

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2020] SCSC ... 950
CR 03/2014

REPUBLIC

(rep. by *Ananth Subramanian*)

Prosecution

and

CLAUDETTE BIJOUX

(rep. by *Anthony Juliette and Karen Domingue*)

Accused

Neutral Citation: *Republic v Claudette Bijoux* (CR 03/2014) [2020] SCSC 950 (23 November 2020).

Before: Vidot J

Summary: Personating a public officer contrary to section 100(b) of the Penal Code and obtaining goods by false pretence contrary to section 297 of the Penal Code

Heard: 09 November 2020

Delivered: 23 November 2020

ORDER

SENTENCE

VIDOT J

[1] The Accused was charged with and convicted on her own guilty plea for the following offences

Count 1.

Statement of offence

Personating a public officer contrary to section 100 (b) of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, during the period from December 2010 to July 2011 falsely representing as a public servant by saying that she is working at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain citizenship for Mr Nicholas Peter Budd and his family by virtue of her employment at the Vice President's Office, State House, Victoria, Mahe.

Count 2.

Statement of offence

Obtaining goods by false pretence contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 23rd December 2010 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R50,000 by encashing a cheque dated 23rd December 2010 bearing no. 226300 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 3.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 23rd December 2010 at Victoria, Mahe, with intent to defraud, obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee,

Mahe, a sum of R50,000 by encashing a cheque dated 23rd December 2010 bearing no. 226301 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain citizenship for the said Nicholas Peter Budd and his family. Are you guilty or not guilty?

Count 4.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 27th December 2010 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R50,000 by encashing a cheque dated 27th December 2010 bearing no. 226302 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain citizenship for the said Nicholas Peter Budd and his family.

Count 5.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 4th January 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R50,000 by encashing a cheque dated 4th January 2011 bearing no. 226303 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State

House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 6.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 4th January 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R50,000 by encashing a cheque dated 4th January 2011 bearing no. 226304 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family. Are you guilty or not guilty?

Count 7.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 11th January 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R50,000 by encashing a cheque dated 11th January 2011 bearing no. 226305 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family. Are you guilty or not guilty?

Count 8.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 24th January 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R45,000 by encashing a cheque dated 24th January 2011 bearing no. 226308 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 9.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 25th January 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R30,000 by encashing a cheque dated 25th January 2011 bearing no. 226310 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family

Count 10.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 27th January 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R75,000 by encashing a cheque dated 27th January 2011 bearing no. 226311 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 11.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 28th February 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R75,000 by encashing a cheque dated 28th February 2011 bearing no. 226314 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family

Count 12.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 28th February 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R75,000 by encashing a cheque dated 28th February 2011 bearing no. 226315 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 13.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 31st March 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R75,000 by encashing a cheque dated 31st March 2011 bearing no. 226321 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family

Count 14.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 21st April 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe,

a sum of R75,000 by encashing a cheque dated 21st April 2011 bearing no. 226322 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 15.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

~~Claudette Bijoux of Belvedere, Mahe, on the 30th June 2011 at Victoria, Mahe, with intent to~~ defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R75,000 by encashing a cheque dated 30th June 2011 bearing no. 226338 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 16.

Statement of offence

Obtaining goods by false pretense contrary to section 297 of the Penal Code and punishable under the same.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, on the 26th July 2011 at Victoria, Mahe, with intent to defraud obtained from Mr Nicholas Peter Budd through Alessandro Pagano of Machabee, Mahe, a sum of R3,000 by encashing a cheque dated 26th July 2011 bearing no. 226345 drawn on the account of the said Alessandro Pagano maintained with the Barclays Bank, Victoria, Mahe, by falsely pretending that she is working as a public servant at the Vice President's Office, State

House, Victoria, Mahe and as such she can obtain the citizenship for the said Nicholas Peter Budd and his family.

Count 17.

Statement of offence

Stealing contrary to section 260 read with section 253(1) of the Penal Code and punishable under section 260 of the Penal Code.

Particulars of offence

Claudette Bijoux of Belvedere, Mahe, during the period of December 2010 to July 2011 stole a sum of R828,000 from Nicholas Peter Budd which is the property of the said Nicholas Peter Budd by fraudulently receiving the said money under the pretext of obtaining citizenship for him and his family. Are you guilty or not guilty?

- [2] In mitigation counsels for the Accused pleaded for leniency. They submitted that the Accused has pleaded guilty thereby showing remorse for the offences committed and saving the Court precious. The Accused is 54 years of age, married with two children. One of the children has passed away. The other son is 25 years old and a marine mechanic on the Seychelles oil tankers. The Accused is of ill health and the hearing of this case had to be aborted on at least one occasion because she had to pursue overseas medical treatment in India. At other times, her medical situation did not allow for the case to be heard. She is on disability benefit allowance and is also a carer. She has also applied for a job at the Indian Ocean Tuna Limited. She is married and her husband is a mechanic.
- [3] The Accused served a 15 months sentence for allied offences and is still paying a monthly fine in the sum of SR15,000.00. Whilst in prison she had time to reflect over the crimes that she did. During that same period she received counselling from the sisters of charity and to that end, since her release from prison she regularly voluntarily works in the kitchen at orphanages managed by the sisters of charity.
- [4] In meting out an appropriate sentence in this case, I have considered all matters in mitigation. I particularly take note of the Accused guilty plea and her age. I take note that

she suffers from ill health. I also take note that this case is rather protracted, but through no fault of the Court. Nonetheless, such protraction was occasioned by certain unforeseen events such as the Accused ill health and the fact that she had to go abroad for treatment. Article 19(1) of the Constitution makes provision for trials to happen within a reasonable time.

- [5] A guilty plea saves the court's precious time and the Accused should earn credit for that and obtain discount from the sentence that would have otherwise been imposed if the case had proceeded through full trial. In **R v Briffery 14 Cr. App. R. (S) 511CA**, Lord Taylor CJ stated that there was no absolute rule as to what the discount should be, but as general guidance, the Court believed that something of the order of one third would be an appropriate discount. **Blackstone's Criminal Practice (2012), paragraph E.12 p2148** provided that a guilty plea would in effect earn an accused a reduction in sentence as it saves time of the court and reduces considerable cost and in case of an early plea, saves inconvenience of witnesses to give evidence before Court, and therefore that "*reduction should be a proportion to the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage in the proceedings.*"
- [6] I have also considered that in meting out sentence, the Court has to bear in mind that classic principle of sentencing is deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990]SLR 47**.
- [7] I have also taken into account the principles of totality proportionality of sentence.
- [8] I proceed to sentence the Accused as follows;
- (i) On count 1 to a term of two and a half (2 ½) years imprisonment suspended for 3 years and to a fine of SR12,000.00 and in default to a term of 6 months imprisonment.
 - (ii) On counts 2 to 17 inclusive to term of two and a half (2½) years imprisonment and to a fine SR12,000.00 on each count and in default to a term of 6 months imprisonment for each count.

- (iii) The Accused may pay the fines by monthly minimum instalments of SR5000.00 until such time that the fine is fully paid.
- (iv) For avoidance of doubt the Accused shall only pay an average minimum of SR5000.00 per month and not SR5000.00 every count.
- [9] If unsatisfied with the sentence, the Accused may appeal against the same within 30 working days from today.

Signed, dated and delivered at Ile du Port on 23 November 2020


Vidot J

