

Public Prosecutor

AND

Sharifulrizal Bin Haji Sahari

**(High Court of Brunei Darussalam)
(Criminal Revision No. 1 of 2022)**

Criminal law and procedure – Road traffic charges compounded – Convictions and fines quashed – Revision – s.298 of the Criminal Procedure Code.

Steven Chong, C.J.
22 March 2022

PO Hjh Siti Mu'izzah Hj Sabli for Public Prosecutor.
Defendant In Person.

Steven Chong, CJ:

On 14 February 2022 in the Magistrate's Court the defendant pleaded guilty to four charges: driving a car without a valid driving licence contrary to section 16 of the Road Traffic Act (1st Charge); driving a car with an expired vehicle licence (road tax) contrary to section 8(1) of the Road Traffic Act (2nd Charge); driving a car without the consent of the owner contrary to section 36(2) of the Road Traffic Act (3rd Charge); and driving a car with an expired insurance policy contrary to section 3(2) of the Motor Vehicles Insurance (Third Party Risks) Act (4th Charge).

Magistrate Nur Eleana Binti Dato Seri Paduka Hj Hairol Arni imposed fines of \$750 on the 1st Charge; \$250 on the 2nd Charge; \$400 on the 3rd Charge and \$750 on the 4th Charge.

After sentence was passed the question arose as to when the defendant would be able to make full payment of the fines. It was then that the defendant informed the Magistrate he had already paid a total of \$200 to the police two days earlier in order to compound the three Road Traffic Act charges ("*the traffic charges*") and he produced three receipts as evidence.

The police prosecutor was aware that the defendant was offered the opportunity to compound the traffic offences but was under the misapprehension that he failed to pay the composition penalties. Upon seeing the receipts from the defendant showing payment had been made by him the police prosecutor conceded that the traffic charges had been compounded.

In light of that concession by the police prosecutor the Magistrate rightly decided that the convictions and fines on the traffic charges were unsustainable. The Magistrate immediately referred this case to the High Court for revision.

This regrettable lapse in the prosecution of the defendant would have been avoided had there been a record kept of the payment of the composition penalties in the investigation papers. Fortunately, the defendant was able to prove payment with the receipts. Otherwise, he would be punished twice for the traffic charges which would be a travesty of justice.

For the foregoing reasons I quash the convictions and sentences on the traffic charges in exercise of the power of revision of the High Court pursuant to section 298 of the Criminal Procedure Code.

DATO SERI PADUKA STEVEN CHONG
Chief Justice