J. E. ARISITIDE v THE STATE OF MAURITIUS & ANOR

2026 SCJ 127

Record No. 9475

THE SUPREME COURT OF MAURITIUS

In the matter of:

Jean Edouard ARISITIDE

Appellant

v

1. The State of Mauritius
2. The Independent Commission Against Corruption

Respondents

JUDGMENT

This is an appeal against a decision of the then learned Magistrate of the Intermediate Court (Financial Crime Division), now Deputy Master and Registrar, convicting the appellant for the offence of bribery by public official in breach of section 4(1) (b) and (2) of the Prevention of Corruption Act 2002. The appellant was sentenced to undergo 12 months' imprisonment and to pay Rs 500 as costs. Both respondents are resisting the appeal.

The appellant is appealing against his conviction under 10 grounds of appeal which read as follows:

Ground 1

The learned Magistrate was wrong to hold that witness No. 6, Mr. Vassoodev CHUMUN, had testified in a straightforward and convincing manner and that he was clear and sharp in his testimony pertaining to the role of accused No. 1 (appellant) inasmuch as the deposition of the said witness was shrouded with contradictions and inconsistencies in regards to the amount of and the purpose for which the money was allegedly solicited and it is in contradiction with the particulars of the information.

Ground 2

The learned Magistrate was wrong to hold that witness No. 5, PC 6591 Arianaik, deposed in a straightforward and concise manner and that he did not attend to the case of road accident with accused No. 1 (appellant) inasmuch as the said witness was proved to have been inconsistent with regards to the entries that he had inserted in the diary book of the station and the log book of Vehicle No. 6 RM 13.

Ground 3

The learned Magistrate was wrong not to have given due consideration to the entries in the log book of vehicle 6 RM 13 produced by PC Gotteea of the Police Transport Record Officer.

Ground 4

The learned Magistrate was wrong to hold that PC 5597 Oolun confirmed that PC Arianaik was present at the station, whilst accused No. 1 (appellant) attended the case of road accident (the present case).

Ground 5

The learned Magistrate was wrong to hold that witness Jean Antoine called by the defence was a "temoin de complaisance".

Ground 6

The learned Magistrate was wrong for not having given due consideration to the declaration made by the accused No. 1 (appellant) at Grand Port Police Station.

Ground 7

The learned Magistrate was wrong in his appreciation of the credibility of witness No. 6, Mr. Vassoodev Chumun, by holding that he was a witness of truth, when it was clearly established by the defence that the said witness had a previous conviction for drunk driving and therefore had a motive for not being prosecuted for drinking driving on a second occasion.

Ground 8

The learned Magistrate was wrong for having reached the conclusion that witness No. 6, Mr. Vassoodev Chumun was a credible witness in relation to his version against the accused No. 1 (appellant) and inconsistent with regards to his version against accused No. 2.

Ground 9

The learned Magistrate was wrong for not having given due consideration for the failure by ICAC for not having confronted the declarant Mr. Vasoodev Chumun, (witness No. 6), with PC Arianaik to confirm the presence of the latter at the scene of the accident.

Ground 10

The learned Magistrate was wrong to have held that the elements of the offences against the accused No. 1 (appellant) was proved beyond reasonable doubt.

On the day of the hearing, learned Counsel for the appellant dropped ground 10, argued grounds 1, 7 and 8 together under a first set, grounds 2, 3 and 9 under a second set and grounds 4, 5 and 6 separately.

We propose to deal with grounds 1, 7 and 8 together as they deal with the credibility of witness No. 6, Mr. Vassoodev Chumun. The remaining grounds will be dealt with separately.

The gist of the prosecution case is that the appellant, a police sergeant, was prosecuted under count 1 of an information before the Intermediate Court on a charge of soliciting from Mr. Vassoodev Chumun the sum of Rs 5,000 so as not to report a case of road accident which occurred along Royal Road, Rivière des Créoles in which the said Mr. Vassoodev Chumun was involved.

The testimony of Mr. Vassoodev Chumun is that following the accident, two police officers, namely the appellant and an unknown police officer attended the spot. His accidented vehicle was removed from the spot by the appellant who drove same to the police station in his presence. On their way to the police station, the appellant solicited the sum of Rs 5,000 from him so as not to report a case of road accident.

