

SUPREME COURT OF SEYCHELLES

Reportable/ Redact

(CO21/2022)

In the matter between:

THE REPUBLIC
(rep. by Mrs. Leste)

Republic

and

T L
(rep. by Mr. Camille)

Accused

Neutral Citation: *Republic v TL* (CO21/2022) 1st July 2025

Before: R. GOVINDEN CJ

Summary: Sexual Assault - Sentence

Heard: 05.07.2022, 26.02.2024

Delivered: 1st July 2025

ORDER

I proceed to sentence the accused TL:

- I. On Count 1 I impose 28 years' imprisonment for the offence of Sexual Assault
- II. The accused has a right to appeal against the sentence to the Seychelles Court of Appeal against his conviction and sentence.

SENTENCE

GOVINDEN CJ

- [1] The accused after trial was convicted of one count of Sexual Assault contrary to Section 130 (1) read with Section 130 (2) (b) of the Penal Code and punishable under Section 130 (1) as read with Section 130 (4) of the same (Act 5 of 2012).

- [2] The particulars of offence are that the accused, a 33-year-old Police Officer of [REDACTED] Mahe, while he was living at [REDACTED] Mahe, on a date unknown to the Republic, at his residence at [REDACTED] Mahe, Sexually Assaulted his step-daughter namely Ms. R H, presently 12 years old but was a student of P4 at the time of the incident, by touching her breast with his hand for a sexual purpose.
- [3] In mitigation, Counsel has drawn the Court's attention to section 26(1) of the Penal Code, allowing for a reduced sentence within the statutory limits. The Court was invited to consider the principles laid out in Ponoo v Attorney General [2011] SLR 423, which give emphasis to the importance of evaluating the specific facts of the case, sentencing patterns in similar cases, and applicable sentencing principles. Counsel also cited the cases of Republic v SJ (CR17/2021) and Republic v AB, where non-penetrative sexual assaults, including the touching of genital areas and breasts, resulted in custodial sentences ranging between three to five years. The defence further submitted that in this present case, there was no penetration and the convict being a first-time offender, warrants a sentence in that range. The accused is a former police officer aged 35 years old, he expressed remorse and previously of good character, that he made a mistake resulting to the offence. The Court was urged to consider his service to the community and his remorse in determining a proportionate sentence.
- [4] For the purposes of sentencing, I have taken into account the mitigating factors as outlined by counsel. The Court however views the offence committed of a serious one. The accused, TL, has been convicted of a similar offence within a short span of time. This behaviour indicates a risk to public safety, particularly to individuals that are vulnerable, necessitating a severe penalty to prevent further offences. In the case of R v CL (CR 08/2022) [2022] SCSC 1075 (10 February 2022), the accused was convicted and sentenced to 15 years' imprisonment on two counts of sexual assault against a 9-year-old girl, served consecutively, resulting in a total of 30 years' imprisonment. This is an affirmation of the Court's firm stance on protecting victims that are vulnerable, especially children. The basis for the severe sentence was grounded in the seriousness of the offences, the young age of the victim, and the need for strong deterrence. In this present case, this Court also emphasises that such acts demand a substantial penalty to indicate the unacceptability of

such conduct in society and to safeguard children as well as other victims from such behaviour.

- [5] Sexual assault, especially against minors and individuals that are vulnerable, is a grave crime with lasting impacts on victims. The law reflects societal condemnation of such acts, mandating stringent sentences to reflect the seriousness of the offence. This Court makes reference to the case of Jumeau v R (SCA 22 of 2018) [2019] SCCA 30 (22 August 2019) where the Court of Appeal sent a firm message to which this Court is in agreement with. These crimes cause long-lasting harm to the most vulnerable individuals of society, and Courts must not tolerate such offences. Serious offences like sexual assault create trauma, fear, and societal discontent. M. Twomey (J.A) stated as follow in Jumeau v R (supra):

