

FINANCIAL INTELLIGENCE UNIT v AUSGAR K

2019 SCJ 273

Record No. 117004

THE SUPREME COURT OF MAURITIUS

In the matter of:-

**The Financial Intelligence Unit
(acting as Enforcement Authority pursuant to section 4 of the Asset Recovery
(Amendment) Act 2015 [[Act No. 29 of 2015](#)])**

Applicant

v

Kistna Ausgar

Respondent

JUDGMENT

This is an application under **sections 17 and 19(1)** of the **Asset Recovery Act 2011** for the issue of a Confiscation Order directing the respondent to pay to the State the sum of Rs 100,825, which sum represents an equal amount of the benefit derived from drug dealing.

It arises out of the affidavit sworn on behalf of the applicant that the Police arrested the respondent on 28/04/2015 whilst he was in possession of 56 gm of heroin and the sum of money in question. The money was seized along with the drugs for it was considered to be the proceeds of drug dealing. The applicant subsequently sought and obtained from the Judge in Chambers a Restraining Order under **sections 9 and 10** of the **Asset Recovery Act** for the

money seized to be restrained and deposited in the account of the Asset Recovery Investigation Division bearing number 610301000570010 at the State Bank of Mauritius.

Following his arrest, the respondent was prosecuted before the Intermediate Court on a charge of possession of heroin for the purpose of distribution, in breach of **sections 30(1)(f)(ii) and 47(5)(a)** of the **Dangerous Drugs Act**. He was, on 08/11/2017, convicted and sentenced to undergo six years penal servitude and to pay a fine of Rs 50,000 plus Rs 500 as costs.

The application is not resisted since the respondent who appeared personally on the floor of the Court has stated that he has no objection to the order prayed for to issue.

In the light of the unrebutted affidavit of the applicant and given the stand of the respondent, I grant the application. I accordingly order the issue of a Confiscation Order directing the payment to the State of the sum of Rs 100,825 seized in the circumstances set out in the affidavit of the applicant and subsequently restrained and deposited in the account of the Asset Recovery Investigation Division bearing number 610301000570010 at the State Bank of Mauritius.

J. Benjamin. G. Marie Joseph
Judge

11 October, 2019

For Applicant: Mr J. C. Ohsan-Bellepeau, Attorney-at-Law
together with Mr G. Bhanji Soni, of Counsel