

IN THE SUPREME COURT OF SEYCHELLES

Criminal Appeal Side: CN 45/2016

Appeal from Magistrates Court decision 576/2013

[2017] SCSC

DEAN WILLIAM

Appellant

versus

THE REPUBLIC

Respondent

Heard: 7 July 2017

Counsel: Mr. Nichol Gabriel Attorney at law for the Appellant

Mr. Khalyaan Karunakaran, Senior State Counsel for the Respondent

Delivered: 20 October 2017

JUDGMENT

Burhan J

[1] The Appellant Dean William in this case was charged before the Magistrates' Court as follows:

Count 1

Housebreaking Contrary to Section 289 (a) and Punishable under Section 289 of the Penal Code

Particulars of offence are that, Dean Rudy William residing at Le Niole, Mahe, on the 17th day of May, 2013, at Canada, Beau Vallon, Mahe, broke and entered into the dwelling house of Gerry Sopha with intent to commit a felony therein namely stealing.

Count 2

Stealing from dwelling house contrary to section 264(b) and punishable under section 264 of the Penal Code

Particulars of offence are that, Dean Rudy William residing at Le Niole, Mahe, on the 17th day of May, 2013, at Canada, Beau Vallon, Mahe, stole from the dwelling house of Gerry Sopha one not book lap top value US Dollars 40, one lap top value Rs7000/-, one Sony digital camera value Rs2000/-, two small speakers value Rs300/- all being the property of Gerry Sopha.

- [2] The Appellant pleaded guilty to both Counts and was sentenced on the 27th of February 2015 on Count 1 to four years imprisonment and to two years six months imprisonment on Count 2. It was ordered that the sentences run concurrently. It was further ordered that the term run consecutive to the term of imprisonment the convict was serving.
- [3] It is the contention of learned counsel for the Appellant that the Appellant was serving a term of 8 years imprisonment at the time of being sentenced. This would mean that the Appellant would serve in total a term of 12 years imprisonment.
- [4] On the 31st of July 2017, learned Counsel for the Appellant informed Court that on appeal the 8 years sentence the Appellant was serving had been reduced in appeal to 5 years by Akiiki Kiiza J. It appears by Judgement dated 20th October 2016 that the term of 8 years imprisonment imposed in MC 713/2011 had been reduced to 5 years.
- [5] The Appellant was 30 years at the time of him being sentenced. He has pleaded guilty to the offence thereby expressing remorse and regret and expecting leniency from Court. I have considered the age of the Appellant who was 30 years at the time he accepted liability for the said offence, thereby expressing remorse and regret and also proceed to consider the principle laid down by the Seychelles Court of Appeal in the recent cases of ***Volcy v Republic [2017] SCCA 27*** and ***Mervin Rath v R [2016] SCCA 36***, where it was

held: *“Since one of the purposes of punishment is reformative, we do not think that in the circumstances of this case the long sentence imposed on him by the Supreme Court will serve the desired purpose”*.

- [6] Having considered the aforementioned facts, especially the age of the Appellant (30)) at the time he was sentenced, I am inclined to reduce the total sentence he is serving in order to give him an opportunity to come back to society and reform himself. I therefore proceed to reduce the term of four years imprisonment imposed in this case to two years. I further order that in terms of section 36 of the Penal Code, this term of two years imprisonment run consecutively to the reduced 5 year term in MC 713/2011. A total term of seven years would in the view of this Court, be a just and appropriate term of imprisonment, considering both his plea in mitigation and antecedents and will also be proportionate to the offences contained in both cases.

Signed, dated and delivered at Ile du Port on 20 October 2017

M Burhan
Judge of the Supreme Court