

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 43/2018

[2018] SCSC 1028

THE REPUBLIC

versus

ALAIN VOLCY

Accused

Heard: 6 November 2018
Counsel: Almeida, State Counsel for the Republic
Mr. Gabriel for the accused
Delivered: 9 November 2018

SENTENCE

Twomey CJ

- [1] The accused was charged with unlawful wounding with intent to inflict grievous harm contrary to section 219 (a) and punishable under section 219 of the Penal Code.
- [2] The particulars of the offence as laid out in the charge sheet are to the effect that the accused person, on 22 August at Sweet Escott, Anse Royale, Mahe, unlawfully wounded one Jacqueline Theresine by means of cutting the said Jacqueline Theresine on the feet with a small axe with intent to do grievous harm to the said Jacqueline Theresine.

- [3] The facts of the case as summarised by learned Counsel for the Republic and not disputed by the accused are that the accused and the victim were married and had been divorced just before the incident. On 22nd August the accused met with the victim on the road at Sweet Escott. He had an axe in his hand, went towards the victim, grabbed her, pinned her down and struck her with the axe on both ankles. Several passers-by intervened to prevent him from doing more harm to the victim. He later reported to the police station and confessed to what he had done.
- [4] The victim was transported to Anse Royale Hospital where she was treated. She had sustained a 12 centimeter wound to her right leg and 14 centimeter wound to her left leg. In describing the impact of the attack on her she stated that she is still undergoing physiotherapy and she has ongoing difficulties with her right foot and finds it hard to walk downhill. She has also lost movement in her left toe. She also described the trauma occasioned to her and the fact that she wakes up with nightmares at night.
- [5] A pre-sentence report for the court was prepared by Probation Services. Their interview with the accused indicates that he acknowledges the seriousness of his actions and the likely consequences. The accused has accepted that he is accountable for his actions and stated that he had no intention to kill his former wife. He has expressed remorse and asked for forgiveness.
- [6] In contrast the victim expressed the opinion that the actions of the accused were well planned. She had been threatened on numerous occasions before and had endured physical and emotional abuse during her marital life with the convict. A Social Services report had been compiled for the Family Tribunal in this regard and when the matter was last called on 15 March 2017 the accused had been told not to interfere with the victim.
- [7] Learned Counsel Mr. Gabriel has submitted in mitigation that the accused who is 50 years old and has one child and who has no previous convictions has entered an early guilty plea saving the court's valuable time. He has further submitted that there was acrimony between the parties as a result of their divorce and allegations of adultery which made the situation between the parties volatile and resulted in a fit of anger on the part of the accused on the day in question. He has submitted that this was a crime of passion and

the accused still loves his ex-wife. He has pointed out that there is no permanent disability resulting from the wounds inflicted on the victim.

[8] The offence with which the accused has been convicted carries a maximum sentence of life imprisonment.

[9] I have considered the facts placed by the learned counsel in mitigation before the court. I accept and take into account the fact that the accused has pleaded guilty without wasting the time and expense of the Court. He has expressed remorse and regret expects the leniency of the court in so doing. I also note that he is the father of one child and is a first offender.

[10] On the other hand I take into account the victim impact statement and the horrific acts perpetrated by the accused on his ex-wife. The harm he inflicted physically and emotionally is grave and cannot be condoned by a light sentence. The victim was unable to defend herself and could have been killed at his hands were it not for the intervention of passers-by. Strange love. Domestic violence in Seychelles is rife and must be stemmed by deterrent sentences.

[11] I have not been referred by Counsel to any relevant authorities apart from a mention by Mr. Gabriel of the case of *Allisop* with no citation given and which in the circumstances I have been unable to locate. I have however taken note of *R v Franke Lesperance* (Crim Side 52 of 2006) in which a sentence of three 3 years imprisonment and the payment of a fine of R 15,000 was imposed on the accused on a like charge. In *Aglae v R* (Crim Appeal No 15 of 1997), a sentence of 4 years imprisonment was imposed for causing unlawful wounding by stabbing penetrating the lungs of the victim. In *René v R* (Crim 28 of 1988) three accused persons were sentenced to terms of seven years imprisonment each for causing grievous harm by cutting the penis of the victim circumferentially. In *R v Anna* (Crim Side 8 of 2004), the accused was sentenced to ten years imprisonment for stabbing the victim with a knife causing a ten cm penetrative wound which caused active bleeding in the thorax and air escaping from the wound. In *R v Norah* (2008) SLR 309 a sentence of five years and a fine of SR 15,000 imposed. However in *R v Hoareau* (Crim Side 100 of 2004), a brutal attack by the accused on the victim leaving him in a pool of blood to die only saw a sentence of four years being imposed.

[12] I cannot therefore identify any uniformity in sentencing patterns in reported cases although anecdotally it is generally known that offences of this kind with injuries as in the present case attract sentences of between three and seven years. Having considered the circumstances in which the accused inflicted the injuries on the victim and the severity of the injury I impose a sentence of four years and in addition a sum of SR 10,000 is to be paid by the accused to the victim as compensation in terms of section 151 (b) of the Criminal Procedure Code. Default of payment of the fine will result in a further term of six months imprisonment to be consecutive to the term of four years imposed for the offence. The fine is to be paid within six months.

[13] Time spent on remand shall count towards sentence. The accused can appeal within 30 working days.

Signed, dated and delivered at Ile du Port on 9 November 2018

M Twomey
Chief Justice