

SUPREME COURT OF SEYCHELLES

Reportable/ Redact
(CR 33/2025)

In the matter between:

THE REPUBLIC
(rep by Mrs Luthina Monthy)

Republic

and

CJDJ
(rep by Ms Eveline Almeida)

Accused

Neutral Citation: Republic v CJDJ (CR 33/2025) 26 January 2026
Before: D. Esparon
Summary: Sentence – Sexual Assault
Heard: 2nd December 2025
Delivered: 26 January 2026

ORDER

As a result of the above, I shall impose the following sentence on the convict;

- i. On count 1, I accordingly impose a term of 7 years and six months imprisonment on the convict.
- ii. On Count 2, I impose a term of 7 years and six months imprisonment on the convict.
- iii. Both sentences as to count 1 and count 2 shall run concurrently with each other.
- iv. As to count 3, I impose a fine of SCR 4,000 on the accused. The said fine shall be paid by the Convict within 6 months of finishing serving his sentence of imprisonment. In default of payment of the said fine within the said period, the convict shall serve a period of 1-month imprisonment in default of payment of the said fine.
- v. The time spent on remand shall be counted as part of his sentence.

SENTENCE

ESPARON J

Introduction

[1] The accused person CJDJ is charged with the following offences;

- i. In Count 1, the accused is charged with the offence of Sexual Assault contrary to Section 130(1) as read with Section 130 (2) (d) and Section 130 (3) (b) of the Penal Code. The particulars of the offence are as follows;

‘CJDJ of Beau Vallon, Mahe between the late hours of the 29th June 2025 and early hours of the 30th June 2025, at Beau Vallon, Mahe, sexually assaulted another namely JJ, aged 14 years at the time, by penetration of a body orifice for sexual purpose namely inserting his penis into the vagina of JJ’.

- ii. In the second Count, the accused has been charged with the offence of Sexual Assault contrary Section 130(1) as read with Section 130 (2) (d) and Section 130 (3) (b) of the Penal code. The particulars of the offence are as follows;

‘CJDJ of Beau Vallon, Mahe between the late hours of the 29th June 2025 and early hours of the 30th June 2025, at Beau Vallon, Mahe, sexually assaulted another namely JJ, aged 14 years at the time, by penetration of a body orifice for sexual purpose namely inserting his penis into the mouth of JJ’.

- iii. In the second count the accused has been charged with the offence of giving a child tobacco contrary to and punishable under section 73A (1) of the Children’s Act. The particulars of the offence reads as follows;

‘CJDJ of Beau Vallon, Mahe between the late hours of the 29th June 2025 and early hours of the 30th June 2025, at Beau Vallon, Mahe, gave tobacco to as child namely JJ aged 14 years old at the time’.

[2] The accused pleaded guilty to Count 1, Count 2 and Count 3 and was convicted on the said 3 counts on his own guilty plea after admitting the facts of the prosecution case.

Mitigation by Counsel for the accused

- [3] Counsel for the accused put forth in mitigation to the Court that the convict is a 29-year-old man and has pleaded guilty at the first possible instance and thus not wasted the time of the Court and resources. That in pleadings guilty, the convict has shown remorse, which can also be seen on the social report asking the court forgiveness for his actions. According to Counsel the convict has explained that he had no idea that the victim was a minor.
- [4] Counsel further relied on the case of *Ponoo* and further submitted that since all the offences were committed during the same event, that the Court considers that the sentences imposed on each count run concurrently to each other.
- [5] Counsel further relied on the case of the **Republic v GB (CR 51/2021)** of which the accused was a 47 year old man a person of trust in authority, being a school teacher of which the Court imposed a sentence of 10 years imprisonment to run concurrently which each other. Counsel further relied on the case of **Ibrahim Gilbert Suleman v Republic** and asked the Court to distinguish the case of GB (*Supra*) with the present matter by imposing a lesser sentence.

Analysis and determination

- [6] From the outset, this court would like to expound on the principle of sentencing as laid down in decided cases. In the case of **Ponoo v Attorney General (2011) SLR**, the Court of Appeal held that;

“sentencing is an intrinsic judicial power which involves the human deliberation of the appropriate conviction to be given to the particular offender in the circumstances of the case. It is not a mere administration of a common formula standard or remedy”.

