

SUPREMECOURT OF SEYCHELLES

Reportable
[2021] SCSC 109
CO 16/2020

In the matter between:

THE REPUBLIC
(*rep. by Mr Ananth*)

and

ROBIN FABIEN QUATRE
(*rep. R Durup*)

Accused

Neutral Citation: *R v Quatre* (CO 16/2020) [2020] SCSC 109 (31 March 2021).
Before: Govinden CJ
Summary: Possession of a controlled drug (cannabis) with intent to traffic - sentence
Heard: 2nd December 2020
Delivered: 31st March 2021

ORDER

The convict is sentenced to: A fine of SR15,000.00 to be paid before the 31st of April 2021, In default of payment of the fine of SR15,000, the convict is to serve a term of 6 months imprisonment.
Time spent on remand to be taken into consideration in the sentence. The convict is entitled to remission at the discretion of the Superintendent of Prisons if he is to serve the default sentence. The convict has a right of appeal against sentence handed down in this case.

SENTENCE

GOVINDEN CJ

The convict is a resident of Pointe Au Sel, Mahe, who on his own guilty plea, has been convicted of a criminal offence namely:

COUNT 1

Statement of Offence

Possession of a controlled drug contrary to Section 8 of the Misuse of Drugs Act 2016 and punishable under the second Schedule of the said Act.

Particulars of Offence

Robin Fabien Quatre of Pointe Au Sel, Mahe on the 31st October 2018 at Pointe Au Sel, Mahe was found in possession of a controlled drug namely a substance having total net weight of 117.2 grams of Cannabis Herbal Materials.

The Convict did not plead guilty to a separate alternative count of the offence of Trafficking in a controlled drug, by means of being found in unlawful possession of a controlled with intent to traffic, contrary to Section 9 (1) of the Misuse of Drugs Act, 2016, based on the same fact. This charge shall accordingly remain on record.

The facts of the case read by the prosecution is that on the 31st of October 2018 the ANTI Narcotic Bureau (ANB) Officers received credible information that the convict who was well known to the ANB Unit had a considerable quantity of controlled drug at his premises. The ANB officers then conducted a search at his residence and during the search they retrieved suspected controlled drug namely cannabis herbal material having a net weight of 117.2 grams. Based on the investigation and the Analyst report the charges were laid before this Court.

These facts as read out by the Prosecution was admitted by the Defence.

The Court note that no trafficking paraphernalias were found during the search and no money in loose denomination were seized on the convict premises, which are the usual signs of the offence of drug trafficking.

[1] Learned Counsel for the convict moved the Court in mitigation to impose a lenient sentence on the convict for the following reasons:-

1. He is a first time offender.
2. He has pleaded guilty and save the Court's time and expenses of a trial.
3. There are no aggravating factors in this case.
4. The controlled drug is a Class B Schedule controlled drug.
5. He cited a list of cases similar on the fact to this one wherein a suspended sentence and fines had been imposed.
6. The controlled drug was for the convict's personal consumption.

[2] In passing the sentence I take into consideration the provision of Section 47(4) of the Misuse of Drug's Act which provides that:-

In sentencing a person convicted of an offence under Section 8 of this Act the Court shall not imposed a sentence of imprisonment unless satisfied that a non custodial sentence is in appropriate in all the circumstances.

[3] I further take into consideration the content and the recommendations found in the Probation Report and the submission in mitigation. Having done so I hereby sentence the convicted person as follows:

- (a) I imposed a fine of Rs15,000/- to be paid before the end of 31st of April 2021. In default of payment of the fine of Rs15,000/-,the convict is to serve a term of 6 months imprisonment.
- (b) Time spent on remand is to be taken into consideration if the defaulting sentence is to be activated. The convict is entitled to remission at the discretion of the Superintendent of Prisons if he is to serve the default sentence.
- (c) The convict has a right of appeal against the conviction and sentence in this case.
- (d) All bail conditions imposed on the accused person is accordingly removed.
- (e) The case is to be mentioned before this court on the 4th of June 2021 at 9 am.

Signed, dated and delivered at Ile du Port on 31st of March 2021

Govinden C J