

ICAC v Pravinsing Maunick Judgment CN 22-2021

2025 INT 242

FCD CN: FR/L22/2021

IN THE INTERMEDIATE COURT OF MAURITIUS
(FINANCIAL CRIMES DIVISION)

In the matter of:

ICAC

**(Now the Financial Crimes Commission pursuant to
section 168 (1) of the Financial Crimes Commission Act 2023)**

V

Pravinsing MAUNICK

JUDGMENT

A. BACKGROUND

1. Accused is being prosecuted for the offence of Public Official Using his Office for Gratification in breach of **sections 7(1) and 83 of the Prevention of Corruption Act** (the “**POCA**”).
2. As per the Information, the case for the prosecution is that, in the month of April 2015, at the office of the Child Development Unit (CDU) of Goodlands, accused, being the officer handling the file of minor Marie Eva Jessica Pierre Louis, solicited a sum of Rs. 10,000/- from the latter’s father, Mr. Désiré Josian Pierre Louis, after having made him believe that a superior officer has asked that money to activate the process of discharge of the minor from a shelter of the CDU.
3. Accused has pleaded not guilty and is represented by Counsels, Miss Y. Moonshiram appearing together with Miss P. Seetaram.
4. The case for the prosecution was conducted by Mr. F. Arzamkham for the ICAC (now the Financial Crimes Commission).

B. CASE FOR THE PROSECUTION

5. Mrs. Pratiba Ramlagun (witness no.12), deputed by the Permanent Secretary of the Ministry of Gender Equality, Child Development and Family Welfare (the “Ministry”), produced the official employment status of accused (**Doc A**). According to **Doc A**, accused is employed as Child Care Worker at the said Ministry since the 01st June 2009 and is still in employment.
6. Mrs. Bibi Swaleha Joomun Sairally (witness no.5) produced a file of the Ministry relating to minor Jessica Pierre Louis (**Doc F**).
7. Mrs. Karoonawtee Chooramun (witness no.10) is the head of the Child Development Unit (the “CDU”) which falls under the aegis of the Ministry. She explained that the CDU, amongst others, provides protection services to children. In that respect, Care Workers provide support to and assist the Family Welfare Protection Officers. There is no rule that only a specific Care Worker handles a file. It depends who is available at that time. It is the Family Welfare Protection Officer who applies for an Emergency Protection Order from the Court as well as for the discharge of an Interim Committal Order. Before the latter application is made, the Family Welfare Protection Officer would have arranged for visits, provided Social Enquiry Report and prepare the file if he/she believes that there is a possibility to return of the child. She also produced an extract of the Scheme and Duties of Care Workers (**Doc G**) which includes follow up of cases referred to the CDU and report thereon to the Family Welfare Protection Officer. The Care Worker may make house visits of the parents and report about the status thereof. The Family Welfare Protection Officer’s duties include, amongst others, attending Court for making applications and report progress.
8. Mrs. Vanessa Chingadu (witness no.11), a Principal Family Welfare and Protection Officer, explained that as per **Doc F**:
 - a. **Minute 3** shows that there was a case of physical assault on minor Jessica Pierre Louis by her mother and officers were requesting the approval of an Emergency Protection Order to be applied on the 29th December 2014;
 - b. **Minute 6** shows that the mother attended the CDU office together with the maternal aunt to request for parental visit and they were informed that the father and aunt can visit the minor at Port Louis next Saturday;

- c. **Minute 7** shows that Mrs. Mambata and Miss Moostapha fetched minor Jessica Pierre Louis for parental visit on the 04th April 2015;
 - d. **Minute 8** shows that Mr. Josian Desire Pierre Louis (witness no.6) attended CDU office on the 06th April 2015 to report that he was very happy after receiving a visit with her daughter on Saturday the 04th April 2015 and that he wants her daughter back under his care and custody. **Minute 8** was inserted by accused;
 - e. **Minute 9** shows that a site visit was carried out by officers of the CDU of Goodlands at the residence of Mr. Josian Desire Pierre Louis (witness no.6), which house, though small, was neat and hygienic with all basic amenities fitted. **Minute 9** was inserted by accused;
 - f. **Minute 11** shows that, on the 20th April 2015, the father and minor were present at Rivière du Rempart Court and in view of favorable reports, the Court discharged the Interim Committal Order and ordered that the minor be returned to the parents; and
 - g. it was accused who was the Care Worker working on the file of minor Jessica Pierre Louis.
9. During cross-examination, Mrs. Vanessa Chingadu (witness no.11) explained that as per **Doc F**:
- a. **Minute 16** shows that the Court ordered the case file to be called on the 24th June 2015 since the father did not attend appointment with psychologist at the CDU;
 - b. **Minute 31** on the 01st March 2016 was inserted by a psychologist;
 - c. **Minute 33** on the 02nd March 2016 and **Minute 39** on the 26th April 2016 were inserted by Miss Tauckoor; and
 - d. **Minute 40**, inserted by Miss Taukoor, shows that when she contacted Mrs. Veena on number 59154352, Mr. Josian Desire Pierre Louis (witness no.6) answered and he was rude and disconnected the phone call.
10. Chief Investigator Chung Yen (witness no.2) produced an album (**Doc C**) containing 12 photographs that PC 2126 Pavin (witness no.4) took under his instructions. He further produced a letter from the Ministry dated the 06th September 2017 (**Doc D**). According to **Doc D**, mobile phone number 59431426 was used by the CDU office of Goodlands. He also confirmed that no pictures were taken in presence of accused nor any statement was recorded from him in relation to the photographs in **Doc C**.

11. PC 2126 Pavin (witness no.4) stated that on the 21st December 2016, under the instructions of Chief Investigator Chung Yen (witness no.2), he took 12 photographs. He identified those 12 photographs as found in **Doc C**.
12. Ex CI Lazarre (witness no.3) conducted three identification exercises, by way of direct confrontation, between (i) accused and Mrs. Marie Josianne Pierre Louis (witness no.7) on the 10th August 2017, (ii) accused and Mrs. Indrawatee Pierre Louis (witness no.8) on the 10th August 2017 and (iii) accused and Mr. Josian Desire Pierre Louis (witness no.6) on the 14th August 2017. During the direct confrontation, those three witnesses, upon being requested to identify the person they had mentioned in their respective statements, all stated "*oui li même sa*".
13. Mr. Manoj Seesunkur (witness no.13) was deputed by the Mauritius Telecom. He produced a covering letter dated the 09th April 2018 and its Itemized Bill (**Doc E**) for number 59154352 in respect of the month of April 2015. He explained that as per **Doc E**:
 - a. sim card number 59154352 is registered on the name of one Jumath Bokoram;
 - b. on the 06th April 2015, at 10.22 am, there was an incoming call from number 59431426 to number 59154352 for 85 seconds;
 - c. on the 06th April 2015, at 17.28 pm, there was an incoming call from number 59431426 to number 59154352 for 399 seconds;
 - d. on the 07th April 2015, at 15.06 pm, there was an outgoing call from number 59154352 to number 59431426;
 - e. on the 07th April 2015, at 15.13 pm, there was an outgoing call from number 59154352 to number 59431426 for 08 seconds;
 - f. on the 08th April 2015, at 09.55, there was an incoming call from number 59431426 to number 59154352 for 16 seconds; and
 - g. on the 08th April 2015, at 10.35, there was an incoming call from number 59431426 to number 59154352 for 06 seconds.
14. Mr. Manoj Seesunkur (witness no.13) also produced another covering letter dated the 10th February 2020 and its Itemized Bill (**Doc E1**) for number 59431426. That number is registered on the name of the Ministry. He also stated that mobile number 57903332 is registered on the name of one Jean Paul Pierre Louis. No phone number was registered on the name of either

Mr. Desire Josian Pierre Louis (witness no.6) or Mrs. Indrawatee Pierre Louis (witness no.8) for the month of April 2015.

15. Senior Investigator Seewooduth (witness no.1) is the main enquiring officer. He produced three statements recorded from accused on the (i) 04th May 2017, (ii) 10th August 2017 and (iii) 14th August 2017 respectively (**Doc B, B1 and B2**). He stated that the ICAC started its investigation following a referral from the Ministry. That referral was to the effect that one Mr. Josian Desire Pierre Louis (witness no.6) made a complaint to the Ministry against accused for an alleged solicitation of money. He explained that the Itemized Bills of the phone numbers mentioned by Mr. Josian Desire Pierre Louis (witness no.6) were obtained from relevant service providers. The Itemized Bills show that:

- (i) phone number 59154352 was registered at the Mauritius Telecom on the name of one Mr. Jumnath Bokoram, brother-in-law of Mr. Josian Desire Pierre Louis (witness no.6);
- (ii) on 06th April 2015 there are three calls from the number 59154352 and 59431426 (the official mobile phone number of the Ministry);
- (iii) on 07th April 2015 there were three calls from the number 59154352 and 59431426; and
- (iv) on 08th April 2015 there were two calls from the number 59154352 and 59431426.

