RAMCHURN B. R. v THE FINANCIAL CRIMES COMMISSION & ANOR

2026 SCJ 57

Record No. 9585 (3/10/2023)

THE SUPREME COURT OF MAURITIUS

In the matter of:

RAMCHURN Bojnathsing Panray

Appellant

v.

1. **The Financial Crimes Commission**
   (Formerly known as Independent Commission Against Corruption)

2. **The Director of Public Prosecutions**

Respondents

JUDGMENT

The appellant was prosecuted under sections 3(1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act under 10 counts before the Financial Crimes Division of the Intermediate Court. The appellant pleaded not guilty to the charges and was represented by Counsel. The trial Magistrate found him guilty on all counts and sentenced him to non-custodial sentences by imposing different fines. The sentences imposed are not the subject matter of this appeal.

It is not in contention that Mrs Soorkea was convicted of fraud and that the sum involved was over Rs 4 million. The appellant who was in an intimate relationship with one Mrs Soorkea, benefited financially from payments made by the latter in varying amounts.

What is in issue is whether the appellant had knowledge of the tainted source of the funds he was benefitting from.

The evidence of Mrs Soorkea, which was believed and relied upon by learned Magistrate is as follows –

In 2012, Mrs Soorkea was employed at Euro CRM as accounts clerk/executive, earning approximately Rs 30,000 monthly. She fraudulently transferred funds from Euro CRM to her personal bank account between 27 August 2012 and 6 August 2013. The fraud (a second one) was carried out by altering account numbers and certain entries, enabling the transfer of Rs 4.5 million into her bank account. She admitted to the fraudulent transfers and was sentenced to pay a fine.

She had already begun stealing from Euro CRM since August 2012 when she met the appellant (then accused), a prosecutor, for the first time in Court in January 2013 when she appeared as a suspect in a previous case of money laundering (the first fraud). After meeting in Court, she saw the appellant again in a supermarket, where he approached her, spoke about her case, took her phone number, and said he would try to help her. Following that, they exchanged messages, and she entered into an extra-marital affair with him.

She did not know whether the appellant was aware of the details of her fraud case, but said that the files were with the prosecutor. She stated she did not tell him about the source of the money remitted to him, though he regularly complained about finances. She confirmed that at the time she met the appellant in court, she was a suspect in a money laundering case, and that he was acting as prosecutor on that day. She believed that he sought to find out what the case was about.

The appellant often complained about money, prompting her to start giving him money, paying his debts, and clearing his credit card bills. They travelled and spent most of the stolen money together. When her bank account was seized, no money remained. She identified several cash cheques when confronted with copies. During cross-examination, she confirmed that the Euro CRM fraud for which she paid a Rs 200,000 fine was actually her second fraud offence.

She agreed that their second meeting was coincidental, in a supermarket. She confirmed her statement: *"mo ti demande li couma li capave aide moi and même jour, li ti dire moi li pou aide moi dans sa case la et nous finne interchange numero portable et ler la même nous finne lier d'une amitié"* - and said it was the truth. She added that he knew she worked at Euro CRM and was aware of her job position. She stated that she was not aware of the contents of the provisional files or the number of documents in the case file.

The grounds of appeal are:

1. The Learned Magistrate erred when she found that the Appellant should have reasonably suspected that the property received from witness no. 2 emanated from criminal activity despite the evidence of witness no. 2 that she did not inform the Appellant of the tainted origin of the money and the fact that the funds always emanated from a bank account.

2. The Learned Magistrate misdirected herself as to the evidence before her when she found (a) that the Appellant "was aware of money which had been transferred into her (witness no. 2) bank account" when there is no evidence to the effect; (b) that witness no. 2 had said that "Accused was always complaining about the money which had been transferred into her account and (c) that there was no relationship of trust between the Appellant and witness no. 2 given the unrebutted evidence on this issue.

3. The Learned Magistrate erred in discarding the possibility that the relationship of trust between the Appellant and witness no. 2 could have blinded the Appellant such that he did not reasonably suspect that the properties obtained were from tainted origin.

Ground 1

On Ground 1 it is the appellant's contention that the learned Magistrate was wrong to find that he must have suspected that the property received from Mrs Soorkea emanated from criminal activity since Mrs Soorkea did not inform him about her previous incrimination in fraud proceedings and the tainted origin of the money. According to the appellant the learned Magistrate failed to give proper weight to the fact that he received money via bank transfers and that it was unreasonable to expect the appellant to investigate and develop a suspicion about the origins of the bank transactions.

