

SUPREME COURT OF SEYCHELLES

Reportable
CO 90/2021

In the matter between:

REPUBLIC

(rep. by Hermanth Kumar)

and

JIMMY AZEMIA

(rep. by France Bonte)

1st Accused

ANDREW ESTRALE

(rep. by Joel Camille)

2nd Accused

Neutral Citation: *The Republic v Jimmy Azemia & Ors (CO90/2021)*

Before: Govinden CJ

Summary: Conspiracy to commit a terrorist act; possession of explosives; defence of entrapment by non-state agent.

Heard: 1/2/22; 5/522; 31/522; 12/1022;

Delivered: 15 April 2024

ORDER

[1] The court finds both accused persons guilty of Counts 1 and 3, and finds both accused persons not guilty of count 2. They are accordingly convicted under count 1 and 3.

JUDGMENT

GOVINDEN CJ

The charges

[2] The offences with which the two accused persons has been charged and pleaded not guilty to is as follows;

Count 1

Conspiracy to commit a terrorist act contrary to Section 4 (b) of the Prevention of Terrorism Act, read with section 20 (c) of the said Act, and punishable under Section 4(b) of the said Act.

Particulars of offence

Jimmy Roy Azemia of Glacis and Andrew Estrale of Maldives on or before 28th June 2021, in Seychelles agreed together with persons unknown, to commit a terrorist act namely to cause an explosion at the Grand Anse Petroleum Station, Mahe, by using a Homemade Explosive Device / Improvised Explosive Device, with the aim of causing death or serious harm to a person, or causing damage to property with the intention of intimidating the public or a section thereof.

Count 2

Attempt to commit a terrorist act contrary to Section 4(b) of the Prevention of Terrorism Act read with section 20(b) of the said Act, and punishable under Section 4(b) of the said Act.

Particulars of Offence

Jimmy Roy Azemia of Glacis and Andrew Estrale of Maldives on 28th June 2021 in Seychelles attempted to carry out a terrorist act namely to cause an explosion at the Grand Anse Petroleum Station in Mahe by using a Homemade Explosive Device / Improvised Explosive Device with the aim of causing death or serious harm to a person, or causing damage to property with the intention of intimidating the public or a section thereof.

Count 3

Possession of Explosives contrary to and punishable under section 17 of the Explosives Act.

Particulars of Offence

Jimmy Roy Azemia of Glacis and Andrew Estrale of Maldives, on 28th June 2021 at La Misère Mahe, knowingly had in their possession or under their control explosives, namely Homemade Explosive Device / Improvised Explosive Device in Vehicle S22762 belonging to the 24/7 Bus Company Limited, without lawful object.

- [3] The two accused persons pleaded not guilty to all the charges and the matter proceeded to trial, with the prosecution calling the following evidence against the accused.

Prosecution evidence

- [4] Prosecution started their case with Corporal Stephanie Agathe, attached to Scientific Support and Crime Record Bureau testified that she has undergone local training and overseas training in Management, in maritime crime scene investigations, for fire arm investigation. She has given evidence in court before and her evidence was accepted. Court was satisfied that the witness possess the sufficient expertise and competent for her to testify as a crime scene Photographer. A certificate from the University of Pujara, Politics Science University was marked as **Exhibit P1**.
- [5] She testified that she took photographs of the Grand Anse Petrol Station in relation to this case on Monday 19th July 2021 at around 9.05. as requested by Sergeant Mariana Eulentin. Upon the request witness proceeded to the Grand Anse Police Station with Sergeant Mariana Eulentin. After taking the photographs witness stated that she downloaded the photograph on her office computer, then copied the said photographs on a cd and brought to photo Eden to print those photographs. She then mounted it into three albums, one which she kept in possession. An album of photograph containing 6 photographs was tendered by the witness and admitted as **Exhibit P2**. Photo number 1 shows an overview of the Grand Anse fuel Station. Photo number 2 shows the fuel station taken from the opposite direction. Photo number 3 shows the Grand Anse fuel station taken for different angle and range also for photo number 4. Photo number 5 shows the

area shown to witness by Andrew Estrale. Photo number 6 is a closer view of photo number 5.

- [6] When crossed examined witness was asked which of these photographs give any evidence of any terrorist act. Witness testified that she the Investigation Officer will answer which one of these photographs bears any evidence of a terrorism act because she took the photograph upon their request. Witness stated that she does not see any terrorism act as evidence by her photograph.
- [7] Next witness Corporal Alexandro Bethew attached to Scientific Support and Crime Record Bureau attended overseas training in fingerprints foundation. Witness presented his certificate which is the basic forensic, covering the photography, crime scene investigation and fingerprint. His certificate was admitted as **Exhibit P3**.
- [8] Witness testified that on Tuesday 29th day of June 2021 at around 1.15am, he photographed a specific place in a white van and some exhibit at the Bois de Rose Unit upon the request of Sergeant Mariana Eulentin in relation to a case of possession of explosive with intent to endanger life. Thereafter witness prepared a photo album containing the photographs he had taken on the exhibits shown to him by Sergeant Eulentin on 29th June 2021. Album of photographs containing eleven photographs was tendered and marked as **Exhibit P4**. Witness testified that Photograph number 1 shows the white van. Photograph number 2 shows letter number 1 shown to him by Sergeant Eulentin where the items were found. Photograph number 3 shows an overview again of letter number 1 taken at a different angle where the items were found. Photograph number 4 shows the boot of the van. Photograph number 5 shows a green bag with two bottles which yellow liquid in it. Photograph number 6 shows two large bottle with yellow liquids in it, a small bottle with some white powder and a black with blue top Havoline make bottle. Number 7 shows the black bottle. Number 8 shows a green bag. Number 9 shows the items that were found inside the bag. Number 10 shows a closer view of some of the items that were found inside the green bag and number 11 shows the passport that were found in the bag. These are the assistance he provided to the investigation connected to this case as requested by Sergeant Eulentin.

- [9] Upon cross examination witness testified that all photographs which relates to the van was taken at Bois De Rose. Photograph number 9 are some items closer to the backpack that was in the backpack. Witness stated that he removed the items from the backpack to photograph them. This was in his own accord and not per the instructions of Sargent Eulentin. Photograph number 11, is a passport belonging to one Tina Marie that was found inside of the bag.
- [10] Next witness Sargent Dave Jeanne testified that he is attached to the financial Crime Investigation Unit. Being an Officer in Financial Crime Investigation Unit, he also does special duties when needed for intelligence or surveillance.
- [11] On 28th June 2021 witness testified that he was working in the financial crime unit from 8 to 4. He recalls he had finished by 4 but got a message from Captain Fonseca who is the Deputy Head of Security at State House at around 6.30pm. Captain Fonseca was putting a group together and informed witness that there was a threat regarding the government and possibly of a place, so he told witness that when the time comes they will be needed so he will be called in. Witness got this information two day prior but Captain Fonseca did not give him all the details. On the 28th June 2021 Captain Fonseca's instructions was to report directly to the office at State House. There were other officers present; Special Constable Bristol and Corporal Larue. Witness testified that in the meeting there was a briefing. It was then that the people involved was mentioned, the vehicle which were going to be used and places that according to his information were going to be targeted and then witness was assigned with Lance Corporal Larue where he was supposed to be posted.
- [12] According to Captain Fonseca he said that there was two individual, one named Roy Azemia well known as Rambo and another guy who was Andy Estrale who would be driving a white H1 van S22762 and they will be in possession of an explosive device which witness was not given details of what kind of device. Witness stated that they have three targets. One, a take-away opposite Maison Du Peuple, a small take-away bus at Stadium Car Park and the Petrol Station at Grand Anse. Witness stated that after the briefing with Captain Fonseca he proceeded in his work. He and Lance Corporal Larue

were placed at the Victoria Stadium for the surveillance of the take-away if there was any sight of the suspects or the vehicle itself. The time was past 7.30. Witness testified that he was more on the side of where the toilet is at the Stadium Car Park for him to have a view of the take-away but he moved around a few just to get his cover unknown. At this point of time witness was on foot patrol. Witness was informed around 8.30 by Mr. Fonseca to proceed to Grand Anse because the vehicle had been spotted there and his assistance was needed. There was a vehicle assigned to witness. He straight away went to the direction of Grand Anse in the presence of Lance Corporal Larue. They reached in the vicinity of Grand Anse around 10 minutes. They were informed that the suspected H1 vehicle was being driven by Estrale had turned around and moving towards La Misère going up. When they received this information by Captain Fonseca they were around maybe two three hundred meters away from the fuel station. Witness stated that he took a small alley and waited for the bus to go past. Witness saw the bus and it was being followed by another vehicle so witness followed the bus up towards La Misère. At this point of time he identified the suspected vehicle involved. Thereafter witness followed it and it stopped on a bus stop at La Misère. Then witness drove past it, made a U-turn around 25 to 30 meters away from it and blocked the road so that they could intercept the bus and informed Captain Fonseca. At that time Captain Fonseca were behind the bus and they intercepted the bus. There were only two people inside the vehicle. One was in the driver's seat and the other one was in the front passenger seat. It was a white Hyundai H1 minivan. The registration number is S22762. The vehicle was being driven by Estrale. The one on the other side is Mr. Roy Azemia. The time when they restrained the vehicle was approximately 10 o'clock.

