

**SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2019] SCSC 123  
CO 05/2018

In the matter between:

**THE REPUBLIC    Republic**  
*(rep. by Ananth Subramaniam)*

and

**SELVIN ALVIN JEANNE    Accused**  
*(rep. by Joel Camille)*

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**Neutral Citation:** *Republic v Jeanne* (CO05/2018) [2019] SCSC 123 (21 February 2019).

**Before:** Burhan J.

**Summary:** Convict sentenced to 2 years imprisonment and fine of SR15,000/-. Factors considered in mitigation – Plea of guilt at first instance – aggressive conduct on the part of the victim – fact that victim too was armed with a piece of wood at the time the incident occurred.

**Heard:** 4 February 2019.

**Delivered:** 21 February 2019.

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**SENTENCE**

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**Burhan J**

[1] The convict Selvin Alvin Jeanne pleaded guilty to the offence of causing grievous harm. He faces a maximum of 10 years imprisonment.

[2] At the request of his Learned Counsel, a probation report was called and thereafter Learned Counsel made a plea in mitigation on his behalf. I have considered the facts contained in the probation report and the plea in mitigation made by Learned Counsel.

- [3] The convict according to the report is 39 years of age has a partner and two children aged 10 years and 4 years. After being employed as a mechanic, the convict has started his own boat construction business since 2005. It appears that the convict had worked for the victim earlier. The victim had loaned the convict money which he had failed to repay. It is apparent from the report that the victim had suffered a cut injury on his face that required stitches as shown in photographs annexed to the docket.
- [4] In mitigation, Learned Counsel on behalf of the convict stated he was a first offender and the convict had saved the time of Court by pleading guilty at the very outset of the case, thereby expressing remorse and regret at the incident and also saving the time of Court. I am inclined to agree with Learned Counsel for the defence on these issues and that these are strong factors in mitigation for the convict and by pleading guilty the convict is expecting leniency. Further on observation of the medical report, I note that there was an injury on the left side of the face of the victim which injury from the photographs tendered is of a serious nature. It is Learned Counsel for the convict's contention that this was not a planned or concerted attack on the victim by the convict but something which happened on the spur of the moment when he was confronted by the victim. The convict had acted when he lost his nerve on being confronted by the victim not to use the roadway. He had acted in panic when the victim had held him and turned him around preventing him from using the roadway when visiting a friend.
- [5] I have considered the facts before me in mitigation. In the case of ***Republic v Kurt Loizeau & Ors*** 2018 SCSC 134 which was an unprovoked attack on the victim the convict was given 3 years imprisonment by this Court which was upheld by the Seychelles Court of Appeal. Unlike the *Loizeau* case, I observe the victim in this case had reacted aggressively to the convict using a private roadway on his property when visiting a friend. The victim as per his own statement filed in the case docket had reacted by putting his two hands on the convict and turning him around not once but twice in order to prevent him using the said roadway. This fact is not challenge by the prosecution nor denied. Further unlike the *Loizeau* case in which the victim was unarmed and unable to defend himself against three persons, I observe the victim in this case had armed himself with a piece of wood when he saw the convict with a knife in his hand as borne out by the

victim's statement to the police. I would also consider the fact that the victim in the *Loizeau* case suffered 5 facial fractures very many more injuries than the victim in this case. Further, the convict in this case pleaded guilty without proceeding to trial and not half way during trial, thereby expressing remorse at the very first opportunity he got.

[6] I also observe that in the *Loizeau* case a charge of grievous harm under section 219 of the Penal Code was reduced to unlawful wounding but the same was not done in this case even though the circumstances in the *Loizeau* case were more aggravating in nature than this case. On the facts before Court, I am of the view that similar thought should have been given to this case as well by the prosecution.

[7] Be that as it may, having considered all the aforementioned factors in mitigation together with the serious nature of the injury caused to the victim and the manner it was caused, I proceed to sentence the convict on Count 2, to a term of 2 years imprisonment and a fine of SR 15,000/= ((fifteen thousand). I further order that from the said fine in terms of section 151(1) (b) of the Criminal Procedure Code, a sum of SR 14,000 (fourteen thousand, be paid to the victim as compensation. In default of payment of the fine of SR 15,000/=, the convict is to serve a term of 6 months imprisonment consecutive to the term of two years imprisonment imposed in Count 2.

Signed, dated and delivered at Ile du Port on 21 February 2019.

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Burhan J