

## SUPREME COURT OF SEYCHELLES

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**Reportable**

[2023] SCSC 500  
CO 05/2022

In the matter between:

**THE REPUBLIC**

*(Represented by Ms Kethlynn Marie)*

**Prosecution**

and

**HILDA ANENA**

*(Represented by Mr Somasundaram Rajasundaram)*

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

And

**KEVIN QUATRE**

*(Represented by Mrs Alexia Amesbury)*

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

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**Neutral Citation:** *Rep vs Anena & Or* (CO 05/2022) [2023] SCSC 500 (5<sup>th</sup> July 2023)

**Before:** Adeline J

**Summary:** Prosecution for Drugs Offences.

**Heard:** 18 October 2022, 19 October 2022, 20 October 2022 and 6 December 2022

**Delivered:** 5 July 2023

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### FINAL ORDER

The 2<sup>nd</sup> Accused, Kevin Quatre, is found not guilty and is therefore acquitted for the offence of Conspiracy to Commit the Offence of Importation of a Controlled Drug, (count 1) and the offence of Conspiracy to Commit the Offence of Trafficking in a Controlled Drug (count 2).

The 2<sup>nd</sup> accused, Kevin Quatre, is found guilty for the offence of Aiding and Abetting the Trafficking of a Controlled Drug (alternative count 3) and is accordingly convicted for the offence.

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### JUDGMENT

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**Adeline, J**

## **BACKGROUND/INTRODUCTION**

- [1] In writing this judgment, I have been guided by the legal provisions under Section 143 of the Criminal Procedure Code (“the CPC”) in order to ensure compliance with the statutory requirements prescribed by law. Section 143 (1) and (2) of the CPC is couched in the following terms;

*“Every judgment shall except as otherwise expressly provided by this code, be written by the presiding officer of the Court in the language of the Court, and shall contain the point or points for determination, the decision thereon and the reasons for the decision, and shall be dated and signed by the presiding officer in open Court at the time of pronouncing it”.*

- [2] Section 143 (2) adds the following provisions;

*“In the case of a conviction, the judgment shall specify the offence of which, and the Section of the Penal Code or other law under which the accused person is convicted and punishment to which he is sentenced”.*

- [3] A synopsis of the factual background pertaining to this case based on the Court’s record is that as per a formal charge filed in Court on the 14<sup>th</sup> February 2022 pertaining to CB 04/02/22, Criminal proceedings started against one Hilda Anena of Kampala, Uganda (“the 1<sup>st</sup> accused”) and one Kevin Quatre of La Louise, Mahe, Seychelles (“the 2<sup>nd</sup> Accused”) both of whom were being prosecuted for alleged commission of different drugs related offences.

- [4] On the 27<sup>th</sup> April 2022, the 1<sup>st</sup> Accused (now convict) Hilda Anena, pleaded guilty to a single count of Importation of a Controlled Drug contrary to Section 5 of the Misuse of Drugs Act 2016 and punishable as specified in the Second Schedule of the same Act, and was accordingly convicted for the importation into this country Heroin (Diamorphine)

containing a purity of 564.50 grams. On the 21<sup>st</sup> July 2022, the 1<sup>st</sup> Accused/convict was sentenced by this Court to serve a term of imprisonment of 10 years.

- [5] On the 17<sup>th</sup> October 2022, the Republic/Prosecution filed an amended charge against the 2<sup>nd</sup> Accused, Kevin Quatre. The amended charge reads as follows;

Count 1

Statement of offence

Conspiracy to commit the offence of Importation of a controlled Drug Contrary to Section 16(a) read with Section 5 of the Misuse of Drugs Act 2016 and punishable under Section 5 as specified in the Second Schedule of the said Act.

Particulars of the offence

In that Kevin Quatre of La Louise, Mahe being a citizen of Seychelles along with other persons unknown to the Republic, on or around 2<sup>nd</sup> February 2022, at Michel Holiday Apartment, Les Mamelles conspired with one Hilda, Anena of Kampala, Uganda by agreeing with one another to pursue a course of conduct that if pursued would amount to, or in the commission of an offence under the Misuse of Drugs Act 2016 by one or more of the parties to the agreement, namely, the offence of Importation of a Controlled Drug having a net weight of 999.98 grams with heroin (Diamorphine) content of 564.60 grams.

Count 2

Statement of offence

Conspiracy to commit the offence of Trafficking in a Controlled Drug contrary to Section 16 (a) read with Section 7 (1) of the Misuse of Drugs Act 2016, and punishable under Section 7 (1) as specified in the Second Schedule of the said Act.

Particulars of the offence

In that Kevin Quatre of La Louise, Mahe being a citizen of Seychelles along with other persons unknown to the Republic, and or around 2<sup>nd</sup> February 2022, at Michel Holiday Apartment, Les Mamelles, conspired with one Hilda, Anena of Kampala, Uganda, by agreeing with one another to pursue a course of conduct that if pursued would amount to or in the commission of an offence under the Misuse of Drugs Act 2016 by one or more of the parties to the agreement, namely, the offence of Trafficking in a Controlled Drug having a net weight of 999.98 grams with Heroin (Diamorphine) content of 564.60 grams, by way of selling, brokering, supplying, transporting, sending, delivering or distributing the said controlled drug.

In the alternative to count 1 and 2

Count 3

Statement of offence

Aiding and Abetting the Trafficking of a Controlled Drug contrary to Section 15 (1) (a) & (c) read with Section 7 (1) and Section 2 of the Misuse of Drugs Act, 2016 and punishable under Section 7 read with Second Schedule of the said Act.

Particulars of offence

In that Kevin Quatre of La Louise, Mahe, being a citizen of Seychelles, along with other persons unknown to the Republic, on or around 2<sup>nd</sup> February 2022, at Michel Holiday Apartment, Le Mamelles, Mahe aided and abetted one Hilda Anena of Kampala, Uganda to Traffic in a Controlled Drug having a net weight of 999.98 grams with Heroin (Diamorphine) content 564.60 grams, by way of doing or offering to do any preparatory acts for transporting and delivering by going to collect the said controlled drug from the said Hilda Anena of Michel Holiday Apartment”.

- [6] On the 18<sup>th</sup> October 2022, the 2<sup>nd</sup> accused, Kevin Quatre, pleaded not guilty to Count 1 and 2 as well as to the alternative Count 3, and the case proceeded to trial that took off on the



same date. At trial, the prosecution called 9 prosecution witnesses whose evidence is rehearsed hereunder.

