

**FCD CN: 38/2023**  
**CN: 645/2011**

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

**In the matter of:**

**Independent Commission Against Corruption**

**v/s**

- 1. Hedley Desire Laval ANTHONY**
- 2. Sheilandra Peerthum (D.O.P.)**
- 3. Ibnay Sahood Bundheea (Deceased)**

**SENTENCE**

The accused has been prosecuted and found guilty for the offence of a Public Official Using his Office for Gratification in breach of section 7(1) of the Prevention of Corruption Act 2002 (POCA), under 4 counts (1 to 4) of the Information.

The accused no.1 had changed his plea to one of guilty during the course of trial.

It is noted that there has been a discontinuance of proceedings against the then accused no.2, and accused no.3 had passed away during the course of trial, vide Doc DC. Furthermore, the case had been restarted at the FCD, which would explain the new markings on the documents produced.

**CASE FOR THE PROSECUTION**

Witness no.3, CI Mooneesamy identified a list of documents, which were marked anew as: Docs AA to Docs AM.

Witness no.7, PC Lutchmun, identified photos marked as Doc AN (AN1 to AN3).

Witness no.4, Senior Investigator Bachun, identified 4 cheques to the amount of Rs75,000 each and marked as Docs AP, AP1, AP2 and AP3.

Witness no.6, Investigator Chundoo, identified a plan marked as **Doc AQ**.

Witness no.1, Senior Investigator Deepchand, identified the defence statements of the accused as **Docs AR** and **AR1**. He also identified one photograph in a booklet marked as **Doc AS(AS1)**.

The circumstances of the case have been confronted to the accused in his defence statements.

## **CASE FOR DEFENCE**

The accused stated under oath that his attendance in court spans roughly 25 years, a period during which he has consistently appeared except when incapacitated by illness. After this extensive duration, he has chosen to enter a guilty plea to prevent further delays for all parties involved. Now a cardiac patient, he survived a critical, life-threatening health crisis thanks to medical intervention. Following the insertion of an arterial stent, he remains under treatment with heavy medication, and his long-term physical well-being has been severely compromised. Consequently, his health condition prevents him from engaging in demanding physical labour or maintaining permanent employment.

Regarding his professional history, he earned a promotion in 2005. However, following his arrest, his corresponding salary adjustment was deferred pending the final resolution of these legal proceedings. Although he spent 11 years away from active duty at home, he was eventually recalled by the Ministry to serve as Chief Inspector for the Riviere Noire and Savanne districts. He executed his responsibilities flawlessly throughout this tenure, ultimately retiring at age 65 after spending 45 years in public service.

Currently, the substantial cost of his medical treatment has left him in severe financial distress. His income is limited to a monthly pension of Rs 17,000, and his wife is similarly unable to work due to her own cardiac condition. Furthermore, he has suffered the loss of both parents, with his mother's passing occurring only recently.

While the trial was ongoing, he successfully completed his theological studies and now teaches religious education at several institutions, including Queen Elizabeth College (QEC), SSS Ebene, and BPS, among others. He expressed a profound sense of shame, noting the painful contradiction of preaching moral conduct to others while having to defend himself in this case.

He expressed deep remorse and prayed for forgiveness for any prejudice his actions may have caused.

## ASSESSMENT OF THE COURT

The penalty prescribed under section 7(1) of POCA at the time of indictment is penal servitude for a term not exceeding 10 years.

The accused pleaded guilty years after the case was lodged.

**Section 69B of the District and Intermediate Courts (Criminal Jurisdiction) Act** reads as follows:

*The District Court or the Intermediate Court may mitigate the sentence on 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.*

The case of **State v Doorgachurn 2015 SCJ 55** provides further analysis on the concept of timely guilty plea:

*In the case of State v Tony Mootien [2009 SCJ 28], the Court considered the recommendation contained in the SGC Revised Guideline "Reduction in Sentence for Guilty plea (July 2007) referred to in Blackstone's Criminal Practice (2008) and agreed that the Criminal Division of the Supreme Court seemed to have applied the recommendation that one third deduction be given where the plea is indicated at the first reasonable opportunity. However, the Court was of the view that the discount to be given for a plea of guilty still remained within the discretion of the Court having regard to the circumstances of each case. In view of the circumstances of the present case and the fact that the accused committed two serious offences within seven years and he tried to conceal the present offence, it is a proper and fit case not to give a full discount of one third. (Emphasis is mine)*

It is clear that the accused cannot benefit from the full discount due to his late guilty plea. It is however taken into account that the case is a long standing one, which has been cut short due to the guilt plea.

The accused has no cognate previous conviction, vide **Doc X**. Whilst such does not guarantee a non-custodial sentence, it gives an indication on the accused's behavioral pattern over a sizeable period of time in this case.

Due consideration is given to both the age and physical condition of the accused. As an individual suffering from a cardiac ailment and reliant on intensive medication, it is essential that the impending sentence accounts for the potential strain it could impose on his health.

Account is also taken of his domestic circumstances, notably that his wife is likewise a cardiac patient who is incapable of employment. Consequently, his financial predicament is assessed in light of his status as the sole bread winner for the household, particularly given the undisputed fact that his monthly pension falls below the national minimum wage.

Furthermore, weight is attached to the fact that the Ministry chose to reinstate the accused at a juncture in these proceedings, entrusting him with a role of significant responsibility. His successful completion of a theology degree and his active engagement in local social work strongly suggest a rehabilitated individual who has genuinely reformed. This sense of contrition was further mirrored in the remorseful stance he maintained during his address to the court.

However, the court cannot overlook that the accused stands convicted of corruption, which constitutes a serious offence. In his capacity as a public officer, he fundamentally failed to maintain the high standards of integrity expected within the public service.

The delay is a mitigating factor and the findings of **Boolell v State 2006 MR 175** are applied.

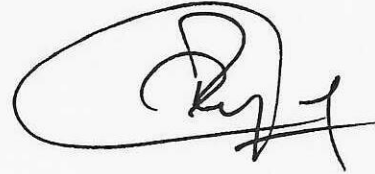
## CONCLUSION

Having carried out the required balancing exercise, I apply the proportionality principles as propounded in **Aubeeluck v The State of Mauritius [2010] UPKC 13**, as imposing a sentence of penal servitude would be grossly disproportionate in this case.

I therefore sentence the accused to undergo two months imprisonment, under each of the first four counts of the Information, plus Rs500 costs. The sentence is to be served concurrently.

However, to further reflect the circumstances of this case and applying the principles set forth in **Heerah v State 2012 SCJ 71**, the accused is given the opportunity to reform himself through means other than incarceration. The above sentence is

therefore suspended and I order a social enquiry report to see whether the accused is fit to perform community service work.

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by 'K' and 'Rangasamy' in a cursive script, with a horizontal line extending from the end.

**P K Rangasamy**  
**Magistrate of the Intermediate Court**  
**09.06.26**