

IN THE SUPREME COURT OF SEYCHELLES

Civil Side: CO 72/2017

[2018] SCSC 784

THE REPUBLIC

versus

1. OSAMA CASIME

1st Accused

2. HIFA CASIME

2nd Accused

Heard: 26th July 2018
Counsel: Ms. Brigitte Confait for the Republic
Mr. Nichol Gabriel for the 1st and 2nd Accused
Delivered: 26th July 2018

RULING

R. Govinden, J

[1] In Officer Legaie testimony, he seeks to produce a mobile phone allegedly seized from the 1st Accused and a small evidence plastic bag in which the mobile phone was handed over to him and a white piece of paper on which is written certain figures and numbers which he used to extract information from the phone. Counsel for the defence, Mr. Gabriel, objected to the Officer Egbert Payet being recalled to produce into evidence those itemised items which I have just stated. On the basis that Officer Payet was in

Court and he should have been able to produce those materials into evidence and that as such is severely prejudiced.

- [2] Ms. Confait, in reply, submitted that Mr. Egbert Payet will simply be producing into evidence the evidence bag and the piece of paper which is something that he had prior to testified about.
- [3] Having considered the submissions of both Counsels and having heard the evidence so far, I am of the view that the plastic bag and the piece of paper cannot come into evidence and Mr. Payet cannot be recalled as this matter does not arise *eximproviso*. It's not something new, it is something that the Prosecution should have foreseen through the evidence of Officer Payet. In this situation it's catching the defence by surprise will be prejudicial to the defence.
- [4] However, regarding the mobile phone, the person who seized it has not testify, he would be able to lead it into evidence at the right point in time.

Signed, dated and delivered at Ile du Port on 26th July 2018.

R. Govinden , J
Judge of the Supreme Court