

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 06/2014

[2016] SCSC 129

THE REPUBLIC

versus

MOHAMMED ALI HOSSEIN

ABDULKADER MOHAMED HASSAN

ABDULE ALI ABDULLAHI

ALI DHIR HASSAN

SALAD DAHIR JIMALE

Accuseds

Heard: 19, 20, 21, 22, 23, 24, January, 1, 2, 3, 10, 11, 12, June, 7, 8, 9 September, 2015.

Counsel: S Muzaffer, State Counsel, D Esparon, Principal State Counsel for the Republic
M. Vidot for the accuseds

Delivered: 20 January 2016

RULING

Dodin J

The 5 Accused Persons Mohammed Ali Hossein, Abdulkader Mohamed Hassan, Abdule Ali Abdullahi, Ali Dhir Hassan and Salad Dahir Jimale

stand charged as follows: XCount 1

STATEMENT OF OFFENCE

PIRACY, contrary to Section 65(1) and 4(a) of the Penal Code, as read with Section 22 of the Penal Code.

PARTICULARS OF OFFENCE

MOHAMMED ALI HUSSEIN, ABDULKADER MOHAMED HASSAN, ABDULLE ALI ABDULLAHI, ALI DAHIR HASSAN, and SALAD DAJHIR JIMAALE between the 01st day of January 2014 and the 18th January 2014 on the high seas, with common intention, committed an act of piracy, by committing an illegal act of violence or detention, or an act of depredation, for private ends against the crew of another ship, namely the Shane Hind.

Count 2

STATEMENT OF OFFENCE

PIRACY, contrary to Section 65(1) and 4(b) of the Penal Code, as read with the Section 22 of the Penal Code.

PARTICULARS OF OFFENCE

MOHAMMED ALI HUSSEIN, ABDULKADER MOHAMED HASSAN, ABDULLE ALI ABDULLAHI, ALI DAHIR HASSAN, and SALAD DAJHIR JIMAALE between the 01st day of January 2014 and the 18th January 2014 on the high seas, with common intention, committed an act of piracy, by voluntarily participating in the operation of a ship, namely the Shane Hind, with knowledge of fact making it a pirate ship.

Count 3

STATEMENT OF OFFENCE

PIRACY, contrary to Section 65(1) and 4(a) of the Penal Code, as read with Section 22 of the Penal Code.

PARTICULARS OF OFFENCE

MOHAMMED ALI HUSSEIN, ABDULKADER MOHAMED HASSAN, ABDULLE ALI ABDULLAHI, ALI DAHIR HASSAN, and SALAD DAJHIR JIMAALE between the 01st day of January 2014 and the 18th January 2014 on the high seas, with common intention, committed an act of piracy, by committing an illegal act of violence or detention, or an act of depredation, for private ends against the crew of another ship, namely the M/T Nave Atropos.

[1] Learned counsel for the accused persons moved the Court at the close of the case for the prosecution to find that the accused persons have no case to answer and to acquit them of all counts accordingly. Learned counsel submitted that the principles for the consideration of a submission of no case to answer is grounded in the English case of R v Galbraith in which it was held that for such a submission to succeed, the court should be satisfied that;

1. there is no evidence that the crime was committed by the Accused; or
2. the evidence adduced is so inconsistent and tenuous in nature, or
3. a jury properly directed could not properly convict upon such evidence.

[2] Learned counsel submitted that the principle laid down in **R v Galbraith** has been adopted in numerous cases in Seychelles and referred the court to the cases of R v Stiven (1971) SLR 137; R v Olsen (1973) SLR 188, R v Marengo, 2004 SLR 166 and R v Matombe (No.1) (2006) SLR 32.

[3] Learned counsel submitted that in the present case the Accused persons are not contesting the alleged attack on the Nave Atropos, but they are denying that they carried out such an attack. They maintain that they are being wrongly accused. In all there has been no evidence that has been laid before court that so conclusively established that the Accused persons perpetrated the attack on the Nave Atropos and committed an act of piracy against the Shane Hind.

[4] Learned counsel submitted that the Prosecution called a number of French naval officers. They included Jean-Marc Le Quilliec, Guillaume Marin, Benoit Prioul, Romain Lacoste and Louis Marie Leroy. They were all on the Siroco. Jean Marc Le Quillet was the Commanding

Officer whilst others were helicopter pilots or formed part of the boarding team, save for Louis Marie Leroy who is the legal advisor.

