
SUPREME COURT OF SEYCHELLES

Reportable
CO 23/2024

In the matter between:

THE REPUBLIC
(Represented by Mrs Rongmei)

Prosecution

and

S [REDACTED] G [REDACTED]

1st Accused

And

P [REDACTED] L [REDACTED]
(Both represented by Mr Joel Camille)

2nd Accused

Neutral Citation: *Rep vs G [REDACTED] & Anor* (CO 23/2024) (15 December 2025)

Before: Adeline J

Summary: Sentencing on conviction for the offence of Unlawful Administering Drug with Common Intent to Procure Miscarriage of a woman – Section 147 of the Penal Code.

Heard: Submissions in plea in mitigation

Delivered: 15th December

SENTENCE

Adeline, J

FACTUAL AND PROCEDURAL BACKGROUND

- [1] By way of a formal charge filed into court on the 29th April 2024 pertaining to CB 03/06/19 Mont Fleuri, [REDACTED] [REDACTED] (“the 1st Accused”) of [REDACTED], Mahe and [REDACTED] [REDACTED] [REDACTED] (“the 2nd Accused”) of [REDACTED], Mahe now convicts, were jointly charged with one count of Unlawful Administering Drug with Common Intent to Procure Miscarriage of a Woman Contrary to Section 147 as read with Section 23 of the Penal Code and Punishable under Section 147 of the Penal Code, Cap 158.

- [2] In the Particulars of the offence in the formal charge sheet, it is stated, that “S [REDACTED] G [REDACTED] (NIN [REDACTED]) resident of [REDACTED] Mahe and P [REDACTED] L [REDACTED] resident of [REDACTED] Mahe on the night of 31st May 2019 at [REDACTED] Mahe with common intention to procure miscarriage, unlawfully administered drug namely Citotec 200 mg (Misoprostol 200mg) to J [REDACTED] aged 14 years old (at the time of the incident), daughter of the said P [REDACTED] thus causing miscarriage of a child by said J [REDACTED] on the 1st June 2019.”
- [3] On the 18th July 2025, the 1st and 2nd accused who had initially pleaded not guilty to the charge pleaded afresh and changed their plea to a guilty plea, and after admitting the facts pertaining to the charge as narrated by the prosecution they were both convicted of one count of Unlawful Administering Drug with Common Intent to Procure Miscarriage of a woman.

PRE-SENTENCE PROBATION ENQUIRY REPORT

- [4] Upon a request from learned counsel for the accused/convicts for a pre-sentence Probation Enquiry Report (“the Report”) to be commissioned and made available to the court and to assist counsel with plea in mitigation, the same was produced and made available to the court as well as the parties to this prosecution.
- [5] The highlights of the report are that the 1st accused/convict, S [REDACTED] is a 38 year old and one of four siblings born of one M [REDACTED]. She is a mother of two minor children, a 16 year old and a 6 year old. The 1st accused/convict lives with her two minor children and one J [REDACTED] and J [REDACTED] daughter.
- [6] Together, they share a three bedroom house. The 1st accused/convict currently works as a [REDACTED]. The 2nd accused/convict, I [REDACTED] is the eldest sister of the 1st accused/convict and mother of the victim of the offence. In other words, the victim of the offence is the 1st accused/convict’s niece.
- [7] The 1st accused/convict’s perspective of the incident that led to the charge against her and her subsequent conviction of one count for Unlawfully Administering Drug with Common

Intent to Procure Miscarriage of a woman as reported in the Probation Report, is that on the day of the incident, she arrived home and found the 2nd accused/convict and her daughter, the victim of the offence.

