

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC ...
CR 94/2020

REPPUBLIC
(rep. by Joshua Revera)

Prosecution

and

L. L
(rep. by Karen Domingue)

Accused

Neutral Citation: *Republic v LL*; CS94 of 2020, [2021] SCSC delivered on 14 May 2021

Before: Vidot J
Summary: unlawful abortion
Heard: 19 March and 14 May 2021
Delivered: 21st May 2021

SENTENCE

VIDOT J

- [1] The accused was charged with and pleaded guilty to and convicted of one count of unlawful abortion contrary to and punishable under section 148 of the Penal Code.
- [2] The particulars of offence are that the accused who is an inhabitant of Anse Reunion, La Digue, on the 27th January 2019, at Anse Reunion, La Digue, being with child, with the intent to procure a miscarriage of her unborn child, unlawfully administered to herself, cytotec pills by inserting the same in her vagina.
- [3] The facts which were related to court and admitted by the Accused are basically as per charge sheet.

[4] Since the Accused is a first time offender, Counsel for the Accused requested for a probation report (“the report”) prior to sentence being passed. The report explains that the Accused who holds a degree in Administration with International Business from the University of Seychelles. She is presently following a post graduate course in Education which duration is one and a half years. The Accused explains that during the time that she was undertaking her degree, she was encountering a lot of problems with her studies that she was only scoring a borderline pass after her first year at university. Her father who was a guarantor for the scholarship that she had received from Government, was placing a lot of pressure on her as her results were not impressive. He was pressuring her to pass and complete her university studies.

[5] Whilst she was encountering such difficulties, she found herself pregnant. She did not inform her family and was stressed over the situation. She was trying to pass her studies and was experiencing pregnancy symptoms. That was when she decided to terminate the pregnancy.

[6] In mitigation, Counsel for the accused pleaded for leniency. She reminded Court that the Accused pleaded guilty at the earliest opportunity, therefore showing remorse for the offence committed. Counsel submitted that the Accused was under a lot of stress not only from her studies and her father placing a lot of pressure on her but her boyfriend was putting pressure on her as well. The boyfriend separated from her after the termination. She added that Seychelles and particularly La Digue being a small community, her client is embarrassed by what happened as people gossip about her client’s situation. She says that the Accused will carry the burden and guilt of having committed the abortion.

[7] Counsel for the Accused further refers to the case of **Republic v M.G.M** (CO 37 of 2020, [2020] SCSC 969 (delivered on 21st December 2020)) in which Burhan J said;

“In my view there should be an appropriate balance between the demands of society that criminal behaviour should be condemned and the desire of society to give an offender an opportunity for rehabilitation. The offence committed by the convict should not be trivialised but at the same time this court is of the view, that considering all the circumstances peculiar to this case that imposing an immediate custodial sentence on the

convict have a lasting and devastating effect on her as she is now trying her best to get her life together by being gainfully employed and making use of her academic qualifications and training.”

[8] The accused pleaded guilty, thus saving the Court’s precious time. She has also by her guilty plea shown remorse for the offence committed. The early guilty will earn credit and obtain discount of the sentence the court would otherwise have imposed if the case proceeded to full trial. In **R v Buffery 14 Cr App. R (S) 511CA**, Lord Taylor said that there was no absolute rule as to what discount should be, but as a general guidance the Court believed the order of one third would be an appropriate discount. Blackstone’s Criminal Practice (2012) paragraph E.12 P2148, provides that a guilty plea would in effect earn the 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 appropriate to the total sentence imposed calculated by references in which the guilty plea was indicated, especially at what stage in the proceedings”*.

[9] I have indeed considered all matters in mitigation, particularly the special circumstances of the accused being very young, with a child and pregnant. I bear in mind the case of **Republic v M.G.M** (supra) and fully understand Burhan J’s reasoning. Cases of this nature are not to be trivialised. The Accused is of a respectable standard of education and should have practiced safe sex. She must have known that engaging in unprotected sex at a time when she was ovulating is an appropriate condition for her to get pregnant. In fact, I will say that she made a deliberate and informed choice to possibly get pregnant. After that, she decided to end the life of a beautiful soul through abortion. Nonetheless, I believe that she has been taught a hard lesson and as she says herself she will forever carry the burden of her act and a sense of guilt. I have full appreciation that she was under pressure but termination of pregnancy was the easiest but not the best option.

[10] In the circumstances, I convict the accused to 2 years suspended for 2 years and to a fine of SR8,000.00 which shall become and payable not later than 30th August 2021 and in default to a term of 6 months imprisonment.

[11] If unsatisfied with this sentence, the accused may appeal against it within 30 working days from today.

Signed, dated and delivered at Ile du Port on 21st May 2021

M Vidot J