

CN FR/L37/2023

**IN THE INTERMEDIATE COURT OF MAURITIUS**  
**(FINANCIAL CRIMES DIVISION)**

**In the matter of:**

**ICAC**

**(Now the Financial Crimes Commission pursuant to  
section 168 (1) of the Financial Crimes Commission Act 2023)**

**v/s**

- 1. Hedley Desire Laval ANTHONY**
- 2. Imtiaz EMAMDEE**

**SENTENCE**

1. Accused no.1 is being prosecuted for the offence of Public Official Using His Office for Gratification (Count 1) in breach of **section 7(1) of the Prevention of Corruption Act (the "POCA")** for having certified that certain works had been completed, when in fact they were not, thereby causing payment of Rs. 37,715/- to be unlawfully made.
2. Accused no.2 is being prosecuted for the offence of Money Laundering (Count 2) in breach of **sections 3 (1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act (the "FIAMLA")**.
3. The case for the prosecution was conducted by Mr. Naga whilst accused no.1 was represented by Mr. R. Valayden, SC.
4. Both accused pleaded not guilty. On the 08<sup>th</sup> May 2026, accused no.1 changed his plea to one of guilty under Count 1 and requested for a separate trial. A Discontinuance of Proceedings was filed against accused no.2 on the 22<sup>nd</sup> May 2026 and his case was lodged anew.
5. After a hearing was conducted, accused no.1 was found guilty and convicted under **Count 1**.
6. Senior Investigator Soodagur (witness no.1) produced 4 statements that were recorded from accused no.1 on the (i) 30<sup>th</sup> June 2009, (ii) 13<sup>th</sup> August 2009, (iii) 03<sup>rd</sup> November 2009 and (iv) 27<sup>th</sup> February 2007 (**Doc AA, AA1, AA2 and AA3**). He also stated that accused no.1 did not cause any problem during the course of the enquiry.

7. Accused no.1, under oath, stated that he started working at the Municipality of Rose Hill in 1980 and retired as Chief Inspector at the District Council of Savanne in 2025. In 2008, he was arrested by the ICAC whereby he gave numerous statements during the course of the enquiry. During that time, he lost his parents. His health has also deteriorated and has had to put a heart stent. His wife is also a cardiac patient. He finally begged for excuse and leniency.
8. The previous convictions of accused no.1 were produced (**Doc X**). He has not spent any time on remand or police cell in connection with the present case.
9. Learned Senior Counsel for accused no.1 submitted and invited the Court to show leniency given the accused guilty plea, his state of health, his family situation and the delay in the present case.
10. The sentence applicable for the offence of Public Official Using His Office for Gratification (Count 1) under **section 7(1) of the POCA** is penal servitude for a maximum of 10 years.
11. The Court is alive to the overriding principle that the sentence to be inflicted must be commensurate with the gravity of the offence – see **Khoyratty v The State (2018) SCJ 382**.
12. In relation to the discount to be given to an accused party who pleads guilty, Section 69B of the District and Intermediate Courts (Criminal Jurisdiction) Act provides that:

*“The District and Intermediate Court may mitigate the sentence of an accused party who appears before it and makes, in the opinion of the Court, a timely plea of guilty to the offence with which he stands charged.”*

13. In **The State v Mootien and Ors [2009] SCJ 28**, it was held that:

*“In relation to the discount to be given to an accused party who pleads guilty, I bear in mind the SGC Revised Guideline “Reduction in Sentence for Guilty plea (July 2007) referred to in Blackstone’s Criminal Practice (2008)” at page 2070 to which I was referred by Counsel for accused No. 1. I also agree that the Criminal Division of the Supreme Court seems to have applied the recommendation contained in that guideline that one third deduction be given where the plea is indicated at the first reasonable opportunity. However, I am of the view that the actual discount to be given for a plea of guilty still remains a matter of discretion for the Court having regard to the circumstances of each particular case.” (Underlying is mine)*

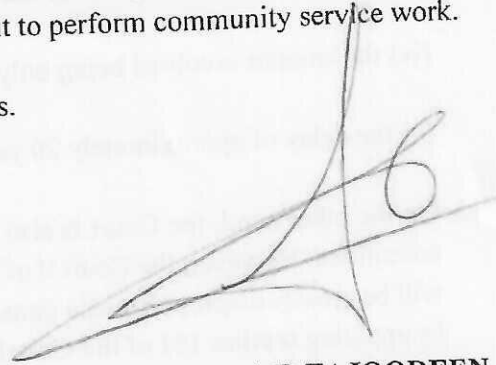
14. The Court has taken note of the fact that accused no.1 is not on record for any cognate offence. The Court has also taken into account the following mitigating factors in favour of accused no.1, namely:
- (i) his guilty plea, though not at a first reasonable opportunity, but which has saved a lot of time and resources;
  - (ii) his stated of health and that of his wife;
  - (iii) his remorse and request for leniency under oath;
  - (iv) the amount involved being only Rs. 37,715/-; and
  - (v) the delay of approximately 20 years since the commission of the offence.
15. On the other hand, the Court is also aware of the gravity of the offence that accused no.1 has committed. However, the Court is of the view that the minimum term of 3 years penal servitude will be grossly disproportionate quoad the overall circumstances of the present case. Therefore, by applying **section 151 of the Criminal Procedure Act**, accused no.1 is sentenced to undergo 1 month imprisonment.
16. Furthermore, as was highlighted in **Heerah v/s The State (2012) SCJ 71**:

*"[16] Courts should refrain from imposing custodial sentences as a matter of reflex and indiscriminately in all cases where fines and Probation Orders and Conditional Discharge Orders are not found appropriate. Serious consideration should be given to that intermediate option inasmuch as "the deprivation of liberty through a custodial sentence is the most severe penalty available to the courts and the proper punishment for the most serious crimes:" [see Home Office, 1990, para. 2.11 of the White Paper on Crime, Justice and Protecting the Public. This study culminated in the passing of the Criminal Justice Act 2003 in England and Wales which vested in their Courts the power to make Community Orders].*

*[17] In a number of cases, the objectives of the criminal justice system are better served when the offender's sense of responsibility to society and his self-reliance are triggered. As the Home Office Paper comments: Imprisonment "is likely to diminish an offender's sense of responsibility and self-reliance, "and "provides many opportunities to learn criminal skills. "What is more serious, imprisonment can have a devastating effect on some offenders as well as on their families. It would be unrealistic for*

*society to expect that those who deserve lesser but are sentenced to imprisonment for not so serious offences would ever "emerge as reformed characters."*

17. Indeed, a Court should refrain from indiscriminately applying custodial sentences in all cases. Accordingly, an accused, in appropriate cases, should further be given an opportunity to redeem himself by a means other than a custodial sentence. In that respect, the Court is of the view that the facts and circumstances of the present case are such that accused no.1 should be given a chance to redeem himself by a means other than a custodial sentence. Therefore, the sentence of 1 month imprisonment against accused no.1 is suspended and I order a social enquiry report to determine whether accused no.1 is fit to perform community service work.
18. Accused no.1 is further ordered to pay Rs.500 as costs.



**A.R.TAJOO DEEN**  
**Magistrate of the Intermediate Court (Financial Crimes Division)**  
**09.06.2026**