

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CO. 44/2017**

**[2018] SCSC 724**

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**THE REPUBLIC**

versus

- 1. STEPHAN MONDON**
- 2. GUY HALL**
- 3. PHILIP MAZORCCHI**
- 4. MARCUS LOUYS**
- 5. CHELSIE MONDON**

Accused

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Heard: 25<sup>th</sup> July 2018

Counsel: Mr. Thachett for the Republic

Mr. Andre for 1<sup>st</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> Accused

Mr. Camille for the 2<sup>nd</sup> Accused

Delivered: 25<sup>th</sup> July 2018

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**RULING**

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**Govinden J.**

1. Mr. Andre is seeking to produce a witness statement previously given by the witness Peter Hein outside Court as a witness, in order to contradict him on alleged inconsistencies.
2. Mr. Camille, Counsel for the 2<sup>nd</sup> Accused, moves that the statement be edited to the extent that it implicates and prejudices his client.
3. Mr. Thachett, Counsel for the Republic, objects to this procedure and says that this statement is not a Statement under Caution, it is not being sought to be produced for the truth of its content as a Statement under Caution and its implication that it would have against other co-accused, who would be prejudiced as a result of original evidence coming into the Court record.
4. Mr. Camille in reply, submitted that there is an overriding discretion on the part of the Court based on the case of ***R vs Sang*** that any evidence which its prejudicial effect outweighs its probative value should be excluded from evidence by the Court.
5. Having heard Counsel's submissions, I am of the view that any evidence that prejudices the minds of the Court against an Accused and of which its prejudicial effect outweighs its probative value has to be excluded. The statement here is being produced simply to contradict the witness evidence in Court from the statement that he has given as a witness. It is not being sought to taint or prejudice the mind of the Court against any accused party in this case, of which, for the time being the Court's mind should be open until evidence comes to implicate them.
6. Therefore, the rest of the part of the statement that implicates the co-accused should not be admissible as it would have an effect on the mind of the Court. I will allow this statement to go in as a statement to contradict the witness's evidence (to the extent that it contradicts Mr. Hein's evidence) but it has to be edited and any part that implicates any other co-accused, which is the second Accused has, to be removed.

Signed, dated and delivered at Ile du Port on \_\_\_\_\_ day of \_\_\_\_\_ 2018.

**R. Govinden**  
Judge of the Supreme Court