

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 162
CO 18/2019

In the matter between:

THE REPUBLIC
(rep. by David Esparon)

Republic

and

STEVE PERCY CHANG-TAVE
(rep. by Karen Domingue)

Accused

Neutral Citation: *R v Chang-Tave* (CO 18/2019) [2021] SCSC 162 (22nd April 2021)

Before: Burhan J

Heard: 01st April 2021

Delivered: 22nd April 2021

ORDER

I proceed to sentence the convict Steve Percy Chang – Tave as follows:

Count 2- to a term of four years imprisonment.

Count 3- to a term of four years imprisonment.

Both terms to run concurrently.

SENTENCE

BURHAN J

[1] The convict Steve Percy Chang -Tave stands charged as follows:

Count 1

Trafficking in a controlled drug by virtue of being in unlawful possession of a controlled drug namely Heroin (Diamorphine) with intent to trafficking in a controlled drug contrary to Section 9 (1) of the Misuse Of Drugs Act read with Section 19 (1) (c) of the same act and read with Section 20 (3) of the Misuse of Drugs Act 2016 and punishable under Section 7 (1) read with the Second Schedule of the said Misuse of Drugs Act.

Count 2 alternative to Count 1

Aiding and Abetting in the trafficking of controlled drugs contrary to Section 15 (1) (b) as read with Section 7 (1) of the Misuse of Drugs Act and further read with Section 2 of the same Act and punishable under section 7 (1) of the Misuse of Drugs Act read with the Second Schedule of the same Act.

Count 3

Agreeing with another person that a course of conduct shall be pursued and which if pursued would necessarily amount to or involve in the trafficking of a controlled drug by one or more of the parties to the agreement contrary to section 16 (a) of the Misuse of Drugs Act read with Section 7 (1) of the same Act and punishable under the Second Schedule of the said Misuse of Drugs Act 2016.

[2] The controlled drug concerned is 676.24 grams of Heroin, a Class A controlled drug. The convict pleaded guilty to the aforementioned charges contained in Counts 2 and 3.

[3] At the request of learned Counsel for the convict a probation report was called. According to the probation report the convict is 48 years old and married and having children twins. The convict has three other children from previous relationships aged 25,

20 and 11 years old. After completing his secondary school the convict had completed two years at the National Youth Service (NYS). He had done a one year study at the Seychelles Polytechnic in art and design. He thereafter had been employed as a painter and artist and was self-employed for some time in the same profession before being employed at Chemical Service Company. He had thereafter worked in the car hire business with his wife until his arrest and consequent remand.

[4] The probation report also refers to certain medical conditions affecting the convict namely high blood pressure, bladder stones and prostate issues. He has also a swollen liver and spinal cord pain issues and difficulties in breathing.

[5] The background facts of this case indicate that the wife of the convict who was a co-accused in this case, pleaded guilty and was sentenced to a total of 6 years imprisonment.

[6] It is apparent from the facts in this case as contained in the probation report and those brought to the attention of court by learned Counsel for the convict and even learned Counsel for the prosecution that the convict, played a very much lesser role in the importation and trafficking of the said controlled drug. It was his wife who had played the principal role whilst he had accompanied her to places where the controlled drugs were located. It is apparent from the report that both his wife and he are no longer in relationship with each other. It is also clear from all the facts before court that it was his wife who had masterminded the import, storage and trafficking of the controlled drug. Further from the probation report and facts before court, it is clear to this court that the convict Percy Chang-Tave did not play an important role in either the importation or storing or trafficking of the controlled drug though he was well aware of what was happening and aided and abetted to a certain extent and even agreed to participate in same.

[7] This court has in previous cases varied sentences passed on convicts in the same case depending on their complicity in the crime. In the case of **Republic v Ernesta & Ors SCCO 22/2016** this court while sentencing the principal offenders to nine years imprisonment sentenced those convicts who played a lesser part in the commission of the said offence to lesser terms of four years imprisonment.

[8] I have also considered the plea in mitigation made by learned Counsel for the convict. Whilst mentioning all the above factors also in her plea in mitigation, learned Counsel also mentioned that in this instant case, the twins who are only 7 years old have been deprived of the love and affection of both parents due to both their mother and father being incarcerated for committing serious drug related offences. Though the convict has pleaded guilty towards the latter end of the trial, I am satisfied that in doing so, he has expressed remorse and regret at what he has done and having considered the facts contained in the probation report, I am satisfied that he has the intention of reforming himself for the sake of his children.

[9] Having considered the abovementioned factors, I proceed to sentence the convict Percy Chang – Tave as follows:

Count 2- to a term of four years imprisonment.

Count 3- to a term of four years imprisonment.

Both terms to run concurrently.

[10] For reasons given in its sentence dated 7th September 2020 in **Republic v Percy Chang – Tave & Natasia Chang-Tav [2020] SCSC 631**, this court has already granted the convict Natasha Chang-Tave remission at the discretion of the Superintendent of Prisons. Considering the fact that the children of the convicts, twins aged 7 years, have been deprived of the love and affection of both their parents due to no fault of theirs, I make order that the convict Percy Chang- Tave too be granted remission at the discretion of the Superintendent of Prisons which I feel is a just and appropriate order considering the circumstances peculiar to this case. This would also ensure parity in sentencing.

[11] Time spent in remand to count towards sentence.

Signed, dated and delivered at Ile du Port on 22nd April 2021.

M Burhan J