

SUPREME COURT OF SEYCHELLES

Reportable
(CO84/2023)

In the matter between:

THE REPUBLIC
(Rep. by Langsinglu Rongmei)

Republic

and

DAN CHRISTOPHER ILDRIS

1st Accused

TERRY ANTOINE POINTE
(Rep. by Audric Govinden)

2nd Accused

Neutral Citation: *R v Ildris & Anor* (CO84/2023) (05 December 2025)

Before: M Burhan J

Summary: Robbery with violence. CCTV evidence and identification by clothing.

Heard: 23.05.2024, 24.05.2024, 27.05.2024, 10.06.2024, 24.06.2024, 03.10.2024,
22.11.2024, 24.04.2025

Delivered: 05 December 2025

ORDER

I proceed to find both the accused guilty on Count 1 and proceed to convict them as charged.

JUDGMENT

M BURHAN J

[1] The aforementioned accused were charged as follows:

Count 1

Robbery with violence contrary to Section 280 as read with Section 22 (a) of the Penal Code and punishable under Section 281 of the Penal Code Cap 158

Particulars of offence are that, Dan Christopher Ildris, 32 years old, holding NIN 992-0907-1-28 and his brother Terry Antoine Pointe, 28 years old, holding NIN 995-1095-1-1991, both unemployed and resident at St. Louis, Mahe, on the 14th October 2023, at about 15:15 hours entered Raghavendra Shopping Center, at Beau Belle, Mahe, masked and armed with a knife and a piece of wood respectively and robbed one Mrs. V Shanmuga Vabivelan of her mobile phone valued at SR5000/-, her gold necklace valued at SR11,000/- and stole SR8000/- cash from the Cashier Register and that at or immediately before or immediately after the commission of such robbery, used actual violence against the said Mrs. Vabivelan, by grabbing and dragging her and also injuring her neck and also threatened with the knife.

- [2] Both accused denied the charge and the prosecution opened their case by calling witness Dr Olusola Bamidele, a medical practitioner, attached to the Ministry of Health. He stated that on 14 October 2023, he was on duty at the English River Health Centre. He had examined a lady who had been attacked in a shop in relation to the incident in this case. Witness identified the medical report prepared in respect of V Shanmuga Vabivelan, the lady he had examined and produced same as exhibit P2. The victim he stated had an abrasion on the left part of her neck and an extensive wound on the anterior lower neck and another wound on the left anterior part of the upper neck. He stated the abrasion was due to a necklace round her neck being “dragged”. They had dressed the wounds, given analgesics and painkillers. He further stated that the patient –victim was visibly shaken and she was fearful and in a state of psychological trauma and downcast. Apart from the physical treatment, she required psychological treatment and they had to calm her down.
- [3] Under cross-examination, he stated there were two doctors, one at emergency and one at the Out-Patients-Department (OPD) and admitted that there are two different writings on

the medical report. He explained the procedure how patients are been admitted to the emergency and to the OPD. He also described what an abrasion and bruise was at length. He stated the injuries at the time of treatment were not life threatening. Witness admitted he was not a trained specialist but he did some psychological treatment on the patient from his general experience. He had seen the patient at 6:50 pm.

- [4] Inspector Ivan Esparon testified that he has been in the Seychelles Police Force for 17 years and presently in the digital forensic unit for the past 7 years. He has received training overseas and locally in digital forensic in extraction of digital evidence from mobile phone, computer, CCTV footage and GPS. During these 7 years based at the SSCR, he has given evidence in Court before and has been accepted and declared as an expert in his field.
- [5] He stated he came on summons to give evidence in this Court in CB43/2023 and in respect of the digital forensic examination report he prepared, DLF647 of 2023. On 14 October 2023, when he was on duty Corporal Shane Tambara had made a request for him to extract video footage at Beau Belle area where a robbery had taken place. He had proceeded on the same day to the scene of the crime, a shop and had extracted the video footage, on the CCTV cameras in the shop. He had done this in the presence of Corporal Tambara and the owner of the shop. He had transferred the extraction on to the forensic pen drive and he had brought to his office to analyse its content. He saved a back-up on the forensic server and he had transferred a copy to a DVD and kept it as an exhibit for him to produce before Court.
- [6] After 14 October 2023 on 16 October 2023, he received a pen drive from Corporal Tambara in relation to the same incident containing video extraction from Grand Kaz Casino Beau Belle (hereinafter Gran Kaz) situated at the same vicinity where the incident took place. When he received the pen drive, he transferred the contents to the forensic server. He analysed and checked the content and the event happening in the CCTV footage then he backed-up the content of the video footage on the forensic server and thereafter transferred the video onto a DVD, which he kept as an exhibit. He placed the pen drive back in the evidence envelope, sealed it and kept it in his possession. He had prepared a report for both.

