

**SUPREME COURT OF SEYCHELLES**

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**Reportable**  
[2022] SCSC 970  
CO60/2021

In the matter between

CM120/22

**FAIZ ALI MUBARAK**  
(*rep. by S Mohamed*)

**Applicant**

and

**THE REPUBLIC**  
(*rep. by G Tachett*)

**Respondent**

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**Neutral Citation:** *Faiz Ali Mubarak v Republic* [CM 120/22] [2020] SCSC 970 ( 2022)  
**Before:** Govinden CJ  
**Summary:** Application dismissed. The Court finds that the application is insufficiently supported. There is no appeal pending which this case should be stayed.  
**Heard:** 11 October 2022  
**Delivered:** 8 November 2022

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**ORDER**

Application dismissed.

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**RULING ON MOTION**

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**GOVINDEN CJ**

[1] This is a Ruling on a Motion filed by the Applicant dated the 14th day of September 2022, seeking for an order of stay of proceedings in the main criminal case CR60/2021, until conclusion and determination of an interlocutory appeal before the Seychelles Court

of Appeal made against the Ruling of this court dated the 23<sup>rd</sup> day of August 2022 in relation to a request for recusal.

- [2] The Applicant stands charged on several counts in the criminal matter before this court, for the offences of importation and trafficking in a controlled drug. As per the affidavit of the Applicant in support of the application he wants to appeal on several grounds mainly having to do with the fact that this court failed to consider the principles of law applicable to recusal request.
- [3] The Respondent in the present application argues that this application is not sustainable and should be dismissed on the grounds that the points raised in the application are frivolous and vexatious and have been raised in order to delay the process and that the motion amounts to an abuse of process as the applicant has filed another motion with the very same grounds before another bench of the Supreme Court.
- [4] The court found in *Mein v Chetty (No 1) (1975) SLR 184* that it has an inherent power to stay proceedings to stop any abuse of the processes of the court. In *Seychelles National Party v Aglae SCC 7/2006, 27 March 2007*, the court held that there must be a legal basis for the court to grant a stay of proceedings, and further, that a stay may be granted as a temporary suspension of execution of proceedings pending the hearing of an appeal, or as a suspension of a case pending a court order.
- [5] The trial of this case has had twice to be aborted. This has inordinately delayed the matter. However, the court is aware that the cause for the delays lies not with the court or the prosecution. I say this because I am conscious of the passage of time and its effect that it has on the rights of the parties. Now at a time when we should have been seeking to agree on the next trial dates, Learned counsel for the 1<sup>st</sup> accused has chosen to instead request the bench to recused itself and with the failure of this request to lodge this motion.
- [6] As it was held in the case of *Government of Seychelles and Ors v The Seychelles National Party & Ors* (Application No. MA 34 & 35 of 2014 arising in SCA CP No. 04 of 2014) an interlocutory order contemplated by section 12(2) of the Courts Act, is generally

