

ICAC v Vicky Coomarassen Veeramootoo

2025 INT 165

FCD CN: 97/20

CN: 690/19

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

In the matter of:

Independent Commission Against Corruption

v/s

Vicky Coomarassen VEERAMOOTOO

JUDGMENT

1. The accused has been prosecuted for the offence of Money Laundering under 2 counts in breach of sections 3(1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA). He pleaded not guilty to the Information and was represented by Mr Glover SC throughout the proceedings. The prosecution was conducted by Mr Nulliah for the Financial Crimes Commission (FCC), previously ICAC.

CASE FOR THE PROSECUTION

2. Witness no.12, Mrs Indar as deputed by the Registrar of Companies (ROC), produced the following documents:
 - a. **Doc A** – A correspondence requesting information Mega Management Ltd, Amusement Simulator Ltd and Mahe-Jeux Ltée. Calantio Investment Ltd was not registered at the Registered at the ROC.

- b. **Doc B (B1 to B4)** – Extract of file for Mega Management Ltd. One of the directors was witness no.6.
 - c. **Doc C (C1 to C5)** – Extract of file for Mahe-Jeux Ltée. The directors were witness nos.3 and 6.
 - d. **Doc D** – The director of the company in 2015 was witness no.4.
3. Witness no.2, Mr Claude Vivian Adone, was the senior fraud officer at the Mauritius Commercial Bank (MCB). He was deputed by the bank to produce the following documents:
- a. **Doc E** – Disclosure order served on the bank.
 - b. **Docs F and F1** – A cheque from Thomas Cook (Mauritius) Operations Co. Ltd, hereinafter referred to as ‘Thomas Cook’, drawn to the accused to the amount of Rs390,000.
 - c. **Docs G and G1** – Same type of cheque for the amount of Rs425,000.
 - d. **Doc H (H1 to H4)** – Statement of account of the accused at the MCB.
 - e. **Doc J** – Statement of current account of Mahe Jeux Ltée at the MCB. It shows a transfer of Rs5,813,340 from Thomas Cook.
 - f. **Doc K** – Statement of account of Mega Management Ltd. It shows a transfer of Rs20,775,000 from Thomas Cook on 21.06.11.

It was confirmed by the witness under cross-examination, that as far as the bank is concerned, all the above transactions were lawful.

4. Witness no.1, Investigator Purgaus, was the main enquiring officer of the case. He recorded two defence statements from the accused which he produced as **Docs L and L1**. The witness further produced a set of documents as follows:
- a. **Doc M** – a transfer sheet regarding EUR137,000 from Mahe Jeux Ltd to Calantio Ltd.
 - b. **Doc M1** – an application form by the accused (Vicky) to transfer the said amount through Thomas Cook from Mahe Jeux Ltd to Calantio Ltd. Payment details was filled in as loan refund.
 - c. **Doc M2** – an outward remittance form from Thomas Cook on 26.05.11, regarding the said amount, converted into Rs5,813,340.
 - d. **Doc M3** – the bank details of Calantio Investments Ltd.
 - e. **Doc M4** – a copy of the bank statement of Thomas Cook showing the inward transfer of Rs5,813,340 on 29.04.11 from Mahe Jeux Ltd.

The witness produced documents that he received from witness no.8, as follows:

- a. **Doc N** – A transfer instruction from Thomas Cook for the MCB to effect a transfer of EUR 500,000 to Asseltec Co. Ltd.
 - b. **Doc N1** – An application form with customer name as Mega Management to effect a telegraphic transfer of EUR 500,000, equivalent of Rs20,775,000, to Asseltec Co. Ltd. For queries, Mr Vicky was to be contacted with phone number 4999899.
 - c. **Doc N2** – Email dated 20.06.11 signed by Vicky from Mega Management Ltd to Mr Manaw Heerooa.
 - d. **Doc N3** – Bank statement showing a credit of Rs20,775,000 on 21.06.11. Attaches email from one Nitish Goburdhun to Manaw Heerooa dated 22.06.11.
5. Witness no.10, Mr Vikash Seesur, stated that he was the CFO (Chief Financial Officer) of the company Mega Management from 2014 to 2017. He was the head of finance and thus managed the accounting of the company. The witness was evasive when asked about the director of Mega Management due to memory loss. He stated that Mega Management was the holding company to numerous subsidiaries. The accused was one of the directors. Mahe Jeux Ltd was one of those subsidiaries. He could not remember of which subsidiary companies the accused the director. The accused also managed the finances of the group of companies, but he could not remember in which capacity. His memory was refreshed and he confirmed that the accused joined the group in 2007, as group accountant. He could not state whether the accused was entitled to receive commissions other than his salary as he was not privy to his employment contract.
6. During cross-examination, the witness stated that all accounting for all companies was centralised. When he was the CFO, the accused was not the group accountant, and he was not aware of the structure of the company group when he was not the CFO. He provided the records to the then ICAC. He could not remember whether the accused was a director of a subsidiary company. When asked whether the accused was the director of Amusement Simulator Ltd only, a subsidiary company, he answered in the affirmative.
7. Witness no.11, Mr Mohammad Bilal Korim, has been the manager of Appavoo Corporate Services Ltd. The latter company was the corporate secretary of the two companies Mahe Jeux Ltd and Mega Management Ltd. He provided board and shareholders resolutions which had been in his possession, to investigators of the case. He found no resolutions which mentioned anything about fees or

commissions which were to be paid to the accused. The resolutions covered the period 2011 to 2015. Under cross-examination, he stated that a board resolution in 2010 would apply to 2011 until another is made to reverse it.

8. Witness no.7, Mr Priaduth Sheedeni, was the compliance manager at Thomas Cook, at the material time. He identified a number of documents which he had provided to the then ICAC. He commented on Docs M, M1 and M4 as showing a telegraphic transfer to the amount of EUR 137,000. Mega Management Ltd transferred the money in rupees in a Thomas Cook account to be redirected to Calantio Investment Ltd. The Docs N and N1 were signed by one Vicky and he could not say which Vicky it was. He was shown two cheques Docs F and G, respectively dated 30.05.11 and 21.06.11, and for the amounts Rs390,000 and Rs425,000. Those cheques were drawn by Thomas Cook to pay Mr Vicky Veeramootoo. He stated that the payment was a form of commission or introduction business fee to Vicky Veeramootoo. He ultimately recognised the signature of Vicky Veeramootoo on the documents showing the telegraphic transfer. It was the practice of Thomas Cook to reward any person bringing business to the company. The payment of Rs390,000 was the commission for the transfer of EUR 137,000, as applied by Mahe Jeux Ltd. The Rs425,000 was with regards to the second transaction at Doc N, involving EUR 500,000, from Mega Management. He stated that the two cheques must have been handed to Vicky Veeramootoo in person. The business introduction fee is paid to the person who brought the business to Thomas Cook even if the client was a company.
9. Under cross-examination, he stated that he was not the compliance officer of Thomas Cook in 2012. He was appointed as such in 2015. He reiterated that when a person brings business to Thomas Cook, the latter is paid a commission. He could not be certain as to what process was followed at the company before a cheque is issued for such purposes. It was put to him that when first asked whether the two cheques were linked to the two transactions of EUR 137,000 and EUR 500,000, he initially stated that he was not sure. He agreed. He further stated that he did not have personal knowledge of whether the cheques were personally handed over to the accused. That was normally the case. He also agreed that there should have been a directive from the management of Thomas Cook before issuing cheques, but he did not find any document to that effect. There should have been payment vouchers for the cheques but he was not in possession of them in court. Under re-examination, the witness confirmed that the first cheque of Rs390,000 was linked to the

transaction involving EUR 137,000. The second cheque of Rs425,000 was linked to the transaction of EUR 500,000. The first transaction was effected by Mahe-Jeux Ltée and the second by Mega Management Ltd.