- [13] Witness testified that according to their information they were dealing with suspected possession of explosive device. The army officers proceeded to secure the people and the bus so that nothing could happen while witness was doing the arrest. As soon as this was done witness moved his vehicle down to the mini bus and there the bus was being searched by Special Constable Bristol. He found a green biodegradable bag. Inside there were three bottles that's been wrapped together and he handed this over to witness and it was then that witness arrested the two suspects for possession of what is thought to be explosives. Witness checked what was inside of the bags. There was two 1.5 litres one

bottle and it was wrapped with what he suspected was clear tape. Another small bottle had some white pellet substance in it. Witness could smell a fuel-like content and there was a small blue bottle as well which he thought was brake fluid. Witness thought that it was Dot4 brake fluid with a blue cap on top of it. Witness thought that it was something which would be used for some explosive materials. Thereafter Special Constable Bristol seized a backpack and mobile phones that belonged to the suspects from the vehicle then Captain Fonseka handed over the mobile phones to witness. Witness was handed over the backpack seized by Special Constable Bristol. It was a black backpack. Inside was only personal items like pills, spoon, trousers. Witness thinks it was all for Estrale. Witness stated that he arrested Estrale first then arrested Roy Azemia. Witness informed them of their rights and the reason why they were being arrested; the offence of possession of explosive and proceed back to the CID Office.

[14] Witness testified that he has custody of the items seized from the vehicle and also the mobile phones. Both of them they were found inside the suspected Hyundai van white colour having the registration number S22762 at the scene of occurrence in La Misère. Witness was shown exhibit P4 photographs 1, 2, 3, 4 and was able to identify the vehicle. He stated that it is the same one that they were arrested in. He also recalls when this photo was being taken as he was present. Witness stated that both suspects arrested by him on the 28th June 2021 around 10pm was present in court and he identified them. Witness was shown photograph 6,7,8 and testified that it is the same items he seized from the bus at La Misère. In photographs 8, 9, 10, 11 witness stated that it is the same bag as well as the contents. After taking possession of the exhibits found inside this Hyundai van, and after arresting the two suspects, witness testified that they proceeded to the CID Office and it was there which he handed over the content seized from the suspect being the one mentioned in number 5 with the bag itself. Witness handed this over to Sub-Inspector DeCommarmond with the mobile phones, the bags, everything was handed over to Corporal Simeon, because they were the ones who were the Investigating Officers. The time at the CID office was around 11pm.

[15] When cross examined witness testified that he was there at La Misère when the two accused were arrested. Witness was asked if he saw who beat up Roy Azemia. Witness

testified that he was never beat up. Witness was asked if people from La Misere who saw the beating of people were brought in would he say they were lying. Witness stated that he would say they were lying. Witness was asked if those people were lying when they said that his team told them “*go back to your bed otherwise we’re going to shoot you*”. Witness stated that this is not how the police operates. They never said that. Witness testified that the van was not stopped at the Grand Anse petrol station. Witness had not seen the white van at the Grand Anse Petrol Station. He did not reach that far. When he saw the white van it went past him going up La Misere. It was driving towards town. Witness was the one who arrested Estrale and Azemia. When witness came to the van Fonseca and his team had already got both Accused person out of the van. Witness saw them being placed to sit on the small step of the bus stop. For the handcuff they were laid down but they were not left like this. Witness stated that where he parked to block the road he could see everything from there. There were other Police officers but they were on covert operation for the same thing. Witness was present in that team for the arrestation. When they were being handcuffed he was the only Police Officer there that is why witness took over the arrest of them. Witness stated that he informed them that they have the right to remain silent. Everything they will say will be taken down, will be written and given as evidence, and they have the rights for their lawyer. Witness stated that he gave a statement to the Police in relation to this case. Witness testified that he made his statement the day after, so everything was fresh in his mind. Witness stated that maybe he omitted to say in his statement that when he arrested the accused persons he informed them of their constitutional rights but he did inform them. Witness denied that he violated the accused rights. The statement of Officer Dave Jeanne was tendered by the witness and admitted as **Exhibit D1**. Witness stated that when he reached the H1 that night he did not do the search in the H1. Special Constable Bristol and Captain Fonseca did the search. Witness was participating in the search but they cannot let everybody touch here and there. There were two 1.5 litre pet bottles wrapped with one small bottle were retrieved and given to him as exhibits. There was the small black bottle with a blue tap also given to him. There was the mobile phone of the two Accused. There was a black backpack which belonged to Mr. Estrale which witness confirmed contained personal items belonging to Mr. Estrale. Witness reviewed those personal items. Witness does not

agree that there was nothing illegal in that bag. When the investigator is done with the investigation he is supposed either return or place it as exhibit. Other than for the backpack, other than for the bottle that was wrapped, other than for the small bottle with the blue cap, nothing illegal was found in the bus. Both accused persons were taken to Bois De Rose where witness handed them over to CID Sergeant Eulentin and Corporal Simeon.

[16] In re-examination witness was asked to explain the location of the bust stop at La Misere where the accused persons were arrested. Witness testified that it is not at the top of La Misère, maybe 100 meters before going to the Beoliere Clinic Souvenir Clinic there's a bus stop leading to town area, there's shop there called Nar Shop, just above the shop. When going towards town. The first one witness was moving towards Grand Anse, he spot he parked in the alley, they moved pass him. Witness followed them, they stopped at the bus stop witness made a U-turn on top, blocked the road Maybe 25 to 30 meters ahead of them because they parked on the bus stop, witness moved there made a U-turn blocked the road.

[17] Witness was then recalled for identification of exhibits. He stated that Officer Bristol handed over the exhibits which was seized from the vehicle connected to this case. Witness identified those exhibits in photographs. It was a green biodegradable bag with red markings on it; witness thinks there was some red roses, something like that on it and there were two bottles – there were three bottles wrapped together with a cello-tape; two of them 1.5 litres with yellowish content and one has this white powder, suspected it must be chlorine and there was a small black bottle with blue cap; witness thinks it is brake fluid, witness thinks it is written on it. This behind the seat in the same content that was handed over to him by Bristol. Witness stated that if he sees those exhibits he would be able to identify it. Witness was shown P9(a), P9(b) and P10(a) and P11. Witness testified that there was no cap on EX P10(a) before, maybe they put it there now to preserve it. P11(a) is the brake fluid. This green bag is the same one there was a marking inside. When Bristol handed over the items to him, witness sated that he kept it with him and brought it to the CID office at Bois de Rose; handed over to Mr Decommarmond, because he was the exhibit officer who request the formality.

- [18] Next witness Captain Luc Fonseka testified that he is the Deputy Head of Presidential Security at State House since the 26th of October 2020. His job specification is to provide security to the President. On the 28th June 2021 witness testified that he was working at State House and began his duties at 0630 in the morning. Relating to this case, at around 0730 he received some intelligence that a small group were opposed to the government had plans to put explosive devices into three separate locations. He received this intelligence through a WhatsApp phone call, studied it, validated it, and from there, put a set of mission orders together, that if successful will prevent any attack from happening and potentially save lives.
- [19] Witness was asked who was the person that provided this information. Witness testified that for security reasons they have to safeguard that individual. The person reported to witness that someone very close to the two suspects had passed this information on to him directly and then that there was a plan in place that was imminent. That is was going to be carried out that night. The person who provided the information to the intelligence source was a gentleman called Naiken. Witness analysed the truthfulness of it, that this was meant to be a diversion and then there would be a follow-up attack the next day that would be done via sniper rifle to assassinate the President. After getting as much information as possible witness drafted a set of mission orders. The mission orders would detail the potential mission that evening and how they would stop this incident from taking place, how they would prevent loss of life and how they would be successful. Throughout the day he prepared his orders.
- [20] Witness then called a team in, SPDF team with components of the police and delivered his mission orders then at 1930 hours. Witness delivered the mission orders at 1930, they had time to equip themselves, get ready and then deployed at 20.05, deployed into three teams. Witness stated that he waited until 7:30 pm to execute his mission orders because he was using time effectively. It was not a case of waiting or delaying. The other aspect of this was the intelligence revealed that the attack would happen in the evening. Witness stated that he did not want to pre-empt, give any early warning signs that there was a mission that was going to be carried out. So it was done for the right reasons by time delay. There were three locations that were identified as potential spots where the