- [7] Inspector Esparon thereafter produced his report titled DFL647/23 CB43/10/23 as P3 which he had prepared after completing analysis of both CCTV footages. Thereafter he described the contents of his report. The name of the shopping centre he had extracted the footage was Sri Raghavendra Shopping Centre Beau Belle. The video footage he extracted was in relation to an incident that occurred on the same date 14 October 2023. On examining the camera labelled ACCU vision in the shop in the presence of Corporal Tambara and the owner of the shop Mr Sundaragan Vabivelan, he found that the date was correct but there was a slight difference in the time registered in the camera footage. The actual time was 17.04 hours, the time on the camera was 17.27 hours, and he noted there were four cameras connected to the system. Those cameras were 23 minutes ahead of the real time. This he explained was because the person setting up the camera did not set up the time correctly but the date had been set up properly. Another reason why the time would not be correct would be due to power failures. He further stated that the time difference does not affect the integrity of the footage recorded by the camera. It is just a matter of just recalculating the right time with the time of the system.
- [8] Witness Esparon proceeded to describe in detail the report in relation to the CCTV footage taken at Gran Kaz and the shop. He identified the two accused from the footage at Grand Kaz near the dustbins and the items of clothing they were wearing and the items they were carrying in their hands. He further described the items of clothing worn by the two persons who were caught on the cameras of the shop while robbing, at the scene of crime which shop was situated close to the dustbins shown in the Grand Kaz CCTV footage. The footage he stated indicated the 2nd accused searching for a piece of wood near the dustbins prior to the robbery and then both accused moving on, in the direction of the scene of the crime. In the CCTV footage near the dustbins at 15.06.39 the two accused can be clearly seen walking in the direction of the shop, the scene of the crime. At 15.14 hrs (actual time as shop camera was 23 minutes faster) two persons dressed in the same clothing and carrying the same items to what the accused were seen wearing and having in their possession near the dustbins, are seen robbing the shop with faces covered with the same clothing seen with the accused in the Grand Kaz footage. The report and evidence of Inspector Esparon are further discussed in [39] to [41] herein.

- [9] Witness Constable Cindy Pointe attached to Beau Vallon Police Station stated she has been a police Officer for the past 13 years. She had received a call on 14 October 2023 from Sergeant Rapide when she was on patrol around 3.29 in the afternoon, to attend a crime scene at Beau Belle. She proceeded to the scene accompanied by Corporal Racombo and PC Arissol. When she reached the shop, she saw an Indian woman sitting on a chair. Witness questioned her about what happened, she had responded in a 'fast' manner and she told witness that two men had attacked her. She told her that they had taken SCR 8000 that was in the cash register, a phone with make 'Oppo' and had also grabbed her necklace from her neck. Witness realised the lady was scared because she kept on repeating the same things repeatedly and she was unable to answer all the questions properly. The lady had tears in her eyes and she was trembling and witness noticed a reddish mark on the left side of her neck and saw that it was a bit swollen as well. The Indian lady was complaining about pain around her neck. Witness issued her with a medical form, for her to see a doctor. Witness also noticed a piece of wood, not too big and not too long on the ground behind the counter. Witness stated she did not pick it up because when witness had asked the Indian lady, if the wood was used, she had not replied. Under cross-examination, she stated she had gone to the scene at 3.29 pm and all the information she got, she had entered in the occurrence book. She stated she did not know what happened to the piece of wood. She had left the scene in about 15 minutes after the CID had come with Corporal Tambara to commence investigations. She had not participated in the collection of exhibits.
- [10] Witness Ricky Delorie testified that he worked for the Seychelles Police and currently based in the National Intelligence Service. In 2023, he was still with National Intelligence Services doing joint tasks with CID. On 15 October 2023, when he was on duty, he received some information about some suspects. He watched the video footage of the robbery taken in the shop and identified the 2nd suspect and the clothes he wore. Thereafter, he had arrested Terry Pointe the 2nd accused around 2:20 in the afternoon. He read his rights to him and informed him the offence was robbery with violence. He had arrested Dan Idris the 1st accused around 2:45 in the afternoon at his mother's place. When he arrested Dan Idris they had taken into custody the blue coloured jeans, a Nike t-shirt with two stripes on both of the shoulders and Nike printed on the chest area. Witness was able to identify the accused he had taken into custody in open Court.

