

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CN 98/2013

Appeal from Magistrates Court decision 158/2012

[2014] SCSC

NERRICK JULIE

Appellant

versus

THE REPUBLIC

Heard: 06 June 2014

Counsel: Mr. Nichol Gabriel Attorney at Law for appellant

Mrs Lansinglu Rongmei, Assistant Principal State Counsel for the
Republic

Delivered: 31 July 2014

JUDGMENT

Burhan J

[1] This is an appeal against sentence.

[2] The Appellant was charged with another namely Nigel Franchette in the Magistrates' Court as follows;

Count 1

Robbery contrary to section 280 and punishable under section 281, and read with section 23 of the Penal Code.

The particulars of offence are that, Nigel Franchette residing at Beau Belle, and Nerrick Julie residing at Beau Vallon on the 8th day of March 2012 at Beau Vallon, Mahe robbed Mr. and Mrs. Dieter Brittin one bag which contained one packet of cigarettes, one pair of sunglasses, one reading glass, one packet of tissue, two lighters and some cosmetics for women

Or in the alternative

Count 2

Stealing from the person contrary to and punishable under section 264(a) of the Penal Code Cap 158.

The particulars of offence are the Nigel Franchette residing at Beau Belle, and Nerrick Julie residing at Beau Vallon on the 8th day of March 2012 at Beau Vallon, Mahe stole from the persons of Mr. and Mrs. Dieter Brittin one bag which contained one packet of cigarettes, one pair of sunglasses, one reading glass, one packet of tissue, two lighters and some cosmetics for women.

[3] On the 13th of July 2012 the prosecution withdrew the charge set out in Count 1 against both the accused and both accused pleaded guilty to the charge of Stealing contained in Count 2.

[4] The learned Senior Magistrate proceeded to sentence both the Appellant and the other accused Nigel Franchette to a term of 8 years imprisonment.

[5] The accused Nigel Franchette appealed against the said sentence and his sentence of 8 years was reduced by the Supreme Court in *Nigel Franchette v Republic SC Crim Appeal 34 of 2012* to a term of 6 years imprisonment.

[6] Learned Counsel for the Appellant moves this court that the sentence of the Appellant be reduced as;

a) *the sentence is manifestly harsh and excessive*

b) *the sentence of 8 years imposed by the learned Senior Magistrate does not correspond to the current pattern of sentencing in cases of similar nature.*

c) *the learned Senior Magistrate failed to consider the youth and the status of a first offender and the fact that the Appellant pleaded guilty.*

[7] However the main issue that attracts the attention of this court is that the co accused Nigel Franchette who pleaded guilty with the Appellant to the same charge and was sentenced together with the Appellant to a term of 8 years imprisonment, has now had his sentence in appeal reduced to a term of 6 years imprisonment.

[8] Having read the said judgment of the Supreme Court in the case of *Nigel Franchette* (supra), I am of the view that as similar circumstances exist with the Appellant in this case, in the interest of justice his term of imprisonment should be reduced accordingly. Even learned counsel for the Respondent did not wish to contest or challenge this issue.

[9] I therefore proceed to set aside the sentence of 8 years imprisonment imposed on the Appellant and substitute it with a sentence of 6 years imprisonment.

[10] The Appellant in appeal is sentenced to a term of 6 years imprisonment. The sentence already served and the time spent in remand should count towards sentence.

Signed, dated and delivered at Ile du Port on 31 July 2014

M Burhan
Judge of the Supreme Court