

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO51/2013

[2017] SCSC 365

THE REPUBLIC

versus

CHANEL QUATRE

RUTH ROSETTE

Accused

Heard: 23 March 2017
Counsel: Mr. Esparon for the Republic
Mr. Camille for the 3rd Accused
Ms. Domingue for the 5th Accused
Delivered: 23 March 2017

RULING ON SENTENCE

Akiiki-Kiiza J

[1] A3- Rosette

A3 has been convicted on Count 5 for the offense of Conspiracy to commit a felony *Contra Section 381 of Penal Code.*

In mitigation, Mr. Camille, her learned Counsel, submitted for a non-custodial sentence under *Section 26 (2) of Penal Code.*

In the alternative, he submitted that this Court imposes a suspended custodial sentence. (See *Section 282 of Criminal Procedure Code*).

The main reasons given by the learned counsel, include the fact that, the evidence before the Court never showed that A3 personally gained from the theft of the money belonging to her employees.

Secondly that the evidence showed minimal participation in crime by her.

-That A3 was a single mother with a 5-year-old child and she has a sickly mother whom she looks after.

-That she is a first offender and has been of good conduct at her work before this incident.

-That Barclays bank has recovered all the money stolen.

Mr. Camille therefore prayed for leniency on the part of the Court.

[2] A5-Channel Quatre

A5 was convicted of a lesser charge of Receiving stolen property *Contra Section 309 (1) of Penal Code* as he was found with the money stolen from his employers, Barclays Bank.

His learned Counsel Ms. Domingue, adopted the submission of Mr. Camille regarding the Provisions of *Section 26 of Penal Code and 282 (1) of Criminal Procedure Code*.

In addition, she added special attributes of A5 which included the following;

-That A5 cooperated fully with the Police investigations leading to the recovery of the money.

-That, all the money found with him was recovered by the bank, hence he never benefited from the crime.

-That he never participated actively in the theft.

-That he had been an honest hard working employee of the bank before this incident.

-That he is still a young man of 29 years with a mother and a sister and a niece who needs attention.

-That he is a currently attending school of Tourism to improve his way of life in future.

-That he is now a Christian and has reformed.

-That he is also a first offender.

- [3] I have carefully listened and noted the submission of both learned Counsels regarding their respective clients. I have also carefully and critically reviewed the evidence on record, along with the law applicable.
- [4] It appears from the testimony of PW20, Ms. Gopal and other prosecution witnesses that all the money stolen from the bank was not recovered save the one exhibited in Court and what was exhibited in Court appears to be the amount brought to A5 by A4, on their way to Takamaka, where the robbery of the briefcase containing money was robbed from.
- [5] On the other hand both A3 and A4 were employed in responsible positions. Their responsibilities included the safeguarding of the customer's money deposited with their employer, Barclays Bank. The Bank trusted them to deal with the customer's deposits honestly and to protect and safeguard the same.
- [6] A3 was employed as a custodian to take care of the money for ATMS- she breached the trust when she conspired to steal what she was expected to safeguard. As for A5, he was an acting Branch Manager. A person of high caliber whom the employer entrusted with responsibilities of managing the customer's deposits. As a prudent man he should have raised a red flag and alerted his superiors about the money brought to him by A4. He chose to conceal it by taking it to his home and put it in office, which places were not authorized by the bank to keep money. This clearly shows dishonesty on his part. The fact that both A3 and A5 have been working honestly or of good conduct before this incident, may not in itself be a major mitigating factor (See the case of **R VS RENE SSC 28/98**).
- [7] After carefully considering and critically analysing the submissions of both learned Counsel on mitigation as well as the evidence on record and the law applicable, I find

that in the circumstances of this case a custodial sentence is appropriate for both convicted persons.

[8] I accordingly make the following orders:

-A3: Ruth Rosette is sentenced to a term of 2 ½ (two and a half) years imprisonment.

-A5: Channel Quatre is sentenced to a term of 3 ½ (three and a half) years imprisonment.

Order accordingly.

R/A explained.

Signed, dated and delivered at Ile du Port on 23/03/17

D Akiiki-Kiiza

Judge of the Supreme Court