

SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC 20
CO38/2018

In the matter between:

THE REPUBLIC
(rep. by Mr, Kumar)

and

SJ
(rep. by N. Gabriel)

Accused

Neutral Citation: R v SJ (CO38/2018) [2021] SCSC 20 (4 February 2021)
Before: Govinden CJ
Summary: Sexual assault Section 130(1) and Section 130(2) read with Section 130(3)(b) of the Penal Code Convict sentenced to 10 years
Heard: 25th March – 1st April 2019
Delivered: 4th February 2021

SENTENCE

GOVINDEN CJ

- [1] The convict following trial was convicted of the offence of sexual assault contrary to Section 130(1) as read with Section 130(2)(d) and Section 130(3)(b) of the Penal Code and punishable under Section 130(1) of the Penal Code.
- [2] The particulars of offence are that the SJ of Petit Paris, Mahe on the 4th of July 2018 at Petit Paris, Mahe, sexually assaulted another namely MCV by inserting his fingers into the vagina of her and by inserting his penis into the anus of her. She is the age of 14 years at the time of the offence.

- [3] Counsel for the accused called for a Probation Report, which was duly provided to the Court. The report informs the Court that the convict is a 1st time offender and that the incident took place when the accused was only 18 years old. The Court is also informed that he does not take any responsibilities for the offence that he is charged with and that he maintained his innocence.
- [4] Learned Defence Counsel submitted in mitigation that the convict is a first time offender and that at the time that he committed the offence he was at very young age and that his grandparents depends on him for many things it is therefore submitted that he had a roughed childhood in which he has been the subject of various bullying. As such Learned Counsel and asked the Court to consider a lenient sentence that will help him reform to be a responsible citizen.
- [5] For the purpose of the sentence I have taken into consideration the content of the Probation Services Report and the submissions in mitigation made by the Learned Counsel of the convict. Having done so I consider that there are aggravating factors in this case. The virtual complainant was of a very tender age at the time of the commission of the offence. The ordeal of the virtual complainant took place over an extended period of time. The assaults were both per anum and per vaginum.
- [6] Having considered all these particulars, including the mitigating circumstances and keeping with the precedents of this Court I sentenced the convict to 10 years in prison. The time spend on remand will be taken into consideration in this sentence.

Signed, dated and delivered at Ile du Port on 4th February 2021.

Govinden R
Chief Justice