

SUPREME COURT OF SEYCHELLES

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Reportable  
[2022] SCSC 135  
CO114/2021

In the matter between:

**ANTI-CORRUPTION COMMISSION**  
*(rep. by Mr Anthony Juliette)*

and

**MR MUKESH VALABHJI**  
*(rep by Mr France Bonte)*

1<sup>st</sup> Accused

**MRS LAURA VALABHJI**  
*(rep. herself)*

2<sup>nd</sup> Accused

**MR LESLIE BENOITON**  
*(rep. by Mr Basil Hoareau)*

3<sup>rd</sup> Accused

**MRS SARAH RENE**  
*(rep by Mr Joel Camille & Mr Daniel Cesar)*

4<sup>th</sup> Accused

**MR MAURICE LOUSTEAU LALANNE**  
*(rep by Mr Basil Hoareau)*

5<sup>th</sup> Accused

**MRS LEKHA NAIR**  
*(rep by Mr Basil Hoareau)*

6<sup>th</sup> Accused

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**Neutral Citation:** Anti- Corruption Commission v Valabhji & Ors (CO114/2021) [2022] SCSC 135  
18 February 2022.  
**Before:** Govinden CJ  
**Heard:** 18 February 2022  
**Delivered:** 18 February 2022

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**RULING**

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**GOVINDEN CJ**

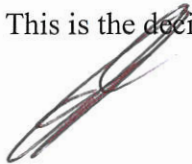
- [1] Mr Juliette Learned Counsel for the ACCS moves the Court that he has managed to convert the files disclosed on the 4<sup>th</sup> of February 2022 in electronic format into a physical format as it was being pressed for by the Defendants and that the documents are ready to be disclosed. He further submitted that further in additional documents exist in the physical bundle that was not prior to disclose in electronic format. According to him the ACCS has done two sets of documents, one will be disclosed to Counsels and the other to the accused.
- [2] This position taken is contrary to the specific order that this Court made on the 4<sup>th</sup> of February. However, given (1) that physical disclosure is the rule rather than the exception, (2) that the accused were insisting on physical disclosure and the additional cost of procuring laptops and the security constraints that this may entail, the Court will accept the ACCS position and its previous order stands amended accordingly. I agree to physical disclosure. Learned Counsel is however caution that if he wants to vary a Court Order it would be best for him to file a Motion and Affidavit rather than make statements at the bar and that this Court will not accept such practice again.
- [3] Mr Bonte on the other hand applied that he be personally served the bundle of documents given the volumes of documents instead of him coming to the ACCS office for same.
- [4] The Second accused submitted that she has had no chance to view the documents so far given that no laptop has been provided. She further says that her bag are searched, and this caused her legal documents to shift. She further states that she will have a predicament to transport the volumes of documents to and from the Court and to and from her place of detention to that of the 1<sup>st</sup> Co-accused place of detention whilst they are considering their joint defences.
- [5] She also says that she will have a constraint regarding storage given the limited storage space in her place of detention. She however claimed that she meet the 1<sup>st</sup> Co-accused for discussion this morning.
- [6] Ms Benoiton standing in for Mr Hoareau and Mr Cesar says that they have no objection in principle regarding the physical disclosure. However, they insist that their clients will

be ready for the plea on the 4<sup>th</sup> of March. Mr Cesar says that he will collect the documents himself whilst those belongs to his client will be delivered at the Montagne Posee Prison.

[7] Disclosure of documents that the Prosecution is going to rely upon in a criminal prosecution is now part of an accused right to fair hearing. The Republic has an obligation to make available the documents and the accused has a right to receive the documents. This must be done before the accused takes their pleas as it facilitate and give them the opportunity to prepare their defences. If that be the case it is the obligation of the ACCS to make available the documents to Counsel and the accused. Accordingly, I will order that the discloser documents be served upon Counsels and the accused personally with returns of service made on file. If a Counsel wants to come to the ACCS headquarters' to receive same they are free to do so because this is on over and above their right.

[8] The second accused says that her bag is being searched, the Court will not be able to stop this given that this cover security issues. She also raised the issue of the volumes of documents, which translates to an issue regarding storage and transportation of the disclosed documents. Given that she has a right to be disclosed the document and it is for her used, she needs to keep and transport them. As such storage facilities have to be made available at her place of detention and reasonable transportation facilities has to be given, if she needs to transport them. I say reasonable, because the Court will not expect that all documents will be needed to be transported at the same time and at one go for the purpose of bringing them to Court or for consultation with co-accused.

[9] This is the ~~decision~~ decision of the Court



Signed, dated and delivered at Ile du Port on 18 February 2022

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Govinden C J