- [11] Witness Delorie further stated when Dan Idris was in the car going to Bois De Rose, he started tearing his clothes with his teeth, the white pieces on the shoulders and the NIKE label in front. Witness produced the black t-shirt with the torn logo of NIKE and the torn sleeves and a torn white stripe as (P7) in Court. The 'NIKE' logo had been in the chest area and white stripes on sleeves. The mother of both accused had come with them voluntarily and she had identified the knife (P9) that Dan Idris used. She had also handed over to them a light green Nike trouser (also referred to as a jumper) after seeing the video (P13). She had stated Dan Idris was wearing it on that date. He also produced a t-shirt with grey and white stripes as exhibit P11, taken into custody by them. Witness handed over all items to Corporal Tambara.
- [12] Under cross-examination, witness Delorie stated he was the arresting officer. He had identified the accused in the video footage as he had seen them earlier. The mother of both accused too had identified them from the video footage going viral. When the accused were arrested they were not aggressive. Witness stated that he is the arresting Officer not the investigating officer. In the footage he saw, the accused was wearing the same shirt he took it into custody. The accused had refused to sign the envelope. Witness confirmed to court that the items he took into custody did not leave his sight until handed over to Corporal Tambara. Witness recognised the accused Dan Idris wearing the black t-shirt P7 in the video footage P4 (a). Witness admitted he had written jumper for trouser. Witness was shown P11, and identified it as the grey white striped t-shirt he had taken into custody from the accused. It was given to witness by the mother of the accused who stated that it was Terry Pointe the 2nd accused's t-shirt. When witness was shown the video footage of the shop, he stated the accused in the shop had a white t-shirt with grey stripes used to cover his face. Witness further stated he had received exhibit P9 from the mother of the accused who told him that she had watched the video and noted a knife was missing in the house and P9 is the knife that her son brought back after the incident.
- [13] Witness Aubrey Sophola stated that he does network hardware and software at Gran Kaz Casino Beau Belle. At Gran Kaz he handles all networking connecting PCs, computers, all software that the company uses and any hardware, router, switches that need to be installed or set up to configure. During his shift with the camera system, he has to oversee and

monitor cameras which maybe in different areas. He described the software used and affirmed that the system they operate is secure as only authorised personnel are allowed to have access. This includes mainly IT and upper management personnel which includes him. He stated he supplied the video of the footage as required by the police in respect of this case.

- [14] Witness was shown a document, a letter requesting CCTV footage addressed to Mr Jonathan Paul Head of Operations, Gran Kaz Casino requesting the available video footage from their CCTV cameras at Gran Kaz Casino Beau Belle (Grand Kaz) facing the Beau Belle estate road side, for the date of 14 October 2023 from 14.00 hours to 16.00 hours. He had extracted the footage as required from the system and supplied the footage as required on a pen drive. Witness identified the footage extracted in open court which was from two cameras. He identified the pen drive as P5(a). He stated there is no tampering of the footage. Under cross examination he affirmed that there was no piecing together of footage or doctoring of the footage sent by them. He stated that cameras use infra-red and during night time it gets activated and image looks as if it is taken in daytime.
- [15] The next witness Nathalie Joubert testified she was attached to the Beau Vallon police station. She had received instructions from her superior officers to go to St Louis and to the house of one Sylvianna and assist the Officers in a search of the premises. She had found the shoes and the lady Sylvianna informed her that the said shoes belonged to Dan Idris. She had taken the shoes on the instruction of her superior officers and shown them to the Indian lady who had identified the shoes as those being worn by one of the accused who had come to rob her shop. Witness identified the brown shoes which were produced as P16.
- [16] The next witness called by the prosecution Shanmuga Priya Vabivelan stated that on 14 October 2023, she was sitting in her shop Sri Ragavendra Shopping Centre at Beau Belle when around 3 and 3.30 in the afternoon, two persons entered the shop. One person had jumped onto the cash counter. She had immediately moved away but the other person had put a knife to her neck. They had asked her to open the drawer one by one. When this was happening, her husband suddenly called her. She tried to answer the call, but immediately

the phone was grabbed from her and when they were about to leave, they had seen the chain on her neck. They had grabbed the chain from her. She tried to protect the chain but unfortunately, she could not and they grabbed it and went. She tried to go after them seeking help but they had run away. The police were informed and they came to the crime scene and conducted their investigation and she had gone to the hospital as she had bruises on her neck as her chain had been pulled by the robbers. They had taken 8000 SCR from the counter. She had not got her chain, mobile phone or cash back.

