

FCD CN: 97/2020
CN: 690/2019

IN THE INTERMEDIATE COURT OF MAURITIUS
(FINANCIAL CRIMES DIVISION)

In the matter of:

Independent Commission Against Corruption

v/s

Vicky Coomarassen VEERAMOOTOO

RULING

1. The accused is being prosecuted under two counts for the offence of Money Laundering in breach of sections 3(1)(b), 6 & 8 of the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA). He pleaded not guilty to the Information and is legally represented by Mr G. Glover SC. The prosecution is represented by Mr L. Nulliah, of counsel.
2. Objection was raised by the defence as to the admissibility of documentary evidence in the form of two letters dated 11.03.16 and 30.03.16 respectively. The said letters were provided to the ICAC during enquiry by witness no.3, Mr Le Blanc. The ground of objection was that the evidence was not confronted to the accused at enquiry stage.

CASE FOR THE PROSECUTION

3. Witness no.1, Investigator Purgaus stated that he had recorded two defence statements from the accused, already produced as **Docs L** and **L1**. He confirmed that both letters emanated from witness no.3, Mr Le Blanc. The first letter dated 11.03.16, represented the answers given by Mr Le Blanc in response to queries made by the ICAC. The query was with regards to the



employment details of the accused with Asseltec Co. Ltd, Caesar Palace Ltd, Bolyhouse Ltd, Mahe-Jeux Ltee; all subsidiary companies to the Senator Group. The accused was the head of the accounting department for the group. The second letter provided to the ICAC by the witness no.3 is dated 30.03.16. As per the letters, the accused was employed by Bolyhouse Ltd, a subsidiary of the group, from the year 2007 to 31.12.14.

4. The witness went on to state that the two letters were not confronted to the accused at enquiry stage. He explained that during the interrogation of the accused, he voluntarily gave details of his employment including the information contained in both letters. He admitted that such evidence may be used against the accused but the latter had already voluntarily provided the facts contained therein in his defence. The letters were produced as **Docs P** and **P1** for the purposes of the argument only. The witness referred to various extracts of the accused's defence statements. All pertained to the accused's employment status and responsibilities in the Senator Group. The **Doc Q** was also produced for the purposes of the argument, namely the National Pensions Account of the accused. From 2007 onwards, the employer of the accused was Bolyhouse Ltd as per the document.
5. During cross-examination, the witness confirmed that the two letters (P and P1) were obtained by the ICAC in 2016 and the defence statements were recorded in 2018. Extracts were shown to the witness from Doc L (defence statement of the accused), to the effect that the accused denied being the group accountant and qualified his accounting duties to the group.

ASSESSMENT OF THE COURT

6. No evidence was adduced on behalf of the defence. The submissions of both, the prosecution and the defence have been factual, since they both agree on the applicable law. In fact, the prosecution submitted in clear terms that, when a piece of evidence is incriminating to the accused, such has to be confronted to the latter at enquiry stage. The contention therefore is that the evidence in the form of Docs P and P1 are not in essence incriminating to the accused, but relevant to the prosecution's case. The submissions go further, in that, the accused will not be prejudiced by the proposed evidence since he has already volunteered the same tenor of evidence in his defence statements.

The law



7. The same legal principles as set out in my ruling delivered on 27.10.22, are applied here. A long line of caselaw has now been established by the Supreme Court; **Seetahul v State 2015 SCJ 328**, **The State v Peter Wayne Roberts CS 16/15**, **Jhootoo v The State 2013 SCJ 373**, **The State v Rajcoomar Seegolam & Anor CS 4/17**, **Grandcourt v The State 2018 SCJ 56**, **DPP v Ducasse 2023 SCJ 20**.
8. The Supreme Court case **DPP v Lagesse & Ors 2018 SCJ 257** offers the following pertinent pronouncement:

Where there is a complaint, it would de facto imply that the suspect has to be confronted with that complaint; and if there were additional incriminating evidence gathered during the course of the enquiry those should be put to the suspect. Obviously, if the police as part of their enquiry do have incriminating evidence, the suspect has to be cautioned and informed of his right to be legally assisted, i.e. right against self-incrimination and right to be legally assisted. Here, it is good to highlight that if the two rights referred to above are to have any meaning, they have to be imparted to the suspect in a language which he understands. (Emphasis is mine)

9. The rationale behind the above finding is that the suspect has to be made aware of all incriminating evidence likely to be used against him, so that he can offer his version as a rebuttal if he chooses to do so. If such evidence is important enough to add credence to the prosecution's case, it is imperative that the suspect be given the opportunity to prepare his defence accordingly. The preparation of his defence might be in the form of shedding light, at enquiry stage, to areas of the case which have not been investigated into.

Factual assessment

10. At **Doc L Answer 2** of his defence statement, the accused stated the following:
“... I then served as administration and finance officer at Bolyhouse Ltd, which formed part of the Senator Group. I was then appointed as Accountant Data Processor in companies under the group.”

Since the accused was employed on a full-time basis at Bolyhouse Ltd which among other companies, was a subsidiary of the Senator Group, the prosecution submitted that it was not clear whether the accused meant he was Group Accountant or otherwise. Hence, it would explain the need for the



production of the two letters, to clarify what the accused must have meant. Reference was made to Question and Answer 13 of Doc L to show that the accused admitted that Bolyhouse Ltd was part of the Senator Group.

11. However, the extracts as cherry-picked by the prosecution, do not offer a complete picture of the version of the accused in his defence statements. At **Doc L, Question & Answer 14** can be read as follows:

Q14 – Do you agree that from year 2007 to 2014 you were the Accountant of the Senator Group and in such capacity you were also the Accountant of Mahe-Jeux Ltee and Mega Management Ltd?

A14 – No. I was processing entries, financial information, bank entries which formed part of tasks of the accounting department.

Furthermore at **Q&A15**:

Q15 – Do you agree that as an officer of the accounting department, one of your functions consisted to perform banking transactions for Mahe-Jeux Ltee and Mega Management Ltd in year 2011?

A15 – No. Never.

12. The above two answers from the accused, when the issue was directly put to him, were quite clear. The accused denied being the group accountant and seemed to deny overall accounting responsibilities for the Senator Group. Whether that version can be believed is a matter of evidence to be assessed at trial. However, the root of the argument is whether the two letters (Docs P and P1) contain incriminating evidence which should have therefore been confronted to the accused. Doc P1 emanates from the then director of Asseltec Co Ltd, Mr Henry Le Blanc, which states that the accused was the Group Accountant. At the time that a defence statement was being recorded from the accused, the question of whether the latter was the group accountant has been made a live issue by the answers given by the accused. At that time, the investigators were in possession of Doc P1 which contained a conflicting version to that of the accused. Such evidence becomes incriminating and likely to be used against the accused. The fact that the prosecution asserts that the letters are probative to its case, is suggestive of the incriminating nature of the evidence against the accused. The proposition that Doc P1 is probative without being incriminating is difficult to fathom. On the other hand, it is understood that there might be numerous pieces of evidence of the same nature and purport which have been confronted to the accused at enquiry stage, and thus the accused would have been informed of the nature of case laid against him.



However, the current motion relates to the admissibility of evidence in the form of two letters. Any additional incriminating evidence, even of like tenor to confronted ones, must be made aware to the accused. Failure to do so would cause the prejudicial effect to outweigh its probative value.

CONCLUSION

13. I have perused both letters marked as Docs P and P1 for the purposes of the argument. There is no mention of the accused being the accountant of Senator Group in Doc P, the letter dated 11.03.16, and the information contained therein mostly tallies with the accused averments in his defence statement. Doc P is therefore admissible evidence for the prosecution.
14. On the other hand, for the reasons given above, I find that the letter dated 30.03.16 (Doc P1) is inadmissible evidence against the accused at trial.



P K Rangasamy
Magistrate of the Intermediate Court
26.09.24