10. Witness no.8, Mr Mohammad Sheik Ibnay Dawood, was the senior compliance manager of Thomas Cook. Docs M to M4 were shown to the witness and he stated that they pertained to a telegraphic transfer of EUR 137,000 applied by Mahe-Jeux Ltée to Calantio Investment Ltd. The application was signed by one Vicky. Doc N showed a transfer of EUR 500,000 applied by Mega Management Ltd to Asseltec Co. Ltd, and signed by one Vicky. He identified the two cheques at Docs F and G paid to Vicky Veeramootoo. He was not aware of the purpose for which Thomas Cook paid those sums to Vicky Veeramootoo. He was aware that generally, it was the practice of Thomas Cook at the time, to pay introduction fees to new customers.
11. Under cross-examination, the witness confirmed that he had no personal knowledge of the head office activities in 2011. The signatory of Docs M1 and N1 should have been authorised to sign those documents. No names have been written on those documents next to the signatures. The witness could not remember if the ICAC had enquired from him as to the identity of the signatories of the said documents. He agreed that the two cheques at Docs F and G could only have been issued by order of the management. Normally, the two cheques would have been accompanied by payment vouchers. He could not remember if the ICAC had asked him if Vicky Veeramootoo was on the list of authorised suppliers of services.
12. Witness no.9, Mr Manav Heerooa, worked at Thomas Cook from 2009 to 2014, and he was a senior manager in 2011. He was responsible for the operation of seventeen branches. He had a reporting manager in Mr Feroz Dawoo and one Satish. He commented on Docs M and N, and he stated that, regarding all transfers, he received instructions from Mr Feroz Dawoo who was the CEO at the time. His role was to confirm whether the amount was credited in the account of Thomas Cook. He could not remember who gave the instructions to transfer EUR 500,000 from Thomas Cook to Asseltec Co. Ltd. He identified Doc N2 as an email dated 09.06.11, that he sent to Mega Management regarding the purchase of EUR 101,600. The email started with 'Dear Vicky' and he confirmed the person addressed to be Vicky Veeramootoo. The reply was dated 20.06.11, from Vicky to Manav. It concerned the transfer of the equivalent of EUR 500,000 in rupees from Thomas Cook to Asseltec Co. Ltd. A memory

refreshing exercise was carried out when he stated that he could not remember who from Mega Management Ltd had given him instructions to effect the transaction. He had identified his handwriting on Docs M and N. He confirmed that all details for the transfers have been provided by Vicky Veeramootoo, accountant of the Senator Group, by email on behalf of two customers, Mahe-Jeux Ltée and Mega Management Ltd. The witness confirmed that he signed Doc G which was the cheque of Rs425,000 paid to Vicky Veeramootoo. The said cheque was the payment of a business introduction fee, which was a common practice at the time. It was a competitive market. The term introduction fee was used, but the practice was not restricted to first-time clients. Each client could negotiate their terms, rates of currencies and fees.

13. Under cross-examination, the witness agreed that he was a senior employee who had been asked to be an authorised signatory of the company. Both transactions at Docs M and N, were entered into by Mr Feroz Dahoo. The application forms were signed by him and cleared by the compliance department. He filled in the application form at Doc M, but not for Doc N. He identified his handwriting only on Docs M and M1. He never met the person who represented the client companies. All correspondences were by emails. He was not aware of the process before and after he signed the documents as the second signatory. The witness added in re-examination that he would normally receive the details for the transactions by email. Then he would fill in the application form as he did for Doc M, using the details received.
14. Witness no.4, Mr Jean Patrick Merven, stated that he was a director of Mahe-Jeux Ltée from 2000 to 2015. The witness further stated that he was unaware of the day-to-day activities of the said company. He termed himself as a 'dormant' director'. He could not remember who managed the accounts of the company but he knew Mr Vicky Veeramootoo from horseracing. The latter was a horse owner. He initially stated that Mr Veeramootoo was involved with Mahe-Jeux Ltée, but he did not know in what capacity. He was confronted with a previous inconsistent statement and he confirmed that Mr Veeramootoo had been the accountant of Mahe-Jeux Ltée. He was shown Docs M and F, and he stated that he did not deal with cheques, but confirmed that he was shown the cheque of Rs390,000 paid to the accused.
15. Under cross-examination, the witness stated that he was not aware when the accused became the accountant of Mahe-Jeux Ltée, or when he became an employee.

