

SUPREME COURT OF SEYCHELLES

Reportable
CO 50/2022

In the matter between:

THE REPUBLIC
(rep. by Corrine Rose)

Republic

and

DANNY CADEAU
(rep. by Joel Camille)

1st Convict

RICKY SUZETTE
(rep. by Daniel Cesar)

2nd Convict

Before:	Burhan J
Summary:	Sentence- Importation of Controlled Drug- Accessory after the fact to a felony.
Heard:	25 September 2023 and 12 October 2023
Delivered:	27 October 2023

ORDER

I proceed to sentence both convicts as follows:

1st Convict – Danny Cadeau

Count 1- A term of six years imprisonment.

2nd Convict – Ricky Suzette.

Count 3- A term of six months imprisonment and a fine of SCR 5000 (five thousand rupees). As he has spent eight months in remand, I suspend the term of imprisonment for a period of two years. In default of payment of fine six months imprisonment.

SENTENCE

BURHAN J

[1] The convict Danny Cadeau was convicted on Count 1 on his own plea of guilt and the 2nd convict Ricky Suzette was convicted on his own plea of guilt in respect of Count 3 of the amended charge sheet dated 08 August 2023 which reads as follows:

Count 1

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

Danny Cadeau, 41 years old, unemployed, resident of Les Mamelles, Mahe, on or before the 7th October 2022 agreed with one person known to the Republic as Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe, 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 at Glacis, Mahe.

Count 2

Aiding and abetting the trafficking of controlled drug contrary to Section 15 (1) (a) and read with Section 7 (1) of the Misuse of Drugs Act, 2016 and punishable under Section 7 (1) read with the Second Schedule of the said Act.

Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe, on the 7th October 2022, aided and abetted one Danny Cadeu, 41 years old, unemployed, resident of Les Mamelles, Mahe, to traffic in a controlled drug namely Cocaine having a total net weight of 4164.50 grams by aiding and abetting the said Danny Cadeau by driving him a vehicle bearing registration number S27552 to collect, the said controlled drug at Glacis which was in the possession of one German Augusto Brooks Dixon.

Count 3 (alternative to count 2)

Accessory after the fact to felonies, contrary to Section 385 read with Section 384 of the Penal Code and Punishable under Section 385 there under

Ricky Freddy Jemmy Suzette, 33 years old, NIN 992-0458-1-1-39 resident of Roche Caiman, Mahe, on the 7th October 2022 at Glacis, Mahe, assisted one Danny Cadeau, 41 years old, unemployed, resident of Les Mamelles, Mahe who is to the knowledge of the said Ricky Freddy Jemmy Suzette was guilty of an offence of trafficking in a controlled drug, by driving him away in a vehicle bearing registration number S27552 thereby preventing his arrest by the police, in order to enable the said Danny Cadeau to escape punishment.

- [2] At the request of both learned Counsel for the convicts Mr Joel Camille and Mr Daniel Cesar, a probation report was called prior to sentencing the convicts.
- [3] The probation report of the 1st convict Danny Cadeau states he is 41 years of age and has no children and resides with his uncle at Les Mamelles. The 1st convict has educated himself up to Secondary Four and thereafter been employed as a Security Officer at the Les Mamelles District Administration Office. He has also worked at Allied Builders and Shreeji Construction. Although being unemployed for some time, the convict has worked on a casual basis as a Stevedore as and when possible. The convict has been diagnosed with serious health conditions as referred to in the probation and medical report.
- [4] The 1st convict has informed the probation that he resides with his mentally handicapped uncle and admits he has been a drug user since a very young age. He states he had no knowledge what was in the parcel but was asked to collect a parcel which he obliged. However he admits when directed to stop he had “sensed something was wrong” and asked the driver not to. He states there was no substance in the package (as the officers had made a dummy package) and he has not benefitted in any way from the importation of the controlled drug.
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- [5] The sister of the convict states that the convict comes from an honest family and admits his drug dependency and due to this she states he would even steal. However, she further states he is a respectful and quiet person and has been made use by some other individual to

commit this offence. The probation has recommended that Court consider the health condition and the views of the convict when imposing sentence.

