

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CO 32/2015

[2016] SCSC 713

THE REPUBLIC

versus

STEVE MONTHY
Accused

Heard:

Counsel: Mr. Vipin Benjamin, Assistant Principal State Counsel for the Republic
Mrs. Alexia Amesbury Attorney at Law for the accused

Delivered: 29 September 2016

SENTENCE

Burhan J

[1] The convict in this case, Steve Monthy has pleaded guilty and was convicted of the charge of trafficking in a quantity of 629.5grams of cannabis resin, a charge framed under the Misuse of Drugs (MODA) Act CAP 133. The said Act has been repealed by the new Misuse of Drugs Act 5 of 2016 (herein after referred to as the new Act) with saving clauses as contained in section 55 (1) of the new Act.

- [2] In the case of *Cousin v R SCA 21 of 2013* and in the case of *Kelson Alcindor v R [2015] SCCA 7*, it was held that the Appellant should benefit from the change of law in his favour, along the principle of “*la peine la plus douce.*” – See *Aubeeluck Gangasing v The State of Mauritius [2010] UKPC 13*. The Appellants’ sentences in both cases were reduced to be in conformity with the amended law which was beneficial to the Appellants. Further Section 51 (2) of the new Act states outstanding sentences under the earlier Act must be reviewed in accordance with the new MODA.
- [3] I have considered the plea in mitigation made by learned counsel for the convict namely that the convict has pleaded guilty thereby saving the time of court and by doing so express remorse. The convict is also a 1st offender. He informs Court that he is 36 years of age and the father of 4 children. Considering the aforementioned mitigating factors very specially the fact that this convict was released on bail having considered the evidence of several doctors who deponed to the fact that the convict was suffering from a serious bone infection, I proceed to sentence the convict to a term of 2 years imprisonment which I suspend for a period of 2 years. I further make order that he pay a fine of Seychelles Rupees 12,500/- in default of which he will serve a term of 3 months imprisonment.
- [4] Time will be given for the convict to pay the fine.
- [5] The nature of a suspended term is explained to the accused.

Signed, dated and delivered at Ile du Port on 29 September 2016



M Burhan
Judge of the Supreme Court