## THE EVIDENCE

- [7] The 1<sup>st</sup> prosecution witness called was Police Officer Detective Corporal (CPL) Joachim Alissop ("PW1"). PW1 is attached to the SSNCRB at Boie de Rose, Victoria, Mahe. He has been in the police force for almost 12 years. His main duties as a police officer is to attend scenes of crimes to take photographs. His qualification for the works he does was not challenged by the defence and as such, his evidence as an expert in the field of photography was accepted by the Court. PW1's evidence, was that on the 5<sup>th</sup> February 2022, he was directed by one sub inspector (SI) Johnny Malvina to take photographs of exhibits collected from an alleged scene of trafficking in a controlled drug at the ANB office at Bois De Rose. In carrying out such instruction, PW1 took a total of 4 photographs of certain quantity of pellets wrapped in clear cling film by using a digital camera, 2100. On the 21<sup>st</sup> March 2022, PW1 downloaded the photographs on a CD and then took the CD to photo Eden where they were printed and put into an Album. The album containing the 4 photographs were tendered as exhibits marked P1 collectively.
- [8] Going through the photographs in the album, PW1 stated, that photograph No1 shows several exhibit bags in which there are certain quantity of pellets wrapped in clear cling film. Photograph No2 shows a small plastic container in which there is a pellet wrapped in clear cling film written on it CB 402/222 station, NB taken on the 5<sup>th</sup> February 2022. Photograph No 3 is a photograph of No 2 but taken in a different position. Photograph No 4 shows a close up of the small container containing a small pellet inside wrapped in clear cling film suspected to be controlled drugs. In answer to a question put to him in cross examination, PW1 stated, that he did what he was instructed to do by SI Malvina and that he does not know where the drugs came from as he is unaware of the same.
- [9] The 2<sup>nd</sup> prosecution witness called was police officer Alessandro Bethew ("PW2") who is a crime scene officer at the Scientific Support and Crime Records Bureau (SSCRB) where

he has now worked for 9 years. Pw2's duties entail, primarily, attending scenes of crimes to collect evidence such as for example, fingerprints and take photographs on the scene. His qualification for the job he does was not challenged by the defence, and therefore, his evidence as an expert was admitted.

- [10] PW2's evidence was that he was on duty on the 3<sup>rd</sup> February 2022 at the ANB office at Boie de Rose when he took 10 photographs of a motor vehicle registered as S7643. On the 31<sup>st</sup> August 2022, he downloaded the photographs and put them on a CD and then took the CD to Photo Eden to be printed. He then mounted an album with the printed photographs which he produced in evidence as exhibit P2 collectively. Photographs No 1 – 3 show the motor vehicle S7643. Photograph No 2 shows a sticker labelled EI cars, and on the car's number plate it is written HV. Photograph No 4 and No 5 show inside the motor vehicle S7643. Photograph No 6 shows inside the booth of the car in which can be found, two packets of water each containing 12 bottles, a small carton box containing yogurts. Photograph No 9 shows a white, yellow and green carton box containing a loaf of STC bread, four red packets of liquid milk brand lacnor, 4 blue packets of liquid milk brand lacnor and a packet of romany cream biscuit.
- [11] The 3<sup>rd</sup> witness called by the prosecution was one Julio, Emmanuel, Etienne ("PW3"), an Assistant Peer Master at the Seychelles Port Authority. In February 2022, PW3 was an ANB Officer in the Marine unit who was on duty on the 2<sup>nd</sup> February 2022. As per PW3's testimony, whilst on duty on that particular day, he received a telephone call requesting him to take part in a controlled delivery operation. PW3 was then driven in a car to an apartment at Les Mammelles known as Michel Holiday Apartment. Once he was inside one of the apartments, 14 pellets which he was told by the officer Yvon Legaie were suspected to be controlled drugs were handed over to him in the presence of police officer Shirley Barallon, officer Moustache, Officer Legaie and Officer Cabore all of whom were on standby. PW3 was also given a white plastic glove by officer Yvon Legaie before he left the apartment, although he did return to the apartment later.

- [12] It was the evidence of PW3, that whilst he was on standby in the apartment together with other officers, he saw the lady (the 1<sup>st</sup> Accused) Hilda, Anena on the bed whilst he waited for instructions from officer Legaie. As per PW3's testimony, the lady was communicating to officer Legaie at the same time communicating on the phone with people in her own language which he, PW3, could not understand. It was the evidence of PW3, that he did receive further instructions from officer Legaie who asked him to go outside the apartment and to stay on standby close to the main road at the boundary wall and to wait for a coming car. Whilst there outside the apartment, PW3 was told that he would be given further instructions when the time is right. According to PW3's testimony, he was further instructed by officer Legaie to stay on the other side of the road to stop the car as it drives by.
- [13] PW3 testified, that officer Legaie did stop the car and as the car stopped, he, PW3, walked to the car, opened the driver's door and removed the key from the ignition of the car thus disabling the car from moving. PW3 stated, that he then introduced himself to the driver as ANB Officer. PW3 testified, that he then arrested the driver who was the only person in the car and did that in the presence of officer Legaie. As per PW3's testimony, upon the arrest of the driver, he did caution him and tell him his constitutional right. The driver was later taken inside the apartment at the Michel Holiday Apartment where Hilda Anena was being accommodated.
- [14] The 4<sup>th</sup> prosecution witness called was police officer Yvon Legaie ("PW4") who has been in the police force for 14 years. His evidence was that on the 2<sup>nd</sup> February 2022, he was on duty at the Seychelles International Airport together with other colleagues police officers including officer Cabore and officer Adelaide. He had received prior information, that two Ugandan nationals were coming to Seychelles carrying with them controlled drugs. Whilst on duty on that day, flight Ethiopian Airline ET 879 arrived at the Seychelles international Airport. As the passengers disembarked the aircraft, two of the passengers of Ugandan nationals were taken to customs for "line check". They were handed over to custom, and immigration officers. The lady passenger of the two was handled by custom officer Betty Luc who asked her few questions about the purpose of her visit in Seychelles and the duration of her stay. The lady passenger was granted 3 days stay (visa) instead of 7 days

which she had asked for. A search was then carried out in her luggages but nothing illegal was found.

