

Public Prosecutor

AND

**Muhd Safihi Bin Hj Sidek [D1]
Mohammad Affizan Bin Yahya [D2]
Mohammad Khairul Eady Bin Yahya [D3]
Mohammad Ihsan Bin Awg Saini [D4]**

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 54 of 2025)**

Pg Masni Pg Hj Bahar, Judge

Date of Sentence: 11th February, 2026.

Sentencing - Multiple charges- House breaking with intention to commit theft- Common intention- Repeated offenders – Deterrence Sentence - Public Interest.

DPP Nurul Husna Aqilah binti Haji Abidin for the Public Prosecutor.
Defendants (D1, D2, D3 and D4) unrepresented and in person.

Cases cited:

Ak Muhammad Nazri bin Pg Mohd Jasni vs Public Prosecutor [Criminal Motion 49 of 2019]

Ilham Syarif vs Public Prosecutor (Criminal Appeal No. 3 of 2009)

R v Ball (1951) 35 Cr App R. 164

Shamsuddin bin Mohammed v Public Prosecutor (Criminal Motion No. 4 of 2014; unreported, 20 May 2014)

Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138

SENTENCE

Pg Masni, Judge:

Introduction:

1. The defendants are jointly and individually charged for offence under section 454 of the Penal code.

Charge:

2. The charges provide as follows:

1st Charge (against all Defendants):

That all of you, sometime on 4th December 2025, at house No. 144, Simpang 142, Kg. Mulaut, Sengkurong in Brunei Darussalam, in furtherance of your common intention, did commit house-breaking, by entering into the said building, in possession of one Haji Mohammad Ridzuan bin Abdullah Sani [M, 39], a building used as human dwelling, in order to commit an offence punishable with imprisonment, to wit, theft, and all of you have thereby committed an offence punishable under section 454 of the Penal Code, chapter 22 read with section 34 of the same.

2nd Charge (against D1, D2 and D4 only):

That all of you, sometime on 5th December 2025, at house No. 144, Simpang 142, Kg. Mulaut, Sengkurong in Brunei Darussalam, in furtherance of your common intention, did commit house-breaking, by entering into the said building, in possession of one Haji Mohammad Ridzuan bin Abdullah Sani [M, 39], a building used as human dwelling, in order to commit an offence punishable with imprisonment, to wit, theft, and all of you have thereby committed an offence punishable under section 454 of the Penal Code, chapter 22 read with section 34 of the same.

3rd Charge (against D1 only):

That you and another person, sometime on 3rd December 2025, at Ultimate MMM Senha Sdn Bhd addressed at No. 96B, Spg 94, Jln Mulaut, Negara Brunei Darussalam, did commit house-breaking, by entering into the said building, in possession of the said shop, a building used as a place of custody of property, in order to commit an offence punishable with imprisonment, to wit, theft, and both of you have thereby committed an offence punishable under section 454 of the Penal Code, chapter 22 read with section 34 of the same.

Penalty:

3. The penalty for offence under section 454 PC warrants for a custodial sentence, which may be extended to 5 years and whipping, and if the offence intended to be committed is theft, the term of imprisonment may be extended to 10 years. The second limb of penalty applies to the Defendants.

Pleas:

4. The charges and their respective penalties were read and explained to all the Defendants in Malay Language. Each Defendant individually informed the Court that they understood the charges and penalties and pleaded guilty to the said charges.
5. The court was satisfied that the defendants understood the nature of the charges and the consequences of their pleas as required under section 175 CPC upon they reaffirmation that they understood the charges and the penalties.

Statement of facts:

6. The statement of facts was read and explained to the Defendants. Defendant admitted to the following facts.
7. D1 who is also known as “Pihi” or “P.E.” is a 47-year-old is, divorced with seven children. D2, who is known as “Pijan” is a 37-year-old, divorced with three children. D3, who is known as “Didi” is a 34-year-old is single and D4, who is known as “Hasan” is 39 years old is divorced with one child. All the Defendants do not have any employment.

1st charge vs all Defendants:

8. On the 4th December 2025, all the Defendants admitted that they formed a common intention to commit house breaking with the intention to commit theft at a house in Kg. Mulaut, Sengkurong belonging to Hj Mohd Ridzuan bin Abdullah Sani (the complainant).
9. All the Defendants admitted that they drove to the complainant’s house using D1’s car. D1 admitted that his role was to act as a look out while D2, D3 and D4 forced entry into the said house through a sliding window by using a metal rod.
10. D2 admitted stealing a television, a hard disk, and coins, while D3 admitted stealing a speaker set, microphone, and a gas cylinder. D4 returned to the car after assisting with entry.
11. Police report was filed by complainant upon discovery of the break-in. The Defendants left the house ransacked, with doors and windows damaged. Investigation lead to the arrests of all the Defendants.
12. D1 and D2 admitted that they brought the stolen television to D1’s house in Kg. Mentiri, where it was later recovered and positively identified by the Complainant. Meanwhile, D3 and D4 admitted that they went to Tanah Jambu and sold the stolen PEVY speaker and microphone to D3’s friend for BND30.00; these items were also recovered and positively identified by the Complainant. The stolen blue hard disk was subsequently recovered from D2 and similarly identified. However, the gas cylinder was not recovered as D3 had sold it to an unknown person.

