

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC
CO 39/2021

In the matter between:

THE REPUBLIC
(rep. by Corinne Rose)

Republic

and

CE
(rep. by Danny Lucas)

Accused

Neutral Citation: *Republic v CE* (CO 39/2021) [2021] SCSC 814 (30 November 2021).

Before: Burhan J

Summary: Sexual Assault on a Minor aged 14 years. Plea of guilt. Expression of remorse. Six years imprisonment imposed.

Heard: 09 November 2021

Delivered: 30 November 2021

ORDER

Accused sentenced to six years imprisonment.

SENTENCE

BURHAN J

[1] The accused CE was convicted on his own plea of guilt for the following offence:

Count 1

Sexual assault contrary to Section 130 (1) as read with Section 130 (2) (d) of the Penal Code and punishable under Section 130 (1) of the Penal Code.

Particulars of offence are that, Mr. CE of [Redacted], in April 2020 at [Redacted], sexually assaulted another namely Ms. DE aged 14 years old at the time of the incident by inserting his penis into the vagina of Ms. DE for a sexual purpose.

- [2] At the request of his learned Counsel Danny Lucas a probation report was called. According to the said report the accused was born on the 05th of January 1992. He is presently living with his mother. He was previously employed as a Police Officer but had to leave the Force due to this incident. It appears that the offence committed by the accused has had a negative impact on the family of the victim and the victim. Although the contention of the accused was that he had a relationship with the victim, this cannot be accepted as she is a minor aged 14 years old and he being a Police Officer would have been 28 years old at the time of the offence being committed and should have known the serious consequences of his actions.
- [3] The main mitigating factor is that the accused pleaded guilty thereby expressing remorse and regret at what he has done. I will consider this fact as it has prevented the victim from the trauma of giving evidence in Court.
- [4] I have also considered the plea in mitigation made on behalf of the accused by his learned Counsel. He submitted the accused has pleaded guilty and not wasted the time of Court but accepted his guilt. He moved Court that a lesser term of imprisonment or non-custodial term or suspended term of imprisonment be imposed on the accused as he has expressed remorse at what he has done which is even borne out in the probation report. He also moved that if a sentence of imprisonment be imposed that it be of short duration as that would give the accused an opportunity to rehabilitate himself and reintegrate himself into society. It is clear to this Court, the accused now expresses remorse at the incident but even though there was no force or deceit used in the commission of the offence, it is to be borne in mind that the consent of the victim does not amount to a defence considering her age and nature of the offence committed in this case.
- [5] The usual sentences imposed for such offences committed under similar circumstances range from six to eleven years imprisonment. **R v J [2021] SCSC 586, R v WV [2017] SCSC 222 and R v YL [2017] SCSC1219.**

[6] Considering the seriousness of the offence and the fact that it was committed by the accused when he was a Police Officer, I am of the view that a custodial term of imprisonment should be imposed to indicate to the accused the seriousness of the offence and to serve as a future deterrent to other persons. Giving due consideration to all these facts, I proceed to sentence the accused to a term of six years imprisonment on Count 1. Time spent in remand to count towards sentence.

[7] Right of Appeal explained.

Signed, dated and delivered at Ile du Port on 30 November 2021.

M Burhan J