

Public Prosecutor

AND

Nooralidin Anak Chundang

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 33 of 2025)**

Pg Masni Pg Hj Bahar, Judge

Date of Sentence: 30 June 2025

Headnote: Sentencing- Section 325 PC - Voluntarily causing grievous hurt - Section 426 PC - Mischief by intentionally causing damages - Section 323 PC - Voluntarily causing hurt- Pleaded Guilty - First offender - Appropriate Sentence.

DPP Radin Abdul Malik Wafri Bin Radin Mas Mohamad Sufri for the Public Prosecutor.
Defendant In Person and Unrepresented.

Cases cited:

PP vs Hj Abd Latif Bin Hj Mohd Noor, Cri Appeal No 10 of 2006

Public Prosecutor v Shahril Nizam bin Sukor [HCCT 3 of 2004]

Yeo Kwan Wee Kenneth v Public Prosecutor [2004] SGHC 44

PP vs Othman Hj Saidin (1999) 1 JCBD 231

SENTENCE

Pg Masni, Judge:

Introduction:

1. The Defendant, Nooralidin Anak Chundang, pleaded guilty to causing grievous hurt to one Fredy Roy Anak Amdan (1st charge), causing mischief to his mother's property (2nd charge) and causing hurt to one Nordin bin Muhammad Yahya@Budit Anak Jaba (4th Charge) on the 25th May 2025. He was further charge for causing mischief to his mother's property on the 7th October 2024.
2. The following charges and its respective penalty were read and explained to the Defendant in Malay language. Defendant informed the court that he is fluent in Malay language.

Charges:

3. The charges and its penalty read as follows:

Amended 1st Charge:

That you, on 25th May 2025, at about 1400hrs, in the vicinity of Jalan Kampung Benutan, Kampung Benutan, Tutong, in Brunei Darussalam, did voluntarily cause grievous hurt to one Fredy Roy Anak Amdan (male, 37 years old), to wit, by punching him and twisting his right leg with such force so as to cause fracture on his right ankle, and you have thereby committed an offence under Section 325 of the Penal Code, Chapter 22.

Penalty:

Imprisonment for a term not exceeding 10 years and whipping.

Amended 2nd Charge:

That you, sometime in the afternoon of 25th May 2025, in the vicinity of No. 536, Sulap Samat, Kampong Benutan, Tutong, in Brunei Darussalam, did commit mischief, to wit, by intentionally causing wrongful damage to one (1) carpet, four (4) doors and one (1) window at the said vicinity, belonging to one Juan Anak Along, and you have thereby committed an offence punishable under Section 426 of the Penal Code, Chapter 22.

Penalty:

Imprisonment for a term not exceeding 2 years, fine or both.

3rd Charge:

That you, at about 1900 hrs on 7th October 2024, in the vicinity of No. 536, Sulap Samat, Kampong Benutan, Tutong, in Brunei Darussalam, did commit mischief, to wit, by intentionally causing wrongful damage to one (1) door at the said vicinity, belonging to one Juan Anak Along, and you have thereby committed an offence punishable under Section 426 of the Penal Code, Chapter 22.

Penalty:

Imprisonment for a term not exceeding 2 years, fine or both.

Additional 4th Charge:

That you, on 25th May 2025, at about 1400hrs, in the vicinity of Jalan Kampung Benutan, Kampung Benutan, Tutong, in Brunei Darussalam, did voluntarily cause hurt to one Nordin bin Muhammad Yahya @ Budit Anak Jaba (male, 42 years old), to wit, by punching him on his face, and you have thereby committed an offence under Section 323 of the Penal Code, Chapter 22.

Penalty:

Imprisonment for a term not exceeding 3 years and fine.

4. The Defendant entered a guilty plea to all the four charges. I am satisfied that the Defendant understood the nature and the consequences of his plea. Section 175 is fully complied with.

Statement of facts:

5. The statement of facts to all the four charges were also read and explained to the Defendant in Malay language. The Defendant informed the court that he agreed and admitted to the said statement of facts.

Facts to the 1st and the 4th charge:

