

Public Prosecutor

AND

Borhan Bin Adi

**(Intermediate Court of Brunei Darussalam)
(Criminal Trial No. 50 of 2017)**

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

*Criminal Law – S.409 Penal Code – Criminal Breach of Trust – Sum of \$2755.09 – Plea of Guilty
– Sentencing.*

DPP Hajah Atiyyah Azzahra Binti POKLSDSLJ Awang Haji Abas for Public Prosecutor.
Defendant In Person.

Cases cited in the Sentence:

PP v Pengiran Hj Ramli bin Pg Hj Mohd Samli [1991] JCBD 84

PP v Rokiah Binti Suhaili Criminal Trial No. 6 of 1990

SENTENCE

Muhammed Faisal, Judge:

The defendant faces one charge under Section 409 Penal Code, Chapter 22. The charge is as follows:-

“That you, on diverse occasions between February 2014 and July 2014, being employed as a public servant at the Royal Brunei Armed Forces, to wit, Level III Mess Manager at the Warrant Officer’, Staff Sergeant, Sergeant’s Mess of Penanjong Garisson, Tutong in Brunei Darussalam and being entrusted in such capacity with property to wit, cash in the total sum of B\$2755.09 belonging to Warrant Officer’, Staff Sergeant, Sergeant’s Mess of Penanjong Garisson, Tutong, committed criminal breach of trust by dishonestly misappropriating the said property and you have thereby committed an offence punishable under Section 409 of the Penal Code, Chapter 22.”

The defendant has pleaded guilty and the statement of facts, presented to this court, is as follows:-

“The defendant is a 54 year old citizen of Brunei Darussalam. At the material time, the defendant was employed as a Level III Mess Manager at the Warrant Officer’s Staff Sergeant, Sergeant’s Mess of Penanjong Garisson, Tutong, Brunei Darussalam.

The defendant’s scope of work as a Level III Mess Manager includes administrative work and collecting monies from warrant officers, staff sergeant and sergeant. After collecting these monies, the defendant would then hand over these monies to the Pay Unit Training Institution of the Royal Brunei Armed Forces at Penanjong Garisson.

From February 2014 to July 2014, in his capacity as a Level III Mess Manager sergeant’s Mess, the defendant received monies collected from warrant officers, staff sergeant and sergeant (hereinafter referred to as “the said officers”). However, these monies received were not handed over to the Pay Unit Training Institution of the Royal Brunei Armed Forces by the defendant.

The defendant’s conduct was discovered when an audit conducted in July 2014, found that there has been inconsistencies in the amount handed over to the said Pay Unit and the amount received from the said officers (based on records) for the period of February – July 2014. Internal investigations later confirmed that the total sum that has not been handed over to the said Pay Unit for the period of February – July 2014 amounted to B\$ 2755.09.

Investigations revealed that the defendant has committed breach of trust for the period of February 2014 to July 2014, in the course of his employment as a Level III Mess Manager with the Royal Brunei Armed Forces, Ministry of Defence. Upon police investigations, the defendant admitted to have taken all monies amounting to B\$2755.09 and that he had taken the monies for his own personal use.

Investigations also revealed that the defendant has made part restitution in the sum of B\$150.00. On record, the defendant has no previous convictions.”

The offence was committed between February 2014 to July 2014. This is up to the point when the offence was discovered. It was not made clear to myself, why the matter was only brought to court in June 2017, some 3 years after the incident.

The defendant is a 1st offender, and has a clean record. In his mitigation, the defendant had asked for leniency from the court. He stated that he had numerous debts and at the time of committing the offence, he had felt that he’s personal situation was desperate. The defendant is married with 4 children. He requests his actions and has duly pleaded guilty at the first opportunity before the court. The defendant has paid restitution of \$150, out of \$2755.09 taken.

Follow previous case laws, such as *PP v Pengiran Hj Ramli bin Pg Hj Mohd Samli* [1991] JCBD 84, and *PP v Rokiah Binti Suhaili* Criminal Trial No. 6 of 1990, a sentence of 18 months is usually imposed for similar case, after trial.

Having considered the facts and circumstances of this case, my starting point is 18 month imprisonment. I reduce that amount by 1/3 for his plea of guilty. The defendant is thus sentenced to 12 months imprisonment, sentence to run with effect from 21st August 2017.

I further order that the defendant pay the balance of the amount lost, that is \$2,605.09 within the next 3 months (from today), as compensation to the Warrant Officer, Staff sergeant, Sergeant's Mess of Penanjong Garrison, Tutong.

If the defendant does not, or is unable to pay the said compensation amount, he shall serve a further in default sentence of 3 months, consecutive to his imprisonment sentence.

MUHAMMED FAISAL BIN PDJLD DSP HAJI KEFLI
Judge, Intermediate Court