Now, the following excerpt from the judgment of the learned Magistrate reveals that she was fully alive to the version of Mrs Soorkea to the effect that she did not inform the appellant of the tainted origin of the money remitted to the latter –

> *"I have borne in mind the unsworn version of Accused that he was not aware that the money which was being credited into his bank account by Mrs Soorkea has a tainted origin and the evidence of Mrs Soorkea to the effect that she did not inform the Accused of the tainted origin of the money. There is however cogent evidence of facts which were known to the Accused which would have raised reasonable suspicion that the money transferred from Mrs Soorkea's bank account emanates from criminal activity".*

We fully agree with the observations of the appellate Court in **Antoine J. M. D. v The State** [2009 SCJ 328] that –

> *"Since suspicion has to be based on facts, it is the duty of the Court to analyse the whole of the evidence on record in order to determine whether or not it can be inferred, from the facts and circumstances of the case, that the accused reasonably suspected that the proceeds were proceeds of crime."*

Therefore, we do not agree with the appellant's contention that the learned Magistrate erred in her appreciation of facts. True it is that no direct evidence from Mrs Soorkea has been adduced to establish the *mens rea* of the appellant however, the learned Magistrate considered the whole evidence that was adduced during the trial.

We find that the learned magistrate did not err when she inferred that the appellant, who was posted in the court where Mrs Soorkea appeared as a suspect on a provisional charge of money laundering in January 2013 must have been aware that Mrs Soorkea faced a provisional charge of money laundering prior to having received money from Mrs Soorkea. Indeed, Mrs Soorkea admitted that she spoke to the appellant concerning the case of fraud when they met after one month in a supermarket and the appellant endeavoured to help her.

We do not find any perversity in the finding of the learned Magistrate in respect of the *mens rea* of the appellant. We find no merit in ground 1 which fails.

Ground 2

In respect of Ground 2(a) it is the appellant's view that the learned Magistrate misdirected herself as to the evidence led before her when she concluded that the appellant was aware of the amount of money which has been transferred to Mrs Soorkea's bank account when there is no direct evidence to that effect and this was not elicited from Mrs Soorkea.

We do bear in mind that the learned Magistrate wrote in her judgment that the appellant "*was aware of the amount of money which had been transferred into her bank account"* when in fact there was no evidence that the appellant knew the exact amount of money that was transferred into the bank account of Mrs Soorkea and this may seem to be a misdirection. However, we agree with the submissions of learned Counsel for the second respondent that from the tenure of the judgment of the learned Magistrate it can be gathered that the learned Magistrate was referring to the bank account of the appellant and not that of Mrs Soorkea in the light of the relevant part of the judgment which reads as follows –

> "*She further stated that she paid his credit card bills. It follows that Accused was aware of the money which had been transferred into **her** bank account. The amount of money which had been transferred into **her** bank account ought to have raised a red flag that the money was not from a legitimate source, bearing in mind that accused knew that Mrs Soorkeea was working as accounts clerk…"*
> (Emphasis added)

The above passage from the judgment indicates that the payment of the appellant's credit card with funds from Mrs Soorkea should have aroused suspicion, given the limited means of Mrs Soorkea as an accounts clerk. We thus find that there is no gross misdirection on the part of the learned Magistrate.

On Ground 2(b) it is the contention of the appellant that the learned Magistrate misdirected herself when she found that the appellant was "*always complaining about the money which had been transferred into her account."*

Now, true it is that there was no evidence to suggest that the appellant complained about money transferred to the account of Mrs Soorkea as such. We agree that the learned Magistrate made an inaccurate translation of the testimony of Mrs Soorkea from Creole to English when she wrote that the appellant "*constantly complained about his own money problems and the money which had been transferred into her bank account"*. In fact Mrs Soorkea said in Creole *"Moi monn faire bann zaffaire vraiment pas bien parce que tout l'argent que j'avais mis sur le compte, il se plaignait a chaque fois de l'argent.".. "Je suis tombée dans ses faiblesses avec son manque d'argent à chaque reprise ok et la je lui ai donnée, il avait des dettes a la HSBC. J'ai payée, a chaque fois ces cartes de crédit…noune alle faire bann*

voyages, noune alle faire bann kitt choses, noune depense quasiment tout l'argent… il n'y avait rien…"

However, we find that the inaccuracy in the translation of that part of Mrs Soorkea's testimony is not material and is not a determining factor in the learned Magistrate's finding of guilt of the appellant in view of the whole evidence.

