

SUPREME COURT OF SEYCHELLES

Reportable/ Not Reportable / Redact
[2024]
CO20/2022

In the matter between:

THE REPUBLIC
(rep. by Mrs Leste)

and

TERRENCE LAWEN
(rep. by Mr Joel Camille)

Accused

Neutral Citation: The Republic v Lawen (C20/2022) [2024] (5 February 2024).
Before: Govinden CJ,
Heard: 5 February 2024
Delivered: 5 February 2024

RULING

GOVINDEN CJ

At this juncture after the closed of the Prosecution case the Learned Counsel for the Republic has filed a Notice of Motion seeking leave of the Court to amend the particulars of offence of Count 1 under Section 187 of the Criminal Procedure Code.

[1] The Motion is supported by the Affidavit of officer Natasha Derjacques. No justification or reason is given in support of the Application except that certain particulars of offence under the 1st Count is to be extracted and removed from the rest of the averments.

[2] Learned Counsel for the accused on the other hand vehemently objects to the amendment being effected at this juncture, he says that we are at the close of the Prosecution case and

beside the amendment being not justified and sufficiently reasoned out in law it will be highly prejudicial to his client.

- [3] Having considered the totality of the issues before the Court, the Court finds that following this Application to amend, the nature of the offence will not change. However, the Court is concerned with the potential injustice and prejudice to be caused to the accused at this point of the proceeding. His Counsel has cross examined witnesses for the Prosecution, including the virtual Complainant on the basis of the different act that is alleged in the 1st Count which is now sought to be removed.
- [4] As it has been previously heard in many cases justice lies at the discretion of the Court and in considerations of amendment, no amendments shall be effected if it is likely to be prejudicial or creating justice for the accused in his defence.
- [5] This Application seems to be an afterthought by the Prosecution being tailored to fit the facts they have laid so far in evidence and it cannot be made at this stage.
- [6] Accordingly, the Notice of Motion is dismissed and the case shall proceed on the charges as originally filed.

Signed, dated and delivered at Ile du Port on 5 February 2024

Govinden CJ