

SUPREME COURT OF SEYCHELLES

Reportable
[2023] SCSC ... 357
XP 29/2023

In the ex-parte matter of:

THE GOVERNMENT OF SEYCHELLES
(rep. by Barry Galinoma)

Petitioner

Neutral Citation: *Ex Parte The Government of Seychelles* (XP 29/2023) [2023] SCSC 357

(18 May 2023)

Before: Esparon J

Summary: Application pursuant to Section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008

Heard: 18 May 2023

Delivered: 18 May 2023

ORDER

Application under Section 3 of the Proceeds of Crime (Civil Confiscation) Act.

Order granted prohibiting the Respondent or any other person from disposing of or dealing in whole or part of the property and a Receiver is appointed over all or part of the said property to manage, keep possession, or dispose of or otherwise deal with any other property in respect of which he is appointed.

RULING

ESPARON J

[1] This is an application under Section 3 of the Proceeds of Crime (Civil Confiscation) Act 2008, seeking for the following orders:

(i) An order of this Court prohibiting the Respondent or any other person specified in the order from disposing of or otherwise dealing with whole or any part of a property as set out in the Table appended to the Notice of Motion.

(ii) That an order be made that Sergeant Dave Jeanne or any such person as this Court shall direct be appointed as Receiver over all or part of the said property, to manage, keep possession or dispose of, or otherwise deal with the property in respect of which he is appointed in accordance with the Court's directions pursuant to Section 8 of the Proceeds of Crime (Civil Confiscation) Act 2008.

(iii) For an order giving notice to such person as directed by the Court.

(iv) And such further order as the Court shall deem fit, just and proper in the circumstances of the case.

[2] The application is supported by the affidavit of Dave Jeanne, a Sergeant in the Seychelles Police Force and attached to the Financial Crime Investigation Unit (FCIU). He avers at paragraph 6 of his affidavit that on the 27th of April 2023, credible information was received by a team of Police Officers on patrol that the first Respondent herein was on her way to Cash Plus Bureau de Change, located at Providence. Furthermore, based on credible information received, she was expected to have in her possession a substantial amount of cash that she was going to exchange into foreign currencies and thereafter remove it from the Republic.

[3] A substantial sum was found in the possession of the said Respondent who was stopped and searched at the counter of the Bureau de Change. It is averred by the deponent that the first respondent was found in a car parked outside the Bureau de Change, seated in the back seat and with her some money stacked in an Adidas shoe bag was also found. They were brought to the Mont Fleuri Police Station where the Officer Dave Jeanne met both of them.

[4] He further avers that at the Station the sum found on the first Respondent was counted and it amounted to SCR 26,025/-. As for the second Respondent, he had the sum of SCR 100,000/-. The deponent avers in paragraph 10 of his affidavit that they were both interviewed and that the first Respondent's account was that she was a hairdresser by profession and that the cash wasn't hers, and she stated that she was contacted by Verma

Florentine who is a cashier at the said Cash Plus and that her instructions was to wait on a call to proceed at the Bureau de Change to exchange the said cash.

- [5] He further avers that as for the second Respondent, he stated that he was approached by the first Respondent to assist with exchanging the Seychelles Rupees into Foreign Exchange, that he was called and picked up and merely assisting the first Respondent.
- [6] The deponent further avers in his affidavit that the manner in which the cash ended up in their possession was very suspicious, that the way they were found and kept together and they were in separate bags, that some were kept in clear plastic and the rest were kept in a shoe bag, that had they been legitimate they would have been kept in bank accounts and transferred to the Bureau de Change.
- [7] He further avers at paragraph 15 of his affidavit that if the first Respondent's account that the cash was not hers and that she was given to exchange it would have been all in one same bag and not separated or not given to the second Respondent and the rest being kept with the first Respondent.
- [8] He further avers that Verma being the sister in law showed the transaction to be suspicious. The deponent avers in paragraph 17 of his affidavit that on the 28th of April 2023, Verma was interviewed and she denied that the cash belonged to her, and that Verma's explanation was that she received a call from the first Respondent who enquired how much Foreign Exchange in USD she had and that she stated that the first Respondent asked that the USD be kept to be sold to her.
- [9] The deponent avers in paragraph 19 of his affidavit that amongst the request made is one to the Organised Crime Unit Drug Office and he found that the first Respondent is known to the Drug Office, that it was reported that in the year 2019 a case of drug trafficking was registered against the first Respondent and that she was arrested for the same, and that the controlled drugs involved cannabis resin and heroin.
- [10] At paragraph 20 of his affidavit, the deponent avers that subsequently not long ago, that is in February 2022, a Kenyan national was apprehended after she smuggled cocaine into Seychelles. Based on the analysis carried out by the Drug Office, it was found that the first Respondent was the Kenyan national's contact here in Seychelles, and that there is a case CM 43 of 2022 pending before the Supreme Court. He further avers at

