

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CN 34/2016**

**Appeal from Magistrates Court decision 209/2013**

**[2017] SCSC**

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**ALLEN CLIFFORD RAOUDY**

Appellant

versus

**THE REPUBLIC**

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Heard: 19 January 2017 and 27 March 2017

Counsel: Mr. Nichol Gabriel Attorney at Law for appellant

Mr. Khalyaan Karunakaran, Senior State Counsel for the Republic

Delivered: 12<sup>th</sup> June 2017

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**JUDGMENT**

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**Burhan J**

[1] This is an appeal against sentence.

[2] The Appellant was charged in the Magistrates' Court for the following offences:

**Count 1**

*Stealing from Vehicle contrary to Section 264 (c) of the Penal Code.*

*Particulars of offence are that, Allen Clifford Raoudy of Corgate Estate, Mahe, during the night of the 6<sup>th</sup> May 2013, at Cascade, Mahe, stole from motor vehicle car*

*registration No.S6663 a tool box and a car polish to the total value of Rs.1200/- being the property of Lisette Sopha.*

## **Count 2**

Damaging Property Contrary to Section 325 (1) of the Penal Code.

*Particulars of offence are that Allen Clifford Raoudy of Corgate Estate, Mahe, during the night of the 6<sup>th</sup> May 2013, at Cascade, Mahe, wilfully and unlawfully damaged one triangular window of car registration No.S6663, to the total value of Rs.2,000/- being the property of Lisette Sopha.*

- [3] The Appellant was convicted on his plea of guilt on both Counts and sentenced to 6 years imprisonment on Count 1 and 10 months imprisonment on Count 2.
- [4] The main grounds urged by learned counsel for the Appellant are that the Appellant was already serving a term of 6 years imprisonment in MC 207 of 2013, when he was sentenced in this case. It is the contention of learned counsel for the Appellant that as the sentences would run consecutively, the Appellant would serve a total term of 12 years which is harsh and excessive considering the offences in both cases were committed in close proximity in time to one another.
- [5] At the request of Court learned counsel for the Appellant tendered the Judgment in Appeal issued by this Court in regard to MC 2007 of 2013. From a reading of the said Judgment bearing reference [2014] SCSC 259, it is apparent that the Appellant was convicted of offences of a similar nature in the Magistrates' Court in case 207/2013 and sentenced to a term of 5 years on Count 1 and 12 months on Count 2, to run consecutively. However in appeal, the Supreme Court had made order that both sentences run concurrently which would result in the Appellant serving a term of 5 years in the said case.
- [6] I have noted the serious nature of the charges in both cases against the Appellant. The act of breaking a car window and committing the offence of stealing is aggravating in nature and in my view, suitable deterrent punishment should be given in order to ensure the Appellant does not repeat the said offence. He has already pleaded guilty to two such

offences and presently faces a total term of 11 years imprisonment in terms of section 36 of the Penal Code which sets out that sentences should run consecutively.

- [7] It is the contention of learned counsel for the Appellant that in the light of the case of *John Vinda v R (1995) SCA (unreported)* that the sentences be made to run concurrently. However in my view although a reduction of sentence may be justified, considering the serious nature of the offences, it would not be appropriate to make order the sentences run concurrently.
- [8] Having considered the submissions of learned counsel for the Appellant which were not challenged by learned counsel for the Respondent, I proceed to set aside the sentence of 6 years imprisonment imposed on Count 1 and substitute it with a sentence of 4 (four) years imprisonment. The sentence of 10 months imposed on Count 2 is affirmed. The sentences to run concurrently. It is further ordered that the sentence of 4 (four) years imprisonment in MC 209/2013 to run consecutively to the sentence of 5 (five) years in MC 207/2013.
- [9] The Appellant would therefore serve in total a term of 9 (nine) years in both cases which in my view, would be a just and appropriate sentence, considering the serious nature of the offences and antecedents of the Appellant as set out in his list of previous convictions. Sentence served and time spent in remand to count towards sentence.

Signed, dated and delivered at Ile du Port on 12 June 2017

M Burhan  
**Judge of the Supreme Court**