IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 59/2017

[2018] SCSC 1054

THE REPUBLIC

versus

JONATHAN GEERS & ORS
Accuseds

Heard:	10 November 2018
Counsel:	Mr. Thachett, State Counsel for the Republic Mr. Juliette for the first accused Mr. Gabriel for the second accused Mrs. Amesbury for the third accused
Delivered:	10 November 2018

RULING

Vidot J

[1] At the end of the prosecution's case the Counsel for the defence raised a submission of no case to answer. They raised several grounds. These include that the medical evidence does not support this Charge of serious injury as there was no serious injuries caused on the victim. Secondly that the victim did not testify, and thirdly that there was specific intent. Nowhere is it established that the Accused intentionally harmed Damien Pierre,

and fourthly as far as the third and first accused is concerned Counsel raised Section 22 (a) of the Penal Code.

[2] The principle for consideration on a submission of no case to answer are well settled in the case of *R vs Galbraith [1981] 73 Cr.App. R.* In that case it was held that for such submission to succeed the Court should be satisfied that;

(i) There is no evidence that the crime was committed by the accused, or

(ii) The evidence adduced is in consistent and tenuous in nature; or

(iii) The jury properly directed could not convict on the evidence.

[3] The principles laid down in *R vs Galbraith* were adopted in several domestic cases, these include *R vs Stiven [1971] SLR 137, R vs Marengo [2004] SLR 166, R vs Mathombe No. 1 2006 SLR 32,* and more recently in *R vs Hoareau SR 79 0of 2014.* Therefore at this stage the Court decides whether as a matter of law there is sufficient evidence on which sufficiently directed jury may convict. In the case of *R vs Hoareau* the Chief Justice Twomey makes reference to *Green vs Republic 1972 SLR 55* in which Sauzier J had the following to say in respect of what constitute evidence as provided for under Section 294 (1) of the Criminal Procedure Code;

> *"The consideration which apply at that stage are purely objective and the trial Court is not asked to weigh the evidence. At that stage it is only necessary for it to find that a reasonable Tribunal might convict."*

[4] I do not believe that the argument put forward by Counsel for the accused is meritorious. Medical evidence did establish that unless the injury were attended to it was fatal and secondly the victims do not have to testify in a case of this nature on specific intent. I find that the evidence does show that there was intent on the part of the Accused to commit to the offence.

[5] As regards to Section 22 (a) of the Penal Code based on the principles laid down in *Galbraith,* this argument is at that stage without merit. The accused participated in the

act that causes harm to Damien Pierre, and they are deemed to have taken part in committing the offence. At this stage this is all that the prosecution needs to establish.

[6] Therefore I rule that the accused has a case to answer.

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

M Vidot
Judge of the Supreme Court