

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CO 17/2013**

**[2016] SCSC 478**

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**THE REPUBLIC**

versus

**MICHEL GABRIEL**  
Accused

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Heard:

Counsel: Mr Vipin, Assistant Principal State Counsel for the Republic  
Mr Gabriel for the accused

Delivered: 23 June 2016

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**SENTENCE**

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Dodin J

- [1]** The Convict Michel Andre Gabriel stands convicted of trafficking in 255.5 grams of Cannabis herbal material and one count of possession of 0.5 grams of Cannabis herbal material.
- [2]** The Convict is 44 years old and a father of a 15 year old girl. According to the Probation Services Report dated 04<sup>th</sup> of April 2016 the Convict was a person who was taking care of

his family which included his ailing mother aged 83 years old who suffers from senile dementia.

- [3] Learned Counsel for the Convict submitted that the Convict is a first offender and although he did not plead guilty and was convicted after a lengthy trial the Court should look at parity of sentences for like offences and listed some cases where the convicts were given low sentences of between 5 and 7 years for having in their possession far more amount of controlled drugs.
- [4] Learned Counsel moved the Court to go by the spirit of the new Misuse of Drugs Act which came into force on the 01<sup>st</sup> of June 2016 which does not provide for mandatory sentences and with such aggravating factors with regards to amount of drugs at 1.5 kilograms of Cannabis herbal material or Cannabis resin.
- [5] I have given careful consideration to the mitigating factors put forth on behalf of the Convict and I agree that if the offence had been committed after the 01<sup>st</sup> of June 2016 the Court would have had complete discretion to determine the sentences to be imposed.
- [6] However I find that at the time of commission of the offence there was a mandatory life sentence for trafficking in more than 250 grams of Cannabis herbal material. I
- [7] I also note that the cases where a lesser sentence was imposed the convicts had pleaded guilty to lesser offences of possession which did not carry mandatory minimum sentences.
- [8] I also note that the Misuse of Drugs Act 2016 does not apply to offences charged under the previous act excepting so far that it has provisions for persons convicted under the previous act to apply for review of their sentences.
- [9] Consequently this Court cannot impose a sentence not mandated by the Misuse of Drugs Act prior to the 2016 amendments.
- [10] I therefore imposed the following sentences on the Convict.

Count 1 – possession of 0.5 grams of Cannabis herbal material 6 months imprisonment which he has already served.

Count 2 – Trafficking in 255.5 grams of Cannabis herbal material I imposed a mandatory sentence of life imprisonment with a proviso that the Convict applies to the Review Board set up under the Misuse of Drugs Act 2016 for review of his sentence with a view to give him a lower sentence.

**[11]** The sentences shall run concurrently and time spent on remand shall count and he can appeal against both conviction and sentence within 30 working days.

Signed, dated and delivered at Ile du Port on 23 June 2016

G Dodin  
**Judge of the Supreme Court**