explosive devices would be placed. That was a food van outside Chaka Brothers, the other location was Maison du Peuple, and the third location was the Petrol station in Grand Anse. Witness stated that at that time they also received some last minute intelligence that the likelihood is that they would attack, or place the device at the Grand Anse Petrol station first and they also received intelligence at that time what vehicle would be used to carry out the attack which is a white Hyundai transport van. Witness testified that from the three teams that were put together for this mission was vehicle one, made up of two SPDF officers deployed to Grand Anse petrol station. The second team was one SPDF officer and one police officer to the car park at Stad Popiler near Chaka Brothers to over watch that area, and then the witness' team which consisted of himself, one SPDF officer and two other police officers conducted mobile surveillance of Victoria and vehicle operational command. All the command was happening from witness' vehicle and they were also acting as mobile surveillance and try to identify the potential suspects. The arresting police officer was sergeant Dave Jeanne and the other police officers involved special constable Anil Bristol. Sergeant Dave Jeanne was placed at Stad Popiler in the car park over watching the food van opposite Chaka brothers. Witness stated that in his team were two special constables and there was one SPDF officer plus himself. They proceeded from State House, circled Victoria with the intention of identifying the vehicle that would be used. They then proceeded to 24/7 headquarters at Perseverance by approximately 20.15. They identified Roy Azemia's personal vehicle located at 24/7 headquarters. Thereafter they continued to patrol town looking for the vehicle they were to use. They could not identify the vehicle, so with the information they had relating to Grand Anse police station being the first target they proceeded straight there. There was the element of curfew at the time as well, so they wanted to proceed to the first location first. They patrolled area of Grand Anse and then got to the location at approximately 21.15 pm. Once they were in the vicinity of the area witness deployed himself and special constable Bristol. They exited the vehicle and took an over watch position in a wooded area which gave them eyes on all entries and exits of the location so they could identify if anyone was walking into the location or driving in from the North or South of La Misere. The location witness chose offered complete view of the whole location. It has got complete line of sight towards Grand Anse Petrol station.

[21] Witness was shown a set of photographs from exhibit P2 and testified that in photographs 1, 2, 3, 4, 5, 6 he can see the entrances, the exits of Grand Anse petrol station, the main road leading towards Grand Anse petrol station and Grand Anse petrol station. Witness stated that in photo number 3 the observation team was positioned, you can see three poles and it was the far right hand pole behind the abandoned vehicle. Witness marked the position in photograph 3. In the photograph the lighting position was very good for observation, because where they were located is a very dark wooded area. The place they were observing is a very well lit area. You have got street lamps running down the road, so it is very easy to identify vehicle registration numbers, drivers, types of vehicle. The moon state was very good as well so there was an ambient light. When they took position it was approximately 9.15 pm.

[22] During that observation they did not see many vehicles going up and down. They noticed the suspected vehicle at 21.50. The suspected vehicle proceeded down from La Misere towards Grand Anse police station. Witness and his team identified the vehicle registration number. They did not identify the driver at that time because he was facing away from them. However, the vehicle then at the bottom of the road turned left and proceeded along that road and then turned around and then came back up La Misere, and it was at that point the driver was identified being Roy Azemia, and Andrew Estrale was sat in the passenger seat as they drove up. Witness stated that when the vehicle drove past the petrol station it slowed down. The occupants were observing what was going into the left and the right. They made their way down to the junction and then they turn left. They drove down the road approximately about 100 meters, 200 meters maximum. They turned around and they proceeded back up to La Misere. About 5 minutes later they returned from La Misere, proceeding down to the location, again slowing down as they drove past the petrol station, they turned left, again turned around down the road, they then proceeded up La Misere again. The third time they proceeded down again very slowly and cautiously they broke left, they returned. This time when they returned they went round the corner from where witness and his team were and they stopped about 50 meters up the road. They went static, when they went static and witness and team observed Andrew Estrale disembarked the vehicle. He then proceeded to put on a dark hooded jacket and then he got back in the vehicle. Witness stated that this set alarm bells because

they were under the impression that he may be trying to hide his identity and take in a device to a target area and avoiding CCTV hence pulling up the hood. Witness made the decision to proceed and follow that vehicle and they can conduct a stop and search. All this took approximately 15 minutes. At this time, they were using a white Hyundai van. Prior to seeing Andrew Estrale exit the vehicle witness stated that he called in the other team from Victoria that was positioned at Stad Popiler car park because they had identified the suspect. They were called to come in and support. Witness wanted to ensure that the arresting officer was a police officer and they had Sergeant Jeanne who was positioned in Victoria. Witness requested him to come to their location through the communicator at the time which was special constable Bristol. However, at this time when the vehicle proceeded up La Misere, witness requested special constable Bristol to ensure that sergeant Jeanne waited at the top of La Misere and blocked the road from the front so that they could come from the rear and then conduct a stop and search on the vehicle. Witness testified that the vehicle that he was in charge of was positioned towards Grand Anse so turn towards the bottom of the road, turned right and about 500 meters down the road. They had good communication, radio signal, phone signal. They called in the driver, the driver proceeded to their location, they embossed the vehicle and then proceeded up La Misere. Witness had another team positioned in Grand Anse area opposite the petrol station and they followed as well. The makeup of this movement looked like one vehicle at the top of La Misere with Sergeant Dave Jeanne inside, vehicle of witness proceeded after the white transport and then third vehicle in the rear following them. Sergeant Dave Jeanne had positioned his vehicle at the top of La Misere or towards the top of La Misere near a bus stop. They proceeded from below, the bottom of La Misere proceeded up and witness gave the instruction to the team that he would take responsibility of the right hand side of the vehicle and requested special constable Bristol to take control of the left hand side of the vehicle. Witness exited the vehicle and proceed straight to the right hand door. Special constable Bristol exited the vehicle, proceeded to the left hand side of the door and simultaneously ordered the two occupants out of the vehicle. When the stop and search was carried out it was at the bus stop on the left hand side as you proceed up La Misere. When the suspected vehicle was restrained the persons inside, the driver was Azemia and in the left passenger side was Andrew Estrale. They

were driving a white Hyundai transport van. Witness stated that he would be able to identify the vehicle. Witness was shown exhibit P4 photographs 1, 2, 3, 4 and testified that he has seen this vehicle before on the night of 28th of June 2021. The first time he saw it was when it proceeded down La Misere – from La Misere down towards Grand Anse as it passed his location. The stop and search was conducted when the two suspects were asked to leave the vehicle, boarded out the vehicle, they were moved towards the pavement area for their safety as this was on the main road. Witness stated that he had one special constable and one SPDF officer conduct the search. First thing that was found was by special constable Bristol who identified a small grey daysack. The daysack was removed from the vehicle, placed on the floor in front of Andrew Estrale and then witness began searching that small daysack. The small daysack contained personal items, things like pair of shorts, coins, some medication, a sling shot, just little bits of chain, multiple keep sakes. Witness testified that he never retrieved the daysack, special constable Bristol identified the daysack. It was placed in front of Andrew Estrale and then witness proceeded to check the daysack. Whilst checking the daysack special constable Bristol then identified the second bag which was a green carrier bag with the content of two old coca cola bottles that contained a fluid believed to be petrol. The other contents were brake fluid and a white powdered substance. They believed this to be the make-up of a petrol bomb or an explosive device. Inside the green bag, the contents of the green bag were two large bottles containing what they believed to be petrol, cello tape to that was a smaller coca cola bottle with a powdered substance in it, and on the side in a separate container was some brake fluid, havoline brake fluid. And they were all contained in the green carrier bag in the vehicle that was stopped and searched.. The suspected device was placed on the floor and then at that point sergeant Jeanne was called over to investigate and then at that point he asked the suspects about what these items were, and then he proceeded then to question them a little more, ask them more questions and he separated the items. Witness and his team believed them to be explosive devices, they were not sure on how safe they were, how stable they were so what they wanted to do was put them in one place, secure them and then witness reported this up to chain in commend. At this point once the two suspects were placed on the pavement sergeant Jeanne arrested them for suspected possession of explosive devices. Witness

then made the call to the commissioner of police and requested further police support. He then advised that corporal Simeon from CID would proceed to their location. Witness and his team then handed over all the items found in the vehicle and then handed over to CID corporal Simeon. They then proceed back to CID as per corporal Simeon's instruction with the vehicle, with the suspects and with the items found. Witness was shown photograph 8, 9 and 10 and testified that he had seen these objects before on the 28th of June 2021. It is the grey sack retrieved from the vehicle along with the contents. Witness was shown photograph 5, 6, 7 and testified that he has seen these objects on the evening of the 28th of June 2021. He saw these items as they were placed on the floor in front of him as they were performing a search of the vehicle. Special constable Bristol saw the items, removed the items from the vehicle and placed them in front of witness on the pavement whilst he was searching the grey daysack. Witness then identified the two accused by doing a dock identification. He stated that Mr Azemia is to the right hand side of him, the closest individual, and Mr Andrew Estrale is also in the box far right hand side of him.

