SINGH MAVENDRA & ANOR v FINANCIAL CRIMES COMMISSION

2026 SCJ 180

JIC/1228/2025

IN THE SUPREME COURT OF MAURITIUS
(Before the Honourable Judge in Chambers)

[An application made under sections 72 (1) (a) and 76 (2) (b) of the Financial Crimes Commission]

In the matter of:

Mavendra Singh

Varsha Singh

Applicants

v/s

Financial Crimes Commission

Respondent

JUDGMENT

On 24 October 2023, a Restraining Order bearing Number JIC/1619/2023 was served upon the applicants, restraining them from dealing with or disposing of funds held in their bank accounts, as well as their three motor vehicles and certain immovable properties. The application for the said Order was made by the Financial Intelligence Unit, then the Enforcement Authority established under the repealed Asset Recovery Act 2011. The Restraining Order was subsequently extended on 18 October 2024 by Justice Narain for a further period of one year, expiring on 17 October 2025. Following the coming into force of the Financial Crimes Commission Act 2023, ("FCC Act") on 29 March 2024, the Restraining Order was, by operation of the law, deemed to continue to be in force as a valid First Criminal Attachment Order. The First Criminal Attachment Order remained in force until it lapsed on 17 October 2025. Thereafter, on 30 October 2025, a New Criminal Attachment Order was issued by me pursuant to the FCC Act.

The Applicants are praying for an order:

(i) discharging the First Criminal Attachment Order having lapsed on the 17th of October 2025 pursuant to section 76 (2) (b) of the Financial Crimes Commission 2023;
(ii) ordering the respondent to notify all relevant bodies, institutions, authorities, and/or commercial banks that the First Criminal Attachment Order has been revoked and ceased to have any legal effect pursuant to section 72 (1) (a) of the Financial Crimes Commission Act 2023;

(iii) for the disclosure and communication of a complete copy of the proceedings and the application bearing serial number JIC1190/2025 entered by the Respondent including the accompanying affidavit and any supporting documents attached thereto;

(iv) revoking the New Criminal Attachment Order dated the 30th of October 2025 issued in the application bearing serial number JIC1160/2025 against the applicants and/or the applicants' properties pursuant to section 72 (1) (a) of the Financial Crimes Commission Act 2023 on further grounds that the applicants would communicate following the disclosure as prayed for under prayer (iii) above; and

(v) ordering and directing the respondent to notify all relevant bodies, institutions, authorities, and/or commercial banks that the New Criminal Attachment Order dated the 30th of October 2025 has been revoked and ceased to have any legal effect pursuant to section 72 (1) (a) of the Financial Crimes Commission Act 2023.

It is not disputed that the first and second prayers no longer constitute live issues, in so far as the First Criminal Attachment Order has lapsed and has subsequently been set aside.

The applicant is seeking the revocation of the New Criminal Attachment Order on the following grounds:

a) the order constitutes an abuse of process, inasmuch as the criminal enquiries conducted by the respondent are not evidence-based and amount to a mere fishing expedition;
b) that the proceedings are procedurally unfair, in that the respondent failed to disclose to the applicant the affidavit relied upon in the *ex parte*

application, contrary to the principal of equality of arms, thereby rendering it questionable whether full and frank disclosure was made in the absence of scrutiny by the applicant; and

c) that the respondent has failed to meet the requisite legal threshold for the attachment, inasmuch as the test under section 70(1) of the FCC Act for the maintenance of the New Criminal Attachment Order has not been satisfied, having regard to the unrebutted averment of the applicants regarding the source of the funds in respect of the properties in question.

The respondent is resisting the application.

I have duly considered the affidavit evidence on record together with the documents annexed therein as well as the submissions on behalf of both parties.

Learned Senior Counsel for the applicants submitted that the attachment order over the suspect's assets constitute an exception to the constitutional right to the unfettered enjoyment of property. She also submitted that in the framework of prevention of financial crime, the purpose of an attachment order is to preserve assets that the respondent has already identified, upon reasonable grounds, as tainted property, namely, assets alleged to constitute proceeds of crime. Accordingly, a blanket attachment order issued without identifying the tainted assets being attached amounts to a fishing expedition and it prematurely deprives the suspect of the enjoyment of his property when there is no certainty about its illegal provenance.

