

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 88
CO 75/2020

In the matter between:

THE REPUBLIC
(rep. by Aisha Molle)

Republic

and

FRANCO PAYET
(rep. by Daniel Cesar)

Accused

Neutral Citation: *R v Payet* (CO 75/2020) [2021] SCSC 88 (29th March 2021)

Before: Burhan J

Heard: 17 March 2021

Delivered: 29th March 2021

ORDER

I proceed to sentence the convict to a term of twelve months imprisonment which I suspend for a period of two years. I also impose a fine of SCR five thousand (SCR 5000.00) on him. In default of payment of fine a term of 6 months imprisonment to be imposed.

SENTENCE

BURHAN J

[1] The convict Franco Payet was convicted on his own plea of guilt for the following offence:

Count 1

Trafficking in a controlled drug, having been found in unlawful possession of a controlled drug with intent to traffic, contrary to section 9 (1) as read with Section 19 (1) (d) (ii) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) as read with the Second Schedule of the Misuse of Drugs Act, 2016.

The controlled drug detected as borne out in the particulars of offence was Cannabis Resin with a net weight of 262.07 grams. The detection occurred on the 17th of June 2020.

[2] At the request of his learned Counsel Mr. Cesar a probation report was called. The facts set out in the probation report are that the convict is 30 years of age. The convict had completed his primary and secondary education and thereafter worked as a boat boy and has been doing so for the past 15 years. The convict admits to the probation that he was heavily dependent on drugs for the past several years. He further states that as he does not like to go regularly to the ghettos to purchase controlled drugs, he would buy a “good amount” and keep for his personal consumption. The probation report indicates he has been following a methadone program for the past 6 months offered by APDAR. It is apparent as borne out by the report that at the last controlled drug test done on the 24th of December 2020, the results indicated the convict was free from the use of any illicit controlled drug. It would be pertinent at this stage to set out that for possession/trafficking of this quantity of Class B controlled drug, the recommended sentence is a sentence of up to a maximum 2 years imprisonment and fine. The probation report recommends a suspended sentence and fine on the convict.

[3] Learned Counsel Mr. Cesar in mitigation submitted that the convict has saved the precious time of court by pleading guilty at the outset of the case and by doing so, he has expressed remorse and regret at the incident. Learned Counsel moved for a suspended sentence to be imposed on the convict. Learned Counsel also brought to the notice of

court that the convict was a first offender. He further submitted that the convict is undergoing a rehabilitation program and is back at his job and attempting to reform himself.

[4] I observe that had the quantity been less than 250 grams, the recommended sentence would have been a suspended term of imprisonment. I also observed the quantity is only 12.07 grams over this amount. Strong factors in mitigation exist i.e. the convict has attended a rehabilitation program by APDAR which has proved successful as he had thereafter tested negative for illicit controlled drug. Further the convict is now back at work in his job as boat boy and therefore gainfully employed. I feel to incarcerate him at this stage would only negate the good effects the rehabilitation program has had on him.

[5] I proceed to sentence the convict to a term of twelve months imprisonment which I suspend for a period of two years. I also impose a fine of SCR five thousand (SCR 5000.00) on him. In default of payment of fine a term of 6 months imprisonment to be imposed.

[6] Time given for convict to pay the fine.

Signed, dated and delivered at Ile du Port on 29th March 2021.

M Burhan J