16. Witness no.6, Mr Mohammad Sakir Mutty, stated that he was the director of a few companies, namely, Mahe-Jeux Ltée, Mega Management Ltd, and others. At some point he was the sole shareholder of Mega Management Ltd. He could not remember when he was the director of both of the above companies. The decision maker of those companies was one Amade Chikan, the financial director. He could not remember much about his out of court statements when memory refreshing exercises were carried out. The first extract was read as follows: *'Did you hold any position in Mahe Jeux Ltée before 10.04.15. Yes I was the manager.'* The witness could not confirm his out of court statement, although at a subsequent sitting, he stated that he was the director of Mahe Jeux Ltée and Mega Managament Ltd. The second extract was as follows: *'I am answerable to the company which is Mega Managament Ltd, which owns 100% shares in Senator Group which is composed of Ceasar Palace Ltd, Boly House ltd, Burswood Centre, Mahe Jeux Ltée, Flacq Jeux Ltd, Rose Belle Games and Silver Coin Ltd.'* The witness again could not confirm his out of court statement. Questions were asked about a number of issues, regarding the position and role the accused occupied in the Senator Group, the identity of the signatory who transferred money from Thomas Cook to the companies Calantio and Asseltec, and whether the accused was authorised to receive commissions from Thomas Cook.
17. Memory refreshing exercises were carried out and previous inconsistent statements were read to the witness multiple times, but his answers were vague and unhelpful to the court. His recollection wavered as his evidence unfolded. It became increasingly apparent to the court that the witness' evidence served not to clarify, but to confuse the issues. No heed was paid to the contradictory extracts that were read to him, except that he could not remember. Some leeway was granted to counsel for the prosecution to ask leading questions, which proved uneventful. Not much weight is thus attached to the witness' testimony.
18. Witness no.5, Mr Amade Geza Chikan, a Hungarian national, was working as the Chief Financial Officer of the Senator Group between 2002 and 2015. He became the Chief Executive Officer after that. The Senator Group had several subsidiary companies, including Mahe Jeux Ltée. Mega Management Ltd was incorporated to hold the interests of Senator Group in Mauritius. As part of his duties as CFO, he gave instructions on major transactions and supervised the local accounting departments. For a period of time, including the years 2010

and 2011, Mr Mutty (wit 6) was the Executive Director of a few companies, and Mahe Jeux Ltée and Mega Management Ltd was part of those. Mr Vicky Veeramootoo (the accused) was the accountant of the group of companies. He was responsible for the accounting of the companies. He started his work in or about 2007 and he replaced the previous group accountant from day one. He kept his position as account on 2011. MCB has always been the bank of Mahe Jeux Ltée. The witness was a director on the board of the latter company, from 2002 to 2015. The board was the decision-maker regarding major transactions and, both, Mr Mutty and the accused were responsible for banking transactions. No employee was permitted to transact with another bank without the consent of the board. The witness was not usually present for board meetings, and there were not many at that time. He was always made aware of board decisions by email or text messages.

19. The witness was shown Doc J, and he explained that the purpose of the transaction of Rs5.8M was an inter-company loan refund to the international holding company of the Senator Group. Thus, Mega Management Ltd transferred the money to Mahe Jeux Ltée so that same can be refunded. The transfer was initiated by Vicky Veeramootoo, seemingly through Thomas Cook. He agreed that the banker of Mahe Jeux was the MCB, not Thomas Cook. He suggested that the reason for the transfer to have gone through Thomas Cook could have been due to better rates. However, he agreed that there was no approval from the board to go through Thomas Cook and the transaction was not legitimate from the perspective of the company. The proper channel would have been to use the MCB for the transfer.
20. There was objection to the answer of the witness that the accused was employed by Mahe Jeux Ltée on the ground that, that was not the case confronted to him by the prosecution. Question was allowed since it was put to the accused that he was the group accountant and the issue could be canvassed at submission. Counsel for the prosecution put the question again as follows (page 18 of transcript date 19.01.24): *Can you confirm whether an employee of Mahe Jeux Limited or the Senator Group was allowed to take commission in relation to the particular transaction which you just described or any other transaction on behalf of the company?* The answer was 'No'.
21. The witness commented on Doc N1, as being an application form by Mega Management for the transfer of EUR 500,000 from Thomas Cook to Asseltec Co. Ltd. According to the document, Mr Vicky Veeramootoo initiated the

transfer. There was no permission from the board for the transaction to go through Thomas Cook. Doc N2 was shown and the witness confirmed that it was email from Mega Management sent by Mr Vicky Veeramootoo to Mr Heerooa. The latter was not known to him. He explained that Mega Management was the Group Holding Company and as the group accountant, Mr Veeramootoo was responsible for the accounts of Mega Management. The witness stated that it can be called the Mega Management Group as it is part of the Senator Group International. The witness went to state that Mr Veeramootoo, the accused received a fixed monthly salary with no possibility of commission for carrying out his duties. Any change in the banking facilities for Mega Management or Mahe Jeux Ltée would have to be approved by the Board.