- [7] In the case of **Savy v R (1976) SLR 54**, the Court held that;

“In sentencing, the Court should consider the necessity of punishing crime, the deterrent effect on others of the appropriate punishment, and the need to protect the public from offences especially at the hands of those entrusted with the enforcement

of the law, the previous good character of the accused, the motive for the offence and the loss of usefulness to the state by a prison sentence.”

[8] In the case of **R v Aden (2011) SLR 41** the Court held that;

“In sentencing, one relevant factor is the seriousness of the offence”.

[9] Further in the case of **R v Aden (2011) SLR 41**, the court also held that;

“When determining a sentence, the court should take into account previous sentences in similar cases. However, the Court should be aware of the differences between cases”.

[10] In the case of **Ibrahim Gilbert Suleman v Republic (Cr. App. No.3 1995)** the Court held the following;

“Much as the Court should be guided by a pattern of previous sentences in similar cases, it must be acknowledge that time and circumstances do often combine to make cases dissimilar for the purpose of sentencing”.

[11] In the case of the **Republic v SJ CR 17/2021 (3 May 2024)**, whereby the accused was a 20 year old man who was convicted of offences of sexual assault where the accused and the minor became acquainted on snap chat. In this case, the accused was sentenced to 5 years imprisonment on two counts of sexual assault to run concurrently with each other.

[12] As a result of the above case laws mentioned in paragraph 9 and 10 of this sentence, the court acknowledges that there is no uniformity as to sentencing in cases of sexual assault. However, it is important for the Court to be guided by previous sentences imposed by the Court in similar cases but there is a need for the Court to individualise sentences to fit the circumstances of the case.

[13] In the present case, I have considered the following mitigating factors in favour of the convict namely that the convict is a 29 year old man being a first offender and has pleaded guilty at the first possible instance and thus not wasted the time of the Court and resources.

That in pleading guilty, the convict has shown remorse of which this fact is confirmed by the social report whereby the convict asked the court for forgiveness for his actions.

[14] As regards to the issue that the convict had no idea that the victim was a minor, I note that this was not a disputed fact as to the facts of the prosecution case of which the convict admitted the whole facts of the prosecution case without reservation. However to be fair to the convict since he has raised the issue in mitigation I shall give some weight being less weight to this plea of mitigation.

[15] This Court takes into account the above plea in mitigation as well as the above case laws cited, however, this court is of the further view that the above offences are serious in nature. The offence of Sexual assault carries a maximum sentence of 20 years imprisonment in the event of conviction. The offence of giving a child tobacco carries a maximum sentence of 2 years imprisonment and a fine of SCR 20,000.

[16] I shall also distinguish the case of the **Republic v GB CR 51/2020** with the present case whereby in the present case the convict was not in a position of authority. Secondly I shall also distinguish the case of the **Republic v SJ CR17/2021** with the present case in view that the facts and circumstances of the case differs from the present case in terms of the age of the accused and other facts and circumstances of the case.

[17] However, I find that although the convict was an unlicensed taxi (taxi pirat), the complainant or other persons in hiring him, must have placed some trust in the convict to ensure that the complainant arrives at her place of destination safely, a fact that left the victim being traumatize by the incident according to the social services report which I view as an aggravating circumstance in the matter.

[18] I also find that although the offence of giving a child tobacco is a misdemeanour, I find that the Court should not condone such an act by the convict easily. The sentence imposed by the Court should act as a deterrent for such offenders with the Court's main consideration is to protect the interest of the child as envisaged by the legislature in passing the said Children Act.

[19] As a result of the above, I shall impose the following sentence on the convict;

- vi. On count 1, I accordingly impose a term of 7 years and six months imprisonment on the convict.
- vii. On Count 2, I impose a term of 7 years and six months imprisonment on the convict.
- viii. Both sentences as to count 1 and count 2 shall run concurrently with each other.
- ix. As to count 3, I impose a fine of SCR 4,000 on the accused. The said fine shall be paid by the Convict within 6 months of finishing serving his sentence of imprisonment. In default of payment of the said fine within the said period, the convict shall serve a period of 1-month imprisonment in default of payment of the said fine.
- x. The time spent on remand shall be counted as part of his sentence.

[20] The convict has a right of Appeal within 30 days from the date of this sentence.

Signed, dated and delivered at Ile du Port on the 26th January 2026.



D. Esparon J

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