

SEYCHELLES / JUDGMENT

R v Marie (CR 49 of 2022) [2024]

SCSC 34 (5 February 2024)

[2024] SCSC 34

COURT

Supreme Court

CASE / FILE NUMBER

CR 49 of 2022

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Summary

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G. DODIN J.

The convict, Ryan Hendrick Marie, stands convicted on his own guilty plea to one count of manslaughter contrary to section 192 of the Penal Code and punishable under section 195 of the same code.

The particulars of the offence are that Ryan Marie, a male casual worker aged 23 years at the time and residing at Anse Des Genets, Mahe, on the 25th September, 2022 in the afternoon unlawfully stabbed Antoine Samuel Cousin, a 26 years old male with a knife causing the death of the said Antoine Cousin.

The brief facts related by the prosecution and admitted by the convict are as follows:

On Sunday 25th September 2022, in the afternoon, the convict was heading towards a bus stop at Pointe Larue. He noticed that he was being followed by one Antoine Cousin the deceased in this case. Antoine Cousin was carrying a piece of wood. Antoine Cousin crossed to the side of the road where the convict was at and went to the corner of the bus stop near the iron barriers at the entrance and then he called out to the convict and asked him to bring him money, apparently referring to a balance of SCR 500/- allegedly owed to the deceased by the convict's uncle. The

convict refused to give him any money. Antoine Cousin then threatened to hit the convict with the piece of wood and an altercation ensued.

During the confrontation the convict who had in his possession a knife concealed by his t-shirt, approached Antoine Cousin who hit the convict three times with the piece of wood which the convict blocked with his hands. They continued fighting in the street behind the bus stop close to the take-away and Antoine Cousin hit the convict again with the piece of wood causing the convict to fall. The convict was then able to get up and rushed the said Antoine Cousin with the knife which he then had in his left hand stabbing Antoine Cousin in the belly.

Antoine Cousin and the convict continued to fight and the convict managed to pin Antoine Cousin to a wall the convict stabbed Antoine Cousin several more times before Antoine Cousin stopped fighting and told the convict to let him go. At that point, a passer-by approached the scene and the convict ran away.

The convict went to the house of one Jimmy Rosette where he was residing at the time and told him what had happened. The police was then informed and afterwards the convict went to the Police Station at the Airport to turn himself in. On his way to the airport the convict saw Police Officers at the scene and he informed the Police Officers what had happened. He was then arrested.

Whilst being brought to the Police Station the convict was questioned about the weapon that he used and he brought the Police Officer to Jimmy Rosette's house at Anse Dejeuner and the knife was handed over to the police and it was kept as an exhibit. The convict further gave a statement to the police admitting his involvement in the incident.

Antoine Cousin was transported to the Seychelles Hospital in critical condition with his intestines partly outside his abdomen and was attended to by nurses and doctors but there was no pulse. He was certified dead at 1718 hours by a Doctor of the Emergency Unit. The deceased had stab wounds on his abdomen, left side of his chest and left side of his abdomen and on his right arm.

On the 27th September 2022, a post-mortem was carried out on the deceased which stated the cause of death was due to a perforation of the apex of the heart, due to a stab wound to the chest.

The Court requested a pre-sentencing report by the Probation Services which disclosed that the convict and the deceased were close friends prior to this incident and that the dispute arose from the fact that the deceased wanted the money he had just received from his uncle for cutting grass and shrubs which when he refused the deceased started to hit him with a piece of wood, causing him severe pain. He regrets however having stabbed the deceased and he had no intention to kill or cause the death of the deceased.

The report also revealed that the convict was living with his aunt at Anse Des Genets as his mother had separated from his father and she now lives in Mauritius where he was hoping to emigrate and join her. He did not complete his studies at Seychelles Tourism Academy and at a certain time he was casually using drugs. He recognises the seriousness of the offence he stands convicted of and wish that the members of the deceased's family would forgive him and he expressed his sympathy to the family of the deceased.

Learned counsel for the convict moved the Court in mitigation to consider imposing a lenient sentence on the convict for the following reasons, despite the gravity and seriousness of the offence. The convict is a young man with no previous recorded criminal history. He is remorseful and recognises the seriousness of his action which has resulted in the loss of the life of a person he was on good and friendly terms with. It is also noted that the convict was also subjected to some unwarranted assault by the deceased who was equipped with a piece of wood. By pleading guilty, the convict has saved the Court's time and expenses of a trial and the trauma of having the witnesses relieving the sad and painful incident in their testimonies. The convict also co-operated fully with the investigations and in fact voluntarily surrendered himself to the police immediately after the incident.

On the aggravating side I find that the convict used a more dangerous weapon, namely a knife in response and it is not known why a person, in this case, the convict, would be walking about on the road with a knife concealed on his person. I also note that it was after the initial assault on the convict has ceased that the convict who had hitherto defended himself with his hands, pulled out the knife he was carrying and attacked the deceased stabbing him several times. This does not amount to self-defence but I find do that there was serious provocation on the part of the deceased to which the convict not only reacted with more force and violence than was necessary but also acted in retaliation rather than in defence.

It is further noted that the offence of manslaughter carries a maximum sentence of life imprisonment.

Learned counsel for the convict further referred the Court to the following cases of manslaughter with reference to the prevalent sentences imposed for similar offences:

Sirame v Republic SCA 06/2012; convict sentenced to 5 years imprisonment; Rose v Republic SLR 419/2011 (SCA); convict sentence of 12 years imprisonment reduced to 3 years and Republic v Barreau CO79/2019, a sentence of 4 years imprisonment was imposed.

I have also considered some similar cases of manslaughter and the corresponding sentences imposed by the Court namely:

Republic v Crispin Crim Side 25 of 2007 where the convict stabbed the deceased with a knife after she had been violently assaulted by the deceased. The Court imposed a sentence of 5 years imprisonment. Republic v Marie CR 18/1993, convict was sentenced to 8 years imprisonment. Republic v Accouche CR 109/2004, convict sentenced to 7 years imprisonment. Juliette v Republic SCA 6 of 2006 where the Court of Appeal reduced the initial sentence of 9 years imprisonment to a term of 5 years.

Considering the mitigating and aggravating factors in this case and the range of sentences imposed for the same offences with similar facts, I impose a sentence of 7 years imprisonment on the convict.

Time spent on remand shall form part of the sentence and the convict shall be entitled to remission should he be of good conduct.

The convict may appeal against the sentence within 30 working days of today.

Signed, dated and delivered at Ile du Port on this 5th day of February, 2024.

G Dodin

Judge

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