22. Under cross-examination, the witness stated that he was never employed in Mauritius by a local company. The Senator Group is not a local company. It is the name given to a number of local companies, each directed by a board of directors. Bolyhouse Ltd was the employer of the accused, and his salary was paid by the said company. He was the accountant of Bolyhouse Ltd, which was the reason he helped out with the accounts of the other entities within the group. The witness was not aware of the two documents he was shown in court until he was called by the then ICAC for enquiry. The two transactions involving Mahe Jeux Ltée and Mega Management Ltd respectively, did not concern Bolyhouse Ltd. When he read Vicky on the said two documents, he guessed that it must have been Vicky Veeramootoo since no last name was written. During re-examination, the witness stated that it must have been Vicky Veeramootoo since he was responsible to execute financial transactions of all the companies, including Mahe Jeux Ltée. Leave was granted by the court for a follow-up question by the defence as follows: *I put it to you that Mr Veeramootoo did not have the signatory powers for Mahe Jeux Ltée and Mega Management Ltd. Do you agree?* The answer was; *If you say so, I don't remember that but if you say so, it must be like that.*

23. Witness no.3, Mr Henry Michel Le Blanc, stated that during the years 2014 to 2016, he was the director of a number of companies, including Mahe Jeux Ltée. Along with him, there were Mr Mutty and Mr Chikan as directors. He was also a minority shareholder of Mahe Jeux Ltée since its inception. He did not deal with the day-to-day management of the company. Any major decision was through board meetings. From 2011 to 2013, Mr Mutty was the manager of

Mahe Jeux Ltée. Mr Vicky Veeramootoo was presented to him as an accountant. He was working under the management of Mr Muttu.

24. When asked about the responsibility of the accused at Mahe Jeux Ltée, he stated that the accused was not responsible of the financial affairs of the company, but Mr Muttu was. A previous inconsistent statement was confronted to him where he had stated that the accused was responsible of the company's financial affairs. He stated that his out of court statement was incorrect.
25. The witness further stated that the Senator Club was a brand name for the group of companies of which Mahe Jeux formed part. It was Mr Muttu who was the accountant of the Senator Club. A previous inconsistent statement was read to him where he had stated that Mr VC Veeramootoo was the group accountant for the Senator Group and he was appointed by Bolyhouse Ltd, one of the subsidiaries of the Senator Group. The witness stated that he made an error in his out of court statement. He reiterated that it was Mr Muttu who was responsible for the Group. However, he could not be precise enough to say whether the accused was the accountant of the group or not. He then proceeded to say that he did not know. He gave his out of court statements based on the information received from Mr Muttu. But such information was incorrect. He could not explain why he thought that information was incorrect. He further stated that Mr Veeramootoo was presented to him by Mr Muttu as an accountant. He did not know the exact purpose or role of Mr Veeramootoo as accountant. Doc J was shown and the witness identified the transfer of money from Mahe Jeux to Thomas Cook. He did not know who effected the transfer, but agreed that the bank of Mahe Jeux has always been the MCB. There was no board decision to change the banker at any point in time, to Thomas Cook or otherwise.
26. On the issue of commission, the witness stated that he was not aware if any commission was paid to the accused. Mahe Jeux Ltée did not pay any commission for any transaction. He produced **Doc P**, a letter which he provided to the then ICAC. He could not say whether the accused was entitled to third party commissions. He agreed that the transfer was made by Mahe Jeux Ltée and not the accused.
27. Under cross-examination, the witness reiterated that he was a non-executive director of Mahe Jeux Ltée and was not involved in the day-to-day

management. Mr Mutty was involved as such. He commented on Doc P to say that he did not have personal knowledge of the information he provided in the said document. He was given such information and he suggested contacting Mr Mutty for further queries. He was informed by the ICAC of the transaction between Mahe Jeux and Calantio Ltd. He was not aware of any issue at Mahe Jeux regarding banking transaction prior to his visit at the then ICAC. Mr Mutty was the sole signatory for Mahe Jeux back in 2011.