The appellant has denied the said charge and his version is that he attended the spot together with PC Arianaik who drove Mr. Vassoodev Chumun to the police station in vehicle 6 RM 13 whilst he personally drove the accidented car to the police station and was alone at that time.

Grounds 1, 7 and 8

It was submitted on behalf of the appellant that the evidence of Mr. Vassoodev Chumun contained contradictions inasmuch as in his statement to the police and to the Independent Commission Against Corruption ("ICAC"), he mentioned that the appellant solicited the exact sum of Rs 5,000 whereas in Court, he first stated in examination-in-chief and cross-examination that it was a sum of "*Rs 5,000 à Rs 6,000*" and that it was only when he was confronted with his written statements that he accepted that the appellant had solicited the sum of Rs 5,000 only.

Learned Counsel for the appellant also submitted that Mr. Vassoodev Chumun was inconsistent in his version in respect of the purpose for which the money was solicited inasmuch as he gave two completely different versions at Mahebourg Police Station and to the ICAC as to whether the solicitation was for the purpose of not reporting a case of road accident or for not having to undergo an alcohol test. He further submitted that whilst being cross-examined, Mr. Vassodev Chumun conceded that he gave two different versions at Mahebourg police station and to the ICAC and it was only following some hesitation that Mr. Vassodev Chumun stated that the appellant had solicited the money so as not to report a case of road accident contrary to what he earlier stated in examination-in-chief.

We find that the learned Magistrate was aware of the contradictions in the evidence of Mr. Vassodev Chumun and when he summed up the evidence of the said witness, he mentioned that the witness had clarified that the sum being solicited was Rs 5,000. In respect of the purpose for which the sum of Rs 5,000 was being solicited, the learned Magistrate found that the version to be retained is the one where Mr. Vassodev Chumun stated that, it was on his way to the police station, that the appellant asked for the money from him in order not to report the road accident case and that consequently no alcohol test would be carried out on him as well. We therefore find that the learned Magistrate was aware of the contradictions in the evidence of Mr. Vassodev Chumun which he reconciled following his analysis of the evidence whilst bearing in mind that when Mr. Vassodev Chumun was confronted on both occasions to his written version, which he gave 7 years before he deposed in Court, he cleared the said contradictions.

At this stage, we find it apt to quote from **Vythilingum M. v The State of Mauritius** [2017 SCJ 379]:

> "*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."

Furthermore, after perusing the evidence before the lower Court, we also find that in assessing the credibility of Mr. Vassoodev Chumun, the learned Magistrate was aware of the following evidence, namely, (i) Document F, entry "227", confirming the presence of PC Arianaik at the police station during the duty parade carried out by PS Oolun; (ii) the testimony of PS Oolun who confirmed having seen the appellant driving the accidented car of Mr. Vassoodev Chumun in the compound of the police station; (iii) Mr. Vassoodev Chumun who remained calm during the alcohol test carried out on him; and (iv) PS Oolun who confirmed that there is an inconsistency in the Diary Book inasmuch as the appellant inserted an entry in the Diary Book at 22:31 wherein suggestion is made by him that he returned to the police station in van 6 RM 13 driven by PC Arianaik.

We find that the learned Magistrate made a thorough analysis of the evidence on record and righly assessed the credibility of Mr. Vassoodev Chumun inasmuch as the testimony of PS Oolun as well as the records from the Diary Book, align with the timeline and events as described by Mr. Vassoodev Chumun, thus reinforcing his credibility despite certain contradictions in his sworn version and also despite the fact that he had a previous conviction for drink driving which would lead the appellant to conclude that Mr. Vassoodev Chumun had a motive for not being prosecuted for drink driving for a second time.

Moreover, we find that the learned Magistrate was aware that the charge against the appellant related to an incident that took place on the night of the accident when the appellant was driving the accidented car in presence of Mr. Vassoodev Chumun. The learned Magistrate was further aware that the event in relation to accused No 2 took place much later when the accused No. 2 allegedly phoned Mr. Vassoodev Chumun and solicited money from him.

Therefore, we find that the evidence of Mr. Vassoodev Chumun cannot be said to contain contradictions in relation to his versions in respect of the appellant and that of accused No. 2 inasmuch as the two versions were treated by the learned Magistrate as two separate and distinct events.

