

(P)

IN THE SEYCHELLES COURT OF APPEAL

SCA: 8 of 2005

JOEL STEVEN IGNACE

Appellant

V.S

REPUBLIC

Respondent

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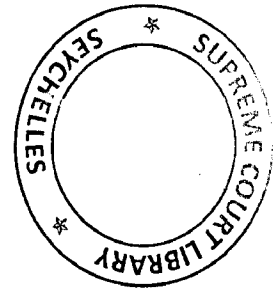
Before: Dr. S. J. Bwana, Ag P; JM Hodoul, JA and B. Renaud JA

Counsel: Mr. Esparon for the Respondent

Date of hearing: 8 May 2006

Date of Judgment: 19 May 2006

J U D G M E N T



BWANA, AG P

1. This is an appeal against sentence only. The Appellant pleaded guilty before the Supreme Court (per D. Karunakaran, J) for the offence of trafficking in controlled drugs contrary to section 5 as read together with sections 14 and 26 (1) (a) of the Misuse of Drugs Act 1990 as amended by Act 14 of 1994 and Punishable under section 29 and the Second Schedule thereto. He was sentenced to serve a prison term of eight years. He is now appealing against that sentence ostensibly that it is harsh and excessive. We are aware of the Constitutional rights of a person to an appeal.

2. The Appellant admitted to have been found in possession of 49 grams and 200 milligrams of cannabis which in turn gave a rebuttable presumption of having possessed the said drugs for the purpose of trafficking. He was arrested on 15 August 2005 at Mont Plaisir, Anse Royale, Mahe.
3. When produced before the trial court, the Appellant opted not to seek legal advice, even though he realized the seriousness of the offence facing him. After giving the necessary warning to the accused and being satisfied that he was aware of the issues before the court, the trial judge proceeded with the case and the charge was read to the accused. He pleaded guilty. We consider the steps taken by the trial judge to be proper in law.
4. The Appellant is a first offender. His rights were explained to him and he gave a detailed statement in mitigation. Again, we are of the view that the trial judge acted properly in law.
5. The Appellant, a young man of 21 years, who earns his living by "doing odd jobs here and there", was sentenced to serve the above stated prison term. The

said punishment is the mandatory minimum term provided for by the law. The only exception to the imposition of a minimum sentence to a specified offence would be the existence or proof of special reason. It is settled now that in order to be mitigating factors, the special reasons should relate to the facts constituting the offence. Circumstances peculiar to the offender cannot in law, be considered as special, hence entitle him to a lesser sentence than the one provided as mandatory minimum.

The Appellant raised - as special reasons - reasons such as his age, the kind of work he does, being first offender and the like. These are special and peculiar to the offender and distinguishable from the offence. They cannot, in our considered view, be said to be connected to the offence.

6. The trial judge did address himself to this factor and came to correct conclusions. It is therefore, not difficult for us to share the views of the trial judge in sentencing the Appellant to an eight years prison term. Accordingly, we find no reason to disturb that sentence. The appeal against sentence is therefore, dismissed.



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Dr. S. J. BWANA
AG. PRESIDENT

1. I concur:



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J. M. HODOUL
JUSTICE OF APPEAL

2. I concur:



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B. RENAUD
JUSTICE OF APPEAL