Learned Senior Counsel further submitted that after having allowed the First Criminal Attachment Order to lapse following a one-year extension, the respondent sought to achieve, by way of a fresh *ex parte* application, the continuation of a criminal attachment on the basis of the same enquiry beyond the safeguards constructed by Parliament pursuant to section 76 of the FCC Act. According to Counsel, the applicants could not have been subjected to a New Criminal Attachment Order, founded upon identical facts, following the expiry of the First Criminal Attachment Order which was extended for one year, based on the same enquiry and the New Criminal Attachment order is *ultra vires* the FCC Act.

It is apposite to refer to the relevant provisions of the FCC Act which deal with the Criminal Attachment Order and which read as follows:

> ***69. Application for Criminal Attachment Order***
>
> *(1) Where a person is charged with, or convicted of, an offence or a criminal enquiry is ongoing, the Commission may apply to a Judge, by way of ex parte application, for a Criminal Attachment Order in order to preserve or protect any property, in which the person being investigated, charged or convicted has an interest that is reasonably believed to be proceeds or an instrumentality of the offence, or a terrorist property.*
>
> ***70. Issue of Criminal Attachment Order***
>
> *(1) Where the Commission applies to a Judge for a Criminal Attachment Order, and a Judge is satisfied, having regard to any relevant evidence, that there are reasonable grounds to believe that –*
>
> *(a) the alleged offender has been charged with, or convicted of, an offence, or is the subject of a criminal enquiry; and*
>
> *(b) the property which is the subject of the application is proceeds or an instrumentality of the offence, or a terrorist property,*
>
> *a Judge may issue a Criminal* Attachment Order. (Underlining mine)

It is clear from a reading of the above provisions of the FCC Act that the primary purpose of the Criminal Attachment Order is to protect and preserve the property which is reasonably believed to constitute proceeds that are subject matter of a criminal enquiry. A Criminal Attachment Order is, by its very nature, a temporary and preservative measure designed to prevent the dissipation of property reasonably suspected to be the proceeds of an unlawful activity. The applicable test is an objective one, to be assessed by the Judge who is sovereign to determine on the basis of the affidavit evidence placed before him. At that stage, the Judge is not required to make a finding of proof it suffices that there exist reasonable grounds to believe that the properties in question are the fruits of an unlawful activity and, as such constitute proceeds of crime.

The respondent has, in its affidavit dated 25 November 2025, set out in detail the nature and scope of the complex investigation being conducted against the applicants, relating *inter alia,* to the allocations of contracts during the tenure of the first applicant as the then Chief Executive Officer of the Mauritius Telecom. The respondent has averred that its enquiry concerns five contracts awarded by the Mauritius Telecom, with an approximate total value of MRU 2.8 billion, namely: the MT Fintech Journey (MyT Money), the acquisition of Set Top Boxes, Copper Cable Recovery Project, the Construction of MUGA and acquisition of handsets for Safe City.

The respondent has averred that in the "Copper Cables Recovery Project", the investigation discloses that the contracts for the sale of copper cables were awarded to Tradeway International Ltd. It is further stated that the Management Procurement Committee of the Mauritius Telecom was informed that the projected recovery yield from recovered copper cables was estimated to be between 38% to 40%, which was contrary to industry standard of 70% to 75%. In the light of the ongoing investigation, it is averred that the Police suspect that the first applicant may have misappropriated part of the proceeds generated from the sale of copper, thereby causing prejudice to Mauritius Telecom. It is further alleged that such proceeds may have laundered through several individuals, including the second applicant, wife of the first applicant.

The respondent has further averred that the investigation relating to the allocation of contracts by Mauritius Telecom for the launching of New Internet Protocol Television ("LPTV") project reveals that the first applicant allegedly misled the Board of the Mauritius Telecom. It is alleged that the first applicant advised the Board that Mauritius Telecom had contacted several suppliers, but only Huawei Technologies (Mauritius) Co. Ltd had agreed to implement a full Proof of Concept (POC) of their latest Envision IPTV platform. However, it has subsequently emerged, according to the respondent, that no other supplier had in fact been approached by Mauritius Telecom, nor had any formal request for quotation been issued in that regard. It is further averred that the Mauritius Telecom thereafter addressed a request for quotation to Huawei Mauritius for the supply of 40,000 Set Top Boxes. The then Managing Director of Huawei, Mr Danesh Ellayah, allegedly advised the Mauritius Telecom to channel its request for quotation through another entity, namely, Anglo Mobility DMCC, based in the Republic of United Arab Empire. Mauritius Telecom approved the procurement of Huawei certified STBs at USD 85 per unit for the total price of MUR 115,000,000. However, it is averred that during the period

