

Public Prosecutor

AND

Abdul Rashid bin Simat

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No.27 of 2025)**

Pg Masni Pg Hj Bahar, Judge

Date of Sentence: 14 June 2025

Headnote: Sentencing: Theft of property in a place of worship - section 380A of the Penal Code - guilty pleas - previous convictions - deterrent sentence.

DPP Nurul Fitri Kiprawi for Public Prosecutor.

Defendant In Person and Unrepresented.

Cases cited:

PP vs Affindi bin Awg Damit (Criminal Appeal 18 of 2015)

Mohammad Amlu bin Haji Matayir and PP (CA) (Criminal Appeal No. 7 of 2016)

PP and Mohd Hadzri bin Hj Osman (Intermediate Court Criminal Trial No. 73 of 2017)

Public Prosecutor and Sugihardi (Intermediate Court Criminal Trial No. 15 of 2018)

Public Prosecutor and Fauzan Bin OKK Hj Md Yunus (Intermediate Court Criminal Trial No. 46 of 2017)

Public Prosecutor and Sahimin bin Hussin (Intermediate Court Criminal Trial No. 11 of 2018)

S E N T E N C E

Pg Masni, Judge:

Introduction:

1. The Defendant, Abdul Rashid Simat, faces a single charge for theft from a place of worship, an offence contrary to section 380A Penal Code.

Charges:

2. The charge provides that:

That you, on the 29th day of April 2025, sometime between 0949 hours and 059 hours, at Kampong Penapar Mosque, Tutong, in Brunei Darussalam, in a building used as a place of worship, did commit theft of properties, to wit B\$4.00, from a donation box, in the possession of Kampong Penapar Mosque,

and you have thereby committed an offence punishable under Section 380A of the Penal Code, Chapter 22.

Penalty:

3. The penalty is under section 380 A of the Penal Code warrants for an imprisonment sentence not exceeding 10 years and with whipping.
4. The charge and penalty prescribed were read and explained to the Defendant in Malay language. The Defendant having understood the charge and its penalty entered a guilty plea. Having satisfied that the Defendant understood the nature and the consequences of his plea, I accept his guilty plea. Hence complying with section 175 of the CPC.

Statement of facts:

5. The statement of facts was also read and explained to the Defendant. Defendant agreed and admitted to the following:
6. Defendant admitted that he stole money amounting to \$4.00 from the donation box at Kampong Penapar Mosque on 29th April 2025 at around 0949 hours. He admitted that he extracted the said money from the donation box using a modified measuring tape by attaching a double-sided adhesive tape to its tip.
7. The theft of the money from the donation box was only discovered by the Head Imam of Kampong Penapar Mosque, namely Abdul Wafiy Bin Haji Kadirosham ("the Complainant") on the 29th April 2025, at approximately midday when he received a notification from the CCTV mobile application linked to the Kampong Penapar Mosque.
8. The CCTV footage showed an unidentified male individual, wearing a black shirt and jeans loitering around the Mosque and inserting a long measuring tape into four separate donation extracting monies out from the donation box at about 0949 hours. The CCTV also showed that the said male person remained in the premises for about ten minutes before leaving. The Complainant subsequently lodged a police report. With the aid of the CCTV, the Defendant was subsequently arrested on 22nd May 2025.
9. Defendant admitted the said offence. The stolen monies were not recovered, as the Defendant informed the police that he had already spent them for personal use. However, the modified measuring tape was recovered and seized by the police during the investigation.

Antecedent:

10. Defendant admitted that he was sentenced to 6 months and 2 strokes of whipping for offence under section 380 and 461 PC in 2012. He was again sentenced to 7 years and 12 strokes of whipping in 2019 for committing Robbery armed with deadly weapon an offence contrary to section 393 of PC read with 398 PC.
11. Defendant informed the court that he was released from prison on the 23.7.2024.

Mitigation:

12. In his mitigation, Defendant urged the court to impose lenient sentence. He informed the court that he was desperate and he had used the money to buy food.

