

Public Prosecutor

AND

Fauzan Bin OKK Hj Md Yunus

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No.46 of 2017)**

Muhammed Faisal Bin PDJLD DSP Haji Kefli, Judge
7th June 2017

Criminal Law – Under Section 380A Penal Code – Theft in a mosque - Sentencing – Plea of Guilty.

DPP Pg Hjh Nor'Azmeena Binti Pg Hj Mohiddin for Public Prosecutor.
Defendant In Person.

SENTENCE

Muhammed Faisal, Judge:

The defendant is facing 2 counts of charges under section 380A Penal Code for stealing unspecified amount of cash from 2 Mosques.

The charges are as follows:

“1st Charge

That you, on the 31st day of May 2017 at about 8.50 a.m., at Masjid Pengiran Muda Abdul Malik, Kg Tungku/Katok, in Brunei Darussalam, a building used as a place for worship, did commit theft, of an unspecified amount of donation money, from the possession of the said Masjid Pengiran Muda Abdul Malik, Kg Tungku/Katok, and you have thereby committed an offence punishable under Section 380A of the Penal Code, Chapter 22.

2nd Charge

That you, on the 4th day of June 2017 at about 2.20 p.m., at Masjid Perpindahan Mata-Mata, in Brunei Darussalam, a building used as a place for worship, did commit theft, of an unspecified amount of donation money, from the possession of the said Masjid Perpindahan Mata-Mata, and you have thereby committed an offence punishable under Section 380A of the Penal Code, Chapter 22.”

The defendant has pleaded guilty at the 1st opportunity. He does has convictions for theft related offences and in particular under S.380 Penal Code. However, he has no conviction under S.380A Penal Code. The statement if facts are listed down as follows:

“The defendant is a 33 year old Bruneian male who is currently working at Syarikat Malar Setia Industry Lambak, in Brunei Darussalam.

1st Charge

On the about 31st day of May 2017 at about 7.30 a.m., the defendant was driving his father’s blue Daihatsu Terios bearing registration number BAF 3593 to work. On his way to work, the defendant stopped by Masjid Pengiran Muda Abdul Malik, Kg Tungku/Katok, in Brunei Darussalam, a building used as a place for worship, in order to commit theft.

At about 8.50 a.m., he entered the said mosque through the front door and noticed that the mosque was empty. The defendant then saw 3 donation safe boxes placed near the front door. The defendant then approached the said safe boxes and used a yellow measuring tape which he applied double sided tape to and proceeded to fish out money from the safe boxes. Closed circuit television (CCTV) footage shows the defendant walking back and forth between the 2 safe boxes and fishing out unspecified amount of money from the safe boxes by using a measuring tape.

The defendant was unable to fish out any money from the safe box that was in the middle. He found a cloth in the mosque and took it to wrap the middle safe with and carried it out of the mosque and into the car. This action was also seen on the CCTV footage. The defendant then left the mosque and parked his car at the side of the road where he opened the safe which he just stole with a screwdriver and took and unspecified amount of money. The defendant then disposed of the safe by the side of the road.

On 31st May 2017 at about 3.00 p.m., the Imam of the mosque, was informed by one of the workers at the mosque that one of the safe boxes from the mosque was missing. He immediately lodged a police report. In his statement to the police, the defendant admitted to stealing the middle safe box from the mosque as well as money from the safes.

2nd charge

On the 4th day of June 2017 at about 2.00 p.m., the defendant went to Masjid Perpindahan Mata-Mata, in Brunei Darussalam, a building used as a place for worship with the intention to commit theft, using his father’s blue Daihatsu Terios bearing registration number BAF 3593. Once the defendant arrived at the mosque, at about 2.20 p.m., he entered the mosque and pretended to pray at the female praying area as he was trying to ensure the mosque was empty.

Once he was certain that the mosque was empty, he then approached a donation safe box that was placed at the back of the female praying area of the mosque. The defendant then took out a yellow measuring tape which he had brought with him. The defendant had applied a double side tape at the end of the yellow measuring tape. The defendant then proceeded to fish out unspecified amount of money from the said donation safe box. CCTV footage shows the defendant putting in the yellow measuring tape into the donation safe and fishing out unspecified amount of money from the said safe.

On the 4th day of June 2017, at about 2.20 p.m., the Complainant, was watching the CCTV footage and noticed an unidentified man entering the mosque quietly and suspiciously. He then noticed that the unidentified man pretended to pray while looking left and right. The complainant then asked for help from some of the congregation that was at the mosque at the time.

The congregation managed to confront the defendant but he managed to escape. The complainant then lodged a police report. Police investigation led to the arrest of the defendant. In his statement to the police, the defendant admitted to committing theft and that he used the money he stole to purchase fuel.

For all charges

On record, the defendant has previous convictions.”

The offences under S.380A are specifically for offences of theft at places of worship. The punishment is considerably higher than that under section 380 Penal Code, to show how the authorities view the seriousness of such of the offences.

In this particular instance, from the defendant’s plea in mitigation, he seems to be desperate for cash to support his family. He is married with 5 children. His wife is now pregnant with their 6th child. I can sympathize with the defendants’ situation, but this offence is considered one of a serious nature, which attracts a long custodial sentence.

I have to consider the nature of the offence, the facts of this case, and that the defendant has previous conviction for theft related offences as aggravating factors. This is tempered by the facts stated in his plea in mitigation. My starting point is thus an imprisonment of 24 Months and whipping 3 strokes. The sentence is reduced by 1/3 for guilty plea.

Sentences are 16 Months’ Imprisonment and 2 strokes whipping. Sentence to take into effect from the 6th June 2017.

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court