

IN THE SUPREME COURT OF SEYCHELLES

THE REPUBLIC

VS.

JOSSY LOZAIQUE

Criminal side No. 86 of 2005

Mr. Chinasamy for the Republic

Mr. Bonte for the Accused

SENTENCE

Gaswaga J

[1] The accused was charged with the following offence:-

**Count 1**

**Statement of offence**

Attempted Murder contrary to and punishable under section 207(a) of the Penal Code.

**Particulars of offence**

The particulars alleged that Jossy Julien Lozaique on the 15th August, 2005 attempted to unlawfully cause the death of Neil Esparon at Cascade.

[2] The accused has now pleaded guilty and saved the precious time of the court. He has asked for forgiveness. The accused is also a first offender with a family to look after and for the past few years he has been in and out of hospital. His health has actually severely deteriorated and according to the medical report dated 05/07/2012 prepared by Doctor Anusha Ganeshan and submitted by the Ministry of Health, Jossy

Lozaique was taken to hospital on the 14th of April 2012 by relatives after he had fallen off his

bed, that he exhibited confusion and abnormal behavior associated with fever.

[3] The history indicates that in November, 2010 he was admitted to surgical ward when he suffered a head trauma with hemorrhagic contusion on CT findings. He is also a known Chronic Alcoholic. The general examination revealed that he was conscious, alert and confused, disoriented and a bit aggressive and restless. He also had multiple old bruises and scars. He was admitted to medical ward for further management and observation.

[4] Another time the patient was diagnosed with meningitis and found to be a Chronic Alcoholic with hypoglycemia, alcoholic withdrawal and Old cerebrovascular accident. He was re-admitted on 3rd November, 2011 and on 6th November, 2011 he was reviewed when he visited a neurologist and advised to continue antiepileptic treatment. The diagnosis also shows that he occasionally experiences alcoholic fits.

[5] The accused missed attending Court on several occasions when he was reported sick and admitted in hospital. The few times he appeared before this Court he looked so sick, weak and frail and could hardly stand for long. He has now tendered his plea of guilty in respect of a serious offence, attempted murder, which would ordinarily attract a custodial sentence especially bearing in mind that he had intentionally used a knife to cause serious injuries to the victim.

[6] It is my considered view that in these circumstances a non-custodial sentence should be imposed. The accused is accordingly sentenced to a period of two years in prison which period will be suspended for two years.

[7] Right of Appeal explained.

D.GASWAGA

JUDGE

Dated this 9th Day of January, 2013