- [17] Witness stated that one person held a knife to her neck and she described what each individual was wearing. Witness identified P7 the black tshirt, P11 the grey and white t shirt and P13 the jumper as items worn by the person who committed the robbery. She affirmed the video footage depicting the robbery that occurred in her shop. Witness stated that she is still in a state of fear and cannot go anywhere outside alone as she panics. Under cross-examination she stated she does not have a receipt to confirm the amount she lost. She also described her necklace and its value at 125,000.00 Rupees (presumably Indian rupees).
- [18] Witness Corporal Shane Tambara, the chief investigating officer in this case stated that he received a report of a robbery at the Ragavendran Shopping Centre on 14th October 2023. He had gone to the scene with Inspector Esparon of the Digital Unit and viewed the CCTV footage. He described what he viewed. He saw two masked persons on the CCTV footage in the act of committing a robbery. After viewing the footage, they did a door-to-door investigation, whereby they spotted camera footages on the premises at Gran Kaz. Thereafter, he obtained access of the camera footages. He received a pen drive with video footage from Mr Sophola of Gran Kaz in Victoria. He watched the CCTV footage whereby he identified two persons' well known to him as Dan Idris and Terry Pointe residing at St. Louis at Stevenson Delhomme road. They were on the road and going towards where the incident happened. They were wearing the same clothes that the person who conducted the robbery were wearing. Witness stated he had previously dealt with them in previous cases and he knew Terry Pointe from Praslin when he was living on Praslin Cote D'Or.

- [19] Witness testified that he handed over the pen drive to Inspector Esparon for digital extraction. Inspector Esparon did the extraction from the pen drive along with the extraction report and exhibited a copy to court. After viewing this footage on 15 October 2023 at 1735 hrs, they went to the residence of the accused at St Louis where the two accused were arrested and were searched and certain exhibits were seized from the house. WPC Joubert, PC Delorie and other officers were also present. He further stated the mother of the accused Sylvia Pointe was also present. WPC Joubert spoke to her. PC Delorie collected some exhibits which were the shorts, a jogger, t-shirt and shoes. He had placed the exhibits in a bag and later they were handed over to him for safekeeping.
- [20] Witness Tambara stated he handed over the exhibits to the witnesses for production in court. At page number 5 of the report P3, there is a picture of a man who he identified as Dan Idris written as suspect number 2 on the document. He further stated that in image number 1, there are 2 persons. The one standing in front is Dan Idris wearing black t-shirt, dark blue trousers and brown shoes. He identified accused number 1 in the dock as Dan Idris. The other person in the same image number 1, he identified as Terry Pointe who is accused number 2 in the dock in court. He proceeded to identify the two accused in all other images in pages 6 and 7 in the report and states that Dan Idris was wearing a black t-shirt with white stripes on the shoulder sleeves, dark brown trousers and brown shoes and a white cap. In image number 4 Terry Pointe is seen wearing a grey t-shirt, dark blue short with the logo Mousse and slippers.
- [21] Corporal Tambara further stated that page number 9 shows the shop at Beau Belle, there are 2 masked person are in the shop with the victim. One fair complexion, grey t-shirt with dark blue short. On the left of him an individual with a black t-shirt with the white stripes on the shoulder, and dark blue trouser and brown shoes. This court observes that on image number 10, H indicates a knife, L indicates the white cap, and letter A indicates the grey and white cloth as the mask. The time is 15.38.08 hrs (actual time 15.15.08. hrs) that is according to the date and time given in the video footage. The time when they were last observed on the Grand Kaz footage walking towards the shop at 15.06.39 on the same date.

