SUPREME COURT OF SEYCHELLES

Reportable
[2026]
CO25/2024

In the matter between:

THE REPUBLIC **Prosecution**
(represented by Kimberly D'offay)

versus

RAMIA ZARRA JAPHET **Accused**
(represented by Basil Hoareau)

Neutral Citation: Republic *vs Japhet* (CO25/2024) (28th September 2026).
Before: Esparon J
Summary: Sentence
Heard: 4th September 2026
Delivered: 28th September 2026

ORDER

I accordingly sentence the accused to a term 18 months imprisonment suspended for 2 years and a fine of SCR 25, 000 (Twenty five Thousand Seychelles Rupees). The said fine shall be paid within a period of 10 months from the date of this sentence in monthly instalments of SCR 2,500. In default of the payment of the said fine the accused shall serve a period of 1 year imprisonment. In addition, I further suspend the diving license of the accused for a period of 2 years from the date of this sentence.

SENTENCE

Esparon J,

Introduction

[1] The accused was originally charged with the offence of causing death by dangerous contrary to section 25 of the Road Transport Act. During course of this case, the prosecution sought leave of this Court to amend the Charge of which the court granted leave to the prosecution to amend the charge namely by adding an alternative count to count 1 namely count 2 by adding a Count of Negligent driving contrary to section 24 (1) of the Road Transport Act. The particulars of Count 2 reads as follows;

Ramia Zarrah Japhet holder of NIN: 997-0944-1-0-79 of Union vale, Mahe, on the 21st April 2023, at Roche Caiman Highway road, Mahe, having regards to all the circumstances of the case drove a motor vehicle, namely one Toyota Urban Cruiser, sunny white, with Registration number No S 38666 on the public road negligently.

[2] The accused pleaded guilty to Count 2 being the alternative count to count 1 and was convicted of her own guilty plea after admitting the facts of the prosecution case.

Mitigation by counsel for the accused

[3] Counsel for the accused put forth in mitigation before the Court that the accused is now 29 years of age of which at the time of the commission of the offence she was 26 years old. That she is a mother of a 2 year old child of which she is the only one maintaining the child. According to counsel she has pleaded guilty at the first reasonable opportunity saving the precious time of the Court and by pleading guilty she has shown remorse.

[4] Counsel further stated the she is a first time offender and a person of good character and that she is working with the SPDF as a soldier. Counsel submitted and produced a medical report signed by Doctor Anabozie Chukwuemeka.s, senior medical officer which states that the accused is suffering from certain medical conditions namely systematic Lupus Erythematosus+ Lupus Nephritis and varicella Zoster Virus. Finally counsel submitted that such an offence of which the accused has been convicted namely the offence of negligent driving is considered to be a misdemeanor which is punishable in the event of conviction with a maximum sentence of 2 years imprisonment and a fine of SCR 100,000.

Analysis and determination

[5] From the outset, this court would like to expound on the principle of sentencing as laid down in decided cases. In the case of Ponoo V/S Attorney General (2011) SLR, the Court of Appeal held that;

'sentencing is an intrinsic judicial power which involves the human deliberation of the appropriate conviction to be given to the particular offender in the circumstances of the case. It is not a mere administration of a common formula standard or remedy'.

[6] In the case of Savy v/s R (1976) SLR 54, the Court held that;

'In sentencing, the Court should consider the necessity of punishing crime, the deterrent effect on others of the appropriate punishment, and the need to protect the public from offences especially at the hands of those entrusted with the enforcement of the law, the previous good character of the accused, the motive for the offence and the loss of usefulness to the state by a prison sentence'.

[7] In the case of R V/S Aden (2011) SLR 41, the Court held that;

'In sentencing, one relevant factor is the seriousness of the offence and when determining a sentence, the court should take into account previous sentences in similar cases. However, the Court should be aware of the differences between cases'.

[8] The case of *Njue v R (2016) SCCA 12, (at para 14)* set out the principles a court should consider when sentencing which includes public interest; the nature of the offence and the circumstances it was committed. The Court at the same time must consider whether there is a possibility of the offender to be reformed; the gravity of the offence; the prevalence of the offence; the damage caused; any mitigating factors; the age and previous records of the accused; the period spent in custody; and the accused's cooperation with law enforcement agencies.