- [15] PW4 testified, that after becoming aware that the lady would be staying at Michel Holiday Apartment, he phoned the place to confirm whether that information was correct. PW4's testimony was that it was confirmed to him that the lady was going to stay at Michel Holiday Apartment, and that she would be accommodated in Room No 18. PW4 then communicated that information to his superior, one Nichol Fanchette, the DPO, and then organised a surveillance team to ensure that the lady checks in the Michel Holiday Apartment. It was the testimony of PW4, that at around 7:48 pm on the 2<sup>nd</sup> February 2022, that he and officer Cabore proceeded to Michel Holiday Apartment at Les Mammelles to room No 18. Once they were there, officer Cabore knocked on the main entrance door. It was the lady, Hilda Anena who opened the door. As per PW4's testimony, the lady was asked whether she had swallowed any drugs, and she answered "yes". The lady then quickly walked towards her hand luggage and removed from it a black bin liner containing 14 cylindrical shaped bullets suspected to be controlled drugs which she handed over to officer Cabore.
- [16] PW4 testified, that he thereafter informed his superior, Nichol Fanchette of the development and discovery. He was then informed by Nichol Fanchette, that a controlled delivery operation has been approved by the Commissioner of Police and that the drugs need to be replaced by a decoy. As per PW4's testimony, he did prepare the decoy of 100 round shaped objects similar to those found and placed in a biodegradable blue coloured bag. It was the testimony of PW4, that at around 11:23 pm the lady, Hilda Anena received an audio call on WhatsApp, the caller speaking in the Ugandan language. The lady told PW4 that the caller was enquiring from her about what she needs at her apartment for someone to bring for her, and that she has answered juice, banana, milk and water. PW4 stated, that it was the lady herself who translated her conversation with the person who called her in the Ugandan language to English for him to understand.

- [17] PW4 testified, that the lady Hilda Anena, did receive another phone call which she told him was from his brother in law, one Allou who wanted to know whether she was ok. As per PW4's testimony, the lady Hilda Anena received another phone call by which phone call, according to her, the caller was asking her to send the shopping list. PW4 testified, that two or more phone calls followed. One of those phone calls was from Boss Soya, and the other was from her brother in law, Allou. Thereafter, all the phone calls the lady, Hilda Anena received were from Boss Soya. In one of the phone calls, Boss Soya sought to enquire from the lady, Hilda Anena, whether anybody has phoned her.
- [18] It was the evidence of PW4, that it was around 9:48 pm, that police officer Barallon and Moustache joined them in room 18 at the Michel Holiday Apartment to participate in the controlled delivery operation. Soon after came police officer Julio Etienne to whom officer Cabore handed over the 14 cylindrical shaped bullets placed in a black bin liner. PW4 then handed over the decoy of 100 cylindrical shaped bullets he had prepared given that he had been told by the lady, Hilda Anena, that she was carrying 100 cylindrical shaped bullets of controlled drugs.
- [19] PW4 testified, that at around 9:55 pm, the lady Hilda Anena, received a phone call from Boss Soya asking her to leave her room of the apartment and to walk to the main road, and that once she is on the main road, to walk on the left hand side of the road on her left until a white car stops close by her and shouts the code "Ania". As per PW4's testimony, the lady, Hilda Anena, received another phone call by which she was asked whether she was already by the road side because the car was there waiting. Her answer was "yes" although she was still in her room at the apartment.
- [20] It was the evidence of PW4, that he thereafter gave instructions to his colleagues who were to participate in the controlled delivery operation, addressing police officer Cabore in particular, asking him to wait for his phone call, as he PW4, proceeds to the main road to give the lady, Hilda Anena, the go ahead for her to come to the main road. As per PW4's testimony, he and officer Julio Etienne took their position in the bush at the other side of the main road. Whilst there, PW4 instructed officer Cabore to allow the lady, Hilda Anena

to leave her room and to walk to the main road and to do as she was instructed by Boss Soya. According to PW4's testimony, the lady Hilda Anena, walked on the left hand side of the road towards Victoria as she walked a little distance away from them. According to the PW4's testimony they were on the other side of the road and on standby awaiting for the right time for them to move.

[21] It was the evidence of PW4, that he and his colleague officer Julio Etienne watched and observed as a white Kia Picanto bearing registration number S7643 heading towards Victoria came and stopped close by the lady. As soon as the car stopped, PW4 and his colleague waked slowly and quietly to the car when they suddenly heard a male voice shouted the words, "Ania get in". As the lady, Hilda Anena was about to get into the car, officer Julio quickly grabbed the car key, turned off the engine and removed the key from the car ignition. The driver of the car, the 2<sup>nd</sup> accused, was asked by officer Julio to get out of the car and thereafter, officer Julio introduced himself to him as an ANB officer. It was the evidence of PW4, that then they all got into a car driven by him as he headed towards Victoria and then a couple of metres away he turned and returned to the apartment where the 2<sup>nd</sup> accused was told that he was being arrested for conspiracy to import a controlled drug. As per PW4's testimony, he was the one who informed the accused of his constitutional right, whereas, officer Julio conducted a body search of him and found some Seychelles rupees notes and a black mobile phone make Samsung.

[22] PW4 testified, that when he was in the apartment in the presence of the 1<sup>st</sup> and 2<sup>nd</sup> accused persons, someone called the 2<sup>nd</sup> accused from phone 2857738. The accused telephone was on speaker phone, and PW4 could hear the person who mentioned the name Kevin. The 2<sup>nd</sup> accused answered the phone call and said, "I am in a small problem. I will come back to you". As per PW4's testimony, at around 10.45 pm, the 2<sup>nd</sup> accused received a normal phone call when again his phone was on speaker and the name "Cham" could be seen on his phone. That normal phone call was followed by a WhatsApp call. The 2<sup>nd</sup> accused did not answer either of the two phone calls. PW4 did make a dock identification of the person he found in the dock as the very same person who was driving the white kia picanto car S7643 whom they apprehended following the controlled delivery operation, and whom

they arrested for the offence of conspiracy to import a controlled drug on the 2<sup>nd</sup> February 2022.

[23] The 5<sup>th</sup> prosecution witness called to testify at the trial of the 2<sup>nd</sup> accused was Stenio Cadeau ("PW5") who is a police officer attached to the drugs unit of the police force. He has been a police officer for 8 years. PW5's evidence was that on the 2<sup>nd</sup> February 2022, he turned up for duty at around 11 pm along with other police officers, naming officer Anne William Fondamiere, officer Nichol Fanchette and ASP Georges. As per his testimony, while on duty on that day he was informed, that there is one suspect who had been arrested following a controlled delivery operation regarding a case of importation of a controlled drug and that the suspect was being detained in the room of the foreigner who had imported the controlled drug at the Michel Holiday Apartment. As per PW5's testimony, it was handed over to him by officer Julio Etienne a Samsung mobile phone and a car key, and was told by officer Etienne, that the key was for the car the suspect came to collect drugs in. PW5 testified, that he came to know the name of the suspect as Kevin Quatre whom he identified in the dock. It was the testimony of PW5, that thereafter, they took custody of Kevin Quatre and took him in his rented car to the ANB station. The car was driven by officer Nichol Fanchette. Also present in the car was he, PW5, and ASP Georges.