6. The Defendant admitted that in the afternoon of the 25th May 2025 after visiting the cemetery, the car, a silver Toyota Avanza, that he rode on with one Harun, one Fredy Anak Amdan (hereinafter referred to as "**Fredy**") and one Muhammad Nordin bin Muhammad Yahya @ Budit Anak Jaba (hereinafter referred to as "**Nordin**"), fell into the ditch. They assisted in towing the said vehicle to the vicinity of Jalan Kampung Benutan, Kampung Benutan, Tutong, in Brunei Darussalam.
7. At about, 2:00 pm, after the vehicle was retrieved, the Defendant admitted that he suddenly became enraged without any justifiable cause and accused Fredy of uttering improper words. This escalated into a violent abuse which caused the Defendant to punch Fredy's left face, causing Fredy to fall. When Fredy retaliated by kicking the Defendant, the Defendant twisted Fredy's right leg causing Fredy to feel pain. At the material time, Fredy was unable to move and crying on the floor. (1st charge).
8. Nordin observed the physical altercation between the Defendant and Fredy behind the said vehicle. Nordin attempt to intervene and break up the physical altercation, when the Defendant punched Nordin on his face, causing Nordin to feel pain. (4th Charge). Following this incident, Nordin brought Fredy to leave the said location.
9. Police report was lodged and both Fredy and Nordin was brought for medical examination. Dr. Khalid Samad attended to both Fredy Anak Amdan (attached as **Appendix A and B**) and Muhammad Nordin bin Muhammad Yahya@Budit Anak Jaba.
10. On examination, Dr Khalid Samad Medical examination deduced his findings attached in Annex A and B. The said Reports were read and explained to the Defendant. The Report states that Fredy "*Grievous Hurt*" and Nordin sustained injuries that constitutes "Hurt".

In relation to the 2nd charge:

11. After the altercation, Harun sends the Defendant back to his house at No. 536, Jalan Sulap Samat, Kampong Benutan Tutong, Tutong, (hereinafter referred to as "***the said house***"), The said house belongs to the Defendant's mother, Juan Anak Along. When he reached the said house, the front door was locked. The Defendant went to the kitchen to enter the said house. He then discovered that there was no one was home.
12. The Defendant admitted that he got angry and kicked and shacked his brother's bedroom door, causing it to break and cause a hole on the door. He admitted that then proceeded to the front of the house and kicked the front door, and other bedroom doors in the said house. The Defendant admitted causing damaged to a total of four (4) doors.
13. The Defendant admitted that he then proceeds to the kitchen area where forced the kitchen window using a metal object and burn the kitchen carpet outside of the house using a matchstick which he claimed belonged to him. He stated that the motive for burning the carpet was due to anger arising from a prior altercation.
14. Defendant admitted that after he burnt the carpet, he extinguished the fire using water stored in a bucket fearing that the fire might spread to the kitchen area and threw the gas cylinder outside.
15. Investigations revealed that the cost of repair for one (1) door was BND \$120.00. However, the cost of the carpet and repairing the window remains unascertained. According to the Defendant, he had consumed some local alcoholic beverage, "*tuak*" earlier that day.

In relation to the 3rd charge:

16. Defendant also admitted that he also caused damage to a kitchen door in the said house, by punching the said kitchen door sometime in the evening, at about, 7:00 pm on the 7th October 2024. Defendant admitted that he was frustrated when a man came to the said house claiming debt from the Defendant amounting to BND\$30.00. According to the Defendant, it was his older brother's debt. Defendant tried to borrow money from his mother but his request was rejected. This enraged the Defendant. Not long later, the Defendant caused wrongful damage to a kitchen door in the said house, to wit, by punching the said kitchen door.
17. Defendant admitted committing the above offence.
18. On record the Defendant does not have any previous conviction.

Mitigation:

19. The Defendant in his mitigation urged the court to impose lenient sentence.

Court's Consideration:

20. The assault initiated by the Defendant was unprovoked and his anger escalated to causing damage to his mother's house. From the facts of the case, the Defendant can be characterized a person who has a frequent temper outburst as evident in the 3rd charge. The facts of the 1st, 2nd and the 4th charges, shows that the Defendant has the propensity for violent anger.
21. The acts committed by the Defendant cannot be consider as trivial. The Defendant unwarranted violence and temper had caused grievous hurt another person and damage to property. Such behaviour cannot be tolerated. Such behaviour warrants for a custodial sentence so as to safeguard his mother and others from potential harm caused by his volatile behavior.
22. The only mitigating factor the court may consider in favor of the Defendant is his guilty plea and his clean prior record.

Appropriate Sentence:

23. I considering the appropriate sentence, I take into the following factors.
24. I bear in mind that the Defendant is facing two charges for offence against person.

1st charge:

25. The Defendant pleaded guilty to causing grievous hurt to Fredy, an offence under section 325 PC. The penalty for causing grievous hurt carries an imprisonment sentence of 10 years and whipping.
26. In deciding the appropriate sentence, I am guided by the case of ***PP vs Hj Abd Latif Bin Hj Mohd Noor, Cri Appeal No 10 of 2006***. The Respondent was convicted to 14 months' imprisonment. In this case, the Prosecutor appealed against the Judge's decision for not imposing whipping. The court considered the 14 months' imprisonment with 21 months starting point to be proper and imposed 1 stroke of whipping.
27. The Respondent in this case was a member of the RBPF. He was charged for causing grievous hurt to his wife, an offence contrary to section 325 PC. He assaulted his wife by pulling her hair, punched and kicked his wife's head and face because he could not return her mobile phone as he had lent it to his girlfriend. The appellant's wife was found to have suffered:
- a) a lacerated wound on the underside of her lip
 - b) bleeding from the lower incisor teeth with a fracture of the alveolar bone
 - c) contusion over the left side forehead and left upper cheek.