- [22] Witness next described the similarities between the persons walking towards the shop from the road containing the dustbins in Beau Belle and the persons robbing the Ragavendran Shopping Centre taken from two different cameras; One he stated is from the road camera and the other is from the camera in the shop. At 15.38.08, the first person on the left side of the screen at the time of the robbery was wearing the black t-shirt with the white strip on the shoulder and dark blue trousers and brown shoes, white cap, all similar to what the camera from Gran Kaz shows, Dan Idris was wearing when walking towards the shop a few minutes earlier and also he had white t-shirt on his face as a mask. In his right hand, there is a knife. His left hand is holding the lady in image 9 on page 9.
- [23] Witness Corporal Tambara further stated that in image 10 on page 9, the masked man on the right of the screen is wearing a grey t-shirt, a black short and slippers with a white cloth on his neck and a green bag in his pocket. Witness Tambara next identified P7, the black t-shirt, with the logo NIKE and white strip on each side of the shoulder. He stated the report P3 page number five, image number 2 shows the same t-shirt being worn by Dan Idris just before the robbery occurred. Witness was shown P11, which is the grey and white striped T shirt. On page 6 image number 4 of the report is a grey and white t-shirt seen on the shoulder of Terry Pointe. He identified exhibit P9 as the knife with the brown handle. He further identified both accused and what each was wearing and carrying when they were on the Beau Belle road near the dustbins, walking toward Ragavendra Shopping Centre where the incident of robbery occurred by looking at the Gran Kaz video. The first video in the pen drive 15.02.47 shows Dan Idris as the first person in front and the second person at the back is Terry Pointe both walking on the road at Beau Belle. He identified Terry Pointe as having a green plastic bag in his hand. At 15.03.29, Terry Pointe picked up a wood, which was down on the ground. At 15.06.39 they take the road that leads to the shop where the incident happened. Under cross examination, he admitted there was no finger print or DNA evidence. He stated that the mother of the accused was in the house when they were searching it and she had recognised the shoes and items found in the house to be that of her sons.
- [24] The prosecution also called Lena Sylvianne Pointe the mother of the two accused. She stated she resides at St Louis. She stated Terry Pointe, Dan Idris are her children and in

addition she has two other children as well. She identified both accused in the dock. On Friday 13th October 2023 both Terry Pointe and Dan Idris were in her house. Terry does not reside with her but lives at Roche Caiman. On the day the incident happened 14 October 2023 they came to her home around 4.00 pm. When they came back they did not do anything and witness saw them roaming around in the house while she was cooking. Dan had given witness his clothes for washing. She recalled a striped t-shirt and jumper being given for washing. At about 5.00 pm when Terry Pointe was on the street and Dan was in the house in his bedroom, the police came and arrested them. After the police arrested them they also had taken a statement from her.

[25] The police had taken the clothes she had washed and the brown coloured shoes. The jumper and the t-shirt were removed by them from the drying line. They also took the knife witness used in the kitchen which had a brown handle. Witness stated she herself showed the shoes and recognised the shoes in open court which were marked as exhibit P16. Witness Sylvianna, the mother of both accused was shown P3 and page 5 with image 2 on it and she identified Dan Idris. At page no.6, image 4, she identified Terry Pointe. In image no. 6 at page 7 of report P3, witness identified Terry Pointe and Dan Idris in open court. Witness was shown exhibit P7 the black t-shirt with white stripes (torn) and stated that this t-shirt was on Dan Idris. Witness was shown exhibit P9 the knife with brown handle and identified the knife that she uses in the kitchen for cooking. She was shown P11 (grey and white t-shirt) and stated that this is the t shirt belonging to Dan which she washed and put on the line to dry at his request. Witness was shown P3 page no. 6 image 4 and stated that it shows the grey and white striped t-shirt P11. She was shown P13 (jumper) and stated that this was for Dan Idris.

[26] Witness was shown the DVD exhibit P4 (b) video footage. Witness identified the person with the green bag as her son Terry Pointe. She also identified him in the accused box. Witness was shown suspect number 2 in the report and identified him as her son Dan Idris who she also identified in Court as the 1st accused. She was able to identify her sons on the videos shown to her from P4 (b). She identified Dan as the one wearing the black T shirt with white stripes. She also recognised from the video her other son Terry who has a knife in his hand and on his shoulder a grey and white t- shirt seen in image 4 on page 6 of P3

report. Even in the video showing the robbery in the shop though masked she was able to identify the clothing of her two sons even though their faces were covered. Witness confirmed that apart from the height of her sons, the clothes that they were wearing help her identify them as her son Dan Idris and Terry Pointe. The exhibits in the custody of the police, she identified were those clothes worn by her sons Terry Point and Dan Idris when they were inside the shop.