2018 to 2021, Mauritius Telecom proceeded to purchase 340,000 STBs from Anglo Mobility DMCC, under the brand “Sky Worth” for an aggregate sum of USD 29,460,875. The Police investigation reveals that the prevailing average market price of one unit of STB ranges between USD 50 to 60 per unit, which is substantially lower than the unit price of USD 85 that was applied. On the basis of an average price of USD 55 per unit, the total cost of the procurement would have amounted to approximately USD 18,700,000. It is further reveals that the Board of Mauritius Telecom was led to believe by the first applicant that the Skyworth STBs procurement were Huawei-certified products, where, in fact, they were not certified. The investigation further discloses that the established procurement and competitive bidding proceed ordinarily applicable within Mauritius Telecom was not adhered to in respect of the said acquisition of the STBs.

According to the report of the Forensic Technologies International (“FTI”), various allegations of malpractices and wrongdoings have been identified in relation to the allocation of contracts during the tenure of office of the first applicant who served as Chief Executive Officer of Mauritius Telecom from 2015 to 2022. It is further stated that the first applicant, in his capacity as then CEO of Mauritius Telecom, is suspected of having deliberately facilitated the award of certain projects of Mauritius Telecom to Mr Danesh Ellayah and to companies in which the latter held direct and indirect interest, thereby allegedly conferring undue benefit upon him.

The respondent has further averred that its investigation has revealed that the applicants acquired several immovable properties, the majority of which were financed through funds originating from the accounts of a company, Richmont Capital Limited, as well as from the first applicant’s account held with AfrAsia Bank Limited. Richmont Capital Limited was incorporated on 24 July 2009, with the second applicant, as sole shareholder and director. Between August 2017 to January 2023, the said company recorded total inflows amounting to MUR 161,487,056. In particular, in August 2017, Richmont Capital Limited received an aggregate sum of Rs 13,489,000 from three Malagasy companies. The respondent contends that it has reasonable grounds to believe that the aforementioned transactions were structured and utilised for the purpose of laundering the proceeds of suspected fraudulent activities perpetrated to the prejudice of the Mauritius Telecom.

The respondent has reason to believe that the kickbacks derived from the alleged fraudulent allocation of contracts may have been laundered through various corporate entities

and structures and the acquisition of immovable properties. The immovable properties which are reasonably suspected to constitute the proceeds of such fraudulent activities include *inter alia* lot B37, lotissement Le Bout du Monde, Ebene, purchased on 27 April and 03 May 2016 for a consideration of Rs 30,000,000, as well as a commercial building of an extent of 625 m^2 registered in the name of "La Batisse Marina Ltée", situated at Royal Road, Rose Hill and acquired for the sum of Rs18,150,000. The enquiry further reveals that the beneficial owner of "La Batisse Marina Ltée is Mr Nilesh Ramanbhai Patel, who is alleged to be a "*prête-nom"* of the first applicant. The said Mr Patel is also the director of Plug in Digital Ltd, which received inflows of funds from Tradeway International Ltd, an entity which was allocated the contract for the sale of copper by Mauritius Telecom. In July 2019, both applicants acting through Terra Primus Ltd, acquired a plot of land of an extent of 3,207.56 m^2 for a consideration of Rs 17,757,540. The said payment was financed through payments made from the account of Richmont Capital Limited.

The investigation further reveals that Richmont Capital Limited reported a loss, notwithstanding a sudden increase in its turnover from MUR 1.7 million to 28.7 million during the period 2016 to 2019. The respondent avers that it has interviewed approximately sixty witnesses and eight suspects in the course of the enquiry. It is further alleged that the investigation reveals that in August 2017, Richmont Capital Ltd of which the applicant is the ultimate beneficial owner received three inflows, totalling USD 410,000 from Societé de Mettallurgie, SIR SARL and IDC SARL, which amount was used to acquire a commercial building in the sum of MUR 19,185,000. At this stage of the enquiry, no known business or contractual relationship has been established between Richmont Capital Ltd and the said fund providers. It is further revealed that in November 2018, an amount of USD 1,000,000 was remitted to Mauritius by DNS International Ltd. A review of the money trail indicated that the said sum was, through the intermediary of a public Notary's account, transferred to the account of Richmont Capital Ltd. The remittance was described to the bank as "proceeds of the sale of shares" in another company owned by the second applicant, "*La Batisse Marina Ltée".*

The investigation further reveals that the second applicant holds three bank accounts in her own names at Emirates NBD bank of the United Arab Emirates. It is also established that the second applicant is the ultimate beneficial owner of Invictus Consultants FZE, a company registered in the United Arab Emirates. The enquiry further discloses that the said company received a total sum of MUR 7,121,283.22 from DNS International Ltd during the period August

2017 to December 2017. The respondent has stated that in March 2024, a request for mutual assistance was submitted to the Central Authority of the United Arab Emirates in respect of the banking transaction made by the second applicant. Request for information has also been addressed to the Malagasy authorities. The responses to the said request are still awaited.

