

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 479
CO 03/2019

THE REPUBLIC
(rep by Ms Rongmei)

Republic

v

Israel Labrosse
(rep. by Ms Parmentier)

Accused

Neutral Citation: *R v Labrosse* (CO 03/2019) [2020] SCSC 479 (24th July 2020)
Before: Govinden J
Summary: No Case to answer submission; Section 183 of the Criminal Procedure Code.
Heard: Written submissions 20th of June 2020
Delivered: 24th of July 2020

ORDER

For reasons given in the Ruling the Court is satisfied that a prima facie case exists against the Accused person and he has a case to answer.

JUDGMENT

[1] I have considered the submission of learned counsel for the aforementioned accused persons at the close of the prosecution case in support of her contention that the accused person has no case to answer. I have also considered the submission of learned counsel for the prosecution who submitted that the accused had a case to answer.

[2] The accused has been charged with the offences of Trafficking in persons, contrary to and punishable under Section 3(1) (a) and (e) read with Section 5(1) of the Prohibition of Trafficking in persons Act 2014 in three different separate counts.

[3] In the case of **R v Stiven 1971 SLR No 9 at pg 137** it was held what court has to consider at the stage a no case to answer application is made is whether;

- a) there is no evidence to prove the essential elements of the offence charged.
- b) whether the evidence for the prosecution has been so discredited or is so manifestly unreliable that no reasonable tribunal could safely convict

[4] **Archbold in Criminal Pleadings Evidence and Practice 2008 edition at page 492** sets out the principle in a no case to answer application.

“A submission of no case should be allowed where there is no evidence upon which, if the evidence adduced were accepted, a reasonable jury, if properly directed, could convict.”

[5] In **David Sopha & Anor v Republic SCA 2/1991** the Seychelles Court of Appeal held:

“In considering a submission of no case to answer, the judge must decide whether the evidence, taken at its highest, could lead to a properly directed jury convicting the accused. If so, the case should be allowed to go to the jury.”

Though the submission is made, the Learned counsel for the Accused person does not ground the content of her objections on either limbs of the case of *Stivens*. That is, it is not clear as to whether she is asking for dismissal on the ground of lack of credibility or non- proving of an essential element of the offence. It appears to be a mixture of both, with references being made to instances of weaknesses of prosecution witnesses and occasionally lack of proof to sustain the charges, generally. In these kinds of submissions it is highly advisable that the legal basis of the submission should first be made clear and thereafter that this should be accompanied with submissions supporting the existence of the grounds that calls for the dismissal. That as it may, reading the Defence submission as a whole it appears that they are contending that the Prosecution has not managed to come to proof as to some elements of the offence and that some credibility is lacking in the testimonies of some witnesses.

- [6] I have thoroughly considered the submission of No case to Answer and the Reply thereto in the light of the facts led by the prosecution so far. Having done, I find that it cannot be said that the evidence of the prosecution witnesses have been so discredited by cross examination that no reasonable tribunal could convict on it. It also cannot be said that there is no evidence to prove the essential elements of the offences charged.
- [7] Therefore, for the aforementioned reasons this court is satisfied that a prima facie case in respect of the charges exists against the accused and that there is no merit in the contention of defence counsel that the Accused persons in this case has no case to answer. As a result the court is of the view that he has a case to answer in respect of the charges filed against him.
- [8] Therefore, this court proceeds to call for a defence from the accused in respect of the charges levelled against him.

Signed, dated and delivered at Ile du Port on 24th of July 2020.

Govinden J
Judge of the Supreme Court