



SUPREME COURT OF SEYCHELLES

R v ML & Ors Cr S 63/19

Media Summary 17 April 2020

The following explanatory note is provided to assist the media in reporting this case and is not binding on the Supreme Court or any member of the Court.

Today the Supreme Court handed down the sentencing judgment in the matter of *R v ML & Ors Cr S 63/19* where the accused, ML, EL and JYN, were convicted and sentenced to 25 years, 12 years and 8 years' imprisonment respectively on 26 sexual offences' charges committed against children. The three accused were convicted of various counts, including sexual assault contrary to section 130(1) of the Penal Code and the charges included extortion, possession of indecent photographs and of prohibited visual recordings. All the accused pleaded guilty.

The first accused, over a period of four years, used Facebook to lure and groom young girls through promising modelling jobs and money. After receiving nude pictures from the victims, the accused in turn blackmailed the victims by threatening to expose their identity if they refused to engage in sex with him and others, which in some instances were filmed. The case stands as a clear example of how social media platforms can enable sexual predators to target innocent children. The Court expressed its concern and noted the challenges for law enforcement, legislators, parents, guardians, caregivers and social services in monitoring and investigating those that target children through social media platforms. The Court also stressed the need for vigilance and caution when interacting on these platforms and to report suspicious behaviour to the authorities; and that this case highlights the need for specialised laws and investigating units to respond to this type of conduct.

In sentencing the three accused, the Court details the different levels of involvement of the accused persons in committing the crimes, with the first accused being the primary perpetrator in planning and executing the crimes, which resulted in different sentences for the accused. In sentencing the accused, the Court explained the guiding principles involved, emphasising the need to balance the serious nature of the crimes, the different circumstances of the offenders, mitigating factors and the interests of society.

The Court found the nature of the crimes committed disturbing and stressed the irreparable harm that such crimes inflict on children. In addition, the Court noted with concern the increase of offences of this nature and concluded that severe punishments must be imposed for such crimes.

The first accused, ML, pleaded guilty to 23 charges. The Court observed that he had a clear pattern in committing the offences and had facilitated the interactions between the other two accused and the complainants. He would befriend children on Facebook using a fake identity and promise them modelling jobs and/or money. He would request the children to send him nude pictures and would then threaten to expose them if they refused to have sex or to perform various sexual acts with him and the co-accused. As a result of the number of convictions on the first accused, the Court dealt with the principle of totality which requires a judge to pass a sentence that reflects the total criminality involved. In applying this principle, the court looked at several jurisdictions that have developed the principle, including Kenya, Canada, Australia and the United Kingdom and ordered some of the sentences of the first accused to run concurrently and some to run consecutively. The Court proceeded to sentence ML to 25 years in prison. The Court also ordered that the accused be placed on the Sexual Offenders Register and all his interactions with children be closely monitored and that he is not allowed to engage on social media of any kind.

The second accused, EL, who was a police officer at the time of the commission of the offence was sentenced to 12 years' imprisonment for one count of sexual assault. The Court expressed its grave alarm, noting that the accused was a police officer with five years of service. He was entrusted by state to ensure the safety of children and he violated that duty. After referring to similar cases involving a police officer breaking the law, the court emphasised how through its sentence, it intended to send a clear a message to other police officers who may be tempted to break the law, pursuing self-interests.

The third accused, JYN, was sentenced to eight years' imprisonment for one count of sexual assault. After taking into account the seriousness of the offence, the court however found that the accused was 18 years when he committed the crimes, was a first offender, and his circumstances justified a lower sentence.

In determining the sentences of the three accused the Court took into consideration that the accused all pleaded guilty and in so doing, saved the victims the trauma from having to re-live the trauma they had undergone in a lengthy criminal trial.

The Court also ordered that time spent in remand will count towards the sentences for all three accused.

Finally, the Court ordered that the Attorney General formally report these crimes to Facebook through the complaint mechanism provided for on the Facebook platform and request that any profiles used by the first accused be removed.

Ends.