

CN: 7/2025

IN THE INTERMEDIATE COURT OF MAURITIUS
(FINANCIAL CRIMES DIVISION)

In the matter of:

FINANCIAL CRIMES COMMISSION

v/s

1. Chavansingh DABEEDIN
2. Brahmadrutt SEWPAL
3. Phillipe Alain HAO THYN CHUAN HA SHUN
4. Dharamraj DEENOO

RULING

1. All four accused parties are being prosecuted as follows:
 - a. Accused no.1 – Under counts 1 to 12 for the offence of Bribery by public official in breach of sections 4(1)(b), (2) and 83 of the Prevention of Corruption Act 2002 (POCA) – Under counts 13 to 25, for the offence of Money Laundering in breach of sections 3(1)(a), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act 2002 (FIAMLA).
 - b. Accused no.2 – Under counts 26 and 27 for the offence of Bribery by public official in breach of sections 4(1)(b), (2) and 83 of POCA.
 - c. Accused no.3 – Under counts 28 to 41 for the offence of Bribery by public official in breach of sections 5(1)(b), (2) and 83 of POCA – Under count 42 for the offence of Treating of public official in breach of section 14 of POCA.
 - d. Accused no.4 – Under count 43 for the offence of Receiving gift for a corrupt purpose in breach of sections 15(a) and 83 of POCA.
2. The motion for further particulars was made on behalf of accused no.4 only and thus concerned count 43 of the Information.
3. Count 43 is reproduced below:



THAT in or about the month of February 2018, at Port Louis, in the said district, one **DHARAMRAJ DEENOO**, aged 64 years, former Deputy Permanent Secretary at the Ministry of Environment, Solid Waste Management and Climate Change and residing at La Clémence, Rivière du Rempart whilst being a public official, wilfully, unlawfully and criminally, obtained a gratification for himself from a person, whom he knew to have been concerned in a proceeding, having a connection with his functions.

PARTICULARS

*In or about the aforesaid month and place, the said **Dharamraj DEENOO**, whilst being the Assistant Permanent Secretary of the Ministry of Environment, Solid Waste Management and Climate Change and the Chairperson of a Bid Evaluation Committee (BEC), obtained sum of MUR 100,000/- from the said Philippe Alain Hao Thyn Chuan HA SHUN, Executive Director of 'PAD & CO Ltd', which company the said **Dharamraj DEENOO** knew to be concerned in the project "Coastal Protection, Landscaping and Infrastructural Works in Mauritius – Case Noyale"*

4. Further particulars are being sought on two points. Firstly, the defence wishes to have clarification on the identity of the person averred in the body of count 43 of the Information, namely, *obtained a gratification for himself from a person*. Secondly, in the 'particulars' section, the sum of Rs100,000 as averred, allegedly lacks a more detailed description as to its provenance, mode of payment and the time at which it was made.
5. The first principle pertaining to the required averments in an Information is embodied in **section 125(1) of the District and Intermediate Courts (Criminal Jurisdiction) Act 1888**: *The description in the information of any offence in the words of the law creating such offence, with the material circumstances of the offence charged, shall be sufficient.*

Section 10(2)(b) of the Constitution: *Every person who is charged with a criminal offence shall be informed as soon as reasonably practicable, in a language that he understands and, in detail, of the nature of the offence.*

6. The charge against the accused no.4 has been laid under **section 15(a) of POCA**. The wording of the said section is reproduced as follows:

Any public official who solicits, accepts or obtains a gratification for himself or for any other person—

(a) *from a person, whom he knows to have been, to be, or to be likely to be, concerned in any proceeding or business transacted or about to be transacted by him, or having any connection with his functions or those of any public official to whom he is subordinate or of whom he is the superior;*