16. During the cross-examination of Senior Investigator Seewooduth (witness no.1), it came out that:

- (i) the ICAC never confronted accused with the Itemized Bills;
- (ii) the present case was reported by Mr. Josian Desire Pierre Louis (witness no.6) to the Ministry 16 months after the alleged commission of the offence;
- (iii) the enquiry revealed that Mrs. Marie Josianne Pierre Louis (witness no.7) did not tell the truth when she stated in her statement to the ICAC that the sum of Rs. 5000/- represented her pension money which was retrieved by her husband at the post office and which money was then remitted to the accused;
- (iv) the enquiry revealed that, on the 07th April 2015, there were no calls in the morning to the Ministry despite Mr. Josian Desire Pierre Louis (witness no.6) stating that he made use of a mobile phone;

- (v) despite accused having stated that, during one of the follow-up visits, in presence of Miss Tauckoor, Mr. Josian Desire Pierre Louis (witness no.6) was unhappy and angry and stated “... *ale guetté qui zotte pour faire ...*”, yet no statement was recorded from the said Miss Tauckoor;
- (vi) no statement was recorded from one Artee Jogarah, the sister-in-law of Mr. Josian Desire Pierre Louis (witness no.6), despite latter telling the ICAC that it was the said Artee Jogarah who informed him that an officer of the Ministry had phoned to the effect that they could visit Jessica;
- (vii) no statement was recorded from Mr. Jumnath Bokoram, the brother-in-law of Mr. Josian Desire Pierre Louis (witness no.6), despite him being the registered owner of phone number 59154352;
- (viii) the Ministry had two numbers, namely 52557606 and 59431426. There were six officers who were attached to the CDU office of Goodlands where accused was posted. No statement was recorded from those officers to determine whether they had been using those phone numbers in April 2015;
- (ix) minor Jessica Pierre Louis was discharged by the District Magistrate on 20th April 2015 after looking at several reports including the Probation Report and other reports which were favorable;
- (x) Mr. Josian Desire Pierre Louis (witness no.6) stated that he got a sum of Rs. 2000/- from his employer but no statement was recorded from that employer; and
- (xi) despite Mr. Josian Desire Pierre Louis (witness no.6) telling the ICAC that it was minor Jessica Pierre Louis who told him to go and meet accused, yet no statement was recorded from the said minor Jessica Pierre Louis to confirm same.

17. Mr. Desiré Josian Pierre Louis (witness no.6) stated that in 2014, following a dispute, his daughter, minor Jessica Pierre Louis, was referred by Goodlands police station to the CDU. After four months, he came to know where her daughter was and the CDU organized a meeting with her. When he met her daughter, she told him to meet accused who could arrange for her return. When he met accused at the CDU Office of Goodlands, latter stated “...*faire ene geste, faudrer deux la main batter faire son*”. He understood that he was looking money from him. Accused then told him that the money was needed for the return of her daughter and that a senior officer would take Rs. 10,000/- to do this. Mr. Desiré Josian Pierre Louis (witness no.6) explained that everything, including the solicitation of Rs. 10,000/- by accused, took place at the CDU office of Goodlands, in front on his wife, who was present at all times. He also had several phone conversations with accused on phone number 59154352 which he was using and

which was registered in the name of one Jum Nath Bokoram, his brother-in-law. When accused asked him for the Rs. 10,000/-, he told accused that he will make arrangements to give it to him. He then went to ask money from his mother and mother-in-law since he was in financial difficulty. Thereafter, he went together with his mother to give accused the Rs. 10,000/- in cash outside the CDU office of Goodlands, behind the bus terminal. Mr. Desiré Josian Pierre Louis (witness no.6) identified **photograph Doc C11** as the corridor where accused came to take the money and **photograph Doc C8** as the place where he had his first conversation about the "deal".

18. During cross-examination, Mr. Desiré Josian Pierre Louis (witness no.6) stated that:

- a. he cannot remember the date when he first met accused at the CDU office of Goodlands;
- b. accused told him *"...ene so boss pli lahaut ki li, li li pou manger, sancé li pé faire ene lizage are moi, li pou coze are boss la."* He however evaded to answer whether in his statement to the ICAC he had mentioned a "boss";
- c. he has given statements numerous times as an accused party in larceny, drug, embezzlement and arson cases in which he has already been convicted;
- d. he does not remember the date, year, day and time when accused asked the Rs. 10,000/-;
- e. accused asked him for Rs. 10,000/- and not Rs. 7,000/- as initially mentioned in his statement but he gave accused only Rs. 7,000/-;
- f. he got the Rs. 7,000/- from his mother and mother-in-law but he does know which amount each gave respectively;
- g. accused did not ask him for Rs. 10,000/- when he met him at his office but that it was rather on the phone that accused him that money but he cannot remember the date and time thereof;
- h. both his mother and mother-in-law were only aware that the money was needed to have minor Jessica Pierre Louis return back home;
- i. accused asked for money from his mother as well but cannot remember whether it was on the phone or face to face;
- j. he never gave accused any money. The money was remitted by his mother to accused in an envelope;

- k. if in his statement he stated that he gave accused Rs. 2,000/-, this forms part of the money which was remitted by her mother. He did not give accused any Rs. 2,000/- despite his statement to the ICAC being confronted to him;
- l. he does not remember on which number he was talking to accused;
- m. on the second occasion that he met accused, he phoned latter on his mobile phone but cannot remember which phone he was using. Upon being confronted with the ICAC enquiry quoad the Itemized Bills that shows no such call, he then mentioned that he must have used his mother's phone;
- n. he denied being rude, not cooperating with the CDU officers and even disconnecting the phone despite **Minutes 40 and 55 of Doc F** being confronted to him;
- o. it was another CDU officer, not accused, who had phoned his sister-in-law to tell them to come and meet minor Jessica Pierre Louis initially and it was his daughter who had told him to meet accused;
- p. it is not true when he mentioned in his statement that he did not like the CDU officers making visits at his place;
- q. he did write a letter to the Ministry on the 18th August 2016 in which he mentioned that he had met accused before meeting his daughter and that his version in Court to the effect that he met minor Jessica Pierre Louis first is not correct;
- r. he knows accused beforehand and did meet him and another woman at the CDU office two or three times before and that it is not true when in Court he initially stated that he only met accused for the first time after he met with his daughter;
- s. despite going to Court for one year, he did not inform the Magistrate that accused asked and took money for the return of minor Jessica Pierre Louis;
- t. he went to meet accused in his office several times on the second floor but when his statement that he gave to the ICAC was confronted to him, he stated that he only went once at per that statement;
- u. he met with a secretary from whom he asked to meet accused but that is not mentioned in his statement;

- v. accused told him that he would return his money for him to withdraw the case but that he refused. Despite being asked on numerous occasions when did that happened, he could not remember but stated that accused told him so on the phone but cannot remember when; and
- w. he did not report accused to the ICAC for having phoned and told him that he will return the money because he did not have the means to go to the ICAC.

19. Mrs. Marie Josianne Pierre Louis (witness no.7) is the mother of Mr. Desiré Josian Pierre Louis (witness no.6) and the grandmother of minor Jessica Pierre Louis. She stated that in 2014, minor Jessica Pierre Louis was in a CDU Centre and wanted to return home. Mr. Desiré Josian Pierre Louis (witness no.6) was making arrangements with accused in that respect. Mr. Desiré Josian Pierre Louis (witness no.6) told her that accused had asked money to do the needful but did not tell her what was the amount. She gave Rs. 5,000/- to accused and identified photograph **Doc C10** as showing the place where accused came and met with her and her son and took the money which was in an envelope.

20. During cross-examination, Mrs. Marie Josianne Pierre Louis (witness no.7) stated that:

- a. the Rs. 5,000/- she gave to accused represented her pension but she cannot remember the day or year in which she gave it to accused;
- b. the pension money was taken on her behalf, at the post office, by her husband but she cannot remember when;
- c. she does not remember much of what happened as she getting Alzheimer now when confronted with the fact that, as per the ICAC enquiry, her husband never went to take pension money;
- d. it is true if in her statement she mentioned that only Rs. 4,000/- was from her pension and that she took Rs. 1,000/- from her son to remit to accused; and
- e. it is not true to say that her son phoned accused using her mobile phone on the day she remitted money to accused.

21. Mrs. Indrawatee Pierre Louis (witness no.8) was married to Mr. Josian Desire Pierre Louis (witness no.6). Minor Jessica Pierre Louis is her daughter. She stated that in 2014, minor Jessica Pierre Louis was taken by the CDU following an incident. They did not know where minor Jessica Pierre Louis was. After some time, her husband got a contact and they went to meet accused who took them to the second floor of a building. There, accused told them that

he has a colleague who can do the work and that “...*deux la main batté faire son...*” and that this colleague would take Rs. 10,000/- to get her daughter back. She identified photograph **Doc C8** as showing the place she and her husband met accused on the second floor. During cross-examination, she maintained that accused asked the Rs. 10,000/- in front of her despite being confronted with her statement she gave to the ICAC and in which she had mentioned that the money was not asked, on that day, in front of her but that her husband later told her that accused had asked Rs. 7,000/-.

C. CASE FOR DEFENCE

22. Accused deposed under oath. He stated that everything he mentioned in his three statements (**Doc B, B1 and B2**) is the truth. He explained that he first met Mr. Josian Desire Pierre Louis (witness no.6) on the 06th April 2015 in his office on the second floor of the CDU office of Goodlands. His office is small and had three tables and six officers sharing it. He denied having met Mr. Josian Desire Pierre Louis (witness no.6) at the place shown in photograph **Doc C8** and **C9** which is a conference room used by the psychologist. He never uses that conference room. He also explained that Mr. Josian Desire Pierre Louis (witness no.6) did not come with his wife on that day, else, there would have been a Minute to that effect in the file (**Doc F**). He denied having said “*2 la mais baté*” in front of the wife who was even not there. The Ministry had two mobile phones kept on a table and which was used by all officers. He got the phone number of Mr. Josian Desire Pierre Louis (witness no.6) in the CDU file of Minor Jessica Pierre Louis (**Doc F**). He did not give Mr. Josian Desire Pierre Louis (witness no.6) his number as was mentioned by latter in the letter of complaint he had written to the Ministry. He denied that he phoned Mr. Josian Desire Pierre Louis (witness no.6) and told him that “...*patron pe rod Rs. 10,000/-*”. He also denied that Mr. Josian Desire Pierre Louis (witness no.6) initially gave him Rs. 7,000/- and later gave him the remaining amount as stated in the letter to the Ministry. On the 06th April 2015, he explained that he received a phone call around noon from Mr. Josian Desire Pierre Louis (witness no.6) who stated that he was in Court and querying where he should wait. He phoned Mrs. Chummun and apprised her of same since it was Mrs. Chummun who had asked Mr. Josian Desire Pierre Louis (witness no.6) to come to Court. In 2016, on several occasions, Mr. Josian Desire Pierre Louis (witness no.6) stated that he did not like CDU officers coming to his place for visits. Later, things got worse to even threats towards CDU officers. He denied having asked and taken any money from Mr. Josian Desire Pierre Louis (witness no.6). He also denied having told Mr. Josian Desire Pierre Louis (witness no.6) that he will return the money that he had allegedly taken from him.

