

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 71/2013

[2018] SCSC 86

THE REPUBLIC

versus

BERTRAND ESPARON

Accused

Heard: 1 February 2018

Counsel: Mr. George Thachett, Assistant Principal State Counsel for the Republic
Mr. Basil Hoareau Attorney at Law for the accused

Delivered: 2 February 2018

SENTENCE

Burhan J

- [1] The convict Bertrand Esparon has been convicted for the offence of Causing death by dangerous driving, an offence punishable under section 25 of the Road Transport Act CAP 206.
- [2] I have considered the plea in mitigation made by Learned Counsel for the convict. The convict is 24 years old and a first offender. I also consider the submissions made by Learned Counsel in regard to the fact that a custodial term must be given only in the case of the existence of aggravating circumstances and his reference to **Archbold, Criminal**

Pleading Evidence and Practice paragraphs 32 (6) to 32 (9). Learned Counsel referred to several aggravating factors in his submissions and stated that as these were not present, he moved that a non- custodial term of imprisonment be imposed.

[3] I am of the view that on considering the evidence in this instant case, aggravating factors do exist. In this instant case, not one person but several persons were hit by the vehicle driven by the convict. This had resulted in the death of Joshua Bill and injury to another Nico Marie which required hospitalization. Fortunately even though Gino Bastienne was also hit by the vehicle driven by the accused and was dizzy and his vision blurry, he did not sustain any serious injuries, due to his alertness in spotting the oncoming vehicle. Despite hitting several persons, the vehicle had continued on its way seemingly unaware of what had happened and according to the prosecution evidence, it was only due to Dominique Riaz running behind the vehicle and telling the driver he had knocked down his friends, did the convict turn his car and come back to the scene of the accident.

[4] Even in his own statement under caution which was admitted as evidence, the convict admits he did not stop immediately but turned back to have a look and parked his car near a bus stop and disembarked and then realized what had happened.

[5] Having considered the above factors and the consequences of his dangerous driving, I am of the view a custodial term of imprisonment should be imposed.

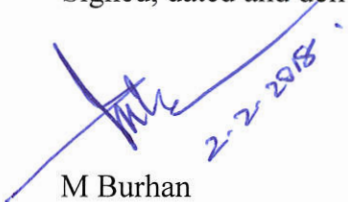
[6] I proceed to sentence the convict Bertrand Esparon as follows:

Count 2 – To a term of 15 (fifteen) months imprisonment and a fine of SR 25, 000.00 (twenty five thousand). In default of payment of fine a term of 6 months imprisonment is imposed to run consecutively to the term of 15 months.

[7] I make further order driving licence of the convict Bertrand Esparon be suspended for a period of 3 years from the date hereof (2nd February 2018).

[8] Copy of this order to be served on the Licensing Authority.

Signed, dated and delivered at Ile du Port on 2 February 2018

A handwritten signature in blue ink, appearing to be 'M Burhan', is written over a diagonal line. To the right of the signature, the date '2-2-2018' is written in blue ink.

M Burhan

Judge of the Supreme Court