

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC 803
MC 18/2021

In the matter between:

THE REPUBLIC
(rep. by Steven Powles)

Applicant

and

BAHRAAN BALOCH
(unrepresented)

Respondent

Neutral Citation: *The Republic v Baloch* (MC 18/2021) [2021] SCSC 803 (November 2021).

Before: Burhan J

Summary: An application under the Anti- Money Laundering and Countering the Financing of Terrorism Act, 2020 (AMLCFTA) as amended for forfeiture of foreign currency (US Dollars and Euros) valued at SCR 2,213,892.50 granted.

Heard: 22 November 2021

Delivered: 25th November 2021

ORDER

This Court Orders the forfeiture of the entire sum of foreign currency/cash as described in the Table to the Notice of Motion dated 22nd November 2021 totalling a sum of SCR 2,213,892.50 (two million, two hundred and thirteen thousand, eight hundred and ninety two and fifty cents).

ORDER

BURHAN J

- [1] This is an application filed under Section 76 (1) of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2020 (AMLCFT) Act. Section 76 (1) of the Act reads as follows:

76. (1) A Judge may order the forfeiture of any cash which has been seized under subsection (2) of section 74 if satisfied, on an application submitted by the Attorney General a prosecutor on behalf of Anti-Corruption Commission of Seychelles, that the cash seized is not less than the prescribed sum or the judge has reasonable grounds for suspecting that it directly or indirectly represents any person's benefit from, or is intended by any person for use in connection with, any offence.

- [2] The background facts of the case as borne out by the affidavit dated 22nd of November 2021 of Sergeant Dave Jeanne attached to the Financial Crime Investigation Unit (FCIU) are that on the 5th of November 2021 an Iranian dhow namely "Al Shaheen" was intercepted in the Seychelles waters by the Seychelles Coast-Guard after being suspected of carrying illicit proceeds namely controlled substances and illegitimate cash.
- [3] The vessel was thereafter searched by Officers of the Anti-Narcotics Bureau (ANB), FCIU and other support units of the police and during the search several packets of controlled drugs were taken into custody. Large amounts of cash in red packaging were also seized from the vessel Al Shaheen.
- [4] The cash seized and taken into custody amounted to USD 154,050.00 (SCR value 2,133,592.50) and Euros 5000 (SCR 80.300.00). The total value of currency taken into custody in Seychelles Rupees was SCR 2,213,892.00.
- [5] In his affidavit Sergeant Jeanne further describes the manner in which the money was stored. It is his belief that the dhow delivered controlled substances (drugs) and the money was the funds received in payment of such deliveries.

- [6] The Captain of the vessel Mr. Bahraan Baloch admitted he was the Captain of the vessel and stated he did not know how the cash had come on board his vessel. It is clear that he was not making a claim for the said cash found on board his vessel.
- [7] As the contents of the affidavit were not challenged by the Captain of the vessel the respondent in the application, I will proceed to accept its contents. Having considered the facts set out in the affidavit of Sergeant Jeanne which remain unchallenged, I am satisfied that the said cash taken into custody was found aboard the vessel Al Shaheen together with a quantity of controlled drugs. The Captain does not seek to deny these facts but only states he was unaware that there was such cash or currency aboard his vessel Al Shaheen. It is clear therefore that the Captain is not claiming the said sum of cash taken into custody.
- [8] From the facts set out in the affidavit, I am satisfied that the cash seized is not less than the prescribed sum of SCR 50,000.00 and I am further satisfied that there are reasonable grounds for suspecting that the money seized as mentioned in the Table to the Notice of Motion directly or indirectly represents benefit from an offence in respect of controlled drugs. or was intended for use in connection with such an offence.
- [9] I therefore proceed to forfeit the entire sum of foreign currency/ cash as described in the Table to the Notice of Motion dated 22nd November 2021 totalling a sum of SCR 2,213,892.50 (two million, two hundred and thirteen thousand, eight hundred and ninety two and fifty cents).

Signed, dated and delivered at Ile du Port on 25th November 2021

M Burhan J