23. During cross-examination, accused:

- a. maintained that Mr. Josian Desire Pierre Louis (witness no.6) came to meet him alone on the 06th April 2015 despite part of his second statement to the ICAC, dated the 10th August 2017 (**Doc B1**), allegedly showing the contrary was confronted to him;
- b. stated that before the 07th April 2015, he only met Mr. Josian Desire Pierre Louis (witness no.6). It is only on the 07th April 2015, during a site visit, that he met latter's wife. As he had stated in his first statement (**Doc B**), Mr. Josian Desire Pierre Louis (witness no.6) was accompanied by a lady but he met Mr. Josian Desire Pierre Louis (witness no.6) alone in his office. The lady was waiting outside because his office is small and only one person can be accommodated at a time;
- c. in relation to **Doc E**, explained that on the 06th April 2015, Mrs. Chummun phoned Mr. Josian Desire Pierre Louis (witness no.6) around 10.00/10.30 am to tell him to come to Court before 12.30 pm. Then Mr. Josian Desire Pierre Louis (witness no.6) phoned at 12.19 pm looking for Mrs. Chummun. He took that call and told Mr. Josian Desire Pierre Louis (witness no.6) that he will inform her. He immediately phoned Mrs. Chummun and apprised her of same. Then, as from 16.00 pm, he was on call for emergency matters. When he saw several missed calls, he phoned on that number at 17.28 pm and Mr. Josian Desire Pierre Louis (witness no.6) started telling him his problems again. He had to explain Mr. Josian Desire Pierre Louis (witness no.6) the whole procedure all over again and that this explains the 6 minutes and 38 seconds as per **Doc E**. He also stated that missed calls are not reflected in the Itemized Bill;
- d. stated that he met Mr. Josian Desire Pierre Louis (witness no.6) on the 06th April 2015 and informed him to make his request for the discharge of minor Jessica Pierre Louis in Court. On the following day, he made a site visit together with other officers at the house of Mr. Josian Desire Pierre Louis (witness no.6). However, in **Minute 9** of **Doc F**, it is not mentioned who accompanied him but that "*officers*" is mentioned therein;
- e. stated he first met Mrs. Marie Josianne Pierre Louis (witness no.7) when he made a site visit on the 07th April 2016. However, this it is not mentioned in **Doc F** because the objective was not to meet and interview anyone but merely to see if the house was in order for the child to come back. He conceded that in **Minutes 24, 31** and **49**, mention is made of people who were met but denied that he only first met Mrs. Marie Josianne Pierre Louis (witness no.7) when latter gave her money on the 07th April 2015;
- f. stated that he did mention in his statement dated the 04th May 2017 (**Doc B**) that Mr. Josian Desire Pierre Louis (witness no.6) told him "*...alle guetter ki zot pou faire contre moi...*". He explained that latter stated that in a loud and menacing tone. This should have been included in the Minutes by Miss Tauckoor but she did not. It was latter who was putting

all the Minutes because she was the Family Welfare Protection Officer handling the follow up. They did not report the incident because the parents were already distressed and the interest of the child was at stake; and

- g. stated that Mr. Josian Desire Pierre Louis (witness no.6) put those allegations against him because he was not happy with the follow up that CDU officers were doing further to the discharge of Jessica.

D. SUBMISSIONS

- 24. The Court has been favoured with elaborate written and oral submissions from Learned Counsel for the prosecution and Learned Counsel for accused. Those submissions were mainly geared towards why the prosecution witnesses and accused should or should not be believed. The Court has carefully taken into consideration those submissions and the whole of the evidence on record in respect of its analysis to follow.

E. THE LAW

- 25. **Section 7 (1) of the POCA** provides:

“7. Public official using his office for gratification

(1) Subject to subsection (3), any public official who makes use of his office or position for a gratification for himself or another person shall commit an offence and shall, on conviction, be liable to penal servitude for a term not exceeding 10 years.”

- 26. In the present case, the prosecution bears the burden of proving, beyond reasonable doubt, that accused:

- (i) was a public official;
- (ii) willfully, unlawfully and criminally made use of his office;
- (iii) for a gratification, i.e., he solicited a sum of Rs. 10,000/- from one Mr. Désiré Josian Pierre Louis after making the latter believe that a Superior Officer at the CDU has solicited that sum of money to activate the process of discharge of Jessica Pierre Louis from the shelter of the CDU.

F. ANALYSIS

I. PUBLIC OFFICIAL

27. **Section 2 of the POCA** provides that:

“public official” - (a) means a Minister, a member of the National Assembly, a public officer, a local government officer, an employee or member of a local authority, a member of a Commission set up under the Constitution, an employee or member of a statutory corporation, or an employee or director of any Government company;” (underlining is mine)

28. As per the testimony of Mrs. Pratiba Ramlagun (witness no.12) and **Doc A**, accused is employed as Child Care Worker at the Ministry since the 01st June 2009. He is, as at date, still in employment. As such, it is undisputed that accused is a Public Official within the meaning of **section 2 of the POCA**.

II. WILLFUL AND UNLAWFUL USE OF HIS OFFICE

III. FOR A GRATIFICATION

29. The case for the prosecution, in relation to these two elements of the offence, rests mainly on the testimonies of Mr. Josian Desire Pierre Louis (witness no.6), Mrs. Marie Josianne Pierre Louis (witness no.7) and Mrs. Indrawatee Pierre Louis (witness no.8). The Court shall hereunder proceed to assess the credibility of those witnesses and thereafter decide as to the weight to be attached to their respective testimonies, bearing in mind the version of accused under oath. The Court is also alive to the fact all those three witnesses are related. Mrs. Indrawatee Pierre Louis (witness no.8) is the mother of Mr. Josian Desire Pierre Louis (witness no.6). Mr. Josian Desire Pierre Louis (witness no.6) was married, at the material time, with Mrs. Indrawatee Pierre Louis (witness no.8) and they are the parents of minor Jessica Pierre Louis.

30. In doing such an assessment, the Court stands guided by the following principles:

- a. *"The acceptance of the evidence of a witness is a matter primarily within the sovereign appreciation of fact of the trial magistrate ..."* – **M. A. Oodally v The ICAC and anor (2024) SCJ 355;**
- b. *"The credibility of a witness should not be assessed in isolation from the other evidence in the case which is capable of throwing light on its reliability. The following reasoning was applied by the Judicial Committee of the Privy Council in Attorney General of Hong Kong v Wong Muk-ping [1987] 2 All ER 488:-*

"Before examining these passages further, their Lordships find it helpful first to consider whether the suggested two-stage approach is one which good sense or judicial experience in assessing the credibility of evidence supports. There may, of course, be extreme cases where a witness under cross-examination is driven to admit that this evidence-in-chief was false. Such triumphs for the cross-examiner are more frequently seen in fictional courtroom dramas than in real life. But in such an extreme case, if it should happen, there would no longer be any question of credibility. Evidence which a witness first gives and then admits to have been false is no longer his sworn testimony and, if a criminal prosecution depends on it, the judge should direct an acquittal. But, apart from such extremes, any tribunal of fact confronted with a conflict of testimony must evaluate the credibility of evidence in deciding whether the party who bears the burden of proof has discharged it. It is a commonplace of judicial experience that a witness who makes a poor impression in the witness box may be found at the end of the day, when his evidence is considered in the light of all other evidence bearing on the issue, to have been both truthful and accurate. Conversely, the evidence of a witness who at first seemed impressive and reliable may at the end of the day have to be rejected. Such experience suggests that it is dangerous to assess the credibility of the evidence given by any witness in isolation from other evidence in the case which is capable of throwing light on its reliability; it would to their Lordships' minds, be surprising if the law requiring juries to be warned of the danger of convicting on the uncorroborated evidence of a witness in one of the suspect categories should have been developed to the point where, in some cases, the jury must be directed to make such an assessment of credibility in isolation...Their Lordships can see no sense in the proposition that the jury should be invited, in effect, to reject his evidence without first considering what, if any, support it derives from other evidence capable of providing corroboration." – **See Oodally (supra);**

- c. *"The mere fact that the evidence of a particular witness contains inconsistencies is not a ground for rejecting the evidence of that witness. Rather the Court should consider whether the*

inconsistencies are so material that the whole of the witness evidence should be rejected and decide each case on its own merits.” – See Oodally (supra);

- d. *“... It is well established that the Court will not outright reject the evidence of a deponent merely because it contains inconsistencies. It has a duty to analyse the whole testimony of the deponent taking into consideration, inter alia, the lapse of time between the alleged offence and the time he gives evidence, his age, his apparent mental state and his demeanour in Court. The learned magistrate has then to decide whether the inconsistencies were so material that the whole of the deponent’s evidence should be rejected; or whether they were of such a nature that they did not affect his credibility. No doubt each case has to be decided on its own merit. ...” – Hauradhun v The State (2010) SCJ 183;*
- e. *“Inconsistencies must therefore be measured by the yardstick of seriousness and materiality which must be linked with the overall issue of truthfulness. Not every inconsistency is serious and material and inconsistencies need not affect per se the appreciation by a trial Court that a particular witness’s testimony is true.” – Saman v The State (2004) SCJ 3;*
- f. *“It is a fallacy that evidence should be treated as a monolithic structure which must be either accepted or rejected en bloc. On the contrary, it is the function of a trained magistrate to weigh and to criticize testimony so as to distinguish what may safely be accepted from what is tainted or doubtful.” – Ramcharran v The Queen (1977) MR 226;*
- g. *“Giving evidence in Court is not a memory test and failure to recollect with precision all the circumstances and details of an incident is understandable. What is important is for the Court to be satisfied that a witness is speaking the truth in substance.” – Vythilingum v The State (2017) SCJ 379;*
- h. *“It is not uncommon, before our Courts, for witnesses to give a version in court which, upon close scrutiny, is either inconsistent with or contains certain contradictions in comparison to statements made on previous occasions by him or her. This is not an automatic ground to reject the testimony of the witness in toto. Rather, the situation calls for a close analysis by the Magistrate who is hearing the case.*

If the contradictions or inconsistencies are on minor matters, or relate to peripheral issues or relate to matters unconnected with the case and do not affect the substance of the witness’s testimony, the Magistrate can choose to discard or ignore those inconsistencies and contradictions; at the same time, if the substance of the testimony of the witness is credible on the whole, there is nothing wrong for the Magistrate to act on it to convict the appellant.

