

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CN 47/2013

Appeal from Magistrates Court decision 25/2013

[2014] SCSC

RYAN BRISTOL

Appellant

versus

THE REPUBLIC

Heard: 26 May 2014

Counsel: Mr. Nichol Gabriel Attorney at Law for appellant

Mrs. Lansinglu Rongmei, State Counsel for the Republic

Delivered: 8 July 2014

JUDGMENT

Burhan J

[1] This is an appeal against sentence.

[2] The aforementioned Appellant in this case was charged in the Magistrates' Court as follows;

Count 1

Stealing from vessel contrary to Section 264 (c) of the Penal Code.

The particulars of offence are that Ryan Bristol residing at Pointe Larue Mahe on the 8th March 2013 at Baie Ste Anne jetty on the Larchancier Boat stole a pack bag colour red and hand bag colour black containing the following items 3 bank cards, 1 passport, 1 camera Samsung chart zoom colour black value 300 Euros, 1 mobile black Samsung value 300 Euros, Rs. 1000/-, and some personal items all being the property of Mrs. Sophie Lancke.

- [3] The Appellant was convicted on his own plea of guilt and sentenced to a term 6 years imprisonment.
- [4] According to section 27(1) (b) of the of the Penal Code as amended by Act 5 of 2012, as the offence fell under Chapter XXVI and as the offence was punishable with a term of 10 years imprisonment the said offence attracted a minimum mandatory term of imprisonment of a period of 8 years imprisonment.
- [5] The learned Senior Magistrate considering the plea of mitigation and the fact he had pleaded guilty at the first instance proceeded to sentence the Appellant to a term of 6 years imprisonment. The said sentence cannot therefore be said to be harsh and excessive. It is apparent from the record that the Appellant was serving a term of 5 years imprisonment for conviction of an offence under Chapter XXIX of the Penal Code at the time he was sentenced in this case.
- [6] The learned Senior Magistrate made order that the sentence run consecutive to the sentence he is serving at present. The learned Senior Magistrate cannot be faulted for ordering that the sentences run consecutively as the proviso to section 36 as amended by Act 20 of 2010 reads as follows;
- [7] *“Provided that it shall not be lawful for a court to direct that any sentence under Chapter XXVI, Chapter XXVIII or Chapter XXIX be executed or made to run concurrently with one another or that a sentence of imprisonment in default of a fine be executed concurrently with the former sentence under section 28 (c) (i) of this Code or any part thereof.”*
- [8] Considering the previous conviction record in the file, it is apparent that the Appellant has a long history of previous convictions in respect of offences of a similar nature.

Therefore this court is of the view that the sentence imposed by the learned Senior Magistrate cannot be considered to be harsh or excessive or warrants further mitigation.

[9] The appeal is dismissed.

Signed, dated and delivered at Ile du Port on 8 July 2014

M Burhan
Judge of the Supreme Court