

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side no: CO61/2018

[2018] SCSC 957

The Republic

Vs

Tony Vidot

Heard: 24 October 2018

Counsel: Mr Tachet for the Republic

Mr Camille for the Accused

Accused present

Delivered: 24 October 2018

ORDER

M. Twomey, CJ

1. The Applicant has applied to this court pursuant to Section 30(b)(1) of the Criminal Procedure Code for an order authorizing the taking of fingerprints from the Respondent for forensic analysis as the Respondent is refusing the taking of the same.
2. Laurine Constance an officer of the Anti-Narcotics Bureau has supported the application by swearing an affidavit in which she deponed that a blue handbag taken from a store located inside the cargo clubhouse of the Seychelles Civil Aviation Authority where the Respondent was employed has been taken for fingerprint analysis.
3. She further avers that the Respondent has been charged with the offence of trafficking in a controlled drug and his fingerprints are required for comparison with a thumb print on the handbag.
4. The Respondent has stated that he was fingerprinted during the arresting process and does not see why further fingerprints should be taken from him.

5. I found it necessary to have the ANB officer testify and be subject to cross-examination so as to determine the basis of the application.
6. Officer Constance has testified that in the normal and routine course of the arresting procedures fingerprints are taken. She was not able to confirm whether these fingerprints are capable of being forensically analysed for comparison purposes.
7. Officer Yves Leon was called as a witness. He has 24 years' experience in this field and he is a fingerprint expert. He has stated that although fingerprints are taken for the criminal record file and these are sufficient for processing of fingerprints a fresh set of prints is normally necessary for court purposes.
8. On this basis Mr Tachet for the Republic has amended paragraph 6 of the application in which it was stated that no previous fingerprints had been taken.
9. Paragraph 6 now reads "*A previous fingerprint sample was taken from the Respondent for criminal record purposes. For the case file for investigation a request for a sample was made and refused by the Respondent*".
10. Mr Camille for the Respondent is still objecting to the taking of the sample.
11. Section 30(b) (1) of the Criminal Procedure Code permits the court to authorize the taking of a sample as applied for provided such application is made by a police officer authorized by an officer of at least the rank of Inspector and the person has reasonable grounds to suspect the involvement of the person from whom the sample is required authorizes it.
12. I am satisfied on the evidence of the requirement of the sample, namely the fingerprint of the Respondent. I am also satisfied the procedures under Section 30(b) have now been complied with by the Applicant.

13. I therefore order the Respondent to provide the fingerprint required by the Applicant.
Reasonable force may be used if he refuses to comply with this order.

Signed, dated and delivered at Ile du Port on 10 October 2018.

M. Twomey
Chief Justice