

**SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2020] SCSC 628  
Cr. S. 42/2020

In the matter between

**THE REPUBLIC**  
*(rep. by Joshua Revera)*

and

**YANNICK LABOUDALLON**  
*(rep. by Nichol Gabriel)*

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**Neutral Citation:** *R v Laboudallon* (Cr. S 42/20) [2020] SCSC 628 (7 September 2020)

**Before:** Twomey CJ

**Summary:** attempt to unlawfully cause the death of another- robbery with violence -  
pleas of guilty-sentence

**Heard:** 17 August 2020

**Delivered:** 7 September 2020

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**SENTENCE**

The Accused is sentenced to eight years' imprisonment on the first count and seven years' imprisonment on the second count. The sentences are to run concurrently. The accused is not entitled to remission.

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**TWOMEY CJ**

[1] The Accused has pleaded guilty to the following charges:

Count I

Statement of offence

Attempts unlawfully to cause of Death of another Contrary to and Punishable under  
Section 207 of the Penal Code Cap 158.

### Particulars of offence

In that, Yanick Janis LABOUDALLON of Union Vale, Mahe, on the 29th day of May 2020, at Castor Road, English River, Mahe, attempted unlawfully to cause the death of another namely Natasha HOAREAU by way of strangling the said Natasha HOAREAU.

### Count 3

### Statement of offence

Robbery with Violence Contrary to Section 280 and Punishable Under Section 281 of the Penal Code Cap 158.

### Particulars of offence

In that, Yannick Janis LABOUDALLON of Union Vale, Mahe, on the 29th day of May 2020, at Castor Road, English River, Mahe, robbed one Natasha HOAREAU of one mobile phone make Samsung A30 valued at SCR3,600/-, and at or immediately before or immediately after the commission of such robbery, used actual violence against the said Natasha HOAREAU by way of strangling the said Natasha HOREAU.

[2] The facts of this case as summarised by Learned State Counsel, Mr. Revera, are that on the 29 May 2020 at 7 am Ms. Natasha Hoareau of English River was going down the ‘*gran peron*’ leading to Castor Road on her way to work when she saw the Accused. She greeted him and suddenly felt something like a wire wrapped around her neck. She struggled to remove what was around her neck but could not. She tried to scream but could not as the “thing” around her neck was too tight. Upon struggling to free herself, she was able to come face to face with her assailant, which she recognised as the Accused.

[3] There were further struggles during which the Accused turned her around and again tightened the wire around her neck. She subsequently was able to elbow him and grab his hair. He went down but pushed her to the ground causing her to fall on her side. He turned her around as she struggled to get free. He then tried to lift her up to throw her

over the railings. She struggled and he pushed her back to the ground and put his hands around her neck in an attempt to strangle her.

- [4] She was able to grab his penis and pinch his belly. The Accused then got up and picked up her phone and ran away with it. Whilst she got up, she saw him turn around and look back at her before going down to Castor Road. The victim then got up and ran to her brother for help who called the police. After getting her medical assistance, they arrested the Accused. He gave a statement under caution admitting to the offence and cooperating with the police.
- [5] The victim gave evidence of the impact of the crime on her. On the day of the incident, she felt distraught, scared and afraid. She did not know what to do. Although there is no medical reason for it, she continues to have problems swallowing and has been told that this is psychological. She stated that since the incident she cannot walk by herself, she now always needs someone to walk with her. She still has nightmares.
- [6] The Accused accepted the facts as stated by Counsel for the prosecution with the reservation that he had pulled her earphone cable and not a wire to wrap around her neck.
- [7] A Probation Report was obtained for the Accused. The Probation Officer states in the Report that the Accused is 27 years old and at the time of his arrest was living with his mother. He has two children aged five and two. He had left school after attending Secondary Five and had then worked as a carpenter for seven years, then as a docker for nine months. He explained that on the day of the incident he had come from Hunt Deltel after having been told that there was no work. He needed drugs as he is an addict and he committed the offences because of the cravings he was having. His intention was to steal the phone but he had not intended to kill the victim. He expressed remorse and apologised to the victim and the court for his behaviour. His mother stated that her son's behaviour was intolerable and she was in favour of a custodial sentence being imposed on him, as he needs to be taught a lesson for his criminal behaviour.
- [8] The Probation Officer also interviewed the victim who explained that she now has to sleep in her brother's bedroom and needs counselling in order to get over her experience.

- [9] It is noted that a drug test was conducted on the Accused on 7 August 2020 and he tested positive for both cannabis and heroin. It is also noted that the Accused was sentenced to two years' imprisonment on 3 November 2016 for the offence of stealing from a dwelling house and was liberated on 1 November 2017.
- [10] In mitigation of the Accused's sentence, his counsel has admitted that he is not a first offender. However, he submits, the Accused has pleaded guilty and has shown remorse for his actions and expects leniency from the court. He is also drug dependent and pursuant to section 39 of MODA is entitled to be assisted to alleviate her drug dependency. He also cooperated with the police.
- [11] The offence with which the Accused is charged is punishable as follows - for the first count of attempting to cause the death of another contrary to section 207 of the Penal Code, a maximum sentence of life imprisonment and - for the second count of robbery with violence contrary to section 280 of the Penal Code a sentence of a maximum of 18 years.
- [12] The Accused's dependency on drugs is also a factor to note given that section 36(4) of the Misuse of Drugs Act 2016 provides that:
- “A person who is charged with an offence under any other written law in circumstances where the offence appears to the Court to be motivated by dependency on a controlled drug shall be identified by the Court as a drug dependent person at the earliest reasonable opportunity and subsequently dealt with as a drug dependent person in accordance with section 39.”*
- [13] Further section 39 enjoins the court when dealing with a drug dependent person to ensure that the person has access to all available treatment and rehabilitation to address his dependency. These services are not in place at the moment.
- [14] In cases of attempted murder and robbery with violence there has been a range of sentences meted out by the court from four years to twelve years depending on the circumstances.

- [15] In *R v Albert* (CO 08/2019) [2020] SCSC 22 (17 January 2020), in case of robbery with violence a sentence of six years' imprisonment was handed down where aggravating circumstances had been present (the use of an offensive weapon in the form of a can of spray which he sprayed into the face of the victim and money stolen). In *R v Fred Emmanuel & another* (unreported), a case of robbery with violence where the victim was wounded with a small knife, the convicts were sentenced to seven years' imprisonment. In *Republic v Jean-Yves Dodin and others* CR01/2018 another case of robbery with violence, a sentence of six years was imposed on the accused. In *R v Xavier Louis*, the accused was convicted of attempted murder after trial and sentenced to eleven years of imprisonment.
- [16] In the present case, the aggravating factors are the violence used, the victim could have been strangled and suffered worse injury or death. Her phone was also stolen.
- [17] Given all the circumstances of the case and the mitigating and aggravating factors, I therefore sentence the Accused to eight years' imprisonment on the first charge and seven years' imprisonment on the second count. The sentences are to run concurrently.
- [18] I further order that the time spent in remand count towards sentence. The accused is not entitled to remission. I also order that he is treated for his drug dependency when a treatment and rehabilitation programme is set up.
- [19] He has the right of appeal against both conviction and sentence within thirty working days of this order.

Signed, dated and delivered at Ile du Port on 7 September 2020.

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Twomey CJ