[6] In mitigation on behalf of the 1st convict Mr Joel Camille submitted that his client pleaded guilty to the amended charge and it was confirmed by the prosecution that he was a first offender. He submitted the convict by doing so has shown remorse, saved precious time and resources of the Court by avoiding a protracted trial. He moved that Court take into consideration the facts set out in the probation report. Learned Counsel submitted that the convict was very much used to going to a delivery point to collect a package and he would benefit with a payment. This time however, he did not benefit from it as it turned out that the package was a decoy and he urged Court to take this fact into consideration. In mitigation Mr Camille relied on the medical condition of the convict. Learned Counsel also referred to the fact that the convict was suffering from two life threatening diseases. The probation report also expresses concern over this. He referred to the case of *R v Linda Marie [2020] SCSC 67* and *R v Elsie Vambe [2022] SCSC 294* where this Court has considered as a special circumstance the medical condition of the accused in passing sentence. He further submitted that in Count 1, although the controlled drug is mentioned as Cocaine, the prosecution has failed to set out the pure quantity and therefore the benefit should be given to the convict and a lesser sentence imposed. He moved that Court consider a short incarceration period of no more than 5 years be imposed, should the Court consider a term of imprisonment.

[7] I will next proceed to consider the facts set out in the probation report of the 2nd convict Ricky Suzette. It states he is 31 years of age and living with his wife and two children aged 13 and 8 years. It appears from the report that the 2nd convict has been brought up by his mother as his father had separated from her when he was a young child. He has educated himself up to Secondary Five and then succeeded in securing a seat at the Seychelles Industrial Training Centre where he followed a one year course in the field of carpentry. He had to drop out of the course as he was asthmatic and as his girlfriend was to give birth to their first child. His first employment was in the construction field with a contractor doing construction work at Four Seasons Hotel. He has also worked as a Landscaper, Driver and Supervisor at Eden Island. Thereafter, he had worked at a car hire business for

three years and subsequently run errands in his own private car as an unlicensed taxi. After being released on bail, he has stopped doing his unlicensed taxi business and has now secured stable employment. Both his mother and his wife refer to him as a calm, non-violent and friendly person with friends and family. It appears that his arrest and remand had greatly affected his wife and young children.

[8] It is the view of the probation that the 2nd convict has already spent eight months in remand and that court consider this fact and the fact that the 2nd convict is a person of good character and a first offender. It appears from the probation report that the convict has now given up his job as an unlicensed taxi driver after this incident and is now in permanent and stable employment. This in my view indicates his attempt to distance himself from getting involved in any occurrence of a similar nature.

[9] I will next proceed to consider the plea in mitigation made by learned Counsel Mr Daniel Cesar on behalf of the 2nd convict Ricky Suzette which was in writing and in point form and reads as follows:

Plea in Mitigation of 2nd Convict Ricky Suzette

- Convict pleaded guilty at first given opportunity to the amended charge;
 - The guilty plea shows remorse and acceptance
 - The guilty plea saved the economic cost of a trial and the precious time of the court
 - The convict did at the time of arrest cooperate fully with the Police and provided valuable information, including the identity of the passenger
 - The convict spent 8 months on remand and upon being released on bail adhered to all bail conditions without fail which could be termed as exemplary
 - The other convict confirmed that the services of Ricky Suzette was only commissioned as a Taxi Pirate and the Ricky did not know or form part of the other convict dealings and transactions
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- The convict is married with two children with the stable family life
 - The convict is in full time employment
 - The convict was interviewed at length by the Probation Services

- [10] Mr Cesar moves that that the convict Ricky Suzette be spared a custodial sentence and the Court should follow the recommendations of the probation report of a suspended sentence.
- [11] I have given due consideration to all the aforementioned facts contained in the probation reports and pleas in mitigations of both convicts. I am of the view that considering the seriousness of the charge against the 1st convict a custodial term must be imposed. He is liable to a term of life imprisonment as the controlled drug concerned is a Class A controlled drug and the quantity is 4164.50 grams. However, this Court cannot ignore the medical condition of the 1st convict however serious the charge may be. His serious medical condition is supported by a report from Dr Louine Morel and therefore I will take due consideration of this fact as urged by Mr Camille. I also observe the prosecution has been unable to analyse the controlled drug and obtain the pure quantity.
- [12] In respect of the 2nd convict Ricky Suzette, I observe he has been remanded for a period of 8 months on the basis he was aiding and abetting the importation of a controlled drug. However, the prosecution has eventually brought a lesser alternative charge against the 2nd convict under Section 385 of the Penal Code, of being an accessory after the fact to a felony to which he has pleaded guilty.
- [13] Giving due consideration to all these facts and circumstances, I proceed to sentence the convicts as follows.

1st Convict – Danny Cadeau

Count 1- A term of six years imprisonment.

2nd Convict – Ricky Suzette.

Count 3- A term of six months imprisonment and a fine of SCR 5000 (five thousand rupees). As he has spent eight months in remand, I suspend the term of imprisonment for a period of two years. In default of payment of fine six months imprisonment.

[14] Considering the medical condition and other circumstances set out in paragraph [11] herein peculiar to this case, I make order further order that the 1st convict Danny Cadeau is entitled to remission.

[15] Nature of suspended term of imprisonment and right of appeal explained.

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



M Burhan J