[24] It was the testimony of PW5, that a search was conducted in the car in the presence of the suspect as well as officer William Fondamier. In the trunk of the car they found 4 packets of juice, 4 packets of milk, 6 packets of 4 yoghurts, one box of romany cream biscuit and one packet of bread. Some of these food items were in the car truck, whereas, the others were on the back passenger seat of the car. Shown photograph exhibit P2, PW5 confirmed, that the photograph shows the 2<sup>nd</sup> accused's car, the very same car they took the 2<sup>nd</sup> accused to the ANB office in. PW5 stated, that he was present when CPL Bethew took the photograph shown to him. PW5 testified, that after they completed the search inside the car, the same was locked and they proceeded to the 2<sup>nd</sup> accused residence at La Louise to carry out a search therein his presence. There, they met the 2<sup>nd</sup> accused's mother, Ramona who was informed that her son, Kevin Quatre, has been arrested following a controlled drug delivery operation, and is suspected to have committed the offence of conspiracy to



import a controlled drug. In the presence of Kevin Quatre, the 2<sup>nd</sup> accused, his mother was informed, that a search is to be conducted inside her house. Nothing illegal was found as a result of the search, and thereafter, the suspect Kevin Quatre was taken back to the ANB station and later transferred to the Central Police station where he was detained.

- [25] In cross examination, it was put to PW5, that it was at the end of the month and that as the father of two children, the food stuffs that were found in the car such as yoghurt, milk, water, bread and biscuit were part of the end of the month shopping which the 2<sup>nd</sup> accused did for his two children and family. When asked whether these food stuffs were illegal, PW5 answered “No”. PW5 was also asked, in cross examination, who arrested the 2<sup>nd</sup> accused, Kevin Quatre and for what offence. His answer was that he was informed that PC Julio Etienne was the one who arrested him, and that when he, PW5, arrived at the Michel Holiday Apartment, he had already been arrested.
- [26] The 6<sup>th</sup> prosecution witness called was Annie William-Fondamiere (“PW6”). PW6’s evidence was that she is a police constable (PC) in the Seychelles Police force, and that she has been in the force for a total of 13 years. In February 2022, PW6 was in the investigation department, and on the 2<sup>nd</sup> February 2022, she was on duty together with CPL Stenio Cadeau, PO Nichol Fanchette and ASP Georges. PW6 testified, that whilst on duty they were informed of the controlled delivery operation and that one person by the name of Kevin Quatre had been arrested.
- [27] PW6 stated, that she and her colleagues went to Michel Holiday Apartment at Les Mamelles. When they arrived there, in one of the apartments, Room 18, they saw Kevin Quatre, the 2<sup>nd</sup> accused handcuffed. PW6 stated, that it was in her presence, that officer Julio Etienne gave the car key which was taken from the 2<sup>nd</sup> accused to CPL Stenio Cadeau together with some cash money of one SCR 500 note, 10 notes of SCR 100, one note of SCR 25, 2 coins of SCR 5, and a mobile phone. As per PW6’s testimony, they then took suspect Kevin Quatre to his car and after he got into the car, he was driven to the ANB station. PW6 confirmed, that the car which took suspect Kevin Quatre to the station was a Kia Picanto registered under EL Car Hire, plate number S7643. It was the testimony of



PW6, that when they arrived at the station with the suspect, Kevin Quatre, they did some paper works in line with the procedures, and at around 12:10 am on the 3<sup>rd</sup> February 2022, a search was carried out in his car in his presence. Also present was herself, PW6, who observed as CPL Stenio Cadeau carried out the search. PW6 confirmed, that they found 6 packets of yoghurt in the trunk of the car, 4 packets of juice, 4 packets of milk, one packet of bread a packet of romany cream biscuit and two packets of bottles of water.

- [28] Shown exhibit P2 collectively, PW6 confirmed, that the car she could see in the photographs was the car in which the search was carried out, and that she could see pictures of the food items that they found in the car. PW6 testified, that there were two boxes of takeaway food on the rear passenger seat of the car which the accused, Kevin Quatre, told them were his. It was the testimony of PW6, that when the search in the car was completed, Kevin Quatre was informed, that they were going to carry out a search at his residence which he agreed to it. At around 12.18 am PW6 and others arrived at Kevin Quatre's residence where they met his mum, one Ramona Jean Louis. As per the testimony of PW6, CPL Cadeau explained to her that a search would be conducted in the house, and she agreed. Also present at the time the search was being conducted was one Mr Jean Louis, Ramona's partner, and a little sister of Kevin Quatre. PW6 testified, that the search was conducted inside the house as well as outside the premises and nothing illegal was found.
- [29] In cross examination, it was suggested to PW6, that the food items found in the 2<sup>nd</sup> accused's car namely, yoghurt, juice, milk and bread were items a father had shopped for his family and when asked whether it was reasonable to find those things in the car she replied "yes". Under cross examination, PW6 stated, that she did not participate in the controlled delivery and that when the controlled delivery was over, she was informed, that he has to pick up the gentleman who had already been arrested.
- [30] The 7<sup>th</sup> prosecution witnesses called was sub inspector (SI) Johnny Malvina ("PW7"), PW7's evidence was that he was on duty on the 4<sup>th</sup> February 2022, and that whilst on duty, he was informed, that there was a female foreigner who had come into the country suspected of having foreign objects in her stomach suspected to be controlled drugs. On

the very same day, officer Franchesca Malvina handed over to him 12 sealed evidence bags which contained the suspected controlled drugs. He then placed the bags into the evidence store that was under his sole control. On the 7<sup>th</sup> January 2022, he, PW7 took one of the exhibits, a cylindrical shaped bullet to the female foreigner whom he came to know as Hilda Anena who at the time was in hospital. In her presence, PW7 opened the cylindrical shaped bullet and showed the content of it to her. PW7 then sealed it with a red evidence tape. PW7 then took all the exhibits, that is, the 12 sealed evidence bags to the forensic laboratory along with three requests signed by him for analysis. There, PW7 handed over the same to the analyst, Forensic Analyst Manda, Chettiar who signed all pages and stamped them. The content of the certificate of analysis, exhibit P4, was read in open Court. PW7 confirmed the description of the exhibits, the date and the name of the convict from whom the exhibits were seized written on the evidence envelop, and the signature of Franchesca Malvina entered when she handed over the exhibits to him as well as his signature when he received the exhibits from her, and the signature of Ms Mandru Chettiar who acknowledged receipt of the same although they were addressed to Mr Aubrey Quatre, the head of the Scientific and Crime Record Bureau.

