

## **Sada Curpen v Police**

**2025 RDR 168**

**CN: 1981/2020**

### **THE DISTRICT COURT OF RIVIERE DU REMPART**

**In the matter of:-**

**Sada Curpen**

**Applicant**

**v.**

**Police**

**Respondent**

### **RULING**

This is an application to strike out a provisional charge of **money laundering** lodged against Applicant on 18.12.2020 under **sections 3(1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act 2002 coupled with section 44(1)(b) of the Interpretation and General Clauses Act.**

Applicant argued that he is being prejudiced by the pre-trial delay. Respondent argued that the delay is justified, and relied on the testimony of the Investigation Officer and an affidavit solemnly affirmed by the latter. The affidavit was marked as Doc Affidavit 2025.

**Section 10(1) of the Constitution** provides that a person charged with a criminal offence, unless the charge is withdrawn, shall be afforded a fair hearing within a reasonable time by an independent and impartial court.

In **State v Bissessur** [\[2001 SCJ 50\]](#), the Supreme Court made reference to **section 10(1) of the Constitution** and observed that it is well settled that delay, from the moment a person is arrested if such that at the end of the day it would render the proceedings unfair, is an infringement of his right to a fair trial within a reasonable time.

The decision of the Supreme Court of Canada, **R. v. Morin [1992] 1 S.C.R. 771**, is relevant when considering whether a delay constitute an infringement of the right to be tried within a reasonable time

The factors to be considered are: (1) the length of the delay; (2) waiver of time periods; (3) the reasons for the delay, including (a) inherent time requirements of the case, (b) actions of the accused, (c) actions of the Crown, (d) limits on institutional resources and (e) other reasons for delay; and (4) prejudice to the accused.

In **Bell v DPP (Const) 392, [1985] 2 All ER 585, [1985] Ac 937, Jam PC**, the Judicial Committee of the Privy Council observed that the fundamental right of the individual to a fair trial within a reasonable time needs to be balanced against the public interest in the attainment of justice in the context of the prevailing system of legal administration and the prevailing economic, social and cultural conditions.

Here, it transpires from the provisional charge, the testimony of the Investigation Officer and Doc Affidavit 2025 that:

- i. Applicant was arrested on 17.12.2020;
- ii. a provisional charge was lodged against him on 18.12.2020, that on or about 17.12.2020 he was wilfully, unlawfully and criminally in possession of the following properties bought by his company, to wit, an apartment acquired in the years 2014 and 2016 for an aggregate sum of 1.8 million rupees and a JCB acquired in 2020 for the sum of 1.5 million rupees, which sum of money being in whole or in part, directly or indirectly, the proceeds of a crime;
- iii. 51 statements were recorded from witnesses between 2019 and 2023;
- iv. 59 statements were recorded from 30 suspects between 2020 and 2025 out of which 25 statements were recorded from Applicant;
- v. provisional charges were lodged against Applicant and another suspect;
- vi. the provisional charge against the other suspect was struck out, and Respondent maintained the present provisional charge against Applicant because of prima facie evidence;
- vii. the Digital Forensic Laboratory examined the phones, laptops, pen drives and DVDs secured, and the reports were confronted with all the suspects;
- viii. large volume of documents produced by witnesses and obtained from several institutions were analysed;
- ix. a disclosure order was sought in 2021 to obtain banking details on different suspects, and their bank documents were examined;
- x. an attachment order was sought in 2021 in respect of lands, house, bungalow, cars, motorcycle and JCB tractor;

- xi. difficulties cropped up because of the COVID pandemic, namely, the interview of Applicant was postponed twice because his Counsel and himself contracted the COVID virus;
- xii. the FCC took over all ongoing investigations initiated by the ICAC;
- xiii. Applicant holds a French passport in addition to his Mauritian passport, and Respondent apprehends that he may flee the country if the provisional charge is struck out;
- xiv. Respondent averred that there are potentially more than 400 counts that may be levelled against Applicant for the offence on money laundering.

The Court notes that the investigation carried out by Respondent goes beyond the purview of the present provisional charge inasmuch as it is not limited to the apartment and the JCB acquired by Applicant's company. The attachment order sought in 2021 concerns other properties, namely, lands, a bungalow, 9 cars, and a motorcycle. The disclosure order sought in 2021 to obtain bank statements concerns other suspects and not only Applicant. It is apposite to note that the investigation officer did not clearly specify if the interrogation of all the suspects and witnesses together with the perusal of their bank statements are directly related to the subject-matter of the present provisional charge. He conceded that the provisional charge against one suspect was struck out, and among the 30 suspects, there is only a provisional charge against Applicant because of prima facie evidence against him. He did not specify why other provisional charges have not been lodged against Applicant so far if there are more than 400 counts that may be levelled against him. He could not say how long it will take to lodge a formal charge pursuant to the present provisional charge, involving an apartment and a JCB acquired for the aggregate sum of 1.8 and 1.5 million rupees respectively, though 4 years have lapsed.

Applicant stated from the dock that he is subject to a provisional charge for 4 years and 4 months, he lost his parents, and he did not abscond though he travelled to France in the past.

The Court notes that the police did not object to the release of Applicant on bail on the very day the provisional charge was lodged against him on 18.12.2020, and since then, there is a prohibition order against him and he has to report to the police station. Inevitably, his freedom of movement is restricted as long as the prohibition order and the reporting conditions are in force.

In **Mungroo v R [1992] LRC (Const) 591, [1991] 1 WLR 1351, 95 Cr App Rep 334, Maur PC**, the Judicial Committee of the Privy Council pointed out that the right to a trial within a reasonable time secures, first, that the accused is not prejudiced in his defence by delay and, secondly, that the period during which an innocent person is under suspicion and any accused suffers from uncertainty and anxiety is kept to a minimum.

In the present matter, the purchase of the apartment dates back to 2014 and 2016, and the purchase of the JCB dates back to 2020. It stands to reason that the longer it takes to lodge the

formal charge against Applicant, the higher would be the likelihood that his defence be impaired, namely, if he needs to retrieve achieved documents or call witnesses.

Nevertheless, the Court also notes that Respondent argued that the investigation was partly delayed because of the COVID pandemic lockdown, though, there was a possibility to work from home and to obtain work access permit, and the essential services such as the police and the courts were operational. The investigation officer stated that the enquiry is now complete, and he is of the opinion that the file will be sent to the ODPP within 2 months after completion of some procedures which do not depend on him.

In the current circumstances, the Court would urge Respondent to take necessary steps such that Applicant is not prejudiced by delay having regards that more than 4 years have lapsed since the lodging of the present provisional charge. And, in the eventuality that no formal charge is lodged against Applicant by 15.10.2025, the present provisional charge will be purely and simply struck out.

**Z Cassamally (Dr)**  
**Ag. Senior District Magistrate**  
**15.05.2025**