

**Republic v Dubignon
(1998) SLR 39**

Romesh KANAKARATNE Senior State Counsel for the Republic
John RENAUD with Frank ELIZABETH, for the accused

Sentence delivered on 27 October 1998 by:

PERERA J: This is perhaps the largest consignment of drugs ever seized in Seychelles.

In passing sentence this Court has to take into consideration the damage that would have been caused to the society had the convict been able to execute his evil plan.

I have considered that the convict is a young man who is only 25 years old. The offence under count 1 carries a minimum mandatory term of 10 years imprisonment and a maximum of 30 years imprisonment and a fine of R500,000.

The offence under count 2 carries a sentence of 3 years imprisonment.

In sentencing the convict on count 1 I have also taken into consideration the current sentencing pattern of this Court in respect of offences under the Misuse of Drugs Act. In the case of *R v Garry Albert* (unreported) Crim Appeal 45/1997 the Court of Appeal affirmed a sentence of 10 years imposed by this Court for an offence of trafficking 1kg 30g of cannabis resin. In the case of *Ricky Chang TV Sing v R* (unreported) Crim Appeal 10/97, the Court of Appeal affirmed a sentence of 15 years imprisonment for trafficking in a quantity of 220g and 270mg of cannabis resin. In the case of *Jumbe v R* (unreported) SCA 18/1997 the Court of Appeal affirmed a sentence of 20 years imprisonment for trafficking in a quantity of 14kg 260g.

The instant case surpasses all previous drug cases in its gravity and sophistication. However the quantity of the drugs alone is not a guiding factor for sentencing. The legislature, in prescribing a minimum mandatory sentence of 10 years and a maximum of 30 years imprisonment and a fine of R500,000, indicated the seriousness of the drug problem in this country. The courts must, in appropriate cases, take heed of the legislative policies and punish the offenders so that the sentences may serve as a deterrent to others. This is a suitable case for such a sentencing.

On a consideration of all the mitigating factors on one side and the social abhorrence of this crime on the other, I sentence the convict as follows:-

- Count 1 - I impose a sentence of 22 years imprisonment
- Count 2 - I impose a sentence of 2 years imprisonment.

Sentences on Counts 1 and 2 are to run concurrently.

The convict admitted a previous conviction for possession of a controlled drug, wherein the Magistrates' Court had on 13 February 1997 imposed a term of 1 year imprisonment suspended for a period of 2 years. In terms of section 283(2) of the Criminal Procedure Code, I activate that suspended sentence of 1 year imprisonment, to take effect immediately so that it is concurrent with the present concurrent sentence of 22 years, as the length of the sentence imposed in this case provides a special circumstance to do so.

Time spent on remand will count towards the concurrent sentence imposed in this case.

In terms of section 32(1) of the Misuse of Drugs Act, I order that the entire quantity of cannabis resin exhibited in the case be destroyed by burning in the presence of the registrar of this Court after the lapse of 14 days in the event of there being no appeal, or after an appeal filed is finally disposed of by the Court of Appeal.

Record: Criminal Side No 3 of 1998