- [31] It was the testimony of PW7, that on the 1<sup>st</sup> of March 2022, he received back the sealed evidence envelopes together with the certificate of analysis dated 15<sup>th</sup> March 2022 which he signed upon receipt, exhibit P4. On the certificate of analysis, PW7 identified the signature of the analyst, Mandru Chettiar when she received the exhibits from him, and his signature when he received the exhibits from her. In the evidence envelop, there were 12 clear plastic evidence bags containing all the cylindrical shaped bullets tendered marked exhibit P5. Evidence bag number 1 contained 14 cylindrical shaped bullets, (P6 collectively) evidence bag No2, 21 bullets, (P7 collectively,) evidence bag No3, 16 bullets, (P8 collectively) evidence bag No4, 7 bullets, (P9 collectively), evidence bag No5, 15 bullets, (P10 collectively,) evidence bag No6, 1 bullet, (P11,) evidence bag No7, 3 bullets, (P12 collectively,) evidence bag No8, 11 bullets (P13 collectively), evidence bag No9, 8 bullets, (P14 collectively), evidence bag No10, 2 bullets, (P15 collectively), evidence bag No11, 1 bullet, (P16) evidence bag No12, 1 bullet, (P17).

- [32] The 8<sup>th</sup> prosecution witness called was police officer Franchesca Malvina ("PW8") who has been in the police force for six years. Her evidence was that she was on duty on the 4<sup>th</sup> February 2022. Her commander called her and told her that she wants her to participate in an operation. PW8 was told to go to the Phoenix House at Bois de Rose together with two other police officers where they would be briefed by PO Fanchette about the operation that was to be carried out. PW8 testified, that she and her colleagues went to Phoenix House where they were told by PO Fanchette that a foreigner, a woman, had apparently swallowed 100 bullets suspected to be controlled drugs. According to PW8's testimony, she and her colleagues got into an ANB car and headed to a guest house at Les Mamelles. She could not remember the name of the guest house. They arrived there at 7:30 pm. Once she was there, PW8 met constable PC Barallon who introduced her to the 1<sup>st</sup> accused Hilda Anena, whom she said had swallowed a certain amount of cylindrical shaped bullets. According to PW8's testimony her main task was to supervise the lady, the 1<sup>st</sup> accused, to see if she receives any phone calls or messages.
- [33] It was the evidence of PW8, that at around 7:35 pm, she was handed over 11 bags which contained 99 bullets in total which was collected from the 1<sup>st</sup> accused, Hilda Anena. PW8 testified, that in the morning of the following day, the 1<sup>st</sup> accused, Hilda Anena told her that she was not feeling well. PW8 conveyed this information to PO Fanchette, and because the 1<sup>st</sup> accused was requesting that she is taken to the hospital, the necessary arrangements were made to take her to the hospital. At the hospital, PW8 had a CT scan and it was found that there was a foreign object inside her body. The 1<sup>st</sup> accused had to undergo surgery, and after surgery, the nurse in charge of the theatre room came with a clear plastic box with a red cover and the name Hilda written on it. Shown exhibit P12, PW8 confirmed, that this is the same clear plastic box she was referring to written on it exhibits No 12 and 17, CB/08/02/22. PW8 confirmed, that at the time the 1<sup>st</sup> accused, Hilda Anena was taken to the hospital, she had already received all the evidence bags that remained in her possession at all times, and also confirmed, that she did place the clear plastic box with the red cover she received from the nurse inside the evidence bag. PW8 testified, that she did hand over all the 12 evidence bags to SI Malvina which she confirmed No1 as P6, No2 as P7, No3 as

P8, No4 as P9, No5 as P10, No6 as P11, No7 as P12, No8 as P12, No9 as P14, No10 as P15, No 11 as P16 and No12 as P17.

- [34] The 9<sup>th</sup> prosecution witness called was one Ronny Estico, (“PW9”), who works as a salesman for EL Car Hire at Providence. In his evidence, he stated, that he knows Kevin Quatre, the 2<sup>nd</sup> accused, whom he identified in the dock. In his testimony, PW9 also stated, that in the month of February 2022, the accused Kevin Quatre, whom he knows quite well, did rent a car make Kia Picanto bearing registration number S7643 from EL car hire business, and that he, PW9, was present when he, the 2<sup>nd</sup> accused, signed the necessary documents. PW9 identified the Kia Picanto S7643 from a photograph shown to him as exhibit P2.
- [35] In his defence of the charges against him, the 2<sup>nd</sup> accused, Kevin Quatre, (“DW1”) gave evidence on his own behalf. His evidence, was that he is a mechanic who does both mechanical and electrical works on motor vehicles. He is a father of two children who at present hasn’t got a partner. The two children live with their mother and he assists them with an allowance of SCR 5000 monthly. He also buys them items they need such as food items on the request of their mother. According to DW1’s testimony, he also shops for them at the end of the month. DW1 testified, that he owns a car and that on the day of the incident on the 2<sup>nd</sup> February 2022, the car was not in use because it was under repair at the workshop. As per his evidence, to facilitate his movement around, he had to rent a car, which he also used to take him to and from work, as well as to operate it as an unlicensed taxi (taxi pirat) in the evening.
- [36] DW1 stated, that whenever he does do shopping for his two children, he usually buys them groceries and that includes things like milk, juice, fruits and biscuits that he then takes to their mother’s place at Baie Lazare. As per DW1’s evidence, on the day of the incident, he had bought some food stuffs for his children that were placed on the rear passenger seat, and some groceries in the boot of the car. Shown P2, DW1 confirmed, that the photograph shows the food stuffs he had bought for his children including yoghurt, bread, juice and milk.