Precedent:

13. In determining the appropriate sentence, I refer to the case of ***PP vs Affindi bin Awg Damit (Criminal Appeal 18 of 2015)***. This case involved a 24-year-old male Defendant who committed theft from two donation boxes in a Mosque in the total sum of \$15.00, an offence contrary to section 380A. The Court of Appeal has upheld the Intermediate Court sentence of 16 months and 2 strokes for a plea of guilty, in cases of offences contrary to section 380A Penal Code (CAP22).
14. The Court also refer to the appeal case of ***Mohammad Amli bin Haji Matayir and PP (CA) (Criminal Appeal No. 7 of 2016)***. Similar facts and offence under section 380A can also be found in the case where the appellant pleaded guilty to the offence of attempted theft and theft of \$20.00 from donation boxes on two separate occasions using a piece of wire and cellotape. On appeal the COA was presented with mitigating circumstances which was received as exceptional personal circumstances that justified the court to allow the appeal to the extent that the sentences for the first and second charges were to run concurrently and for the strokes to be non-cumulative giving a total sentence of 18 months and 2 strokes.
15. Subsequent cases, such as ***PP and Mohd Hadzri bin Hj Osman (Intermediate Court Criminal Trial No. 73 of 2017)***, ***Public Prosecutor and Sugihardi (Intermediate Court Criminal Trial No. 15 of 2018)***, and ***Public Prosecutor and Fauzan Bin OKK Hj Md Yunus (Intermediate Court Criminal Trial No. 46 of 2017)***, all have used 24 months and 3 strokes as a starting point for sentences for first offenders.
16. However, in the case of ***Public Prosecutor and Sahimin bin Hussin (Intermediate Court Criminal Trial No. 11 of 2018)***, the Intermediate Court Judge imposed a starting point of 30 months' imprisonment and 3 strokes, despite the fact that the Defendant was a first offender. In that case the Defendant was a mosque employee, being hire as an Assistant Security Guard by the Ministry of Religious Affairs.

17. Based on the Precedent, the starting point ranges from 24 months to 30 months and 2/3 strokes of whipping.

Sentence Consideration:

18. Defendant does not deserve the normal tariff of sentencing for the following reason.:
19. This is not the Defendant first offence. In 2019, he was sentenced to 7 years and 12 strokes of whipping for robbing a lady in a female pray room, a place of worship, in a Mall armed with deadly weapon, offence contrary to under section 393 of PC read with 398. He was released from prison on the 23.7.24. He committed this present offence in April 2025. He reoffended similar offence barely less than one year after he was released from prison. This constitutes an aggravating factor.
20. I have taken into consideration that the amount stolen is nominal. However, the value of the stolen property is only one of the many factors to consider in sentencing. The overall circumstances must also be weighed.
21. The Defendant repeatedly commits theft from place of worship. He targeted the same location, which is place of worship. He knew that people do offer donations to the Mosque for charity purposes. Places of worship are soft targets due to public trust in their sanctity. Defendant has no conscience when he stole money from the donation box. He took opportunity when the place was quiet.
22. He premediated the offence and equipped himself with modified tool to extract money out from the donation box. The stolen money was not recovered.
23. The Defendant does not deserve lenient sentence. Deterrent sentence is imperative for crime of this nature. A lenient sentence risks similar crimes, as donation boxes are perceived as vulnerable.
24. The only mitigating factor in the Defendant's favour is his guilty plea, which entitles him to a one-third reduction from the appropriate starting point in sentencing.

Appropriate Sentence:

25. Given the prescribed penalty is 10 years and whipping, I am of the view that a starting point of 3½ years (42 months) and 3 strokes of whipping is appropriate for the reason mentioned above. For his guilty plea, I hereby reduced the starting point to 28 months' imprisonment, one third discount for his guilty plea. No reduction in whipping.

Sentence:

26. The Defendant is hereby sentenced to 28 months and 3 strokes of whipping.

27. Sentence runs from the date he was remanded.

PG MASNI PG HJ BAHAR
Judge, Intermediate Court