

FINANCIAL CRIMES COMMISSION v LANGUE K. & ANOR

2026 SCJ 58

SCR No. 127450 (5A/331/25)

THE SUPREME COURT OF MAURITIUS

In the matter of:

Financial Crimes Commission

Applicant

v

- 1. Kervin Langue**
- 2. Commissioner of Police**

Interested Parties

JUDGMENT

On 15 July 2017, a sum of Rs. 310, 200 was secured during a search carried out by the ADSU officers at the residence of the first interested party, ('Mr K. Langue') together with two subutex tablets, amongst others.

On 16 July 2017, Mr K. Langue was provisionally charged before the District Court of Pamplemousses with the offences of Drug Dealing and Money Laundering. He was however formally charged before the Intermediate Court for the offence of Drug Dealing in respect of the possession of the subutex tablets only. On 12 January 2022, he was convicted for simple possession of subutex under section 34(1)(b) of the Dangerous Drugs Act 2000 and sentenced to pay a fine of Rs. 5000.

As regards the sum of money secured at his place, the ADSU referred the matter to the former Asset Recovery Investigation Division, which initiated an asset recovery investigation on 08 August 2017. A restraining order was granted on 27 October 2020 and another restraining order was issued on 03 March 2022. I have to observe here that the re-issue of restraining order appears to be irregular since such an order could only have any effect until the conclusion of the criminal process pursuant to section 16(4) of the Asset Recovery Act 2011.

However, the evidence in this matter shows that judgment was delivered on 12 January 2022 whereas sentence was imposed on 14 January 2022 and the restraining order was issued post these dates on 03 March 2022.

Be that as it may, it is against this background that the present application, supported by an affidavit dated 22 August 2025, has been made for a Civil Confiscation Order pursuant to section 95 of the Financial Crimes Commission Act 2023 ('Act') in respect of the sum of Rs. 310, 200.

Both interested parties did not resist the present application. Prior to hearing this application, Mr K. Langue was clearly explained the purport of this application, following which he confirmed that he had no objection to the present application.

Further affidavits were filed by the applicant as well as the second interested party to confirm the following facts:

1. The sum of money was not produced before the Intermediate Court as an exhibit and was not subject of any forfeiture order;
2. The money was still being kept under lock and key at ADSU HQ, Exhibit room;
3. Mr K. Langue held a bank account which was closed in December 2017; and
4. Mr K. Langue had not been in any employment since 2005.

As another preliminary observation, I note that the money continues to remain in the exhibit room at ADSU HQ. However, this is contrary to the restraining order dated 03 March 2022, in which it was clearly directed that the money had to be credited by the Police in the restraining order account of the then enforcement authority held at SBM Bank. The relevant authorities should determine why this is the current situation and whether this is an isolated case of non-compliance with a restraining order by the Police.

Section 95 of the Act provides that the applicant may apply to the Court for the issue of a Civil Confiscation Order in respect of a property which the applicant reasonably believes to be proceeds, amongst others.

Section 2 of the Act defines proceeds as being:

'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.'

In support of this application, the applicant has averred in its first affidavit dated 22 August 2025 that in view of Mr K. Langue's previous convictions, it was reasonably believed that the sum of Rs 310,200 was drug proceeds. It has been averred that Mr K. Langue had been convicted for unlawful possession of dangerous drugs in 2007, drug dealing-possession of dangerous drugs (subutex) for the purpose of distribution in 2013 and possession of dangerous drugs in 2022.

In its additional affidavit dated 19 November 2025, it was averred that the applicant had not been employed since 2005, so that it was reasonably believed that the sum of money secured on 15 July 2017 was proceeds.

In his statement to Police, Mr K. Langue explained that the said money belonged to him representing his personal savings and winnings from horseracing and football bettings. He also produced copies of horse racing betting receipts which, following enquiry, were confirmed to be winning receipts that had already been paid to the respective holders.

I have to first and foremost decide whether the present application is a proper one in the light of the facts averred by the applicant. In other words, is the applicant justified in reasonably believing that the said sum of money was proceeds, that is, whether the money was obtained directly or indirectly, in whole or in part, through a criminal offence or unlawful activity.

