IN THE DISTRICT COURT OF PAMPLEMOUSSES

PCN: 1071/19

In the matter of:-

Christina Agathe

Applicant

DISTRICT COURT
CRIMINAL
PAMPLEMOUSSES

v

Police

Respondent

RULING

A. Introduction

1. The Accused stands provisionally charged with an offence of Money Laundering in breach of Sections 3 (1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act.

2. The provisional information avers that on or about the 17th of June 2019 at 86, La Chaux Street, Tombeau Bay, in the district of Pamplemousses, the Applicant was wilfully, unlawfully and criminally in possession of property which, in whole of in part directly or indirectly represented the proceeds of a crime, where she, the Applicant had reasonable grounds for suspecting that the property was derived, in whole or in part directly or indirectly, from a crime.

Particulars

On or about the date and place as aforesaid, the Applicant, was in possession of properties, to wit: a private motorcar make Audi, bearing registration no. AC 1212, money for the sum of Rs.46,000/-, two safes containing jewelleries of white colour with glittering stones, sum of Rs.8,873,175/-, and other foreign currencies worth around Rs.695,000/-, which properties in whole or in part, directly or indirectly represented the proceeds of a crime, to wit: drug dealing and where she, the said Applicant, had reasonable grounds for suspecting that the said properties were derived, in whole or in part, directly or indirectly, from the said crime.

3. The provisional information was lodged on 18.06.19.

4. The Applicant, through her learned counsel, has moved for the provisional charge to be struck out on the grounds of delay.

5. The case for the Respondent was conducted by learned counsel for the FCC, assisted by police prosecutor.

B. The case for the Respondent

6. Chief Investigator Jokhoo of the FCC (thereafter referred to as the "**EO**") testified to have solemnly affirmed an affidavit on 13.04.26 explaining the investigation process and actions taken in the present case. He produced the said affidavit which was marked as DOC A. The EO then explained that the Applicant is the wife of one Ricardo Laval Agathe, who has been arrested by police on several occasions for money laundering and drug related offences. Information was received that several properties were acquired by the said Ricardo Laval Agathe and the Applicant either in their personal names or in the names of prête-nom or companies of which they are directors and shareholders. It was on that basis that the then ICAC coordinated a search at the premises of the Applicant and a guesthouse acquired in the name of a company of which the Applicant is the sole director and shareholder. A sum of Rs.10,000,000 in cash, a set of jewelleries worth 1.8 million rupees, and 7 vehicles were secured. The Applicant was investigated into regarding the acquisition of the various motor vehicles and the guesthouse, the source of funds, and the various bank accounts. 9 persons were arrested including the Applicant. Some 30 witnesses were interrogated. Further statements need to be recorded from the Applicant's husband who is currently on remand at Melrose prison. The EO stated that the enquiry will be complete in two weeks time. There is sworn, real and documentary evidence against the Applicant. The enquiry has been a complex one. 27 properties were identified and voluminous financial documents had to be analysed. Various other companies and persons are involved. The EO further stated that the provisional charge should remain live against the Applicant in view of the heavy penalty.

7. In cross-examination, the EO confirmed that the Applicant is not borne on record. There are no other provisional charges against her. The EO also confirmed being the main enquiring officer in the present matter and he was greatly assisted by his colleague Soodagar, who recorded most of the statements. The Applicant has 4 children. Her husband is on remand and right now the Applicant is the sole breadwinner of the family. The Applicant was arrested in 2019. In 2017, both the Applicant and her husband were summoned by the ICAC to give a statement. At that material time, the investigation was being carried out by another team. There were no provisional charges against the Applicant or her husband back in 2017. The ICAC took the financial measures and froze the bank accounts of both the Applicant and her husband, including that of their companies. There was also a freezing order on the accounts of their children. Since 2017, the Applicant cannot open a bank account, be it in her own name or in the name of a company. The money secured were in two safes. The safes were at the Applicant's place of work in Baie du Tombeau. At her residence, around Rs.100,000 was secured, which includes the foreign currencies. All people interrogated in the present case were local people. Some of the vehicles in the name of her company were sold by the FCC in accordance with the law. The EO could not confirm whether the Applicant was notified of such sale. He confirmed that the Applicant gave her explanation in her defence statement. 2-3 years ago, an expert accountant, one Ravie Bansoodeb, was instructed to file a report on the money trail. An affidavit dated 23.11.22 was then shown to the EO and he confirmed that a previous motion to strike out the provisional charge was made; but the motion was not insisted upon. It was put to the EO that his affidavit does not specify the chronology of the enquiry whereas the one sworn by his colleague specified that between 03.09.17 and 09.06.22, 55 statements were recorded from 43 witnesses, and between 09.10.17 to 16.11.21, 43 defence statements were recorded from 22 suspects. Following a judge's order on 09.05.17, statements of accounts and financial documents of the suspects were obtained. 12 out of 13 defence statements were recorded from the Applicant under caution between 09.10.17 and 22.10.21. Whilst the EO confirmed that most of the enquiry was completed by 20.11.22, which was at the time that Mr Soodagar swore the affidavit, he explained that there were then several occurrences involving the husband, the latest of which dates back in March 2025, and as a result, further verifications had to be carried out before completing the enquiry. The facts and circumstances leading to the provisional charge against the Applicant is connected to her husband.