- [27] The prosecution thereafter closed its case. Both the first and second accused chose to remain silent. In accordance with Article 19 (2) (h) of the Constitution of the Republic of Seychelles no adverse inference should be drawn from this fact. Thereafter both parties tendered written submissions.

Analysis of the Evidence and Submissions

- [28] Having thus considered the evidence and submissions before Court I observe from the submissions filed that learned Counsel for the accused referred to the discrepancies in the witness evidence in respect of the colours of the clothes worn by the accused. It is understandable that the complainant who had undergone extreme trauma during the robbery which lasted just over a minute would not be able to remember the exact colouring and details of the clothes the accused were wearing. Learned Counsel for the defence also challenged the clarity of the recordings on the basis that they were not clear and the accused could not be identified in them. This is incorrect in respect of the footage from Grand Kaz P5 (a) which is clear and both the accused and what they were wearing can clearly be identified in the video footage. In the footage of the robbery in the shop P4 (b) the face of both accused are covered but the sequence of events that occurred during the robbery as described by the complainant-victim are clear and easily visible. The colour of the video keeps fluctuating from colour to black and white but colours of clothing, green bag and brown shoes can be clearly observed when the colour comes on in the footage. The fact that the prosecution failed to produce finger print evidence is not fatal, as the robbery

occurred in a shop constantly frequented by the public for purchases and therefore the fact that the prosecution did not rely on fingerprint evidence is understandable.

- [29] The defence contention that the mother failed to identify the clothing in the videos is incorrect. She clearly identified the clothing produced as exhibits and the clothing worn in the Grand Kaz footage. She had difficulty with the robbery video due to her recent eye operation as the colour was fluctuating but when the colour comes, the similarity in colours between what was worn by the accused in the Gran Kaz video footage and the robbers during the robbery is clear to any observer. For the aforementioned reasons I reject the defence of both accused.
- [30] When one considers the evidence of the complainant-victim Shanmuga Priya Vadivelan, it is clear from her evidence which is fully corroborated by video footage from the cameras in the shop that two persons with faces covered armed with a knife and a piece of wood entered the shop at 15.37 hrs (actual time 15. 14hrs) and threatened the complainant with a dangerous weapon a knife and forcibly got her to open the cash counter drawer and had taken a sum of money SCR, 8000, her phone and the chain she was wearing around her neck. Due to the accused forcibly snatching her wedding chain from the neck, she sustained bruises around her neck as well as shock. It is also clear from her evidence and Corporal Tambara's evidence that none of these items were recovered.
- [31] When one considers the video footage captured from the cameras in the shop the evidence of this witness stands fully corroborated in every respect. In addition the camera video footage clearly shows not only each and every act done by each of the robbers but also shows the items of clothing each individual was wearing and using to cover their faces and their general height and disposition.
- [32] Dr Olusola Bamidele a medical practitioner attached to the Ministry of Health who examined the complainant victim after the incident on the same day at the Victoria hospital, confirms the fact that the lady had injuries on her neck as a result of her chain being snatched from her neck. His examination and medical report P2 confirm the fact that he had examined the complainant at 6.00pm on 14 October 2025 and observed an abrasion on the left part of her neck and an extensive wound on the anterior lower neck and another

wound on the left anterior part of the upper neck. He stated the abrasion was caused due to a necklace round her neck being “dragged”. Dr Bamidele further stated that the patient – victim was visibly shaken and she was fearful and in a state of psychological trauma and downcast. Apart from the physical treatment, she required psychological treatment and they had to calm her down.

- [33] I am of the view that both the camera evidence and the evidence of Dr Bamidele clearly confirms the complainant – victim’s evidence in respect of the robbery and the prosecution has proved beyond reasonable doubt that two persons did commit the offence of stealing and in the act of stealing, committed violence using a dangerous weapon on the victim resulting in injuries to the victim. The said facts have been proved beyond reasonable doubt.

Law and Case Law in respect of Identification by way of CCTV footage.

