

HATON B. v THE INDEPENDENT COMMISSION AGAINST CORRUPTION & ORS

2022 SCJ 221

Record No 9434

THE SUPREME COURT OF MAURITIUS

In the matter of:-

Beediawtee Haton

Appellant

v

- 1. The Independent Commission Against Corruption**
- 2. The Director of Public Prosecutions**
- 3. The State**

Respondents

JUDGMENT

The appellant was prosecuted before the Intermediate Court, with the offence of money laundering in breach of sections 3(1)(a), 6(3) and 8 of the Financial Intelligence and Anti Money Laundering Act under 15 counts. She was found guilty as charged and sentenced to pay a fine of Rs.30,000 under each count.

The appellant initially raised five grounds of appeal against her conviction and sentence. At the hearing of the appeal, learned Counsel for the appellant dropped ground 1 in the light of our judgment in the case of **The Director of Public Prosecutions v Haton M. & Anor [2021 SCJ 260]**. Grounds 2, 4 and 5 were also dropped. The remaining ground 3 reads as follows:

“That the Honourable Magistrate failed to take into consideration that the visits to the place of business of the Appellant were episodic and as such cannot be vital evidence against the Appellant.”

The case for the prosecution is that the various deposits made by the appellant into the bank account of her son were not commensurate with her monthly income of Rs.14,600 and the alleged earnings of her husband obtained from mixed farming activities. The charges laid against the appellant were in relation to deposits made on 29 December 2005 and on several

occasions in different amounts in January, March, April, May, June, July 2006 and in July and August 2009.

The appellant deposed and solemnly affirmed to the correctness of her two statements. In her first statement, the appellant stated that she was married to one Mandatta Haton since 1985 and that she had been working at the hospital since 1992 with a basic earning of Rs.14,600 plus extra whenever she did overtime. The appellant added that her husband had been cultivating and selling vegetables at the Rose Belle market every Sunday and deriving an income of Rs.1500 to Rs.3000. Her husband had several convictions for drug related offences. She then gave particulars of her husband's convictions and sentences. The appellant also stated that prior to being sentenced in 2000, her husband was rearing bulls and cows on State land. Following her husband's imprisonment, she sold all the animals but could not recall to whom. She further added that she did not keep the money in her bank account because of the involvement of her husband in drug cases. The appellant went on to state that she knew that if she would have kept the money in her bank account, the police would have suspected it to be proceeds of sale of drugs.

Regarding the money which she credited into the bank account of her son, she explained that those were the earnings obtained by her husband from the cultivation and sale of vegetables and the rearing and sale of pigs which activities, according to her, he had started after his release from jail in 2004. The appellant was however unable to say to whom her husband had sold the animals. The appellant went on to say that from 2006 to December 2010, she did not use her earnings as her husband was earning well and providing for her expenses. She admitted in her statement that she was wrong for having declared her husband as her dependent when she submitted her tax return for year 2007-2008 as her husband was working.

In her second statement, the appellant maintained her version that the money which she had credited into the bank account of her son was her husband's money. She also maintained that her husband was rearing pigs although she admitted that he was not registered with the Agricultural Research and Extension Unit (AREU) as a pig breeder. For year 1999, she could not recall if her husband was rearing only two animals. She also explained that it did not dawn upon her that the money which her husband was allegedly remitting to her could not have been derived solely from the sale of vegetables.

In Court, she maintained that the money which she had deposited in the bank account of her son was the proceeds of sale of vegetables cultivated by her husband. It is noted that in the course of her cross examination, the appellant contradicted herself when she denied having said in her statement that she did not credit the money in her bank account as she feared that the police might suspect that it was the proceeds of sale of drugs in view of her husband's involvement in drug cases.

The prosecution called several witnesses to establish the following –

- (i) the money which the appellant had credited into her son's bank account in 2005, 2006 and 2009 could not have been derived from the proceeds of sale of vegetables or animals;
- (ii) the appellant's husband was not registered at AREU either as a vegetable planter or as a livestock breeder;
- (iii) prior to 2006, the appellant's husband could not have been cultivating vegetables on his brother's land (the land in lite) inasmuch as there was a cultivation of cardamom on the said land;
- (iv) from 2006 to 2008, the land in lite remained uncultivated and the appellant's husband started cultivating mixed vegetables on the land in lite in 2009.

The prosecution also called one Soonity Boodhun to rebut the appellant's version that from 2005 to 2009, her husband had been cultivating vegetables on the land of the said Soonity Boodhun. According to the testimony of the said Soonity Boodhun, it was in 2009 that she sublet her plot of land to the appellant's husband.

The learned Magistrate considered the appellant's version and for reasons advanced by her in her judgment found that it was unworthy of belief. On the other hand, she was satisfied upon a thorough analysis of all the evidence adduced before her that the money which the appellant had credited into the bank account of her son in 2005 (count 1), 2006 (counts 2-13) and 2009 (counts 14-15) could not have been income derived by the appellant's husband from his cultivation of vegetables on the land of Soonity Boodhun. The learned Magistrate also found that since the appellant declared her husband as her dependent for tax purposes, therefore, the appellant's husband could not have been earning an income as alleged by the appellant.

We have reviewed the assessment of the evidence of the learned Magistrate. We are satisfied that she made a correct appreciation of the evidence and rightly found that the money which the appellant credited into the bank account of her son in 2005, 2006 and 2009 could not have been income derived by her husband as alleged by her out of the sale of vegetables and animals. The learned Magistrate cannot be faulted for having found that the appellant was unworthy of belief in view of the contradictions between her version in Court and her out of court statements. We do not subscribe to the submission of learned counsel for the appellant that the visits made to the place of business of the appellant's husband were episodic. On the contrary, there was evidence adduced before the learned Magistrate of several visits effected by officers of AREU which evidence established that there were neither any animals' rearing nor any cultivation of vegetables on the said land either prior to 2006 or thereafter. The learned Magistrate was therefore perfectly entitled to disbelieve the appellant's version that her husband was deriving income from such activities. The learned Magistrate findings of facts are unimpeachable and therefore do not warrant our intervention.

We accordingly dismiss the appeal. WITH COSTS.

N Devat
Senior Puisne Judge

M J Lau Yuk Poon
Judge

24 June 2022

For Appellant	:Mr. P. Rangasamy, Attorney-at-Law Mr. R. Valayden, of Counsel
For Respondent No.1	: Miss D. Nawjee, Attorney-at-Law Mr. T. Naga, of Counsel Mr. L. Nulliah, of Counsel
For Respondent No.2 & No.3	: Mr. M. Lallah, Chief State Attorney Mr. R. A. Ahmine, Deputy Director of Public Prosecutions Mr. I. Nathire, State Counsel