[23] Then they moved to CID Bois De Rose with the suspects and with the van and the suspected items found in the van. At that point the suspects were moved to the questioning room. Handing over was done to Corporal Simeon. Necessary security was provided and handing over was done, and further instructions were awaited. At this point handing over to CID was already done. Witness stated that they were there to complete any other questions that needed to be answered by CID and they were essentially stood down. These are the works witness did concerning this case.

[24] Upon cross examination witness testified that they were not violent towards Azemia on that date. He was put on the ground, he was asked to go on his knees and he went onto the ground on his chest and then he was restraint. There were no boots on his head, there were no boots on his face. Witness testified that when the accused Azemia was being restrained there would have been noise because the composition of a restrain like this is based on three fundamentals which is speed, aggression and surprise. So this was carried out in the correct manner. There were no insults. There was no swearing. They were ordered out of the vehicle in a professional manner using speed, aggression and surprise.

But at no point did any of the team go overboard, go over the top to use abusive force. Witness stated that he would never condone any type of behaviour of threats to the people in the village by him or his team. They hold themselves to a higher standard than that.

[25] Witness confirmed to the Court that no incident was ever recorded in respect to both opposite Chakka and Maison Du Peuple. And on that basis witness proceed to go to Grand Anse Mahe petrol station. On that night it was raining a bit. By the time they reached Grand Anse it had stopped raining. When they went to Grand Anse they took a position which is next to the petrol station. Witness was shown photograph 3 the marked wooded area and testified that from that position he could not see who was driving the vehicle or who was the passenger in that vehicle. Witness is positive that it was Azemia who was driving and Estrale was the passenger. So the team was observing the location. All of the teams were meant to observe the potential suspects going towards the location. So had the suspects gone to Chaka brothers they would have informed witness and then they would then have responded to the location and the support it. Witness stated that as an army officer he does not have power of arrest in regards to these types of missions. There was the need of police officers to effect the arrest. The police officers needed to be there to ensure credibility.

[26] Witness testified that on his observation he saw the white van going up and down three times. It was put to witness that on the second occasion when that vehicle had stopped, which he was saying was on a third occasion – on the second occasion when the vehicle had stopped, Mr Estrale has alighted, stopped next to the vehicle for him to do a call of nature. Witness testified that when he had eyes on Andrew Estrale he debussed the vehicle, he did not have a call of nature, he then proceeded to put on a jacket and put the hood up. It was suggested to witness that since he was in a wooded area his line of visioning might be impaired because of the distance and the rain and in darkness. Witness disagreed and testified that the distance that Estrale was at witness could see very clearly. He was within 50 meters. It was put to witness that the very reason as to why Mr Estrale had a jacket on that night was because he had come on a motor bike prior to having got into that van. On that night witness did not see him on a motor bike. Witness saw him in

the white van in the passenger side. Up La Misere witness had stopped that white van next to a bus stop at La Misere, this is when witness ordered Roy Azemia out of the vehicle. The suspects were believed to be an eminent threat, that they may have weapons on them, witness and team wanted to secure them, to ensure their safety, to move them off the road. At that point Dave Jeanne was in the area, but he was proceeding to the location. Sergeant Jeanne's vehicle was the vehicle that blocked from the front, hence he was on scene at the time. When Dave Jeanne came on the scene where the two suspect was, witness was there present. One suspect was on the right hand side of the vehicle and the other was on the left hand side of the vehicle where they were removed from the vehicle, where they were ordered out of the vehicle. They were on the floor. They had not been grouped together and put in the curb because this happened very quickly. When Dave Jeanne came they then moved them to the pavement for their safety, for their security. Immediately, as soon as they were moved, the search of the vehicle was started. As soon as the suspects were moved over to the pavement and handed to Sergeant Jeanne, the search of the vehicle started. It was at this point when the two suspects were put on the pavement that Dave Jeanne made the arrests.

- [27] Witness testified that it is not true that threats were used on the accused persons. It was put to witness that he has acted outside normal procedures and breached the constitutional rights of the accused persons. Witness testified that he has done soundless stops and searches in hostile environments, Afghanistan, Iraq, he has been in compliant, adhered to the correct procedures. He has not been excessive in use of force. Speed, aggression and surprised was used a hundred percent. They are dealing with two suspects that had intended from the information that was received to cause serious damage to Seychelles, potentially kill people. Witness stated that he was not excessive in his force. The right amount of force was used and potentially lives were saved. Witness testified that nor him nor any personnel under his command threatened neighbours who were there at that night witnessing the incident. After the apprehension of the two accused persons witness handed them over to Dave Jeanne and CID came up on the scene and taken over the suspects and exhibits that witness had retrieved and witness went down to CID with everybody else. Witness stated that at the CID they escorted the suspects with the support of Corporal Simeon. At that point Corporal Simeon was very much in charge of the

situation then, and took over and CID was doing any questioning of the suspects at that point. His team was not involved in any questioning of any of the suspects at that point. Witness went to CID with the suspects because their job was not completed. They needed to make sure the hand over that they gave to Corporal Simeon was comprehensive, that nothing was left out, that all information was passed on that he had the tools that required of him to then perform his job.

[28] Upon re-examination witness testified that he had not violated any of the suspected person's rights at La Misère at the evening of 28th June 2021. The reason Sergeant Jeanne was requested was because a trusted police presence was requested. The suspects were handed over to Dave Jeanne to deal with. Sergeant Jeanne was then dealing with both suspects and liaising with them, communicating with them. Witness was asked what he means by aggression when he says that in his stop and search he uses aggression. Witness testified that he means controlled aggression. For example, aggression on moving from his vehicle towards the suspect vehicle. When he is moving aggressively he is not walking over, he is not swaying over. He moves in with purpose and aggression. When he directs the suspect to get out of the vehicle he is not asking him nicely, he is saying get out of the vehicle. He is not swearing, and not being excessive in aggression. It's all controlled.

[29] Witness was then recalled for identification of exhibits. He was asked if he would be able to identify the exhibits seized on 28th June 2021 at the scene La Misere if he saw it. Witness testified that the suspected exhibits seized from the vehicle in which those two suspects were found at the scene in La Misere on 28th June 2021 were two bags; one green bag, inside that bag was three bottles cello-taped together, two large coca cola bottles – empty coca cola bottles that were then refilled with a substance that was yellowy – clear yellowy, presumed to be petrol. They were in the two large bottles and then in the small bottle there was the white powdery substance presumed to be chlorine and then there was also in the green bag a bottle of brake fluid as well; Havoline brake fluid. That was in one green bag and then there was another small little rucksack; dark grey rucksack; in that had personal items like a passport, keys, deodorant, flip-flop, pair of shoes, belts, coins, little bits and things like that. Witness was shown exhibit P9(a), P9(b),

P9(c) and P10(a) and P11(a) and stated that they looked to be the same items, however, there are different quantities in these two bottles P9(a) and (b), and they were wrapped together with this small bottle as well. The liquids are now reduced in terms of amount from the last time he saw it. Witness was shown exhibit P18(a) and the contents as P19(a-z) and A(a) to 18 f (f). Witness stated that everything that is here was found in the bag, but the jacket was being worn. Witness testified that when he restrained the vehicle connected to this case at the scene in La Misere on 28th June 2021 Special Constable Bristol was the officer who retrieved the green bag and the contents from the vehicle. Witness saw Special constable Bristol retrieving the green bag The green bag and the contents was handed over to Sgt Jeanne for preservation. Witness stated that he retrieved the other backpack and the contents from the vehicle connected to this case. He put it on the floor, the pavement and conducted a search of the bag and the items and then handed over to Sergeant Jeanne as well.

