

**SUPREME COURT OF SEYCHELLES**

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**Reportable**

[2020] SCSC **676**  
CO 47/2019

In the matter between:

**THE REPUBLIC**  
*(rep. by Ananth Subramanian)*

**Republic**

and

**JANE BANANE**  
*(rep. by Joel Camille)*

**Accused**

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**Neutral Citation:** *Republic vs Banane* (CO 47/2019) [2020] SCSC **676** 21 September 2020

**Before:** Burhan J

**Summary:** Obtaining money by false pretence section 297 of the Penal Code.

**Heard:** 31<sup>st</sup> August 2020.

**Delivered:** 21 September 2020

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**ORDER**

**Count 1-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 25,000/ (twenty five thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 18,000/- from the fine to be paid to the complainant Richard Kilindo as compensation.

**Count 2-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 20,000/ (twenty thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 15,000/- from the fine to be paid to the complainant Nerrick Dugassse as compensation.

**Count 3-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 10,000/ (ten thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 8000/- from the fine to be paid to the complainant John Jean Baptiste as compensation.

**Count 4-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 25,000/ (twenty five thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 18,000/- from the fine to be paid to the complainant Joana Mathombe as compensation.

The failure of the convict to pay the fines set out in Count 1 to 4 would result in a default term of six months imprisonment being imposed on each count. The default term of six months on each count to run consecutively.

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## SENTENCE

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### BURHAN J

- [1] The convict Jane Banane was convicted on her own plea of guilt on four Counts of Obtaining money by false pretence contrary to Section 297 of the Penal Code. The particulars of offences set out in Counts 1 to 4 read as follows:

**Count 1-***Jane Banane of La Louise, Mahe during the period of May 2015 to 31<sup>st</sup> July 2015 at Housing Finance Company Limited, Mahe whilst being employed as documentation officer with the Housing Finance Company Limited received a sum of SR 18,000/- (Seychelles Rupees Eighteen thousand only) from one of their customer namely Richard Kilindo of Mont Plaisir, Mahe, by falsely pretending that she was a personal at management level and that the said amount of money obtained was to be used for closure of his loan account held with Housing Finance Company Limited, Mahe.*

**Count 2-***Jane Banane of La Louise, Mahe during the period of May 2015 to 31<sup>st</sup> July 2015 at Housing Finance Company Limited, Mahe whilst being employed as documentation officer with the Housing Finance Company Limited received a sum of SR 15,000/- (Seychelles Rupees Fifteen thousand only) from one of their customer namely Nerrick*

*Dugasse of La Misere, Mahe, by falsely pretending that she was a personal at management level and that the said amount of money obtained was to be used for closure of his loan account held with Housing Finance Company Limited, Mahe.*

**Count 3-** *Jane Banane of La Louise, Mahe during the period of May 2015 to 31<sup>st</sup> July 2015 at Housing Finance Company Limited, Mahe whilst being employed as documentation officer with the Housing Finance Company Limited received a sum of SR 8,000/- (Seychelles Rupees Eight thousand only) from one of their customer namely Jean Baptiste of Beau Vallon, Mahe, by falsely pretending that she was a personal at management level and that the said amount of money obtained was to be used for closure of his loan account held with Housing Finance Company Limited, Mahe.*

**Count 4-** *Jane Banane of La Louise, Mahe during the period of May 2015 to 31<sup>st</sup> July 2015 at Housing Finance Company Limited, Mahe whilst being employed as documentation officer with the Housing Finance Company Limited received a sum of SR 18,000/- (Seychelles Rupees Eighteen thousand only) from one of their customer namely Joana Mathombe of Anse Royale, Mahe, by falsely pretending that she was a personal at management level and that the said amount of money obtained was to be used for closure of his loan account held with Housing Finance Company Limited, Mahe.*

- [2] The convict pleaded guilty to the aforementioned Counts on the 19<sup>th</sup> day of July 2020 and was convicted on her own plea of guilt on all four Counts. Thereafter prior to mitigation court called for a probation report at the request of learned Counsel for the convict Mr. Joel Camille.
- [3] It is apparent from the facts of the case as admitted by the convict that the convict whilst working as a Document Officer with the Housing Finance Company Ltd, received a total sum SCR 59,000/ from four customers namely Richard Quilindo (SCR 18,000/), Nerrick Dugasse (SCR 15,000/), John Jean-Baptiste SCR 8,000/ and Jonah Matombe (SCR18,000/) while pretending or falsely impersonating herself as a personnel from the Management on the pretext that the said money was for the closure of their loan accounts with the Housing Finance Company Ltd.

[4] In mitigation learned Counsel Mr. Joel Camille stated that the convict was a first offender and has pleaded guilty without wasting the time of court. He submitted that she had expressed remorse at what she had done by pleading guilty at the first instance. He moved that a suspended sentence be given as the convict was willing to pay the said sum of money back in instalments. He further submitted that the convict was thirty years of age and a mother of four children.

[5] The probation report confirms the fact that the convict is the mother of four young children and 38 years of age. It appears from the report that the convict had been doing numerous jobs as a waitress, park ranger and purchasing and sales officer. After losing her job at the Housing Finance Company, it appears, she is presently engaged in her self-owned sewing business.

[6] I have considered the fact that the convict is a first offender and has committed this offence due to financial difficulties faced by her and is now willing to pay back the money she has taken from the victims. She is also the mother of four children, the youngest being 16 months old. She has also expressed remorse and regret and pleaded guilty without wasting the time of court. I am therefore inclined not to impose a custodial term of imprisonment but proceed to suspend the term of imprisonment as recommended in the probation report.

[7] I proceed to sentence the convict Jane Banane as follows:

**Count 1-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 25,000/ (twenty five thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 18,000/- from the fine to be paid to the complainant Richard Kilindo as compensation.

**Count 2-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 20,000/ (twenty thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 15,000/- from the fine to be paid to the complainant Nerrick Dugassse as compensation.

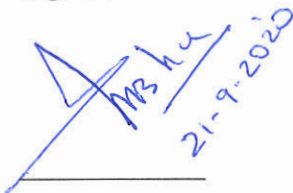
**Count 3-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 10,000/ (ten thousand). In terms of section 151(b) of the Criminal Procedure

Code a sum of SCR 8000/- from the fine to be paid to the complainant John Jean Baptiste as compensation.

**Count 4-** a term of 1 year imprisonment which I suspend for a period of two years and a fine of SCR 25,000/ (twenty five thousand). In terms of section 151(b) of the Criminal Procedure Code a sum of SCR 18,000/- from the fine to be paid to the complainant Joana Mathombe as compensation.

- [8] The failure of the convict to pay the fines set out in Count 1 to 4 would result in a default term of six months imprisonment being imposed on each count. The default term of six months on each count to run consecutively.
- [9] Nature of suspended term of imprisonment explained to convict.
- [10] Convict to pay the total fine of SCR 80,000/ (eighty thousand) in monthly instalments of SCR 5000/ (five thousand) commencing 30<sup>th</sup> October 2020.

Signed, dated and delivered at Ile du Port on 21 September 2020

A handwritten signature in blue ink, consisting of a stylized 'B' and 'J' intertwined. To the right of the signature, the name 'MB J' is written, and below it, the date '21-9-2020' is written.

Burhan J