

SUPREME COURT OF SEYCHELLES

Reportable
[2020] SCSC 890
CO47/2018

In the matter between:

THE REPUBLIC
(rep. Chinnasamy Jayaraj)

Republic

and

CHRISTOPHER FREMINOT
(rep. by Nichol Gabriel)

1st Accused

RICHARD LESPERANCE
(rep. by Alexia Amesbury)

2nd Accused

Neutral Citation: Republic v Freminot & Or CO 47/2018 SCSC 890 26 November 2020
Before: Burhan J
Heard: 17th June 2019, 05th July 2019, 09th July 2019, 19th July 2019, 13th November 2019, 27th November 2019, 13th March 2020 and 27th July 2020
Summary Importation and Trafficking in controlled Drugs. Admissibility of illegally obtained evidence. Section 34 of Misuse of Drugs Act 2016 need for written authorization to conduct controlled delivery.
Delivered: 26th November 2020

JUDGMENT

BURHAN J

[1] The accused Christopher Freminot and Richard Lesperance were charged as follows:

Count 1

Importation of a controlled drug in contravention of the Misuse of Drugs Act 2016 contrary to and punishable under section 5 read with section 48(1) (a) and also punishable under the second schedule of the Misuse of Drugs Act.

The particulars of the offence are that Christopher Freminot and Richard Lesperance on or about the 3rd of August 2018, at Mahe imported into Seychelles, a controlled drug, weighing a net weight of 552.7 grams, namely, illicit 3,4 methylenedioxy methamphetamine

Count 2

Conspiracy to import a controlled drug contrary to section 16 (a) and read with section 5 and section 48 (1) (a) of the Misuse of Drugs Act 2016 and punishable under second schedule of the said Act.

The particulars of the offence are that Christopher Freminot and Richard Lesperance on or about the 3rd of August 2018, at Mahe, agreed with one another to pursue a course of conduct, that, if pursued would necessarily amount to or involve the commission of an offence namely importation of a controlled drug into Seychelles weighing a net weight of 552.7 grams, namely, illicit 3, 4 methylenedioxymethamphetamine

Count 3

Trafficking in a controlled drug in contravention of the Misuse of Drugs Act, 2016 and contrary to section 7 read with section 2 of the Misuse of Drugs Act, 2016 and read with Section 22 (a) of the Penal Code and punishable under Second Schedule of the Misuse of Drugs Act, 2016.

The particulars of the offence are that Christopher Freminot and Richard Lesperance on or about the 3rd of August 2018 at Anse Royale, Mahe were found trafficking in a controlled drug, namely, illicit 3,4 methylenedioxymethamphetamine weighing a net weight of 552.7 grams, by means of doing an act or offering to do an act, preparatory to or for the purpose of transporting , selling , supplying sending, delivering or distributing.

Count 4

Conspiracy to commit the offence of trafficking in a controlled drug contrary to section 16 (a) read with section 7 and read with section 2 of the Misuse of Drugs Act 2016 and punishable under the Second Schedule to the said Act.

The particulars of the offence are that Christopher Freminot and Richard Lesperance on or about the 3rd of August 2018 at Anse Royale Mahe agreed with one another to pursue a course of conduct, that, if pursued would necessarily amount to or involve the commission of an offence of trafficking in a controlled drug, namely illicit 3,4 methylenedioxymethamphetamine weighing a net weight of 552.7 grams.

Evidence of the Prosecution.

- [2] The prosecution opened their case by calling Mr. Egbert Payet, the exhibit officer attached to the ANB (Anti-Narcotics Bureau). He stated on the 3rd of August 2018 (2018), he had received several evidence bags from Officer Padayachy bearing number CB 428/18 ANB for safekeeping. He had placed the evidence bags in the exhibit room. On the 7th of August 2018 he had taken one exhibit bag for analysis together with a request letter to the government analyst Ms Julia Volcere. She had verified the exhibit and the seals on it and the description and chain of custody and accepted the exhibits for analysis.
- [3] Thereafter Mr. Payet had gone on the 22nd of August 2018, to collect the exhibits after analysis and the report. When he received it back it was sealed. He had thereafter kept the report and exhibit in his safe keeping. He produced the certificate of analysis as P2. He thereafter produced the exhibits in his custody in the khaki (brown) evidence bag. The khaki evidence bag was produced as P3 with the seals placed by the government analyst intact. The evidence bag was cut open in open court and the contents thereafter shown and marked as exhibits. A DHL express package (yellow) containing a number 1 sticker was marked as exhibit P4. A white envelope found inside with a marking number 2 on a sticky note with a blue and red Fed Ex imprint with the words DHL Express Worldwide addressed to Brent Potrait of Anse Royale was marked as P5. Inside this a torn khaki (brown) envelope with the number 3 marked on it with a DHL note was marked as P6. Inside were two other Khaki envelopes numbered 4 and 5 which were exhibited as P7 and P8. Inside P7 was a white box with Aveeno moisturising lotion written on it marked as P7 (a). The white box P7 (a) contained four mentos containers with lid and one vitamin C+ Zinc container with a lid. All four mentos containers contained blue tablets

