

8

SUPREME COURT OF SEYCHELLES

Reportable  
[2023] SCSC 208  
CO 50/2022

In the matter between:

**THE REPUBLIC**  
*(rep. by Corrine Rose)*

**Republic**

and

**GERMAN DIXON**  
*(rep. by Vanessa Gill)*

**1<sup>st</sup> Accused**

**RICKY SUZETTE**  
*(rep. by Daniel Cesar)*

**2<sup>nd</sup> Accused**

**Neutral Citation:** *Rep v Dixon & Anor* (CO 50/2022) [2023] SCSC 208 (15<sup>th</sup> March 2023)

**Before:** Burhan J.

**Summary:** Importation of Controlled Drugs contrary to Section 5 of the Misuse of Drugs Act, 2016 and punishable under the Second Schedule as read with Section 48 (1) (a) & (b) of the Misuse of Drugs Act, 2016.

**Heard:** 27<sup>th</sup> February 2023

**Delivered:** 15<sup>th</sup> March 2023

**ORDER**

I proceed to sentence the 1<sup>st</sup> accused German Dixon to a term of five years imprisonment on Count 1.

**SENTENCE**

**BURHAN J**

- [1] The accused German Dixon was charged together with the aforementioned 2<sup>nd</sup> accused with the following offences:

**Count 1**

*Importation of a controlled drugs contrary to Section 5 of the Misuse of Drugs Act, 2016 and punishable under the Second Schedule as read with Section 48 (1) (a) & (b) of the Misuse of Drugs Act, 2016.*

*German Augusto Brooks Dixon, 42 years old, a Nicaraguan national, holder of passport number C02689187 on 4<sup>th</sup> October 2022 imported into Seychelles a controlled drugs namely Cocaine with a total net weight of 4164.50 grams, by causing the said controlled drugs to be imported into Seychelles through his luggage aboard Flight EK705 from Dubai after landing at the Seychelles International Airport.*

**Count 2**

*Conspiracy to commit the offence of trafficking in a controlled drug, contrary to Section 16 (a) & Section 7 (1) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) read with Section 48 (1) (b) and Second Schedule of the Misuse of Drugs Act, 2016.*

*German Augusto Brooks Dixon, 42 years old, a Nicaraguan national, holder of passport number C02689187, Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe and with a person known to the Republic on or before the 4<sup>th</sup> October 2022 to the 07<sup>th</sup> October 2022, agreed with one another, that a course of conduct shall be pursued which, if pursued, will necessarily amount to or involve the commission of an offence of trafficking in a controlled drug namely Cocaine having a total net weight of 4164.50 grams.*

### Count 3 in the Alternative to Count 2

*Aiding and abetting the trafficking of a controlled drugs contrary to Section 15 (1) (a) & (c) read with Section 7 (1) & (2) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) read with section 48(1) (b) and Second Schedule of the said Act.*

*Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe, aided and abetted German Augusto Brooks Dixon, 42 years old, a Nicaraguan national, holder of passport number C02689187, to traffic in a controlled drug namely Cocaine having a total net weight of 4164.50 grams by doing or offering to do any preparatory acts for transporting and delivering by going to collect the said controlled drugs at Glacis who was in the possession of the said German August Brooks Dixon.*

- [2] The 1<sup>st</sup> accused pleaded guilty to Count 1 and was convicted on his plea of guilt on the 11<sup>th</sup> of January 2023. The prosecution withdrew Count 2 against him. Thereafter at the request of his learned Counsel Ms Vanessa Gill a probation report was called prior to mitigation.
- [3] The probation reports states that the 1<sup>st</sup> accused German Dixon is 43 year of age and a Nicaraguan national. He is divorced and having two children 21 and 9 years old. The accused has been working in the construction field as an electrician and welder. It could be gathered from the facts set out in the report that the accused had befriended a lady named Hannah on internet who had stated she was working in a large textile company in London and could help him get a job. Hannah had referred him to two other ladies Jenny and Sophia who informed him they would employ him and he received a supposedly "work contract" which he signed. Thereafter, he received plane tickets but observed they were to Brazil and not London. On inquiring he was informed he had to collect some items for the company prior to coming to London. He had stated it was okay with him.
- [4] On arrival in Brazil, a person had met him and taken him to the hotel and paid for the taxi and hotel. After a few days stay, he was informed by Sophia to leave the hotel and he had been shifted to an apartment. He had met the same person who he had met on arrival in Brazil and the said person had taken him to the apartment and locked him in it. Two days later the person had returned with some luggage which he was to travel with and showed

him some T shirts in it. After the person had left, the accused had checked the luggage and found drugs in the T-shirts. When he had explained to Sophia on the phone that he was never told that he would be traveling to Seychelles with drugs, Sophia had become aggressive. He had informed his family and though they had told him to go to the police, he was afraid as if he did so he would be killed. The accused realised he was being used as a drug courier and Sophie was all along aware of this. He had thought of informing the police at the airport of what was going on, but because Brazil was known to be a corrupt country and being in fear that something bad will happen to him, he decided that the best course of action would be to approach the authorities in Seychelles as Seychelles was his final destination.

