

IN THE SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC ..730
CR32 /2019

In the matter between

THE REPUBLIC
(rep. by Langsinglu Rongmei)

Prosecution

and

IVAN SINON
(rep. by France Bonte)

Accused

Neutral Citation *The Republic v Ivan Sinon* (CR32/2019) SCSC..... delivered on 28th September 2023

Before: Vidot J

Summary Causing Death by Dangerous Driving to section 25 of the Road Transport Act

Heard:

Delivered: 28 September 2023

SENTENCE

VIDOT J

- [1] The Accused, Mr. Ivan Sinon stands charged of one count of causing death by dangerous driving contrary to and punishable under section 25 of the Road Transport Act. The particulars of the offence are that on the 07th May 2017, near the Botanical Garden, Mont Fleuri, Mahe, the Accused, a 42 year old man of Copolia, caused the death of Appolinaire Adele Rahajarivoarinelinea, 42 year old Malagasy national and resident of Hermitage, Mahe, by driving a motor vehicle bearing registration number S8060 on the said Mont Fleuri road recklessly or at a speed and in a manner which was dangerous to the public

- [2] He was tried and convicted of the offence. The Court requested for a probation pre-sentence report which report was received and dated 14th June 2023. On the 15th June 2023, Counsel for the Accused made submission in mitigation. However, Counsel for the Prosecution drew the Court's attention to the fact that the spouse of the Mr. Rahajarivoarinelina, who was out of Seychelles, the time the report was compiled, had not been interviewed. The Court felt that it would be helpful to get her views in regard this case. Therefore, the Court asked that she be interviewed by the probation officers who compiled the report. A further report dated the 01st September 2023 was produced.
- [3] When considering appropriate sentence to be meted out, the Court shall give due consideration to the two pre-sentence reports and the submission in mitigation.
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- [4] Firstly, I note that the Accused is a first time offender. In that respect, **Morin v R SCA Cr11/2002 [2003] (11th April 2023)**, the Court held that in the absence of aggravating factor, Court should be slow to sentence a first time offender to a term of imprisonment.
- [5] The Accused is a father of four from two different partners. With his present partner he has two minor children. The other two are of the age of majority. He has been in constant employment and is presently self-employed. I note that his children are close to him and a term of incarceration will be devastating to them. However, I remain conscious that through his action a life was lost.
- [6] The Accused also claims that the deceased had come from nowhere and crossed the road unexpectedly when he was driving the Mont Fleuri Road and unfortunately the deceased ended up being hit. He stopped the vehicle and went to check on the deceased. He maintains that the deceased was at fault for crossing the road the way he did. He states that he is remorseful.
- [7] The Accused implores Court to consider the matter seriously and not to impose a term of imprisonment on him as incarceration will severely impact on his family that he is supporting. That sentiment is echoed by his partner.

- [8] The wife of the deceased stated that she has forgiven the Accused for the accident. She wants the Court to impose a compensation order on the Accused as part of the punishment.
- [9] In cases of causing death by negligent driving contrary to section 24(1)(b), Courts have been more willing to impose non-custodial sentences such as in **Republic v Brian Ravinia**[2019] SCSC 978 and **Republic v Terrence Stravens** [2018] SCSC 121. Such cases have to be differentiated from cases of dangerous driving as the present case. The penalty is certainly more severe in the latter. The Court could have reduced the present charge to one of negligent driving but due to the facts and circumstances of the case, it ruled that that would be inappropriate. This case is aggravated in nature. This is because the Accused was driving at a speed in excess of that permissible along the Mont Fleuri Road and in a none overtaking area. Just prior to the accident the Accused who was travelling at excess speed had overtaken another vehicle. I nonetheless acknowledge that the deceased was crossing the road at the time of the accident but the accident could have been averted or be less severe if not due to excess speed and overtaking.
- [10] In **R v Rico Chetty** [2018] SCSC 244, the accused was convicted to term of 3 years of imprisonment after being found guilty of dangerous driving after consuming controlled drugs. Such an aggravating factor is absent in this case. As I said before, in this case the Accused was not under the influence of controlled drugs or alcohol. In **Republic v Robert Lai-Lam CO63/2020** [2020] SCSC where the accused was charged with a similar offence as in the present case but had fled the scene after the accident, he was sentenced to 2 years imprisonment, a fine of SR100,000.00 and suspension of his driving licence for 5 years.
- [11] In **R v Gabriel (CO61 of 2020)** [2021] SCSC 544, the convict was sentenced to a term of 2 years imprisonment and a fine of SR25,000.00 for a similar offence his driving license was suspended for 5 years. The victim of that accident was a young, only 19 years old. That accused had pleaded guilty.
- [12] Having considered all the above and notably that the Accused is a first time offender who co-operated with the Police in this case, his personal familial relationship and the fact that

the wife of the deceased has forgiven him. I remain aware nonetheless that a young man lost his life.


[13] I therefore sentenced the Accused as follows;

- (i) A term of 1 (one) year imprisonment
- (ii) A fine of SR80,000.00 and in terms with section 151 of the Criminal Procedure Code order that the sum of SR70,000.00 shall be paid as compensation to the wife of the deceased and in default the Accused shall serve one year imprisonment. The Accused shall have one year following release from incarceration to complete payment of the fine.
- (iii) Order that the driving licence of the Accused is suspended for a period of 2 years from today.
- (iv) Time spent on remand shall be deducted against the sentence

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

[15] A copy of this sentence shall be served on the Seychelles Licencing Authority.

Signed, dated and delivered at Ile du Port on 28th September 2023



M Vidot J