filled to the top. On each of the mentos containers the number of blue tablets found inside each container were written. The mentos containers containing 171 tablets was marked as P7 (b), the mentos container with 175 tablets was marked as P7 (c), the mentos container marked with 176 tablets was marked as P7 (d) and the menthos container with 177 tablets was marked as P7 (e). The Tesco Vitamin C+ Zinc container with contents blue tablets was marked as P7 (f). The tablets were recounted in open court P7 (b) was found to contain 172 tablets, P7(c) was found to contain 176 tablets, P7 (d) 176 tablets P7 (e) was found to contain 177 tablets. The next exhibit found in the package was another Khaki envelope which was marked as P8. Which contained three Vitamin C containers. Marked P8 (a) P8 (b) and P8 (c). All contained blue tablets inside containing 71, 78 and 56 blue tablets respectively including broken pieces. P8 (c) also contained two pieces of hard crystal like substance.

[4] Witness Egbert Payet further stated he received three other evidence bags one containing mobile phones, the decoy controlled drug and one evidence bag of money. He described the phones and stated he had kept them in his safe custody and thereafter handed them over to on the 10th of August 2018 to Officer Dean Legaie for the purpose of analysis and after extracting the digital data the phones had been handed back to him on the 15th of March 2019. The phones were marked as P 9 (a) and P10 (a), it appears these phones were recovered from the package and from the accused Richard Lesperance and two other Samsung phones recovered from the accused Richard Freminot were produced as P11 (a) and P11 (b). Witness also produced SCR 18,000/= and another sum of SCR 1,645.35 which were contained in an evidence bag P13. The other evidence bag P14 contained newspaper which was used as a decoy/ dummy package at the time of the controlled delivery.

[5] Mr. Yves Leon stated he was working in the ANB and was an expert in fingerprinting, photography and crime scene investigation. He stated the exhibit a yellow plastic envelope marked FEDEX was brought to his office for it to be photographed. He produced the photographs taken in an album P15 marked 1 to 31. He described each and every photograph taken by him. He further identified the exhibits produced as those photographed by him and linked each exhibit with the corresponding photograph. He

stated the envelopes were open but not torn and ripped apart at the time he took the photograph.

[6] Mr. Robert Padayachy stated he had been working in the ANB and earlier the NDEA for the past four and a half years. On August 3rd he had gone on patrol with officers Kerry Hoareau, Vicky Dacambra, Ryan Durup and Errol Ragain. He stated the team leader was Kerry Hoareau. He stated further that Mr. Nichol Franchette who was in charge had communicated with Kerry informing him that a package had arrived at the DHL and that a man wearing a blue t-shirt was inside the office collecting the package. On arriving at the DHL office, Officer Dacambra had gone in and come out and informed them that there was a man in a blue shirt inside. Around 4.00 pm the man in the blue t-shirt (the 2nd accused) had come out of the DHL office with a yellow plastic bag with DHL imprint. Officer Kerry had showed him his badge and told him to accompany them to his office. Witness had taken the package from his hand. The name to whom the package was addressed to was Brent Potrait. Witness had kept the package with him for safekeeping. They had searched the vehicle of the 2nd accused and found nothing in the vehicle nor anything on his person.

[7] When witness opened the yellow DHL envelope taken from the custody of the 2nd accused in the office of the ANB in the presence of Officer Kerry Hoareau and Vicky Dacambra, they noticed the package was addressed to one Brent Potrait. In side there was a Fedex envelope which also had the name of Brent Potrait. Inside the Fedex envelope was a khaki envelope which included the name Brent Potrait. Inside which were another two khaki envelopes. Inside one Khaki envelope he had seen 4 mentos containers and I vitamin C + zinc container. There was another Khaki envelope which contained 3 vitamin C + zinc containers. He had opened the containers and found them to contain blue tablets. He had counted them and noted the number of tablets in each container. They had suspected the blue tablets to be controlled drugs. After making note of the number of light blue tablets and the crystal hard substance also found in one of the containers together with blue tablets, he had placed them back and kept the exhibits in his custody. Thereafter he handed them over to Mr. Egbert Payet for safe keeping as he was the exhibit officer after completing all formalities.