- [8] She learned from the 2nd accused/convict, that the victim, her daughter, was pregnant and wanted to terminate the pregnancy. According to the 1st accused/convict's version of event, although she discouraged them from taking such a measure, they had already made up their mind and wouldn't change it. Her niece, the victim, already had in her possession the pill, and her sister, the 2nd accused, was there to assist her to terminate the pregnancy. They carried out their endeavour jointly.
- [9] The 1st accused/convict told Probation Officer, that the following day, she received a telephone call informing her that the victim of the offence has been admitted in hospital. The 1st accused/convict told probation officer, that, that was when she learned that the victim was 5 months in her pregnancy. When she got that information, it was clear to her, that the victim of the offence had put her life in danger and was at risk of harm.
- [10] It is reported in the Report, that the 1st accused/convict is deeply sorry for having been involved in such an incident and is remorseful for her involvement. She expects the court to give consideration to the fact that the victim of the offence is now a young mother, and that she, the 1st accused, is offering her full support in every way she can. The 1st accused/convict wishes that the court be lenient and considers alternative sentences instead of incarceration.
- [11] It is reported in the Report, that in her interview with Probation Officer, the victim of the offence who is now a single mum of 20 years old, stated, that when she became aware that she was pregnant, she informed her mum that she was pregnant and that she did not want to keep the baby. She also informed her mum that she had managed to get the pills that once is administered would terminate the pregnancy.
- [12] The victim told the Probation Officer, that at the time she became pregnant she was seeing two boyfriends. The victim also told the Probation Officer, that she regrets having terminated her pregnancy, the process of which had the involvement of the 1st

accused/convict and her mother, the 2nd accused/convict who now face possible incarceration. The victim of the offence further told the Probation Officer, that as a young single mother, she depends on both, the 1st and 2nd accused/convicts for support, and that incarceration of her mother would destroy her life and that of her child. She calls on the court to forgive the 1st and 2nd accused/convicts, and to give them a second chance in life.

ARGUMENTS OF COUNSEL IN SUBMISSIONS IN PLEA IN MITIGATION

- [13] In his submissions in plea in mitigation against the possible sentence, learned counsel for the two convicts proceeded from the premise, that although criminal liability for the offence of which the convicts have been convicted is 14 years, the court is not strictly bound to impose such a sentence. It was the submission of learned counsel, that by virtue of Section 26 of the Penal Code, the court can disregard the prescribed sentence and impose a lesser sentence given the following statutory provisions that read as follows;

“26 (1) A person liable to imprisonment for life or any other period may be sentenced for any shorter term.

26 (2) A person liable to imprisonment may be sentenced to pay a fine in addition to or instead of imprisonment”.

- [14] Learned counsel submitted, that the Probation Report does shed light about the facts and circumstances that the offence was committed, and reminded the court, that the 2nd accused and the virtual complainant are mother and daughter. It was the submission of counsel, that the virtual complainant had confessed that she had been in a relationship with two boys, and that the 2nd accused's (the mother) instinct was to do something to avoid a conflict and in doing so, she made a mistake, in that, she committed the offence of which she has now been convicted, and is due for sentence.
- [15] Learned counsel explained, that the 2nd accused/convict may not be exonerated for her action given that she committed a serious offence, and added that, that fact having been reported explains the basis upon which she made up her mind to do what she did. Learned counsel stated, that the 2nd accused/convict takes responsibility for what she did, and admits that she made a mistake. He added, that the fact that the virtual complainant had told her

mother, the 2nd accused/convict, that she was two months pregnant, the 2nd accused/convict believed her only later to discover, after the virtual complainant ended up in hospital, that she was 5 months pregnant. In learned counsel's view, the 2nd accused/convict had made an error of judgment.