We find that there was ample evidence on record, in spite of the learned Magistrate's mistake, for her to make a finding of guilt on all the counts and the conviction of the appellant was not unsound.

From the evidence before the learned Magistrate, the appellant may not have been aware either of the exact salary or exact amount misappropriated by Mrs Soorkea. However, this is not the crucial aspect or element of this case. What is primordial is that the appellant must have been aware or reasonably suspect that the cash she was spending was highly suspicious and of tainted origin.

The irresistible inference that an Inspector of Police, working as a Prosecutor, who decided to offer to help a suspect with her case must have known that Mrs Soorkea could not have legitimate access to the amounts of money she spent. This included financial support to the appellant in respect of his debts as well as funding their travels together as a couple. The appellant was aware that she had a provisional charge and was under a police enquiry and for him to suddenly become selectively oblivious as to how she was able to fund such largesse, was not believed by the learned Magistrate.

The learned Magistrate concluded, with which we agree, that the appellant must have known of the source of funds.

We find comfort in the similar approach adopted in **Jasmin L W v The State** [2026 SCJ 13], which is a judgment of three Judges, when they stated the following:

From page 6 of the judgment:

> *"Whilst we agree with learned Counsel for the appellant that the learned judge has made a mistake as regards the identity of the person to whom Radha remitted the sum of Rs 450,000, we, however, take the view that a global, instead of a piece meal, approach is a more suitable approach in assessing the overall finding of the learned judge against the appellant."*

….

and from page 7 of the judgment:

> *"We do not agree that the mistake per se was "a material and serious error that undermines his findings of facts" to such a serious extent that the appellant's conviction should be quashed on this ground above. There was other ample evidence in relation to the appellant's involvement, as shown in the above extracts of the judgment, on which the learned judge was entitled to, and did, rely."*

We therefore find that Ground 2(a) and (b) must accordingly fail.

Ground 2(c) and Ground 3

In respect of Ground 2(c) and Ground 3 it is the contention of the appellant that the learned Magistrate misdirected herself when she found that there was no relationship of trust between the appellant and Mrs Soorkea and she should have found that there was a possibility that the relationship of trust between the appellant and Mrs Soorkea could have blinded the appellant such that the latter did not reasonably suspect that the properties obtained were from tainted origin.

We find the grounds and the submissions on the issue of trust rather surprising. It was submitted before the lower court that the relationship between appellant and Mrs Soorkea was one of "*trust*". There is no basis for such a submission as the appellant never alluded to this in his unsworn statement to the Police nor did he give any evidence on this aspect. In fact, no evidence was adduced by the appellant.

This "*purported defence*" or excuse was not put to Mrs Soorkea properly, so in the absence of any evidence from the defence, that their relationship and the point of money was based on trust whether mutual or not, it is not correct to submit on this before the trial court or on appeal when there was no foundational evidence for this. In fact, no evidence was adduced by the appellant before the lower Court and in his unsworn statement dated 29 January 2015 he did not specifically deny the version put to him to the effect that money transferred to his account were proceeds of a fraud committed by Mrs Soorkea. His reply was merely that he had nothing to say "*mo pena nanien pou dire.*

We find no merit on Ground 2(c) and Ground 3.

For the above reasons all of the grounds of appeal fail. The appeal is dismissed with costs.

R. Teelock
Judge

V. Kwok Yin Siong Yen
Judge

30 January 2026

Judgment delivered by Hon R. Teelock, Judge

For Appellant	**:**	**Mr. P. Rangasamy, Attorney at Law** **Mr. G. Glover, Senior Counsel**
For Respondent No. 1	**:**	**Mr. B. M. Chatoo, Chief State Attorney** **Mr. T. Naga, together with** **Mr. F. A. Arzamkhan, both of Counsel**
For Respondent No. 2		**Mrs. E. Ramdass Bundhun, Deputy Chief State Attorney** **Mr. M. D. Bhatoo, Principal State Counsel**