[30] Next witness Corporal Kelly Auguste testified that she is presently attached to the Scientific Support and Crime Record Bureau. She is a Crime Scene Officer attend by scene of crime in the jurisdiction of Seychelles which she documents secure and collect evidence to assist in the investigation. On 29th June at around 1352 hours, she attended a search conducted by Sergeant Eullentin C/O CID Priority at the 24/7 Security at Perseverance owned by Mr Marcel Naiken, whereby she seized on gallon containing liquid under the staircase. On 2nd July at around 1343 hours she, in the company of SI Decommarmond at the SEPEC Laboratory at Bois De Rose took a sample of liquid from the gallon containing liquid KA01 which she gave Mr Francois Pierre to conduct an analysis which she was present and then he gave it back to her which she sealed the said sample as KA02. In respect of the exhibit she seized in connection to this case at Perseverance at the office of 24/7 and in respect of the sample she had given to Mr Francois Pierre subsequently she prepared an exhibit Chart in this case. Witness was shown a document and confirmed that it is the exhibit chart she prepared in this case. The Exhibit Chart with reference number CB673/0621 was tendered by the witness and admitted as **Exhibit P5**.

- [31] Witness went on to explain about the details she mentioned in the Exhibit Chart that she prepared. KA01 one gallon containing liquid were found under the staircase at Perseverance, secured by and date Corporal K Auguste on 29/06/2021 at 1352 hours. KAO2 one glass bottle containing liquid sample were taken from one gallon containing liquid secured by Corporal K Auguste on 02/07/2021 at 1358. Witness had the exhibits in court and went on to explain. One gallon containing liquid seized 1352 hours on 29.06.2021 was seized under the staircase at Perseverance which she sealed. The witness read on a big Khaki envelope. Witness opened it and removed one gallon containing liquid. Evidence envelope in which the gallon was contained on which is marked KA/01 was tendered and marked as **Exhibit P6**. Witness stated that there is a clear plastic on the gallon that she put to protect it from spilling. The clear plastic is **P6A** and the gallon containing liquid is **P6B**.
- [32] KA02 one glass bottle containing liquid sample which witness seized on the 2nd July 2021, at around 1358 seized from one gallon containing liquid. Witness removed the sample form KA01 and gave it to Mr Francois to conduct analysis which he did when witness was present and then witness sealed it. The clear plastic and the bottle was provided by witness. Only the liquid was taken from the gallon. The Evidence Envelope marked with KA/02 was tendered and marked as **Exhibit P7**. The clear plastic separately as **P7A** and the glass bottle in which is contained a yellowish liquid as **P7B**. Witness did not give further assistance to the investigation apart from the exhibits.
- [33] When cross examined witness testified that she is a crime scene officer not a finger print expert. Witness stated that she is aware that fingerprint examination was conducted to the big plastic container containing the liquid but she was not the one who conducted the fingerprint examination on it. She knows this because she asked the one conducting and it he said it did not develop. Witness was asked who was the owner of that security business where Exhibit P6A was retrieved. Witness testified that before it was Mr Marcel Naiken. He was present when she retrieved the container. Exhibit P7 which is the clear bottle containing liquid was retrieved from the gallon containing liquid. The sample was taken to give to Mr Francois Pierre to conduct an analysis. Witness stated that Francois Pierre conducted the analysis in front of her. A report was produced but usually goes to

the Investigating Officer. Witness stated that she is aware that fingerprints test was done in respect of the 1st container that is Exhibit P6A but it was not developed.

[34] Next witness Dean Decommarmond testified that he is Inspector in the Police Force and now the Station Commander for the Central Police Station. Before the transfer to Central Police Station he was working at the SSCRB as a Crime Scene Officer for almost 7 years. At the SSCRB he received the local training and also abroad training in the field of Crime Scene Management. In this case he received some exhibits then sorted out different exhibits. He was called by CEO Assistant Superintendent Aubrey Quatre for this case and then was approached by Sergeant Dave Jeanne concerning the exhibits so that he can receive the exhibits from him. In respect of the exhibits received in this case witness prepared exhibit chart. Witness was shown the exhibit chart and could identify it as the one he prepared. Exhibit Chart entitled CB673/06/21 of Central Police Station was tendered by the witness and marked as **Exhibit P8**. The exhibit chart contains 4 pages consecutively and it is numbered 1 to 4. Witness had signed all 4 pages. Witness testified that he started receiving exhibits in this case on the 29th of June 2021. The first one was at 0110 hours in the morning. It was handed over to him at the CID Headquarters at Bois De Rose.

[35] The 1st one that is Item No.1 Exhibit DD001, description of exhibit one green bag containing 2 Coca Cola bottle with clear yellowish liquid label A and B in a clear plastic. Witness stated that when he received the exhibits those exhibits were separated and other samples were taken from exhibits. After he had separated them, taken sample from those exhibits it was then put in an envelope and sealed and signed by him. The purpose of the samples for testing of the content the liquid which was in those items. The 1st exhibits received was one green bag contained 2 coca cola bottle with clear yellowish liquid label A and B in a clear plastic bag. In respect of this exhibits witness sealed in this envelope as DD01. The description is one green bag containing 2 Coca Cola bottles with clear yellowish liquid labelled A and B in clear plastic. The time it was seized by the Officer in the 28th and it was given to him on the 29th at 0110 hours. Inside this green bag there are 2 Coca Cola pets some yellowish liquid inside in a clear plastic bag labelled A and B. Witness stated that he inserted it in the clear plastic bag in case it does spill. The brown

envelope marking DD to 01 was marked as **Exhibit P9**, the green bag marked as **P9A**, the 2 Coca Cola bottles containing yellow liquid one was marked as **P9C**, the other one with a letter B is tendered and marked as **P9D** together with their plastic bag.

[36] Witness testified that at No 2 Exhibit Folder DD02 one small Coca Cola bottle with white powder inside, his item was with the 2 bottles in the green bag but for safety reason witness removed it, separate it and store it apart from the other for each one small Coca Cola bottle with white powder inside. It was handed over to him by Sergeant Dave Jeanne together with exhibit DD01. The exhibit was handed over to him on the 29th of June 2021 at 0110 hours in the morning at the CID Headquarters at Bois de Rose. Witness stated that he preserved it by putting it in an envelope, sealed it and stored in the Exhibit Room. A sample was taken from this item. Witness opened the envelope and identified that this was the same exhibit. Evidence envelope marked as DD/02 was tendered and marked as exhibit P10, and small pet plastic bottle containing white powder as **Exhibit P10A**.

[37] Next item No. 3 Exhibit ED03 description of exhibit one black container with blue top cover, he received it also from Sergeant Dave Jeanne on the 29th of June 2021 at 0110 hours in the morning at CID Headquarters at Bois De Rose. He preserved this exhibit by putting it in an envelope, sealed it and kept it in the Exhibit Store. Witness opened the envelop black and blue cover and stated that this is the same exhibit he received from sergeant Dave Jeanne on 29th June 2021 at CID office. Envelope with marking DD/03 was tendered and admitted as P11 and one small black plastic bottle with blue cap was tendered and marked as **P11A**.

[38] Item No. 4 Exhibit ED04, description of Exhibit one gallon with white top containing liquid in clear plastic, this item was handing over to him by Sergeant Robin Legaie on the 29th June 2021 at 1605 hours at CID headquarters at Bois de Rose. This item was put in an envelope sealed and stored in the Exhibit Store. There is a clear plastic covering this container put this item in the plastic that witness to preserve for safety purposes. The Evidence Envelope brown was tendered and marked as Exhibit with marking DD/04 is

tendered and marked as **Exhibit P12**. The gallon containing liquid wrapped in clear plastic is tendered and marked as Exhibit **P12A**.

[39] Item No5 Exhibit DD05, description one gallon with green top received from Sergeant Robin Legaie on the 29th June 2021 at 1505 hours at the CID Headquarters at Bois de Rose. Witness preserve it by put it in a brown envelope, sealed it and then kept it at the Exhibit Store. Witness opened the evidence envelop and stated that the gallon was empty. One envelope marked DD/05 was tendered and marked as **Exhibit P13** and one empty white gallon together with its wrapping clear plastic was tendered and marked as **P13A**.

[40] Item No.6 Exhibit DD06, description one clear container containing some white substances, this exhibit was a sample DD02 and this sample was sent to Mauritius for testing. This come from exhibit DD02, one small Coca Cola bottle with white powder inside. This kind of sample that is sent to Mauritius they will use it and it will not be sent back.

