

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO41/2013

[2017] SCSC 240

THE REPUBLIC

versus

JOEL STEVEN LAURENCINE

Accused

Heard: 9th July 2015, 28th January 2016, 24th of February 2016 17th of
November 2016, 28th of November 2016 and 9th of December 2016

Counsel: Mrs. Lansinglu Rongmei, Assistant Principal State Counsel for the
Republic
Mr. Anthony Juliette Attorney at Law for the accused

Delivered: 17 March 2017

JUDGMENT

Burhan J

[1] The accused Joel Laurencine and Christopher Denousse have has been charged as follows:

Count 1

Assault or attempts to assault NDEA agents Contrary to Section 16 (6) (a) of the NDEA Act, read with Section 23 of the Penal Code, punishable under Section 17 (3) of the NDEA Act.

Particulars of offence are that, Joel Steven Laurencine of Baie Ste Anne, Praslin and Christopher James Denousse of St. Louis, Mahe on the 30th June 2013 at around 18.10 hrs at Cotedor, Praslin assaulted the NDEA Agent namely Meddy Comme.

Count 2

Uttering or sending threats to or intimidating an NDEA Agent contrary to Section 16(6) (b) of the NDEA Act and read with Section 23 of the Penal Code punishable under Section 17 (3) of the NDEA Act.

Particulars of offence are that, Joel Steven Laurencine of Baie Ste Anne Praslin and Christopher James Denousse of St. Louis, Mahe on the 30th June 2013 at around 18.10 hrs at Cotedor Praslin, uttered, threatened and intimidated NDEA Agent Meddy Comme by uttering “Eski ou oule mon zet ou lavi la? Ou oule mon touy ou koman en lisyen?” (Do you want me to end your life now? Do you want me to kill you like a dog?)

Count 3

Possessive of offensive weapon with intent to be use n a manner to cause injury or for a purpose prejudicial to public order contrary to Section 84(1) of the Penal Code and punishable under the same.

Particulars of offence are that, Joel Steven Laurencine or Baie Ste Anne Praslin on the 30th June 2013 at around 18.10 hrs at Cotedor, was found in possession of offensive weapon with intent to cause injury to NDEA Agent Meddy Comme.

Count 4

Attempted to cause injury with an offensive weapon contrary to Section 219 (b) of the Penal Code read with Section 23 of the Penal Code and punishable under the same.

Particulars of offence are that, Joel Steven Laurencine of Baie Ste Anne Praslin and Christopher James Denousse of St.Louis Mahe on the 30th June 2013 at around 18.10 hrs at Cotedor Praslin attempted to cause injury to NDEA Agent namely Meddy Comme by putting knife on his neck.

- [2] Witness Meddy Comme the victim, stated that at present he was working as a driver at Raffles but at the time the incident occurred on the 30th of June 2013, he was attached to the NDEA (National Drug Enforcement Agency). On the said date as it was a Sunday and he was not on duty, he had gone in his private vehicle bearing registration number S20448 to Cote D' Or with his girlfriend who had disembarked from the vehicle to buy an ice cream.
- [3] While he was waiting for her in the car, another vehicle stopped by him and in that vehicle he noticed there were Joel Laurencine, Christopher Denousse and four others. All had disembarked from the vehicle and the accused Joel Laurencine had become aggressive towards him and begun to use vulgar language. He had told witness, he will break the cunt of his mother and the drugs they had planted at his home did not work. Witness had been seated in the pickup and he had asked him to come out. The accused had removed his T shirt and a knife and placed it under his neck and asked witness if he would like him to end his life. Witness, then noticed the accused, after some time, back away and move away from the pickup. Witness had looked up and seen his girlfriend approaching. The accused had told him he had not finished with him and moved away.
- [4] Witness Meddy Comme further stated that the others who had come with the accused had not said anything. Under cross examination, he admitted that there were a lot of people present as a reggae artist from Jamaica "Busy Signal" was doing a show on Praslin. He stated the knife was a pen knife and no injury was caused to him. He admitted that if the accused wanted to he could have stabbed him or slashed him but he had done neither. Witness admitted, there was an exchange of words and further stated that the accused had met him a month later and approached him and personally excused himself for what had happened. The accused had stated he had been frustrated about the raids done on his premises. Witness had accepted his apology and told him he would specially mention it to court at the appropriate time.
- [5] Agent Jimmy Louise stated that on the 3rd of July 2013 around 6.10 in the morning, he had arrested the accused Joel Laurencine at his home at Baie St Anne Praslin. Agent Siguy Marie testified to the fact that he was a witness to the arrest of Joel Laurencine. Both officers stated that at the time of arrest the accused Laurencine was informed of the

offence, cautioned and his constitutional rights explained to him. Agent Jack Tirant testified to the fact he had arrested the accused Christopher Denousse on the 3rd of July 2013 at his residence at around 7.30 a.m. and mentioned the formalities he had taken at the time of arrest. He was thereafter handed over to agent Samir Ghislain. Agent Emmanuel Marie corroborated his evidence in regard to the arrest of Christopher Denousse.

