

Public Prosecutor

AND

Siti Naqiah Binti Abdullah

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 31 of 2017)**

Muhammed Faisal Bin PDJLD DSP Haji Kefli, Judge
12th September 2017

Criminal Law – S.380 Penal Code – S.457 Penal Code – Plea of Guilty – Sentencing – 1st Offender.

DPP Raihan Nabilah Binti Haji Ahmad Ghazali for Public Prosecutor.
Defendant In Person.

Case Cited in the Sentence:

PP v Hamyzan Hamzi bin Hj Hashimi and Anor (Criminal Trial 1 of 2013)

SENTENCE

Muhammed Faisal, Judge:

This matter was brought before me on the 31st August 2017. That day was the beginning of the trial for the defendant who faced 2 charges, one under section 380 Penal Code and one under section 457 Penal Code. The charges are as follows:

“Amended 1st Charge

That you, together with Mohd Keril bin Yusof and another person still at large, sometime between 2.30 pm on the 5th day of January 2017 and 8.30 pm on the 6th day of January 2017, at Simpang 198-62, Barek 397, A4, Lorong Tiga Selatan, Seria, in Brunei Darussalam, a building used as a human dwelling, in furtherance of your common intention, did commit theft of property, to wit, one (1) box containing several watches, in the possession of AGONG BIN LUPAT (M.46), and all of you have thereby committed an offence punishable under Section 380 of the Penal Code, Chapter 22 read with Section 34 of the same.

2nd Charge

That you and another person still at large, at about 4.28 am on the 6th day of March 2017, in furtherance of your common intention, did commit housebreaking by night by entering into a house at H19/11, No. 20, Simpang 100, BSP Housing, Seria, in

Brunei Darussalam, a building in the possession of MUHAMMAD SPIZ BIN HAJI MADALI (M.41) and used as a human dwelling, in order to commit an offence punishable with imprisonment, to wit, theft, and that both of you have thereby committed an offence punishable under Section 457 of the Penal Code, Chapter 22, read with Section 34 of the same.”

The defendant duly pleaded guilty before the trial commenced that morning. The statement of facts are read to her and are repeated as below:-

“The Defendant is a 25 year old Bruneian Permanent Resident. She is currently unemployed.

1st Charge

Sometime between 2.30 pm on 5th January 2017 and 8.30 pm on 6th January 2017, the Defendant together with Mohd Keril bin Yusof (M.27) and another person still at large (“the other person”) went to Barek 397, Simpang 198-62, Lorong Tiga Selatan, Seria, in Brunei Darussalam, a building used as a human dwelling, with the intention to commit theft.

Upon their arrival at the said house, the other person removed a glass slat from a window of the said house and the Defendant proceeded to enter the said house through the said window. Once inside the said house, the Defendant opened the back door of the said house, through which Mohd Keril and the other person proceeded to enter. The Defendant then went to a bedroom in the said house and proceeded to steal one (1) box containing several watches from a wardrobe in the said bedroom.

The Defendant together with Mohd Keril and the other person then proceeded to leave the said house with the said stolen item. The said stolen item was then handed over to Mohd Keril’s friend.

A police report on the above-theft was lodged on 6th January 2017 at about 9 pm, after the Complainant, AGONG BIN LUPAT (M.46) discovered that his house had been ransacked and one (1) box containing several watches had gone missing from a bedroom in the said house.

Police investigations led to the Defendant’s arrest on 6th March 2017. In her statement to the police, the Defendant admitted to committing the above theft. The said stolen item has not been recovered.

2nd Charge

At about 4.28 am on 6th March 2017, the Defendant and another person still at large (“Bob”) together with their friend (“Acai”) went to a house at H19/11, No. 20, Simpang 100, BSP Housing, Seria, in Brunei Darussalam, in a Land Cruiser Prado vehicle bearing registration number BU 8891, driven by “Acai”, with the intention of committing theft.

Upon their arrival at the said house, “Bob” proceeded to pick open a window of the said house using a screwdriver and proceeded to enter through the said window. Shortly after, the Defendant entered the said house through the said window. The Defendant proceeded to steal one (1) IP camera from the living room of the said house and immediately kept it in the said Land Cruiser Prado.

The Defendant then entered the said house a second time through the said window. At the material time, security personnel of the said housing area arrived at the said house after receiving information of a suspected break-in at the said house. As a result of this encounter, the Defendant and “Bob” immediately left the said house.

A police report on the above-incident was lodged on 6th March 2017 at about 5.20 am, by the security personnel of the said housing area. The Complainant, MUHAMMAD SPIZ BIN HAJI MADALI (M.41), also provided the police with a CCTV footage from inside his house at H19/11, No. 20, Simpang 100, BSP Housing, Seria, in Brunei Darussalam, showing two persons committing theft.

One of the persons on the CCTV footage was later identified as the Defendant and as such, police investigations led to the Defendant’s arrest on 6th March 2017. In her statement to the police, the Defendant admitted to committing the above theft. The said stolen item has not been recovered.

For all offences

The Defendant has no previous convictions.”

The matter against the defendant was first brought to court on the 8th March 2017, in the Magistrate Court. The matter was remitted to the Intermediate Courts on the 8th April 2017. In the intervening period between then and the trial dates, the defendant was charged before another court and has her bail revoked for this matter, for breach of bail condition, i.e. not to commit an offence whilst out on bail.

In her mitigation, she pleaded for leniency and consideration for her sentences. She has two children, 7 and 5 years respectively. She has pleaded guilty and has no previous convictions. Items stolen have not been recovered for either charges.

In the case of *PP v Hamyzan Hamzi bin Hj Hashimi and Anor* (Criminal Trial 1 of 2013) the Judge there had a starting point on 3 years imprisonment for a guilty plea under Section 457 Penal Code.

Having considered the facts and circumstance of this case, for the 1st charge under Section 380 Penal Code, my starting point shall be 6 months imprisonment, and 3 years imprisonment for the offence under Section 457 Penal Code. The sentence is reduced by 1/3 for her guilty plea.

Her sentence is thus as follows:-

1st Charge, 4 months’ imprisonment.

2nd Charge, 2 years’ imprisonment.

Both sentences to run consecutively with effect from date of remand.

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court