On the other hand, if the inconsistencies and contradictions are on matters of substance to such an extent that it would render a conviction unsafe, the Magistrate is in duty bound to reject the

testimony of the witness and to give the appellant the benefit of the doubt should there be no other evidence to sustain a conviction.

*However, the point that we wish to stress at this stage, is that the analysis referred to above should be quite clear in the judgment of the trial Magistrate. It is not sufficient for the Magistrate to relate the facts, or make a few comments or to make imputations that, upon being read in between the lines, would lead to one or another conclusion. The principle of transparency requires that the reader, be it the appellant or the victim or any other person perusing the judgment, should be able to see clearly from it why the Magistrate chose to convict or to give the appellant the benefit of the doubt. This is not to say that the judgment of the Magistrate should be excessively detailed or long; but the reasoning on the issues of inconsistencies and contradictions must be clear.” – **Rajbally v The State (2016) SCJ 340**; and*

- i. *“Inconsistencies of any kind or departures from the original complaint cannot invariably be placed on account of the fact that deposing in court is not an exercise of memory test and to simply brush them aside. Where the trial court is accepting a particular version in the face of contradictions and inconsistencies it is the duty of the trial court to explain which part of the witness’ testimony is being accepted and the reasons thereof. It is a rule of thumb that a witness, victim of an attempt against his or her person, is expected to be consistent in the manner the assault was committed and when it comes to the material facts and circumstances leading to the commission of the offence, any inconsistency in the actual perpetration of the impugned act is a factor to be considered against credibility.” - **Neeroo v The State (2023) SCJ 116***

a. the solicitation of Rs. 10,000/-

31. The Court is alive to the principle enunciated in **Joomeer v The State (2013) SCJ 413** to the effect that: *“The opprobrium lies in the abuse or misuse of the office or the position as a public officer for a gratification. Whether the gratification is received or accepted is not part of the elements of the offence even if the reception or the acceptance adds further evidential weight to prove that the abuse of office was “for gratification.”*
32. As per the particulars of the Information, it is averred that accused solicited Rs. 10,000/- from Mr. Josian Desire Pierre Louis (witness no.6). That solicitation of Rs. 10,000/- is therefore central to the case for the prosecution. The Court needs to analyze the whole of the evidence on record, including the alleged solicitation by and remittance of money to the accused, to assess the credibility of the prosecution witnesses.
33. Accused gave a first statement to the ICAC on the 04th May 2017 (**Doc B**). In that statement, the version of Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis

(witness no.8), in respect of the act of solicitation, was confronted to accused. The relevant extract is hereunder reproduced:

“Q15 : Si missier Pierre Louis et so madan aussi dire qui le 06/04/15 mo ti dire zotte sa banne paroles la ‘deux la main bate faire son, moi mo pas bisin nanien pou moi, mais donne moi l’argent pou mo patron qui pou dresse partout au pli vite.’

A15 : sa bannes paroles la jamais mo finne prononce sa ni avec missier Pierre Louis ni avec aine lotte dimoune.

...

Q18 : Si missier Pierre Louis dire qui jour qui li ti vinne joinde moi dans bureau CDU Goodlands, le même jour, mo ti telephone li lors so portable ?

A18 : Mo pas rappelle sipa mo ti telephone missier Pierre Louis sa jour la.

Q19 : Si missier Pierre Louis dire qui durant sa l’appel telefonique la, mo finne dir li sa banne paroles la ‘demarche pou tire Jessica la, patron pe dire li pou coute dix milles roupies, case conte ou madame tou pou fini rayer, pas pou mette dans dossier’ et qui pas pou aina aucaine objection de la part de CDU dans la cour pou ki Jessica retourne lacaze.

A19 : Sa banne paroles la, jamais mo finne dire sa missier Pierre Louis.”

34. From the above extract of **Doc B**, the version which Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8) gave to the ICAC is that on the 06th April 2015, accused met them in his office and told them “...*deux la main bate faire son, moi mo pas bisin nanien pou moi ...*” and that accused asked for money to be given to his “*patron*”. The Rs. 10,000/- was never solicited by accused in that office in presence of both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8). Rather, it was allegedly asked by accused, on the same day, on the phone from Mr. Josian Desire Pierre Louis (witness no.6) as per **Question 19** of the above extract of **Doc B**.

35. In Court, the testimony of Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8) do reflect their version to the ICAC as per **Question 15** to the effect that accused stated, during a meeting at the CDU office of Goodlands, “... *deux la main batté faire son ...*”. However, when it comes to the central issue of the solicitation of Rs. 10,000/- (as per the Information), Mr. Josian Desire Pierre Louis (witness no.6), during examination-in-chief, in unequivocal terms, stated that accused asked him for Rs. 10,000/- in the office itself in presence of his wife, Mrs. Indrawatee Pierre Louis (witness no.8). The present case is not one whereby it sufficed that Mr. Josian Desire Pierre Louis (witness no.6) was able to state that Rs. 10,000/- was solicited by accused from him and that any inconsistency or contradiction as to the where, how, when and in front of whom that solicitation of Rs. 10,000/- was made would be peripheral issues not affecting his credibility. On the contrary, for the reasons to

follow, the where, how, when and in front of whom that solicitation of Rs. 10,000/- are material considerations which must be taken into account given the testimonies of Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8) on this central issue.

36. During cross-examination, Mr. Josian Desire Pierre Louis (witness no.6) initially maintained that the Rs. 10,000/- was asked by accused in the office itself. It is only when he was confronted with his statement to the ICAC, in which he had mentioned that the Rs. 10,000/- was solicited on the phone, that he suddenly changed his version to now say that accused solicited that money on the phone, and therefore not in presence of his wife. The relevant extract of the **Transcript of Proceedings of the 07th March 2023, pages 55 to 57**, is hereby reproduced:

“MISS MOONSHIRAM:

Monsieur Pierre Louis, sa l’argent ki oupé dire lin demande pu Rs. 10,000/- là, kuma, kan, kot li ti demanne ou sa, ki coté ?

MR DESIRE JOSIAN PIERRE LOUIS :

Bureau

MISS MOONSHIRAM:

Dans bureau, face à face, li ti demanne ou ?

MR DESIRE JOSIAN PIERRE LOUIS :

Oui

MISS MOONSHIRAM:

Dans bureau, face à face, li ti dimanne ou ?

MR DESIRE JOSIAN PIERRE LOUIS :

Oui

MISS MOONSHIRAM:

Si dans ou lénquête ou dire ki li telephone ou li ti dire ou donner, eski li vrai, li pas vrai ?

MR DESIRE JOSIAN PIERRE LOUIS :

Non, bé bureau noune cozé, après noune gagne conversation lors téléphone oussi.

...

MISS MOONSHIRAM:

Kot line dimanne casse là, lors téléphone ou dans bureau ?

MR DESIRE JOSIAN PIERRE LOUIS :

Lors téléphone.”

37. Coincidentally, Mrs. Indrawatee Pierre Louis (witness no.8), also stated, during examination-in-chief, that the Rs. 10,000/- was solicited by accused in latter’s office and in her presence. Relevant extract at **page 16 of Proceedings of the 02nd May 2023** is hereunder reproduced:

“... Then Mr. Maunick told us he has a colleague who can do the work and said “deux la main batté faire son”. He said that his colleague would take Rs. 10,000/- to get their daughter back.”

38. Mrs. Indrawatee Pierre Louis (witness no.8) maintained that version during cross-examination despite being confronted with her statement to the ICAC in which she had rather mentioned that it was her husband who told her later that accused asked for Rs. 7,000/-. As per her statement to the ICAC, as it came out during cross-examination, the solicitation of Rs. 10,000/- never took place in her presence. Both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8) giving an identical account, in Court, of where, how, when and in presence of whom the alleged solicitation of Rs. 10,000/- occurred, i.e., made by accused in his office in presence of both of them and clearly inconsistent with their version to the ICAC, raises serious doubt as to their credibility.

39. The Court finds it appropriate, at this stage, to quote what was stated in **N. Joomeer v The State (2013) SCJ 413**:

“An inconsistent statement is where a witness deposes to something in course of his evidence which is not consistent with what he had said in a previous out-of-court statement. What is involved here is the comparison between a previous out of court statement and a court deposition. A contradiction is a different matter. It is what he says differently at one point in his deposition from what he

stated earlier at another point in his deposition. What is involved here is the comparison between his deposition at one point with his deposition at another point in course of his examination, his cross examination or his re-examination."

