

SUPREME COURT OF SEYCHELLES

Reportable

[2020] SCSC 7
CO57/2019

In the matter between

THE REPUBLIC

(rep. by Corrine Rose)

and

Francesco Nibourette

(rep. by Clifford Andre))

Neutral Citation: *R v Nibourette* (CO 57/19) [2020] SCSC 7 (14 January 2020)

Before: Twomey CJ

Summary: unlawful possession of 56 grams of cannabis with rebuttable presumption of having the same with intent to traffic- plea of guilty-sentence

Heard: 25 October 2019

Delivered: 14 January 2020

SENTENCE

The convict is sentenced to a term of a term of six (6) months imprisonment suspended for a period of two (2) years. The convict is to pay a fine of SR Ten Thousand. Default in payment of the fine by 30 January 2020 will result in the convict serving a term of 6 months imprisonment.

TWOMEY CJ

- [1] The convict, Francesco Nibourette has pleaded to the charge of being in possession of a quantity of 56 grams of cannabis contrary to section 9(1) read with section 19(1) (d) of The Misuse of Drugs Act 2016 and punishable under section 7 (1) specified in the Second Schedule to the said Act (hereinafter MODA).
- [2] The cannabis was found in his possession, with the amount giving rise to a rebuttable presumption of having been in his possession with intent to traffic. He pleaded guilty to

the charge with the reservation that the cannabis was for his own consumption and that of his mother who uses it for a medical ailment.

[3] I have considered the submissions made by both learned Counsel and especially the mitigation of sentence in respect of the convict.

[4] The convict is twenty-one years old, and a first time offender. He currently lives with his partner and their two- month old daughter. He is unemployed and not financially stable. He was, until charged with the offence with which he has been convicted, working as an immigration officer at the Immigration and Civil Status Section. He expressed regret for the offence and asked the court for forgiveness. He stated that the drugs were for his personal consumption. He is pleading for another chance to rebuild his life.

[5] I am guided by the agreed guidelines for such offenders issued in 2016. I also have at this juncture drawn my attention to section 47 of MODA which provides in relevant part:

“47 (4) In sentencing a person convicted of an offence under Section 8 of this Act, the Court shall not impose a sentence of imprisonment unless satisfied that a non-custodial sentence is inappropriate in all the circumstances.”

[6] In this respect, I take into consideration the mitigation speech by learned counsel on behalf of the convict. I also note that the convict is a first offender. Further, at the very outset of the case, he has pleaded guilty, thereby expressing remorse and regret. He expects the mercy and leniency of the Court.

[7] Moreover, in the present case I note that none of the aggravating factors as set out in Section 48 of MODA are present, while there are in fact several of the mitigating factors as set out in Section 49 of MODA

[8] In the circumstances, for the purpose of deterrence of similar offences by the convict, I sentence him to a term of a term of six (6) months imprisonment which I suspend for a period of two (2) years. I also order the convict to pay a fine of SR Ten Thousand. Default in payment of the fine by 30 January 2020 will result in the convict serving a term of six (6) months imprisonment.

Signed, dated and delivered at Ile du Port on 14 January 2020

Twomey CJ