

IN THE SUPREME COURT OF SEYCHELLES

CriminalSide: CO45/2017

[2018] SCSC 826

THE REPUBLIC

versus

FREDDY ESPARON

Accused

Heard: 26 February 2018
Counsel: Mr Khalyaan, State Counsel for the Republic
Mr Nichol Gabriel for the accused
Delivered: 18 September 2018

SENTENCE

R. Govinden, J

I have heard the plea in mitigation of the Learned Counsel for the defence Mr Nichol Gabriel, in which he has mitigated heavily in favour of a more lenient sentence and a non custodial sentence for the convict. According to Learned Counsel gauging from the Probation Report the convict is a drug dependent person. And in his submission the MODA 2016 contains provisions under Section 29(a) and (b) where a convict, being a dependent person can be sentenced to alternative modes of sentencing other than custodial so as to allow him to go through the process of detoxification and rehabilitation. According to Mr Gabriel the convict has been on heroin for 13 years and he has been in and out of the prison. And whilst being there he has not be able to deal with his drug dependency because the prison is not a drug free environment and he has tried to quit using drug but he has not been successful. I have considered the Probation Report dated the 18th day of September, 2018 in which the Probation Officer has recommended a custodial

sentence. I bear into consideration all the mitigating factors in the Report in favour of the accused person. I note that the offences charged in this case in both counts are very serious both in their nature and their sentences that they carry both have a sentence of maximum life imprisonment. I find that there are however no actual violence that was used or inflicted, the violence was minimal under both charges and that there were no resulting injuries caused to the virtual complainant. And I find further that the value of the properties stolen were relatively low in value. Having come to this finding and bearing into consideration all the relevant factors and circumstances arising out of this case and the plea made on behalf of the accused person, I will impose 8 years imprisonment on the convict under the count 1 and 8 years imprisonment on the convict in count 2. Both sentences are to run concurrently. I order further that if there are any facilities, measures or procedures existing at the Montagne Posee Prison for detoxification and rehabilitation of drug dependent persons that the Superintendent of Prison considers putting the convict through one of those programmes, as I find that he is a drug dependent person. And I order further that any times spend on remand or pre-trial detention by the convict be excluded from the length of custodial sentence so imposed. This is the sentence of the Court.

Signed, dated and delivered at Ile du Port on 18 September 2018

R Govinden , J
Judge of the Supreme Court