8. In re-examination, the EO was made to confirm that the freezing orders and restraining orders on the bank accounts of the Applicant, her husband and her children are no longer

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valid. Whatever was stated by Mr Soodagar in his affidavit was back in 2022 when the investigations were led by him

C. The case for the Applicant

9. The Applicant elected to remain silent and submissions were tendered on her behalf at the close of her case.

D. Analysis

10. It is well settled in our jurisprudence that a provisional charge is a preliminary accusation used to bring an arrested suspect under judicial supervision, allowing the court to decide whether to release the person on bail or hold them in detention or on remand pending completion of police enquiry. Because the suspect party does not plead to a provisional information, and no trial takes place, the court acts as an arbiter protecting constitutional liberties. A provisional charge should not be use as a tool for the police to conduct open-ended, prolonged investigations or go on a fishing expedition.

11. The Applicant has been arrested on 18.06.19 on a suspicion of a money laundering offence, following which the present provisional charge was lodged against her on the same day. It hence follows that at the time this ruling is being delivered, 7 years and a day have lapsed.

12. The burden was on the Respondent to show to this court that the delay of 7 years is justified. However, having carefully perused DOC A, which is the affidavit filed by the EO, as well as the evidence ushered by him in court, I find that the Respondent failed to provide a detailed chronological accounting of the investigative actions taken between 2019 and 2026.

    12.1. At paragraph 8, it is averred that an application for a disclosure order was made on or about 2019. It fails to state when exactly that application was made nor when the order was granted. It also fails to mention how long it took for the '*bulky amount of banking and financial statements*' to be obtained from the institutions concerned. It then further avers that the time-consuming exercise was completed. Again, I am in the dark as to how long that time-consuming exercise took.

12.2. At paragraph 11, it is further averred that searches were carried out and documents were sought from the Conservator of Mortgages, the Civil Status Office, the Mauritius Revenue Authority, the National Land Transport Authority and the Gambling Regulatory Authority. When and where were the searches carried out? What documents were sought from these institutions? When exactly were the documents sought in respect of each institution? How long did it take to obtain the documents? Why were such documents relevant to the enquiry?

12.3. At paragraph 12, when was the financial analysis conducted? How long did it take to conduct such exercise? When were the possible money laundering offences detected against the Applicant?

12.4. At paragraph 14, when were the additional investigative actions taken against the Applicant? It is averred that the Applicant's husband was arrested in relation to drug related offences where new evidence surfaced. How was the new evidence relevant to the Applicant's arrest?

13. Many aspects of the investigation are unclear and there are so many questions regarding the timeline of the enquiry which are very vague. Importantly, the EO confirmed that most of the enquiry was completed by 20.11.22, but he explained that there were then several occurrences involving the husband, the latest of which dates back to March 2025, and as a result, further verifications had to be carried out before completing the enquiry. I am in the dark as to why and how those occurrences involving her husband have any bearing on the present provisional charge against the Applicant.

14. Clearly, the Respondent failed to discharge their burden of justification as regards the delay.

15. I find that the present provisional charge against the Applicant, active since 2019, heavily triggers her protection under Section 10(1) of the Constitution which provides for the right to a hair hearing within a reasonable time. Given the lack of justification on the part of the Respondent to explain the delay or why the provisional charge ought to remain live, this 7-year gap is a heavy presumptive proof of prejudice against her constitutional right to a fair trial within a reasonable time.

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E. Conclusion

16. For all aforesaid reasons, I order that the provisional charge against the Applicant be struck out and all conditions attached thereto are to lapse

Mrs. M. D. Chung Kow Cheong

District Magistrate

19.06.26

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