- [34] Prior to dealing with the evidence in respect of identification of the two accused, this Court will set out the law and case law pertaining to identification of accused by way of CCTV footage evidence.
- [35] In Archbold Criminal Pleading Evidence and Practice 2009 at paragraph 14-28 citing the case of R v Hickin (1996) Crim. L. R. 584, CA states: “*The recognition of clothing can be a valuable aid to identification.*” This was also referred to by A.F.T Fernando JA (currently President Court of Appeal) in the Seychelles Court of Appeal in Nenesse v R (SCA 35 of 2013) [2016] SCCA 23 (12 August 2016) in affirming a conviction by this Court, where identification was done by clothes and by characteristics known to the police by association with the accused in official matters. It further held that in the Seychelles, surveillance video evidence from CCTV cameras is admissible under section 15(1) read with section 15(11) of the Evidence Act. Reference is made to the Kenyan case of Evans Kalo Callos v Republic (2014) HC. CR.A. 795 of 2007 where the Court of Appeal affirmed the conviction of the appellant placing reliance on the clothes worn by him and the South African cases of Mpumlo & others 1986 (3) SA 485 (E) and Motata v Nair NO 2009 (2) SA 575 (T) para 21 which held that a video film, like a tape recording, ‘*is real evidence, as distinct from documentary evidence, and provided it is relevant, it may be produced as admissible*

evidence, subject of course to any dispute that may arise either as to its authenticity or the interpretation thereof”.

- [36] The Seychelles Court of Appeal also referred to the following cases in the UK where photographs and video recordings are admissible to prove the commission of the offence and the identity of the offender A-Gs Ref (No 2 of 2002) [2003] 1 Cr App R 321. Fowden (1982) Crim LR 588; Kajala V Noble (1982) 75 CR App R 149; Grimer (1982) Crim LR 674, Caldwell (1994) 99 Cr App R 73 and Blenkinsop (1995) 1 Crim App R 7.
- [37] The Seychelles Court of Appeal further held that the holding of an identification parade or a Turnbull direction is not necessary, as the holding of one would have been superfluous as the witness recognized the Appellant who they knew very well on seeing the video footage and a Turnbull direction was not called for as the witnesses had taken their time to view the video footage and the photographs and therefore it was not a ‘fleeting glance’ identification. It further held in Dodson (1984) 1 WLR 971 that *a Turnbull direction is inappropriate because the process of identifying the person from a photograph is a commonplace event and some things are obvious from the photograph itself*. In Blackstone’s Criminal Practice 2010 it is stated at F 18.29 that a “*A full Turnbull warning might not be appropriate in such cases, but the jury must still be warned of the dangers of mistaken identification, and should be reminded of the need to exercise great care when attempting to make an identification from photographs or video recordings.*”

Analysis and Findings in respect of the Identity of Accused

- [38] In this instant case in regard to the identity of the two persons who committed the said offence, the prosecution relies on the video evidence recorded from CCTV cameras situated in the shop and situated at Grand Kaz produced as exhibits P4 (a) and P4 (b) and P5(a) respectively. It is pertinent to mention at this stage that originally Inspector Esparon the digital forensic expert produced the recordings on a DVD P4 (a) but during the trial as P4 (a) became defective another DVD P4 (b) with the same recordings in P4(a) was produced in Court after recalling Mr Esparon who under oath stated that P4(b) contains the same footage of P4(a). The basic contention of the prosecution is that the two accused who can be clearly seen in the Grand Kaz P5 (a) video footage are the same accused who robbed

complainants shop Sri Ragavendran Shopping Centre. The prosecution contends that the persons robbing the shop although they had their faces covered, are wearing the same clothing, the two accused were wearing when they were identified in the CCTV footage in P5 (a) near the dust bins just before the robbery took place. Both accused can be seen in the footage walking in the direction of the shop which was in close proximity to the dustbins a short time before the robbery took place. The prosecution also relies on the evidence of the mother of both the accused, Sylvianna Pointe who identified the clothes and certain items seen in the footage and recovered by the police, as belonging to her sons the two accused.

