

SUPREME COURT OF SEYCHELLES

Reportable
[2019] SCSC
CO/ 26/2019

In the matter between

THE REPUBLIC
(*rep. by Joshua Revera*)

and

TOUBO MOCHIDY
(*rep. by Danny Lucas*)

Accused

Neutral Citation: *The Republic v Toubu Mochidy* (CO 26/2019) [2019] SCSC 29 July 2019
Before: Dodin J
Summary: **Convicted on own guilty plea. Sentenced fine SCR 2,500,000 seizure of vessel and equipment and products.**
Heard: 29 July 2019
Delivered: 29 July 2019

SENTENCE

DODIN J

- [1] The Convict, Toubu Mochidy, a Malagasy National has been convicted on his own guilty plea to one Count of Fishing without a Foreign Vessel Licence, contrary to Section 11 (1) as read with Section 58 and Section 69 of the Fisheries Act, 2014 (Act 20 of 2014) and punishable under Section 58 (a) of the said Act.
- [2] The particulars of offence are that Toubu Mochidy a 58 years old skipper and Master on board fishing vessel “Shanegri-La” of Nosy Be, Madagascar, on the 18th and 19th day of April 2019, in the vicinity of Cosmoledo island, Seychelles, was found on board the foreign fishing vessel Shanegri-La, that is not licensed or authorised for fishing in Seychelles waters, used the said foreign fishing vessel for fishing in Seychelles waters.

- [3] The brief facts are that on 19th April 2019 at 8 hours information from the Seychelles Coast Guard indicated that “Shanegri-La” was fishing in Seychelles waters near Cosmoledo. They saw the boat and cautioned the Captain together with 7 crews.
- [4] The Coast Guard found that the Captain left Nosy Be Madagascar fishing for sea cucumber. They had no fishing license. The boat and equipment, fuel, fish etc were all seized. They were taken to Mahe cautioned and arrested. A case was registered and the Accused was charged.
- [5] The Convict is a resident of Nosy Be North Madagascar. He is 59 years old. He has a spouse and four children. The eldest child is 14, 8, 5, 3 they are all dependents. He is the sole breadwinner of the family.
- [6] Previous to the commission of the offence the Convict was a fisherman. It is the first time he has captained a fishing vessel. He was given a GPS location and asked by owner to travel to the location to fish there. Being not particularly educated in that respect, he only went to the location.
- [7] He is a first offender. He pleaded guilty and saved the Court’s time and expenses and he moved for leniency. The Convict regrets, shown remorse and moves for leniency in respect of the offence. He is not in a position to pay the fine so he moves for the fine to be levied against the said vessel. He asked also to be deported out of Seychelles’ jurisdiction and be repatriated to his country.
- [8] The Convict personally moves Court to excuse him; he will not come into Seychelles waters again.
- [9] Section 58 (a) of the Fisheries Act 2014 provides for a minimum fine of SCR 2,500,000 for an offending vessel not exceeding 24 meters.
- [10] Section 69 of the same Act provides for the fish and fish products on board the vessel to be presumed as having been caught in the commission of the offence.
- [11] Section 70 of the Act provides also for the forfeiture of the vessel, any gear or article used or fish caught in the commission of the offence.

[12] Having given due consideration to the mitigating factors raised by learned counsel for the Convict and the Convict himself and noting that the Convict has no means to pay any fine that is required, I therefore sentence the Convict as follows:

- (1) The Convict is sentenced to the minimum fine of SCR 2,500,000.
- (2) As the Convict has indicated that he has no personal means to meet the fine imposed, I order that the fishing vessel “Shanegri-La” and any gear, article, fish or fish product found on board are seized and sold. The income from the sale shall first be used to pay the fine, and any remainder shall be forfeited to the Republic of Seychelles.
- (3) I further order that the Convict be declared a prohibited immigrant and be deported from the jurisdiction of Seychelles as soon as practicable. He shall be also prohibited from operating or boarding any fishing vessel in the Seychelles waters for a period of 2 years from today.
- (4) He shall remain on detention at the Bois de Rose Remand Centre until he is deported and be given the necessary liberty to prepare his affairs as necessary in preparation for his deportation.

Signed, dated and delivered at Ile du Port on 29 July 2019

Dodin J