The respondent avers that the enquiry, as it presently stands, disclosed that the applicants, through various corporate entities, acquired immovable properties valued at more than Rs 65 million during the period May 2016 to July 2019. It is further alleged that there existed several malpractices and wrongdoings in relation to the allocation of contracts during the tenure of office of the first applicant as Chief Executive Officer of Mauritius Telecom, a position he held from 2015 to June 2022.

A Criminal Attachment Order is, in law, granted on an *ex parte* application when the Judge is satisfied that there are reasonable grounds to believe, first, that the alleged suspect is subject to a criminal enquiry, and second, the properties under investigation constitute, or are reasonably suspected to constitute proceeds or instrumentalities of the alleged offence.

In the present case, the evidence on record discloses that the criminal enquiry remains ongoing in relation to the Copper Cable Recovery Project, the Internet Protocol Television Project, the acquisition of various immovable properties by the applicants during the period when the first applicant served as Chief Executive Officer at Mauritius Telecom.

The test of "reasonable ground to believe" is an objective one which the Judge is sovereign to assess. It has been explained in **The Financial Intelligence Unit v Joseph James Stevenson Perrine [2023 SCJ 397]** that:

"*Reasonable grounds for believing a primary fact, such as that the person under investigation has benefitted 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. ….. 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 grounds" some different expression such as "strong grounds" or good arguable case" (underlining is mine)

In the light of the averments set out in its affidavit, I find that the respondent has disclosed in sufficient detail the nature and scope of the investigation being conducted against the applicants. The respondent has provided adequate information for the applicants to be aware of the enquiries being pursued against them. The applications for the New Criminal Attachment Order was made incompliance to Section 69 of the FCC Act. I therefore find that prayer (iii) cannot succeed.

I also find that, on the basis of affidavit evidence on record, there exist objective and reasonable grounds to believe that the properties under investigation constitute proceeds and that the criminal enquiries undertaken by the respondent are evidence-based and do not amount to a mere fishing expedition. The first ground relied upon by the applicant for revoking the New Criminal Attachment Order therefore fails.

I am unable to agree with the submissions of learned Senior Counsel for the applicants that the respondent acted *ultra vires* the FCC Act and misled the Judge in Chambers in applying for the New Criminal Attachment Order.

First Criminal Attachment Order was issued on under the Asset Recovery Act 2011 for a renewed period of one year consecutively, and it lapsed in October 2025. Under the Asset Recovery Act, the legislator had imposed no limitation on the number of occasions on which the respondent can seek an extension of the Restraining Order. However, section 76 of the FCC Act expressly provides as follows:

76. Duration of Criminal Attachment Order

(1) Subject to subsection (3), where a Criminal Attachment Order is issued on the basis that an alleged offender is the subject of a criminal enquiry, a Judge shall, on application made to him pursuant to subsection (2), discharge the Order if the alleged offender is not charged with a criminal offence as a result of the enquiry, or an offence arising from the same conduct or course of conduct, within 12 months of the date on which the Order is issued.

(2) (a) Where subsection (1) applies, the Commission shall make the necessary application to a Judge as soon as reasonably practicable.

(b) Where no application pursuant to paragraph (a) is made by the Commission within 7 days of the expiry of the period referred to in subsection (1), any person affected by the Criminal Attachment Order may apply under this subsection for the discharge of the Order.

(3) Where a Criminal Attachment Order is likely to lapse pursuant to subsection (1), a Judge may, on an application made by the Commission, extend the operation of the Order for a specified additional period not exceeding 3 years where he is satisfied that it is in the interests of justice to do so.

(4) Where a Criminal Attachment Order is issued on the basis that an alleged offender is the subject of a criminal enquiry and the alleged offender is, within 12 months of the date on which the Order was issued, charged with a criminal offence as a result of that enquiry, the Order shall have effect until the conclusion of the criminal proceedings, including any appeal, in respect of that offence. (Underling mine)

A reading of section 76 of the FCC Act makes it clear that the legislator has afforded the respondent a maximum period of four years within which to complete an enquiry. In the present case, the First Criminal Attachment Order was issued in October 2023, while the New Criminal Attachment Order was issued on 30 October 2025. I am therefore satisfied that the respondent has acted within the statutory period and that the Attachment Order is *intra vires* the FCC Act.

