Public Prosecutor

AND

Md Zul-Eqram Bin Hj Asmad (D1)
Md Zainal Abidin Bin Junaidi (D2)
Hasrin Bin Sulaiman (D3)
Nurul Iffah Alya Nurana Nabilah Binti Salim (D4)

(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 4 of 2014)

Muhammed Faisal Bin PDJLD DSP Haji Kefli, Judge
10th May 2017

Criminal Law – S.380 Penal Code – S.414 Penal Code – S.387 Penal Code – S.324 Penal Code – Plea of guilty – Charges to be taken into consideration.

DPP Hajah Rozaimah Binti Haji Abd Rahman for Public Prosecutor.
Mr Rudi Lee Kim Boon (Messrs Rudi Lee, Annie Kon & Associates) for Defendant.

SENTENCE

Muhammed Faisal, Judge:

The defendant initially was charged together with 3 other persons. Their cases have already been dispersed with, by another judge, just leaving the 4th defendant for me to deal with.

The case of the defendant was 1st brought before myself on the 13th January 2017 for fixing of hearing dates. There was an indication that the defendant was willing to plea of guilty to some charges, and the rest to be taken into consideration.

Her charges are as follows:-

> "**1st Charge**
>
> *That you and another person, in furtherance of your common intention, sometime in November 2013, at the 11KV Electric Substation container in Kg Kiulap in Brunei Darussalam, committed theft in a building used for custody of property, to wit, busbars and electric cables of unknown quantity, belonging to the Government of Brunei Darussalam, and both 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 2 other persons, in furtherance of your common intention, sometime in December 2013, at the Electric Power Station addressed at the Shrimp Culture Industrial Site, Sungai Penyatang Telisai, Tutong in Brunei Darussalam, committed theft in a building used for the custody of property, to wit:

a) Electric cable of unknown quantity; and
b) Busbars of unknown quantity

belonging to the Government of Brunei Darussalam and you have thereby committed an offence punishable under Section 380 of the Penal Code, Chapter 22, read with Section 34 of the same.

3rd Charge

That you, sometime prior to the 20th day of September 2013, at the Pinne Aluminium Company, addressed at No.66, Simpang 671, Jalan Kampung Salambigar, in Brunei Darussalam, voluntarily assisted in disposing of, or making away with property, to wit, two (2) water meters which you knew or had reason to believe to be stolen property, and you have thereby committed an offence punishable under Section 414 of the Penal Code, Chapter 22.

4th Charge

That you and another person, in furtherance of your common intention, sometime prior to the 16th day of December 2013, at the Electric Substation addressed at the vicinity of the Sekolah Rendah Delima Satu, Jalan Muara, in Brunei Darussalam committed theft in a building used for the custody of property, to wit, three (3) busbars, belonging to the Government of Brunei Darussalam and you have thereby committed an offence punishable under Section 380 of the Penal Code, Chapter 22, read with Section 34 of the same.

5th Charge

That you and another person, in furtherance of your common intention, sometime prior to the 27th day of January 2014, at the Electric Substation addressed at the vicinity of the Sekolah Rendah Delima Satu, Jalan Muara, in Brunei Darussalam committed theft in a building used for the custody of property, to wit:

a) Feeder pillar busbars of unknown quantity;
b) Electric cable sized 500 millimeter in diameter and approximately 12 metre long;
c) Electric earthing cable sized 120 millimeter in diameter and approximately 10 metre long;
d) Busbars in the switch gear;
e) Busbars in the transformer; and
f) Three (3) 50KA short circuit fuses

belonging to the Government of Brunei Darussalam and you have thereby committed an offence punishable under Section 380 of the Penal Code, Chapter 22, read with Section 34 of the same.

6th Charge

That you sometime in evening, between November and December 2013, at the Pinne Aluminium Company, addressed at No. 66, Simpang 671, Jalan Kampung Salambigar, in Brunei Darussalam, voluntarily assisted in disposing of, or making away with property, to wit, one (1) water meter which you knew or had reason to believe to be stolen property, and you have thereby committed an offence punishable under Section 414 of the Penal Code, Chapter 22.

[CONSOLIDATED FROM ICCT NO. 35 OF 2015]

7th Charge

That you on the 2nd November 2015 between 1600 hours and 1900 hours, at the vicinity of house No. 41, at Jalan 2, Simpang 35, Kampong Perpindahan Lambak Kanan in Brunei Darussalam, in order to the committing of extortion, did put one Abdul Alif bin Haji Remli in fear of grievous hurt, to wit, by pointing one machete at the said Abdul Alif bin Haji Remli ad threatening to hurt him with it, and you have thereby committed an offence punishable under Section 387 of the Penal Code, Chapter 22.

8th Charge

That you on the 2nd November 2015 between 1600 hours and 1900 hours, at the house house No. 41, at Jalan 2, Simpang 35, Kampong Perpindahan Lambak Kanan in Brunei Darussalam, did voluntarily cause hurt to one Abdul Alif bin Haji Remli, by hitting him repeatedly with a softball bat, an instrument which, used as a weapon of offence, is likely to cause death, and you have thereby committed an offence punishable under Section 324 of the Penal Code, Chapter 22."