2nd charge vs D1, D2 and D4

13. The second charge involved the D1, D2, and D4. They admitted collectively decided to return back to the same house as in the first charge to steal further the following day. They admitted that they broke into an upstairs bedroom and removed a safe box containing cash, gold jewelry, and gemstones. They later destroyed and threw the safe in a drain.

14. D4 admitted selling the stolen jewelry to local goldsmiths for \$2000 with receipts confirming transactions amounting to \$2200, as shown in the receipt attached in Annex A. They admitted receiving \$733 each from the proceed of the sale.
15. D1 admitted that he had asked his friends, Kambai and Remy, to sell a stolen gold bracelet at Teik Goldsmith in Kg. Pintu Malim, receiving BND 3,130 (receipt at Annex B) and to K-Ensure Jewelry for \$1,100 (receipt attached at Annex C).
16. D1 admitted giving BND150 each to Kambai and Remy and failing to disclose the source of the gold jewelry to his friends. D2 admitted taking BND40 in cash and several small agate stones from the stolen safe box; the stones were recovered. Police also found that D2 gave gold jewelry (2 bracelets, 1 ring, and 2 pendants) to his friend Raudah. D4 admitted receiving BND733 from selling gold jewelry worth BND2,200 and stealing BND50 in cash from the safe box. Police further discovered that D4 gave 2 gold earrings to his friend Ajizul.
17. All stolen jewelry was recovered and positively identified by the complainant and his mother.

3rd charge vs 1st Defendant:

18. The 3rd charge involved the 1st defendant. D1 admitted that on the 3rd December 2025 he broke into Ultimate MMM Senha Sdn. Bhd., a sundry shop located in Kg. Mulaut, with the intention to commit theft. He admitted disguising himself with a Spiderman mask, hoodie, and short pants.
19. At the said shop, D1 admitted the he broke the padlock on the shutter door to gain entry while his other friends, Malik remained outside, acting as a lookout. Once inside, D1 admitted stealing a box containing EASI and PCSB recharge vouchers from the cashier drawer. He later re-entered the shop and removed the cash register from the same table. They then drove to the Dadap area, where they broke open the stolen cash register, extracted cash, and discarded the register nearby, which was never recovered.
20. D1 admitted to taking 10 recharge vouchers, while Malik took another 10, none of which were recovered.
21. The complainant, Jasim Uddin, discovered his shop ransacked in the early hours of the morning, with several DST and PCSB recharge vouchers missing from the cashier table. Upon reviewing the CCTV footage, he observed two male individuals breaking into the premises at approximately 0300hrs, prompting him to lodge a police report at Sengkurong Police Station.

22. The CCTV footage provided clear evidence of their actions, and D1 confessed that he was the masked individual seen inside the shop, while Malik was the lookout outside.

Antecedents:

23. All the defendants have antecedents. Their respective previous convictions were read and explained to them individually, and each defendant admitted to the same.
24. D1 admitted to multiple prior convictions for offences against property in 2005, 2009, 2014, 2017, 2019, 2022 and 2024. In 2024, D1 was convicted of theft under section 379 of the Penal Code, after having previously convicted for three-year imprisonment sentence for drug consumption in 2022. D1 informed the Court that he was released from prison in 2025.
25. D2 admitted to prior convictions for theft in 2013, housebreaking in 2014, and further theft offences in 2016, 2018, 2020 and 2022. For the 2022 offence, he was sentenced to 20 months' imprisonment and two strokes of the cane. D2 stated that he was released from prison in 2024.
26. D3 admitted to previous convictions for theft in 2019 and 2023, for which he was sentenced to 19 months' imprisonment, and was released in 2024. He further admitted that on 15 December 2025, in ICCT 53/2025, he was convicted of house trespass and sentenced to two years and eight months' imprisonment.
27. D4 admitted to prior convictions for theft in 2006 and 2011, mischief in 2013, attempted theft in 2017, forgery for the purpose of cheating in 2018, and drug consumption offences in 2022. In 2024, D4 was convicted of assisting in the concealment of stolen property under section 414 of the Penal Code and sentenced to 14 months' imprisonment. He was released from prison at the end of 2024.

Mitigations

28. All the defendants seeking for lenient sentence and for the sentence to run from the date they were remanded.

Court's Consideration:

29. All four defendants are repeat offenders, with antecedents spanning many years and involving similar property-related offences, demonstrating a clear pattern of recidivism. These defendants reoffended shortly after release from custody, indicating lack of remorse and therefore does not warrant for leniency.

