

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CO42/2010**

**[2016] SCSC**

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**THE REPUBLIC**

versus

**MOHAMMED KHUDABIN**

Accused

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Heard: 12 July 2016  
Counsel: Mr Esparon, Principal State Counsel for the Republic  
Mrs Amesbury for the accused  
Delivered: 12 July 2016

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**RULING ON SENTENCE**

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Akiiki-Kiiza J

- [1] The Accused was tried and convicted of Uttering threats to an NDEA Agent Contra Section 16 (6) (b) of the National Drugs Enforcement Agency Act and punishable under Section 17 (3) of the same Act. This was on the 28/10/2015.
- [2] The matter was however adjourned upon request of his learned counsel, so that she can prepare submissions before the Court passes Sentence on him. Unfortunately, the case

has been pending Sentence since November 2015 till now (July 2016), due to waiting for these submissions.

[3] The learned counsel made somewhat lengthy submissions but I will restrict myself to only those I deem salient and to the issue at hand. These include the fact that the convict is an old man and has a family which he has to take care of.

- That it was not known whether PW2's mother knew that she had been threatened by the Accused person, as the word had been directed to his son (Agent Kenneth Joseph) in her absence.
- That the Accused had been involved with the complainant (PW2) in one of other cases prior to the present case.
- That he is serving another Sentence and that he has spent about 3<sup>1</sup>/<sub>2</sub> years on remand in this case.

All in all he prays for leniency.

[4] The maximum Sentence under Section 17 (3) of the NDEA Act is a fine of SR 5 million or 20 years of imprisonment or both. This no doubt portrays the seriousness of the offence with which the Accused is convicted of.

[5] His learned counsel has produced an extract of a case in which Honourable Judge McKee, sentenced a convict in a similar case, to a fine instead of custodial sentence, (**see The Republic vs Steve James Jimmy Rogain [2016] SCSC 75**), however she prayed for a non custodial Sentence (fine) in this case as well. It appears there was no judgment in the above case, as what has been produced by the Appellant's counsel, is a sentencing order and not a judgement, which has not benefitted me as it is not clear why the learned Judge imposed a fine instead of a custodial Sentence. Therefore, I am afraid that the case cited is of little help to the Accused person.

[6] Be it as it may, given the peculiar circumstances of this case and noting that the Accused has spent a consideration time in prison some of which was spent on remand in this case

and given that he is rather of an advanced age and the breaking up of his marriage and the need to look after his 5 children, the youngest of whom is said to be only 10 years old.

**[7]** It is my considered view that a Sentence of 3<sup>1</sup>/<sub>2</sub> years of imprisonment is sufficient and proper. However, the time he has so far spent on remand will be and must be deducted from this Sentence.

**[8]** Order accordingly.

Signed, dated and delivered at Ile du Port on

D Akiiki-Kiiza  
**Judge of the Supreme Court**