[41] Item 7 exhibit DD07, description one small clear plastic containing a small piece of wood inside. This item was collected from a green backpack by witness on the 2nd of July 2021 at 0010 hours. Witness stated that the exhibit was in his possession. Witness opened the exhibit. This wood was found in a green backpack. The green backpack is in his possession. The exhibit was placed at the CID headquarters. The small envelope marked DD07 was tendered and marked as **P14**. The clear plastic bag containing piece of wood collectively as **P14A**.

[42] Item No.8 for the exhibit DD08, description one clear bottle containing yellowish liquid labelled DD01A in clear plastic. This exhibit came from sample from the Coca Cola bottle and it was collected by witness on the 2nd of July 2021 at 1345 hours at the CID Headquarters' at Bois De Rose. Witness brought this exhibit at SEYPEC for testing and after that stored it in an envelope and sealed it and stored it at the Exhibit Store. The purpose for them to test what kind of liquid this item could be. After the sampling test was done at SEYPEC witness received the remaining sample of the exhibit. Witness put it in a clear plastic bag in a brown envelope, sealed it then stored it in the Exhibit Store. Witness showed the envelope to the court. Evidence Envelope brown marked DD/08 was

tendered and marked as **Exhibit P15**. One glass bottle containing yellowish liquid as wrapped in a clear plastic bag was collectively tendered and marked as **P15A**.

[43] Item No.9 Exhibit DD09, description one clear bottle containing yellowish liquid labelled DD01B in clear plastic bag, this item was a sample from the Coca Cola bottle with clear yellowish liquid labelled D in clear plastic bag. The sample was taken for the purpose to bring it to SEYPEC for them to test what kind of liquid this item could be. After the analysis the item was given back to witness in his possession. Witness preserved it by putting it in a clear plastic in a white envelope sealed it and stored it in the Exhibit Store. Witness showed that Evidence Envelope containing this exhibit. Evidence Envelope marked DD09 was tendered and admitted as **Exhibit P16**, and one clear glass bottle containing yellowish liquid wrapped in a clear plastic bag was tendered collectively and marked as **Exhibit P16A**.

[44] Item No.10 Exhibit DD10, description one clear bottle containing yellowish liquid labelled DD04 in clear plastic from white gallon with white top containing liquid in clear plastic. This sample was taken to also bring at the SEYPEC for them to test what kind of liquid could be in this item. One brown envelope marked DD/10 was tendered and marked as **Exhibit P17** and one glass bottle containing yellowish liquid wrapped in clear plastic bag as **P17A**.

[45] Item 11 exhibit DD11 description one small clear container containing yellow liquid which was taken from a large gallon. From the one with DD04. That was already produced. The purpose of samples was sent to Mauritius to the lab so that it can be tested or what kind of liquid was from the item. Since the sample was sent to Mauritius you will not get back the sample. Item No.12 Exhibit for DD12 description one small clear container containing yellow substances it was taken from pet bottle labelled A by witness. Witness took the sample to send to Mauritius for them to test the content of the liquid that was from the exhibit. Since the sample sent to Mauritius witness has not gotten the sample back again.

[46] Item No. 13 exhibit for DD13 description one small clear container containing yellow substances and it was from pet bottle labelled B it was taken by witness. The purpose for

the sample it was to send to Mauritius for them to test of what this yellow liquid could be from the item. Witness has not gotten the sample back since it was sent to Mauritius.

[47] Item No.14 exhibit code DD14, description one small clear container containing yellow liquid it was from large gallon same as from DD04, it was taken by witness. This sample was taken for the purpose of sending it to Mauritius from them to test what could be the content of this liquid from this item. Witness has not gotten the sample back since it was sent to Mauritius.

[48] Item No.15 is the same thing as exhibit DD06 that was sent to Mauritius. Witness took two samples of that so he sent just one. Witness has not gotten the sample back since it was sent to Mauritius. The sample taken from one small bottle pet from Exhibit No.DD02.

[49] Witness testified that apart from the exhibits in the exhibit chart he received one exhibit again from Sergeant Dave Jeanne at the CID Headquarters' at Bois de Rose on the 29th of June 2021. It was a green backpack. Inside there was some items and also it was where he found exhibit No.DD07 a small clear plastic containing a small piece of wood inside. This is the item witness produced as exhibit P14. Witness preserved it by putting it in an Evidence envelope, sealed it and then stored it in the Exhibit Store. Witness showed the court the envelope which contained the backpack Dave Jeanne handed over to him at the CID Office on 29th June 2021. Inside the backpack the contents were some personal items, short, some passport, necklace, some rings, the items were photographed by Corporal Bethew of the SSCR. One blue raincoat, one pair of grey Nike shoes, a piece of black strap, a piece of wooden orange strap, one dog chain attached to the black strap. a packet tissue, an orange box with a pair of spectacles, clear container with perfume in it, a charger mark Samsung, a white piece of paper stapled and inside some coins, there are two coins of 10 rupees, and 10 coins of Rs1, one glove, one passport in the name of one Marie Tina Marie, one vehicle road license and one Insurance certificate. The road license coupon was from vehicle S24613 and the insurance certificate also from S24613, one yellow paper guard dog service special pass, one piece of cloth, a blue deodorant, one cream tube, one spoon, a piece of brown paper similar to an envelope, one black rope

similar to a shoe lace, a nail cutter, a set of different keys, one separate key, 2 pieces of metal, a net and ball, a notice of Prosecution paper in the name of Andrew Estrale, a piece of garlic, a piece of wrap cloth, 4 pieces of macadam, one piece of paper containing brown leaves. The evidence envelope marked as DD16 was tendered and admitted as **P18**, the green bag as per **P18(a)**, the one blue raincoat as **P18(b)**, one pair of Nike shoe as **P18(c)**, one black strap as **P18(d)**, one catapult as **P18(e)**, one dog chain with a strap as **P18(f)**, one packet of tissue as **P18(g)**, one pair of spectacles in a box as **P18(h)**, one plain perfume container containing liquid as **P19(i)**, one charger Samsung as **P18(j)**, one white piece of paper containing coins as **P18(k)**, one glove **P18(l)**, one passport in the name of Marie Tina Marie **P18(m)**, one vehicle road license coupon as **P18(n)**, one insurance certificate **P18(o)**, one yellow guard dog service special pass as **P18(p)**, one piece of cloth **P18(q)**, one blue deodorant **P18(r)**, one cream tube **P18(s)**, then one spoon **P18(t)**, one brown paper **P18(u)**, one blue rope **P18(v)**, one nail cutter **P18(w)**, one set of keys **P18(x)**, one separate key **P18(y)**, then one net and ball and one piece of round metal **P18(z)** together, then as **P18(a)(a)** one notice of intended Prosecution document in the name of Mr Andrew Estrale, one **P18(b)(b)** one piece of metal, **P18(c) (c)**, one piece of garlic **P18(d)(d)**, one piece of wrap cloth **P18(e)(e)**, 4 pieces of macadam **P18(f)(f)**, one piece of paper containing leaves brown leaves.

[50] In respect of the samples sent to Mauritius for analysis thereafter the Mauritius Quanti lab sent the report to SSCR. Witness was shown the report and stated that these are the 2 reports received from Mauritius. The report number P/2021/6818 regarding certain kit of analysis from the Quanti Lab at Accurate Result on Time was tendered and marked as **item P1**. The Report Number T/2021 68/6840, certificate of analysis from the Quanti Lab Accurate Results on time was tendered and marked as **Item P2**. Witness did not other task apart from the ones he mentioned in this case.

[51] When cross examined witness was asked if he have the report as regards to this bottle. Witness testified that the original report is given to the Investigating officer. Witness stated that no fingerprint samples was done on this large container. He was asked what is a gallon. He stated that he was not an expert in gallon to know if it is a measurement.

Witness was asked if he got a report from SEYPEC. Witness testified that a report was given to the Investigating officer from SEYPEC.

[52] Witness took some samples from the various exhibits for purpose of analysis at SEYPEC. And then some for purpose of analysis in Mauritius. from the ones that he sent to Mauritius there were two items. DD02 exhibit P10A That's the small pet bottles. Sample was not sent back to witness. The purpose of sending that sample in Mauritius was for test. Witness was asked to confirm to the court if the sample he took for DD02 was preserved by way of a chain of custody from him to Mauritius for purpose of test. Witness testified that he does not have a report with him.

[53] The 2nd exhibit from his Chart that was sent to Mauritius for analysis as Exhibit No. Code DD11. DD11 was a sample that was taken from DD04 and DD04 has been exhibited as Exhibit P12A. Exhibit P12 and P12A is a plastic container with liquid. Witness does not have a report with him for the chain of custody of that sample to Mauritius up to the time that the report was produced.

