

SUPREME COURT OF SEYCHELLES

Reportable/Redact

CO 29/2021

In the matter between:

THE REPUBLIC

(rep. by Lansinglu Rongmei)

Republic

and

NA

(rep. by Bryan Julie)

Convict

Neutral Citation: *Republic v N A* (CO 29/2021) (26 March 2025)

Before: Burhan J

Summary: Sexual Assault

Heard: 12 March 2025

Delivered: 26 March 2025

ORDER

I proceed to sentence the convict in this case as follows:

Count 1 to a term of fourteen years' imprisonment

Count 2 to a term of fourteen years' imprisonment

Count 3 to a term of fourteen years' imprisonment

Terms of imprisonment to run concurrently.

SENTENCE

M. BURHAN J

[1] The convict NA was convicted after trial on Counts 1 to 3 which read as follows:

Count 1

Sexual Assault contrary to section 130 (1) read with section 130 (2) (d) of the Penal Code and punishable under section 130 (1) of the same Act.

Particulars of offence are that, NA of, Mahe on a date unknown to the Republic in 2013 at, Mahe, sexually assaulted one JK, who was 9 years old at the time, by penetrating the body orifice namely the vagina of the said JK with his penis for a sexual purpose.

Count 2

Sexual Assault contrary to section 130 (1) read with section 130 (2) (d) of the Penal Code and punishable under Section 130 (1) of the same Act.

Particular of offence are that NA of, Mahe, on a date unknown to the Republic in 2013 at, Mahe, sexually assaulted one JK, who was 9 years old at the time, by penetrating the body orifice namely the vagina of the said JK with his finger for a sexual purpose.

Count 3

Sexual Assault, contrary to section 130 (1) read with section 130 (2) (d) of the Penal Code and punishable under section 130 (1) of the same Act.

Particulars of offence are that, NA of, Mahe on a date unknown to the Republic in 2015 at, Mahe, sexually assaulted one JK, who was 11 years old at the time, by penetrating the body orifice namely the vagina of the said JK with his penis for a sexual purpose.

- [2] Prior to sentencing a probation report was called in respect of the convict. It appears from the report that the convict is 53 years of age, presently separated from his wife and is presently living with his daughter. After his primary education he had joined the National Youth Service (NYS) for two years. He has done numerous types of jobs during his lifetime commenced as a gardener, forestry worker, and then as a pastry chef. At the time of his arrest he was doing landscaping and working as a cleaning contractor.
- [3] It appears he shows no remorse and continues to deny the charges. It is clear that the complainant (victim) has stated that she has received counselling from the Social Services and that has helped her a great deal. She has stated the incident happened when she was very young and she was afraid to tell her family as no one would have helped her. She has stated to the probation officer that as a result of what happened to her, she has become an assertive and protective mother, to ensure her children do not go through a similar situation. The probation report also reports that the Social Services affirmed to them that on receiving the complaint from the school counsellor, they had intervened and the complainant had received consistent counselling as she was traumatised by the incident. It appears at present she is the mother of two children and is not undergoing any counselling at present.
- [4] The probation report recommends a custodial term of imprisonment and a deterrent sentence.
- [5] In mitigation learned Counsel Mr Julie stated that NA is a very young man 53 years of age and a self-employed businessman. He is now separated from his wife and has one daughter who is 20 years' of age and who depends on him and who he supports. He further stated his client *"displayed exemplary character and has actively participated in the life of his district, especially in counselling in the community and he has helped many families as the part of a consulate group in his district."* The convict he stated, is a first offender and he has asked that Court be as lenient as possible and that in the event of the Court deciding to impose a heavy fine, he will try to pay same.
- [6] I have considered the plea in mitigation made by learned Counsel for the convict and the facts set out in the probation report. The convict has no previous convictions. It is

apparent that the Social Services have indicated that the incident has traumatised the victim and she had to go through counselling.

- [7] I have also considered the seriousness of the offence committed by the convict. It is clear that at present the convict is 53 years old and the complainant 20 years of age. At the time of the incident, the complainant was only 9 years old and the convict would have been 42 years of age. The offence is further aggravated by the fact that the convict is a father and though the complainant was not his child, he was a parental figure, as she was living in the same house with him and his wife who was her godmother, as she had issues with her own mother. According to the prevailing law, the convict faces a maximum term of 20 years' imprisonment on each offence.
- [8] In the case of *C v R (SCA 16 of 2013) [2015] SCCA 29 (28 August 2015)* and *C v R (SCA 15 of 2013) [2015] SCCA 28 (28 August 2015)* the Seychelles Court of Appeal took into consideration the age of the accused and as he was in a parental position to the many children he abused, recommended that sentencing Courts should add an element of retribution to punishment of crimes of this nature, to express the pain and disgust of society when it convicts an accused of such a crime. The trauma a young victim suffers and continues to suffer throughout his or her life is another factor to be considered at the time of sentencing.
- [9] In the said case, the Seychelles Court of Appeal upheld a sentence of 8 years' imposed on the convict in each of the two cases involving more than one child, and the sentences of 8 years' imprisonment ordered in each case was made to run consecutively totalling 16 years.
- [10] In this instant case, it is apparent from the evidence of the complainant that she was sexually abused on more than one occasion by the convict over a period of time. I am satisfied that the prosecution has established that there was penetration.
- [11] Having considered the above, I proceed to sentence the convict in this case as follows:

Count 1 to a term of fourteen years' imprisonment

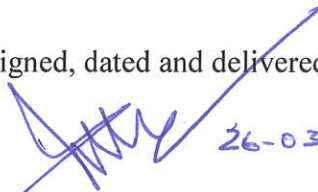
Count 2 to a term of fourteen years' imprisonment

Count 3 to a term of fourteen years' imprisonment

I make order that the terms of imprisonment run concurrently.

[12] Time spent in remand to count towards sentence.

Signed, dated and delivered at Ile du Port on 26 March 2025.



26-03-2025

M Burhan J