- [37] In his testimony, DW1 confirmed, that when he was stopped by ANB officers, he had a cell phone with him and that the first thing they did was to take the phone from him. He is of the view, that the officers have been having access to whatever information that was on his phone at the time because according to him they took the phone from him to obtain those information.
- [38] DW1 denied that he conspired to import a controlled drug in the country, stating, that he has never conspired with anybody and that the woman who apparently imported the drugs (Accused No1) has had no contact with him, that she never called him, nor anybody else from abroad. DW1 also stated, that he was never told by anybody to buy food stuffs for the lady and that the food stuffs seized in the car was not for the lady but for his two children.
- [39] As to the incident of the 2<sup>nd</sup> February 2022 that caused his arrest by ANB officers, DW1 stated, that on that day at around 10.30 pm, he was driving from providence heading to town in Victoria via Brilliant road, and that was during the “lock down” period. According to his testimony, as he reached Les Mamelles district he came across someone he thought was a Seychelloise and stopped the car to offer her a lift. He slowed the car when suddenly he realised that the person was not a Seychelloise, and as he was about to increase the car speed to proceed with his journey, he felt someone grabbing his hand. The only thing he said was “be ki pe arive” (translated as hey what was happening). DW1 testified, that he doesn’t know this woman (the 1<sup>st</sup> accused) and that he has never had any interaction with her. He stated, that he only stopped to give her a lift which then turned out to be a problem for him.
- [40] In answer to questions put to him in cross examination, DW1 stated, that on the day of the incident he happened to be on the road from Providence because he was earlier working in a garage at Bodamier, Anse Aux Pins doing some part time works. He was heading home at La Louise. In examination in chief, he had made no mention that he was from Anse Aux Pins. He also said in examination in chief, that he stopped at Les Mamelles to offer the lady he thought was a Seychelloise a lift to town. Asked whether when the mother of his

two children whom he said lives at Baie Lazare request for groceries he delivers them to her on the same day he buys them, DW1 stated, not on the same day all the time, and given that he is an organist at the Baie Lazare church, he would drop by to their place when he goes there which could be any time.

- [41] DW1 confirmed, under cross examination, that he had rented the car he was using on that day from EL. He also confirmed, that after he was apprehended by police, they removed him out of the car he was driving, put him in another car and as the driver drove toward town, he then turned at Les Mamelles taking him to a room at Michel Holiday Apartment. DW1 also confirmed, that he was kept there in the room with a lady, and was later taken to the ex-coast guard station. This aspect of his testimony was consistent to the testimony of officer Legaie.

#### SUBMISSIONS OF COUNSELS.

- [42] In her submissions, learned state counsel Ms Kethlynn Marie, rehearses the evidence of the 9 prosecution witnesses who testified at the trial of the 2<sup>nd</sup> accused. Her rehearsal of the evidence represents a correct and accurate account of the evidence based on the Court's record of proceedings. On the law, learned state counsel seeks to put in context the legal requirements for a conviction for a drug offence alleging conspiracy. She submits, "that as per Section 16 (a) of the Misuse of Drugs Act, conspiracy requires that a person agrees with another person or persons, that a course of conduct shall be pursued".
- [43] For proof of conspiracy, learned counsel refers to the evidence of PW4, who had stated, inter alia, that whilst in the apartment with Hilda Anena, she received a WhatsApp call asking her what she would need in the hotel for someone to bring to her. She stated juice, banana, milk, water. Learned counsel also refers to the evidence of PW5 who conducted the search in the white kia picanto S7648 that was being driven by the accused at the time he was stopped and later arrested. PW5 found in the car 4 packets of juice, 4 packets of milk, 6 packets of 4 yoghurt equal to 24 yoghurt, 1 box of Romany Cream, 1 packet of bread all in the trunk, and two boxes of take away on the back passenger seat. It is the

submission of learned counsel, that those food items match the list and request of the 1<sup>st</sup> accused, Hilda Anena. Learned counsel also refers to the evidence of PW4 who had testified, that Hilda Anena (the 1<sup>st</sup> accused) received a WhatsApp call by which she was told to proceed to the road and a white car will stop nearby her and will call her by the code name “Ania”. It is the submission by learned counsel, that as per the evidence of PW3 and PW4, the only car that stopped close by Hilda Anena was the white Picanto car that was driven by the 2<sup>nd</sup> accused, Kevin Quatre. Learned counsel also refers the Court to the testimony of PW4 who had stated, that when the white Picanto car stopped next to Hilda Anena, he heard the driver calling her as “Ania”. Learned counsel submits, that the events unfolded exactly as per the instructions given by the caller to Hilda Anena in the WhatsApp calls.

[44] As regards to the proof for the offence of Aiding and Abetting the Trafficking of a Controlled Drug, it is submitted by learned counsel, that the 2<sup>nd</sup> accused, Kevin Quatre, knowingly aided and abetted Hilda Anena in trafficking the control drug by providing her with the food supplies she had been asking for. More so, given that PW4 had testified, that based on his past experience, these food were to enable Hilda Anena, (the 1<sup>st</sup> accused) to excrete the bullets (drugs) she had swallowed. It is also the submission of learned counsel, that it is more than a mere coincidence that on the very day that Hilda Anena arrives in Seychelles and had requested for those food items, that at 8.23 pm the 2<sup>nd</sup> accused will be found in possession of some of those items whilst giving a lift to the same person who had made the request, and who had been told that a white car will come and pick her up by the road side.

[45] In her submission for a possible conviction for conspiracy to traffic in a controlled drug, learned counsel seeks to put the offence in context. Learned counsel submits, that as per the evidence of PW4 that the 1<sup>st</sup> accused had swallowed 100 bullets when she entered into the country, she effectively imported the drugs into the country. Learned counsel also submitted, that when the 1<sup>st</sup> accused was on her way to meet the person in the white car, she still had the controlled drug in her body as per the evidence of PW8. It is the submission



of learned counsel, that given that the drugs were in her body, the 2<sup>nd</sup> accused effectively trafficked the drug through Hilda Anena as he had the controlled drug delivered to him.

[46] As regards to the controlled drug, learned counsel submits, that the same was submitted as exhibit P4. There were 100 cylindrical shaped bullets obtained from the 1<sup>st</sup> accused, Hilda Anena. They were placed in the evidence bag and sent for analysis by PW7, and that as per the result of the forensic analysis, it was concluded, that the controlled drug has a net weight of 999.98 grams with Heroin (Diamorphine content of 564.90 grams).

