

**SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2020] SCSC 633  
MC 24/2020

**In the matter between**

**THE GOVERNMENT OF SEYCHELLES**  
*(rep .by David Esparon)*

**Applicant**

and

**1. ALDRINE SOPHOLA**

**2. JESSICA FONSEKA**  
*(rep.by Nichol Gabriel)*

**Respondents**

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**Neutral Citation:** *Government of Seychelles v Sophola & Anor* (MC 24/2020) [2020] SCSC 633 (7 September 2020).

**Before:** Twomey CJ

**Summary:** interlocutory application under s. 4 of POCA - information and belief evidence in affidavit - unexplained wealth – unchallenged evidence

**Heard:** 8 July 2020

**Delivered:** 7 September 2020

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**ORDER**

Pursuant to section 4 of POCA, the Respondents or any other person are prohibited from disposing or otherwise dealing with whole or any part of the property specified in the annexure. Superintendent Hein Prinsloo is appointed as Receiver over all of the said property to manage, keep possession or dispose of, or otherwise deal with the property in respect of which he is appointed pursuant to section 8 of POCA. otherwise deal with the property in respect of which he is appointed.

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**JUDGMENT**

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**TWOMEY CJ**

1. This application for a freezing order is brought by the Government of Seychelles by way of a notice of motion and supported by an affidavits sworn by Hein Prinsloo,

Superintendent of Police attached to the Financial Crime Investigative Unit (hereinafter the FCIU). The Respondents were in a relationship and co-habitees of a bedroom at Marie Antoinette Restaurant, Saint Louis at the time of a search at the premises.

2. In particular, the Applicant is seeking two interlocutory orders pursuant to section 4 of the Proceeds of Crime (Civil Confiscation) Act (hereinafter POCA) as amended, first, an order prohibiting the Respondents or any person who has notice of the order from disposing of or otherwise dealing with whole or any part of the property, namely money as set out in the annexure attached to the value of SCR 54,699.40 and secondly a further order under section 8 of POCA, that is, the appointment of Superintendent Hein Prinsloo as a Receiver of the specified property to hold the same until further orders of this court.
3. The application was served on the Respondents and an entry of appearance was filed by their Counsel, but no Response Affidavit to the Application and supporting Affidavit was ever filed.
4. The application by the Applicant is based on the belief evidence of Superintendent Prinsloo. In brief, his belief is made by inter alia relying on the affidavits of Sub Inspector Malvina of the Anti-Narcotics Bureau (ANB) and Corporal Dave Jeanne (an officer with the FCIU), together with exhibits attached to their respective affidavits. These are to the effect that on 4 March 2020 the ANB searched the house of one Gaitanne Guillaume at Nouvelle Vallée, Beau Vallon. Therein they discovered substances which when later analysed was confirmed to be heroin. Ms. Guillaume informed the ANB Officers that she had received the drugs from the First Respondent who was her supplier.
5. The ANB Officers asked her to order a further 50 grams of the drug from the First Respondent which she duly did. The First Respondent arrived at her house some thirty minutes later. When he saw the ANB officers he sped away, accelerating and nearly hitting the ANB officers. While driving away he threw a packet of cling film in the grass which was retrieved. He crashed his car into the car of the ANB officers

who had blocked his exit and he was apprehended and taken to his place of residence at St. Louis, where he was living with his partner. The premises were searched and in a bedroom shared with the Second Respondent, the ANB recovered money amounting to SR 54,550 and two Euro notes of 10 and 500, and all were seized. The substance that the First Respondent had thrown away and which was recovered was analysed and was confirmed to be heroin with a net weight of 50.20 grams and a heroin content of 35.64 grams. Subsequently, the 500 Euro note recovered was tested by the Seychelles Police Forensic Science Laboratory and found to be counterfeit.

6. The First Respondent held a bank account with the Seychelles Commercial Bank in which previously his salary had been paid into. A total amount of SCR29,145 was paid into the account with the last monthly salary of SCR3,350 paid into the account in January 2019. The highest ever balance on this account was SCR3,872 in April 2019.
7. It is Superintendent's Prinsloo's averment that on 9<sup>th</sup> August 2019 the First Respondent entered into a long term rent agreement with a car rental company (Econome Car Hire) for the hire of a vehicle at the cost of SCR450 a day and that timely payments in this respect were made until November 2019. This amounted to SCR50,850 and could not have come from Econome Car Hire. After November 2019, timely payments were skipped but cash amounts in sums between SCR5000 and SCR9000 were paid. These are also not reflected on the First Respondent's account.
8. The Second Respondent stated that the money found in their bedroom belonged to the First Respondent and that any money from the restaurant was dropped in a safe and never kept in their possession.
9. A financial profile of the Second Respondent did not reveal any personal bank accounts but there is evidence that she is the sole partner of Manta Divers which has a Euro Account with the Bank of Ceylon. Only Euro 100 was ever deposited into the account and the balance as of February 2020 was Euro 43.

10. Based on these financial analyses and the other evidence Superintendent Prinsloo's conclusion and belief evidence is that the money discovered in the Respondents' bedroom is the proceeds of drug trafficking.
11. Counsel for the Respondents informed the Court on 8 July 2020 that the Respondents (who were present in court) did not wish to object to the application.
12. I have examined the documentary evidence annexed to Superintendent Prinsloo's affidavit. I am satisfied that the information, together with his unchallenged evidence provide reasonable grounds to suspect that the specified property constitutes directly or indirectly, benefit from criminal conduct, or was acquired in whole or in part with or in connection with property that is directly or indirectly, constitutes benefit from criminal conduct.
13. In the circumstances I make the following orders:
  1. Pursuant to section 4 of POCA I prohibit the Respondents or any other person from disposing or otherwise dealing with whole or any part of the property specified in the annexure to this Order.
  2. Superintendent Hein Prinsloo is appointed as Receiver over all of the said property to manage, keep possession or dispose of, or otherwise deal with the property in respect of which he is appointed.
  3. Costs of these proceedings will abide the final outcome of the case in relation to the specified property in this matter.

Signed, dated and delivered at Ile du Port on 7 September November 2020.

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M. Twomey  
Chief Justice