- [5] The alleged attack on the Nave Atropos happened in the evening as Alan Tweed and Oliver Faulkener, both security officers onboard the Nave Atropos confirmed. They stated that they had to use night vision goggles after they had heard gunshots in order to see what was happening. They concluded that there were 4 or 5 people onboard a skiff firing the shots but they could not make out the identity. Neither did they suggest that the attackers resembled Somalis. Messrs Tweed and Faulkener were the ones who came the closest to the alleged attackers.
- [6] Learned counsel submitted that the Japanese pilots who made depositions before Court also confirmed that it was night time and that night vision goggles and infrared equipment had to be used due to limited visibility. They only spotted the Shane Hind and the attack and the vessel that had reported the same had already been repulsed.
- [7] Learned counsel submitted that the Prosecution's case that the attack on the Nave Atropos must have been carried out by the skiff found alongside the Shane Hind is based on the testimonies of the Japanese and French pilots that their search suggested that there were no other vessels within the proximity of the Nave Atropos that could have launched the attack.
- [8] Learned counsel submitted that the French and Japanese navy personnel gave evidence to the effect that from the radar and GPS plotting the only vessel within proximity of the Nave Atropos, able to have mounted the attack was the Shane Hind. Learned counsel submitted that even if such is admitted by court as credible evidence, it does not conclusively establish that the Accused were the ones who launched the attack as there were several other men on the Shane Hind. The Defence contention is that the French naval officers who made depositions that the attackers were Somalis were being prejudicial to simply assumed that the Accused persons conducted the attack.
- [9] Learned counsel submitted that it should never be assumed that acts of piracy are carried out by Somalis only. He submitted that there is need for conclusive evidence that link the Accused persons to the crime. He submitted that in this case the prosecution failed to establish the connection of the attack to the accused persons.

- [10] With respect to the exhibits, learned counsel submitted that the several items produced did not in any material and conclusive way link them to the Accused. The mobile phones were produced but not with any SIM cards that would make a connection with Somalia. Two rifle butts were produced and 28 bullets but with no connection to the Accused persons.
- [11] Learned counsel submitted that even if Jean-Marc Le Quilliec and Louis-Marie gave evidence to the effect that the Accused were fingerprinted and yet no prints were lifted from the aforementioned items that could connect the Accused persons to the crime. Romain Lacoste who led the boarding team stated that the items were shown to the Indians who alleged they belonged to the Somalis and yet the Somalis were never confronted with the various items seized. There were not only Somalis on the Shane Hind but Indians in majority and to conclude that these items belonged to the Accused persons was prejudicial and unsafe.
- [12] Learned counsel submitted that according to Benoit Prioul, after the joint operation with the Japanese was mounted to have the Shane Hind stopped so that the French boarding team could board it “the crew” stopped the boat. However, according to the Prosecution’s case, the Accused had mounted an act of piracy on that dhow and that the crew had been suppressed and not in control. Therefore if it was the crew that stopped the dhow, this suggests that the crew were in complete control of the dhow and not the Somalis, thus dispelling suggestions that the Somalis had committed an act of piracy against the Shane Hind.
- [13] Learned counsel submitted that with regards to the items that were seen thrown overboard, the inference made by the prosecution was that the items were arms thrown overboard by the accused persons and apart from such inferences there is nothing more to lend credence to this hypothesis. Learned counsel submitted that the defence maintains that such allegation of items being thrown overboard was not supported by the video evidence that was produced. Learned counsel submitted that even if the court was to conclude to the contrary there is complete uncertainty as to who threw and what items were thrown overboard.
- [14] Learned counsel submitted that the testimony of the French witnesses that according to the Indians on board the Shane Hind, the Somalis had attacked their vessel and were in control, not one Indian from the Shane Hind has been called to give evidence. That in itself weakens

the Prosecution's case tremendously as the Prosecution failed to link the Accused to the crime.