[8] Witness Officer Padayachy further stated he had arrested the accused Richard Lesperance and cautioned him for the charge of importation of controlled drugs into Seychelles. After his rights were read over to him he had agreed to co-operate with them. He stated the controlled drug was not for him and he was told that he was to receive a contact from “Topher”. He had not known who this Topher was. He agreed to do the control delivery and had given them the contact telephone numbers, [REDACTED]. They had prepared a decoy/dummy package with a white envelope stuffed with newspaper which was to be used for the controlled delivery. Mr. Lesperance the 2nd accused took the phone calls as he had been instructed in the presence of the ANB officers. The controlled delivery was to be done at Anse Royale and they had all left for Anse Royale Auditorium at the Polytechnic. Mr. Padaychy had been with Mr. Lesperance in the same vehicle. They had parked and in 5 minutes a red car had approached and Richard Lesperance had told them that the person coming to collect the package was the person coming in the car.

[9] Witness identified the person who had come to collect the package was the 1st accused Christopher Freminot. He identified the accused in court. The 1st accused had come up to the car and asked the 2nd accused “where was the package.” Richard Lesperance had then handed the package over to him. Witness and agent Servina had then arrested the 1st accused Christopher Freminot. Witness had taken the decoy packet used in the control delivery from him. They explained his rights to him arrested him and had come back to the ANB station. He stated at the time of opening the exhibit, there was a black Nokia in it. When they returned to the station he had completed all the formalities and handed the exhibits to Mr. Egbert Payet. Thereafter witness identified all the exhibits in the case and from whose custody they were taken. He identified exhibits in the package P3 to P8 as items found in the package taken into custody and seized according to his evidence from the 2nd accused Richard Lesperance. He identified the Nokia phone P9 which was inside the khaki bag that contained the mentos containers and Zinc. He identified the phones he seized from the 1st accused Christopher Freminot as P11 a And P11 b and the decoy or dummy package used in the controlled delivery P14. He identified the money seized P12 from Christopher Freminot’s purse. He further stated he had put all these items into the

respective evidence bags sealed and handed them over to Mr. Egbert Payet for safekeeping and analysis which fact is confirmed by the evidence of Mr. Egbert Payet.

- [10] The next witness Kerry Hoareau corroborated the evidence of witness Padayachy in respect of being on patrol on the 3rd of August with officers Vicky Dacambra and Errol Ragain. He confirmed the fact he was the team leader. He had received a call from Officer Nichol Franchette in charge of border patrol and he had informed him there was a suspicious package that had come to DHL which was suspected to contain controlled drugs. They had taken up position near the STAR Company which was close to the DHL and received another call from Mr. Franchette stating that a man in a blue t-shirt had come to collect the package. They had driven to close proximity to the DHL office and Officer Vicky Dacambra had gone in and reported back and confirmed same. The Officers had waited for the man in the blue t-shirt to come out with the package. When he came out they had walked up to him and witness had introduced himself and informed him they were taking him to the office to check the package as they suspected it contained controlled drugs. He too corroborated the evidence of Officer Padayachy in respect of what the contents of the package were and witness too identified the exhibits as the controlled drugs taken into custody from the 2nd accused Richard Lesperance. The 2nd accused had agreed to co-operate with them and deliver the control drug to one Topher (Christopher Freminot) for whom the drugs were to be delivered to.
- [11] Witness Kerry Hoareau further stated he too had participated in the controlled delivery but by the time he reached the location he was informed by Officer Padayachy that the 1st accused Christopher Freminot had been arrested during the controlled delivery for the charge of Conspiracy to import controlled drugs. They were brought down to the ANB office and the two Samsung mobile phones in the possession of the accused Christopher Freminot and the money in his purse was also taken into custody. He identified the accused in the dock and the exhibits and mobile phones taken into custody from the accused Freminot that day.
- [12] Mr. Nichol Franchette stated he worked with the ANB and NDEA for 12 years. He stated he was in charge of border control in Praslin and Ladigue. His duties were that he was in