Learned Senior Counsel for the applicants also contends that the respondent has failed to disclose to the applicants the *ex parte* application, together with the affidavit and evidence which were filed before the Judge in Chambers in support thereof. It is further submitted that such non-disclosure is disproportionate, offends the principle of equality of arms, and constitutes an infringement of the rules of natural justice. Counsel has also argued that the present application is analogous to **Ellayah. D & Ors v Financial Intelligence Unit [2023 SCJ 359]**, in which the Restriction Order was rescinded and that a similar approach ought to be adopted in the present matter.

The principle of equality of arms requires that each party be afforded a reasonable opportunity to present his case, including the adduction of evidence, under conditions which do not place him at a substantial disadvantage *vis-à-vis* his opponent, *vide* **Halsbury's Laws of England/Rights and Freedom [2018 Vol. 8A].**

It is apposite to refer to the following extract from the Guide on **Article 6 of the Convention – Right to a fair trial** (civil limb) of the European Court of Human Rights:

"*222. The principle of "equality of arms" is inherent in the broader concept of a fair trial. The requirement of "equality of arms", in the sense of a "fair balance" between the parties, applies in principle to civil as well as to criminal cases (Feldbrugge v. the Netherlands, § 44). 223. Content: maintaining a "fair balance" between the parties. Equality of arms implies that each party must be afforded a reasonable opportunity to present his case – including his evidence – under conditions that do not place him at a substantial disadvantage vis-à-vis the other party: Dombo Beheer B.V. v. the Netherlands, § 33. [emphasis added] - It is inadmissible for one party to make submissions to a court without the knowledge of the other and on which the latter has no opportunity to comment. It is a matter for the parties alone to assess whether a submission deserves a reaction (APEH Üldözötteinek Szövetsége and Others v. Hungary, § 42);*

It is apposite to note that Section 72 of the FCC Act provides that:

72 –

(1) Where a criminal Attachment Order is issued, a Judge may issue –

(a) another Order revoking the Criminal Attachment Order or varying the property to which it relates;

(b) another Order varying any condition to which the Criminal Attachment Order is subject;

(c) ……

(d) ……

(e) ……

(2) A Judge shall not issue another Order under subsection (1)(e)(i) or (ii) unless he is satisfied that the person cannot meet the expenses out of any property that is not

subject of the Criminal Attachment Order and he determines that it is in the interests of justice to do so.

(3) An application of an Order under subsection (1)(a) or (b) may be made by any person affected by the Criminal Attachment Order. (underlining is mine)

The case of **Ellayah (supra)** is distinguishable to the present case inasmuch as in **Ellayah (supra)** the applicants have adduced evidence supported by documentary material, establishing that the money found in the bank account of applicant No. 3 as well as the money of applicant No. 1, originated from legitimate sources, and that evidence remained unrebuttal.

In the present case, by contrast, the applicants have merely averred in their affidavit that, following the first applicant's statement made on a private radio against the former Prime Minister on 01 July 2022, they were subjected to a systematic campaign of persecution. However, not an iota of evidence has been adduced to establish the legitimate sources of funds held in their bank accounts or of the money used for the acquisition of the immovable properties *in lite.* Pursuant to section 72 of the FCC Act, the applicants are given an opportunity to present their case and substantiate prayer IV, but they have failed to do so.

For the reasons set out above, I find that the New Criminal Attachment Order issued on 30 October 2025 is lawful and valid, there being reasonable grounds to believe that the properties under investigation are alleged proceeds. I also find that all the grounds relied upon by the applicants for the revocation of the New Criminal Attachment Order have failed. Accordingly, the application to revoke the New Criminal Attachment Order cannot succeed, and prayer (IV) of the *proecipe* is refused. The application therefore is set aside with costs.

I certify as to Counsel.

G. Jugessur-Manna
Judge

Date: 06 May 2026

For Applicant : Mr J. Lukeeram, Attorney-at-Law
Mrs U. Boolell, Senior Counsel, together with
Mr F. Soreefan, of Counsel

For Respondent : Ms N. Seetaram, Attorney-at-Law
Mr L. Nulliah, of Counsel