

IN THE SUPREME COURT OF SEYCHELLES**THE REPUBLIC****VS.****ROBIN QUATRE**Criminal Side No. 11 of 2008

Mr. Esparon for the Republic

Accused – In person

JUDGMENT***Gaswaga, J***

Robin Quatre stands charged with two counts of (1) cultivation of a controlled drug contrary to Section 8 of the Misuse of Drugs Act read with Section 26(1)(a) of the same and punishable under Section 29(1) of the said Misuse of Drugs Act read with the Second Schedule of the same, and (2) trafficking in a controlled drug contrary to Section 5 read with Section 14 and 26(1)(a) of the Misuse of Drugs Act 1990 as amended by Act 14 of 1994 and punishable under Section 29 of the Second Schedule referred thereto in the Misuse of Drugs Act of 1994.

The particulars allege that on the 11th Day of February, 2008 the accused was found at Pointe au Sel, Mahe cultivating a controlled drug namely 20 plants of cannabis weighing a total of 5.4 grams. Further particulars allege that the

accused, while at the same place and during or around the same time, was found trafficking in a controlled drug by virtue of having been in possession of 42.9 grams of cannabis (herbal material) which gives rise to a rebuttable presumption of having possessed the same for the purpose of trafficking. The accused pleaded not guilty to both charges and the prosecution called a total of four witnesses to adduce evidence against him. It should also be mentioned at the outset that although the court did explain to the accused the gravity of the charges against him and his right to counsel (including the option for legal aid) almost at each and every sitting he chose to defend himself without legal counsel. He was also warned and advised against self incrimination. In fact the kind of cross-examination mounted by the accused was brilliant.

The prosecution led evidence to the effect that on the 11th day of February, 2008 at about 11.15 am the police conducted a patrol in south Mahe. They were travelling in a jeep at the time driven by PC Lucas. The police had branched off the main road at Pointe Au Sel and followed a lane leading up the mountain where they eventually saw a grey jeep parked outside a house. Information had already been availed to the police about the said vehicle and further that it was being driven by a one Robin Quatre, accused now. PC Lucas stopped the jeep. The officers disembarked a distance away from the house. PC Oreddy, PC Lucas, Sergeant Ververs Rose and PC Robert Dufrene made their way up to the house through a small footpath. On seeing the police approach, Robin Quartre who was standing with another man outside the house where they had a good view of the road leading to the house went into the house then came out with some green plants and ran away with it. PC Oreddy and PC Dufresne started running after him and in the direction of the house. Sergeant Oreddy searched the other man and found nothing illegal on him. At the same time Robin Quatre came back from where he

had run and was subjected to an immediate body search which yielded nothing positive. Robin Quatre also demanded to know who had sent the police officers to his home then went ahead to tell them that the Police Commissioner and President Michel were well aware of the fact that he conducts certain deals at his home. The police officers then retraced his foot steps and discovered five green plants (PE4) hidden near a water hose behind the house where Robin Quatre had gone earlier on. The path was slippery while the grass was flattened on the ground and looked freshly walked on. That Robin Quatre informed the officers that the plants were for his own consumption.

During a search in the living room of the house a piece of khaki paper containing herbal material was retrieved from under a table while a further search in the bedroom led to a seizure of a certain amount of money (PE8) found in the wardrobe underneath some clothes. Around the house also the officers noticed a nursery bed of some fifteen cannabis plants (PE2) standing in eight small black plastic pots (kabos). The other two pots were empty (PE1). Robin Quatre was consequently cautioned, arrested and arraigned before this court.

The green plants (PE4) were later subjected to various tests by Ms. Kanchan Meghjee (PW2) the forensic analyst and found to be cannabis weighing 5.4 grams. Same tests were done on the herbal material (PE6) weighing 42.9 grams and similar results obtained. **(See analyst's reports PE5).**

Sergeant Ververs Rose (PW3) corroborated the testimony of PC Dufresne (PW1) while Lance Corporal Noella Savy (PW4) on the 11th of February, 2008 took down the confession statement (PE9) wherein the accused confirmed the above facts.

