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IN THE SEYCHELLE SCOURT OF APPEAL

SCA No: 3 of 2005

RONNY MARIE

Appellant

v.s

THE REPUBLIC

Respondent

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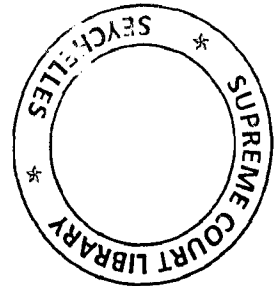
Before: Bwana, Hodoul and Domah, JJA

Counsel: Mrs. Antao for the Appellant
Mr. Chetty for the Respondent

Date of Hearing: 15 November 2006

Date of Judgment: 29 November 2006

JUDGMENT OF THE COURT



Bwana, Ag. P

1. The Appellant pleaded guilty to an offence of Robbery with Violence contrary to section 281 of the Penal Code. He was sentenced to serve a prison term of ten years. He was not represented by Counsel at that stage of the proceedings.

2. Mrs. Antao brought to our attention the fact that the Notice of Appeal had been drafted by the Appellant himself while already serving his prison term but before she took over the matter as Counsel. As such the said Notice contained some shortcomings which could be rectified with the Court's leave. Particularly she brought to the attention of this Court that the Notice as it is, does not contain grounds of appeal. She applied for leave to do

so. Upon our remarks that ex facie the record, her proposed ground of unequivocal and ambiguous plea did not look serious, she abandoned her intention to appeal against conviction and limited herself to questioning the sentence only. Mr. Chetty did not object to the application for leave in the special circumstances of the case.

3. We do note the fact that the Appellant had no legal assistance in drafting the Notice of Appeal. We have taken cognizance of that fact and the contents of the intended amendment. We are satisfied with the same and pursuant to the provisions of section 342(1) (b) of the Cr. P. C. we proceeded to grant leave, there being no objection raised by the Respondent.


4. Two issues attracted our immediate attention and form the basis of our decision in this appeal. The first issue concerns the sentence of ten years as imposed by the trial judge, the Honourable Chief Justice. In, meting out that sentence, the trial judge had this to say:

"... in passing sentence, I take into account the previous record of the convict, the seriousness of the offence, the plea of guilty, the violence used on the victim prior to the commission of the offence ..."


5. Indeed, it is manifestly clear that the Appellant has what may be said to be *"an impressive criminal record."* Between 1985 and 2000, he has 20 convictions in property related offences. That record, as presented before the trial Court, was not disputed.

Having considered the submissions by both Counsel, we are of the considered view that the sentence of ten years imposed in the instant case is neither wrong in principle nor manifestly excessive. It is therefore upheld.

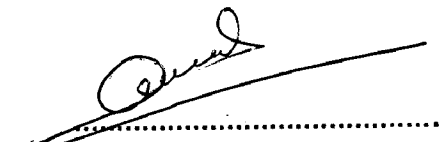
6. The second issue that we would like to consider is the interpretation given to section 27(1) (c) of the Penal Code as amended, with regard to the operative date from when an ex convict may be categorized once again as a first offender. In our considered view, the five year period can only commence from the date following his release from prison and not from the date of conviction (in a previous offence). Accordingly, the Appellant herein cannot be considered to be a first offender on an unguarded interpretation of the law for the purposes of sentencing under section 27(1) (c) of the Penal Code.
7. Therefore the appeal against sentence fails. The offender, a recidivist, is to serve the prison term of ten years as imposed by the trial court. It is accordingly ordered.


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S. J. BWANA
AG. PRESIDENT

I concur:


.....
J. HODOUL
JUSTICE OF APPEAL

I concur:


.....
B. DOMAH
JUSTICE OF APPEAL

~~Dated this day of November 2006, Victoria, Seychelles~~