

FINANCIAL CRIMES COMMISSION (FCC) v ADIA Z. B. I. & ANOR

2026 SCJ 349

Record No: 126997

THE SUPREME COURT OF MAURITIUS

In the matter of:

Financial Crimes Commission (FCC)

Applicant

v

- 1. Mrs Zaheera Bibi Issop Adia**
- 2. Mr Mohammad Nagib Khan Acoheea**

Respondents

JUDGMENT

By way of motion paper and supporting affidavit both dated 2 June 2025, the applicant is praying for a Criminal Confiscation Order, pursuant to section 77(1) of the Financial Crimes Commission Act 2023 (the 'FCCA'), ordering (i) the confiscation of the sum of Rs 1,000,000 presently in custody of the applicant, and (ii) the respondents to pay, jointly and *in solido*, to the State the sum of Rs 4,190,021.50 representing an equal to the value to their benefit, within such time as the Court may determine.

At the sitting of 22 May 2026, learned Counsel for the respondents informed the Court that, as per instructions received from the respondents, the latter had no objection to the application. She further stated that payment would be effected within a delay of six months.

At the sitting of 29 June 2026, learned Counsel for the applicant informed this Court that he would not be insisting on prayer (ii) of the application.

The factual background to the present application is borne out in the applicant's affidavit wherein it is averred that following a search carried out by the Anti-Drug Smuggling Unit ('ADSU'), a sum of Rs 1 million was seized from a car bearing registration number

6759 DC 2010, make Hyundai, colour grey, which was in the garage of the respondent No.2, at 20, Cité Gareeboo, Vallée des Prêtes. Respondent No.2 is religiously married to the respondent No.1 since 2014. On 10 October 2017, the former Independent Commission against Corruption (ICAC) initiated an enquiry for the offence of money laundering against the respondents following a referral from the Financial Intelligence Unit.

On 9 September 2024, the Financial Crimes Commission (having subsumed the ICAC by virtue of section 168(1) FCC Act) filed the main criminal case before the Intermediate Court Financial Crime Division against both respondents for the offence of money laundering under section 3(1)(b), 6 and 8 of the Financial Intelligence and Anti-Money Laundering Act (the 'FIAMLA'). On 29 October 2024, the respondents pleaded guilty to the said charge of money laundering, under count 57 of the information. On 17 December 2024, the learned Magistrate of the Intermediate Court sentenced both respondents to pay a fine of Rs 200,000. The learned Magistrate further made the following observation '*..... the Court has taken also note of the fact, as stated by the Prosecutor, that the Rs. 1,000,000/ in cash, subject matter of Count 57, was seized by the ADSU and that the Financial Crimes Commission will do the procedures for its confiscation*'. Following the sentence, the sum of Rs 1,000,000 had been handed over to the Commission on 22 January 2025. Hence, the present application for a Confiscation Order.

I have duly considered the motion paper, the affidavits of the applicant and that of the respondents, the documents attached to the application, the submissions of learned Counsel for the applicant and the stand of the respondents.

It is apposite at this stage to refer to section 77(1)(a) of the FCCA which is the basis of the present application and which reads as follows:

"77. Application for Criminal Confiscation Order

(1) (a) Where a person is convicted of an offence, the Commission may apply to the Court for a Confiscation Order in respect of any property, in which the convicted person or any other person has an interest, that is reasonably believed to be proceeds, including income or other benefits derived from such proceeds, or an instrumentality used or intended to be used for the

offence, or a terrorist property, including income or other benefits derived from such instrumentality or terrorist property.”

In order to satisfy the test for a Criminal Confiscation Order, the applicant needs to establish the following elements namely, that:

- a. the respondents have been convicted of an offence;
- b. the money seized by the ADSU officers are "property" in which the respondents have an "interest"; and
- c. the property is reasonably believed to be the proceeds of the offence or an instrumentality used or intended to be used for the offence.

At the outset, under limb (a), it is undisputed that a criminal case was lodged before the Financial Crimes Division of the Intermediate Court (Cause No FR/L40/2024) against both respondents for the offence of money laundering in breach of sections 3(1)(b), 6 and 8 of the FIAMLA and the respondents pleaded guilty, under count 57 of the information, pertaining to the offence of money laundering and the respondents have been found guilty by the Court. Both respondents were sentenced to pay a fine of Rs 200,000 under count 57 of the information so that the first condition has been satisfied.

I shall now address limb (b), with regards to the element of “property” in which the respondents have an “interest”. It is relevant, at this juncture, to refer to section 2 of the FCCA where the term “property” is defined as follows:

- “(a) an asset of any kind, whether tangible or intangible, corporeal or incorporeal, moveable or immovable, however acquired;*
- (b) a legal document or instrument in any form, including electronic or digital, evidencing title to or interest in such asset, including but not limited to currency, bank credits, deposits and other financial resources, travellers' cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit, wherever situated, or any other negotiable instrument or any instrument capable of being negotiated which is payable to bearer or endorsed payable to bearer”. (underlining is mine)*

Moreover, the term “interest” in relation to property is defined under section 2 of the FCCA as follows:

- “(a) a legal, an equitable interest or any other interest that may attach to the property; or*
- (b) a right, power or privilege, including the exercise of effective control, or making of a gift, in connection with the property.”*

It is noteworthy that the sum of Rs 1,000,000 falls squarely within the definition of property as being “currency”. The evidence on record reveals that the respondents exercised ‘effective control’ over the money as the ADSU secured the said Rs 1 million concealed in a car bearing registration number 6759 DC 2010, which was in the garage of the respondent No.2. As such, the possession and concealment of the sum of Rs 1,000,000 have established the ‘interest’ of the respondents.

I shall now consider limb (c) pertaining to the “property being proceeds of the offence”. It is apposite at this juncture, to refer to the following extract in the case of **R v Anwoir [2009] 1 WLR 980**, quoting Latham LJ in **R v W (N)** which reads as follows:

“We consider that in the present case the Crown are correct in their submission that there are two ways in which the Crown can prove the property derives from crime, (a) by showing that it derives from the conduct of a specific kind or those kinds and that conduct of that kind or kinds is unlawful, or (b) by evidence of the circumstances in which the property is handled which are such as to give rise to the irresistible inference that it can only be derived from crime.”

It is to be noted that both respondents pleaded guilty to the charge of money laundering inasmuch as during a search carried out by the ADSU, a sum of Rs 1 million was secured from a car which was in the garage of the respondent No.2. Moreover, I have considered the evidence adduced in terms of the lawful income of the respondents and the latter have failed to justify the possession of the said sum. As such, the only reasonable conclusion that can be reached is that ‘*by evidence of the circumstances in which the property is handled which are such as to give rise to the irresistible inference that it can only be derived from crime*’ vide **Anwoir** (supra).

I find, for the reasons given above, that all elements under section 77(1)(a) of the FCCA have been established by the applicant on a balance of probabilities. I therefore grant prayer (i) of the motion paper and order that the sum of Rs 1,000,000 presently in custody of the applicant be confiscated.

R. D. Dabee
Judge

11 August 2026

For Applicant : Mrs. B. M. Chatoo, Attorney at Law
Mr. H. Jeeha, of Counsel

For Respondents : Mr. M. I. Dauhoo, Attorney at Law
Mr. A. Toorabally, of Counsel