charge of the airport, port, inner island and stated when he was on duty at the headquarters around 15.000 hrs when he got call from Ian Moncherry the manager at DHL. He had informed him that a person had come to the office with a tracking number written on a piece of paper. Mr. Moncherry found this a bit suspicious as the name was not that of the person who came but the name of a different person which he felt did not exist. This person had come several times earlier for several packages. Witness had informed Kerry Hoareau and his team to wait close to the DHL office at Providence. Around 13.50 hrs witness had got another call from Mr. Moncherry who had informed him that the person who was coming to collect the package had arrived and witness had immediately informed Officer Kerry Hoareau. After arresting the person they had come to the investigating office and he had ordered a controlled delivery. He stated he had asked the Commissioner of police authorization for the controlled delivery which was given and he authorized a dummy package to be used in the control delivery. He admitted he had no written authorization from the Commissioner of police for the controlled delivery. He stated that he had not gotten the permission in writing and had forgotten to refer about the authorization in is statement. He stated they had to move fast and therefore could not wait for written authority.

- [13] Officer Vicky Dacambra who was a part of the team of Officer Kerry Hoareau corroborated the evidence of Officers Padayachy and Kerry Hoareau in respect of the detection and arrest of the 2nd accused. He affirmed the fact that it was he who had gone into the DHL office and affirmed the fact that a person in a blue t-shirt collecting the package was inside the DHL office to the others. He stated during the controlled delivery he was with Officer Kerry Hoareau and when he arrived at the auditorium Anse Royale car park, they had seen the 1st accused Christopher Freminot in handcuffs already arrested by Officer Padayachy. Witness Julia Volcere the government analyst affirmed the evidence of Officer Egbert Payet and confirmed the fact that the seals were intact at the time of the exhibits being brought by him for analysis. She identified the exhibits analysed by her and her report P2 and confirmed by way of evidence under oath, the findings in her report marked P2. She further confirmed that the analysis of the light blue tablets revealed the presence of Methylenedioxymethamphetamine MDMA (Ecstasy).

She stated the total weight was 552.7 grams. She further identified the seals placed by her as being intact indicating the package had not been tampered with after analysis.

[14] Witness Aminata stated she was employed at the DHL office and that she was on duty the day of the incident. She stated on the said date around 1.30 in the afternoon, a man came into the DHL office with a small piece of paper with a tracking number code 5116480902 written on it. She identified the person as Richard Lesperance the 2nd accused. She had stated she needed the identity card of the person mentioned in the package. He stated he did not have it and would have to go to Anse- Royale to get it. She had replied that she would not be able to release the package without the ID. She had informed her manager Ian Moncherry after he left and her manager had informed the ANB. Again after some time the person had returned with a bank card in the name of Trevor Michel Poirer. She had told him she still needs a picture of the person and he had replied he does not have one. He had also said that the passport of the person would be sufficient but he had replied the passport of the person was with the football team St Michel and that Trevor was in hospital and the contents of the package was the medicine needed by Trevor. She had gone and asked the manager and he had told her to hand over the delivery but to take a copy of his driving license and bank card. She had done so and Mr. Lesperance had left thereafter. Witness identified the DHL package produced in court and the number written on the airway bill. Thereafter the prosecution closed its case.

Evidence of the Defence

[15] In defence both accused chose their right to be silent and did not call witnesses. No adverse inference should be drawn from the fact that both the accused chose to remain silence.

Analysis of the evidence.

[16] Both learned Counsel informed court at the conclusion of the case, that they would be relying on the submissions given by them at the no case to answer stage and will not be filing any further submissions. The main grounds therefore relied on by the accused were that::

- a) *There was nothing to link the accused to the controlled drug which drug was sent by DHL delivery to one Brent Potret and not to either of the accused*
- b) *There exists no forensic evidence linking either of the accused to the controlled drugs produced in Court.*
- c) *There is a discrepancy in the number of tablets retrieved and produced in court.*
- d) *The controlled delivery was not done in accordance with the provisions contained in section 34 of the Misuse of Drugs 2016. This was fatal to the case of the prosecution.*
- e) *As the evidence in regards to the control delivery had not been obtained legally, it amounts to being “The fruits from the poison tree” meaning that evidence illegally obtained from a source is also tainted and should be disregarded.*

[17] The main ground of defence as borne out by the cross examination and the submissions is that as the controlled delivery was not conducted in conformity with provisions of section 34 of MODA 2016 as it lacked the necessary authorisation, the evidence in regard to the controlled delivery, is illegal tainted and should be disregarded and is not admissible. The evidence of Nichol Franchette on this issue is that he obtained authorisation for the controlled delivery from the Commissioner of Police but it is evident it was not in writing. He stated he was unable to get it in writing due to the lack of time as the controlled delivery had to be done immediately. He also admitted in cross examination that he had failed to state that fact in his statement. This in the view of court is a material omission on his part. Learned Counsel in their submissions state the failure to get the authorization for the controlled delivery in writing, is a fatal error in terms of section 34 of Misuse of Drugs Act as the section states it is mandatory to do so.

