

IN THE INTERMEDIATE COURT OF MAURITIUS
(FINANCIAL CRIMES DIVISION)

In the matter of:

ICAC

v/s

David Ricardo EMMANUEL

SENTENCE

1. The accused is being prosecuted for the offences of Money Laundering (8 counts) in breach of sections 3(1)(a), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act 2002.
2. Accused pleaded guilty and was unrepresented during the hearing.
3. Mr. Jeeha, of the ICAC, conducted the case for the prosecution.
4. Investigator Bhogun (witness no.1), as the main enquiring officer, stated that he recorded two statements from accused on (i) 26th September 2019 and (ii) 24th October 2019 respectively whilst DWPS 102 Moheeputh (witness no.2) recorded two statements from accused on (i) 26 November 2020 and (ii) 24 October 2022 respectively. Those statements were produced and marked as Docs A, A1, A2 and A3. He also stated that accused cooperated with the ICAC during the enquiry.
5. Accused, under oath, stated that he committed the present offences when he was working at LEAL Company in order to start a snack business for his wife. He also has three children and begged for excused.
6. In view of his unequivocal guilty plea, accused was found guilty as charged.
7. Accused made a full confession to the ICAC as reflected in Docs A, A1, A2 and A3. He was working as driver/salesman for LEAL Company and was earning a monthly salary of Rs. 12,000/- excluding commission. He was taking orders from clients with respect to painting products which he would thereafter deliver and collect payments either in cash or cheque. He was married, had three young aged children and was living in a rented house. Being in financial

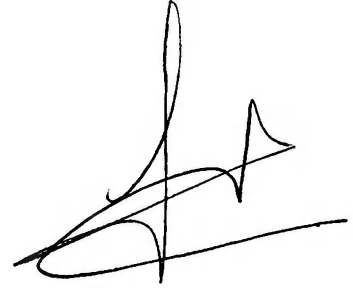


difficulty, he started taking cash from the money collected from clients and manipulated those clients' accounts to deceive the accounting department. He also issued fictitious invoices by which he took products from the store and sold for his own benefit. He used the money obtained on household expenses, football bets and the running of a snack.

8. Accused has a clean record and was not arrested in the present case.
9. The maximum sentence applicable to the present offences is a fine not exceeding Rs. 2 million and to penal servitude for a term not exceeding 10 years by virtue of section 8 (1) of the Financial Intelligence and Anti-Money Laundering Act 2002 as it read at the time of the commission of the present offences in 2015.
10. The Court has taken into consideration the timely guilty plea of the accused, the fact that he has a clean record, his remorse expressed under oath, his family situation, his confession to and cooperation with the ICAC. On the other hand, the Court cannot lose sight of the gravity of the present offences. The money, subject matter of the present money laundering offences, was misappropriated by accused who used his position at LEAL Company to manipulate clients' accounts. He also obtained products from the store by using fictitious invoices that he would later sell for his personal benefit. He had studied the system at LEAL Company and understood the flaws. His stratagem was clearly planned, well thought and executed over a period of time to deceive the accounting department.
11. The sentence to be inflicted in the present case must be commensurate with the gravity of the offences and must take into account all the mitigating factors and the circumstances which led to the commission of these offences.
12. Taking all the above-mentioned circumstances into account, this Court is of the view that a custodial sentence is not warranted in the present case and that a fine will meet the ends of justice.
13. However, the fine to be inflicted must reflect the Court's view of the gravity of the present offences. Accused is therefore sentenced to:
 - (i) a fine of Rs. 300,000/- under Count 1;
 - (ii) a fine of Rs. 3,000/- under Count 2;
 - (iii) a fine of Rs. 3,000/- under Count 3;
 - (iv) a fine of Rs. 3,000/- under Count 4;
 - (v) a fine of Rs. 3,000/- under Count 5;
 - (vi) a fine of Rs. 3,000/- under Count 6;
 - (vii) a fine of Rs. 3,000/- under Count 7; and
 - (viii) a fine of Rs. 3,000/- under Count 8.



14. Accused is further ordered to pay Rs.500 as costs.



A.R.TAJOODEEN
Ag Magistrate of the Intermediate Court (Financial Crimes Division)
21.09.2023