[47] At the start of her submissions, learned counsel for the 2<sup>nd</sup> accused, Kevin Quatre, remarks that “the prosecution has filed an unreasonable multiplication of charges against the accused, and added, that this tactic “is a method used by the prosecution to accuse the Defendant of a crime that the prosecutor may not be able to prove, and in order to induce the defendant to plead guilty. Learned counsel regards the indictment in the instant case to be “a multiplicity of charges relating to the same action of the accused person”. It is submitted by learned counsel, amongst other things, that “the whole law relating to duplicity and multiplicity of charges is intended to avoid subjecting an accused person to an unfair trial given that it has a Constitutional right to a fair hearing and that it is in fact oppressive to an accused person and erroneous to the Court for the prosecution to include too many counts in one indictment.

[48] Making references to the charges themselves, as regards to the law, learned counsel seeks to discuss the key terms in the charges making references to different case law in trying to expound on their definition. Learned counsel first submits on the word “importation” which she says is not defined by the Misuse of Drugs Act 2016, (MODA). Learned counsel however takes note of Section 5 of MODA which reads as follows;

*“A person who imports or exports a controlled drug in contravention of this Act, commits an offence”.*



[49] Relying on the case of **R v Micock & Anor CO 07/2017 [2018] SCSC 214**, learned counsel submits, that there are three components to be proved, namely;

- (1) That there was an importation,
- (2) That the drugs were controlled by law, and
- (3) That the person committing the Act of importation did so.

Although the 1<sup>st</sup> accused, Hilda Anena pleaded guilty to the charge of importation of a controlled drug, clearly, based on the evidence now on record in this case, all the three components would have been met and she would have been accordingly convicted. More so, given the case law cited by learned counsel for the 2<sup>nd</sup> accused to show what constitutes import or importation. I agree with learned counsel for the 2<sup>nd</sup> accused that the case of **Clarisse v Republic [1982] SLR 75** and **Republic vs Dubignon [1998] SLR** do assist the Court in establishing whether or not importation is proved.

[50] As regards to the word “trafficking”, learned counsel confirms, that the same is defined under Section 2 of MODA, and that as such the accused ought to have been charged in the alternative. In respect of the word conspiracy, learned counsel for the 2<sup>nd</sup> accused submits as follows;

“... as conspiracy occurs when two or more people agree to commit an illegal act and to take some steps towards its completion. Conspiracy is an inchoate crime because it does not require that the illegal act actually have been completed”.

[51] In her submission, learned counsel emphasises “that someone who is entirely unaware that he or she is participating in a crime cannot be charged with conspiracy”.

[52] Whilst I am in agreement with her statement, I have to add, that it is always the facts of the case as laid in evidence that would determine whether a person accused of conspiracy to commit a crime did, in fact, conspired to do so. In her submission, learned counsel rely on the case of **R v Taylor [2002] Crim LR 205** and proceeds to state the following;

- (i) That it must be proved that the accused persons either, (a) have known that it related to the particular drug mentioned in the indictment, or (b) to have known it related to the drug of the same class.

[53] Learned counsel also cites few of our domestic case law authorities, notably, **R v Mohamad Zaki Shah and Philip Vital [1971] SLR1**, **R vs Pillay [1993] SLR 48**, and **R v Moumou (unreported 2 SC 2/1999, 9 June 1999)**. Learned counsel also cites the more recent case of **Dugasse & Ors v R [2013] SLR (vol.1) 67**, **Assary v R 2012**, and **Celestine v R (SCA 8 of 2013) [2015] SCCA 33**, which cases learned counsel submits, set out the ingredients necessary for an agreement for the purposes of proving conspiracy. Learned counsel submits that this is;

- (i) “That there must be evidence to show that there was an agreement between two or more persons to do an unlawful Act”.

[54] In her reliance on her propositions discussed in the preceding paragraphs, it is the submission of learned counsel for the 2<sup>nd</sup> accused, “that the prosecution’s case did not establish conclusively and beyond reasonable doubt, the existence of an agreement between the second and first defendant to commit the offences charged”.

#### FINDING BASED OF THE EVIDENCE AND THE LAW

[55] I have scrutinised the evidence laid before this Court by the prosecution against the 2<sup>nd</sup> accused in this case in its attempt to prove the offence of conspiracy to commit the offence of importation of a controlled drug (count 1) and the offence of conspiracy to commit the offence of trafficking in a control drug. As much as I do agree with learned counsel for the 2<sup>nd</sup> accused that on application of the facts to the law as it presently stands and discussed in the preceding paragraphs, my research of this area of law leads me to the conclusion, that the prosecution has been unable to prove the existence of a conspiracy between the 1<sup>st</sup> accused and the 2<sup>nd</sup> accused, and as such a conviction for the offences conspiracy to commit the offence of Importation of a Controlled Drug and or conspiracy to commit the offence

of Trafficking on a controlled drug (count 1 and count 2) of which the 2<sup>nd</sup> accused has been indicted is untenable.

[56] The 2<sup>nd</sup> accused, has also been indicted for the offence of Aiding and Abetting the Trafficking of a Controlled Drug. As to the words “Aiding and Abetting”, it is the submission of learned counsel for the 2<sup>nd</sup> accused, that this is proved where;

- (i) The accused intentionally aided, counselled, commanded, induced or procured the person committing the crime.
- (ii) The accused acted before the crime was completed.

[57] It is submitted by learned counsel for the 2<sup>nd</sup> accused, that these requirements were elaborated by Fernando JA, in **Dugasse & Ors v Republic (SCA 25 of 2020) [2013] SCCA 6 3 May 2013**).

[58] Submitting on procedural law, learned counsel for the 2<sup>nd</sup> accused reminds this Court, that the burden of proof in this case was on the prosecution, and that the prosecution had the evidential burden to adduce evidence to prove the 2<sup>nd</sup> accused guilty “beyond reasonable doubt”. I see no reason to disagree with her in that regard (see **Woolmington vs DPP [1935] AC 462** followed in our jurisdiction in **Mondon v r [SLR] 1967** and **Green V R [1972]** see also **Lord Denning in Miller v Minister of Pension [1947] 2 ALLER page 372 & 973**). However, it is also the submission of learned counsel, that the prosecution has failed in their duty to prove any of the charges against the 2<sup>nd</sup> accused beyond reasonable doubt. Learned counsel took issue with her finding that accused No 1 was not informed of her constitutional right and as such, “she was unaware and unable to exercise her right of silence”. In my considered opinion, this cannot be relevant and impact on the instant case given that the 1<sup>st</sup> accused has already pleaded guilty and has been convicted. It could have been a ground to be considered on appeal against her conviction perhaps.