Upon being invited to make a defence after the prosecution had established a *prima facie* case the accused did concede to the prosecution case save for the amount of drugs, which he said were only three cigarettes and not 49 grams. Obviously the accused did not weigh the drugs but the analyst did and gave not only the exact weight but also a description of the plants as well as the herbal material in her report as well as testimony. Had any cigarettes been impounded at the accused's home he would have said so in his statement (PE9) which only refers to plants and herbal material. In that regard I am unable to accept his said version of events as being true, I think it is just an afterthought which cannot save his case in any way. It will also be noted that no witness or further evidence was called in addition to his confession (PE9) and unsworn statement made from the dock.

The accused's statement (PE9) which was not contested reads as follows:

"That today Monday the 11th day of february, 2008 at around 1100 hours, I was at my residence at Point Au Sel. I had just arrived home from town and since there was no water available I decided to leave the house to check at my water pipe in the forest. After six minutes I returned back to my house and I wish to add that I live alone and the house belongs to me. When I arrived at my house I noticed some men around my house and they identified themselves as police officers. They made a search on my body and nothing illegal was found and they further asked me to assist them in my house to search. The search was made in my presence and one amongst those police officers picked up a piece of brown paper in the living room and they informed me that there are a certain quantity of herbal materials in it which they suspected to be cannabis drugs. I wish to say to the

police that those herbals materials they seized belongs me because I placed them there myself and the house is my own. The police seized the quantity of herbal material and I was handcuffed and they continued to make their search in my house but nothing illegal came across. From where I sleep the police seized some money. While I was assisting the police in my house I noticed one amongst the officers come with some plants of cannabis drugs coming from the forest. Regarding those plants of drugs I have nothing to say and I wish to add that those small “Cabooses” regarding the small plants of cannabis which the police had seized on my compound belongs to me because they were on my compound. I wish to point out that those herbal materials of cannabis drug which the police had seized in the “cabooses” I use them for my own consumption such as making my tea with it, put it in food to eat and use it for smoking.”

The court is therefore satisfied with the chain of evidence; the manner in which the drugs impounded were handled from that point all through the analysis process by the forensic expert, storage and transportation by the police to the tendering of same in court as exhibit. On the 12th of February, 2008 the police had forwarded the exhibits to the analyst (**see forwarding letters PE3 a and b**) who after the examination of the material sealed it in the envelope on which she and the police officer signed. The forensic analyst described the state of the envelope upon being produced in court and confirmed that the exhibit had not been tampered with.

There is just overwhelming evidence to prove that the accused was in exclusive possession of the drugs at his house and had control over it, which fact he does not deny but only states that the drugs were for his own consumption by way of putting

same in his food and tea and smoking some of it. This possession is incriminating and therefore outlawed as it exceeds the prescribed limits by the relevant legislation yet the accused was well aware of the nature of drugs he kept in the house and also cultivated on his property. No evidence was led to rebut 'the presumption of trafficking' which leaves the evidence in support of count 2 standing unchallenged. **See Nitin Redekar vs. Rep SCA No. 4 of 2008**. It was also held in **R. vs. Farr (1982) Criminal Law Report 745**, while defining "cultivation" that it is enough if it may be shown that the defendant played "*some identifiable part in production process*." **See also Alcide Beauchereau vs. Rep SCA No. 11 of 2008**. Apart from merely recovering money from the accused's bedroom and tendering same in court as an exhibit no connection at all to this case was established and as such the said money (PE8) should immediately be returned to the accused.

In conclusion I find the prosecution to have proved all the ingredients of both the offences herein beyond a reasonable doubt. The accused is found guilty and accordingly convicted as charged on both counts.

D. GASWAGA

JUDGE

Dated this 21st day of September, 2009.