

IN THE SUPREME COURT OF SEYCHELLES

CriminalSide: CO9/2015

[2017] SCSC 173

THE REPUBLIC

versus

CHRISTOPHER POPONNEAU
Accused

Heard: 27 February 2017
Counsel: Mrs. L. Rongmei, Assistant Principal State Counsel for the Republic
Mr. N. Gabriel for the accused
Delivered: 27 February 2017

SENTENCE

Vidot J

[1] The accused was charged as follows;

Count 1

Statement of Offence

Trafficking in a controlled drug contrary to section 3 of the Misuse of Drugs Act as read with section 14(d), section 15(1)(b) and (c) and section 26(1)(a) of the same and

punishable under the amended Second Schedule (Act 4 of 2016) of the Misuse of Drugs Act read with section 29 of the same.

Particulars of Offence

Christopher Mervin Yannick Poponneau of Anse-Aux-Pins, Mahe, on 26th January 2015, at the Chetty Flats, Anse-Aux-Pins, Mahe, was trafficking in a controlled drug by virtue of having in his possession the key to the locked TV divider in his bedroom and the key to his bedroom, the inside of the said TV divider in his bedroom containing the controlled drug, namely cannabis herbal material with a net weight of 680.2 grams which gives rise to the rebuttable presumption of having possessed the said controlled drug for the purpose of trafficking.

- [2] The accused pleaded guilty to the charge and was accordingly convicted.
- [3] In mitigation, Mr. N. Gabriel, Learned Counsel for the accused prayed for leniency when passing sentence. He noted that his client pleaded guilty, thereby saving the court's precious time and testimony that the accused has shown remorse for the offence committed. He also invited the court to consider mitigating factors as provided under section 49 of the Misuse of Drugs Act 2016. In particular that the offence is one which is not aggravated in nature due to the weight of the drug which is far below 1.5Kg. The accused is also a first time offender and very young who is now in secure employment, working for the Seychelles Civil Aviation Authority
- [4] I have given full and due consideration to all mitigating factors which matters shall be resolved in favour of the accused.
- [5] The accused was charged under the Misuse of Drugs Act 1994 and punishable under the amended Second Schedule of Act 3 of 2014. The Misuse of Drugs Act 2016 has introduced new approach to sentencing and in particular has done away with mandatory minimum sentences. Relying on **Cousin v R SCCA 21 of 2013** and **Kelson Alcindoor v R [2015] SCCA 7**, I shall give benefit of the change in the law to the Accused. The sentence to be imposed shall be commensurate with the amended law; i.e the 2016 Misuse of Drugs Act.

[6] In the circumstances I hereby convict the accused to a term of 6 months imprisonment a fine of SR15,000/-. Time spent on remand shall be discounted against the sentence. The fine shall be paid by the latest 26th May 2017 and should the accused default in paying the fine in full by the said date, he shall serve a term of 3 months imprisonment.

[7] The Accused has a right of appeal within 30 days of this sentence.

Signed, dated and delivered at Ile du Port on 27 February 2017

M Vidot
Judge of the Supreme Court