

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 301.
CO 63/2018

In the matter between:

THE REPUBLIC
(rep. by David Esparon)

Republic

and

ROBERT LAI LAM
(rep. by Nichol Gabriel)

Accused

Neutral Citation: *Republic v Lai Lam* CO 63/2018 [2020] SCSC 05 June 2020

Before: Burhan J

Heard: 29th May 2020

Delivered: 05 June 2020

ORDER

Convict sentenced to 2 years imprisonment on Count 2 and a fine of SCR 100,000/- from which a sum of SCR 90,000/- to be paid to the concubine of the victim as compensation.

SENTENCE

BURHAN J

[1] The convict Robert Roland Lai Lam has been convicted on the following Count:

Count 2-

Causing death by dangerous driving contrary to and punishable under section 25 of the Road Transport Act.

The particulars of the offence are that Robert Lai Lam of Copolia, Mahe on the 20th October 2018 at Palm Street Victoria Mahe caused death of another person, namely Nagib

Renaud, by driving motor vehicle, having registration number S17801, on the road at a speed or in a manner which was dangerous to the public.

- [2] In accordance with section 25 of the Road Transport Act, a person convicted of such an offence is liable to a maximum term of 5 years imprisonment.
- [3] The Learned Counsel for the convict in mitigation drew the attention of court to the age of the convict being 46 years old and the fact that he is the father of a 6 year old daughter. He also drew the attention of court to the sentencing patterns in several cases and submitted that suspended sentences and fines had been imposed in respect of the offence of dangerous driving. I observe that in the cases of ***Republic v Brain Bernard Ravigna [2019] SCSC 978*** and ***Republic v Terrence Stravens [2018] SCSC 121*** the convicts were convicted of causing death by negligent driving under section 24(1)(b) of the Road Transport Act and not dangerous driving. Further, in ***Republic v Oreddy CO 23/2014*** the convict was sentenced to a term of 6 months imprisonment as the deceased was his own concubine. The facts of this case, however, are aggravated in nature in comparison to the facts in the aforementioned cases. The fact that the victim was in the lane the convict's vehicle was travelling, has already been taken into consideration by court and was one of the main reasons the convict was convicted of the lesser charge, namely dangerous driving and not manslaughter. The Learned Counsel in mitigation stated that the time spent in remand before and after his conviction totalling a term of four months would suffice and moved the court that no further period of incarceration be imposed on the convict.
- [4] At the request of the Learned Counsel for the convict a probation report was called. The probation report states that the convict had informed them he had pleaded guilty, which is erroneous as the convict was found guilty and convicted after trial. The convict according to the report has studied art and design in England and had worked in his family business Lailam Pty Ltd as the General Manager. Thereafter, he had worked as a freelance photographer and later done horticulture and the business of exportation of Shark fins to Hong Kong.
- [5] On being interviewed by the probation officer, the mother of the child had stated that the incarceration of the father, the convict, would have a huge impact on the child. The

probation report also refers to the close bond between the convict and his daughter. It also is apparent from the report that the mother of his six year old daughter and the convict are not living together but both are still on talking terms.

[6] It further appears from the probation report that the death of the victim had greatly affected the victim's mother as her son was paying the housing loan and maintained her. It is also apparent from the report that the victim's partner, a nurse by profession was five months pregnant at the time of the incident. She had stated the accident had affected her mentally, financially and emotionally as both the deceased victim and she had been looking forward to the birth of their child. The evidence clearly indicates that the convict had not only been driving in a dangerous manner but had after hitting the victim, who had been thrown a considerable distance as borne out by the video footage, the convict had stopped his vehicle but soon thereafter, driven off despite pleas that the victim be taken to hospital. It is also apparent that this act of driving off had also resulted in considerable delays in investigations in the case. It is borne out by the evidence of Officer Sylvette Lemiel who states that they had taken his blood sample only in the afternoon of the 20th of October 2019 at 1.28 p.m., after they had arrested him at his home in Copolia at 9 a.m., when the evidence indicates that the accident had occurred around 4.26 a.m. in the morning.

[7] In the case of *Barreau v R* [2015] SCCA 45, where the convict was convicted for manslaughter after having consumed a controlled drug Cannabis, the Seychelles Court of Appeal held that a term of four years imprisonment was appropriate. In this instant case, the convict has been convicted of a lesser offence, namely causing death by dangerous driving. In the case of *R v Richo Chetty* [2018] SCSC 244, the convict was sentenced to a term of 3 years imprisonment after being found guilty of dangerous driving after consuming controlled drugs. Having considered the mitigating and the aggravating circumstances of this case as set out above, I observe that the convict in this instant case was not under the influence of controlled drug nor alcohol, though, convicted of the offence of dangerous driving. I therefore proceed to sentence the convict to a term of two years imprisonment on Count 2. I also impose a fine of SCR 100,000/= (One Hundred Thousand) and order under section 151(1) of the Criminal Procedure Code that a sum of SCR 90,000/= (Ninety Thousand), be paid as compensation to the partner of the victim who was pregnant

at the time of the incident as mentioned in the probation report. I also make order that in default of payment of fine a term of 6 months imprisonment be imposed to run consecutive to the 2 years imprisonment imposed on Count 2.

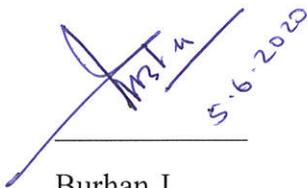
[8] Time spent in remand to count towards sentence.

[9] I also make order that the driving licence of the convict Robert Lai Lam be suspended for a period of three years commencing from the date hereof.

[10] Licensing Authority to be informed of the cancellation of his driving licence from the date hereof, i.e. 5th June 2020 for a period of three years.

[11] Fine to be paid within a period of 6 months from today i.e. (5th June 2020).

Signed, dated and delivered at Ile du Port on 05 June 2020

A handwritten signature in blue ink, appearing to be 'Burhan J', is written over a horizontal line. To the right of the signature, the date '5.6.2020' is written in blue ink.

Burhan J