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IN THE SEYCHELLES COURT OF APPEAL

ANTOINE JOUBERT

APPELLANT

versus

THE REPUBLIC

RESPONDENT



Criminal Appeal No: 10 of 1999

[Before: Ayoola, P., Pillay & De Silva, J.J.A]

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Mr. F. Elizabeth for the Appellant
Mr. R. Govinden for the Respondent

JUDGMENT OF THE COURT

(Delivered by Pillay, J.)

The appellant was convicted by the Supreme Court for the offence of robbery with violence, contrary to Section 281 of the Penal Code and sentenced to a term of 15 years' imprisonment. He is now appealing against his conviction on the ground that one of the elements of the offence had not been conclusively proved, namely violence and against his sentence on the ground that it is manifestly excessive and harsh.

The particulars of the offence with which the appellant was charged were as follows:-

“Antoine Joubert of Les Mamelles, Mahe, on the 22nd May 1999 at Reef Estate, Anse Aux Pins robbed Renette Louisa Felix SR1500 (One Thousand Five Hundred), 1 Million Italian Liras equivalent to about 5000 Seychelles Rupees, 2 gold chains, 1 gold plaited chain with diamonds, 6 pairs

of gold and diamond earrings, 3 gold bracelets, 4 gold rings (comprising a wedding ring and rings with stones) 2 Seiko wrist watches, all of which to the approximate value of SR35,600 (Thirty Five Thousand and Six Hundred Seychelles Rupees) and at the time of such Robbery while being armed with a knife used personal violence to the said Renette Felix by stabbing and wounding her. (the emphasis is ours)."

Section 281 of the Penal Code is as follows:-

"Any person who commits the felony of robbery is liable to imprisonment for eighteen years.

If the offender is armed with any dangerous or offensive weapon or instrument, or is in company with one or more other person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds, beats, strikes, or uses any other personal violence to any person, he is liable to imprisonment for life. (the underlining is ours)."

It is not in dispute by the parties that the appellant committed the felony of robbery whilst armed with a 20-inch panga knife. Given that the particulars of the offence referred to the appellant being armed with a knife, the appellant could be convicted with the offence of robbery, whilst armed with a dangerous or offensive weapon, the more so as he could not have been misled or prejudiced in his defence.