[54] Other than Exhibit No DD06 and DD11 witness testified that he had also taken sample from DD13 to send to Mauritius for analysis. DD13 was a bottle which contains certain liquid in it that liquid he took a sample to send to Mauritius for analysis. Witness did not have a report with him which shows to the Court that the chain of custody of that sample from him up to Mauritius was preserved so as to secure that chain of custody.

[55] Witness had also taken a sample for DD14 which is a liquid that was taken from DD04. DD04 is a bottle which contained liquid and it is exhibited in P17A. Witness took P17A which is a sample from that bottle to send to Mauritius for purpose of analysis but another sample was sent to Mauritius not this one. Witness did not have a report with him to confirm the chain of custody.

[56] Witness took some samples to SEYPEC for analysis and the person from SEYPEC took it themselves. The samples from SEYPEC were not returned back to him. Witness does not remember to whom he gave the samples to at SEYPEC. There is a record of custody for the handling of the sample but was not with witness. He has to go back to SSCRB to

look for it. In this case there was a record kept but it was not in the presence of the witness. It was on his computer.

[57] Witness was asked about Exhibit P18. He testified that in that green backpack he singled out the piece of wood contained in a clear plastic bag DD07. Witness was asked about the relevance of his wood. Witness testified that he does not have any comment on it, it is best if an Expert in those kind of activities suspected of bombing can come because during the course of investigation that he found that this could be brought to Court as an item from the Investigating officer. That green backpack was handed over to him by Mr Jeanne from the FCIU. Witness was already at the CID on that day. He had not been on the scene. Witness testified that he would not know if Sargent Jeanne had sweep in to the bag previously before doing the handing over to him. It was put to witness that the green backpack had cash belonging to Mr Estrale the 2nd accused for purpose of paying the salary of his employees. Witness testified that he did not recall any cash. Witness confirmed to the court that he himself went through the bag and identified the items in the bag. There was a record that was taken by him of the content of the bag and photographs taken by Corporal Bethew at the time.

[58] When re-examined witness testified that in respect of the samples handed over to a person in SEPEC after the analysis done by the person in SEYPEC, then it was given to him that was what he produced in Court. In respect of the samples going to Mauritius was handed over to Inspector Omblime, witness was the one who handed over to him personally. Witness stated that the results from Mauritius lab sent is normally back to SSCRB via e-mail.

[59] Witness was then recalled to identify the exhibits. He testified that when he gave the evidence before in this Court, he confirmed that he was the exhibit officer in this case. Some samples taken from the exhibits he produced in this Court was sent to Mauritius for further analysis. Those exhibits samples were given to one PC, namely Caidoo; a Mauritian which witness handed it over to him so that the exhibits can be brought at the Mauritian QuantiLAB for analysis. Witness stated that the reason why he handed over those samples into the possession of the Mauritian police officer was because it was

during Covid and to enter Mauritius at those time it was very difficult and costly also, so at the same time the officer was doing a work in Seychelles with the police, so he handed it over to him so that he can bring it back to QuantiLAB. The procedures were, all the exhibits were sealed, labelled and he checked it; it was sealed and labelled and an exhibit chart was prepared and he checked the exhibit chart and then he signed as the person receiving those exhibits onto the envelope and also the exhibit chart. Witness stated that if he sees the exhibit chart he will be able to identify it. Witness identified the exhibit chart and stated that this is the exhibit chart that he made and signed. He showed his signature at the bottom with the 5 exhibits – 5 samples of exhibits that he handed over to PC Caidoo to be sent to Mauritius. When PC Caidoo received those samples exhibit from witness in respect of the exhibit chart handed over to him he signed it. He signed in the 6 columns on the first page. The exhibit chart in CB673/06/21 central was tendered and marked as exhibit P38. Witness went on to explain the other details he noted down in this exhibit chart in respect of the samples handed over to Mr Caidoo. Item number 1, exhibit number DD06 description of exhibit one clear container, containing some white substances. It was taken a sample in a small clear pet bottle, secured by witness. At the time he was sub-inspector Dean Decommarmond. Item number 2, exhibit number DD11, description of exhibit; one small clear container containing yellow liquid taken from one large gallon. Item number 3, exhibit number DD12, description of exhibit, one small clear container containing yellow substances, labelled letter A and this was taken from pet bottle labelled letter A. Item number 4, exhibit number DD13; one small clear container, containing yellow substances, labelled letter B, taken from pet bottle labelled letter B. Item number 5, exhibit number DD14, description one small clear container containing yellow liquid taken from one large gallon. A total of 5 exhibits. Mr Caidoo handed over the exhibits for analysis at QuantiLAB. After these samples exhibits were used for analysis by QuantiLAB a report was given back to SSCR. There were a total of 5 reports. Witness was shown and identified the 5 reports received from QuantiLAB at the SSCR. Witness tendered to the Court certificate of analysis from the QuantiLAB in Mauritius, report number T2021/6813 marked as **item P3. T2021/6813 is item P3(a), T2021/6814 item P3(b), T2021/6815 P3(c), T2021/6816 P3(d), T2021/6817 P3(e).**

[60] Next witness Anil Bristol testified that he is a Presidential Security. He works at State House. Witness testified that on the 28th June 2021 he was at State House on that day starting work usually 6.30 every morning. Witness received a call regarding this case by Captain Luc Fonseka at approximately 7pm. When he reached Captain Fonseka's office upstairs he did a briefing to inform them that there was a group that is opposed to the government which was planning to put 3 bombs in 3 different locations. There were two other police officers and 5 soldiers were present in this briefing. They dispersed in different groups to go and do observations. Witness was in a group with 3 other people. Witness left the State House in a transport. There was himself and Captain Fonseca and another officer and went in the direction towards Perseverance. The transport witness was in went towards the direction of the security company at Perseverance called 24/7 security. They observed a Pajero that was parked. Apparently the Pajero belonged to Mr Roy Azemia. They did not see anything more so they proceeded to their first location which was Grand Anse Petrol Station. When they were leaving 24/7 security company at Perseverance it was approximately around 7.30 onwards. When they left for Grand Anse Petrol Station they went directly over there through La Misere. Witness stated that in his transport there were three personnel. There were 2 officers, Captain Fonseca and another officer, with himself it made 3. Witness approached the area of Grand Anse Petrol Station at approximately 7.45 or 7.50. When they passed by the petrol station himself and Captain Luc disembarked from the transport. They went at an angle where they could observe things 360 for several hours. If you are going down towards La Misere on the right side it would be before the Petrol Station. There are bushes around. The 3 other groups were in 3 other locations. One was at Stad Popiler there is a food van there. The other one was opposite Maison du People there is one of those food van there and the third group was just moving around just doing surveillance. There were 4 groups. Witness was shown exhibit P2 and looked at the photographs. He testified that on that day he had been to that petrol station namely Grand Anse Petrol Station. When witness took position near to the petrol station Captain Fonseca was with him. Witness was shown photograph 3 and stated that he was behind mango trees. He marked the area he was located with an X. When he was in that position he observed all movements that was happening on the road in front of petrol station. They saw a white H1 go down with the

people that they had received the information about around 8.30 or 8.45 onwards. Witness noticed two people inside the white vehicle. The vehicle went up and down three times. After several minutes again for the 3rd time it came down from the junction and it went in the left direction and then it went back in the previous direction but it was at that time 50 metres from where witness was facing towards La Misere there was a passenger who disembarked from the transport from the passenger side in front next to the driver. When he disembarked he was wearing a dark blue hooded jacket. And he re-embarked in the transport suddenly and went in the direction of La Misere. The driver was Roy Azemia and next to the driver who had disembarked and put the jacket on him was Andrew Estrale. These are the two persons who was seen in this white vehicle by himself and Captain Fonseca. Witness identified the two accused persons in court. Captain Fonseca gave them an order to get out where they were to follow the transport and to stop the transport. Witness immediately took the phone and contacted the 3rd group of people who were doing the surveillance to make them block in front and they would block behind. The time was approximately 9.45.