- [16] It was the submission of learned counsel, that the virtual complainant now has a 5 year old child, and that incarceration of her mother, the 2nd accused/convict who is helping her to bring up the child will gravely affect the virtual complainant and the child alike given that to some extent, the former feels partly responsible for the situation which the 2nd accused finds herself in. Learned counsel submitted, that the 2nd accused/convict has pleaded guilty showing remorse for what she did, and stressed that she committed an error of judgment. Learned counsel also added, that the 2nd accused/convict is a first time offender. Learned counsel submitted, that he agrees with the recommendation of the Probation Report for the court to impose a suspended sentence.
- [17] As regards to the 1st accused, it was the submission of learned counsel, that she is the aunty of the virtual complainant who was present at the time the offence was committed, but did not participate directly in the commission of the offence. Learned counsel added, that the 1st accused has taken responsibility for what happened, and has pleaded guilty to the charge against her. It was the submission of learned counsel, that she did so as an expression of remorse, and would therefore like the court to take into account that having pleaded guilty to the charge, she has saved the court's precious time and resources. Learned counsel stated, that the 1st accused is a first time offender. He also stated, that taking into account all those mitigating factors, the court is well placed to exercise leniency in sentencing by not imposing a custodial sentence.
- [18] As regards to the possible sentence to be meted out, learned counsel reminded the court, that in the past, the court has sentenced convicts for similar offence such as "procurement of abortion on oneself". Learned counsel cited the case of the Republic vs LL (full citation not given) as an example, in which case on a guilty plea for one count of unlawful abortion, the convict was sentenced to serve a term of imprisonment of two years suspended for two years and a fine of SCR 8000. Learned counsel also cited the case of Republic vs Natalie

Bacco (full citation not given). It was the submission of learned counsel, that although the offence charged was different, it was as serious as the present one, and the convict was sentenced to prison for two years suspended for two years.

- [19] As per learned counsel's submissions, in Nathalie Bacco (supra) the convict was charged and convicted of one count of manslaughter. The charge came about because after giving birth to a child she took the baby and dumped into a dustbin. It was the submission of counsel that the court found it appropriate to impose a suspended sentence of imprisonment rather than a custodial sentence in the immediate. Learned counsel concluded, stating, that the fact that the convicts have both shown remorse, and are first time offenders, justice would be served if they are given a suspended sentence given their personal and family circumstances.

COURT'S REASONING AND ANALYSIS OF THE FACTS AND LAW

- [20] The sentence for the offence of which the 1st and 2nd accused/convicts have been convicted is prescribed under Section 147 of the Penal Code and is couched in the following terms;

Abortion

147. Any person who, with intent to procure miscarriage of a woman, whether she is or is not with child, unlawfully administers her or cause her to take any poison or other noxious thing or uses any force of any kind, or uses any other means whatever, is guilty of a felony and is liable to imprisonment for fourteen years.

- [21] In deciding the appropriate sentence that will do justice in this case, and having taken into account the whole facts and circumstances the offence was committed, and the content of the Probation Enquiry Report, it is my considered view, that in sentencing the two accused/convicts, I must have regard to Section 26 (1) and 26 (2) of the Penal Code, given that I am also of the view, that there is a need to depart from the prescribed maximum term of imprisonment of 14 years.

- [22] Although the accused/convicts deserve to be punished for the crime they committed, in meting out a “just desert” sentence, the court has to take into account the aggravating and the mitigating factors and then carryout a balancing exercise. In the instant case, true that the offence of which the two accused/convicts have been convicted is very serious, there are mitigating factors which mitigate against the severity of the offence which the court has to take into account.
- [23] Taking all those factors into consideration, I therefore sentence the two accused/convicts to serve a term of imprisonment of two years for the offence of Unlawfully Administering Drug with Common Intent to Procure Miscarriage of a woman.
- [24] In accordance with Section 282 (1) read with Section 282 (3) (a) of the Criminal Procedure Code, the two years prison sentence is suspended for two years on condition that the two accused/convicts is not charged with a similar offence, or any offence under Section 146, 148 and 149 of the Penal Code.
- [25] In exercise of its powers under Section 26 (2) of the Penal Code, this court fines each of the two accused/convicts SCR 10,000 which sum must be fully paid by the latest 30th March 2026, failing which, the two accused/convicts shall serve a term of imprisonment of 6 months as a default sentence.
- [26] The accused/convicts have 30 days as of the date of this sentence to appeal to the Court of Appeal against sentence.



Signed, dated and delivered at Ile du Port 15th December 2025.