

Public Prosecutor

AND

Jofri Bin Haji Tahir

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No.43 of 2017)**

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

Criminal Law – Robbery – Under section 394 Penal Code – Plea of Guilty – Previous Convictions.

Cases cited in the Sentence:

Abdul Muhin Bin Haji Moxsin v Public Prosecutor [COA No.4 of 1989]
Public Prosecutor v Mohd Rafee Bin Hj Mohd Jublee [HCCT No.12 of 2005]

DPP Siti Nurjauinah Binti Haji Kula for Public Prosecutor.
Defendant In Person.

SENTENCE

Muhammed Faisal, Judge:

The Defendant has been charged under section 394 Penal Code, his charge reads as follows:-

“That you, on the 24th May 2017 at about 1000 hours at No 136-G, Kg Tarap Bau, in Brunei Darussalam, committed robbery of one gold necklace and in committing the said robbery caused the wrongful restraint to Hjh Damit Bte Hj Daud [00-015901 (Y), F78 years] and you have thereby committed an offence punishable under section 392 of the Penal Code Chapter 22.”

Upon reading of the charge, the defendant pleaded guilty. The statement of facts, are listed as follows:-

“The defendant is a local Bruneian. At the time of the offence, he was unemployed. Hjh Damit Bte Hj Daud is an old woman who lived at a house at no 136-G, Kg Tarap Bau in Brunei Darussalam. The defendant knew of Hjh Damit because he had seen Hjh Damit at her house when the defendant was selling crabs to Hjh Damit’s neighbour. For a while, the defendant had observed

that Hjh Damit wears a gold necklace around her neck which he formed the intention to steal it.

On the 24th May 2017 at about 1000 hours, the defendant went to Hjh Damit's house on the pretense that he wanted to sell crabs. At the said house, the defendant found that the main door was not locked. Seeing this, the defendant decided to enter the house. Once inside the house, the defendant went to one of the bedroom and saw Hjh Damit who was alone inside the house. At the time, she was sitting on the floor and she was watching the television. She was not aware of the defendant's presence inside her house.

When the defendant saw Hjh Damit, he noticed that she was wearing the gold necklace around her neck which he had intended to steal. The defendant then proceeded to cover Hjh Damit's mouth in order to restraint her to steal the gold necklace. However, when Hjh Damit tried to release herself from the defendant's grip, the defendant then grabbed and pulled the gold necklace from Hjh Damit's neck. The defendant straightaway ran out of the house with the gold necklace intending to sell it to get money. In doing so, the defendant had caused wrongful restraint to Hjh Damit in committing the robbery of the gold necklace.

Whilst Hjh Damit was still inside the house, she screamed for help. A few people who heard her call for help then went to see her. When Hjh Damit told them what had happened, they all then went to look for the defendant. Subsequently, on the same day they found the defendant together with Hjh Damit's gold necklace and later the Police was alerted about the incident. The defendant was then arrested and investigated by the Police.

During police investigation, the defendant admitted that he had gone to Hjh Damit's house with the intention to steal Hjh Damit's gold necklace. He further admitted that he intended to sell the gold necklace in return for money to pay his debt. The gold necklace was recovered from the defendant. On record, the defendant has one previous conviction."

The defendant is unemployed and this motivated his actions. Although he has pleaded guilty, the seriousness of the offence and the charge must be taken into consideration. This reflected in the Judgments of previous cases *Abdul Muhin Bin Haji Moxsin v Public Prosecutor* [COA No.4 of 1989] and that of *Public Prosecutor v Mohd Rafee Bin Hj Mohd Jublee* [HCCT No.12 of 2005].

It is necessary to impose a heavy sentence, which both is a serve punishment to the defendant and also as a deterrence to other would be offenders. Furthermore, the defendant, in committing the offence, assaulted the victim, who is a 78 years old women. His actions can only be described as a cowardly attack upon in elderly lady.

The defendant was convicted for theft related offence, and was sentenced to 8 months imprisonment in March 2016. Just over the year since then, he is now convicted for a much more

serious offence of robbery. Having considered all of these factors, I am of the view that the proper starting point for the defendant's sentence is that of 6 years imprisonment, reduced by 1/3 for his plea of guilty.

I believe that the minimum 12 strokes whipping is appropriate in this circumstance. The defendant is thus sentenced to 5 years imprisonment and 12 strokes whipping. Sentence to take effect from the date of conviction.

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court