

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC
CO 19/2021

In the matter between:

THE REPUBLIC
(rep. by Hemanth Kumar)

Republic

and

PERIS ATAI MUNYAO
(rep. by Danny Lucas)

1st Accused

NISHA ALLY
(rep. by Clifford Andre)

2nd Accused

Neutral Citation: *R v Munyao & Anor* (CO 19/2021) [2021] SCSC (12 July 2021).

Before: Burhan J

Summary: Importation of a Controlled drug namely Cocaine

Heard: 28 June 2021

Delivered: 12 July 2021

ORDER

Convict sentenced on Count 1 to a term of 6 years imprisonment.

SENTENCE

BURHAN J

[1] The convict Peris Atai Munyao (the first accused in the case) was convicted on her own plea of guilt for the following offence:

Count 1

Importation of a Controlled Drug namely Cocaine contrary to and punishable under Section 5 of the Misuse of Drugs Act, 2016 read with the Second Schedule referred thereto in the said Act.

Ms. Peris Atai Munyao of 33 years old of Kenyan National, on 05th March 2021 imported into Seychelles a Controlled Drug Substances having net total weight of 502.00 grams which contain the total average Cocaine content of 388.35 grams.

- [2] Learned Counsel for the convict Mr. Danny Lucas, made a plea in mitigation on behalf of the convict thereafter. The main grounds urged by learned Counsel were that the convict had pleaded guilty at the first opportunity which is a mitigating factor as per MODA 2016. He further submitted that his client on being arrested had fully co-operated with the officers of the Anti- Narcotics Bureau (ANB) in respect of the controlled delivery. He further submitted that the convict is the mother of one child and due to the prevailing Covid 19 situation was unemployed and also had the burden of taking care of her elderly mother. She had therefore due to these burdens been hoodwinked and agreed to transport these materials. Learned Counsel also referred to similar cases where sentences of five to six years were imposed by court for offences of a similar nature.
- [3] The probation report refers to the fact that the convict is 33 years and a Kenyan national. She is a single mother having a 16 year old daughter. She has performed daily jobs as a domestic worker and cleaner in hotels on demand. She had been offered a sum of 2000 US dollars and the report affirms the fact that she committed the offence as she was in desperate need of money to support her family even though she was aware of the risk she was taking. The probation report has recommended that a deterrent punishment be given.
- [4] On the facts before court, I am satisfied that the convict has expressed remorse and regret by pleading guilty at the very outset, thereby expecting leniency from court. She is a first

offender. In regard to the quantity found in her possession at the time of importation, this court is of the view that as the quantity is in excess of 250 grams, the offence is an aggravated offence. It is also apparent from the plea in mitigation that the controlled drug brought into the country was not for the personal consumption of the accused. This further aggravates the offence.

- [5] Having considered all the aforementioned facts, the fact she is a first offender, the total quantity of controlled drug and giving due consideration to her plea of guilt, which warrants a decrease in the recommended sentence, I proceed to sentence the convict as follows.

On Count 1 to a term of 6 years imprisonment.

- [6] The convict is not entitled to remission due to the aggravated circumstances of the case. Time spent in remand to count towards sentence.

Signed, dated and delivered at Ile du Port on 12 July 2021

Burhan J