

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CN 22/2017**

**[2018] SCSC 751**

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Appellant **ANDY OREDDY**

versus

**THE REPUBLIC**

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Heard:

Counsel: Mr. Andre for appellant

Mr. Khalyaan, Assistant State Counsel for the Republic

Delivered: 6 August 2018

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JUDGMENT

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Dodin J

[1] The Appellant Andy Oreddy pleaded guilty to 3 counts of stealing in 3 different cases, CO 933/15, CO 934/15 and CO 935/15/. He was not a first offender as he had 2 previous convictions over the previous 5 years.

[2] In case CO 933/15 the Appellant stole a mobile phone valued at SR8500. In case CO 934/15 the Appellant stole the sum of SR1600 from the counter of a supermarket. In case CO 935/15 the Appellant stole a mobile phone worth SR5000.

[3] The Appellant was sentenced as follows:

(1) In case CO933/15 – 120 months imprisonment.

(2) In case CO934/15 – 48 months imprisonment.

and (3) In case CO935/15 – 84 months imprisonment.

[4] All sentences are to run concurrently. They amount to a total of 21 years imprisonment but since they are to run concurrently he should serve only 10 years..

[5] The Appellant appealed the sentences maintaining that in the circumstances the total sentence is harsh and excessive considering the value of what were claimed to have been stolen and the fact that the Appellant pleaded guilty at the first opportunity.

[6] Five grounds of appeal were set out in the Memorandum of Appeal:

I. *“The Learned Magistrate erred when he considered that the principle of aggregate or overall sentence was just and fair. This is clear, as the accused pleaded guilty so that he could get some form of concession and that the Court would impose concurrent sentences, which would allow him to serve reasonable sentence instead of getting the full length of the law. He finds himself serving a 10 years sentence, which is disproportionate to the offences and the items taken.*

II. *The Learned Magistrate erred in stating that the totality principle was satisfied. This is not at all the case as the accused who had pleaded guilty, not wasting the Court’s time would serve a period of 10 years, when this could be reduced significantly, allowing such a young person to re-integrate in society and become more productive.*

III. *The Learned Magistrate erred in the consideration it attributed to the aggregate or overall sentence, must be “just and appropriate” to the totality of the offending behaviour.*

*This is such that the Court wrongly interpreted the case of Johnson v/s The Queen (2004) 78 ALJR 616.*

*IV. The Learned Magistrate failed to exercise fully the powers given to her by the case of Frederick Ponoo v/s The Attorney General which allowed it to depart from the minimum mandatory sentence in individual cases given the extenuating circumstances the offence were committed. The Learned Magistrate could have considered that the accused should have benefitted more when considering the said case.*

*V. The Learned Magistrate failed to consider fully that the Appellant had pleaded guilty in respect to all the cases that was before the Court, therefore not wasting the Court's time and should have benefitted more from the sentencing of the Magistrate."*

[7] On 17<sup>th</sup> July 2018, learned Counsel for the Respondent submitted that the Respondent conceded that the sentences were harsh and excessive in the circumstances and that the Republic will not be contesting the appeal.

[8] I have studied the records of proceedings before the Magistrate's Court and the sentences imposed for each case. I am satisfied that the sentences imposed were in themselves not unlawful considering that the Appellant is not a first time offender. However I agree that he should have been entitled to a lesser cumulative sentence considering the value of the items and money stolen and the fact that he pleaded guilty and the cases did not go to trial..

[9] I therefore reduce the sentences in cases CO933/15, CO934/15 and CO935/15 by imposing the following sentences instead in each case.

- CO933/15 I reduce the sentence of 120 months (10 years) to 60 months (5 years).
- CO934/15 I reduce the sentence of 48 months (4 years) to 18 months (1½ years).

- In CO935/15 I reduce the sentence of 84 months (7 years) to 36 months (3 years).

[10] The sentences shall run concurrently as ordered but shall run consecutively to any sentence he may now be serving for any other cases.

[11] Total sentence 60 months (5 years). He is entitled to remission.

[12] Time spent on remand shall form part of the sentences.

Signed, dated and delivered at Ile du Port on 6 August 2018

G Dodin  
**Judge of the Supreme Court**