30. They persistently disregard for the law which warrant for a custodial and deterrent sentence to reflecting the seriousness of the offences and the need to deter repeat offending demands stern judicial response to safeguard public interest.
31. Housebreaking with the intention to commit theft has always been treated seriously due to its prevalence offence and the distress caused to the houseowner- **Ak Muhammad Nazri bin Pg Mohd Jasni vs Public Prosecutor [Criminal Motion 49 of 2019]**. In this present case, the housebreaking carried out with premeditation and common intention when the occupants were not at home. The Court of Appeal in the case of **Ilham Syarif vs Public Prosecutor (Criminal Appeal No. 3 of 2009)** and reported in the Malayan Law Journal (2010) 5MLJ 382, held that; *“where the sanctity of a private home is invaded for the purpose of committing an offence, deterrence is an important consideration. This is specially so in Brunei due to the prevalence of such offences”*.

Appropriate Sentence:

32. In considering the appropriate sentence, I am guided by the principle laid down in the case of **R v Ball (1951) 35 Cr App R. 164** where Hillbery J stated:

“In deciding the appropriate sentence, a Court should always be guided by certain considerations. The first and foremost is the public interest. The criminal law is publicly enforced, not only with the object of punishing crime, but also in hope of preventing it. A proper sentence, passed in public, serves the public interest in two ways. It might deter others who may be tempted to try crime as seeming to offer easy money on the supposition, that if offender is caught and brought to justice, the punishment will be negligible. Such sentence may also deter the particular criminal from committing a crime again, or, induce him to turn from a criminal to an honest life.”

33. Based on past cases, the sentencing imposed on housebreaking under section 454 PC ranges from 2 years to 5 years’ imprisonment after a guilty plea. In a typical case a sentence of up to 5 years’ imprisonment may be upheld by the court because of the distress and potential fear caused to home owners- **Shamsuddin bin Mohammed v Public Prosecutor (Criminal Motion No. 4 of 2014; unreported, 20 May 2014)**
34. Bearing in mind of the range of sentences imposed, these Defendants does not deserve the lower threshold of starting point of 2-3 years’ imprisonment are warranted to reflect the seriousness of the offending and the need to protect the public- **Public Prosecutor v Pg Abd Rahman bin Pg Shahbudin [2003] BLR 138.**
35. The only mitigating factor which I find in favour of the Defendants are their guilty plea. By pleading guilty, the Defendants has saved the courts and prosecution time from undergoing the full trial. Their guilty plea entitles him to one-third reduction from the starting point.

36. All the defendants should be given the same sentence due to them being persistent offenders with continuing course of criminal conduct.

37. Bearing in mind the penalty is 10 years of imprisonment and whipping, I am of the view that a starting point of 4 ½ years' imprisonment with 2 strokes of whipping for each charge is appropriate for the aforesaid reasons. On account of guilty plea, I reduced the starting point of 4 ½ years' imprisonment to 3 years' imprisonment.

Sentence:

38. The sentence impose on each of the Defendants are as follows:

1st charge vs D1, D2, D3 and D4:

D1: 3 years' imprisonment and 2 strokes of whipping

D2: 3 years' imprisonment and 2 strokes of whipping

D3: 3 years' imprisonment and 2 strokes of whipping

D4: 3 years' imprisonment and 2 strokes of whipping

2nd charge vs D1, D2 and D4:

D1: 3 years' imprisonment and 2 strokes of whipping

D2: 3 years' imprisonment and 2 strokes of whipping

D4: 3 years' imprisonment and 2 strokes of whipping

3rd charge vs D1:

D1: 3 years' imprisonment and 2 strokes of whipping

Totality Principle:

39. D1, D2, and D4 committed multiple offences that did not arise from the same transaction. Although the 1st and 2nd charges involved the same victim, the Defendants committed the offence on separate occasions. There was a break in the chain of events in the commission of the offences, warranting it as separate transactions. Accordingly, a consecutive sentence is justified.

40. I hereby sentenced the Defendants as follows:

D1 vs 1st, 2nd and 3rd charge:

41. As for D1, the cumulative sentence of 9 years' Imprisonment and 6 strokes of whipping is excessive. A total sentence of 7 years' imprisonment and 5 strokes of whipping to reflect the overall criminality involved.

42. To achieve the said sentence, I order for the sentence of the 1st and the 2nd charge, together with 1-year imprisonment and 1 stroke from the 3rd charge to run consecutively

with each other, which brings a total of 7 years' and 5 strokes of whipping. The remaining 2 years' imprisonment and the 1 stroke of whipping from the 3rd charge is to run concurrently with consecutive sentence of 7 years' and 5 strokes of whipping.

D2 vs 1st and 2nd charge:

43. I order for the 1st and 2nd charges to run consecutively with each other, which brings a total of 6 years' imprisonment and 4 strokes of whipping.

D4 vs 1st charge and 2nd charge:

44. I order for the 1st and 2nd charges to run consecutively with each other, which brings a total of 6 years' imprisonment and 4 strokes of whipping

Final Sentence:

45. The final sentence imposed on the Defendants are as follows:

D1: 7 years' imprisonment and 5 strokes of whipping.

D2: 6 years' imprisonment and 4 strokes of whipping

D3: 3 years' imprisonment and 2 strokes of whipping

D4: 6 years' imprisonment and 4 strokes of whipping

46. D1, D2, D3 and D4, I order for the sentences to run from the date of their remand.

PG MASNI BINTI PG HJ BAHAR
Judge, Intermediate Court