7. The body of count 43 of the Information has been drafted so as to reflect exactly the wording of the offence creating section of POCA. In line with s.125 of DICA 1888, the above phrases as selected by the prosecution have to be given their corresponding factual descriptions in the 'particulars' section of the Information. Such represents the material circumstances, which would enable the accused party to contextualise the wording of the law into the facts.
8. The first set of particulars sought is the identity of the person from whom the accused no.4 allegedly obtained the gratification, vide Rs100,000. That person has been particularised as *the said Philippe Alain Hao Thyn Chuan HA SHUN, Executive Director of 'PAD & CO Ltd'*. Defence counsel for the accused no.4, submitted to the effect that it is confusing to have the phrase the said Philippe Alain, meaning that he must have been previously referred to. The Information has to be read as a whole whenever the accused parties are averred in multiple counts. At count 1 of the Information, Mr Hao Thyn Chuan HA SHUN, was mentioned for the first time and was referred to as *'one Philippe Alain Hao Thyn Chuan HA SHUN'*. The commonly used drafting technique, allows for the use of the phrase 'the said individual' when the same person is averred elsewhere in the Information so that there is no doubt that the same person is being referred to. I thus have no difficulty to rule that the identify of the person in question has been sufficiently particularised in the Information.
9. The alleged gratification of Rs100,000, as submitted by defence counsel, lacks the qualitative description related to; how, when and where the said gratification was obtained by the accused no.4.
10. The legal principles governing the particularisation of the Information are settled and was not subject to dispute between both parties to the case. The prosecution, as a matter of law, has to provide sufficient particulars so as to offer a reasonably clear picture of the nature of the offence. Only in those circumstances, could the defence be adequately equipped to prepare a defence,

vide **Ramburn v State 1996 SCJ 64**, **AG v Saurty 1963 MR 1** and **State v Treebhoowon & Anor 2012 SCJ 214**. The submissions of both parties, rather, diverged on the definition and concept of 'nature of the offence'. The offence chosen by the prosecution is laid under section 15(a) of POCA. The circumstances of the offence become material when they are required, to place the offence in a factual context. That factual basis in the Information cannot be construed to be the full criminal operation allegedly conducted by the accused parties. The gratification has been particularised as the sum of Rs100,000. It is averred that accused no.4 obtained same from the one Mr Hao Thyn Chuan HA SHUN. It was not the submission of the defence that there might have been more than one transfer of Rs100,000 from Mr Mr Hao Thyn Chuan HA SHUN to the accused no.4, during the month of February 2018. The manner in which the said sum has been transferred to the accused no.4, and the purpose for which it has been done, would be the evidence showing the criminal act or operation allegedly conducted. From the above cases, it is settled that the prosecution cannot be overburdened by providing particulars which are akin to matters of evidence.

11. The date of the offence at count 43 of the Information, is described as 'in or about the month of February 2018'. The offence is not date sensitive as per the relevant section of the law. **Section 36 of the Criminal Procedure Act 1853**, Unnecessary averment, at paragraph (e) reads as follows:

No information for an offence shall be held to be defective—

(e) for the omission of the time at which the offence was committed where time is not of the essence of the offence;

It has been submitted by the prosecution that the date cannot be provided at this stage, but it is a matter of evidence to be disclosed during trial.

12. It is not disputed that a full brief has been communicated to the defence. The submission of the defence was to the effect that the evidence showing the manner in which the gratification was obtained by the accused no.4 could not be found in the brief. The defence statements, if any, of the accused no.4 have not been produced yet. The court is therefore in the dark as to whether the accused no.4 has been confronted with the relevant evidence at enquiry stage. It would be an entirely different legal argument if that exercise had not been carried out. The burden of proof rests on the prosecution. If the evidence required by the defence is indeed lacking in the brief, as submitted by the



defence, the prosecution's case would thus stand on shaky grounds. However, such matters can only be canvassed at trial stage.

13. For these reasons, the motion by the defence on behalf of accused no.4, for further particulars as requested, is set aside.

A handwritten signature in black ink, appearing to be 'P K Rangasamy', written in a cursive style with a large initial 'P' and a horizontal line extending to the right.

P K Rangasamy
Magistrate of the Intermediate Court
02.03.26

