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IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO J13/2015

[2019] SCSC 939

THE REPUBLIC

versus

A [REDACTED] N [REDACTED]
Accused

Heard: 10th October 2019
Counsel: Mary Madeleine, Attorney General for the Republic
Anthony Juliette for the accused
Delivered: 24th October 2019

SENTENCE

L. Pillay, J

- [1] The Defendant has pleaded guilty to the charge of indecent assault.
- [2] The charge is as follows:

Statement of Offence

Indecent Assault Contrary to Section 135 (1) of Penal Code.

Particulars of Offence

A [REDACTED] N [REDACTED] a student of 15 years of age residing at [REDACTED] Mahe, and [REDACTED] a student of 13 years of age residing at [REDACTED] Mahe, on the 3rd day of September, 2014, indecently assaulted [REDACTED] by means of touching her breast, touched her vagina and tried to remove her clothes.

- [3] We have considered all the circumstances of this case as brought out by both prosecution and defence.
- [4] The Defendant has pleaded guilty and saved the time of the Court. He is a first offender and was 15 years old at the time of the incident now 20 years old.
- [5] Counsel has adopted the mitigation of 13th September 2018 pleading for leniency.
- [6] Probation services has provided court with a very comprehensive pre-sentence report with a recommendation for a suspended sentence. The Defendant has accepted that he committed the offence and he has explained to Probation Services the circumstances in which the offence was committed, we note that he accepted that he and the co-accused were provoked by the victim in that she cast aspersions on their sexual prowess. To be clear, we are not, in any way, condoning their acts nor are we suggesting that the victim's provocation was an invitation for the Defendant to assault her.
- [7] We note that the victim has stated that she wishes the Court to impose a sentence that will deter the Defendant from committing such acts in the future.
- [8] The circumstances of this offence show that is one where the principle of personal deterrence must be applied.
- [9] Having considered all the circumstances of this case we find that there are no aggravating factors that would justify a sentence of immediate imprisonment.
- [10] We find that it is appropriate in this case to place the Defendant on probation. We accordingly place him under Probation Supervision for a period of 2 years.

[11] In accordance with section 5 (2) (c) of the Probation of Offenders Act he shall be obliged to comply with the following conditions during this period of Probation:

- (i) Having regard to the circumstances of this case he shall refrain from repeating similar offences;
- (ii) He shall attend counselling sessions as and when required by the Probation Officer;
- (iii) The Probation Officer shall assist the Defendant to maintain employment during the period.
- (iv) Should he break these conditions within the prescribed period then he shall be brought before this court for any sentence authorized by law in accordance with section 7 (4) of the Probation of Offenders Act.
- (v) The Director of Probation Services shall be informed of this order and shall carry out the supervision as stated above. The Defendant is directed to report to the Director of Probation Services for initial action as from the next working day after the date of this order.
- (vi) The Director of Probation Services shall further provide a report on the progress of the Defendant to the Court every six month, the first report in April 2020.

Signed, dated and delivered at Ile du Port on 24th October 2019



Mr. Andre Valmont

Member



Judge Laura Pillay

Judge



Mrs. Colette De Comarmond

Member