IN THE INTERMEDIATE COURT OF MAURITIUS
Financial Crimes Division

CN : FR/L37/2024

In the matter of:

The Financial Crimes Commission

V

Ruksaar Bibi BANNOO

Sentence

The accused stands convicted in respect of 16 counts with willfully, unlawfully and criminally engaging in a transaction that involved property which, in whole or in part, directly or indirectly represented the proceeds of a crime and where she had reasonable grounds for suspecting that the property was derived, in whole or in part, directly or indirectly from a crime, in breach of **sections 3(1) (a), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act**.

The accused was represented by Mr. Brigemohane.

Two statements were recorded from the Accused and they were read and produced in court.

During the pre-sentence hearing, the accused explained under oath that she regretted what happened. She got easily tempted. She is now married, has two children, lives with her mother and has started to work again. She is leading a new life.

Section 8 of the Act provides for a fine not exceeding 2 million rupees and to penal servitude for a term not exceeding 10 years. This is a case which was lodged by the Director General of the Financial Crimes Commission by virtue of his power and authority under Section 112 (2) of the Courts Act, following the amendment brought by the Financial Crimes Commission Act.

In **M N Toolsy v The State 2012 SCJ 410**, the Supreme Court referred to **Queen [1981] 3 Cr App R at page 246** where the Court of Appeal stated that:

> *"The proper way to look at the matter is to decide a sentence which is appropriate for the [instant] offence ... Then in deciding whether that sentence should be imposed or whether the court can extend properly some leniency to the prisoner, the court must have regard to those matters which tell in his favour; and equally to those matters which tell against him, in particular his record of previous convictions."*

Learned Counsel submitted that in light of the guilty plea of the accused, her genuine remorse and all other mitigating factors, a lenient sentence be imposed.

I have given due consideration to the seriousness which the offences deserve. Whilst being a trainee teller at the State Bank of Mauritius, the accused made various cash deposits in her bank account. In fact, when she was faced with excess cash in her till, she took the money and

credited it in her own account. The accused made such various deposits from January 2017 to November 2017, totaling the amount of Rs 169,100.

On the mitigating end, I have considered that the accused has offered a timely guilty plea, which in view of Section 69B of The District and Intermediate Courts (Criminal Jurisdiction) Act is, a mitigating factor. She made an early confession in her statements, took full responsibility of her action and cooperated with the investigating authorities. She expressed genuine remorse, has reformed and leading a proper life. It is her first encounter with the law.

It is also on record that whilst the offence took place in 2017, it was only in 2023 that she was asked to give a statement in the present matter. By that time, the Bank had already investigated and taken disciplinary action against her. She refunded the money. The Bank did not make any complaint to the FCC.

I find relevant to quote the following from **Abongo v The State 2009 SCJ 81,** with regard to the rationale of sentencing measures:

> *"The Financial Intelligence and Anti-Money Laundering Act was enacted essentially for the purpose of combating money laundering offences which had the potential of adversely affecting the social and economic set up, both at national and international level to such an extent that they may constitute serious threats not only to the financial system but also to national security, the rule of law and the democratic roots of society. By enacting sections 5, 6 and 8 of the Act, the policy of the legislator was clearly designed to achieve the compelling objective of safeguarding the national and international financial systems against any disruptive intrusion which may be caused by the perpetrators of certain criminal activities."*

Whilst taking into account that the offence is one of money laundering, the scale of the transaction does not really cause for concern. I note that the amount taken by the accused starts from Rs 1,000 but does not exceed Rs 20,000. It is clear that she was tempted by easy money. Given all the mitigating factors and gaging the scope of the operation, I consider that a fine will meet the ends of justice.

In that aspect I am guided by the totality principle as endorsed in **M C Laval & Anor v ICAC and The State 2013 SCJ 431**, where A. Caunhye and N. Matadeen JJ. held:

"Quite significantly, the total amount of money which each of the two appellants had received as proceeds of drug crimes exceeded by far the total amount of the fine which was inflicted in respect of all the offences for which they were convicted. There is thus no merit in the argument that the totality of the fines inflicted on each of the first and second appellants was manifestly harsh and excessive."

Counts 1 to 16: I sentence the Accused to pay a fine of 8,000 rupees in respect of each count.

The accused is ordered to pay 500 rupees as costs.

The Prohibition Order lapses after satisfaction of sentence and delay of appeal.

B.R. Jannoo- Jaunbocus (Mrs.)
President
Intermediate Court (Financial Crimes Division)
This 23rd December 2024.