40. Mr. Josian Desire Pierre Louis (witness no.6) was not only inconsistent but also contradicted himself during cross-examination when he finally conceded that the Rs. 10,000/- was asked on the phone, as per his statement to the ICAC, and not in the office itself, as stated by him during examination-in-chief and initially maintained during cross-examination. On the other hand, Mrs. Indrawatee Pierre Louis (witness no.8) was clearly inconsistent from her statement to the ICAC on this issue not only as to the place but also as to the amount, which in her statement, was rather Rs. 7,000/-. The doubts as to their credibility is clearly apparent since eventually the Court is left with Mr. Josian Desire Pierre Louis (witness no.6) conceding, only during cross-examination, that the solicitation of Rs. 10,000/- was made on the phone as per his statement to the ICAC, whilst Mrs. Indrawatee Pierre Louis (witness no.8) is adamant that it occurred in the office in presence of both of them.
41. Also, during cross-examination, Mr. Josian Desire Pierre Louis (witness no.6) merely conceded that the solicitation of Rs. 10,000/- was made on the phone. He was not able to state and did not remember when that happened despite in his version to the ICAC, as was confronted to accused in **Doc B**, he was very clear that it occurred on the same day he and his wife had met accused in the CDU office. It is however the contention of the prosecution that the phone calls, as per the Itemized Bill (**Doc E**), between phone number 59154352 (which number was used by Mr. Josian Desire Pierre Louis (witness no.6)) and 59431426 (number of the CDU office of Goodlands), on the 06th April 2015, supports the version of Mr. Josian Desire Pierre Louis (witness no.6) to the effect that the solicitation of Rs. 10,000/- was made on the phone on that day.
42. In respect of those phone calls, accused explained that on the 06th April 2015, Mrs. Chummun phoned Mr. Josian Desire Pierre Louis (witness no.6) around 10.00/10.30 am to tell him to come to Court before 12.30 pm. Then Mr. Josian Desire Pierre Louis (witness no.6) phoned at 12.19 pm looking for Mrs. Chummun. Accused explained that he took that phone call and told Mr. Josian Desire Pierre Louis (witness no.6) that he will inform Mrs. Chummun, which he did immediately. Accused then explained that after 16.00 pm, he was on call for emergency matters. When he saw several missed calls, he phoned on that number at 17.28 pm. Mr. Josian Desire Pierre Louis (witness no.6) thereon started telling him his problems again. He had to explain the whole procedure all over to him and that conversation took 6 minutes and 38 seconds. Now, as per **Doc E**, on the 06th April 2015, there was (i) an incoming call on 59154352 from 59431429 at 10.22, (ii) an outgoing call from 59154352 to 59431429 at 12.19 and (iii) an incoming call on 59154352 from 59431429 at 17.28. The prosecution never challenged the explanation of accused either through Mrs. Chummun or Mr. Josian Desire Pierre Louis (witness no.6) who merely stated, at the stage of cross-examination, that the solicitation of Rs.

10,000/- was done on the phone. Inconsistency in or not remembering the date and time of the occurrence of a fact in issue may or may not be material quoad the credibility of a witness. In the present case, taking into account the specific explanation of accused with respect to the different phone calls on the 06th April 2015, it was important for the prosecution to elicit, from Mr. Josian Desire Pierre Louis (witness no.6), whether the solicitation on the phone happened on that very same day and at approximately what time especially when the first two phone calls involved one Mrs. Chummun. Mr. Josian Desire Pierre Louis (witness no.6) merely stating that the solicitation of Rs. 10,000/- was made on the phone was not sufficient in the present circumstances.

43. It undisputed that accused, for the first time in Court, explained that he saw those missed calls and claimed that missed calls are not normally reflected in an Itemized Bill. It is the submission of the prosecution that since accused has failed to adduce any independent evidence to that effect, accused has failed to substantiate his explanation to the effect that missed calls are not reflected in an Itemized Bill. Such a proposition is simple untenable. The burden of proof is always on the prosecution to prove the guilt of an accused. Failure to confront accused with the Itemized Bill (**Doc E**) during the enquiry cannot, now, be put on the shoulders of the accused. The consequence of such a failure resulted in him only giving his explanation in relation to that Itemized Bill (**Doc E**) in Court. Accused clearly made this a live issue since **Doc E**, in fact, do not, at all, reflect any missed calls. To require accused to bring independent evidence to prove this fact in issue would amount to shifting the burden on the accused to prove his innocence. This clearly cannot be so.
44. It is also the submission of the prosecution that accused, in **Doc B**, could not recall if he had either phoned Mr. Josian Desire Pierre Louis (witness no.6) or Mrs. Indrawatee Pierre Louis (witness no.8). In **Doc B2**, accused thereafter stated that he must have probably phoned and talked with Mr. Josian Desire Pierre Louis (witness no.6) in relation to the procedure and information in respect of minor Jessica Pierre Louis. The prosecution therefore submits that it is highly suspicious that accused could remember, suddenly in Court, with precision the different phone calls of the 06th April 2015 as per **Doc E**. The short answer to this, is that, it is precisely why the Itemized Bill (**Doc E**) should have been confronted to accused during the enquiry. This would have enabled him, to explain, with precision thereat, of the different phone calls. Being favoured with a full brief for the purposes of the trial, the least expected from him would be such precision as to those different phone calls now that he is aware of the contents of the Itemized Bill (**Doc E**). In anyway, accused did not deny, in **Doc B**, that he had ever phoned those two persons. He merely stated that he did not remember. But he also made in clear in **Doc B** that he does call parents, when necessary, in any particular case. Moreover, his explanation, in Court, in relation to the third phone call at 17.28pm in **Doc E** tallies with his explanation in **Doc B2** to the effect that he and Mr. Josian Desire Pierre Louis (witness no.6) must have probably talked, on the phone, in relation to procedure and information for minor

Jessica Pierre Louis. In those circumstances, it would amount to surmising that something was suspicious because the phone call lasted for 399 seconds, the more so when Mr. Josian Desire Pierre Louis (witness no.6) was unable to state on which day and at what time approximately the solicitation of Rs. 10,000/- took place on the phone.

45. The presence of Mrs. Indrawatee Pierre Louis (witness no.8) during the alleged solicitation of Rs. 10,000/- by accused, on the 06th April 2015, in the CDU office of Goodlands, appears equally doubtful. As explained above, this was never her version to the ICAC. Her version to the ICAC, as it came out during cross-examination, shows that it was Mr. Josian Desire Pierre Louis (witness no.6) who later told her that accused asked for Rs. 7,000/-. She never told the ICAC, during the enquiry, that accused had solicited Rs. 10,000/- in front of her in the CDU office of Goodlands. She told this for the first time in Court. Furthermore, **Minute 8 of Doc F**, which was inserted by accused, reflects the following:

“Mr Pierre Louis (father) attended office on 06/04/15 reporting that he is very happy after receiving a visit with his daughter on Saturday 04/04/15. He now wants his daughter back under his care and custody. As the ICO appearing today on 06/04/15 @ Riv du Rempart court, Mr. Pierre Louis was advised to attend court to make request in court.”

46. There is no mention that Mrs. Indrawatee Pierre Louis (witness no.8) was present during that meeting. It is apposite that accused, even before he was confronted with the version of Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8), had already explained in his first statement to the ICAC dated the 04th May 2017 (**Doc B**), that Mrs. Indrawatee Pierre Louis (witness no.8) was not present during that meeting. The relevant extract is as follows (**Doc B**):

*“Q9 : Est-ce qui ou conne aine missier qui appelle Desire Josian Pierre Louis ?
A9 : Oui, mo finne conne sa missier la dans mois Avril 2015 cotte li ti vinne dans bureau CDU Goodlands pou faire demande pou recupère so tifi qui appelle Jessica Pierre Louis qui ti pé reste dans aine shelter CDU depi decembre 2014 suite a aine cas de Assault ki Jessica ti raporté contre so mama a la police de Goodlands.*

*Q10 : Qui ou finne dire missier Pierre Louis ?
A10 : Mo finne informe missier Pierre Louis so droit en tant ki papa pou faire demande la cour pou so zenfant retourne lacaze après ki missier Pierre Louis tu demande moi procedure pou gagne la garde so zenfant. Sa jour la missier Pierre Louis ti accompagné par aine madam ki mo pas pé rappelle mais juste missier Pierre Louis ki ti rente dans bureau CDU et ti pé cause avec moi. Mo pas pé rappelle sipa ti aina lozot officier CDU ti present durant mo conversation.”*

47. Accused, in Court, maintained that Mrs. Indrawatee Pierre Louis (witness no.8) was not present when he met Mr. Josian Desire Pierre Louis (witness no.6) in his office on the 06th April 2015. This is why there is no mention of her name in **Minute 8** of **Doc F**. Now, it is noteworthy that the prosecution undevoured, during the cross-examination of accused, to show that if things are missing in the Minutes of **Doc F**, it necessarily did not happen. Relevant extract of **Transcript of Proceedings of the 04th June 2024 (pages 36 and 37)** is hereunder reproduced:

“Q : Maintenant mo pou dire ou prend tout minutes ki ena ladan, montrer moi ene cot faire mention ki Madame Josiane Pierre Louis ti présent pendant site visit la. Prend ou letan, go through tout bane minutes ou rode ene ladan. ”

A : Non mo coner

...

Q : Moi mo pou dire ou Monsieur Maunick, pas pou ena parski jamais ou pane zouene li pendant site visite, N'est-ce pas ?

A : Mon zouene li, so garçon so lakaz ça monsieur.

Q : Mo alle d'après minutes, mais pourtant d'après minutes pas montrer li.

A : Exactement

Q : La poursuite ena raison pou croire ki ou pan zouene li, ou pan mette minute par rapport à Madame Josiane Pierre Louis parski ou pane zouene li à aukene moment dans ça site visite la. Ou pou d'accord ?

A : Dans site visit la mone zouene papa la aussi, mone zouene maman la aussi. ”

(Underlining is mine)

48. Applying the same reasoning to the explanation of accused and **Minute 8** of **Doc F**, it would equally mean that Mrs. Indrawatee Pierre Louis (witness no.8) was not present during the meeting of the 06th April 2015 especially when she only stated, for the first time in Court, that the solicitation of Rs. 10,000/- happened in her presence. That is why her name does not appear in **Minute 8** of **Doc F**. All this cannot but cast further doubts on the version of the prosecution.

