

IN THE SUPREME COURT OF SEYCHELLES

Criminal Side: CN 45/2015

Appeal from Magistrates Court decision 671/2014

Criminal Side: CN 46/2015

Appeal from Magistrates Court decision 672/2014

[2017] SCSC

STEVEN ADONIS

Appellant

versus

THE REPUBLIC

Heard: 06th of October 2016 and 25th of November 2016 (submissions)

Counsel: Mr. Nichol Gabriel Attorney at Law for appellant

Mr. Andy Asba, State Counsel for the Republic

Delivered: 27th January 2017

JUDGMENT

Burhan J

[1] In CN 45/2015, the appellant was charged in the Magistrates' Court case 671/2014 by amended charge sheet dated 27th May 2015 as follows:

Count 1

Housebreaking Contrary to and Punishable under Section 289 (a) of the Penal Code Cap 158.

The particulars of offence Steven Adonis, on the 14th December 2014 at Reef Estate, Anse Aux Pins, Mahe, broke and entered into the dwelling house of Mr. Patrick Nanty, with intention to commit a felony therein namely stealing.

Count 2

Stealing from Dwelling House Contrary to Section 264 (b) and punishable under Section 264 of the Penal Code Cap 158.

Particulars of offence Steven Adonis, on the 14th December 2014 at Reef Estate, Anse Aux Pins, Mahe, at the residence of Mr. Patrick Nanty, stole 1 laptop make Sony Vaio, color black valued at Sr.10,000/-, being the property of Patrick Nanty and one wallet containing SR.400/- and personal documents, being the property of Vivian Houareau.

- [2] The appellant pleaded guilty to the aforementioned offences and was sentenced by the learned Magistrate on the 16th of November 2015, to a term 2 years imprisonment on Count 1 and two years imprisonment in respect of Count 2. He made further order that the terms of imprisonment run concurrently and that the total term of 2 years imprisonment imposed to run consecutive to the term of 5 years the appellant is serving.
- [3] In CN 46/2015 the appellant was charged in the Magistrates' Court case 672/2014 by amended charge dated 27th May 2015 with the following offences:

Count 1

Burglary Contrary to and Punishable under Section 289 (a) of the Penal Code Cap 158.

Particulars of offence Steven Adonis, residing at Green Estate Anse Aux Pins, Mahe, on the night of 14th December 2014, broke and entered the dwelling house of Ryan Confiance, with intent to commit a felony therein, namely stealing.

Count 2

Stealing from Dwelling House, contrary to section 264(b) and punishable under Section 264 of the Penal Code Cap 158.

Particulars of offence Steven Adonis, residing at Green Estate Anse Aux Pins, Mahe, on the night of 14th December 2014, stole from the dwelling house of Ryan Confiance, one black back pack, valued at Sr.700/-, a pair of jeans valued at Sr.500/-, and a black belt valued at Sr.250/- being the property of Ryan Confiance and 1 notebook make acer valued at Sr 7000/= being the property of Anielle Auguste.

- [4] The appellant was convicted on his own plea and sentenced on the 18th of November 2015 to a term of 3 years imprisonment on Count 1 and to a term of 2 years imprisonment in respect of Count 2. The learned Magistrate further ordered that both terms run concurrently and that the total term of 3 years imprisonment in this case shall take effect once he completes his prison sentence.
- [5] Learned counsel for the appellant has appealed against the sentences imposed in each of the aforementioned cases on the grounds that the totality of the sentence imposed was harsh and excessive. As the totality of sentences was being considered the aforementioned cases were consolidated. Therefore taking into consideration the sentences imposed above and the sentence of 5 years he is serving the appellant would now be serving a term of 10 years imprisonment in total.
- [6] It is pertinent at this stage to refer to the recent case of ***Mervin Rath v R Criminal Appeal SCA 26/2014*** where the appellant who had been charged in three cases of Breaking and Entering and Stealing and had been sentenced to a total of 16 years 8 months. Msoffe JA of the Seychelles Court of Appeal, applying the principles laid down in the cases of ***John Vinda v R [1995] SCA***, ***Neddy Onezime v R Criminal Appeal SCA 6 of 2013***, ***Lenclume v R [2015] SCA 11*** and ***Jean Frederick Ponoov v The Attorney General SCA 38/2010***, reduced the total term of 16 years 8 months to a total term of 8 years imprisonment.
- [7] The facts in this case are similar in nature, in that the appellant pleaded guilty to the offences thereby expressing remorse and regret and expecting leniency. I note certain valuable items had been recovered as a result of the cooperation of the appellant. Further, I observe that the offences in both cases were committed on the same date i.e. the 14th of

December 2014. Based on the reasoning given in cases *Christopher Dorizo v The Republic in Supreme Court Cr App 15 of 2008* and the case of *Stephane Hypolite v The Republic SC Criminal Side CN 22 of 2015*, I will proceed to treat the offences as part of the same transaction and make order that both terms run concurrently.

[8] I therefore make order that the sentence of two years imprisonment imposed in CN 45/2015 (Magistrates' Court case 671/2014) run concurrently with the term of 3 years imprisonment imposed in CN 46 of 2015 (Magistrates' Court case 672/2014).

[9] The sentences imposed by the learned Magistrate are varied accordingly.

Signed, dated and delivered at Ile du Port on 27 January 2017

M Burhan
Judge of the Supreme Court