

IN THE SUPREME COURT OF SEYCHELLES

Reportable

[2023] SCSC 442

CO 23/2021

In the matter between:

THE REPUBLIC
(rep. by Guilmette Leste)

PROSECUTION

and

D. [REDACTED] G. [REDACTED]
(rep. by Karen Domingue)

ACCUSED

Neutral Citation: *The Republic vs D. [REDACTED] G. [REDACTED]* (CO23/2021) [2023] SCSC 442.

Before: Dodin J.

Heard: 31 January 2022, 18th February 2022, 24th March 2022

Delivered: 16 June 2023

SENTENCE

DODIN J.

[1] The convict, D. [REDACTED] G. [REDACTED], stands convicted of the following 5 counts of Sexual Assault:

Count 1

Sexual Assault upon M C, who was 7 years of age, by way of penetration, namely by inserting his finger in the body orifice, namely the vagina of the said M C for a sexual purpose contrary to section 130(1) read with sections 130 (2) (d) and punishable under section 130 (1) of the Penal Code (Cap 158).

Count 2

Sexual Assault against M C, who was 7 years of age, by way of licking the Vagina of the said M C contrary to section 130 (1) as read with section 130 (2) (a) and punishable under section 130 (1) of the Penal Code.

Count 3

Sexual Assault against T H, who was 14 years of age, by way of penetration, namely by inserting his finger in the body orifice, namely the vagina of the said T H for a sexual purpose contrary to section 130 (1) as read with sections 130 (2)(d) and punishable under section 130(1) of the Penal Code Cap 158.

Count 4

Sexual Assault against T H, who was 14 years of age, by way of kissing the breast, licking the vagina and touching the buttocks of T H with his penis contrary to section 130 (1) as read with section 130(2)(a) and punishable under section 130(1) of the Penal Code: and

Count 5

Sexual Assault against T H, currently 14 years of age, by wa of penetration, namely by inserting his penis in the body orifice, namely the month of T H for a sexual purpose contrary to section 130(1) of the Penal Code Cap 158.


[2] The convict nevertheless maintains that he is innocent of the charges levelled against him for which the Court found him guilty. Learned Counsel for the convict submitted in mitigation that the convict is a 44 years old father of 5 children, two of which are adult. He has always been in gainful employment. He is a first-time offender and has never had any problem with the law before this case. He has always been described as a good and kind-hearted person by his family and friends.


[3] Probation Services was requested to submit a report with recommendations which also gave details on the personal circumstances of the convict which this Court has taken into consideration in determining appropriate sentences to be imposed.

- [4] Further, Learned Counsel for the convict moved the Court to impose lenient sentences on the convict for amongst other reasons, the offences for which the convict stands convicted involved only the insertion of a finger in the vagina; licking of the vagina and breasts and insertion of the penis into the mouth. There was no actual sexual intercourse involved.
- [5] Learned counsel referred the Court to several cases namely Rep vs. Graham Pothin CO 49/2015, Rep vs. Nicholas Julie CO 77/2015, Rep vs. RJ CO22/2012 where the sentences for similar acts were 6, 7 and 8 years respectively.
- [6] I have given careful consideration to the mitigating factors advanced on behalf of the convict and the fact that the convict is a first offender with dependents. Nevertheless I also consider sexual offences against minors to be always serious and damaging to the victims in ways that may not be possible to fully rectify.
- [7] It is further noted that as per the provision of section 130(1) of the Penal Code, the maximum sentence is a term of 20 years imprisonment and for offences under 130 (2)(d) there is provided a mandatory minimum sentence of 14 years imprisonment.
- [8] Having given consideration to all the above, and giving consideration to the principles expounded in Ponoo vs Rep, I proceed to sentence the convict as follows:
- i. Count 1 - 14 years imprisonment
 - ii. Count 2 - 6 years imprisonment
 - iii. Count 3 - 14 years imprisonment
 - iv. Count 4 - 8 years imprisonment
 - v. Count 5 - 10 years imprisonment
- [9] All the sentences shall run concurrently.
- [10] The time spent on remand shall form part of the sentences.
- [11] The convict is entitled to remission.

[12] Appeal on both conviction and sentence within 30 working days.

Signed, dated and delivered at Ile du Port, Victoria on 16 day of June 2023.


G. Dodhi
Judge



The seal of the Seychelles Supreme Court is circular, featuring a central emblem of a bird (likely a dodo) surrounded by a wreath. The text "SEAL OF THE SEYCHELLES SUPREME COURT" is inscribed around the perimeter, with a small star at the bottom center.