

SUPREME COURT OF SEYCHELLES

Reportable

[2019] SCSC 518

CO 31/2018

In the matter between:

REPUBLIC

(rep. by Guilmette Bootna)

and

MATHIEU MOREL

(rep. by Vanessa Gill)

ACCUSED

Neutral Citation: *Republic v Mathieu Morel* CO 31/2018 [2019] SCSC 518 28 June 2019.

Before: Dodin J

Summary: Sentence Assault – girl under the age 15-14 years

Heard: Mitigation- 28 June 2019

Delivered: 28 June 2019

SENTENCE

DODIN J

[1] The Convict, Mathieu Morel, stands convicted of one count of sexual assault contrary to Section 130 (1) read with Section 130 (2)(d) and Section 130 (3)(b) and punishable under Section 130 (1) of the Penal Code.

[2] The facts which resulted in the conviction are well set out in the judgment delivered by this Court on 31st May 2019. Suffice to state that the Convict had sexual intercourse with N.L, a girl under the age of 15 years.

- [3] Learned Counsel for the Convict moved the Court in mitigation to consider imposing a lenient sentence which would permit the Convict to continue to work and provide for his children and partner and so that the Convict can continue on the detox program which he is currently undergoing due to his past use of drugs.
- [4] Learned Counsel for the Convict called the mother of N.L who stated that she has forgiven the Convict who is the father of her last 2 children and that before the conviction they were on the path to rebuild their lives together after having struggled with drug abuse for several years.
- [5] Learned Counsel further submitted that the Convict has always been a quiet and kind person who co-operated throughout the investigation and trial and a harsh sentence would lead to serious effect on the family of the Convict and on the Convict personally who is vulnerable to relapse and depression.
- [6] Probation Services submitted a report after conducting some investigations and concluded that in view of the Convict having been found guilty of the offence charged the punishment to be imposed by the Court should also have a component of deterrence due to the aggravated nature of the offence.
- [7] I have considered the mitigation submission made on behalf of the Convict and the Probation Services Report as well.
- [8] The Convict is a first offender, aged 28 years old. The offence was committed 5 years ago when he was 23 years old. Despite the Convict's abuse of drugs over the years, he was in gainful employment and he has now embarked on the methadone program with the aim of detoxication and having a drug free life. Being relatively young, he made the right choice and that is encouraged.
- [9] However, there is also the aggravating side of the offence.
- (1) The Convict maintains his innocence and therefore has shown no remorse in respect of his act against the victim.
 - (2) The offence involved a minor child below and the age of 15 years.

(3) The Convict was and apparently still is in a relationship with the victim's mother and therefore had some authority over the victim which he abused in order to commit the offence.

(4) The Convict used force to subdue and tied up the victim.

(5) The Convict used threats to secure the silence of the victim after the commission of the offence.

[10] The Court must therefore consider these aggravating factors in arriving at a sentence which is appropriate for this crime.

[11] Section 130(1) of the Penal Code provides for a sentence of not less than 14 years and not more than 20 years for the offence committed by the Convict in this case.

[12] Although that range of sentence seems harsh, it also reflects the desire of society to protect our young and vulnerable children against such abuse by adults who should in fact be protecting them. In the circumstances of this case, a sentence of imprisonment is necessary.

[13] I therefore impose a sentence of 14 years imprisonment on the Convict.

[14] Any time spent on remand shall form part of the sentence.

[15] The Convict is entitled to remission.

Signed, dated and delivered at Ile du Port on 28 June 2019

Dodin J