

IN THE SUPREMECOURT OF SEYCHELLES

Reportable
[2019] SCSC 186
CO 65/2018

REPUBLIC
(rep by David Esparon)
and

Prosecution

KALUHARATH C. N. KEERTHIRATHNA
(rep. By William Herminie)

Accused

Neutral Citation: *Republic v Kaluharath C,N. Keerthirathna* CO 65 of 2018 delivered on 08 March 2019

Before: **Vidot J**

Summary: Fishing without a foreign fishing license, contrary to section 58(a) of the Fisheries as amended by Act 20 of 2014

Heard: 05 March 2019

Delivered: 08 March 2019

ORDER

SENTENCE

VIDOT J

[1] The Accused was charged and convicted of the following offence on his own guilty plea;

Statement of offence

Fishing without a foreign fishing vessel license, contrary to section 58(a) of the Fisheries Act as amended by Act 20 of 2014 and punishable under the same

Particulars of Offence

Kaluharath Chamil Niroshan Keerthirathna of the fishing vessel Subapathum 1, a Sri Lankan national, being the captain of the vessel which has not been licensed or authorized to be used for the purposes of fishing, used the said fishing vessel for fishing in Seychelles waters on 05th November 2018.

- [2] The Accused is a first time offender. He pleaded guilty to the charge and therefore saved the precious time of the court and showed remorse. In mitigation Counsel for the Accused pleaded for leniency. He stated that his client entered Seychelles waters in order to assist a vessel in distress. He only fished 3 red snappers (bourgeois).
- [3] I see no reason for them to have fished 3 red snappers when there were other fish on board. The likelihood is that most if not all the fish on board was fished within the Seychelles waters. Mr. Herminie argued that they wanted to have a taste of red snappers. That to me was a lame excuse and how would they know that if they dropped their lines they would get red snappers only.
- [4] Nonetheless, I have considered all mitigating factors of this case. However, the fact remains that this type of offences are becoming too frequent. It is a violation of Seychelles sovereignty and needs to be urgently addressed. We cannot allow others to steal our resources and concerted action to prevent and prosecute those violating our sovereignty is long overdue. The coast guard with limited resources is trying to apprehend those who are committing these offences. The law provides for severe penalty and is testimony that such offences are viewed as being serious.
- [5] I have also considered that in meting out sentence, the Court has to bear in mind that classic principle of sentencing is deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990]SLR 47**. I also bear in mind the principle of proportionality of sentence. The fact that he has pleaded guilty and thereby saving the Court's precious time will earn him credit and I have therefore taken that into consideration.

[6] Therefore I sentence the Accused as follows;

(a) Pay a fine of Seychelles Rupees Two Hundred Thousand Rupees (SR200,000.00) payable within a month from this sentence, failing which he shall undergo a term of 12 months imprisonment.

(b) The fishing vessel Subaphum 1 and all fishing gears and fish found on board at the time of arrest shall be forfeited to the state.-

[7] The Accused has a right of appeal against this sentence within 30 working days thereof.

Signed, dated and delivered at Ile du Port 08 March 2019

Vidot J