CASE FOR THE DEFENCE

28. No evidence was adduced on behalf of the defence.

ASSESSMENT OF THE COURT

29. The accused has been prosecuted under section **3(1)(b)** of **FIAMLA**. The section is reproduced as follows:

(1) Any person who -

(a) engages in a transaction that involves property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime; or

(b) receives, is in possession of, conceals, disguises, transfers, converts, disposes of, removes from or brings into Mauritius any property which is, or in whole or in part directly or indirectly represents, the proceeds of any crime, where he suspects or has reasonable grounds for suspecting that the property is derived or realized, in whole or in part, directly or indirectly from any crime, shall commit an offence.

30. Under both counts of the Information, the accused was allegedly in possession of Rs390,000 and Rs425,000, respectively found in his bank account. The constitutive elements of the offence of money laundering have been set out by the Supreme Court in **Audit v State 2016 SCJ 282** as follows:

The elements of the offence under section 3 of FIAMLA are:

(a) possession of property;

(b) in whole or in part directly or indirectly represents the proceed of any crime;

(c) has reasonable grounds for suspecting;

(d) the property is derived or realised;

(e) in whole or in part, directly or indirectly from any crime.

31. It is not disputed that the accused was in possession of the two impugned sums of money, namely, Rs390,000 and Rs425,000. The said sums have been credited to the accused's bank account through the two cheques produced as Docs F and G. In the accused's first defence statement, Doc L, at Q&A25, he confirmed that there were two cheque deposits of Rs390,000 and Rs425,000 in his bank account, on the 31.05.11 and 21.06.11, respectively. He further stated at Q&A32 that he was the beneficiary of the two cheques.

32. The next element to be proved by the prosecution was whether the property was *in whole or in part directly or indirectly represents the proceed of any crime*. Such was the main contentious issue of the case and formed the basis of the defence case. The case of the prosecution centred around the fact that the accused was not entitled to receive income other than his salary as agreed with his employer, for acts done within his employment duties. At Doc L, the nature of the case was summarised to the accused as follows: *On 31.05.11 as accountant of Mahe-Jeux Ltée he has illegally obtained the sum of Rs390,000 from Thomas Cook for transactions on behalf of Mahe-Jeux Ltée. On 21.06.11, as the accountant of Mega Management Ltd, he has illegally obtained the sum of Rs425,000 from Thomas Cook for a transaction he had effected on behalf of Mega Management Ltd.* Furthermore, at Doc L1, he was equally informed that ICAC had reasonable suspicions to believe that he has committed an offence under the Prevention of Corruption Act 2002 and FIAMLA 2002. Additionally, he obtained those two sums as commissions from Thomas Cook.

33. The prosecution did not identify the specific crime generating the proceeds, which is being reproached from the accused. There is no legal requirement to do so, vide **DPP v Bholah 2010 PRV 59**:

It is sufficient for the purposes of that subsection that it be shown that the property possessed, concealed, disguised, or transferred etc represented the proceeds of any crime – in other words any criminal activity – and that it is not required of the prosecution to establish that it was the result of a particular crime or crimes. In light of this conclusion, it follows that a failure to identify and prove a specific offence as the means by which the unlawful proceeds were produced is not a breach of section 10(2)(b) of the Constitution.

34. On the other hand, the nature of the crime was particularised to an extent which would lead to the glaring possibility of a specific crime under the

Prevention of Corruption Act (POCA). In fact, the accused was informed at Doc L1, that he might have committed an offence under POCA. But the prosecution, in conducting its case at trial, stopped at the penultimate step of revealing the elephant in the room. Again, there is no strict legal impediment in this course of action. The English cases of **R v Anwoir [2009] 1 WLR 980** and **R v W (N) [2009] 1 WLR 965**, as cited by Bholah (supra) demonstrate the proposition as follows:

We consider that in the present case the Crown are correct in their submission that there are two ways in which the Crown can prove the property derives from crime, (a) by showing that it derives from conduct of a specific kind or kinds and that conduct of that kind or those kinds is unlawful, or (b) by evidence of the circumstances in which the property is handled which are such as to give rise to the irresistible inference that it can only be derived from crime.