“39. The Courts have continuously indicated their strong stance regarding offences of this nature. In G.K, v R Criminal Appeal [\[2017\] SCCA 3](#) (21 April 2017), for instance, Domah JA stated –

“The irreparable harm done to vulnerable children and persons by paedophiles is today well documented. Public sensitization on the matter is well spread. Yet with three cases having come to the Court of Appeal in course of this session, we wonder whether the campaign against such reprehensible and degenerate behaviour should be more robust. The legislature has provided for a sentence of 20 years in cases of sexual assault. We may not stay insensitive to the call of the day in this area of criminal law. Accused persons convicted of such offences shall not expect leniency from the Court of Appeal or any other Court for that matter.”

40. The Court in R v Meme (2009) SLR 32 similarly stated –

“This is unacceptable in our society. Children are a precious gift from God and represent the future generation. They must be jealously protected, properly nurtured and given all the required support and care by each and every adult person instead of taking advantage of them. [The accused] has failed that test. This obviously calls for his removal from the public for quite some time to enable him to reform and become a benevolent and useful person.”

41. The President of the Court of Appeal, F. MacGregor, in Francis Crispin v R SCA (SCA CR 16/2013) [2015] SCCA 29 (28 August 2015) held the following at paragraph [9] of his Judgment –

“The guiding principles in sentencing are summed up in four words: retribution, deterrence, prevention and rehabilitation ... [The appellant] ignores the mental and physical pain and damage he causes his victims. The society abhors such actions. The

Court must add an element of retribution in punishment of this crime to express the pain and disgust of the society when it convicts an accused

42. In *R v Marday & Anor* (2004) SLR 106, Renaud J noted the following –

“The Court is always mindful of the prevalence and circumstances of crime in society that is detrimental to peaceful and orderly living. Everyone is entitled to enjoy fundamental rights but such enjoyment ought not to impact negatively on society, such as creating fear and panic which at times tends to become the order of the day. The prevalence of certain serious crime is now of major concern, particularly - homicides; drug related offences; sexual assaults on small children; sexual assault using threat or violence... are offences which society at present strongly abhor... The Court is cognisant of the prevailing concern and will not hesitate to exercise its discretion by placing elsewhere such persons in order to allow other reasonable members of society to enjoy their fundamental rights too.”

- [6] In reaching its decision in the present case, this Court considered not only the circumstances that could mitigate the sentence as counsel mentioned in his mitigation, but also those that could aggravate it. The following aggravating factors relevant to this case are that the virtual complainant was and is still a young individual; at the time of the commission of the offence the accused was at the time a Police Officer, he was the stepfather of the Virtual Complainant and this put him in a position of trust and he abused that trust.
- [7] Having duly considered the abovementioned factors, together with the plea in mitigation by learned Counsel on behalf of the accused, the Court now proceeds to pronounce sentence on the accused. Sentencing is a judicial function guided by laws, case law, and the principles of proportionality, deterrence, retribution, rehabilitation, (see Lawrence v Republic [1990] SLR 47). In determining an appropriate sentence in this matter, the Court must consider the provisions of section 130(1) of the Penal Code, which is applicable in this context. The accused has been convicted in a previous sexual offence case against a minor which falls within a period of ten years from the date of his initial conviction, a conduct which demonstrates both the seriousness of the offence and a persistent threat to the safety of the society and against vulnerable individuals. Given the seriousness of the offence, the pattern of reoffending, and the vital need to protect society and preserve public confidence in the administration of justice, I proceed to sentence the accused TL:

- I. On Count 1 I impose 28 years' imprisonment for the offence of Sexual Assault
- II. The accused has a right to appeal against to the the Seychelles Court of Appeal against his conviction and sentence.

Signed, dated and delivered at Ile du Port on the 1st of July 2025.



Govinden CJ

The seal of the Seychelles Supreme Court is an oval-shaped emblem. It features a central circular design with a star at the top and a crest in the center. The words "SEAL OF THE SEYCHELLES" are inscribed along the right half of the oval, and "SUPREME COURT" is inscribed along the left half.