

**IN THE SUPREME COURT OF SEYCHELLES**

**Criminal Side: CO 55/2015**

[2016] SCSC 878

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**THE REPUBLIC**

versus

**PERRY SIMEON**

First Accused

**KEVIN ONEZIME**

Second Accused

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Heard: 10 November 2016

Counsel: Mr. Vipin Benjamin, Assistant Principal State Counsel for the Republic  
Mr. Danny Lucas Attorney at Law for the first accused

Delivered: 14 November 2016

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**SENTENCE**

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**Burhan J**

[1] The convict the 1<sup>st</sup> accused Perry Simone pleaded guilty to the following offences:

1. Count 1 – Robbery section 280 read with section 281 and section 23 of the Penal Code.
2. Count 2 – Act intended to cause grievous harm contrary to Section 219 of the Penal Code read with Section 23 of the Penal Code.

[2] The convict was convicted on both counts on his own plea of guilt.

- [3] Learned Counsel for the convict in mitigation stated that the convict was a first offender as his previous conviction was spent, 27 years of age, the father of 2 children aged 7 years and 5 years and had expressed remorse and regret at what he had done by pleading guilty without proceeding to trial, thereby saving the precious time of Court. Learned Counsel also stated that the convict was in a disturbed state of mind as he had broken up with his girl friend that day and was not his usual self and had consumed liquor.
- [4] I have considered the facts in mitigation. This Court appreciates the fact that the convict pleaded guilty saving the time of Court, thereby expressing remorse and regret at what he had done. However the charge against the convict is of a serious nature. The facts of this case are aggravated in nature as the victim, a taxi driver had been robbed at knife point at night time whilst performing his livelihood duties. Further, I note that a knife and stone had been used to threaten and injure the victim while the robbery was in process. The victim had suffered injuries as a result of the attack. A charge of this nature attracts a minimum mandatory term of imprisonment of 15 years and a maximum term of life imprisonment.
- [5] However considering the facts in mitigation as the convict has expressed remorse and regret by pleading guilty at the very outset and the young age of the convict and his personal family circumstances, I do not wish to impose the minimum mandatory term of imprisonment and would proceed to impose a lesser term than the minimum mandatory term of imprisonment as was done in the case of *Jean Frederick Ponoo v The Attorney General SCA 38/2010*. I would also take into consideration the award of compensation to a victim as mentioned in paragraph 21 of the case of *Roddy Lenclume v The Republic Criminal Appeal SCA 32/2013*. However it should be noted that compensation ordered by this Court is not a bar to a Civil claim by the victim.
- [6] Having considered all the circumstances in this case, I proceed to sentence the convict to a term of 8 (Eight) years imprisonment on Count 1 and a fine of SR 2500/= (Two thousand five hundred) from which a sum of SR 1750 (One thousand seven hundred and fifty) in terms of section 151 (1) of the Criminal Procedure Code, be paid as

compensation to the victim Mr. Mark Tamboo. In default of payment of fine the convict to serve term of 6 months imprisonment consecutive to the 8 years imprisonment.


[7] In respect of Count 2, the convict is sentenced to a term of 8 (Eight) years imprisonment and a fine of SR 12. 500/= (twelve thousand five hundred) from which a sum of SR 12.000 (twelve thousand) to be paid to the victim Mr. Mark Tamboo as compensation. In default of payment of the fine the convict to serve an additional term of 6 months imprisonment consecutively.

[8] This court makes further order that the terms of 8 years imprisonment in Counts 1 and 2 run concurrently. The default terms of 6 months imprisonment for fines imposed in Counts 1 and 2 to run consecutive to the 8 years terms of imprisonment imposed in Counts 1 and 2 and consecutive to each other in terms of the proviso contained in section 36 of the Penal Code. Therefore the convict would serve in total a term of 9 (nine) years imprisonment on both Counts which would include the concurrent sentences of 8 years imprisonment imposed for the offences and the consecutive sentences imposed for default payment of fines.

Signed, dated and delivered at Ile du Port on 14 November 2016

  
M Burhan  
Judge of the Supreme Court

Time spent in amend to count 1/2003A  
sentence

  
14/11/2016