35. The prosecution is entitled to conduct its case the way it sees fit as long as the discretion remains within the margin conferred by the law. The case presented to the court has adopted a clearly defined path, in that, the impugned sums of money have been identified, both in terms of quantum and provenance. It is not disputed that the two cheques were credited in the bank account of the accused by Thomas Cook. The allegation is that the payments were effected as a form of commission given to the accused for his work on behalf of the companies he was directly or indirectly tasked to work for. Thus, the mode of criminal activity falls within the first category of Anwoir (supra), that is, the property derives from conduct of a specific kind or kinds and that conduct of that kind or those kinds is unlawful.

36. The factual circumstances in assessing the criminal conduct are as follows:

- a. The two payments had been made by Thomas Cook to the accused. The reason for the payments were given by three witnesses from Thomas Cook, namely, wits 7, 8 and 9, as summarised from paragraphs 8 to 12 above. The cheques were paid to the accused as business introduction fees. Such fees or rewards were not restricted to new customers, but any client could negotiate the fee depending on the transactions he brought to Thomas Cook.
- b. The accused was employed by Bolyhouse Ltd, a subsidiary company to the Senator Group, as represented by Mega Management Ltd. It is on record that the Senator Group was not a legal entity in Mauritius. Mega Management Ltd was the holding company of the group. The employment

contract of the accused was not produced as evidence in court. However, it can be deduced from the defence statement of the accused and the evidence of Mr Chikan in court, that the former was not entitled to commissions or income other than his salary package as contracted with Bolyhouse Ltd.

- c. The main disputed issue was the position that the accused held within the group of companies. It is settled that his employment was contracted with Bolyhouse Ltd. The allegation from the prosecution is that, although his employment contract was with one subsidiary company, he was in effect the group accountant.
 - i. Witness no.10 was the CFO of Mega Management Ltd from 2014 to 2017. He was evasive as to the position of the accused in the group of companies. The accounting of the group was centralised. He was the head of finances for all companies. The accused managed the finances but he could not say in what capacity. His memory was refreshed and he agreed that the accused joined the group as group accountant in 2007. However, he reversed his answer during cross-examination and stated that the accused was not the group accountant.
 - ii. Witness no.4 was a director of Mahe-Jeux Ltée. He stated that he was not aware of the day-to-day activities of the said company. He was confronted with a previous inconsistent statement and he confirmed that the accused was the accountant of Mahe-Jeux Ltée. Under cross-examination, he stated that he was not aware when the accused became so.
 - iii. The evidence of witness no.6 cannot be relied on by the court as assessed at paragraph 17 above.
 - iv. Witness no.5 was the director of the Senator International Group. He was not employed by any Mauritian company. He stated that the accused was the group accountant in Mauritius and was responsible for the financial transactions within the group. However, during cross-examination, he stated that the accused was employed by Bolyhouse Ltd and that was the reason he helped out with the accounting of other companies within the group. When proposed that the accused was not the signatory of Mahe-Jeux Ltée and Mega Management Ltd, he did not deny same, but showed that he did not have direct knowledge of the subject.
 - v. Witness no.3 stated that Mr Mutty (wit no.6) was the sole signatory for Mahe-Jeux Ltée. As a whole, his evidence cannot carry much

weight. He was evasive and denied most of the previous inconsistent statements put to him.

37. The witness no.5 was the only witness who could say that the accused was the group accountant and was responsible for the group's financial transactions. However, he qualified his answer in cross-examination when he asserted that the accused was employed by one subsidiary company and he helped out with the finances of the group. All other witnesses holding management positions at Mahe-Jeux Ltée or Mega Management Ltd were unable to state with certainty whether the accused was responsible for the financial transactions of the whole group of companies.