- [15] Learned counsel concluded that based on the evidence adduced before Court, a reasonable jury properly directed will not be in a position to convict the Accused persons. Therefore learned counsel moved the Court to uphold the defence's submission and to declare that the Accused persons do not have a case to answer.
- [16] Learned counsel for the Prosecution submitted that it is trite law that a submission of no case to answer may properly be upheld when there has been no evidence to prove an essential element of the offence charged or when the evidence for the prosecution has been so discredited or is so manifestly unreliable that no reasonable tribunal could safely convict relying on it.
- [17] Learned counsel submitted that in this case the prosecution has established a prima facie case in respect of the offences charged and that the above principles as established by the case of R v Stiven have not been established by the defence in its submission of no case to answer.
- [18] Learned counsel submitted that the attack on the Nave Atropos was witnessed by Allan Tweed and Oliver Faulkener who gave evidence that the attack came from a skiff having four to five people on board. The skiff came from a dhow, the Shane Hind, which was being used by the Somalis at the time as a mother ship. There is evidence that after the attack the skiff and the dhow were monitored visually and on radar until the Japanese navy vessel the Samidare and the helicopter from Samidare arrived and the position of the dhow and skiff were relayed to them.
- [19] Learned counsel submitted that the evidence of Nozaki Tetsuwa Hata Yusuke and Yasue Daisuke and Yamaguehi Hiroshi from the Japanese navy established the continuity of evidence from the time the Nave Atropos was being attacked until the French vessel the Siroco took over the scene. The evidence showed that there were no other vessel in the vicinity that fits the description of the dhow but only large vessels like cargo vessel.
- [20] Learned counsel submitted that Lieutenant Benoit Prioul, the French helicopter pilot, gave evidence that he took over the surveillance of Shane Hind and the skiff from the Japanese navy aircraft which had transmitted the position of Shane Hind to him and the description of

the dhow and skiff and kept both under surveillance until the boarding team from the Siroco had boarded. He was also the witness who observed that there were objects being thrown overboard. He also maintained that there were no other vessel in the vicinity that fits that description of the dhow in that position given by the aircraft from the Japanese navy although there were other large cargo vessels.

- [21] Learned counsel submitted that there is also the evidence of the boarding team led by Romain Lacoste that objects being were being thrown from the deck of the dhow. The said Roamin Lacoste testified that he heard calls made in English through the VHF radio saying “help me”, repeated several times. He testified that when they boarded the vessel everyone was on deck and the Indian crew were separated from the Africans.
- [22] He gave evidence to the fact that 2 riffle butts were seized on the ship and 9 cartridges 7.62 mm calibre. Jan Marie Le Quilliec, the Captain and commanding officer of the French naval vessel Siroco gave evidence to the fact that when the dhow stopped he could hear the radio VHF 16 request “11 Indians on board and 5 Somali people please help” and Somali surrender, Sir, please help. He then ordered the boarding team to board the Shane Hind.
- [23] Learned counsel referred the Court to the case of Nur Robble and Ors v/s Rep SCA 19/2013 maintaining that in that case the Republic has established a prima-facie case against all accused persons to answer the charges in respect to the charges in relation to the attack against the Nave Atropos and the attack against the Shane Hind.
- [24] Learned counsel hence move the Court to find that all accused persons in this case has a case to answer and to dismiss the submission of no case to answer.
- [25] In determining whether the submission of no case to answer should succeed, the Court is not required to consider all the evidence adduced in detail or to consider whether the prosecution has proved its case beyond reasonable doubt. It suffices that the Court finds that the evidence adduced is sufficient to establish a prima facie case against the accused persons and if there is some doubt as to the veracity or accuracy of the evidence against any accused, the Court should leave such consideration to be made in its final judgment at the end of the trial.
- [26] Nevertheless where the available evidence being considered has been so compromised by the defence or by serious inconsistencies in the prosecution’s testimonies, the Court is entitled to

consider whether the evidence adduced taken as its highest would not properly secure a conviction. If the Court determines that in such a circumstance a conviction could not be secured, the submission of no case would succeed.

- [27] Lord Lane C.J. made a very pertinent statement on this issue in the case of R v Galbraith [1981] 1 WLR 1039:

“How then should a judge approach a submission of ‘no case’? If there has been no evidence that the crime alleged has been committed by the defendant, there is no difficulty. The judge will of course stop the case. The difficulty arises where there is some evidence but it is of a tenuous character, for example, because of inherent weakness or vagueness or because it is inconsistent with other evidence. Where the judge comes to the conclusion that the prosecution evidence, taken at its highest, is such that a jury properly directed could not properly convict upon it, it is his duty, upon a submission being made, to stop the case. Where however the prosecution evidence is such that its strength or weakness depends on the view to be taken of a witness’ reliability, or other matters which are generally speaking within the province of the jury and where on one possible view of the facts there is evidence upon which a jury could properly come to the conclusion that the defendant is guilty, then the judge should allow the matter to be tried by the jury ... There will of course, as always in this branch of the law, be borderline cases. They can safely be left to the discretion of the judge.”