In the case of **The Financial Intelligence Unit v Joseph James Stevenson Perrine [2023 SCJ 397]**, the Court referred to the following excerpt from **Assets Recovery Agency (Ex parte) (Jamaica) [2015] UKPC 1** in which 'reasonable grounds for believing', was explained which is for all intents and purposes tantamount to the term 'reasonable belief'.

"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....'.

Bearing in mind that the test does not concern proof but existence of reasonable grounds to believe that the money in lite is a proceeds, I find that I can safely infer that the said sum of money is a proceeds. I say so since the money was found in close proximity to drugs which were secured at Mr K. Langue's residence on 15 July 2017. Furthermore, whilst it is true that he was in possession of winning receipts, there is no evidence to confirm that he was indeed the person who actually cashed the winnings. I cannot also disregard the fact that the interested party no.1 was not in employment since 2005 and yet he wanted the authorities to believe that part of the money found at his place was his personal savings. But most importantly, I take note of the fact that he held a bank account at the material time but still kept substantial amount of money at his place. Surely, a reasonable person would have deposited a greater share of the money in his bank account rather than at his place. All in all, it is clear that the money must have been obtained directly or indirectly, in part or in whole, through criminal activities. The above inference is consistent with the following **dictum** in **The National Crime Agency v Wong [2016] EWHC 142**, applied in **Perrine (supra)**:

*"15. A Claimant does not have to prove that particular unlawful conduct on the part of the Defendant, at a particular time, enabled the particular transaction; the Court is permitted to take a "global approach" to the evidence relied upon in order to find that the property was obtained through unlawful conduct and to take a common sense view of how an individual handles cash (i.e. by not using conventional banking facilities), the absence of a documented income or an absence of business records to support the inference that income has been obtained through unlawful conduct. (See **King J in Assets Recovery Agency v Jackson & Ors [2007] EWHC 2553 at paras 18 to 119**)."*

I am therefore satisfied that the present application has been properly initiated and that the sum of money is proceeds.

Section 96(1) of the Act provides that:

“(1) The Court shall, subject to subsection (2) and section 98, issue a Civil Confiscation Order where it finds that the property concerned is proceeds, an instrumentality or a terrorist property or an amount equal to the value of a benefit derived from such property.”

Having found that the sum of money is proceeds, I still cannot make the Civil Confiscation Order unless the requirements under section 96(2) of the Act have also been satisfied. Section 96(2) states that:

“(2) The Court shall not issue a Civil Confiscation Order of property or transfer the proceeds from the sale of the property to the State unless it is satisfied that it is in the interests of justice to do so and until such notice as the Court may direct has been given to any person in whose possession the property is found or who may have interest in the property or claim ownership of the property, to show cause why the property should not be recovered.”

In the light of above provisions, I need to be also satisfied that:

1. A Civil Confiscation Order is in the interests of justice; and
2. Notice to show cause why the property should not be recovered has been given to the person in whose possession the property is, or who may have interest in the property or claim ownership of the property.

There is no qualm as regards the second condition since Mr K. Langue who was duly notified has clearly stated in Court that he had no objection that the property be recovered and would abide by the decision of the Court.

The second interested party who is currently in possession of the said property also has no objection to the present application.

As regards the first condition, the money is clearly tainted in the light of the above inference drawn from facts before me. I am therefore satisfied that it is in the interests of justice to issue the Order, thereby sending a strong signal to would be offenders that the fruits of ill-gotten gains cannot be reaped.

For the above reasons, I am satisfied that pursuant to section 96 of the Act, a Civil Confiscation Order must be issued.

I therefore issue a Civil Confiscation Order in respect of the property, that is the sum of Rs. 310, 200, which was secured from the residence of Mr K. Langue 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 Rs. 310, 200 presently in the possession of the second Interested Party under lock and key in the exhibit room of ADSU HQ be confiscated and transferred to FCC Recovered Assets Fund Account bearing number 50300001198078, held at the SBM Bank (Mauritius) Ltd.

M. I. A. Neerooa
Judge

This 30th January 2026

For Applicant : **Ms D. Nawjee, Attorney-at-Law**
: **Mrs S. Ramsooroop-Newaj, of Counsel, together with,**
Ms H. S. Jalim, of Counsel

For Interested Party No. 1 : Abiding

For Interested Party No. 2 : Mrs A. Auchoybur, Senior State Attorney
: **Mr K. Seenauth, Temporary State Counsel**