49. Therefore, though the same words were used by both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8), i.e., “...deux la main bater fair son ...”, the version of Mrs. Indrawatee Pierre Louis (witness no.8), for the reasons explained above, cannot corroborate the version of Mr. Josian Desire Pierre Louis (witness no.6) in respect of the alleged solicitation of Rs. 10,000/- as submitted by the prosecution.

b. the remittance

50. The version of both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Marie Josianne Pierre Louis (witness no.7), in relation to the remittance, was confronted to accused during the course of the enquiry (**Doc B**) as follows:

“Q24 : Si madam Josianne Pierre Louis dire ki sa jour la en presence so garcon Josian, li ti remette moi la somme de cinq milles roupies en cinq billets de mille roupies dans ene l’enveloppe. Qui ou ena pou dire ? ”

A24 : Sa li tous à fait fausse jamais mo finne joinde are zotte.

Q25 : Si missier Pierre Louis aussi dire qui mo fine compte l’argent la dans so présence même et mo pas ti d’accord avec montant qui ti aina. Qui ou aina pou dire ?

A25 : Sa li menti sa. Mo pas finne recevoir aucaine l’enveloppe ni l’argent.

Q26 : Si missier Pierre Louis dire ki sa même jour la après environ quelques minutes, li finne remette moi la somme de deux milles roupies qui ti en billet de mille roupies ki mo finne prend. Qui ou aina pou dire ! Sa moment la li ti tous seule avec moi quand li ti remette moi sa l’argent la.

A26 : Sa li complètement faux.

Q27 : Suite à l’argent deux milles roupies qui missier Pierre Louis dire ki li ti remette moi, mo finne dire li sa banne paroles la «Ok, pas gagne tracas, mo pou faire tous demarche pli vite pou retourne Jessica lacaze». Qui ou aina pou dire ?

A27 : Sa li fausse sa.

51. According to their version to the ICAC, as per the above extract:

(i) Mrs. Marie Josianne Pierre Louis (witness no.7) remitted Rs. 5,000/- to accused in an envelope in presence of Mr. Josian Desire Pierre Louis (witness no.6);

(ii) accused was not happy with that sum; and

(iii) after some minutes, Mr. Josian Desire Pierre Louis (witness no.6) remitted to accused a further sum of Rs. 2,000 in cash.

52. During their testimony in Court, both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Marie Josianne Pierre Louis (witness no.7) stated that money was given, behind the CDU office of Goodlands, to the accused by Mrs. Marie Josianne Pierre Louis (witness no.7). However, during examination-in-chief itself, despite Counsel for the prosecution asking how much money was in the envelope, Mr. Josian Desire Pierre Louis (witness no.6) stated that there was no envelope and that Rs. 10,000/- was given to accused in cash. He further stated

that they immediately went home after that. Then, during cross-examination, Mr. Josian Desire Pierre Louis (witness no.6) contradicted himself by stating that it was rather Rs. 7,000/- that was given to accused by his mother. And more importantly, despite the version he gave to the ICAC being confronted to him, Mr. Josian Desire Pierre Louis (witness no.6) was adamant that he did not give any Rs. 2,000/- in cash to accused later after some 10 minutes.

53. As for Mrs. Marie Josianne Pierre Louis (witness no.7), though stating that she remitted Rs. 5,000/- to accused in an envelope, she could not even state where she got the Rs. 5,000/-. She initially stated that the Rs. 5,000/- was her pension money which her husband took from the post office. When confronted with the fact that this cannot be so because the ICAC investigation had revealed that her husband did not collect any pension money at the post office on her behalf, she changed her version and stated that she took the money from her husband. Thereafter, she again changed version to state, during cross-examination, that Rs. 4,000/- was her pension money and Rs. 1,000/- was given to her by Mr. Josian Desire Pierre Louis (witness no.6). However, Mr. Josian Desire Pierre Louis (witness no.6) never stated, during his testimony, that he gave any Rs. 1,000/- to Mrs. Marie Josianne Pierre Louis (witness no.7) to be remitted to accused.

54. Creating further doubts in their versions is the fact that Mr. Josian Desire Pierre Louis (witness no.6), in unequivocal terms, stated that accused also asked money from his mother, Mrs. Marie Josianne Pierre Louis (witness no.7). He however could not even tell whether this was done by accused on the phone or face to face with his mother. And more importantly, this was flatly denied by Mrs. Marie Josianne Pierre Louis (witness no.7) who stated that she had never spoken to accused except having remitted money to him. Now, it has always been the case for the prosecution that the remittance was made on the 07th April 2015 since **Question 22** of the statement of accused dated the 04th May 2017 (**Doc B**) reflects the following:

“Q22: Si missier Pierre Louis dire qui le lendemain matin qui li ti joinde moi au bureau CDU Goodlands, li ti re vinne guette moi en compagnie de so mama dans aine couloir en face du batiment CDU Goodlands, Qui ou aina pou dire !”
(Underlining is mine)

55. Mr. Josian Desire Pierre Louis (witness no.6) stated that he phoned accused on that day in view of the remittance of the money. However, he could not remember which mobile phone he used to contact accused. Upon being confronted with the ICAC enquiry that revealed no phone calls in the morning on that day, from the mobile phone he was using to contact accused, he stated that he must have used his mother’s phone to that effect. However, again, Mrs. Marie Josianne Pierre Louis (witness no.7) flatly denied that Mr. Josian Desire Pierre Louis (witness no.6) had used her phone to contact accused. On the contrary, Mrs. Marie Josianne Pierre Louis (witness no.7) rather stated that Mr. Josian Desire Pierre Louis (witness no.6) used his own phone to contact accused. However, the Itemized Bill (**Doc E**) shows that that there was no such phone call from number 59154352 to 59431429 or to the private number of accused which was

57911051 in the morning of the 07th April 2015. It was even not elicited, either from Mr. Josian Desire Pierre Louis (witness no.6) or Mrs. Marie Josianne Pierre Louis (witness no.7), as to which phone number Mrs. Marie Josianne Pierre Louis (witness no.7) was using at that time.

56. Although testimony in Court is not a memory test and that not all inconsistencies or contradictions are material, it is difficult for the Court to turn a blind eye on the fact that Mr. Josian Desire Pierre Louis (witness no.6) was not able to come to proof as to the amount of money that was allegedly remitted to accused. From Rs. 10,000 to Rs. 7,000/ and thereafter Rs. 5,000/-, he was simply not sure. According to him, the money remitted to accused was given by both his mother and mother-in-law. But he could not even state how much money was given by each of them and his answer was “*Kan li vini ou ava demande li*” (**page 52 of Transcript of the 07th March 2023**). He was also unwavering that he did not give accused any Rs. 2,000 later on the very same day after Mrs. Marie Josianne Pierre Louis (witness no.7), remitted money to accused. He even attempted to show that he had phoned accused on that day using his mother’s phone and that accused had asked money from his mother as well, all of which were denied by Marie Josianne Pierre Louis (witness no.7). Even the Itemized Bill (**Doc E**) does not reflect any such call in the morning. All this creates further doubts on the credibility of both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Marie Josianne Pierre Louis (witness no.7). Moreover, Mrs. Marie Josianne Pierre Louis (witness no.7) could not even explain the simple question of where she got the Rs. 5,000/- that she gave to accused. From the Rs. 5,000/- being her pension money, to the money being that of her husband, to finally Rs. 4,000/- being her pension money and Rs. 1,000/- being the money of Mr. Josian Desire Pierre Louis (witness no.6), she was unable to give a plausible explanation. Mr. Josian Desire Pierre Louis (witness no.6) on the other hand, clearly stated that he did not give any money to his Mrs. Marie Josianne Pierre Louis (witness no.7).
57. Clearly, the doubtful circumstances surrounding the remittance, as explained above, cannot add “... *further evidential weight to prove that the abuse of office was “for gratification.”*” – See **Joomeer (Supra)**. On the contrary, those doubtful circumstances further negatively affects the whole case of the prosecution.

c. the photographs

58. As per the testimony of Chief Investigator Chung Yen (witness no.2) and the statements recorded from accused (**Doc B, B1 and B2**), it is undisputed that the photographs (**Doc C**) taken in presence of Mr. Josian Desire Pierre Louis (witness no.6), Mrs. Marie Josianne Pierre Louis (witness no.7) and Mrs. Indrawatee Pierre Louis (witness no.8), were never confronted to accused during the enquiry. Accused, as a consequence, only gave his version, in relation to those photographs, in Court.

59. Accused explained that he never met Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8), as were shown by them, in photographs **Doc C8** and **Doc C9** because the place depicted in those photographs is not his office. It is rather a conference room used by the CDU's phycologist and that he never uses this place. It is noteworthy that accused did not deny meeting Mr. Josian Desire Pierre Louis (witness no.6) on the 06th April 2015. However, he explained that he met him alone in his office, i.e., Mrs. Indrawatee Pierre Louis (witness no.8) was not present. Therefore, the place where that meeting took place is highly relevant the more so when the presence of Mrs. Indrawatee Pierre Louis (witness no.8) during that meeting, as already explained above, is doubtful. It also came out during the cross-examination of Mr. Josian Desire Pierre Louis (witness no.6) that he met with a secretary who thereafter made him meet accused on that day. Accused explained that his office is small, is shared by six officers and that these officers have to leave if he has to meet someone due to confidentiality issues. During the enquiry, it was only put to accused that Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8) allegedly stated that they met him, on the 06th April 2016, in the CDU Office of Goodlands. Surely if **Doc C8** and **C9** had been shown to him, it would have been evident that the place depicted in **Doc C8** and **C9** is not accused office but a conference room used by the CDU's phycologist. It would have been equally evident that the version of the officers sharing accused office and the CDU's phycologist, as the only person using that conference room as per accused testimony, were highly relevant to verify accused version as to whether he did meet Mr. Josian Desire Pierre Louis (witness no.6), alone in his office and whether that conference room is only used by the CDU's phycologist. Such relevance is more glaring considering the fact that Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Indrawatee Pierre Louis (witness no.8) did show the same spot (**Doc C8** and **C9**) as to where they met accused, but which is not the office of accused, as explained by him.