See also the cases of Green v. R [1972] No 6, R v. Stiven [1971] No 9 and R v. Olsen [1973] No 5 where the same principles have been applied and maintained.

- [28] In this case Jean-Marc Le Quillec, the commanding officer of the French navy vessel Siroco, testified that on the 17th January 2014 at around 2100hours his vessel received information that a vessel Nave Atropos was under attack by pirates in a skiff. The next day they receive information that a dhow towing a skiff had been located by Japanese helicopter and the position was given to the Siroco’s helicopter crew which also subsequently located the dhow now known to be the Shane Hind. He testified that from the time they were informed of the attack to the time the boarding team boarded the Shane Hind there were no similar vessel within a 60 nautical mile radius of the Shane Hind.

- [29] A boarding team from the Siroco was sent to board the Shane Hind the next day and the boarding team did so unopposed. The Shane Hind was searched several objects were found and seized. The 5 accused persons were also detained and taken on board the Siroco and were eventually taken to Seychelles where they were handed over to the Seychelles authorities.
- [30] Guillaume Marin, a crew member of the helicopter from the Siroco testified that the helicopter took off from the Siroco at around 1116 hours on the 18th January, 2014 and located the dhow Shane Hind at position 16°38N 0553° E at 1156 GMT and they observed at a distance until 1215 GMT when they approached the vessel at the same time as the boarding team. He also took photographs and filmed the activities on the Shane Hind.
- [31] The witness testified that he witnessed at least 5 objects being thrown overboard but he could not identify what these items were. He also clearly identified 2 groups of people on the Shane Hind with 5 persons in one group and 10 persons in another group. The helicopter crew placed one smoke marker to mark the position where items were thrown overboard and after the boarding team was on board, the helicopter returned to the Siroco.
- [32] Lieutenant Benoit Prioul testified that he was the pilot of the helicopter that carried Guillaume Marin and other crew members to recuperate the vessel Shane Hind. He maintained that even if he was aware that photographs and recordings were being made he was more focused on maintaining the helicopter's position and piloting the same than conducting observations of the operation.
- [33] Romain Lacoste testified that he was the boarding team leader from the vessel Siroco and that he led a team of 7 persons to board the dhow Shane Hind. On approaching the Shane Hind, he witnessed objects being thrown overboard. He could not identify what the objects were but he could also see the splashes. He testified that as they got closer to the Shane Hind they contacted it by radio. The Shane Hind stopped its engine and the words "help me sir" were heard over the radio.
- [34] He testified that upon boarding the Shane Hind he observed one group of 10 persons of Indian origin and a separate group of 5 who were of African origin on the deck. Another man approached him and informed him that he was the master of the Shane Hind. He ordered his

team to secure the vessel and then to search the vessel. The search found amongst other items, a plastic container which contained cigarettes, torches, a pouch containing 9 bullets and medicines. In a plastic bag on a bed there was a piece of a gun. All the persons were kept on board the Shane Hind until the legal officer had interviewed them and taken statements. The 5 Somalis were then taken to the Siroco and the Indians were left on the Shane Hind.

