

Public Prosecutor

AND

**Awang Muhammad Saifullah Bin Awang Haji Ahmad (D1)
Muhammad Saifuddin @ Muhd Alif Iqbal Bin Sudirman (D2)**

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 42 of 2025)**

Pg Masni Pg Hj Bahar, Judge

Date of Sentence: 30 August 2025

Headnote: Sentencing-D1 and D2- Section 451 PC read with section 34 PC- Common intention to commit House trespass with the intention to commit theft an offence punishable with imprisonment- Plead guilty- Recalcitrant Offender- D1- Previous conviction relating to theft offence- D1- Previous conviction on offence against property- D2 clear record- Public Interest-Deterrence sentence- Appropriate Sentence.

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

Cases cited:

Daud Bin Hj Zainal vs Public Prosecutor (Court of Appeal) (Criminal Appeal No: 11 of 2004)
Rosazli bin Hj Metassan v PP (Criminal Motion 6 of 2018)
Ahmadi bin Hj Nawli v PP (Criminal Motion 1 of 2015)
Abdul Wakil bin Samsun Yusra v PP (Criminal Motion 35 of 2014)
Mohd Zahiruddin bin Hj Junaidi v PP (Criminal Motion 38 of 2013)
Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138

SENTENCE

Pg Masni, Judge:

Introduction:

1. The Defendants, Awang Muhammad Saifullah bin Awang Haji Ahmad (D1) and Muhammad Saifuddin @ Muhd Alif Iqbal bin Sudirman (D2) are jointly charged for offence under section 451 of the Penal Code read with section 34 of the same.

Charge:

2. The charge provides that:

Charge (Against D1 and D2):

That both of you and another, sometime in the early hours of 25th June 2025, inside a stall addressed at No. 1, Simpang 159, Jalan 3 Perpindahan Lambak Kanan, Kg. Lambak Kanan, in Brunei Darussalam, in furtherance of your common intention, did commit house-trespass by entering into the said building used for the custody of property, in the possession of Pengiran Razali bin Pengiran Haji Metali, in order to the commit an offence punishable with imprisonment, to wit, theft, and all of you have thereby committed an offence punishable under Section 451 of the Penal Code, Chapter 22 read with Section 34 of the same.

Penalty:

3. The penalty under section 425 PC reads as imprisonment for a term which may extend to 5 years and shall also be liable to fine, and, if the offence intended to be committed is theft, the term of imprisonment may extend to 10 years.

S175 CPC:

4. The charge was read to D1 and D2 in Malay. Both Defendants informed the court that they understood the charge and its penalty read and explained to them in Malay. D1 and D2 pleaded guilty to the said charge.
5. S 175 CPC complied with.

Statement of Facts:

6. The statement of facts was read and explained to both D1 and D2 in Malay. They informed the court that they understood the statements of facts save for paragraph 11 where D1 told the court that he did not sell the stolen gas cylinder. D1 admitted that he benefits from the proceed of the sale of the stolen gas cylinder as per paragraph 12. The Prosecution amended the Para 11 to *“Later that day, the two (2) stolen gas cylinders were sold to a buyer, one Saidah, for BND \$100.00, and another two (2) gas cylinders to another buyer, one Mulyani for BND \$80.00.”*
7. Both D1 and D2 agreed that on the 25th June 2025, during the early hours of the morning, he and D2 commit house trespass at a Nasi Katok stall (the said Stall) in Kg. Lambak Kanan, owned and operated by Pengiran Razali bin Pengiran Haji Matali. The event came about when one Amirskandar bin Ali (Iskandar) went to D1’s house at Kg Lumapas and they decided to search for money. They then went to seek D2’s assistance

to drive them around in a in a Suzuki Espresso belonging to D2 until they reached the said Stall.

8. When they arrived at the said Stall, both D1 admitted that he and Iskandar alight from D2's car while D2 stayed back in the car. D1 admitted that he used a metal bar to break the front padlock of the stall in order to enter the stall.
9. In the said stall, D1 admitted stealing four gas cylinders. D1 admitted removing each of the gas cylinders from the stall, passing them to the Iskandar, who then placed them inside the vehicle. This was done repeatedly until all four (4) gas cylinders were loaded. In addition to that D1 admitted stealing a container containing one (1) kilogram of raw marinated chicken, a cash box, and a TV box (hereinafter collectively referred to as "***the stolen items***").
10. After leaving the stall, D1 realised that there was a CCTV camera still in place. D1 admitted that he instructed D2 to turn back to the said Stall where he and D2 removed the camera and later disposed of the CCTV along with the cash box and TV box at an unknown location.
11. D1 and D2 admitted that the two stolen gas cylinders were sold to a buyer named Saidah for BND \$100.00, and another two to a buyer named Mulyani for BND \$80.00 on the same day. D1 and D2 admitted that they divided the proceeds of the sale of the stolen items between them and Iskandar.
12. D1 and D2 admitted to the Police of the crime they committed. Police was able to recover two (2) of the stolen gas cylinders from one of the buyers. Their crime was captured in the CCTV. The Complainant positively identified one (1) of the recovered gas cylinders. However, the remaining stolen items remain unrecovered. The total value of the stolen goods was estimated at BND \$700.00, with damage to the padlock valued at BND \$5.00 and damage to wiring estimated at BND \$100.00.