[18] Section 34 (1) and (2) of the Misuse of drugs Act reads as follows:

Section 34

- (1) *A controlled delivery does not contravene this act if authorised in accordance with this section.*
- (2) *A controlled delivery may be authorised in writing by the Commissioner of Poilice, the chief officer of NDEA, or any person authorised for that purpose by the Commissioner of Police or the chief officer of NDEA.*

[19] Having set out the relevant section, it does not appear to this court that the section makes it mandatory that the authorization should be in writing. The word “may“does not make it mandatory and is more discretionary in nature as, if it was to be mandatory the wording would have indicated so by using the word “shall”. The reason for the necessity to have anything in writing prior to a controlled delivery is to prevent the police who are conducting the controlled delivery from going on a frolic of their own with the controlled drugs detected or seized by them and to prevent corrupt police officers who are caught with controlled drugs in their possession from taking the defence they were conducting a controlled delivery.

[20] The facts of this instant case clearly indicate that the controlled delivery was soon after the detection of the controlled drug, leaving little time to get written authorisation from the higher authorities. Further the facts borne out of the evidence of this detection, clearly indicate that the Officers of the ANB were not going on a frolic of their own and were using the pretext of a controlled delivery to traffic in controlled drug themselves but were genuinely attempting a controlled delivery as borne out in the evidence, also refer case of *S v Jwara 2015 (2) SACR 525 (SCA)*. In the *Jwara* case, another aspect dealt with was that the appellants contended that the court had erred in finding that, even if the application for the monitoring direction did not strictly comply with the provisions of the Interception Act, the evidence obtained as a result of the direction was nevertheless admissible. They contended that the failure to obtain evidence within the strict confines of the Interception Act meant the evidence fell outside the protective umbrella provided by the Act and resulted in a violation of the right of privacy under s 35(5) of the Constitution. It was held, that in the circumstances where the procedure in the

Interception Act had been followed as closely as possible and the monitoring of conversations was the only means to investigate the crime, as the suspects were all members of the SAPS, and because of the endemic corruption therein no other investigative tools could be used without jeopardising the investigation, the exercise of the discretion of the judge was not only a proper one, but to have exclude that evidence would also have led to a failure of justice.

[21] It is the contention of learned Counsel for the defence that as the written authorization had not been obtained by the Officers the evidence cannot be accepted as it has been illegally obtained and being the fruits of a poison tree should be discarded. It would be pertinent to state that the evidence of controlled delivery is only against the first accused Christopher Freminot and therefore the defence applies only to the first accused and not the second accused Richard Lesperance who was arrested in possession of the package containing the controlled drugs when he was coming out from the DHL office. It is the contention of learned counsel for the prosecution that evidence even illegally obtained is admissible as evidence against the accused and relies on the cases of ***R v Leatham 1861 8 Cox Cc 498 at pg 501 and Kuruma, Son of Kaniu v R [1955] AC 197***, PC which held that evidence illegally obtained is admissible. Due to these submissions, I am inclined to set down the law below in relation to evidence obtained illegally.

[22] What court must consider at this stage is to make a judicial assessment of the impact of the admission of such evidence on the fairness of the proceedings ***Archbold Criminal Pleading, Evidence and Practice 2012 15-464*** i.e. whether the evidence gathered as a result of the failure to follow this procedural law, if admitted at the discretion of court would result in unfairness to the accused. In using its discretion this court relies on the findings in the cases of ***Khan v U.K (2001) 31 E.H.R.R. 1016 and R v P [2002] 1AC 146*** where Lord Hobhouse of the House of Lords, pointed out that a defendant is not entitled to have unlawfully obtained evidence excluded simply because it has been so obtained.