Taking into consideration the evidence before the lower Court, we find that the learned Magistrate rightly found Mr. Vassoodev Chumun to be a witness of truth and did not consider the previous conviction of Mr. Vassoodev Chumun and the fact that Mr. Vassoodev Chumun

was inconsistent in his version in respect of accused No. 2 the more so that those factors were irrelevant in assessing the credibility of the said witness.

Grounds 1, 7 and 8 therefore fail.

Ground 2

It was submitted by learned Counsel for the appellant that the learned Magistrate erred in finding that PC Arianaik is a witness of truth inasmuch as the latter could not give a plausible explanation as to why the entries in relation to the police vehicle 6 RM 13 stopped at 20:05 hours in the log book of the said vehicle, whereas according to diary book entry "222", PC Arianaik would have allegedly driven the van after 20:05 hours, that is at 21:22 hours.

We find that the learned Magistrate was alive to the fact that PC Arianaik gave the lie to the appellant that he did not attend the road accident case because he was at the police station as confirmed by PS Oolun who confirmed that from his recollection of events PC Arianaik was present at the time he held the duty parade as shown by the entry "227" from the Diary Book.

We find that the learned Magistrate was right in not laying emphasis on contradictions in the log book and Diary Book in the light of the evidence of PS Oolun which the learned Magistrate considered and believed to be truthful and we therefore find no reason to interfere with the finding of the latter on this score.

Ground 3, 4, 5 and 6

We note that Counsel for the respondents has not argued that those grounds are vague. However, after a perusal thereof we find that we are duty bound to raise this as an issue *proprio motu* for the reasons which will follow.

We note that in **Ramgolam B v The State** [2017 SCJ 153] the Court had this to say in respect of grounds of appeal which are vague:

> *"... Even though counsel for the respondent had not, initially, taken any objection to the manner in which the grounds of appeal had been drafted, we raised the point proprio motu and asked counsel for the appellant whether she intended to press all her grounds of appeal inasmuch as grounds 1, 3, 4, 6 and 7 appeared to be vague."*

The Court in **Ramgolam B** also referred to **Paulin D K W v The State** [2014 SCJ 313]. We have perused **Paulin D K W** (supra) and observed that immediately after the learned

Judges recited the grounds of appeal, they dealt with the vagueness of some grounds as follows:

> *"We decline to entertain the first 2 grounds of appeal which are in effect no ground of appeal at all. Both grounds are vague and fail to provide the least indication or reason as to why the information or judgment is said to be wrong in law. They do not raise any specific or particular point in law, either in relation to the information, or to the judgment for determination on appeal.*
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> .....
>
> *We had to refuse to be hoodwinked into considering new grounds of appeal which had been surreptitiously introduced in the guise of skeleton arguments under grounds 1 and 2. Learned Counsel for the appellant had in fact sought to invoke for the first time, more than one year after the judgment had been delivered, that the case had been lodged beyond the statutory time limit and that....."*

We are further of the view that inasmuch as we are being requested to determine the issues raised under each and every ground of appeal, we are duty bound to raise *proprio motu* any defect, such as the vagueness thereof, which could undermine the interpretation of those grounds.

We note that in respect of ground 3 no reason has been given by the appellant as to why the learned Magistrate was wrong not to have given due consideration to the entries in the log book of vehicle 6 RM 13 produced by PC Gotteea of the Police Transport Record Office. In respect of ground 4, the appellant did not specify why the learned Magistrate was wrong to hold that PS Oolun confirmed that PC Arianaik was present at the station whilst the appellant attended the road accident. We also note that in respect of ground 5, no reason was given by the appellant as to why the learned Magistrate was wrong to hold that witness Jean Antoine is a "témoin de complaisance". Finally, as for ground 6, we also note that the appellant failed to elaborate as to why the learned Magistrate was wrong when he did not give due consideration to the declaration made by the appellant at Grand Port Police Station.

