Public Prosecutor

AND

Mohammad Bin Haji Talib

(Intermediate Court of Brunei Darussalam)
(Criminal Trial No.49 of 2017)

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

Criminal Law – S.457 – Housebreaking – Previous Conviction – Plea of guilty.
Criminal Law – S.426 – Mischief – Damages of $400 – Previous Conviction – Plea of guilty.

DPP Muhammad Qamarul Affyian Bin Abdul Rahman for Public Prosecutor.
Defendant In Person.

SENTENCE

Muhammed Faisal, Judge:

The defendant faces 2 charges. One Under Section 457 and one under Section 426 Penal Code. The charges read as follows:-

> *"**1st Charge***
>
> *That you, after the hours of sunset on the 21st day of May 2017 and the before the hour of sunrise on the 22nd day of May 2017, committed housebreaking by night by entering into Rozikin Restaurant at Bangunan Cahaya Delima Rozikin, Simpang 48, Serusop in Brunei Darussalam, a building used for the custody of property, for the purpose of committing a certain offence punishable with imprisonment, to wit, theft and you have thereby committed an offence punishable under section 457 of the Penal Code, Chapter 22.*
>
> ***2nd Charge***
>
> *That you, after the hours of sunset on the 21st day of May 2017 and before the hour of sunrise on the 22nd day of May 2017, at Rozikin Restaurant, Bangunan Cahaya Delima Rozikin, Simpang 48, Serusop in Brunei Darussalam, did commit mischief by causing wrongful damage, to wit, by breaking one (1) cash register of the said*

restaurant amounting B$400, and you have thereby committed an offence punishable under section 426 of the Penal Code, Chapter 22".

Background

He was first brought before the Magistrate's Court on 22nd June 2017. The case was subsequently remitted to the Intermediate Court and was heard before myself this afternoon. The defendant subsequently has pleaded guilty to both charges before myself.

The statement of facts, of his offences one stated below:-

"The defendant is a 41 year old Bruneian male. He is currently unemployed. Between the hours of sunset on the 21st day of May 2017, the defendant went to Bangunan Cahaya Delima Rozikin, Simpang 48, Serusop in Brunei Darussalam with the intention to commit theft.

When he arrived at the said building, he went into the back area of the said building and discovered a window which led into Rozikin restaurant. He then used a cement block to break open the window. Through the broken window, he gained entry into the said restaurant. The window then led the defendant to the kitchen area of a restaurant.

The defendant exited the kitchen into the main area of the restaurant where he discovered a cash register. He then pry open the cash register in order to get the monies kept inside with a tool which he had brought with him. He caused wrongful damage to the cash register however he failed to successfully pry it open.

The defendant then proceed to steal one (1) 16" TV with its recorder. He then placed the stolen items in a bag. He then discovered a donation box which was kept on the same counter. He then pry open the donation box to reveal its contents. He then stole all the paper monies from the donation box.

The defendant then exited the said restaurant through the back kitchen door with the said stolen items. On the 22nd day of May at around 0650 hours, the complainant received a call from a worker at his restaurant, Rozikin Restaurant at Bangunan Cahaya Delima Rozikin, Simpang 48, Serusop in Brunei Darussalam. The worker informed the complainant that there was a break in at the said restaurant.

The complainant then went to his restaurant to inspect and discovered the said items missing. He lodged a police report. The complainant provided a CCTV recording of the incident to the police. Police investigations led to the arrest of the Defendant. The cost to repair the damaged cash register amounted to B$400. The stolen items have not been recovered. On record, the defendant has previous convictions".

In considering his sentence, I take into consideration of his guilty pleas and his plea in mitigation. Aggravating factors, is the fact that he has multiple previous convictions; court listed 10 convictions for theft related offences and 2 convictions for mischief.

Given the above, my starting point for the first charge is 3 years' imprisonment and 3 strokes. For the 2nd charge, my starting point is 12 months' imprisonment. These are reduced by 1/3 for his guilty plea. His sentence is thus as follows:

1st charge is 2 years' imprisonment and 2 strokes.

2nd charge is 8 months' imprisonment.

Taking into account of the similar transaction principle, both sentences are to run concurrently, with effect from date of institution of proceedings i.e. 22nd June 2017.

Total sentence 2 years and 2 strokes whipping.

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court