

SUPREME COURT OF SEYCHELLES

Reportable
[2021] SCSC
CO 55/2020

In the matter between:

THE REPUBLIC
(rep. by Steven Powels)

Republic

and

NATASIA CHANG TAVE

1st Accused

PERCY CHANG TAVE
(rep. by Clifford Andre)

2nd Accused

NICHOL GABRIEL
(rep. by Bernard Georges)

3rd Accused

MICHAEL BASTIENNE
(rep. by Rene Durup)

4th Accused

GARRY ALBERT
(rep. by France Bonte)

5th Accused

Before:	Burhan J
Heard:	21 June 2021. 2 nd July 2021
Delivered:	19 th July 2021

ORDER

BURHAN J

[1] The aforementioned first and second accused were charged as follows:

Count 1

Conspiracy to commit money laundering contrary to Section 3 (1) (b) and 3 (1) (3) of the Anti-Money Laundering Act 2006 as amended and punishable under Section 3 (4) (a) of the said Anti-Money Laundering Act.

Natasia Samentha Chang-Tave of Montagne Posee Prison, Mahe, Steve Percy Chang-Tave of Montagne Posee Prison, Bois De Rose, Mahe, Nichol Russel Gabriel of Pointe-Larue, Mahe, Michael Bastienne of Cascade, Mahe and Garry Mervin Albert of Beau-Vallon, Mahe during the period of 1st January 2018 and 28th February 2020, at a place unknown to the Republic on Mahe, Seychelles, knowing or believing that the property, namely the land and partly built dwelling house comprised in title No. J2850 situated in Port Glaud, Mahe, was or represented the proceeds of crime, agreed with one another to conceal or disguise the true nature, source, disposition, movement or ownership of the property or any rights with respect to it without lawful authority or excuse.

Count 2

Money laundering contrary to Section 3 (1) (b) of the Anti-Money Laundering Act of 2006 as amended and punishable under Section 3 (4) (a) of the said Anti-Money Laundering Act.

Natasia Samentha Chang-Tave of Montagne Posee Prison, Mahe during the period of 1st January 2018 and 28th February 2020, at a place unknown to the Republic on Mahe, Seychelles, knowing that the property, namely; the land and partly built dwelling house comprised in Title No. J2850 situated in Port Glaud, Mahe was or represented the benefit of criminal conduct namely; drug trafficking, or being reckless as to whether the said property was or represented the benefit of such conduct, concealed or disguised the true nature, source, disposition, movement or ownership of the said property or any rights with respect to it without lawful authority or excuse.

Count 3

Money laundering contrary to Section 3 (1) (b) of the Anti-Money Laundering Act as amended and punishable under Section 3 (4) (a) of the said Anti-Money Laundering Act.

Steve Percy Chang-Tave of Montagne Posee Prison, Mahe, between the period of 1st January 2018 and 28th February 2020, at a place unknown to the Republic on Mahe, Seychelles, knowing or believing that the property, namely; the land and a partly built dwelling house comprised in Title No. J2850 in port Glaud, was or represented the benefit of criminal conduct namely; drug trafficking, or being reckless as to whether the said property was or represented the benefit of such conduct, concealed or disguised the true nature, source, disposition, movement or ownership of the said property or any rights with respect to it without lawful authority or excuse.

- [2] The first and second accused pleaded guilty to Count 1, in addition to this Count, the first accused pleaded guilty to Count 2 and the second accused pleaded guilty to Count 3, on the 1st of June 2021 and were convicted on their pleas of guilt. Thereafter at the request of learned Counsel Mr. Andre for both the 1st and 2nd accused, a probation report was called.
- [3] Learned Counsel for the prosecution Mr. Powles moved court thereafter that court stay the imposing of a sentence on both accused until the conclusion of the trial of the case against the third, fourth and fifth accused. The main grounds urged by learned counsel for the prosecution are that:
- (a) That both accused have pleaded guilty to the charge of Conspiracy to Launder the Proceeds of Crime and court would be in a better position to assess after the conclusion of the trial the nature and extent of the involvement of both accused in the conspiracy.
- (b) That court would be in a position to determine the specific role played by each individual and therefore the need to hold a Newton Inquiry does not arise.
- [4] It is the contention of learned Counsel for the two accused that court would be wrong if it awaited the end of the trial to sentence the two accused who have pleaded guilty at the earliest opportunity provided. The accused would not benefit from it and further submitted that it would be a denial of their constitutional rights as they would be prejudice by the evidence led and therefore will be getting the incorrect sentence. Learned Counsel for the accused also submitted that the two accused would lose the benefits which accrue in law for a discount of sentence.

- [5] In the case of **Republic v Donald Asba and Ors [1984] SLR 48** held inter alia-
- (a) Where the accused who pleaded guilty was charged with others, it was not imperative that the accused who pleaded guilty should be forthwith convicted and sentenced.
 - (b) The postponement of conviction and sentence enabled the court to obtain ample details of the offence to pass an appropriate sentence on the accused who pleaded guilty.
 - (c) The presence in court of the accused who pleaded guilty while the trial against the other were held enabled the accused to cross examine the witnesses if they sought to exaggerate his participation in the crime.
- [6] Firstly, I observe both accused pleaded guilty and conviction has been entered in this instant case unlike the *R v Asba* case (supra) where it appears that after pleading guilty both conviction and sentence had been postponed.
- [7] The main ground for seeking that the sentence be postponed till the trial is concluded, is because the second accused only accepts a lesser amount being given by him than the prosecution contends. Further the particulars of offence in these charges do not mention any specific amount. The description and nature of the property relating to the charges against the first and second accused is specifically mentioned in the particulars of offence in Counts 1, 2 and 3 which has been accepted by both accused. The prosecution is not precluded in the trial against the other accused in proving the actual value, if such is an essential element necessary to be proved in the charges against the other accused.
- [8] The description and nature of the property relating to the charges against the 1st and 2nd accused is specifically mentioned in the particulars of offence in Counts 1, 2 and 3 and the fact that it represented the benefit from criminal conduct and they agreed with one another to conceal or disguise the true nature, source, disposition, movement or ownership of the property or any rights with respect to it without lawful authority has been accepted by them. Further the fact that both the first and second accused not only agreed but knowing that the said property was benefit from criminal conduct namely drug trafficking both accused concealed and disguised the true nature, source, disposition

movement or ownership of the said property without lawful authority to do so and all other particulars of the offences mentioned in Counts 1, 2 and 3 have been admitted by both the accused.

[9] I am satisfied that sufficient particulars exist in the Counts for this court to pass an appropriate sentence especially as the property relevant to the charge has been described in detail. I also observe as pointed out by learned Counsel for the accused that there is no mention of any money value in the particulars of offence in any of the Counts. The two accused have accepted the facts as set out in the particulars of offence. It would be unfair therefore to accept any new matters arising during a trial which is not in the particulars of offence which already have been accepted by the accused at the time of pleading and conviction being entered.

[10] Therefore considering the aforementioned facts peculiar to this case, the application of the prosecution is declined.

Signed, dated and delivered at Ile du Port on 19th July 2021.

M Burhan J