

Norazman Bin Sahat

AND

Public Prosecutor

**(High Court of Brunei Darussalam)
(Criminal Appeal No. 18 of 2024)**

Steven Chong, C.J.
14th October, 2024.

Criminal law – Mischief by causing damage to government property – Sentence

Appellant In Person.
DPP Nurul Fitri Kifrawi for Public Prosecutor.

Case cited:

Mohd Rafuiddin Bin Garip v Public Prosecutor [Criminal Motion No. 24 of 2023]

Steven Chong, C.J.:

Introduction

1. On 31 August 2024 in the Magistrate's Court the appellant pleaded guilty to two charges: failure to comply with a custom officer's instruction to stop his car at the Kuala Lurah Customs Control Post contrary to section 143(b) of the Customs Order 2006 (1st Charge); and mischief by causing damage to the automatic gate barrier of the Control Post contrary to section 427 of the Penal Code (2nd Charge).
2. Magistrate Nur Eleana Binti Dato Seri Paduka Hj Hairol Arni sentenced the appellant to a fine of \$3,000 or 3 months' imprisonment in default of payment on the 1st Charge and 4 months' imprisonment and 2 strokes on the 2nd Charge.
3. The appellant appeals only against the sentence imposed on the 2nd Charge. The fine imposed on the 1st Charge has been paid.

The facts

4. Briefly stated the facts were as follows. On the evening of 29 August 2024 the appellant, driving a Toyota Avanza car, arrived at the Kuala Lurah Customs Post from Limbang. When instructed to stop by a customs officer, he drove through the automatic gate barrier damaging it.
5. The appellant was later arrested by customs officers at Ujung Jalan Customs Control Post. He admitted to trying to evade customs inspection because he was carrying 70 kilograms of fruits (rambutan and langsat) without a permit. The fruits were intended for sale to the public.

The sentence

6. On the 2nd Charge, in deciding on a starting point sentence of 6 months' imprisonment and 3 strokes reduced to 4 months' imprisonment and 2 strokes to give credit for the guilty plea, the Magistrate considered as an aggravating factor that the appellant had *"committed the offence for the purpose of evading customs inspection and avoiding legal repercussions for bringing in goods without a permit."*

The appeal

7. The appellant, aged 39, is a Malaysian national and he is employed as a religious teacher in Limbang. His wife and son aged 2 years are dependent on him. He contends that the sentence is excessive considering his guilty plea at the first opportunity.
8. DPP Nurul Fitri Binti Kifrawi submits that the sentence is not excessive and it aligns with the sentences passed in precedent cases of mischief such as *Mohd Rafiuddin Bin Garip v Public Prosecutor* [Criminal Motion No. 24 of 2023].

Decision

9. There is no merit in this appeal. The appellant's audacity in driving through the automatic gate barrier to evade customs inspection in defiance of the customs officer's instruction to stop his car justifies a severe sentence. The Magistrate gave the appellant an appropriate reduction for pleading guilty and the resulting sentence is within the range for offences of this nature.

10. The appeal is dismissed accordingly.

DATO SERI PADUKA STEVEN CHONG
Chief Justice