

FINANCIAL CRIMES COMMISSION v AVINASH BHOYRUB & ANOR

2026 SCJ 18

Record No. SCR 127071

THE SUPREME COURT OF MAURITIUS

In the matter of:

Financial Crimes Commission

Applicant

In the presence of:

v

- 1. Avinash Bhoyrub**
- 2. Commissioner of Police**

Interested Parties

JUDGMENT

The applicant is moving for a Civil Confiscation Order pursuant to sections 95 and 96 of the Financial Crimes Commission Act 2023 [**FCCA**] in respect of Euros 21,000, secured from the residence of the first Interested Party and which is presently in the possession of the Commissioner of Police (Second Interested Party) be deposited in the Recovered Assets Fund account of the Applicant held at the SBM Bank (Mauritius) Ltd.

In the affidavit in support of the application, it has been stated by Detective Police Sergeant Kurumun posted at the Asset Recovery Management Division of the Financial Crimes Commission that following a referral by the Commissioner of Police made to the former Asset Recovery Investigation Division of the Financial Intelligence Unit [**FIU**] on or about 07 August 2018) an investigation was initiated under the then Asset Recovery Act 2011 (now repealed). According to the referral, on 02 August 2018, officers of the Anti-Drug Smuggling Unit [**ADSU**] had carried out a search of the dwelling house of the first Interested Party (Mr. Avinash BHOYRUB), holder of National Identity Card bearing number B011181460415E at Eternel Lane, Calebasses and had secured a sum of twenty-one thousand Euros [**EUR 21,000**], in cash, kept in an envelope inside a black shoulder bag concealed under a mattress in the bedroom of the latter. The EUR 21,000 were all in one-hundred denomination. On 25 March 2022, the first Interested Party was formally charged before the Intermediate Court in case bearing cause number 15/2022 on an information containing two counts, namely for larceny in breach of Section 30(1) of the Criminal Code (Count 1) and Money Laundering in breach of Sections 3(1)(b) and 8 of the Financial Intelligence and Anti-Money Laundering Act

(Count 2). On 09 November 2022, the first Interested Party was found guilty under both counts and sentenced to pay a fine of Rs 50,000 under Count 1 and Rs 200,000 under Count 2.

It is applicant's contention that in light of the finding of guilt by the Intermediate Court (Financial Crimes Division) and the conviction secured, it is reasonably believed that the sum of EUR 21,000 secured at the premises of the first Interested Party and subject matter of the information under which the latter was prosecuted and convicted to be proceeds. It is therefore praying for the issue of a Civil Confiscation Order in respect of the said sum of EUR 21,000 pursuant to Section 96(1) and (2) of the FCCA as this is a fit and proper case for the Court to intervene in the interest of justice.

In his statement in defence to the police, the first Interested Party has stated that on 30 July 2018, whilst driving his car towards Terre Rouge, he noticed an unknown person riding a motorcycle carrying a black shoulder bag heading towards a bushy area and who, after carefully checked, the surrounding entered an old car which was in the said area. As soon as the motorcyclist left the spot, he proceeded to the said old car where he found the black shoulder bag which when opened contained an envelope which in turn contained a huge sum of money in Euros. He took away the bag and the envelope with him at home which he hid under his bed in his bedroom.

A copy of the judgment, sentence and unsworn statement of the first interested party have been annexed to the present application.

The applicant has further explained that the present action was commenced by the FIU under the repealed Asset Recovery Act 2011 and that following the coming into operation of the FCCA on 29 March 2024, it has, pursuant to Section 168(2) of the FCCA, taken over and is continuing the aforesaid investigation. On 23 September 2021, the FIU as the then Enforcement Authority had applied for and obtained a Restraining Order from the Judge in Chambers that (a) the sum of EUR 21,000 secured by the Police shall not be disposed of, or otherwise dealt with, by any person except upon a Judge's Order; and (b) the said sum be taken into possession by the FIU. The FIU did not make an application for renewal of the Restraining Order inasmuch as an information against the first Interested Party No.1 had been lodged on 25 March 2022 and that, by operation of the law, the Restraining Order had effect until the conclusion of the criminal process, including any appeal.

In virtue of section 168(5)(b) of the FCCA, an application for a Restraining Order, Confiscation Order, Restriction Order or Recovery Order made under the repealed Asset Recovery Act and pending on the commencement of the Act shall be deemed to be an

application made under the FCCA for a Criminal Attachment Order, Criminal Confiscation Order, Civil Attachment Order or Civil Confiscation Order, respectively, and shall be dealt with in accordance with the FCCA.