60. It is the submission of the prosecution that since accused has failed to adduce any independent evidence to support his averment that this conference room has never been used by him shows that he is lying. Again, such a proposition is simply untenable. The Court cannot but repeat that the burden is always on the prosecution to prove accused guilt. Accused cannot be blamed for the failure to confront him with the photographs during the enquiry. The consequence of such a failure resulted in him only giving his explanation in relation to **Doc C8** and **Doc C9** in Court. He clearly made the implausibility of the conference room having been used by him a live issue. To require accused to bring independent evidence to prove this implausibility, in the present circumstances, would amount to shifting the burden on him to prove his innocence. This simply cannot be so. On the contrary, it is rather Mr. Josian Desire Pierre Louis (witness no.6) who, for the first time in Court, stated that he met with a secretary. That secretary then made him meet accused. Had Mr. Josian Desire Pierre Louis (witness no.6) made mention of such an important occurring during the enquiry, the version of that secretary would have been

highly relevant to confirm Mr. Josian Desire Pierre Louis (witness no.6) version as to whether he met accused in his office or the conference room and whether his wife, Mrs. Indrawatee Pierre Louis (witness no.8), was present with him during that meeting.

61. The Court has taken into consideration the fact that both Mr. Josian Desire Pierre Louis (witness no.6) and Mrs. Marie Josianne Pierre Louis (witness no.7) did state that photographs **Doc C10** and **Doc C11** show the place they met accused and whereby Mrs. Marie Josianne Pierre Louis (witness no.7) remitted money to accused. Accused on the other hand, denied having met them at all. As already explained above, the overall circumstances surrounding that remittance is not free from doubts, despite the same spots being shown by both witnesses in Court.

d. delay in making complaint against accused and alleged attempt by accused to have the case withdrawn: the ulterior motive

62. The solicitation of Rs. 10,000/- by accused, as per the version of Mr. Josian Desire Pierre Louis (witness no.6), allegedly occurred on the 06th April 2015. As per **Minute 55** of **Doc F**, Mr. Josian Desire Pierre Louis (witness no.6) only made allegations against accused on the 04th August 2016 before the District Magistrate of Rivière du Rempart. This amounts to 16 months after the alleged solicitation by accused. There is nothing on record, by Mr. Josian Desire Pierre Louis (witness no.6), capable of reasonably explaining this delay, especially when a solicitation of money had been made by a public officer.
63. Mr. Josian Desire Pierre Louis (witness no.6) went as far as stating, for the first time in Court, that accused had even proposed to return his money in exchange of him withdrawing the present case. He, however, could not remember when accused made such a proposition except that latter phoned him to that effect. He also stated that he refused to take any money back from accused. This is another serious allegation against accused which necessarily had to be reported to the ICAC and properly investigated into. Unfortunately, Mr. Josian Desire Pierre Louis (witness no.6), albeit taking 16 months to report the present case, never reported to the ICAC that accused allegedly proposed to return his money in return of him withdrawing the case. He attributed the failure to report this on his lack of means to go to the ICAC. Such an explanation is simply untenable and raises further doubts as to his credibility.
64. Accused, in his statement dated the 04th May 2017 (**Doc B**) and in Court, explained that Mr. Josian Desire Pierre Louis (witness no.6) had serious problems with the CDU officers making follow-up after the discharge of his daughter, minor Jessica Pierre Louis. In Court, he further explained that he was accompanying Miss Tauckoor, the Family Welfare Protection Officer, for the follow-up and that Mr. Josian Desire Pierre Louis (witness no.6) was not happy with

CDU officers coming to his house and was not cooperating. He even got a discussion with Mr. Josian Desire Pierre Louis (witness no.6) during one of the follow-up visits whereby Mr. Josian Desire Pierre Louis (witness no.6) addressed him in a menacing tone and threatened him by stating “...*alle guetter ki zot pou faire contre moi...*”. Though he did not use the word ‘menacer’ in his statement, accused explained that Mr. Josian Desire Pierre Louis (witness no.6) addressed him in a loud voice, was angry and was clearly threatening him. On the other hand, Mr. Josian Desire Pierre Louis (witness no.6) flatly denied not cooperating and being rude to CDU officers and even disconnecting the phone on CDU officers who were doing follow-up.

65. Mr. Josian Desire Pierre Louis (witness no.6) continuous annoyance and rudeness by the follow-up made by the CDU officers following the discharge of her daughter minor Jessica Pierre Louis is clearly visible throughout the Minutes of **Doc F**. In that respect, **Minute 40** of **Doc F**, inserted by Miss Tauckoor, the Family Welfare Protection Officer, and which is hereunder reproduced, clearly shows that behaviour of Mr. Josian Desire Pierre Louis (witness no.6):

“Contacted Mrs Reena on 59154352 but Mr Pierre Louis responded. He was apprised on the various times this office has contacted them for an appt regarding minor Jessica but which was to no avail.

Please note that Mr Pierre Louis was rude and disconnected the line.

...” (Underlining is mine)

66. Furthermore, **Minute 57** of **Doc F**, which is a Report on minor Jessica Pierre Louis, made by none than the same Miss Tauckoor, the Family Welfare Protection Officer of Goodlands CDU at that time, relates how the parents have been uncooperative during follow-up visits, that the CDU apprised the District Magistrate of same and that Mr. Josian Desire Pierre Louis (witness no.6) and his wife were summoned by the Court to that effect. And as per **Minute 55** of **Doc F**, inserted by Miss Tauckoor again, it is clear that it is only when the District Magistrate enquired from Mr. Josian Desire Pierre Louis (witness no.6) and his wife as to why they have not been cooperating with the CDU that Mr. Josian Desire Pierre Louis (witness no.6) made allegations against accused. It is also mentioned in **Minute 55** that Mr. Josian Desire Pierre Louis (witness no.6) had stated that he felt harassed by the CDU officers through the follow-up being done.
67. True it is that there is no mention made Miss Tauckoor in any Minutes of **Doc F** that Mr. Josian Desire Pierre Louis (witness no.6) had stated “...*alle guetter ki zot pou faire contre moi...*” to the address of accused during one of the follow-up visits. However, this was made a live issue by accused as far back as in his statement dated the 04th May 2017 (**Doc B**) whereby he also

explained that it was an act of vengeance on behalf of Mr. Josian Desire Pierre Louis (witness no.6). Relevant extract from **Doc B** is hereunder reproduced:

“Q29 : Est-ce qui ou capave dire qui faire missier Pierre Louis et banne lezot membres de so famille finne faire banne allegations contre ou ?

A29 : Suite a discharge de jessica, CDU ti aina la responsabilité pou faire follow-up et CDU fine contacté en plusieurs l’occasion missier Pierre Louis pas ti pé amene Jessica lor rendez vous avec Psycologue couma ti prevoir et aussi ti aina information ki Jessica pas tipé ale l’école. Suite a sa banne non respect de sa banne requette de CDU, mo ti accompagne Miss Taucoor cotte missier Pierre Louis en Juin or Juillet 2016 et da presence miss Taucoor meme mo finne dire missier Pierre Louis si li pas cooperer, CDU pas pou aina choix pou informe la cour qui pou prend decision qui pou faire avec Jessica.

Q40 : Qui faire missier Pierre Louis et banne membres so famille finne faire allegations juste contre ou et pas conte lezot officier CDU ki ti occupe sa dossier la !

A40 : Mo penser qui missier Pierre Louis et so famille pas ti d’accord la facon ki mo ti cause avec zotte quand mo ti faire visite ensemble avec miss Taucoor en Juin ou Juillet 2016. Au faite sa jour la missier Pierre Louis ti parette mecontent et en couleur et li ti dire nous sa banne paroles la «alle quetté ki zot pou faire conte moi »

A42 : ... Mo penser ki li finne faire sa par vengeance qui a chaque fois CDU ti pé fatigue li par rapport a Jessica” (Underlining is mine)

68. Accused further explained, in Court, that Mr. Josian Desire Pierre Louis (witness no.6) made allegations only against him because he got a ‘prise de bec’ with him during one follow-up visit in company of Miss Tauckoor. However, he and Miss Tauckoor did not report the incident because Mr. Josian Desire Pierre Louis (witness no.6) was a desperate parent and they did want to deteriorate an already tense situation. It is apposite that no explanation was sought from the accused, during the enquiry, as to why he and Miss Tauckoor did not report that incident nor why there was no Minute by Miss Tauckoor to that effect and this despite accused having already mentioned such incident in **Doc B**. Miss Tauckoor was the Family Welfare Protection Officer responsible for the follow-up of Jessica Pierre Louis. Most of the Minutes in that respect have been inserted by her in **Doc F**. Unfortunately, as was stated by the main enquiring officer, Senior Investigator Seewooduth (witness no.1), no statement was recorded from the said Miss Tauckoor during the course of the enquiry. The prosecution submitted that it was incumbent on accused to call Miss Tauckoor to sustain his explanation. The Court cannot accept this proposition. The burden is on the prosecution to prove the guilt of accused. Having made it a live issue since at the time of the enquiry, as explained above, and given that the

follow-up was being made by Miss Tauckoor, her version was highly relevant to confirm or rebut accused explanation and therefore, had to be properly investigated into. To require accused to call Miss Tauckoor as his witness, in those circumstances, would amount to shifting the burden on him to prove his innocence.

