

IN THE SEYCHELLES COURT OF APPEAL

[Coram: S. Domah (J.A) , M. Twomey (J.A) , J. Msoffe (J.A)]

Criminal Appeal SCA03/2013

(Appeal from Supreme Court Decision 78/2010)

Collin Ignace

Appellant

Versus

The Republic

Respondent

Heard: 07 April 2015

Counsel: Mr. Nichol Gabriel, for Appellant

Mr. Benjamin Vipin, for Respondent

Delivered: 17 April 2015

JUDGMENT

J. Msoffe (J.A)

- [1] The appellant was charged with and convicted of the offence of trafficking in a controlled drug contrary to section 5 of the Misuse of Drugs Act as read together with sections 14 (d) and 26 (1) (a) of the same Act as amended by Act No. 14 of 1994 and punishable under the second schedule to the said Act read together with section 29 of the same Act.
- [2] The particulars of offence alleged that on the 24th day of November, 2010 at Cascade he was trafficking in a controlled drug by virtue of having been found in possession of 33.3 grams of cannabis which gave rise to the rebuttable presumption that he possessed the controlled drug for the purpose of trafficking.

- [3] Upon conviction by the Supreme Court of Seychelles the appellant was sentenced to a term of eight years imprisonment. He is aggrieved, hence this appeal against conviction and sentence.
- [4] The prosecution led evidence to the effect that on 24/11/2010 Pierre (PW2) and Brian Dogley (PW3) were on duty at NDEA. Pierre Servina was in the company of Lance Corporal Barbier and Sgt. Brian Dogley. At around 19.30 hours while on routine duty at Cascade they received information that the appellant was trafficking in drugs at his residence.
- [5] The agents decided to investigate the matter. On the way, they spotted the appellant sitting under a bus shelter at Cascade opposite the St. Andre flat. They stopped close to him and identified themselves. PW2 searched him but nothing suspicious was found. PW2 informed him that he should assist the agents to conduct a search at his residence.
- [6] After arriving at the appellant's residence a search was conducted inside and outside the said residence. The search was conducted by PW2, Lance Corporal Barbier and PW3. Outside the back door on the wall facing the mountain side, some herbal material suspected to be a controlled drug, namely cannabis, was found on a black plastic bag by Pierre Servina in the presence of the appellant, Lance Corporal Barbier and PW3. The drug had been kept open as though for the purpose of drying.
- [7] The appellant was taken to the NDEA station for further formalities. PW2 testified that he kept the exhibit in his safe custody under lock and key and nobody had access to it nor was it ever interfered or tampered with by anyone. On 29/11/2010 PW2 at around 10.40 hours handed over the exhibit to Mr. Purmanan (PW1) for chemical analysis and report. On 1/12/2010 at 09.10 hours the exhibit was returned to NDEA where it was handed over to Sgt. Seeward, the Exhibit Store Officer.
- [8] Mr. Purmanan testified that, upon examination and analysis he was satisfied that the exhibit contained herbal material certified to be cannabis with a net weight of 33.3 grams.
- [9] The appellant's defence was a general denial of guilt contending in effect that he did not possess the cannabis in question.

