

**IN THE SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2022] SCSC 670  
CR07/2021

In the matter between:

**THE REPUBLIC**  
*(rep. by Georges Thatchet)*

**Prosecution**

and

**PHILIPPE MORRIS ERNESTA**  
*(rep. by Basil Hoareau)*

**Accused**

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**Neutral Citation:** *The Republic v Philippe Ernesta (CR07/2021 [2022] SCSC 670 delivered on*

08 July 2022

**Before:** Vidot J

**Summary:** Driving a motor vehicle on a public way in a manner so harsh and negligent so as to endanger human life contrary to and punishable to Section 229(a) of the Penal Code

**Heard:** 23 June 2022

**Delivered:** 08 July 2022

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**SENTENCE**

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**VIDOT J**

[1] The Accused was charged with two Counts of causing death by dangerous driving contrary to Section 25 of the Road Transport Act and punishable under the same and in the alternative to a count of Driving a motor vehicle on a public road in a manner so harsh and negligent so as to endanger human life contrary to and punishable under section 229(a) of the Penal Code. He elected to plead guilty to the later count and was accordingly convicted of that count. The first count therefore was withdrawn.

- [2] The particulars are that the Accused who is a resident of Mont Buxton, Mahe on 25<sup>th</sup> September 2019, at Bois de Rose, drove a motor vehicle having registration number S12014 on the public way, in a manner so rash or negligent as to endanger human life thereby causing a fatal accident resulting in the death of one Gregory Ralph Mathiot, a 20 year old Mauritian National, who succumbed to death at the Victoria Hospital on 28<sup>th</sup> September 2019.
- [3] After the facts were read and admitted by the Accused, he was accordingly convicted. Since the Accused is a first time offender, his Counsel moved the Court for a Probation (Pre-sentence) Report. Once received, a copy of the same was served on Counsel for the Accused.
- [4] In mitigation, Counsel for the Accused relied heavily on the report. The Court too shall accord due consideration to the report before meting out sentence. Firstly, he begged the Court to show leniency to his client. He noted that the Accused and the deceased were close friends. He is still mourning the loss of his best friend whom he had known since childhood and that as a result of the accident had attended counselling sessions with a psychologist. He finds this situation traumatic as he keeps blaming himself for the loss of his friend. He has suffered from depression. The Accused explained that it was never his intention to cause the accident, an averment which I too share.
- [5] Counsel noted that as per the report the Accused keeps blaming himself for the accident. The aftermath of the accident was harsh on him. He feels like he is being punished and that it has taken time to recover from that ordeal which was compounded by the death of

his grandmother and his parents a few months after the accident. Counsel explained to Court that the Accused has had some unpleasant experiences after the accident.

[6] The parents of the victim were interviewed by the probation officer. They are aware of the Court case. They confirmed that the Accused and their son were childhood friends and eventually grew up as best friends. They state that it is sad that they have lost their son but that they hold no grudge against the Accused for what happened. Following the accident, the Accused asked for their forgiveness and they have forgiven him. They are on good terms and stay in regular contact with him. They do not blame the Accused for the accident as according to them accidents are unpredictable and may happen to anyone. They express their wish that the Accused is not incarcerated as this will not bring back their son. The Accused has a young family to maintain.

[7] I shall when meting out sentence give due consideration to matters raised in mitigation, I also consider the fact that the Accused pleaded guilty thereby saving the Court's precious time and the inconvenience of witnesses giving evidence before Court. Such plea should earn him credit as far as sentence is concerned. Through the report he has asked the Court's forgiveness.

[8] Mr. Hoareau, Counsel reminded Court that the offence that the Accused is convicted of is a misdemeanour, thus a lesser than an offence contrary to sections 24 and 25 of the Road Transport Act and that the general sentence for misdemeanours is a sentence of not exceeding 2 years imprisonment or a fine or both such sentence and fine.

[9] I note nonetheless that there was alcohol involved in the accident. The Accused admits to consuming alcohol. After the first intake of alcohol they went to a shop at La Louise to

purchase more alcohol. He was driving at that time with the deceased and other friend in his company. Driving and alcohol is a fatal concoction and this is something that the Accused must have been aware of but which I will assume due to his youth did not fully appreciate. A young man lost his life and alcohol was the cause, but if not, a contributing factor. A family lost their son. This is traumatic. I need to bear that in mind when passing sentence.

[10] However, I am conscious that a term of incarceration might bring more harm to the Accused and his young family who is dependent on him. I also appreciate that the Accused has suffered as a result of the accident as he blames himself for the loss of his best friend/. He needed to have psychological support for that and has been following counselling. It is something that he will bear for the rest of his life. According to the report, he has also change his drinking habit and is adopting a more constructive lifestyle.

[11] Sentencing is not only about punishment. Sometimes punishment can have a more destructive effect on someone. Sentencing is also about deterrence, prevention, rehabilitation, reformation and retribution; see **Lawrence v Republic [1990] SLR 47**. Sometimes these can be better achieved outside the gates of prison.

[12] I take due consideration of the youthfulness of the Accused. I feel that he has suffered and still suffering for the loss of his best friend, I take particular note that the parents of the deceased does not bear any grudge against the Accused and they said that they have forgiven him and are in regular contact with the Accused. They expressed that they too do not want the Accused to be given a prison term. I believe that to impose a prison term on the Accused the Court will not be doing right by them. They seem to have find a form of closure through forgiveness and giving regular contacts with the Accused.

[13] Therefore, I impose a sentence of 1 year suspended for 2 years on the Accused and to a fine of SR10,000/- payable within 6 months from the date of this sentence.

[14] If unsatisfied with this sentence, the Accused may appeal against the same within 30 working days from today.

[15] I will nonetheless encourage the Accused to be an advocate against drunk-driving and join in any campaign that raise awareness against that. In so doing, he may help save lives. He has been given a second chance in life, so use it positively.

Signed, dated and delivered at Ile du Port on 8 July 2022.

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**VIDOT J**