

IN THE SUPREME COURT OF SEYCHELLES

CriminalSide: CN 09/2014

Appeal from Magistrates Court decision /2013

[2016] SCSC 534

ALLAIN BARRY SOPHOLA

Appellant

versus

THE REPUBLIC

Heard: 25 July 2016

Counsel: Mr Juliette for appellant

Mr Vipin, Assistant Principal State Counsel for the Republic

Delivered: 25 July 2016

JUDGMENT

Akiiki-Kiiza J

[1] The Appellant was convicted of on four counts therefore I have carefully listened to the submissions of both learned counsel and I am carefully considering the cited cases by this Court and the Court of Appeal.

[2] The four counts of which the Appellant was convicted of was;

(1) Sexual Assault Contra Section 130 (1) of the Penal Code and punishable under the same section.

(2) Assaults occasioning actual bodily harm Contra Section 236 of the Penal Code and punishable under the same section.

(3) Malicious damage to property Contra Section 325 (1) of the Penal Code.

(4) Stealing Contra Section 260 of the Penal Code.

[3] He was sentenced to 5 years for the first count, 1 year on the second count, 6 months on the third count and on the fourth count he was sentenced to 1 year. The learned trial Magistrate ordered these Sentences to run consecutively.

[4] Being dissatisfied with the trial Magistrate's order of consecutive Sentencing, he has now appealed to this Court.

[5] Essentially the Appellant is raising one ground of Appeal, in that, the learned trial Magistrate erred in ordering the four Sentences to run consecutively instead of running concurrently.

[6] It is now an accepted practice that offences committed in a course of one transaction and if an Accused person is subsequently convicted on different counts normally will attract concurrent Sentencing.

[7] Given the current practice regarding this type of cases and after considering the mitigating factors advanced by the Appellant, the order of the trial Court making the Sentences to run consecutively was not proper.

[8] In the circumstances therefore, and after putting everything into consideration I quash the order making the four Sentences to run consecutively and substitute it with the order making them to run concurrently.

[9] All-in-all the Appeal succeeds the above extent.

[10] It is so ordered.

Signed, dated and delivered at Ile du Port on 27 July 2016

D Akiiki-Kiiza
Judge of the Supreme Court