paragraph 21 of his affidavit that based on what he had been able to find out so far, the deponent is of the belief that the first Respondent deals in controlled drugs. The fact that she has known the second Respondent for quite a long time gives the deponent reason to believe that he also may be well involved in the dealings and the only way to negate this is by carrying out a proper analysis upon receipt of relevant responses.

[11] The grounds upon which his belief is based on is averred at paragraph 26 of his affidavit, whereby the grounds for the beliefs are the averments mentioned in the affidavit including:

- (i) The credible information that the first Respondent was going to transact substantial amount of cash at the Bureau de Change;
- (ii) That she was indeed found in the vicinity and was being assisted by the second Respondent who is well known to her;
- (iii) The fact that she chose to go to a Bureau de Change where her sister in law was working;
- (iv) The manner in which the cash was being kept, some in clear plastic and the rest in another bag;
- (v) The different versions of facts stated in the interview;
- (vi) The round figure denominations of the cash and;
- (vii) The fact that the first Respondent is known to the Organised Crime Unit Drug Office;
- (viii) That based on what I have explained and been able to find I am of the belief that the criminal conduct of which the said properties have been acquired in whole or in part is drug trafficking and money-laundering.

[12] Ex-facie the affidavit and the documents attached as exhibit thereto to the application, I am satisfied prima-facie that the Respondents are in possession or control of specified property, that is to say, the property set out in the table appended to the Notice of Motion, and that the said property constitutes directly or indirectly benefit of criminal conduct. The property set out in the table amounts to SCR 26,025/- which was seized

in the possession of the first Respondent, and SCR 100,000/- which was seized from the second Respondent, in various bank notes, namely, according to the table of contents;

SCR 500 x 39 notes amounting to SCR 19,500/-

SCR 100 x 883 notes amounting to SCR 88,300/-

SCR 50 x 292 notes amounting to SCR 14,750/-

SCR 25 x 139 notes amounting to SCR 3,475/-.

[13] I am further satisfied prima-facie that the Respondents are in possession or control of specified property and that is to say, the said property mentioned in the table appended to the Notice of Motion and that the property is the proceeds of criminal conduct, namely, drug trafficking and money laundering, and that the total value of the property mentioned is not less than SCR 50,000/-, being in total SCR 126,025/-.

[14] As a result of the above, this Court shall make the following orders;

(i) an interim order prohibiting the Respondents or any other persons specified in the order from disposing of or otherwise dealing with whole or part of the property, namely, SCR 26,025/- seized from the first Respondent and SCR 100,000/- seized from the second Respondent

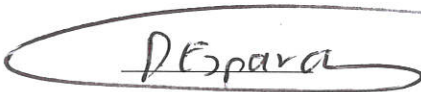
(ii) I order that Sergeant Dave Jeanne is appointed as Receiver over all or part of the said property to manage, keep possession or dispose of or otherwise deal with any other property in respect of which he is appointed in accordance with the Court's direction

pursuant to Section 8 of the Proceeds of Crime (Civil Confiscation) Act 2008 as amended.

[15] I accordingly order the Registrar of the Supreme Court to serve a copy of this order on the first Respondent, namely, Rubecca Ally residing at Les Mamelles and Wayne Sarah residing at Les Mamelles.

[16] This order shall expire after 30 days from the date of this order.

Signed, dated and delivered at Ile du Port on 18th May 2023.

A handwritten signature in black ink, appearing to read "D Esparon", enclosed within a hand-drawn oval.

D Esparon J

