge:

19. The statement of facts to the 1st charge was read and explained to the Defendant in Malay. The Defendant admitted that on the 21st April 2024 at about 3:45 PM, the Defendant, without provocation became enraged without any justifiable cause and accused the Complainant of misconduct and violently assaulted her by choking, kicking, pulling her hair, and striking her head against the wall and floor. The Defendant then also attempted to have a non-consensual sexual act, which the Complainant resisted. He further prevented her from seeking help, leaving her weak and in pain for several hours. The Complainant later lodged a police report, though she continued living at the shared residence with the Defendant. Medical examination was read to the Defendant which confirmed injuries consistent by the Complainant tantamount to "hurt."

Antecedent:

20. Defendant agrees that this is his first offence and he has not had any previous convictions.

Section 172 CPC:

21. In light of the Defendant's guilty plea to the 1st charge, the Prosecution applied for the 2nd charge to be withdrawn amounting to an acquittal by virtue of section 172 CPC. The 2nd charge against the Defendant is hereby discharged amounting to an acquittal.

Mitigation.

22. In his mitigation, the Defendant asking for lenient sentence and for his sentence to run from the date of his remand. Defendant also asking for a reduction of sentence and for the court to impose a concurrent sentence.

Precedent:

23. The usual range of sentences for assault charges range between fines and a custodial sentence. It depends on the gravity of the offence. In the case of ***Mohammad Noor Hazwani bin Joini v Public Prosecutor (Criminal Appeal No.48 of 2014)*** where the appellate Judge noted that the lower court would normally impose a fine instead of a custodial sentence where the complainant suffered hurt but no serious injuries were

involved. A custodial sentence would be considered in cases involving physical violence which results in physical injuries on the victim.

Court's Consideration:

24. This is a case of domestic violence where the Defendant admitted that he assaulted his wife without any justifications. This is not an isolated incident. The Defendant assaulted his wife on two occasions. Hence the 1st and the 2nd charge.
25. For all the assaults, the Defendant admitted choking, kicking, pulling her hair, and forcefully striking his wife's head against the wall and floor on both occasions. The Defendant also admitted that he tried to have a non-consensual sex with his wife.
26. Medical report for both the charges were read and explained to the Defendant. Defendant understood that his wife sustained bruises and marks of injuries on her as the result of the assault.

Appropriate Sentence:

27. While the court has considered the circumstance of the case such as plea of guilty and clean record, which is a mitigating factor for the Defendant, the court also considers of the aggravating factors.
28. The aggravating factors are that the incident occurred not in isolation, the medical report shows bruises and injuries marks and the assault was without any provocation.
29. Domestic violence constitutes a distinct category of violence. It is violence within a household. It represents a grave breach of trust and security that any spouse or family member is entitled to expect within the sanctity of the home. It is usually not an act in isolation and often unreported to due shame and/or family pressure.
30. In considering the appropriate sentence, this court opines that a lenient sentence will risk sending the wrong signal—that such conduct can be excused. Hence it is not a matter that can be dealt with by a mere fine. A deterrence sentence is necessary to show the seriousness of the offence, expresses society's disapproval, and prevents both the offender and others from repeating such acts. A custodial sentence is appropriate in this case.
31. Taking into the facts of the case and the assault inflicted on to the complainant, I am of the view that a starting point of 9 months for each charge is appropriate. From the said starting point, I knock off 1/3 for his guilty plea and clean record. Based on the said reasoning, I hereby sentenced the Defendant to 6 months for each count of charge.

Individual Sentence:

32. The Defendant is hereby sentenced to the following:

1st charge: 6 months' imprisonment

2nd charge: 6 months' imprisonment

Totality Principle:

33. The Defendant committed the two charges on two different occasions. it warrants for a consecutive sentence.

34. I hereby sentenced the Defendant to 12 months' imprisonment. I order that the sentence to run from the date the Defendant was remanded.

PG MASNI PG HJ BAHAR
Judge, Intermediate Court