

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 756
CO96/2020

THE REPUBLIC
(rep. by Evelyne Almeida)

Applicant

and

JIM PATRICK HOAREAU
(rep. by Joel Camille)

Accused

Neutral Citation *Republic v Jim Patrick Hoareau* (CO 96/2020) [2021] SCSC 756
delivered on 09 November 2021

Summary

Before: Vidot J

Heard:

Delivered: 09 November 2021

RULING

VIDOT J

[1] This Ruling is in respect of a voir dire regarding the admissibility of a statement recorded from the accused by Police Officer Bryna Charles. The statement was witnessed by Officer Jessica Sinon. Learned counsel for the accused objected to the admissibility of the statement as an exhibit on the grounds of voluntariness and that the accused was not informed of his right to access to legal counsel. Learned counsel also submitted that the accused was tricked into making the statement.

[2] Police Officer Bryna Charles who recorded the statement was very forceful in stating that the statement was made voluntarily. She recounted that she formed part of the team that arrested the accused. She was then assigned the duty to record the statement. She testified that she cautioned the accused before starting to record the

statement from the accused. She said that the accused was informed of the reasons for his arrest, his right to remain silent and his right to legal representation.

- [3] Officer Charles further testified that after the interview has been conducted, the accused was invited to make any corrections and additions to the statement. He made none and he voluntarily signed the statement multiple times.
- [4] Officer Sinon corroborated the evidence of Officer Charles. She said that she was present throughout when the statement was recorded. The accused was cautioned and informed of his constitutional rights including right to counsel. She mentioned that the accused gave the statement voluntarily.
- [5] After the prosecution has closed its case, the accused elected to give evidence. He stated that he was on his way to work when he was arrested. The police failed to inform him of the reason for his arrest. He had to make queries to which they responded that he will be so informed once he reaches the Police Station.
- [6] He testified that he was aware that he has right to remain silent and right to legal counsel. So, he asked that he gets legal representation. He said that before the statement was recorded he asked that his lawyer be contacted and requested that he is given his phone, so that could get his lawyer's number but he was denied access to his phone, something which the prosecution witnesses denied.
- [7] He further testified that the night before he had been consuming alcohol and he was not given any water nor food prior to recording the statement, therefore suggesting that he was not in a good frame of mind. He stated that he was told that unless he gives a statement he will be placed in a cell until Monday. The statement was recorded on a Saturday. He said that the statement was not re-read and the officers tried to hide the content of the statement when he was asked to sign.
- [8] The confession of an accused person is admissible in any proceedings and may be given as evidence against him provided it is relevant and is not excluded by the fact that it was illegally obtained. It must not be obtained by oppression to the person who made it and not contrary to Judges Rules and the Constitution. In this case the issues

were that the accused was placed under pressure and was tricked into giving the statement and he was not informed his right to counsel as guaranteed under Article 18(3) of the Constitution.

- [9] Firstly, I shall address the issue of counsel. Both prosecution witnesses testified that the accused was informed of his right to counsel. Despite cross-examination suggesting that this was not the case, they remain resolute in their position. I do believe witnesses for the prosecution. The accused suggested that he told the officers that he has a right to counsel which clearly shows that he was aware of such right. Even if it was true, which I do not believe, it is that he was the one who informed the officers that he has such right, there would have been discussion about his right to Counsel. I do not believe that the accused asked that his lawyer be called and that his request was denied.
- [10] I further note that on the statement the accused even signed an area at the top of the statement which confirms that the accused was cautioned and informed of his constitutional rights.
- [11] The accused further complains that he did not make the statement voluntarily. He said he was tricked by the officers to make statement. He made many averments which were not put to prosecution witnesses when cross-examined. That includes suggestions that he is the one who being aware of his constitutional rights had informed the officers that he has a right to counsel.
- [12] The accused also testified that the statement was not re-read to him; something that was not put to the prosecution witnesses. Similarly, averments that the officer placed her hand on the paper so as not to allow him sight of the content of the statement at the time he was made to sign. Allegations that he was told that he will remain in a cell until he gave and signed a statement was also never put to Prosecution witness.
- [13] I note that the accused failed to make any contemporaneous complaint, not until now against the two officers that they recorded the statement when he was under pressure when he gave the statement; see Republic v Robin Paul Raoudy CO 24/2014 SCSC 220/2016 (delivered on 1st April 2016). Further there are no material contradictions

observed in the evidence witnesses which has been tested through cross-examination.
Therefore, I proceed to rule that the statement may be admitted as exhibit.

Signed, dated and delivered at Ile du Port on 09th November 2021.

M. Vidot J