

SUPREME COURT OF SEYCHELLES

Reportable
[2022] SCSC 822
CO 33/2021

In the matter between:

THE REPUBLIC
(rep. by Christine Leste)

Republic

and

TRACY AGLAE
(rep. by Karen Domingue)

Accused

Neutral Citation: *Rep v Aglae* (CO 33/2021) [2022] SCSC 822 (22 September 2022)

Before: Burhan J
Heard: 05 September 2022
Delivered: 22 September 2022

ORDER

I proceed to sentence the accused Tracy Aglae to a term of 12 months imprisonment on Count 2. I also impose a fine of SCR 2500/ (two thousand five hundred). In default of payment of fine, a term of three months imprisonment to run consecutive to the term of 12 months imprisonment. A sum of SCR 2000 to be paid from the fine to the victim Fenosoa Emma Istrale as compensation for the loss and trauma caused to her.

SENTENCE

BURHAN J

[1] The accused Tracy Aglae stands charged as follows;

Count 1

Robbery with violence, contrary to section 280 and punishable under section 281 of the Penal Code Cap 158

Particulars of offence are that, Tracy Aglae of Union Vale, Mahe on the 13th April, 2021 at Castor Road, English River, Mahe, robbed one Fenosoa, Emma Istrale and stole her handbag and purse containing SCR 1200/- cash, and at or immediately before or immediately after the commission of such robbery did use actual violence against the said Fenosoa, Emma Istrale

Count 2 in the alternative to Count 1

Stealing contrary to and punishable under section 260 of the Penal Code (Cap 158)

Particulars of offence are that, Tracy Aglae of Union Vale, Mahe on the 13th April, 2021 at Castor Road English River, Mahe, stole, the handbag and purse containing SR1200/- cash of, one Fenosoa Emma Istrale.

- [2] The accused pleaded guilty to the alternative Count 2 on the 4th of August 2022 and was convicted on her own plea of guilt.
- [3] Section 260 of the Penal Code provides that on conviction in a charge of stealing a person is liable to a sentence of seven years imprisonment.
- [4] At the request of her learned Counsel Ms. Karen Domingue, a probation report was called prior to sentencing. Thereafter learned Counsel made a plea in mitigation on behalf of the accused.
- [5] I will proceed to consider first the facts set out in the probation report. The accused is 40 years of age and has four children aged 21, 18, 15 and 13 years old. The probation report

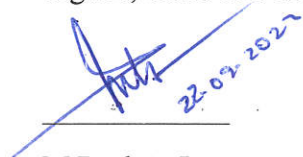
indicates that at one time all four children were removed from her care and placed with family members and social services. At present both sons are currently in the care of social services and are living at the Presidents Village. The accused has attended school up to secondary four. She has been first employed at Island Development Company as a chambermaid on Desroches Island for a period of six months. She has thereafter at times been unemployed and when employed worked as a home carer and a child minder for short periods of time. The accused also worked with the Community Development Department on the district beautification program as a landscaper. The probation report indicates she was unable to maintain a stable job due to her addiction to heroin. It appears from the probation report that she has had a difficult child hood. She had been asked to leave the house after she had her first child and but had returned later on. However after her second child she was “kicked out again” from the house. The report mentions that the accused had got addicted to heroin as her partner had introduced her to it.

- [6] The report further refers to the fact that the accused had been smoking Cannabis from the age of 18 and in 2003 moved first on to heroin smoking and in 2008 began injecting herself with it. The accused has undergone Methadone treatment but stopped and had once again relapsed into taking heroin. Since being remanded she has been taking her Methadone treatment and even according to her learned Counsel is now an improved person.
- [7] The probation report further states that the accused is not on drugs as she is presently in remand in a controlled environment and though she has been given several opportunities by way of alternative sentences to imprisonment, she has been unable to rebuild her life positively. The probation recommends a suspended sentence be given.
- [8] Learned Counsel mitigated on behalf of the accused and did not dispute the facts set out in the probation report but relied on the facts set out therein. Learned Counsel further submitted that in addition to the controlled environment she is in now, the remand, she is in need of counselling from doctors and other professionals in the field. She also submitted that the father of the accused is suffering from prostate cancer and moved for the court to exercise leniency in sentencing.

- [9] I have given due consideration to the plea in mitigation and the facts set out in the probation report.
- [10] It is clear to this Court that the accused is a drug addict and at present her addiction has decreased due to the controlled environment she is in at present and due to her being given her Methadone treatment on a regular basis. Further it appears that though the amount stolen from the complainant is only 1200 rupees, the manner it was done has caused great trauma to the victim as borne out in the probation report. It is also clear from the report that though the accused has been given several opportunities to reform herself by alternative sentences to imprisonment, she has failed to do so due to her addiction to controlled drugs.
- [11] In these circumstances, as it appears the controlled environment she is in is effective, I am inclined to impose on her a custodial term of imprisonment which would be of sufficient duration for her to obtain the necessary treatment and counselling in the hope of her rehabilitating herself prior to her release from prison.
- [12] Giving due consideration to the principles of sentencing i.e. retribution, deterrence, prevention and rehabilitation in deciding on the appropriate sentence to be imposed, I proceed to sentence the accused Tracy Aglae to a term of 12 months imprisonment on Count 2 . I also impose a fine of SCR 2500/ (two five thousand). In default of payment of fine, a term of three months imprisonment to run consecutive to the term of 12 months imprisonment. A sum of SCR 2000 to be paid from the fine to the victim Fenosoa Emma Istrale as compensation for the loss and trauma caused to her. As the accused has not been remanded in this case, the necessity to order that the time spent in remand be reduced from the term of imprisonment does not arise.
- [13] I make further order that whilst serving her term of imprisonment, the accused is to be provided by the prison authorities the necessary treatment and professional counselling in order to overcome her addiction. A copy of this sentence order to be sent to the Superintendent of Prisons.

[14] Right of Appeal against sentence imposed explained.

Signed, dated and delivered at Ile du Port on 22 September 2022.

Handwritten signature and date in blue ink. The signature is stylized and appears to be 'M Burhan J'. The date '22-09-2022' is written below the signature.

M Burhan J