The charges to be taken into consideration are as follows:-

"That you and 2 other persons, in furtherance of your common intention, sometime between July 2013 and the 5th day of September 2013, committed house-breaking by entering into a building belonging to one Mohamed Ameen, used for the custody of property addressed at Lot No. 20448/20446/20447, Simpang 652, Kampong Sungai Orok and Kampong Salambigar, in Brunei Darussalam, in order to the commission of an offence punishable with imprisonment, to wit, theft of:

a) Electric cables of unknown quantity;
b) One (1) escalator motor engine;
c) One (1) aluminium escalator cover;
d) Fire hose reel nozzles of unknown quantity;
e) Air conditioner brass hose;

f) Two (2) aluminium doors; and
g) Two (2) pieces of window slides

belonging to the said Mohamed Ameen 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.

That you and 2 other persons, in furtherance of your common intention, sometime between July 2013 and the 5th day of September, at a building addressed at Lot No. 20448/20446/20447, Simpang 652, Kampong Sungai Orok and Kampong Salambigar, in Brunei Darussalam, committed mischief by causing wrongful damage to the said building, to the amount of BND$ 250,000.00 and you have thereby committed an offence punishable under Section 427 of the Penal Code, Chapter 22, read with Section 34 of the same.

That you, sometime between the 9th day of September 2013 and the 11th day of December 2013, at the Pinne Aluminium Company, addressed at No. 66, Simpang 671, Jalan Kampong Salambigar, in Brunei Darussalam, voluntarily assisted in disposing of, or making away with property, to wit:

a) Two (2) inch long busbar;
b) Electric cable sized sixteen (16) millimeter in diameter;
c) Electric ground cable sized 1.5 millimeter in diameter; and
d) Electric cable sized thirty-five (35) millimeter in diameter and ten (10) to twelve (12) meter long;

which you knew or had reason to believe to be stolen property, and you have thereby committed an offence punishable under section 414 of the Penal Code, Chapter 22.

That you, sometime at the end of the year 2013, at the Pinne Aluminium Company, addressed at No. 66, Simpang 671, Jalan Kampong Salambigar, in Brunei Darussalam, voluntarily assisted in disposing of, or making away with property, to wit, three (3) feeder pillar busbars which you knew or had reason to believe to be stolen property, and you have thereby committed an offence punishable under Section 414 of the Penal Code, Chapter 22.

That you, and another person, in furtherance of your common intention, sometime in the evening of the 14th day of January 2014, at the electric Substation addressed at Simpang 652, Kampong Salambigar, in Brunei Darussalam did attempt to commit theft in a building used for the custody of property, to wit, busbars and electric cables of unknown quantity, belonging to the Government of Brunei Darussalam and you have thereby committed an offence punishable under section 380 of the Penal Code, Chapter 22 read with Section 34 and Section 511 of the same."

The defendant is currently serving a Court's order for rehabilitation, at Rumah Al-Islah, rehabilitation home for drug offenders. She is 27 years old with 4 children. The eldest is 11 years old, whilst youngest is 7 years old. Her children is being take caren by her mother, as her husband has left her.

Whilst in rehabilitation, she was able to reassess her situation and is remorseful of her past action. It seem she is now ready to take responsibility for her actions. This, more sober outlook into her life was compounded by the fact that her father has passed away recently.

A discount in sentencing is afforded to her, for her plea to guilty. Also in considering her sentence I will also consider the offences that are to be taken into consideration with respect to the theft related charges, theft of electrical cables and other related equipments of the Government of Brunei, has always been taken seriously, and a long custodial sentence is usually handed out against the defendant. From the facts of each individual theft charges, I can see no reason to depart from the usual tariff.

With respect to the 7th and 8th charges, these are serious charges, to which carries custodial sentences and also whipping with respect to the 7th charge itself, there is a minimum 3 years' imprisonment.

Finally, I also take note that the defendant has no previous convictions.

Having taken all of the above into consideration, for the 1st, 2nd, 5th, 4th charges and my starting point is that of 12 months' imprisonment, reduced by 1/3 for guilty plea. For the 3rd and 6th charges, my starting point is 9 months' imprisonment, reduced by 1/3 for guilty plea.

As for the 7th charge, I believe that the minimum sentence of 3 years' imprisonment is sufficient, given that the defendant plead guilty and is a 1st offender. With respect to the 8th charge, my starting point is 2 year's imprisonment, reduced by 1/3 for a guilty plea.

No whipping is to be imposed upon the defendant for the 7th and 8th charges as she is excerpted from whipping.

Her sentence is thus as follows:-

1st charge	:	8 months' imprisonment
2nd charge	:	8 months' imprisonment
3rd charge	:	6 months' imprisonment
4th charge	:	8 months' imprisonment
5th charge	:	8 months' imprisonment
6th charge	:	6 months' imprisonment
7th charge	:	3 months' imprisonment
8th charge	:	16 months' imprisonment

Taking into consideration the similar transaction rule, I order that the 7th and 8th charges to be served concurrently to each other.

To take into consideration, the totality of sentences, I further order that the 1st to 6th charges to run concurrently, but consecutively to the 7th and 8th charges.

Total sentences are 3 years and 8 months imprisonment. Sentences to run with effect from 2nd March 2017

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court