

(7)

IN THE COURT OF APPELA OF SEYCHELLES

SCA: 12 of 2005

PETER LUCAS

Appellant

V.S

REPUBLIC

Respondent

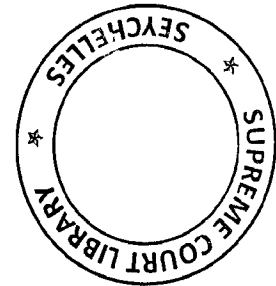
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Before: Dr. SJ Bwana, Ag P; JM HODOUL, JA AND B. RENAUD, JA

Date of Hearing: 9 May 2006

Date of Judgment: 19 May 2006

JUDGMENT



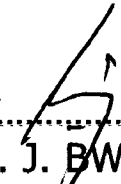
BWANA, AG P

1. The Appellant pleaded guilty to the offence of trafficking in controlled drugs contrary to section 5 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 referred thereto. He was sentenced by the Supreme Court (D. Karunakaran, J) to serve the mandatory minimum sentence of eight years imprisonment. He now appeals against that sentence.

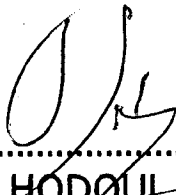
- 2.** The Appellant did admit that on 21 November 2005, at Cascade, Mahe, he was found in possession of 29 grams and 500 milligrams of cannabis resin. That possession gave rise to a rebuttable presumption that he was trafficking the said drug.
- 3.** The Appellant did not seek legal representation even after being advised to do so by the trial judge. He preferred to defend himself. He admitted the facts as read in court and was accordingly convicted.
- 4.** In his mitigation before sentence, the Appellant stated that he was 21 years old. He prayed to the trial judge to give him payment of a fine as punishment instead of a prison term. He said he had dependants. His monthly income was given as Rs.2500. He admitted to be selling drugs in order "to get some money".
- 5.** The mitigatory factors stated in paragraph 4 above were considered by the trial judge and came to the conclusion that they were not special to the offence to enable him depart from imposing the minimum sentence prescribed by law. He was correct in so holding. It is trite that special reasons given by an accused must be special to the offence and not the

offender. What the Appellant ^{did} ~~DID~~ as stated in paragraph 4 above, are special reasons to the offender not to the offence.


Therefore they cannot be considered as entitling the Appellant to a lesser sentence than one prescribed by law. The eight years prison term is the mandatory minimum sentence provided by law. We therefore find no reason to disturb it. Accordingly, this appeal against sentence is 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