- [35] Louis-Marie Leroy testified that he is a legal adviser 1st class in the French Navy and that in January 2014 he was ordered by the captain of the Siroco to go onto the Shane Hind to conduct investigations which he did with an assistant. He boarded together with the second group of the boarding team after the boat had been secured by the 1st group of the boarding team. He also noticed two distinct group of persons on board; one group of 5 persons of African origin and one group of Indian origin and two other persons of Indian origin, one of whom later identified himself as the captain of the Shane Hind were talking to the boarding team leader.
- [36] His investigation showed that the documents of the Shane Hind were all in order and the vessel was properly licensed. He was given an ammunition shell and he also found cell phones, a satellite phone and a GPS device. The satellite phone was returned to the Indian crew who claimed it was theirs and the other items were kept as exhibits. When he returned to the Siroco he was handed over other items including 2 rifle butts, 9 bullets in a red plastic. All were marked and produced as exhibits.
- [37] The witness also interviewed the 5 accused persons whom he identified as the same persons who were apprehended on board the Shane Hind, namely Mohammed Ali Hossein, Abdulkader Mohamed Hassan, Abdule Ali Abdullahi, Ali Dhir Hassan, and Salad Dahir Jimale. He also took possession of the Photographs and recordings made during the operation which were viewed and admitted as exhibits by the Court.
- [38] Tetsuya Nozaki, and Lieutenant Yasuke Hata both Japanese navy helicopter pilots based on the Japanese vessel Samidare testified that they were tasked with locating a dhow and a skiff which had attacked the vessel Nave Atropos around 9 pm on the 17th January, 2014. Tetsuya Nozaki took off 20 minutes later and located the Nave Atropos about 2 hours later whilst Lt Hata remained on the Samidare and co-ordinated the operation as well as attempted to contact the vessels.

- [39] From the information gathered by the helicopter there concluded that there was no other vessel in the vicinity of the Nave Atropos except one dhow towing a skiff. They took photographs and at 2040 hours they lost sight of the dhow. They took the helicopter back to the vessel for refuelling and then returned to the location and after some time located the dhow and again, the radar revealed no other similar vessel in the area. After they returned a second time to the Samidare, another crew went out to continue the mission.
- [40] Petty Officer Yamaguchi Hiroshi and Lieutenant Commander Yasue Daisuke were both based in Djibouti and took part in the operation to locate the Nave Atropos and the vessel that had attacked it. They were conveyed to the area of the attack by a P3C Orion aircraft. Petty Officer Yamaguchi Hiroshi took photographs and was the lookout. He testified that at the co-ordinates they were given he observed a dhow towing a skiff and there were about 13 persons on the dhow but much of its deck was covered with a blue sheet and a yellow or orange sheet.
- [41] Lieutenant Commander Yasue Daisuke maintained that they did not observe anything being thrown overboard and that they observed some other vessels in the area but none similar to the Shane Hind or towing any skiff. All the information was passed to the French vessel Siroco which they had been informed had been tasked with the interception of the dhow.
- [42] Dr Sameera Anuruddha Gunawardena, Dr Asela Mendis, Dr Jayanie Bimalka Weeratne and Dr Udari Apsara Liyanage testified that they were tasked with establishing the approximate ages of the five accused persons through forensic and radiology analysis. At this stage their findings are not relevant to determine whether any of the 5 accused persons have a case to answer. Their testimonies will only be considered if the Court finds any accused persons to have a case to answer and their ages have a bearing on their culpability.
- [43] Alan Robert Tweed testified that in January 2014 he was escorting the Nave Atropos from the Port of Eden through the Suez Canal and on the 17th at around 2205 hours he was called to the bridge where he met the operator and suddenly he heard gunfire. Together with the watch officer, they used night vision devices and as it was a full moon, the visibility was good. He observed a dhow about 3 nautical miles away with no lights and a skiff approaching their vessel. The skiff was splashed with laser and in return the persons on the skiff fired their weapons at the Nave Atropos in bursts of 3 to 5 rounds. As an ex-marine in

the Royal Navy, has was trained to identify different weapons being fired and he identified the sound of the weapons as AK47.

[44] The witness added that immediately after they were fired upon he issued the person on the watch with a weapon and ammunition as well as the other members of the team who had arrived. There were further bursts of gunfire and from the noise it was obvious that the firing was getting very close so he gave orders to the team to return fire which they did and the skiff then changed direction. They observed the skiff return to the dhow and they also kept monitoring the position of the dhow by radar and communicated the position to the centre of operation in the UK.

[45] The other witnesses were Seychelles police officers who participated in the handing over of the 5 accused persons and the exhibits to the Seychelles police and they conducted the formalities required to arrest, detain and charge the accused persons. Their respective testimonies were not challenged or contradicted.

[46] Having considered the evidence, the Court must determine whether the prosecution has established a prima facie case against all 5 accused persons. Two main issues need to be addressed in making this determination. The first is whether a prima facie case of piracy has been established and the second is whether the prosecution has established a prima facie case that the 5 accused persons are the 5 persons who attacked the Nave Atropos and the Shane Hind.