[23] In the cases of ***Khan v U.K (2001) 31 E.H.R.R. 1016 and R v P [2002] 1AC 146 R v Leatham 1861 8 Cox Cc 498 at p501 and Kuruma, Son of Kaniu v R [1955] AC 197***, PC it was held that evidence illegally obtained is admissible. These cases were followed

in the Seychelles in the case of *Republic v Jean Adrienne & Anr [2015] SCSC 258* and the conviction entered was even upheld by the Seychelles Court of Appeal in *Jean Francois Adrienne & Another v R (Criminal Appeal SCA 25 & 26/2015) [2017] SCCA 25*). What court must consider when it analyses the said evidence, is to make a judicial assessment of the impact of the admission of such evidence on the fairness of the proceedings *Archbold Criminal Pleading, Evidence and Practice 2012 15-464* i.e. whether the evidence gathered as a result of the failure to follow this procedural law, if admitted at the discretion of court would result in unfairness to the accused.

- [24] When one considers the evidence as a whole in this case, it cannot be said that the fairness of the proceedings have been tainted in anyway by the admission of this evidence in respect of controlled delivery. It has not caused any prejudice against the accused right to a fair trial. The evidence stands corroborated and admissible in the view of this court.
- [25] Another defence taken up by the defence as borne out in the cross examination was in regard to the discrepancy in the number of tablets in each of the containers. It is clear from the evidence and even in the inspection of the controlled drug in court that during the packing unpacking and numerous counting processes during the analysis and even the trial, several tablets had broken into halves and smaller fragments as the tablets were powdery in nature. This was further explained by the government analyst in her evidence under oath. The discrepancy was very minor and was clearly due to this reason.
- [26] I have considered the evidence before Court led by the prosecution. The prosecution evidence is corroborated and acceptable in respect of the detection of the controlled drug in the DHL package found in the possession 2nd accused Richard Lesperance. It is clear from the evidence that the package was a package that had come into the country for delivery to one Brent Poirer. The suspicious manner in which the 2nd accused had attempted to clear the package and the false excuses given had aroused the suspicion of the DHL officers who had informed the ANB of their suspicion. This suspicious manner of conduct by the 2nd accused in clearing the package indicates he had the knowledge that the contents of the package was controlled drugs.

- [27] The evidence of the government analyst and her report confirms the fact that the controlled drug relevant to the detection in this case was 3, 4-Methylenedioxymethamphetamine (MDMA) (Ecstasy) weighing 552.7 grams. She identified that her seals placed by her on the exhibits after analysis were intact. Though the exhibit bag was opened in open court, it was done in a manner to keep the government analyst seal intact. At the time the exhibits were produced in court the seals placed by the government analyst were found to be intact. She also clarified the fact that when the exhibits were brought to her by Officer Egbert Payet the seals were intact. The evidence of Officer Padayachy, Officer Egbert Payet and the government analyst Julia Volcere clearly establishes the chain of custody of the exhibit and this court is satisfied beyond reasonable doubt that at no stage were the exhibits tampered with.
- [28] When one considers the evidence of the controlled delivery, it is clear that the 2nd accused assisted the officers of the ANB by phoning the 1st accused referred to as 'Topher' in the presence of the ANB officers who were listening in to the phone conversation and arranging the controlled delivery of the package to the 1st accused at the Anse Royale Auditorium. Having substituted the controlled package with a dummy, the ANB officers had done the controlled delivery. It is clear from the evidence of Officer Padayachy that it was the 1st accused Christopher Freminot who had come to collect the said package believing it contained the controlled drug that was imported through DHL. He was arrested whilst asking for and accepting the package.
- [29] When the evidence as a whole is considered, it is clear that there was an agreement between the 1st and 2nd accused that the 2nd accused Richard Lesperance due to the nature of his job should collect the package containing the controlled drug from the DHL office and then deliver it to the 1st accused Christopher Freminot. The evidence of the prosecution stands corroborated and un-contradicted on all these material issues and I proceed to accept same.
- [30] It is clear from the evidence before court that the importation of the controlled drug was a preparatory act to the trafficking of the controlled drug. The delivery and acceptance of the delivery of the package containing controlled drug, with the knowledge it contained

controlled drug also establishes preparatory acts in trafficking of the controlled drug. I am satisfied of the evidence of the prosecution in all these aspects and proceed to accept same. Further, I am satisfied that the evidence of the prosecution clearly indicates that each of the accused did play a part in the importation and trafficking of the controlled drug and therefore are liable under section 22 (a) of the Penal Code.

[31] For the aforementioned reasons, I am satisfied the prosecution has proved all the elements of the charges contained in all four Counts against both the accused beyond reasonable doubt. I proceed to find the 1st and 2nd accused guilty of the charges in Counts 1, 2, 3 and 4 and convict both accused of same.

Signed, dated and delivered at Ile du Port on 26th day of November 2020.

M Burhan J