The second Interested Party is abiding by the decision of the Court.

Section 95(1) FCCA makes provision for the Commission to apply for a Civil Confiscation Order in respect of any property which it reasonably believes to be proceeds, an instrumentality or a terrorist property. The present application is based on the reasonable belief that the sum of EUR 21,000 are proceeds which has been defined in the FCCA as “*any property or economic advantage, wherever situated, derived from or obtained, in whole or in part, directly or indirectly, through or in connection with a criminal offence or unlawful activity.*”

What would constitute reasonable belief has already been examined in the case of **The Financial Intelligence Unit v Joseph James Stevenson Perrine** [\[2023 SCJ 397\]](#) and reference was made to the decision Judicial Committee of the Privy Council in the case of **Assets Recovery Agency (Ex-parte) (Jamaica)** [\[2015\] UKPC 1](#):

“19. Reasonable grounds for believing a primary fact, such as that the person under investigation has benefited from his criminal conduct, or has committed a money laundering offence, do not involve proving that he has done such a thing, whether to the criminal or civil standard of proof. The test is concerned not with proof but the existence of grounds (reasons) for believing (thinking) something, and with the reasonableness of those grounds. Debate about the standard of proof required, such as was to some extent conducted in the courts below, is inappropriate because the test does not ask for the primary fact to be proved. It only asks for the applicant to show that it is believed to exist, and that there are objectively reasonable grounds for that belief. Nor is it helpful to attempt to expand on what is meant by reasonable grounds for belief, by substituting for ‘reasonable grounds’ some different expression such as ‘strong grounds’ or ‘good arguable case’. There is no need to improve upon the clear words of the statute, which employs a concept which is very frequently encountered in the law and imposes a well-understood objective standard, of which the judge is the arbiter....”. Also in **Financial Crimes Commission IPO Julie M J V** [\[2025 SCJ 542\]](#); **Financial Crimes Commission IPO Rose M D S & Ors** [\[2025 SCJ 543\]](#).

At the sitting of 30 June 2025, the first Interested Party has stated that he has no objection to the present application. He has not filed any counter affidavit. Section 95 (3) FCCA provides that any person referred to in subsection (2) or any other person claiming an interest in the property may appear at the hearing of an application under subsection (1) to oppose the making of the Civil Confiscation Order; to apply for an Order excluding his interest in that property from the operation of the Civil Confiscation Order or varying the operation of the Civil Confiscation Order in respect of that property; and adduce evidence at the hearing of the application.

On the day of the hearing of the application, the first Interested Party confirmed his stand not opposing the application and did not adduce any evidence. The version put forward by the applicant stands unchallenged and unrebutted. As rightly pointed out by Counsel representing the applicant the first Interested party pleaded guilty to the offence of larceny of the EUR 21,000 and not guilty for money laundering. He was found guilty by the trial court and was duly convicted and sentenced. He did not lodge any appeal against the judgment of the trial court which has now become final. The first Interested Party has also confessed to the charge of larceny in his statement to the police and has related how, after having kept watch on an unknown motorcyclist leaving a black shoulder bag in an old car, he laid his hands on the bag containing an envelope in which the sum of EUR 21,000 was kept.

For the reasons given, the applicant has been established, on the balance of probabilities, that it has reasonable grounds to believe that the sum of EUR 21,000 which was obtained, in whole and directly through the commission of a criminal offence and is proceeds within the meaning of the FCCA.

In the circumstances, it is in the interests of justice that a Civil Confiscation Order be made pursuant to section 96 of the FCCA and I do make a Civil Confiscation Order in respect of the property, that is the sum of EUR 21,000, which was secured from the residence of the first Interested Party and which is presently in the possession of the second Interested Party, the Commissioner of Police.

It is further ordered that the said sum of EUR 21,000 presently in the possession of the second Interested Party be deposited in the Recovered Assets Fund account of the applicant held at the SBM Bank (Mauritius) Ltd bearing number 50300001198078.

P. M. T. K. Kam Sing
Judge

16 January 2026

Attorney for the Applicant:
Counsel for the Applicant:

N. Seetaram, Attorney-at-law
N. Nulliah, of Counsel

First Interested Party:

Unrepresented

Attorney for Second Interested Party:
Counsel for Second Interested Party :

B. G. Oogorah, Principal State Counsel
N. Jheelan, Principal State Counsel