69. Therefore, in view of the above, the possibility of an ulterior motive, by Mr. Josian Desire Pierre Louis (witness no.6), to make allegations against the accused to the ICAC and in Court, in respect of the proposed return of money, cannot be excluded.

e. overall demeanour

70. The Court has had the benefit of seeing and listening to Mr. Josian Desire Pierre Louis (witness no.6), Mrs. Marie Josianne Pierre Louis (witness no.7) and Mrs. Indrawatee Pierre Louis (witness no.8). Mr. Josian Desire Pierre Louis (witness no.6) appeared to the Court as someone evasive, argumentative and prone to losing his temper easily during cross-examination. He was far from being someone who deposed in a very clear, convincing and straightforward manner. The Court and even Counsel for the prosecution, at one time, had to intervene to calm him down (**see pages 36 to 42 of Proceedings of 07th March 2023**). As for Mrs. Marie Josianne Pierre Louis (witness no.7), she was equally evasive and her answers to many parts of her cross-examination summed up to her not remembering because she has Alzheimer problems now. But she could easily remember having remitted Rs. 5,000/- to accused in an enveloped despite her Alzheimer problems. As for Mrs. Indrawatee Pierre Louis (witness no.8), she could not remember much apart that accused stated “... *deux la main bate faire son ...*” and that the Rs. 10,000/- was solicited by accused in front of her.

f. version of accused

71. Accused, in his statements to the ICAC (**Doc B, B1 and B2**) denied the charges against him and explained that after the discharge of minor Jessica Pierre Louis by the Court, the CDU had the responsibility to make a follow-up. During the follow-up made by the CDU officers, it was noticed that Mr. Josian Desire Pierre Louis (witness no.6) was not bringing minor Jessica Pierre Louis to appointments with the phycologist and was not going to school. Further to that, in June or July 2016 he and one Miss Taukcoor met with Mr. Josian Desire Pierre Louis (witness no.6) and he, in presence of Miss Taukcoor, apprised Mr. Josian Desire Pierre Louis (witness no.6) of the situation and informed him that the CDU will have to take remedial actions if this situation persists. According to accused, Mr. Josian Desire Pierre Louis (witness no.6) was not happy and appeared angry and stated “*alle guette ki zot pou faire conte moi.*” (**Doc B**). He maintained that version in Court and all throughout denied having solicited any money

from Mr. Josian Desire Pierre Louis (witness no.6). He was also lengthily cross-examined. He was a straight forward witness whose testimony has not been seriously challenged during his cross-examination. Accused stated that he obtained the phone number of Mr. Josian Desire Pierre Louis (witness no.6) in the CDU file of Minor Jessica Pierre Louis (**Doc F**). However, it is the submission of the prosecution that such phone number is nowhere to be found in that file (**Doc F**). The Court has carefully examined **Doc F**. It is noteworthy that **Doc F** contains a document consisting of 9 pages dated the 29th December 2014. That document had been inserted, in that file, by the Ministry further to the referral of minor Jessica Pierre Louis by Goodlands Police Station on the 26th December 2014. At page 2 of that document dated the 29th December 2014, phone number 59154352 is clearly mentioned as being the phone number of the wife of Mr. Josian Desire Pierre Louis (witness no.6), namely Mrs. Indrawatee Pierre Louis (witness no.8).

72. The prosecution sought to show that accused was not telling the truth when he stated that he met Mrs. Indrawatee Pierre Louis (witness no.8) for the first time on the 07th April 2015 during a site visit. In that respect, the prosecution confronted accused with an extract of his second statement to the ICAC dated the 10th August 2017 (**Doc B1**), as follows “*Mo aussi rappel ki ene jour avant ki Jessica ti gagne Discharge Order pou li retourne lafaz, madame la et so missier, Desire Josian Pierre Louis ti vine guet moi au bureau à CDU Goodlands pou bane reseignements pou Jessica capave retourne lafaz.*” (**Extract at page 20 of proceedings of the 04th June 2024**) (Underlining is mine). According to the prosecution, it necessarily meant that accused must have met Mrs. Indrawatee Pierre Louis (witness no.8) on the 06th April 2015, i.e., the date of the alleged solicitation of Rs. 10,000/-. The Court cannot accept this reasoning because, after having carefully examined **Doc B1**, it is clear that accused never mentioned “...ene jour avant ki Jessica ti gagne Discharge Order ...” but rather mentioned “...ene fois avant ki Jessica ti gagne Discharge Order ...”. This changes everything. Furthermore, according to **Minute 11 of Doc F**, the Discharge Order for minor Jessica Pierre Louis was made on the 20th April 2015. Whether it was ‘ene jour’ or ‘ene fois’, it would be preposterous to conclude that it must necessarily have been on the 06th April 2015 when it could have been on any day prior to the 20th April 2015.
73. The prosecution also submitted that it is not mentioned in **Minute 9 of Doc F** that Mrs. Marie Josianne Pierre Louis (witness no.7) was met with during the site visit which accused made on the 07th April 2015. As such, accused is not telling the truth when he stated that he did meet her on that day. The prosecution further confronted accused with **Minutes 24, 31, 49 of Doc F** whereby it was put to him that he did his job properly by putting the names of persons that were met with in those Minutes contrary to **Minute 9**. Accused, on the other hand, explained that he did meet with Mrs. Marie Josianne Pierre Louis (witness no.7) downstairs on the 07th April 2015 during a site visit and thereafter went on first floor of a concrete house where Mr. Josian Desire Pierre Louis (witness no.6) was living and met with Mr. Josian Desire Pierre Louis (witness no.6) and his other children thereat. Accused further explained that, as is the

procedure, he was accompanied by other officers of the CDU on that day but that he did not mention that Mrs. Marie Josianne Pierre Louis (witness no.7) was met with since the purpose of that visit was only to check the conditions of the house. The Court has carefully examined **Doc F**. There is only four Minutes that have been inserted by accused in **Doc F**, namely **Minute 8, Minute 9, Minute 36** and **Minute 37**. Only **Minute 9** and **Minute 36** are in respect of site visits made by accused. Just as similarly as in **Minute 9**, **Minute 36** is also to the effect that the site visit was made by CDU officers without mentioning their names.

74. It is also the submission of the prosecution that if **Minute 9** does not mention that Mrs. Marie Josianne Pierre Louis (witness no.7) was met with during the site visit of the 07th April 2015, it necessarily meant that accused did not meet her during that site visit. It is noteworthy that **Minute 9** does not mention the name of any person that was met with during that site visit. **Minute 9** shows that *"A site visit was carried out on 07/04/2015 by officers of CDU Goodlands at the residence of Mr Pierre Louis (father). His house was found neat, hygienic and all basic amenities fitted though the house is small."* However, it would defy logic and common sense that the absence of any name, in **Minute 9**, meant that accused made the site visit, entered the house and went through everywhere in that house, without anyone being present and met with. As was explained by accused, he did not put any name because the purpose of that visit only to check the house conditions. Moreover, it was never elicited from Mrs. Marie Josianne Pierre Louis (witness no.7), either during examination-in-chief or re-examination, as to whether accused met her or not on the 07th April 2015 during a site visit at the house of Mr. Josian Desire Pierre Louis (witness no.6) and this despite accused having stated, as far back as in his first statement to the ICAC dated the 04th May 2017 (**Doc B**), that *"A23: Oui mone conné li pou la première fois quand mo ti alle faire visit cote missier Pierre Louis le 07 Avril 2015"* upon being questioned as to whether she knew Mrs. Marie Josianne Pierre Louis (witness no.7). Mrs. Marie Josianne Pierre Louis (witness no.7) was clearly the person from whom the prosecution should have elicited such evidence. During cross-examination, after initially stating that she was not present when the CDU was making site visits at the house of Mr. Josian Desire Pierre Louis (witness no.6) (**page 196 of Transcript of Proceedings dated the 07th March 2023**), she finally conceded that when she was going to the house of Mr. Josian Desire Pierre Louis (witness no.6), CDU officers did come over there on two or three occasions (**pages 200 and 201 of Transcript of Proceedings dated the 07th March 2023**) thereby not excluding the possibility of accused having met her on the 07th April 2015 during one of the site visits. Furthermore, the comparison with **Minutes 24, 31, 49** of **Doc F** to impeach the credibility of accused is improper because those Minutes were inserted by Miss Tauckoor, the Family Welfare Protection Officer, and not by accused himself.

G. CONCLUSION

75. In **Zhenduo Liu v The State (2021) SCJ 230** it was held that:

“The credibility of a witness requires to be assessed with reference to his evidence which must be free from doubt so that the court has no hesitation in reaching a conclusion of guilt against an accused party ... Proof beyond reasonable doubt can only be met where reliable evidence coherently sets out the events on which a charge is founded ...” (Underlining is mine)

76. The inconsistencies and contradictions in the testimonies of Mr. Josian Desire Pierre Louis (witness no.6), Mrs. Marie Josianne Pierre Louis (witness no.7) and Mrs. Indrawatee Pierre Louis (witness no.8), as already explained above, relate to material issues surrounding the alleged solicitation of Rs. 10,000/- by accused and remittance of money thereafter to accused. Coupled with their demeanour in Court and the whole of the evidence on record as explained above, including the version of accused under oath, the Court has serious doubts as to the reliability and credibility of their testimonies. Their testimonies are not free from doubt on material issues and the Court is not satisfied that there are “... *speaking the truth in substance* ...” – See **Vythilingum (supra)** in respect of an unlawful use of his office, by accused, for an alleged solicitation of Rs. 10,000/- as per the Information. The weight to be attached to their testimonies, in consequence, does not pass the test of ‘proof beyond reasonable doubt’, i.e., the standard on which the prosecution has to prove its case.
77. On the whole of the evidence on record, it is a fit and proper case whereby accused should be given the benefit of doubt and the case is accordingly dismissed against him.

A.R.TAJODEEN
Magistrate of the Intermediate Court (Financial Crimes Division)
31.07.2025