

SUPREME COURT OF SEYCHELLES

Reportable

[2021] SCSC

MC 52/2021

In the matter between:

THE GOVERNMENT OF SEYCHELLES

(rep. by Nissa Thompson)

Applicant

and

RICHARD MIKE LAGRENADE

(Not Present/Unrepresented)

Respondent

Neutral Citation: *Government of Seychelles v Lagrenade* (MC 52/2021) [2021] SCSC 503 (05th August 2021)

Before: Burhan J

Summary: Section 4 & 8 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended.

Heard: 07th July 2021

Delivered: 05th August 2021

ORDER

Judgment given in favour of the Applicant as prayed for and issues:

An Interlocutory Order pursuant to section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 (POCA) as amended, prohibiting the Respondent or such other person having notice of the making of this Order, from dispensing of or otherwise dealing

with or diminishing the value of whole or any part of the property i.e. one Burgandy coloured Toyota C-HR S 34094 set out in the Table to the notice of motion.

An Order pursuant to section 8 of the POCA, appointing Inspector Terrence Roseline to be a Receiver of all or part of the property to manage, to keep possession or dispose of or otherwise deal with any other property in respect of which he is appointed in accordance with the Court's directions.

A copy of this Order to be served on the Respondent.

ORDER

BURHAN J

- [1] This is an application by the aforementioned Applicant seeking an interlocutory order pursuant to Section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 (POCA) as amended, prohibiting the Respondent from disposing of or otherwise dealing with whole or any part of the property namely one Burgandy coloured Toyota C-HR S 34094 valued at SCR SCR 550,000.00 (five hundred and fifty thousand) as set out in the annexed Table to the Motion. The application also seeks an order pursuant to section 8 of the POCA appointing Inspector Terrence Roseline to be the receiver of the said property. It also seeks that notice be served on the Respondent.
- [2] Accordingly notice was served on the Respondent and the return to service was filed in Court on the 5th of July 2021, indicating that notice of this application had been served on the Respondent to be present in Court on the 7th of July 2021 at 10.00 a.m. However the Respondent failed to appear and no notice of appearance was filed by a Counsel on behalf of the Respondent. Learned Counsel moved that the case be fixed for ruling and

that the evidence of the Applicant is based on the affidavit filed by Mr. Terrence Roseline.

[3] The law as contained in the Section 4 of the POCA requires proof that:

a) A person is in possession or control of –

(i) Specified property and that the property constitutes, directly or indirectly benefit from criminal conduct; or

(ii) Specified property that was acquired , in whole or in part , with or in connection with the property that directly or indirectly constitutes benefit from criminal conduct and

(b) The value of the property or the total value of the property referred to in sub paragraphs (i) and (ii) of paragraph (a) is not less than R 50,000.

[4] It is apparent from the application that the item sought to be forfeited is a Toyota C-HR vehicle valued at SCR 550.000.00. Considering the vehicle in question the value as required under Section 4 (b) of the POCA is established.

[5] It is the contention of learned Counsel for the Applicant that the vehicle is proceeds from criminal conduct and in order to establish this fact, she relies on the evidence in the affidavit filed by Inspector Terrence Roseline. I have considered the facts arising from the affidavit filed by Inspector Terrence Roseline.

[6] Mr. Roseline in paragraph 7 onwards in the said affidavit states that the real owner of the said vehicle is one Neddy Lagrenade the cousin of the registered owner Richard Lagrenade who has been involved and charged in respect of drug related offences and as a result several assets belonging to the said Neddy Lagrenade have already been seized by the FCIU pursuant to orders from Court in XP 139 of 2020. A copy of the said Order by Court is annexed as TR 2.

[7] It is the contention of the Applicant that the funds raised by criminal conduct were made available by the said Neddy Lagrenade to Richard Lagrenade for the purchase of the said

vehicle and the registration of the vehicle in the name of his cousin Richard Lagrenade was done in order to mislead the FCIU and the Anti-Narcotics Bureau (ANB).

- [8] The affidavit further contains details stating that at the time of arrest of Neddy Lagrenade he was in possession of the vehicle which was in the house he was in, at the time of his arrest on the 17th of April 2021. Mr. Richard Lagrenade was not present at the house at the time the vehicle was taken into custody. It is further stated in the affidavit of Inspector Terrence Roseline that it was Neddy Lagrenade and his partner one Liza Marie who had always been seen driving the said vehicle.
- [9] On analysing the amount of deposits and withdrawals made into the two accounts of Richard Lagrenade from which payment was made for the purchase of the specified property i. e account number 00000191159 at the Mauritius Commercial Bank and account number 274585 in the Seychelles Credit Union, it is the contention of the Applicant that as per the observations made, the transactions were not consistent with a savings account as transaction indicated moneys going in and out within the space of a day. It is also stated in the affidavit that Richard Lagrenade was in receipt of a salary of SCR 8,668.00 under the FA4JR Scheme by the Ministry of Finance from May 2020 to January 2021 and such funds were not sufficient for him to finance such a vehicle.
- [10] It is further mentioned in the affidavit that one Maheswari had rented a premises from Richard Lagrenade for SCR 25,000.00. Even though Richard Lagrenade states that the SCR 150,000/ was from rent arrears received from his tenant Maheswari, the tenant Maheswari denies that she paid such a bulk payment of SCR150,000.00 as arrears of rent.
- [11] I am satisfied on the information contained in the affidavit that there are reasonable grounds to believe that the property set out in the Table to the Notice of Motion namely one Burgundy coloured Toyota C-HR bearing registration number S 34094 constitutes, directly or indirectly, benefit from criminal conduct. I am also satisfied that the value of the impugned property is not less than SCR 50, 000.00.

- [12] In the case of **Financial Intelligence Unit v Contact Lenses Ltd & Ors [2018] SCSC 564 at [15]** it was held that “ *once the applicant establishes his belief that the property is the proceeds of crime, the burden of proof shifts to the Respondent to show that it is not*”
- [13] The Respondent in this case has failed to attend Court and challenge the contents of the affidavit of Mr. Terrence Roseline.
- [14] For the aforementioned reasons. I am satisfied that the belief evidence by way of affidavit of Mr. Terrence Roseline can be accepted as it is supported by the necessary documentation marked as TR1 and TR5 on which grounds his belief evidence is based. I am satisfied that the Applicant has established that the property constitutes benefit from criminal conduct and its value is over SCR 50,000.00.
- [15] By his absence the Respondent has failed to give any credible explanation as to the origin of his money to purchase a vehicle valued at SCR 550,000.00 and how he came by such an amount of cash. He has failed to establish that the specified property is not from proceeds of crime.
- [16] I therefore proceed to grant the reliefs as prayed for and issue:
- (1) An Interlocutory Order pursuant to section 4 of the Proceeds of Crime (Civil Confiscation) Act 2008 (POCA) as amended, prohibiting the Respondent or such other person having notice of the making of this Order, from dispensing of or otherwise dealing with or diminishing the value of whole or any part of the property i. e one Burgandy coloured Toyota C-HR S 34094 set out in the Table to the notice of motion.
 - (2) An Order pursuant to section 8 of the POCA, appointing Inspector Terrence Roseline to be a Receiver of all or part of the property to manage, to keep possession or dispose of or otherwise deal with any other property in respect of which he is appointed in accordance with the Court’s directions.
 - (3) A copy of this Order to be served on the Respondent.

Signed, dated and delivered at Ile du Port on 05th August 2021.

M Burhan J