

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC ...
CR42 /2022

In the matter between

THE REPUBLIC
(rep. by Shireen Denis)

Prosecution

and

[REDACTED]
(rep. by Shatana Barbe)

Accused

Neutral Citation	<i>The Republic v [REDACTED]</i> (CR42/2022) SCSC..... delivered on 27 January 2023
Before:	Vidot J
Summary	Willful neglect, abandonment or exposing a child in a manner likely to cause a child unnecessary suffering moral danger or injury contrary to section 70(1) (b) read with section 70(4)(a) and punishable under section 70(6) of the Children’s Act.
Heard:	12 January 2023
Delivered:	27 January 2023

SENTENCE

VIDOT J

[1] The Accused, [REDACTED] is charged with and pleaded guilty to the following offence;

Count 1

Statement of Offence

Wilfully neglecting, abandoning or exposing a child in a manner likely to cause the child unnecessary suffering, moral danger or injury contrary to section 70(1)(b) read with section 70(4)(a) and punishable under section 70(6) of the Children's Act.

Particulars of Offence

[REDACTED] years old employee of [REDACTED] and resident of [REDACTED], Mahe, on the [REDACTED], after giving birth to a baby [REDACTED] at the beach at [REDACTED], wilfully neglected, abandoned or exposed the said infant in a manner likely to cause the child unnecessary suffering, moral damage or injury to health by placing and leaving the infant in a public bin at [REDACTED].

- [2] The Prosecution presented the facts to Court which were accepted by the Accused and she was accordingly convicted as charged.
- [3] The facts are that on [REDACTED] whilst at the [REDACTED] beach, the Accused went into labour and at around 2 p.m delivered a baby [REDACTED]. Once she gave birth, she wrapped the baby in a white towel and placed [REDACTED] in a black handbag that was in her possession. Upon leaving the beach, she placed the infant in a bin at [REDACTED] went to pick up her other child and went home. Upon arriving home, she threw the bag that she had placed the baby in, in a bin at [REDACTED]. The Accused knew of her pregnancy in [REDACTED] but did not reveal the same to anyone and neither did she reveal it to anyone after she had left the baby in the bin at [REDACTED]. Later that day, the baby was discovered in the bin and the Police were called and an investigation was conducted which linked the Accused to the crime.
- [4] Counsel for the Accused requested for a probation (pre-sentence) report. The same was received and a copy served on Counsels.
- [5] Counsel begged the Court to show leniency to her client. She notes that the Accused pleaded guilty and therefore shown remorse and accepted responsibility. Counsel states that the Accused was placed with a difficult position in regards to fear of being kicked out of the home by her mother and the fact that she was on her own since the father had decided not to have anything to do with her. The Accused has also to cope with a

[REDACTED] who is [REDACTED]. She is also very remorseful for the crime committed.

[6] I fully appreciate that at the time of her pregnancy the Accused was facing hardships She was in a difficult situation of desperation. I also note that the guilty plea was taken at the first opportunity, thereby saving the Court's precious time, cost and inconvenience of witnesses having to give evidence; the guilty plea should warrant a reduction in sentence. Blackstone's Criminal Practice (2021) paragraph E12, p2148.

[7] I shall also consider the particular circumstances of the Accused. Counsel in fact referred to **R v Rabie (1975) (4) SA 885 (A)**, wherein it was said that "*punishment should fit the criminal, be fair to society and blended with a measure of mercy according to the circumstances.*"

[8] I also take into special consideration the fact that the Accused has a [REDACTED] who is [REDACTED] and also the fact that the Accused is following psychological treatment.

[9] I consider the case of **Republic v Nathalie Bacco [2022] SCSC 4, CR69/2021** a case of manslaughter for causing the death of a new-born infant and dumping the baby in a bin and **Dolores Low-Hong v R**, a case of infanticide. In both cases, court imposed suspended sentences on the accused, though in the latter case, such sentence was imposed on appeal.

[10] Having listened carefully to submission of mitigation and considered the probation report, I convict the accused to a term of 2 years imprisonment suspended for 2 years.

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

Signed, dated and delivered at Ile du Port on 27 January 2023

M Vidot J