

SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC 864

CO 91/2021

In the matter between:

THE REPUBLIC

(rep. by Evelyne Almeida)

Republic

and

WINNIE EDITH NAKIGANDA

(rep. by S. Rajasundaram)

Accused

Neutral Citation: *Republic v Nakinganda* (CO 91/2021) [2021] SCSC 864 (10th December 2021).

Before: Burhan J

Heard: 24th November 2021

Delivered: 10th December 2021

ORDER

Convict sentenced to six years imprisonment.

SENTENCE

BURHAN J

[1] The convict Winnie Edith Nakiganda was convicted on her own plea of guilt for the following offence:

Count 1

Importation of a controlled drug contrary to section 5 of the Misuse of Drugs Act 2016 and punishable under the said section 5 as read with the Second Schedule of the Misuse of Drugs Act 2016

Particulars of offence are that, Winnie Edith Nakiganda (a Ugandan citizen holding passport number B1085749) on the 27th August 2021, on flight ET879 coming from Addis Ababa, imported into Seychelles a controlled drug namely Diamorphine (Heroin) with a total net weight of 460.78grams.

[2] At the request of learned Counsel Mr. Rajasundaram a probation report was called. The probation report refers to the fact that the convict is 29 years old and a Ugandan national. She is married and having two children aged six years and two years. The report states that the convict has a diploma from the Institute of Datamine Technical Business School. She has been employed as a cashier, receptionist and thereafter opened her own boutique selling clothes and shoes. According to the report, it appears the convict suffers from depression and it was suggested to her that she should travel to ease her mind of worries. It was her sister and a friend who had assisted her to prepare for this trip and it was this friend that had given the suitcase that contained the controlled drugs to her. The probation report recommends that the minimal custodial punishment be given to her while at the same time recommending that some sort of punishment for future deterrence be given.

[3] Learned Counsel for the convict Mr. Rajasundaram made a plea in mitigation on behalf of the convict thereafter. The main grounds urged by learned Counsel were that the convict had pleaded guilty at the first opportunity thereby expressing remorse and regret at the incident. He further submitted that his client had received the bag to travel that

contained the controlled drug from a friend of her sister. He further submitted that she had decided to travel to ease her mind of depression which she suffered from.

[4] On the facts before court, I am satisfied that the convict has expressed remorse and regret by pleading guilty at the very outset, thereby expecting leniency from court. She is a first offender. In regard to the quantity found in her possession at the time of importation the government analyst report indicates the pure quantity weight of heroin is 460.78 grams. This court is of the view that as the quantity is in excess of 250 grams, the offence is an aggravated offence. It is also apparent from the plea in mitigation that the controlled drug is a Class A drug Heroin and it was not for the personal consumption of the accused. Considering the quantity taken into custody in this case, I am inclined to impose a custodial term of imprisonment.

[5] Having considered all the aforementioned facts, the fact she is a first offender, the total quantity of controlled drug and giving due consideration to her immediate plea of guilt, her medical condition of depression and the fact she will not be entitled to remission, I proceed to sentence the convict as follows.

On Count 1 to a term of six years imprisonment.

[6] The convict is not entitled to remission due to the aggravated circumstances of the case. Time spent in remand to count towards sentence.

[7] Right of appeal against sentence explained to the accused.

Signed, dated and delivered at Ile du Port on 10th December 2021.

M Burhan J