[59] It is also submitted by learned counsel for the 2<sup>nd</sup> accused, that PW4 relied on the translation made by the 1<sup>st</sup> accused, Hilda Anena of the conversation between her and Boss

Soya, and that an independent interpreter ought to have been made available to confirm what was said by the 1<sup>st</sup> accused. It must be reminded, that the evidence shows, that Boss Soya made WhatsApp calls knowingly that such calls cannot be recorded, and furthermore, there is no good reason to suggest that there was something wrong with the translation of the conversation between Boss Soya and the 1<sup>st</sup> accused by the 1<sup>st</sup> accused who had voluntarily agreed to cooperate with the police. As regards to the point that at no time did the 1<sup>st</sup> accused had any interaction with the 2<sup>nd</sup> accused or vice versa, this cannot be disputed as borne out of the evidence.

- [60] In her submission, learned counsel seeks to take issue with few aspects of the evidence of PW4, Yvon Legaie. She submits, that the apparently “code name Ania” is an exaggeration as ordinary people do not use words like “code name”. It must be remembered, that PW4 gave evidence as a police officer, and as such, whatever he said has to be interpreted in the context the words were used. Learned counsel also took issue with the fact, that when the 1<sup>st</sup> accused left her room to come to the road side, she was not in possession of the decoy she was meant to handover to the 2<sup>nd</sup> accused, and that the decoy was never exhibited.
- [61] It is submitted by learned counsel for the 2<sup>nd</sup> accused, that the evidence of PW4 that they heard the 2<sup>nd</sup> accused “call out to Ania get in” lacks credibility given the passing cars, and the fact that the officers were in the bush. As to the evidence of PW4 that the water, juice, milk, yoghurt they found in the white car was meant to be used to facilitate the excretion of the drugs, it is the submission of learned counsel, that PW4 gave evidence as a scene officer, and that he was meant to give factual evidence not opinion evidence, which should have been left to an expert. As per learned counsel’s submission, this piece of evidence cannot be considered by the Court. As regards to the food items found in the white car S7643 learned counsel submitted, that they were “everyday shopping list items the 2<sup>nd</sup> accused had bought for his two minor children.

## CONCLUSION

- [62] Having scrutinised the evidence and found that the prosecution has been unable to prove “conspiracy” on the part of the 2<sup>nd</sup> accused, Kevin Quatre, it now remains for this Court to determine, whether, on account of the prosecution’s case against the 2<sup>nd</sup> accused, the prosecution has adduced sufficient evidence to prove the charge of Aiding and abetting the Trafficking of a Control Drug against the 2<sup>nd</sup> accused beyond reasonable doubt.
- [63] One of the authorities in the field of criminal law in terms of literatures is Archbold. Archbold Pleading, Evidence and Practice in Criminal Cases, 42<sup>nd</sup> edition at page 2307 states, that aiders and abettors are those who are present at the commission of the offence and aid and abet its commission. It requires the presence of the person, such presence may be either actual or constructive. It requires participation in the act which may be direct or indirect participation and such participation should be the result of a concerted design to commit a specific offence. It is settled law, that aiding and abetting is a separate and distinct offence, and that a person may be convicted of abetting an offence eventhough the principal offender has been acquitted. In this instant case, the principal offender, the 1<sup>st</sup> accused, Hilda Anena, has pleaded guilty, convicted and sentenced.
- [64] In *National Coal Board v Gamble* [1958] 3 ALLER 203 at page 207, Delvin J had this to say;
- “... aiding and abetting is a crime that requires proof of mens rea, that is to say, of intention to aid as well as knowledge of the circumstances and proof of the intent involves proof of a positive act of assistance voluntarily done”.
- [65] Given that the 2<sup>nd</sup> accused is charged with the offence of aiding and abetting the trafficking of a controlled drug in count 3, I am reminded, that trafficking in a controlled drug as set out in count 3 is based on the definition contained in the interpretation of Section 2 of the Misuse of Drugs Act 2016, which means selling, giving, administering, transporting, sending delivering or distributing of the controlled drug.

- [66] On account of the evidence laid before this Court in this case, clearly, the 2<sup>nd</sup> accused, Kevin Quatre, was meant to collect 100 bullets of controlled drug Heroin, (Diamorphine) from the 1<sup>st</sup> accused Hilda, Anena based on the conversation between the 1<sup>st</sup> accused Hilda, Anena and Boss Soya who was coordinating the contact between the 1<sup>st</sup> and 2<sup>nd</sup> accused. When it was time for the 1<sup>st</sup> accused Hilda Anena to leave her apartment, Room 18, and to walk to the main road, she obtained instructions from Boss Soya. The 2<sup>nd</sup> accused, Kevin Quatre, was taking instructions from someone who had also provided him with the list of food stuffs which the 1<sup>st</sup> accused, Hilda Anena had requested for and were in the white car S7643 which he was to deliver to her but could not do so because she was apprehended.
- [67] The 2<sup>nd</sup> accused's evidence in his defence, that he stopped to give the 1<sup>st</sup> accused Hilda, Anena whom he thought was a Seychellois a lift to town and that the food stuffs/items found in the car were meant to be part of the end of the month shopping for his two children lacks credibility and cannot be believed given the evidence adduced by the prosecution as to how he came about to have those food items in his possession. In the circumstances, on account of the totality of the evidence laid before this Court in this case, I find, that the prosecution has failed to discharge its evidential burden to prove the charge of Conspiracy to Commit the Offence of Importation of a Controlled Drug, (count 1) and the offence of Conspiracy to Commit the offence of Trafficking in a Controlled Drug (count 2) against the 2<sup>nd</sup> accused. As such, the prosecution had not proved the accused's guilt beyond reasonable doubt for these two offences. I therefore proceed to acquit the 2<sup>nd</sup> accused Kevin Quatre, for both, count 1 and count 2.
- [68] In the light of the evidence laid before this Court, I am satisfied, that the prosecution has adduced sufficient evidence to discharge both, its evidential burden and its burden of proof beyond reasonable doubt proving the 2<sup>nd</sup> accused's guilt for the offence of Aiding and Abetting the Trafficking of a Controlled Drugs (count 3). I therefore convict the 2<sup>nd</sup> accused, Kevin Quatre of one count of Aiding and Abetting the Trafficking of a Controlled Drug contrary to Section 15 (1) (a) & (c) read with Section 7(1) and Section 2 of the Misuse of Drug Act, 2016 and punishable under Section 7 read with the Second Schedule of the said Act.

Signed, dated and delivered at Ile du Port 5 July 2023.