[47] The offence and definition of Piracy under Section 65 of the Penal Code as amended by Act 2 of 2010 of the Penal Code are as follows:

65(1)“ Any person who commits any act of piracy within Seychelles or elsewhere is guilty of an offence and liable to imprisonment for 30 years and a fine of R1 million.”

65(4)“For the purposes of this section “piracy” includes-

- a. Any illegal act of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private ship or aircraft and directed-*

- i. *on the high seas, against another ship or aircraft, or against persons or property on board such a ship or aircraft;*
- ii. *against a ship or an aircraft or a person or property in a place, outside the jurisdiction of any State;*

b. *Any act of voluntary participation in the operation of a ship or an aircraft with knowledge of facts making it a pirate ship or a pirate aircraft; or*

c. *Any act described in paragraph (a) or (b) which, except for the fact that it was committed within a maritime zone of Seychelles, would have been an act of piracy under either of those paragraphs.”*

65(5) *“A ship or aircraft shall be considered a pirate ship or pirate aircraft if-*

- 1. *It had been used to commit any of the acts referred to in subsection (4) and remains under the control of the persons who committed those acts; or*
- 2. *It is intended by the person in dominant control of it to be used for the purpose of committing any of the acts referred to in subsection (4).”*

[48] Although in a criminal trial, the standard that must be met by the prosecution's evidence to prove guilt is proof beyond reasonable doubt that the accused person committed the offence charged, when an accused seeks an acquittal on account of having no case to answer, the standard of evidence to be assessed by the Court is not proof beyond reasonable doubt but whether the prosecution has established a prima facie case against the accused person.

[49] In the actual case there is evidence that all 5 accused persons were on Board the Shane Hind in a separate group from the other persons of Indian origin. There is also evidence that an armed attack was made against the Nave Atropos by 4 men in a skiff and that same skiff returned to the Shane Hind. The Shane Hind was kept under observation from that point onwards until it was boarded by personnel from the French vessel Siroco. There is evidence, although I agree with learned counsel for the accused persons that the evidence in this regard is weak, that the 5 accused persons were in control of the Shane Hind. I am satisfied that the evidence of all the prosecution witnesses were not seriously discredited so that the Court cannot rely on such evidence.

[50] At this point it is immaterial whether it was the 5 persons charged who actually fired weapons at the Nave Atropos or whether they formed part of a larger group with common intention who conducted the actual attack. Whether there is enough evidence to link the 5 accused persons to the offences charged so as to secure a conviction should be left to be determined at the end of the trial when the weight of the evidence would be assessed.

[51] Consequently, I am satisfied that the prosecution has established a prima facie case that all 5 accused persons were participants in committing the offences charged, namely;

- i.** That MOHAMMED ALI HUSSEIN, ABDULKADER MOHAMED HASSAN, ABDULLE ALI ABDULLAHI, ALI DAHIR HASSAN, and SALAD DAJHIR JIMAALE between the 01st day of January 2014 and the 18th January 2014 on the high seas, with common intention, committed an act of piracy, by committing an illegal act of violence or detention, or an act of depredation, for private ends against the crew of another ship, namely the Shane Hind;
- ii.** That MOHAMMED ALI HUSSEIN, ABDULKADER MOHAMED HASSAN, ABDULLE ALI ABDULLAHI, ALI DAHIR HASSAN, and SALAD DAJHIR JIMAALE between the 01st day of January 2014 and the 18th January 2014 on the high seas, with common intention, committed an act of piracy, by voluntarily participating in the operation of a ship, namely the Shane Hind, with knowledge of fact making it a pirate ship; and
- iii.** That MOHAMMED ALI HUSSEIN, ABDULKADER MOHAMED HASSAN, ABDULLE ALI ABDULLAHI, ALI DAHIR HASSAN, and SALAD DAJHIR JIMAALE between the 01st day of January 2014 and the 18th January 2014 on the high seas, with common intention, committed an act of piracy, by committing an illegal act of violence or detention, or an act of depredation, for private ends against the crew of another ship, namely the M/T Nave Atropos.

[52] I therefore find that the 5 accused persons have a case to answer on each count. Consequently this motion to declare that all 5 accused persons have no case to answer fails. The accused persons are hence called upon to make their defence accordingly.

Signed, dated and delivered at Ile du Port on 2nd March, 2016.

G Dodin
Judge of the Supreme Court