

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CO26/2018

[2018] SCSC 980

THE REPUBLIC

versus

LEIZA CHILAULE

Accused

Heard: 30th October 2018

Counsel: Mr. Khalyaan Karunkaran for the Republic

Mr. Danny Lucas for the Accused

Delivered: 30th October 2018

SENTENCE

R. Govinden, J

[1] The convict was charged as follows:

Count (1)

Importing / exporting a controlled drug contrary to Section 5 of the Misuse of Drugs Act 2016 and punishable under the second schedule of the said Act.

PARTICULARS OF OFFENCE

Leiza Feliciano Chilaule, a Mozambican national bearing passport number 15EK62862, aged 31 years on the 7th of April 2018 arrived in Seychelles from Ethiopia in possession of a controlled substance, namely a total of 2993.7 grams of heroin with an average purity of 57.15 %. Bearing content 1711 grams, thereby importing the said controlled substances into Seychelles.

Count (2)

STATEMENT OF OFFENCE

Trafficking of controlled drug contrary to Section 71 of the Misuse of Drugs Act 2016, read with Section 2 of the said Act and punishable under Section 71 read with the second schedule of the said Act.

PARTICULARS OF OFFENCE

Leiza Feliciano Chilaule, Mozambican national bearing passport number 15EK62862, aged 31 years on the 7th of April 2018 transport into Seychelles from Ethiopia a controlled substance namely a total of 2993.7 grams of heroin with an average purity of 57.15%. Bearing content 1711 grams, thereby trafficking the said controlled substance.

- [2] The convict pleaded guilty to both counts. She was convicted on her own guilty plea. The Court shall now proceed to sentence.
- [3] In mitigation the learned defence Counsel, Mr. Danny Lucas, has strenuously mitigated in favour of his client. He pleaded that given that the two offences are related on the facts and relates to the same set of transaction, that the sentence should be made, if any, to operate concurrently. The learned defence Counsel also submitted that his client is young and that she was a bread winner in her national state, Mozambique. She was a bread winner of her mother and two sisters and two of her children.

- [4] Learned Counsel also submitted that his client was a victim of drug traffickers, just as the users of drug traffickers are victims. And she was made used given her poor social and financial circumstances and was used as a mule to bring drugs into Seychelles.
- [5] In mitigation, the learned Counsel also submitted that his client has pleaded guilty at the first opportunity and she has save the precious time of this Court and had been a willing and a corporative person even at the police investigation stage. It is submitted further that she is a first offender and that the Court should impose the most minimal custodial sentence possible.
- [6] The learned defence Counsel refers to the case of *R vs. Dijoux*, in which the facts was moreless similar to this one where the Court imposed a sentence of eight years imprisonment.
- [7] I bear in mind the mitigation of learned Counsel and the facts and the seriousness of the offence as shown by the charge and the facts of this case, in passing sentence. I further remind myself that in pursuant to Section 7 (4) and Section 48 of the Misuse of Drug Act 2016, the offence committed by the convict is aggravated in nature since the total amount of drugs exceed the amount that is necessary in order to trigger the aggravated circumstances in this case. The second schedule of the Misuse of Drugs Act 2016 prescribed an indicative minimum sentence of 15 years maximum, and maximum life imprisonment in this instance.
- [8] In the circumstances bearing in mind the totality of sentencing principle and the particular facts of this case and the strong mitigation made by the learned Counsel. I will imposed a sentence of 15 years custodial imprisonment upon the convict in count 1 and 15 years custodial imprisonment on count 2. Both sentences are made to run concurrently,
- [9] Any time spent on remand shall be deducted against the sentence. As the offence is one that is aggravated in nature, the convict shall have no recourse to remission. The convict is reminded that she has a right of appeal within 30 days from the date of this sentence.

Signed, dated and delivered at Ile du Port on 30th October 2018.

R. Govinden , J
Judge of the Supreme Court