

**IN THE INTERMEDIATE COURT OF MAURITIUS**  
**(FINANCIAL CRIMES DIVISION)**

In the matter of:

ICAC

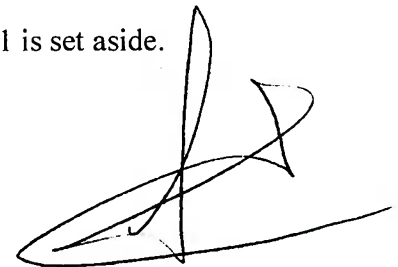
V

1. Marie Lourdes BERNARD
2. Weissler Jean Curtis ITTOO

**RULING**

1. Accused no.1 and no.2 are being prosecuted for Money Laundering offences in breach of Sections 3(1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act 2002. They have both pleaded not guilty and are represented by Mr. J. Panglose and Mr. Murday respectively.
2. The case for the Prosecution is being conducted by Mr. Jeeha.
3. During the testimony of Investigator Purgaus (witness no.2), latter was shown a bank document emanating from the SBM dated 09 January 2020 and which was remitted by the bank to the ICAC during the enquiry.
4. Mr. J. Panglose objected to the witness deposing on that document or any document on which the witness has no personal knowledge and which emanates from a third party, namely a banking institution, and submitted that his testimony on this issue would be hearsay.
5. Mr. Jeeha undertook that the bank will be called to produce those documents and that the witness will merely state what steps he took following obtaining such documents from the bank and how the enquiry proceeded.
6. Mr. Murday did not join the motion of Mr. J. Panglose.
7. Now, true it is that hearsay evidence is inadmissible in law subject of course to the well-established common-law exceptions and statutory exceptions which the legislator has enacted in our legislation.

8. In the present case, those documents in themselves would amount to hearsay evidence if they are not produced by the maker. Here, Investigator Purgaus (witness no.2) is one of the main enquiring officers and is not disputed that as an enquiring officer, he took possession of documents obtained during the course of the enquiry. It is understood that the bank document is one of them. At this stage, the prosecution is not proposing in having the said witness produce the document since he is not the maker. The prosecution is merely asking the witness to depose as to the steps he undertook after having obtained such documents during the enquiry. Whatever he would be stating as to the use he made of the documents and its contents is dependent on such documents being produced afterwards by the appropriate witness. It is noteworthy that the prosecution has undertaken to have the maker produce the document during the course of the trial.
9. Therefore, at this stage, the witness deposing as to the steps he took further to obtaining such documents would not amount to hearsay evidence since he will not depose as to the veracity of the contents of such documents. Also, the probative value of allowing the testimony of the witness on this issue, at this stage, outweighs its prejudicial effect, the prosecution being well wary of its duty, having undertaken to do so, in calling the appropriate witness to produce those documents. Should the prosecution fail to do so, any evidence adduced by this witness related to the document will be discarded by the Court.
10. For the reasons stated above, the objection of Counsel for accused no.1 is set aside.



**A.R. TAJOODEEN**  
**Ag Magistrate of the Intermediate Court (Financial Crimes Division)**  
**23.05.2023**