

SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC 679
Cr 96/19

In the matter between

THE REPUBLIC
(rep. by Mr. Revera)

And

Ikando Entertainment (Pty) Ltd rep by
Director Veronique Anna Gonthier
(rep by Mr B Julie)

ACCUSED

Neutral Citation: *The Republic v Ikando Entertainment (Pty) Ltd (Cr 96/19) [2021] SCSC 679*

Before: Govinden CJ

Summary:

Heard: 17th September 2021

Delivered 21st October 2021

ORDER

SENTENCE

GOVINDEN CJ

- [1] The Convict was charged with one count of the offence of issuing cheque without provision contrary to and punishable under Section 299 (A) (1) of the Penal Code. The charge reads as follows;

Count 1

Statement of offence

Issuing Cheque without Provision contrary to Section 299A (1) (a) of the Penal Code. (CAP 158)

Particulars of offence

In that, Ikando Entertainment (Pty) LTD represented by the director Veronique Anna Gonthier of Roche Caiman, Mahe , on the 3rd day of July 2018, issued Mauritius Commercial Bank Cheque number 000546 , in the sum of Seychelles Rupees Three Hundred and Fifty Thousand only (SCR 350,000) TO Monster Garage represented by oits director Vanessa Sylvie Sinon, for the payment of which Cheque there is no sufficient provision.

- [2] The court found Ikando Entertainment (Pty) LTD represented by the director Veronique Anna Gonthier guilty of issuing a cheque without provision contrary to and punishable under section 299 A (1) of the Penal Code as charged and proceeded to convict found Ikando Entertainment (Pty) LTD following a trial.
- [3] The representative and Director of the convict has tendered to the court a written plea in mitigation dated the 27th of August 2021. It is to the following effect:

"I am the first offender.

I am married, 48 years old.

I have 2 children, both of them are dependents on me.

I am self-employed.

Because of the COVID situation I can't even live a normal life.

I have no other resources to maintain the family.

My husband is also not working.

I have a housing loan which I am struggling to repay.

I never had any intention to defraud my friend Vanessa.

We had a special friendly relationship for many years.

With good intention of repaying the amount, I have already paid nearly SR16, 000/-

Also, I have done some construction work with good intention of repaying the amount due on the cheque issued.

Being the statutory offence for which I have been convicted, I pray to your Lordship to consider the following as mitigating factors.

I regret sincerely for what has happened, I agree to compensate the balance left.

As your Lordship has rightly pointed out, that even though I have substantially repaid the amount due on the bounce cheque through cash payments, dollars and construction work because offence is a statutory offence those factors cannot constitute a defense, I beg your Lordship to please consider these factors to mitigate in my sentencing.

Also, I give an assurance to your Lordship that I will never repeat such an act of issuing a cheque before making sure that I have sufficient funds in my account.

In a sense I was negligence for which I apologise.

Moreover, I wish to add that I did not issue a personal cheque. It is a company's cheque, this factor may also be considered by your Lordship to show mercy upon me and not to impose any custodial sentence.

In addition, the virtual complainant is not going to have any financial loss as a result of the pending civil case she has filed against me.

All the peculiar facts which constitute this offence demands your Lordship not to consider this particular offence like any other offences of the same kind of severe or aggravating nature."

[4] I have taken into consideration the mitigating factors as outlined by Ms Gonthier in the light of the facts of this case and having done so the court is of the opinion that the convict has shown a genuine sense of remorse for committing the offence notwithstanding the fact that she has contested the charge. Moreover, the convict is a 1st time offender and the facts shows that the arrangement regarding the issuance of the cheque appears to have been an amicable basis. These mitigates heavily in favour of a lenient sentence.

[5] Ikando Entertainment (Pty) LTD represented by the director Veronique Anna Gonthier is accordingly sentence to pay a fine of Seychelles Rupees 5000.00/- under section 299 A (1) of the Penal Code.

- [6] I further order that the convict pays to the Monster Garage represented by its director Vanessa Sylvie Sinon the sum of SCR 340,000, being the balance admitted by the convict, in mitigation, to be outstanding on the debt on the it owed to the Monster Garage.
- [7] Ikando Entertainment (Pty) LTD shall pay the said fine of SCR 5, 000.00/- not later than 22nd of April 2022 and the compensation by the 22nd of April 2022at 9 am for sentence review.
- [8] The convict may appeal against sentence.

Signed, dated and delivered at Ile du Port on ^{21/5}..... of October 2021



Govinden CJ