The Respondent asked for leniency and particularly that he be not imprisoned as this would mean dismissal from police force.

28. The abovementioned case also referred to the case of a ***Public Prosecutor v Shahril Nizam bin Sukor [HCCT 3 of 2004]***, where the then Chief Justice imposed a sentence of 3 years after trial in dealing with a s.325 offence. The then Chief Justice took a starting point of 4 years with discount of 25% for clear record. This sentence could be equated to 2 years after plea. The case of ***Yeo Kwan Wee Kenneth v Public Prosecutor [2004] SGHC 44*** was also referred to. The starting point of 18 months was reduced to 12 months and 3 strokes was considered to be proper.
29. From the above case law, the accepted starting point ranges from 18 months to 4 years' imprisonment. However, each case must be decided on its own merits.
30. Reverting to this case, Defendant admitted that his anger was not justifiable. The Defendant punched Fredy's face and twisted his right leg with such force so as to cause fracture on his right ankle. Fredy was also referred to OMF due to the facial injury caused by the Defendant. Such unprovoked attack has caused Freddy to sustain severe injury.
31. Taking into account of the circumstances of the case and the injuries sustained by Fredy, I am of the view that a starting point of 2 ½ year's imprisonment and 1 stroke of whipping would reflect the severity of the offence. A discount of 1/3 is available for the Defendant's guilty plea and his clear record.
32. Therefore, for the 1st charge, the Defendant is sentenced to 1 year and 8 months' imprisonment and 1 stroke of whipping.

Additional 4th charge:

33. The Defendant also pleaded guilty for causing hurt to punching Nordin's face when he tries to stop the altercation between the Defendant and Fredy, an offence under section 322 of the Penal Code. Nordin's injury is categorised as hurt. This offence warrants for an imprisonment sentence for a term not exceeding 3 years and fine.
34. Adopting the principle enunciated in the case of ***PP vs Othman Hj Saidin (1999) 1 JCB 231***, Justice Dato Steven Chong, as he was then, held that where the offences involved physical violence with the victim sustaining injury, a custodial sentence should be the appropriate sentence. His Lordship states that such violence cannot be tolerated and warrant for a custodial sentence. Violence with injury to victim must be treated seriously by the court and a custodial sentence should normally be imposed to send a clear message that this sort of behaviour will not be tolerated. In this case a one-month sentence imposed by the lower court was upheld by the High Court.

35. Reverting to this case, for the 4th charge, I am imposing a starting point of 9 months imprisonment reduced to 6 months' imprisonment taking into account of the overall facts of the case.

36. For the 4th charge, the Defendant is hereby sentenced to 6 months' imprisonment.

2nd and the 3rd charge:

37. The Defendant pleaded guilty to causing damage property belonging to his mother on two different occasions on offence contrary to section 426 Penal Code. The offence under section 406 Penal Code carries an imprisonment sentence for a term not exceeding 2 years, fine or both.

38. The Defendant admitted that he damaged the door of his mother's house because his mother refused to give him money to pay his "*allegedly brother's debt*". This incident happened in 2024 (3rd charge).

39. On the 2nd occasion, the 25th May 2025 (2nd charge), the Defendant damaged to 4 doors, burned the house's carpet and broke the kitchen window, property belonging to his mother because of his lingering anger from the altercation he had with Fredy and Nordin. Fortunately for the Defendant there was no occupant in the house.

40. After considering the facts of the case, i am of the view that the starting point of 6 months' imprisonment for each charge reduced to 4 months' imprisonment is appropriate.

Individual sentence:

41. The individual sentence imposed on the Defendant read as follows:

1st charge: 1 year and 8 months' imprisonment and 1 stroke of whipping.

2nd charge: 4 months' imprisonment

3rd charge: 4 months' imprisonment

4th charge: 6 months' imprisonment

Totality Principle:

42. The offence committed by the Defendant does not constitute a single transaction. Defendant assaulted 2 different victims and he caused damaged to his mother's property on two different occasions. It warrants for a consecutive sentence.

43. A totality sentence of 2 years and 10 months' imprisonment and 1 stroke of whipping does not, in my point of view, is manifestly excessive considering the violent nature and uncontrollable temper of the Defendant.

44. The Defendant is hereby sentenced to 2 years and 10 months' imprisonment and 1 stroke of whipping.

45. I order for the sentence to run from the date the Defendant was remanded

PG MASNI PG HJ BAHAR
Judge, Intermediate Court