[9] It is trite law that sentencing is a discretion of the trial Court. In the case of *Suki v R SCA 10 of 2019*, prof Tibatemwa-Ekirikubinza JA, stated the following at paragraph 30 of the of the Judgment:

'Guarding against unjustifiable sentencing disparity is one of the ways in which Judges avoid the injudicious exercise of their discretion. And I opined that the requirement for consistency in sentencing is one of the underpinning principles of equality before the law enshrined in Article 27 of the Constitution. It is for this reason that I would consider the reference to prior decided cases on sentence a useful aid or tool to assist a court in determining an appropriate sentence. In the final analysis however, each case must be decided on its own merits since no two cases are the same'.

[10] Her Ladyship further stated at paragraph 33 of her judgment, the following:

'From the foregoing it is clear that consistency of sentences does not mean arithmetic exactness. It cannot therefore be argued that a particular sentence is necessarily wrong merely because it is disparate from previous sentences'.

[11] It is important to seek guidance from local case law as a guide to assist the court in determining the appropriate sentence for the accused in the present case. In the case of the Republic V Philippe Morris Ernesta CR 7/ 2021, the Court imposed a sentence of 1 year imprisonment suspended for 2 years and a fine of 10,000 SCR for such an offence.

[12] In the case of the Republic V/S Naddy Bibi CO 88/2020, the accused pleaded guilty and was convicted of the offence of causing death by dangerous driving and was sentenced by the court to 1 year and six months imprisonment suspended for 2 years and a fine of SR 9,000.00.

[13] In the case of the Republic V/S Terence Stravens CR 28 /2013 whereby the accused was sentenced to 1 year imprisonment suspended for 2 years and a fine of SR 8,000.00 for the offence of causing death by dangerous driving contrary to section 24(1) (b) of the road Transport Act.

[14] In the case of the Republic V/S Stephany Edmond CR 66 of 2013, the accused was sentenced to 18 months imprisonment suspended for 3 years and a fine of SR 10.000.00 and suspension of driving license was imposed.

[15] In the case the Republic V/S Pelhelmer Cr 48/2010 the Court for the same offence as the present matter relying on the authority of the Republic V/S Colin Woodruff Cr 78/2007 imposed a sentence of 6 months imprisonment suspended for 2 years on the accused and a fine of SCR 10,000. In addition the Court suspended the license of the accused for a period of 5 years.

[16] In the case of the Republic V/S Mathew Tool the accused was convicted with the offence of negligent driving. This Court imposed as sentence of to 18 months imprisonment suspended for 2 years. In addition the Court imposed a fine of 100,000 Rupees on the accused of which RS 90,000 was be paid as compensation.

[17] In the present matter, I have considered the following mitigating factors in favour of the accused. That the accused is a mother of a 2 year old child of which she is the only one maintaining the child. She has pleaded guilty at the first reasonable opportunity saving the precious time of the Court and by pleading guilty she has shown remorse. She is a first time offender. That the accused is suffering from certain medical conditions namely systematic Lupus Erythematosus+ Lupus Nephritis and varicella zoster Virus.

[18] I have also considered that such an offence of which the accused has been convicted namely the offence of negligent driving is considered to be a misdemeanor which is punishable in the event of conviction with a maximum sentence of 2 years imprisonment and a fine of SCR 100,000 being a lesser offence than the offence of causing death by dangerous driving of which the accused was originally charged. However, this court finds that as result of the negligent driving of the accused, this caused the death of the victim Hiedi, Vicky, Emma Domingue of which I accordingly find this to be an aggravating factor against the accused person in the present matter.

[19] This Court has considered the above mitigating factors as well as the facts and circumstances of the case being the aggravating factor present in the case and the above case laws cited and is of view that a non- custodial sentence is appropriate in the circumstances of the case.

[20] As a result of the above, I accordingly sentence the accused to a term 18 months imprisonment suspended for 2 years and a fine of SCR 25,000 (Twenty five Thousand Seychelles Rupees). The said fine shall be paid within a period of 10 months from the date of this sentence in a monthly instalment SCR 2,500. In default of the payment of the said fine, the accused shall serve a period of 1 year imprisonment. In addition, I further suspend the diving license of the accused for a period of 2 years from the date of this sentence.

[21] The Registrar of the Supreme Court shall serve a copy of this order on the Seychelles Licensing Authority of Orion Mall, Victoria, Mahe, in order for the Seychelles Licensing Authority to give effect to the above suspension of the accused license imposed by this Court.

Signed, dated and delivered at Ile du Port on 28th September 2026

Esparon J

DAVID ESPARON SUPREME COURT SEYCHELLES SUPREME COURT JUDGE