We endorse the observations made in **Moosanah L. v Independent Commission against Corruption & Anor** [2025 SCJ 215] wherein the Court refers to the case of **Cheetamun S. v The State** [2019 SCJ 48] which confirms that grounds of appeal which are vague do not amount to grounds of appeal *per se* and should be dismissed:

> *"In Cheetamun, the Court stated as follows:*
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> *"Regarding ground 1, we agree with the point raised by learned Counsel for the respondent that it is couched in such vague and uncertain terms that it does not in effect amount to a ground of appeal proper. It fails to identify the facts and/or evidence upon which the appellant may be relying under the said ground to*

challenge the judgment. An appellant who challenges the decision of a court cannot expect that the appellate court will entertain grounds of appeal which not only leave the appellate court in the dark as to what is being impugned in the judgment of the trial court but fails to convey to the other side the precise complaint which it has to meet."

In Langue, it was stated that:

"The basic rule is that grounds of appeal must be carefully drafted, that is in a clear and precise manner so as to indicate to the other side, and indeed the court, what specific issues are being raised and have to be considered (see Joli (supra)). Should the court consider that the ground is a mischief ground, that is through its vagueness and generality raised new issues not envisaged in the impugned ground, the court will not consider same. As was stated in the case of ***Ramasamachetty v R*** *and cited in the case of* ***Parahoo v The King*** *, on vague and general grounds of appeal –"If we were to sustain such an argument it is very clear that reasons of appeal would be so framed henceforth as to conceal the grounds as much as possible, and would lead to great abuses in practice.""*

Indeed, grounds 3, 4, 5 and 6 as drafted, do not specify in what way the learned Magistrate erred or what is being reproached of him. We find that grounds of appeal cannot be drafted in such a way as to invite the court to decipher the intention of the appellant. For the above reasons, we find that grounds 3, 4, 5 and 6 are vague and inasmuch as they do not amount to proper grounds of appeal, we shall not entertain them. We accordingly dismiss grounds 3, 4, 5 and 6.

Ground 9

We note the following evidence as borne out by the record before the lower Court that:

(i) Mr. Vasoodev Chumun complained that whilst himself and the appellant were both in the accidented car on their way to the police station, the latter solicited the sum of Rs 5,000 from him for not reporting a case of road accident;

(ii) Mr. Vasoodev Chumun mentioned as part of his story that when the appellant arrived on the spot of the accident, he was accompanied by another police officer;

(iii) Mr. Vasoodev Chumun also mentioned that the appellant alighted from the police vehicle which left and he could not identify the other officer;

(iv) The alleged presence of PC Arianaik on the spot is a version which emanates from the appellant and to which PS Oolun had given the lie;

(v) PC Arianaik was not on the locus of the accident at the material time and as such a confrontation exercise between Mr. Vassodev Chumun and PC Arianaik was of no use;

(vi) PC Arianaik testified that he did not attend to the case of road accident and he would not know who inserted the entries in the Diary Book;

(vii) Insp Kowlessur confirmed under oath that in the course of the enquiry, the identity of the police officer who attended the spot together with the appellant has remained unknown.

We find that although the learned Magistrate was aware that the ICAC had failed to carry out an identification exercise between PC Arianaik and Mr. Vasoodev Chumun so as to know the identity of the police officer who accompanied the appellant on the spot of the accident, yet he was nevertheless satisfied with the testimony of PS Oolun which is supported by Document F, that PC Arianaik was not present on the spot of the accident, the more so that Mr. Vasoodev Chumun had stated in Court that he could not recall the plate number (6 RM 13) of the van from which the appellant had alighted when he attended the spot of the accident nor the driver of the said van. We further find that the learned Magistrate was satisfied with Mr. Vasoodev Chumun's explanation that he could not recall the plate number nor the driver as at that precise point in time he was concentrating on his car and was removing his personal belongings therefrom.

Ground 9 therefore fails.

For the reasons given above, all the grounds of appeal fail and we accordingly dismiss this appeal with Costs.

G. Jugessur-Manna
Judge

M. Naïdoo
Judge

18 March 2026

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Judgment delivered by Hon. M. Naïdoo, Judge

For Appellant	:	**Ms. F. Somauroo, Attorney-at-Law** **Mr. D. Ramful, of Counsel**
For Respondent No. 1	:	**Ms. K. Parson, Senior State Attorney** **Ms. C. Chavrimootoo, Temporary State Counsel**
For Respondent No. 2	:	**Ms. B. M. Chatoo, Attorney-at-Law** **Mr. H. Jeeha, of Counsel** **Mr. D. Gunesh, of Counsel**