- [39] At his stage, it would be pertinent to consider the evidence of Inspector Esparon and that of Corporal Tambara together with the CCTV footage. When one considers the CCTV footage in P4 (a) and (b) and P5 (a), it is clear that there were two sets of footage presented to court. One footage was from cameras inside the shop shown in DVD disc P4 (a) and P4(b) where in footage 1_03_R_231014153407.h264 taken at the Ragavendra Shopping Centre shows the robbery taking place on 14 October 2023 at 15.37.11 hrs when the two accused walked into the shop (as the timing in the shop was 23 mins ahead of the actual time would be 15.14.11 hrs). The video footage of the camera shows two persons with faces covered entering the shop and committing the robbery and leaving the shop at 15.38.42 (actual time 15.15.42). During the time in the shop, it could clearly be seen that one individual was wearing a white bucket cap, black T shirt with white stripes very similar to P7, a greenish long jeans (Jumper type) very similar to P13 and brown black and white shoes very similar to P16. These items were worn by the 1st accused Dan Idris when he was seen on CCTV footage walking past the bins on the Beau belle road to the shop, a short time before the robbery took place, at 15.02.41 hrs. This footage is also shown in Kingston pen drive P5(a) under the headings “searching behind bins” and “Standing and walking up to Beau Belle.” Further when one views the video footage of the robbery, it is clear to this Court that the grey and white stripes t shirt exhibit P11 seen on the shoulder of the 2nd accused Terry Pointe when he is rummaging around the bins looking for a piece of wood, is at the time of the robbery, being used by the individual wearing the clothes of Dan Idris, as a mask to cover his face. When one watches the other individual participating in the robbery, it is clear that this individual is wearing the same clothes as the 2nd accused

Terry Pointe was wearing when he was searching for a piece of wood. The shorts bearing the logo "MOOSE" (seen at 15.38.32 in robbery video) and the light coloured t shirt worn by Terry Pointe is being worn by the same individual who is committing the robbery. Further one can see the green plastic bag carried by the 2nd accused Terry Pointe near the bins in the left pocket of the 2nd individual committing the robbery. It is also in evidence that the bins were in close proximity to the Ragavendran Shopping Centre and the video evidence shows both accused walking in the direction of the shopping centre a short time (15.06.39 hrs) before the robbery took place (15.14.11) hrs.

[40] Not only were the individuals who were committing the robbery, wearing the same garments to what the accused were wearing a few minutes before the robbery, even after the robbery, the police were able to recover the clothing and shoes worn by both accused from the house of the accused and have produced them as exhibits. The said items of clothing P7, P11 and P13 have been identified by the mother of both accused as items of clothing and shoes belonging to the accused. She also recognises the knife being used in the robbery as her kitchen knife and states the 1st accused had returned the knife to her the day after the robbery and asked her to wash the items of clothing exhibited in court and seen on video footage as P7, P 11 and P13. She also identifies in the video of the robbery, the very distinctively coloured brown, black and white shoes P16 as belonging to 1st accused. She also identified her sons the two accused and their clothing in the video footage titled "searching behind bins" and "Standing and walking up to Beau Belle" I am satisfied that video footages are clear and both accused and their clothing and items they were carrying can be identified on the said footage. Although learned Counsel states the video evidence is not clear, this court is satisfied that the two accused could be clearly identified in the video footage P5 (a) as the video is very clear.

[41] From the evidence set out above, it could be clearly stated that the two accused could be identified as the persons committing the robbery of the shop, as the two persons committing the robbery of the shop are wearing the same clothing/shoes and carrying the same items a green bag, knife and piece of wood, both accused were wearing and carrying, a few minutes before the robbery when they were caught on CCTV camera near the bins, walking and rummaging around the dustbins near Grand Kaz. on the Beau Belle road. Further, the

mother and complainant have identified from the video footage depicting the robbery, several items of clothing and brown shoes as that belonging to both accused and the knife used in the robbery (described by the complainant victim as knife with a brown handle) as her knife which was given back to her the next day by the 1st accused her son.

[42] This Court is conscious of the dangers of mistaken identification, and the need to exercise great care when a case rests mainly on identification from photographs or video recordings. This Court is satisfied on the evidence before court namely that of Inspector Esparon and Corporal Tambara and Mr Aubrey Sophola of Grand Kaz and complainant-victim Shanmuga Priya Vabivelan that their evidence is truthful and stand corroborated by the video evidence and though subject to lengthy cross examination no material contradictions were observed and therefore such evidence could be accepted. Having had the benefit of hearing and seeing the evidence of the witnesses and viewing the video footage produced, I proceed to accept their evidence as it stands corroborated and there exists no reason not to do so. I am satisfied the prosecution has established beyond reasonable doubt, the identity of the two accused as the persons who committed the said offence in the charge and all the elements necessary to prove the charge.

[43] For all the aforementioned reasons as I am satisfied that the prosecution has proved all the elements of the charge against both the accused beyond reasonable doubt. I proceed to find both accused guilty on Count 1 and proceed to convict both as charged.

Signed, dated and delivered at Ile du Port on 05th December 2025.

M Burhan J

