

IN THE SEYCHELLES COURT OF APPEAL

ANDY ANTOINE MOUMOU

APPELLANT

versus

THE REPUBLIC

RESPONDENT

Criminal Appeal No. 7 of 1999

[Before: Ayoola, P., Pillay & De Silva, J.J.A]

Mr. F. Simeon for the Appellant
Miss. L. Pool for the Respondent



JUDGMENT OF THE COURT

(Delivered by De Silva, J.A)

The appellant was convicted of the offence of attempted murder contrary to Section 207(a) of the Penal Code. The appeal before us is only against the sentence. The appellant was sentenced to a term of twenty years imprisonment. The ground of appeal is that:-

“the sentence of 20 years’ imprisonment is manifestly harsh and excessive in all the circumstances of the case.”

What then are the circumstances of the case? The evidence clearly established the following facts:-

- (i) The appellant shot at and seriously injured the victim, Wilson Bibi;

- (ii) He used two weapons of a highly lethal nature, namely a revolver and an AK47;
- (iii) He shot at the victim at very close range (10 feet);
- (iv) The medical evidence revealed injuries to the spleen, left lung, chest, thigh and the 5th and 6th ribs.

The surgeon described the injuries as “life threatening ones”. The spleen had to be removed. Wilson Bibi has lost the use of his left arm permanently. Four injuries had been caused by the use of at least three bullets. There was extensive bleeding and ten units of blood transfusion were needed.

The evidence further revealed that the shooting was a premeditated and preplanned act done with deliberation. The victim was waylaid and shot at when he was returning home after work.

Mr. Simeon for the appellant in the course of his submissions emphasised two relevant facts, namely, that the appellant was a first offender and that he was a youth, 21 years of age. Mr. Simeon further stressed the fact that the appellant is now a cripple by reason of a subsequent incident in which he was involved. However Wilson Bibi, the victim in the present case, was not connected with that incident.

In imposing a sentence of 20 years imprisonment, the learned Chief Justice has rightly taken into consideration, inter alia, the gravity of the offence, the circumstances in which it was committed, and the degree of deliberation involved. In assessing the punishment to be imposed, the learned Chief Justice has looked at the matter from the point of view of the public interest as well as the offender. An appellate court would be very slow to interfere on the question of sentence unless the trial court has proceeded upon a wrong

principle or has exercised its discretion improperly or wrongly. In the appeal before us there has been no such error.

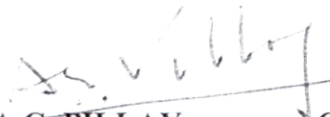
As observed by the Court of Appeal in *Patrick Bellard v/s The Republic* (Criminal Appeal No. 4 of 1997, decided on 2nd April 1997):-

“The jurisdiction of this Court to interfere with the discretion of the trial Judge is not exercised by substitution of our discretion for that of the trial Judge but on defined principles.”


For these reasons, the appeal fails and is dismissed.



E. O. AYOOLA
PRESIDENT



A.G. PILLAY
JUSTICE OF APPEAL



G. P. S. DE SILVA
JUSTICE OF APPEAL

Dated at Victoria, Mahé, this 7th day of *April* 2000.