[6] Agent Samir Ghislain stated that he had met the accused after their arrest when they were brought before him at the NDEA headquarters. He too had reminded them of their constitutional rights and they had informed him their lawyer was Mr. Juliette. He had thereafter taken steps to inform Mr. Juliette. Witness agent Seeward stated he was at the NDEA station when both the accused were brought in and had witnessed agent Ghislain cautioning them. The accused had not given a statement but asked to contact their lawyer Mr. Juliette which agent Ghislain had done at their request.

[7] The case proceeded to trial against two accused namely Joel Laurencine and Christopher Denousse but at the stage of no case to answer, on a submission made by learned counsel Mr. Juliette, the 2nd accused Christopher Denousse was acquitted of all charges.

[8] The case proceeded against the 1st accused Joel Laurencine and when a defence was called the accused chose his right to remain silent. I am mindful of the fact that in terms of Article 19 (2) of the Constitution of the Republic of Seychelles, no adverse inference should be drawn from the fact that the accused chose his right to remain silent, at the time a defence was called. No witnesses were called by the defence and both counsel made submissions thereafter.

[9] I have considered the evidence led by the prosecution and the submissions made by both counsel.

[10] When one considers the evidence of the victim Meddy Comme, the accused had walked up to his vehicle when he was seated in the driving seat and taken a knife and placed it under his neck and asked witness if he would like him to end his life. The accused had backed away suddenly and witness noticed his girlfriend who had got down from the vehicle to buy an ice cream was returning. The accused had told him he had not finished

with him and moved away. His evidence on this issue is not seriously challenged by the defence or discredited by the defence other than to suggest that the accused could have caused more harm to the victim had the accused wanted to. The line of cross examination is on the basis and that even after doing this act, the accused had even apologised for his conduct subsequently. There is no evidence to contradict the evidence of the victim and this court is satisfied that the victim is speaking the truth as though his evidence was subject to cross examination, no material contradictions or omissions were apparent. The other witnesses called gave evidence in regard to the arrest and detention of the accused. Having considered the evidence of the prosecution witnesses, as no material contradictions or discrepancies exist, I proceed to accept the evidence of the prosecution.

[11] On the evidence before court I am satisfied beyond reasonable doubt that the accused had placed a knife on the neck of the victim and uttered the words do you want me to end your life. The accused had further sworn at the victim. The words uttered and the acts committed by the accused clearly indicate that he intended to intimidate and threaten the victim.

[12] ***Archbold Criminal Pleading Evidence and Practice 2008 at 19-166*** sets out the definition of assault, as an act- and not a mere omission to act- by which a person intentionally- or recklessly- causes another to apprehend immediate unlawful violence. It is apparent that the acts of the accused in placing a knife under the neck of the victim could be termed an assault. The words spoken and the acts of the accused at the time clearly indicate his intention to cause unlawful violence on the victim.

[13] Further the words spoken by the accused namely would the victim like him to end his life as referred to by the victim are clearly of a threatening and intimidating nature. Further section 84 (8) of the Penal Code, clearly defines an offensive weapon as any article made or adapted for use for causing injury to the person or intended for such use and includes an axe, hatchet, cutlass, knife or club. It is apparent from the evidence of the victim in this case that the accused used the knife, a pen knife, as an article intending to cause injury on the victim and intimidating him and not for any innocent purpose. Further it is apparent and unchallenged that at the time of the incident, the victim was working as an NDEA agent even though he was off duty at the time of the incident.

[14] For all the aforementioned reasons, this court is satisfied that the prosecution has proved all the elements of the charges contained in Counts 1, 2 and 3 beyond reasonable doubt. I therefore proceed to find the accused guilty of the charges contained in Counts 1, 2 and 3 and convict him of same. It is my view however that the prosecution has failed to establish that the accused had the intention of causing grievous harm to the victim as though the victim was in a vulnerable position, seated in the pickup seat with a knife at his neck, the accused had not inflicted any injury even though he had an opportunity to do so but backed down when he saw the girlfriend of the victim approaching. I would therefore give the benefit of doubt to the accused on this issue and proceed to acquit the accused on Count 4.

Signed, dated and delivered at Ile du Port on 17 March 2017

M Burhan
Judge of the Supreme Court