

**SUPREME COURT OF SEYCHELLES**

---

Redact

[2020] SCSC 776  
CR68/2020

**THE REPUBLIC**

and

**E.AJITH SAMANTHA**

**ACCUSED**

---

**Neutral Citation:** *The Republic vs E .Ajith samantha* (CR68/2020) [2020] SCSC 776[20 October 2020]

**Before:** G Dodin

**Summary:**

**Heard:** [15 July 2020]

**Delivered:** [20 October 2020]

---

**ORDER**

---

**SENTENCE**

---

**DODIN J,**

- [1] The Convict E. Ajith Samantha stands convicted on his own guilty plea of one count of fishing without a Foreign Fishing Vessel Licence Contrary to Section 11(1) read with Section 58 and Section 69 of the Fisheries Act 2014 and punishable under section 58 (a) of the same Act.
- [2] The offence was detected on the 15<sup>th</sup> day of July 2020 between 65 and 70 nautical miles South East of Mahe Platteau. The Vessel Dhammi-01 registration no. IMUL-A-1516MTR, is a Sri Lankan Vessel skippered by the convict, a 44 years old Sri-Lankan national.

- [3] Learned Counsel for the convict moved the Court in mitigation to impose a lenient sentence on the convict who is married and is the father of two daughters, both presently at University in Sri-Lanka. The convict is the sole breadwinner as his wife is unemployed.
- [4] Learned Counsel referred the Court to the case of the Republic v Ramesh Nilanga. CR68/2020. where the convict was fined SCR 400, 000 with SCR 100, 000 to go towards the expenses incurred by the state for maintaining the convict and the crew of the offending vessel.
- [5] The vessel, according to the survey conducted by Mr. I.N Basset, has a length of 13.8 metres and a beam of 2.78 meters. It was recently built, in 2017 and its value is estimated at SCR500, 000.
- [6] Under Section 58 (a) of the Fisheries Act, for a vessel with overall length not exceeding 24 metres, the sentence should be a fine not less than SCR 2, 500, 000.
- [7] As stated in the case of Republic V Atoomani CR19/2020 [2019] CSC 584 (15 July 2019) with reference to the trend setting case of Ponoor V Attorney General (2011) SLR 423, the court should impose a sentence which is proportionate and appropriate for the case. Considering the circumstances of this case and the precedent cases of illegal fishing without a foreign fishing vessel's licence I consider the following sentence to be fair and to commentate with the offence committed.
- [8] I impose as sentence a fine of SCR 300, 000 out of which the expenses amounting to SCR 22,655.24 to be deducted as expenses to be re-imbursed by the state. The fine shall be paid within 30 days of today, failing which the vessel may be sold and the fine shall be deducted from the proceeds of sale with the remainder returned to the convict.
- [9] I further Order the seizure of all fishing gears including storage equipment, nets, lines and any accessories used to conduct illegal fisheries.
- [10] I further Order that the convict be repatriated to his country of origin or residence as soon as the sentencing Order herein are complied with.
- [11] He can appeal against the sentence within 30 working days..

Signed, dated and delivered at Ile du Port on 20 October 2020.

---

A handwritten signature in black ink, appearing to be 'Dodin J', with a long horizontal stroke extending to the right.

Dodin J