

**Republic v Norah
(2008) SLR 309**

Ronny GOVINDEN for the Republic
John RENAUD for the accused

Appeal by the appellant was withdrawn on 4 August 2008 in CA 1 of 2008

Sentence delivered on 3 March 2008 by:

PERERA ACJ: The convict was originally charged with two counts, (1) for attempted murder (2) for committing an act intended to cause grievous harm. For the reasons stated in the judgment dated 20 December 2007, the Court acquitted the convict on the charge of attempted murder, and convicted him for the offence under Count 2.

The stab injury caused by the convict was so serious that it caused permanent damage to the kidney of the complainant necessitating its removal.

Counsel for the convict in pleading for mitigation relied on the probation report dated 13 February 2008. On that basis he pleaded for leniency.

I have considered the comprehensive report furnished by the probation officer. The convict has stated that the immediate cause for the incident was the refusal of his concubine, the victim, to have access to the child. He now shows remorse for his hasty action. The victim on the other hand has stated that the injury has caused a negative impact on her physical and emotional state. She has still not overcome the trauma, and has recently stopped working. She is also undergoing costly treatment to regain her health.

In the case of *R v Franke Lesperance* (Crim Side 52 of 2006), the accused was similarly charged under two counts, (1) attempted murder (2) committing an act intended to cause grievous harm. In the course of the trial, the prosecution withdrew Count 1, and thereupon the accused pleaded guilty to Count 2. In that case, the victim suffered two stab wounds, one on the left shoulder and the other in the middle of the back over the spine. The convict was sentenced to a term of 3 years imprisonment and the payment of a fine of R 15,000. Considering other previous cases; in *Roger Aglae v R* (Crim Appeal No 15 of 1997), a sentence of 4 years imprisonment was imposed for causing unlawful wounding by stabbing penetrating the lungs of the victim. In *Gaetan Rene v R* (Crim 28 of 1988), three accused were sentenced to terms of 7 years imprisonment each for causing grievous harm by cutting the penis of the victim circumferentially.

In *R v Joseph Anna* (Crim Side 8 of 2004), the accused was sentenced to 10 years imprisonment for stabbing the victim with a knife causing a 10 cm penetrative wound which caused active bleeding in the thorax and air escaping from the wound. However in *R v Louis Hoareau* (Crim Side 100 of 2004), where a brutal attack was made by the

accused on the victim leaving the victim in a pool of blood to die, a sentence of 4 years was imposed.

On a consideration of these previous sentencing patterns, it is not possible to identify any uniformity. However considering the circumstances in which the present accused stabbed the victim, and the severity of the injury, I impose a sentence of 5 years imprisonment, and in addition a fine of R 15,000. Pursuant to section 151(1)(b) of the Criminal Procedure Code, out of the said fine of R 15,000, a sum of R 10,000 shall be paid to the victim Suzette Estro as compensation. In default of payment of the fine, the convict will serve a further period of six months as default sentence. Time spent on remand will count towards the sentence of 5 years imprisonment.

The accused will have a right of appeal to the Court of Appeal within 30 days from today.

Record: Criminal Side No 6 of 2007