

THE SUPREME COURT OF SEYCHELLES AT ILE DU PORT

Reportable

[2020] SCSC 309
CR79/2015

REPUBLIC

(rep. by Lansinglu Rongmei)

Republic

versus

J [REDACTED]

(rep. by Nichol Gabriel)

1st Accused

Neutral Citation: *Republic v J* [REDACTED] (CO 79/2015) [2020] SCSC 309 (12 June 2020).

Before: Dodin J.

Summary: Convicted on two counts of indecency towards a child under the age of 15 contrary to and punishable under Section 135(1) of the Penal Code. Sentenced to 14 years on each count to run concurrently.

Heard: Mitigation on 12 June 2020

Delivered: 12 June 2020

ORDER

The convict is sentenced as follows:

Count 1: Committing an act of indecency towards a child under the age of 15 contrary to and punishable under Section 135(1) of the Penal Code: 14 years imprisonment.

Count 2: Committing an act of indecency towards a child under the age of 15 contrary to and punishable under Section 135(1) of the Penal Code: 14 years imprisonment.

The sentences shall run concurrently. Any time the convict may have spent on remand shall form part of the sentence. He can appeal against both conviction and sentence with 30 working days of today

SENTENCE

DODIN J.

[1] The convict J [REDACTED], was charged with two counts of indecency towards a child under the age of 15 contrary to and punishable under Section 135(1) of the Penal Code. The particulars of the offences are that on a date unknown to the Prosecution during the year 2012, the convict inserted his penis in the vagina of RL, a child under the age of 15 years old for sexual purposes and on another date unknown to the Prosecution in the same year 2012, the convict inserted his penis into the anus of RL, a child under the age of 15 years old for sexual purposes.

[2] The convict was convicted of both counts accordingly after a lengthy and long drawn out trial.

[3] Section 135(1) of the Penal Code states:

Section 135. (1) A person who commits an act of indecency towards another person who is under the age of fifteen years is guilty of an offence and liable to imprisonment for 20 years:

Provided that where the person accused is of or above the age of 18 years and the act of indecency is of a kind described in subsection 2(c) or (d) of section 130(2) the person shall be liable to imprisonment for a term not less than 14 years and not more than 20 years:

Provided also that if the person is convicted of a similar offence within a period of 10 years from the date of the first conviction, the person shall be liable to imprisonment for a period not less than 28 years:

Provided further that where it is the second or a subsequent conviction of the person for the sexual interference referred to in subsection (2)(d) within a period of ten years from the date of the conviction, the person shall be liable to imprisonment for life."

[4] Learned counsel for the convict submitted in mitigation that that the Court should consider imposing a lenient sentence in view that the convict is a young man of 26 years old. He is a father of 3 minor children of 4 years, 2½ years and 1 year old. Learned counsel also noted that there are some material some which have been brought to light only after the trial and conviction in the Probation Services Report which the Court noted would not be relevant to the process of sentencing at this stage.

[5] The Probation Services showed that the convict maintains his innocence despite the conviction and has shown no remorse at any stage. He is more concerned with the effect of the sentence on his personal life and that of his immediate new family. The Probation Services recommended a sentence that would be appropriate and serve as a deterrent from further criminal behavior.

[6] Having considered the circumstances of this case, I find the convict's only concern was for self-preservation and has shown no concern towards the victim or remorse for his actions. Despite being a first offender, I find that imposing a sentence below the recommended mandatory minimum would not be appropriate. I therefore impose the following sentences on the convict:

Count 1: Committing an act of indecency towards a child under the age of 15 contrary to and punishable under Section 135(1) of the Penal Code: 14 years imprisonment.

Count 2: Committing an act of indecency towards a child under the age of 15 contrary to and punishable under Section 135(1) of the Penal Code: 14 years imprisonment.

The sentences shall run concurrently. Any time the convict may have spent on remand shall form part of the sentence. He can appeal against both conviction and sentence with 30 working days of today.

Signed, dated and delivered at Ile du Port on 12 June 2020.

A handwritten signature in blue ink, appearing to be 'Dodin J', written over a horizontal line.

Dodin J