[5] Learned Counsel Ms Gill also relied on the fact that when he arrived in Seychelles the 1<sup>st</sup> accused had immediately reported what had happened to him to the Immigration Officer. They had checked his luggage and found the controlled drugs and after testing it, asked him to continue with the plan he was instructed to do when he arrived in Seychelles. He had assisted in the controlled delivery with the police and two persons had arrived at the hotel he was staying and given him the money and taken the bag. The police had thereafter arrested the person and produced him in Court. It is to be noted that due to his co-operation the 2<sup>nd</sup> accused namely Ricky Suzette was arrested and is now charged in Court with him.

[6] Learned Counsel Ms Gill submitted that her client was a first offender who had pleaded guilty at the first available opportunity and therefore has not wasted the precious time of the Court. In regards to Mr. Dixon's personal circumstances, she admitted the facts set out in the report and further stated that he is maintaining his children by paying 115 USD per month. She further submitted that being a divine worshiper and follower of the Pentecostal faith, Mr. Dixon has confessed that he didn't have the intention of bringing drugs to Seychelles nor had the intention of participating in any illegal drug related transactions. Mr. Dixon, she submitted does not sell drugs and neither does he drink alcohol. He has never been involved in any drug related transaction in his life. He earns an honest living in a respectful manner. The accused has never been in conflict with the law in Nicaragua and his father has confirmed that he is a good person and that he is certain that he has been deceived by criminals.

- [7] Learned Counsel Ms Gill further submitted that the 1<sup>st</sup> accused had voluntarily cooperated with the police to ensure that the perpetrators of this terrible criminal act were arrested. The Seychelles police had been in Mr. Dixon's company throughout his stay in Seychelles and he had fully cooperated with the controlled drug delivery in which another person was apprehended in connection with this case namely the 2<sup>nd</sup> accused Ricky Suzette. In the aftermath of the incident, learned Counsel Ms Gill submitted that Mr. Dixon feels that he was tricked. His incarceration would affect his 75-year-old father; Carlos and his 65-year-old mother; Christina and his six siblings in Nicaragua. The 1<sup>st</sup> accused deeply regrets and is feeling ashamed by his actions and he has prayed to God for forgiveness. He also asks this Court and all present for forgiveness for being in such a terrible situation.
- [8] Learned Counsel moved Court that in considering the sentence to be imposed Court should carefully consider a sentence that would be fair and reasonable and a sentence that would take into consideration the circumstances of the offence. She further submitted that no purity tests were ever done on the drugs. Therefore the prosecution has failed to establish the pure content of cocaine that was brought into the country.
- [9] At the request of Court, the prosecution thereafter confirmed that it was incorrect that the accused had informed the Immigration Officer of the fact he was carrying drugs as he arrived in the Seychelles. It was only after the bags were checked and the controlled drug detected did he explain the circumstances to the Officers.
- [10] Be that as it may, it is clear that at least after detection, the 1<sup>st</sup> the accused had co-operated fully with the police resulting in another accused being arrested and charged in Court. By pleading guilty he has expressed remorse and regret at what he has done. Further the analyst is unable to state the purity of the controlled drug due to the controlled drug being mixed with other substances. However the charge is of a serious nature and suitable deterrent punishment by way of a custodial term of imprisonment must be meted out considering the serious consequences the controlled drug imported into the country would have had on the population especially the younger generation.
- [11] In cases of similar nature **R v Peris Munyao 2021 SCSC 411, R v Nakiganda [2021] 864, R v Nurdin Kamba [2020] SCSC 24, R v Elsie Vamba [2022] SCSC 294 and R v Petrus**

Vermuelen [2022] SCSC 508 sentences ranging from 5 to 6 years imprisonment were imposed.

[12] Giving due consideration to all the aforementioned factors, I proceed to sentence the 1<sup>st</sup> accused German Dixon to a term of five years imprisonment on Count 1.

[13] As the prosecution has been unable to determine the pure quantity of controlled drug imported, the accused is entitled to remission at the discretion of the Superintendent of Prisons.

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

Signed, dated and delivered at Ile du Port on 15<sup>th</sup> March 2023.

