

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 418
CO 93/2020

In the matter between:

THE REPUBLIC
(rep. by Joshua Revera)

Republic

and

DARIUS ROMARIO ALLY
(rep. by Danny Lucas)

1st Accused

VALENTINO MICKY JEFFREY HOAREAU
(rep. by Daniel Cesar)

2nd Accused

Neutral Citation: *R v Ally & Anor* (CO 93/2020) [2021] SCSC 418 (13 July 2021)

Before: Burhan J

Summary: Robbery with violence

Heard: 28 June 2021

Delivered: 13 July 2021

ORDER

I proceed to sentence the convict Darius Romario Ally to a term of three years imprisonment. Whilst serving his term the convict should attend a rehabilitation and Methadone treatment program in respect of controlled drugs.

SENTENCE

BURHAN J

[1] Both the aforementioned accused were charged with the following offence.

Count 1

Robbery with violence Contrary to Section 280 as read with Section 22 (a) and Punishable under Section 281 of the Penal Code Cap 158.

Darius Ally of Belonie, Mahe, together with Valentino Hoareau of Roche Bois, Mahe, on the 3rd day of December 2020, at the Roche Bois, Mahe, with common intention robbed one Gnanapregassame Soupremaniane and stole SCR 6,000/- cash, four (4) bottles of Red Label Whisky valued at SCR 595/- each and one (1) tin of Mahe King Cigarette valued at SCR 1130/- and at or immediately before or immediately after the commission of such robbery, threatened to use actual violence against the said Gnanapregassame Soupremaniane by using a small knife.

- [2] The second accused Mr. Valentino Micky Hoareau was convicted on his own plea of guilt on the 1st of April 2021 and sentenced on the 10th of May 2021 to a term of 3 years imprisonment on the said Count.
- [3] The first accused Darius Romario Ally was convicted on his own plea of guilt on the 7th of June 2021 in respect of the same offence and on the request of his learned Counsel Mr. Danny Lucas, a probation report was called. Thereafter learned Counsel Mr. Danny Lucas made submissions in mitigation on his behalf.
- [4] Prior to proceeding to sentence, I will take into consideration the facts mentioned in the probation report and the facts set out in the plea in mitigation made on behalf of the convict.
- [5] The convict Romario Ally is 26 years old and a first offender. He has been working in a net fixing business at the fishing port since leaving school for a time and thereafter as a Stevedore with Hunt and Deltel Company. It is stated in the report that the convict has admitted that he is a drug dependent person and his criminal behaviour has been triggered by his drug dependency. It is reported that on the date of the incident, the convict had been craving for controlled drug which had made him commit the offence as he was not in stable employment. He has used the cash realised from the sale of items robbed from the shop for the purchase of the controlled drug. The report refers to the fact that the

convict has never earlier availed himself for the purpose of a detox or rehabilitation program. He is at present attending a methadone program whilst in remand custody. It appears from the report the convict has commenced taking of Cannabis at the age of 18 years. It is also apparent that he has a similar previous conviction in the year 2018. The probation report recommends a deterrent punishment be imposed on the convict.

- [6] Learned counsel for the convict Mr. Danny Lucas submitted in mitigation that the convict had pleaded guilty at the very first opportunity thereby expressing remorse and regret at the incident. He further submitted that his client had merely played only a supportive role to the second convict in the commission of the offence. He was not the person who was carrying the small knife mentioned in the charge. He is also expecting the leniency of court and learned counsel moved for a lesser term to be imposed than the three years sentence imposed on the second accused.
- [7] I have considered the facts before court. The charge for which he has pleaded guilty is of a very serious nature and court cannot condone the act of the convict in breaking into premises and stealing and committing robbery, in order to satisfy his craving for controlled drugs. I am in agreement that suitable deterrent punishment must be given. However at the same time consideration must be given to the age and other mitigating factors set out above especially the fact he pleaded guilty at the first instance and he is following a methadone program at the prison. Even though he only gave a supportive role to the other convict Hoareau unlike him, this convict Ally has a similar previous conviction. Giving due consideration to all the aforementioned facts, I proceed to sentence the convict Darius Romario Ally to a term of three years imprisonment. Whilst serving his term, the convict Ally must attend a rehabilitation and Methadone treatment program in respect of controlled drugs.
- [8] Time spent in remand to count towards sentence. The convict is entitled for remission at the discretion of the Superintendent of Prisons.

Signed, dated and delivered at Ile du Port on 13 July 2021

Burhan J