38. The prosecution has been able to show that the two sums of money being the subject of both counts of the Information, have been credited to the accused's bank account. Thomas Cook paid the money as a form of commission for the two transactions involving EUR137,000 and EUR500,000, *vide* wit no.7, para 9 above. The question which remained to be answered was whether the payment of commission for those transactions on behalf of Mahe-Jeux Ltée and Mega Management Ltd was unlawful. The sum of the evidence on record points to the fact that the accused was employed by Bolyhouse Ltd. He helped out with finances of the other companies within the group. There is no evidence as to which capacity he did so, and on what terms of employment he carried out those tasks. The objective view would suggest that any group task would be extraneous to his employment at Bolyhouse Ltd. No evidence has been adduced to show the exact terms of his employment contract at Bolyhouse Ltd. It cannot be assumed that once employed by one subsidiary company, the employee is expected to work for the other companies within the group without additional remuneration. If that was the case, there should be clear evidence that he was not entitled to additional remuneration or commission for works done for companies with which he was not expressly employed. The case for the prosecution suggests that there was some kind of understanding that the accused was the group accountant, hence attaching all the responsibility that such appellation carries. If such position was created in an unofficial manner without a proper contract of employment from all companies involved, the assertion that it was official that the accused cannot receive additional remuneration cannot stand.

39. Doc M1 was the application form from Mahe-Jeux Ltée to transfer EUR137,000 to Calantio Investement Ltd. The person who signed as authorised signatory

was not enquired into by the prosecution. In the absence of expert handwriting evidence on the issue, a layman's observation of the signature affixed on the said document and the signature of the accused at his defence statement would show a marked difference. The only connection with the accused on the document would be his first name written at the queries section. The same difficulty applies to the second transfer of EUR500,000 from Mega Management Ltd at Doc N1. In that case, no authorised person signed the said document. Doc N2 was an email on behalf of Mega Management Ltd signed by 'Vicky' sent to Thomas Cook to effect the transfer of EUR500,000. The whole of the documentary evidence is short of establishing that the accused bore the responsibility of the financial affairs of Mahe-Jeux Ltée and Mega Management Ltd. It merely buttresses the possibility, professed by the defence and indeed most of the witnesses of the prosecution, that the accused helped out in the accounts of the group of companies, but was not the one who took the financial decisions. The evidence on record is thus insufficient to prove that first, the accused has allegedly received commissions as a result of work he was contractually obliged to do under his contract of employment. Secondly, there is no actionable evidence to clearly show that the accused was not entitled to any kind of remuneration for work extraneous to his contract of employment with Bolyhouse Ltd. None of the local directors of the two companies involved gave evidence to that effect. The evidence of the one witness Mr Chikan, referred to the general obligations of an employee of the group. He had no knowledge of any arrangements made or practice in place within the group regarding extraneous work from an employee of a subsidiary company.

40. The English Court of Appeal in **Anwoir (supra)** cited with approval the direction of the first instance judge when expatiating the principle that the conduct of a specific kind or kinds must be unlawful:

“you will note from the definition of criminal conduct that you do not have to be satisfied what conduct it was that produced a financial benefit for the other person. While it could be the proceeds of theft or fraud it could equally be the proceeds of unlawful gambling, prostitution, revenue offences or any other kind of dishonesty. The useful test, you may think, is to ask yourselves whether the financial benefit was honestly derived from legitimate business or commercial activity.” (Emphasis is mine)

41. The prosecution did not identify the crime, although all circumstances point to the offence under **section 16 of POCA**. The submissions of counsel for the

prosecution alluded to the general misappropriation of property, but admitted that a mere wrongdoing would not satisfy the elements of money laundering under FIAMLA. The act must be tainted with criminality. Thomas Cook voluntarily paid the two sums of money to the accused. There is no evidence to show that the said sums should have been paid to Mahe-Jeux Ltée or Mega Management Ltd. A sweeping proposition of misappropriation of property is thus untenable. As shown above, there is insufficient evidence to show that the two sums of Rs390,000 and Rs425,000 were respectively, derived from a crime.

CONCLUSION

42. For these reasons, I hold that the prosecution has been unable to prove all the elements of the offence of money laundering under section 3(1)(b) of FIAMLA, beyond reasonable doubt. It would be unsafe for conviction to ensue. The case against the accused is thus dismissed.

P K Rangasamy
Magistrate of the Intermediate Court
29.05.25