

IN THE SUPREME COURT OF SEYCHELLES

CriminalSide: CO29/2017

[2018] SCSC

THE REPUBLIC

versus

MARCUS SAVY

Accused

Heard: 5 April 2018
Counsel: Mrs Lansinglu Longmei , Attorney General for the Republic
Mr Nichol Gabriel for the accused
Delivered: 5 April 2018

RULING

R. Govinden, J

[1] ASP Hendrick testified that he took a statement from Benny Marcus Savy on the 22nd of June, 2017 that was a statement under caution. He testified under oath that though he knew the accused was under arrest he never informed him of his Constitutional Rights before taking the statement under caution but he only informed the accused his rights under Judge’s Rule 2(1).

- [2] Corporal Arnephy contradicts the evidence of ASP Leon in that regards, she testified categorically that the accused was informed of his Constitutional Rights under Article 18(2) of the Constitution.
- [3] I have listened to both versions of evidence and have analyzed their contradictory nature. I have observed the demeanours of the two witnesses I find that WPC Arnephy was not telling the truth in that regard and I chose to believe the evidence of ASP Leon when he said categorically and truthfully that he never informed the accused of his Constitutional Right under Article 18 though he knew that he was under arrest for another offence at that time.
- [4] I find that the accused Benny Marcus Savy who was under arrest for another offence at the time that the attempt was made to take statement under caution from him. As a result he had to be informed of rights under Article 18(2) of the Constitution. This is essential in order to allow him to fairly and fully be able to defend himself given the restriction that was placed on his freedom of movement at that time.
- [5] Judge's Rule 2(1) was not sufficient in that regard, being under arrest he could not have had access to a Counsel either of his own choice or one provided by the Republic. Judge's Rule 2(1) does not inform the accused of the offence he was suspected of committing and it also does not inform the accused of his right to Counsel. This Rule which predates the Constitution only cover the right to remain silent which is only one right under Article 18(2). As such I find that this statement under caution taken from accused Benny Marcus Savy on the 22nd of June 2017 by ASP Leon to be inadmissible as a result of it being taken contrary to the Constitutional Right of the said accused person. As a result it will not be admitted in evidence.



Signed, dated and delivered at Ile du Port on 5 April 2018

R Govinden , J
Judge of the Supreme Court