Antecedent:

13. D1 admitted to the following convictions:

NO	Date	Offence	Sentence
1.	29.11.2017	S 379 PC	\$1400 I/d 1-month imprisonment
2.	25.2.2010	S457, 457, 451 PC	Total 4 years imprisonment 2 strokes of whipping

			ICCT 1 of 2010
3.	6.01.2014	S 379 and S379 PC	Total 3 months' imprisonment (concurrently)
4.	5.11.2014	S380, 379,380, 457,454,454, 380 PC	Total sentence 72 months' imprisonment and 3 strokes of whipping
5.	20.3.21	S454 read with s 34 PC	2 years' imprisonment and 2 strokes of whipping
6.	28.10.24	S379 PC	8 months' imprisonment

14. On record D2 is a first offender

Mitigation:

15. D1 and D2 asked the court to impose a fine. D1 informed the court that he has to take care of his mother. D2 told the court that this is his first offence.

16. Both D1 and D2 informed the court that they understood the penalty warrant for a custodial sentence but nevertheless seek court to impose a fine.

Court' Consideration:

17. House trespass with the intention to commit theft is a serious offence. This has been echoed by the Appellate Court over and over again that offences against property are serious offences and a deterrence sentence has to be imposed as a matter of public interest in order to protect the public and their property. - ***Daud Bin Hj Zainal vs Public Prosecutor (Court of Appeal) (Criminal Appeal No: 11 of 2004)***.

18. In deciding the appropriate sentence, I refer to the numerous cases upheld by the Court of Appeal as the appropriate sentence for offence under section 451 PC. The sentence of 2 years' imprisonment was upheld for offender with clear record and pleaded guilty. This can be seen in cases such as ***Rosazli bin Hj Metassan v PP (Criminal Motion 6 of 2018)***, ***Ahmadi bin Hj Nawawi v PP (Criminal Motion 1 of 2015)***, ***Abdul Wakil bin Samsun Yusra v PP (Criminal Motion 35 of 2014)*** and ***Mohd Zahiruddin bin Hj Junaidi v PP (Criminal Motion 38 of 2013)***.

19. I take note that D1 and D2 had pleaded guilty at the earliest opportunity. By doing so he has saved the court's and prosecution time from undergoing a full lengthy trial. However, the defendant does not have a clean record.

Appropriate Sentence:

20. Both Defendants committed house trespass with the intention to commit theft. Theft is an offence punishable with imprisonment. Hence it falls under the 2nd limb of the penalty, which warrants for an imprisonment sentence of 10 years.

D1: Awang Muhammad Saifullah bin Awang Haji Ahmad

21. D1 repeatedly committed theft related offence. His last conviction was on the 24.8.2024. He was released from prison in February 2025. He reoffended this present offence not long after he was released from prison.
22. Custodial sentence does not deter or rehabilitate the defendant. The defendant showed lack of respect to the law and the authority. It is evident that the defendant will continue to steal whenever the opportunity arises.
23. I am of the view that the defendant does not deserve the lower range of starting point. A higher starting point is justified for recalcitrant offenders like the defendant. Bearing in mind the range of sentences upheld by the Appellate Court, each case has to be considered in its own merits. It was held in the case of **Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138**, a higher starting point sentence is justified for an offender with previous convictions.
24. Taking into account of the factors mentioned above, I am of the view a starting point of 4½ years' imprisonment is reduced to 3 years' imprisonment is appropriate for recalcitrant offender like the defendant.

D2- Muhammad Saifuddin @ Muhd Alif Iqbal bin Sudirman

25. On record this is D2 first offence. He is jointly charged with D2 in the commission of this offence. Although he played a minor role, where by he was the driver of the car, he is equally liable.
26. In considering the appropriate sentence, I would not impose the same starting point as D1 for the reason that this is his first offence.
27. As for D2, for the same reason upheld by the Court of Appeal, I sentence the defendant to 2 years' imprisonment with the starting point of 3 years' imprisonment.

Final Sentence:

28. I hereby sentenced the Defendants as follows:

- D1: 3 years' imprisonment. I order for the sentence to run from the date the defendant was remanded.
- D2: 2 years' imprisonment. I order for the sentence to run from the date the defendant was remanded.

PG MASNI PG HJ BAHAR
Judge, Intermediate Court