[61] Witness testified that 10 minutes onward leaving the school of STA and then 5 minutes going upwards they saw the transport at a bus top which was parked at La Misere before the primary school lower. Captain Luc gave him an order to disburse from the car and take the passenger from the left side and he would take the passenger from the right side. At that point in time the transport that was coming in forward direction had already arrived and it blocking the road just to make sure that the bus does not take off. Witness follow the order of Captain Fonseca and told the passenger that was sitting in the bus to disembark from the bus and he disembarked. Witness was the one who disembarked Andrew Estrale and Captain Fonseca disembarked Roy Azemia. Andrew Estrale got down on the left side. When Andrew Estrale got down from the left side of the vehicle witness did the normal procedure and made him kneed down and put his hands behind his head and from there Sgt Jeanne took over the operation. Witness stated that Sgt Jeanne formed part of the operation of the group of people that was in the 3rd vehicle. Witness stated that the next step they conducted was a search in the bus and behind the driver's seat and the passenger's seat. If you are from the driver's side, you turn towards the left side and passenger's side you turn on the right side you would see a green bag that is

what witness saw. Inside there were two bottles of cola with liquid that was smelling like petrol and a small pet of cola and there was white power inside and it was taped together. There was also a small black gallon with gasoline written on it. Witness stated that when he saw that he turned and handed it over to Sgt Jeanne.

[62] The search continued in the bus. On witness' side there was nothing that was discovered again. Sgt Jeanne did the procedures and spoke to the other people in the bus. At that time, they were brought up from where they were kneeling down. Andrew Estrale was made to sit behind the transport that witness was in. Roy Azemia was made to sit under the bus stop. After the procedure was done Captain Fonseca called COMPOL Ted Barbe to inform him what was happening and he sent Corporal Simeon on the scene. When they were waiting for him the 2 people were getting questioned by Sgt Jeanne. And when Corporal Simeon arrived at the scene they did the procedures to bring them to the CID. Witness and their team went down in the direction of the CID. Over there both people who were in the van they were brought upstairs and the whole team who was present was called in outside and did a debrief and Captain Fonseca told them that their work was finished and they can go. Witness stated that it was approximately around 9.30 onwards when he and his team left the scene at La Misere taking out the suspects and the suspects' vehicle and the things retrieved from the white bus going to CID office. They arrived to CID office around 11.45.

[63] Witness was shown exhibit P4 photographs 1 to 4. Witness identified the white vehicle and stated that it is the transport they saw when they were doing their observation with the 2 people in it. Witness was shown photograph 5 and the 6. He identified the items and stated that he saw them while conducting the search in the bus. This is the green bag and contents which he handed over to Dave Jeanne.

[64] Witness was shown exhibit P9(a) and identified the green bag he retrieved from the white bus on that day. Witness was shown P9(b) and P9(c) and identified two coca cola bottles but it was not separated. It was taped with a cello tape. Witness was shown P10(a) and stated that the 2 big bottles and the small bottle was taped with a cello tape together.

Witness was shown P11(a) and testified that he had seen this item along with these 3 bottles inside the green bag.

[65] When cross examined witness testified that he is a police officer, Special Police Constable. He has sworn in as a police officer and is a constable for almost two years. On that day he received instructions from Captain Fonseca who was the senior at that time. Witness and Captain Fonseca took position at Grand Anse Mahe, close to the petrol station. Witness identified in the photograph the position where he took which as per photograph no. 3 will be in the wooded area. When witness first saw the white van it came down on 3 occasions. On the third occasion was the time when him and Captain Fonseca realized that it was taking too long they might not come back again on a fourth occasion; this is when Captain Fonseca took the decision for to leave the spot where they were. Witness was shown the photograph of the petrol station; he was shown at photograph no. 2 shows the exit of that petrol station. That exit of the petrol station is situated on that road which goes towards the junction from La Misere going down. On the right hand side of the photograph this is where the road is going down towards the junction from La Misere. From that junction down the van went left that is the road towards Anse Boileau. If you go right that is the road going towards Port Glaud. Going towards Port Glaud on your right hand side this is where there will be the entrance to this petrol station. Instead of going towards the entrance of that petrol station that white van went towards Anse Boileau on the left. And on 3 occasions it went towards Anse Boileau, return back go up La Misere. Witness did not see at any point white van going towards the entrance to enter the petrol station.

[66] It was put to witness that there was some force that was used against Mr Estrale when he was there for him to be restrained. Witness testified that according to his training that he did witness instructed him to disembark the bus, and he was in shock. After telling him several times witness took his hand and open his door and the door opened and then told him several times again to disembarked and that is when he disembarked. Witness stated that these were the only things that he informed him at the time. Then he handed over to Sgt Jeanne. It was put to witness that he had breached the accused constitutional rights and not read him his rights. Witness testified that at the point in time when he

disembarked Mr Estrale he made him to kneel down and put his hands behind his head and in the team Sgt Dave Jeanne it is his responsibility to speak with these people and inform them of their rights and he did all of that. Different people in the team had different positions.

[67] Witness testified that after detaining Mr Estrale he also did a search of the bus. This is when he retrieved the green bag with the two coca cola bottles and the one with the blue cap. First he identified that this is the bottles, the two coca cola bottles along with the small bottle that were tied together. The manner that these bottles were tied together is the same as in photograph 6. Witness was shown exhibit P10(a) and identified is the same bottle. Witness was asked to confirm to the court that in photograph 6 of that exhibit and in the exhibit P10(a) there is a difference with the small bottle in that it contains a blue cap. Witness testified that he will not know about the blue cap but the bottle is the same. Witness testified that at the CID he had no interactions with Andre Estrale nor with Mr Azemia. Witness stated that he never assaulted Mr Azemia when he was at the CID. At the CID there were several officers who was present at the moment. His and his team's duty was to make sure that they arrived at the CID headquarters. They went up the stairs and they went inside and handed them over to the CID officers. Witness gave the order to his men that was with him so that they can go down and wait downstairs.

[68] Witness was asked what law did he see the two accused persons break when they were going up and down. Witness testified that the only law he saw them breaking was that when they were going back up it was already lock down and it was past curfew but he was not the one who arrested them but it was Sgt Jeanne. Witness stated that for him to know the timing of things he writes it down on a piece of paper that was with him but he has destroyed it as he did not need it anymore. Everything that he would have written about the time is written in his statement. Witness was asked what time is lockdown. Witness testified that it is 11pm onwards. Witness was shown his statement at paragraph 2 where he said he followed the vehicle at 22.15. Witness testified that it was not lockdown time yet. Witness then corrected himself to say that lockdown time was not at 11 but at 10 pm as was said on the media. The witness statement of the witness was tendered and admitted as **exhibit D2**.

- [69] Next witness Francois Pierre testified that he works for Seychelles Petroleum Company as a Quality Assurance Manager. He has been working for this company for 30 years. His principle role according to his qualification with the company is to do inspection Audits and Analysis for petroleum products. He has attended a couple of courses overseas courses in Singapore, in Malaysia and Italy, some parts in Europe. Witness provided some documents to prove his expertise. He provided a letter dated 21st January 2022 issued by his company. It will be produced as **Item P3**. In the letter it says witness is employed as a Quality Assurance Manager and over the years been trained as a fields in fuel specification with ASTM Singapore. The analysis is conducted as per their fuel specification which is the Seychelles fuel specification so the Seychelles fuel specification for gasoline, gas oil and fuel oil, aviation fuel is in one of the international standards. They have an international specification for jet but other products that is sold in Seychelles is for the Seychelles specification. Witness confirms the fuel specification of the products the SEYPEC sells in Seychelles.
- [70] Witness provided an Aviation and Marine Fuel Quality Control and Laboratory Analysis certificate. **Certificate of personalize training course on Aviation and Marine Fuels issued to the witness as Exhibit P19**. Witness obtained the certificate from Italy at ENI Petroleum Company which is their technical partner. This training was to further his knowledge in analysis of petroleum products mainly fuel oil, aviation fuel and aviation gasoline.
- [71] Witness provided Certificate regarding fuel technology, gasoline, diesel in aviation fuels obtained in Singapore. **Certificate regarding fuel technology, gasoline, diesel in aviation fuels issued to the witness by the Technical and Professional Training Institute, Madastra Singapore was tendered by the witness and marked as Exhibit P20**. The training was more or less involve in different parameters and what are the issues of gasoline, what are the issues of aviation fuel, the out of specification how to check the out of specification in the other parameters, all the parameters of gasoline, aviation fuel, diesel and other fuels.

- [72] Witness testified that during his years of experience he has been analyzing, conducting the basic parameters on the fuel received in the Seychelles because every time they got they have an Ocean tankers coming to offload fuel. He has to perform the basic parameters as per their protocols. Parameters means Density, water test, flash points these are the basic parameter that they analysed and technical billing and witness brought them into their small laboratory to perform the analysis.
- [73] On 2nd July 2021 in the afternoon Police Officer Dean Decommarmond and Sergeant Manju, Chettiar and Corporal Kelly Auguste brought 2 coca cola pet bottles and 2 plastic jerry cans. It was a one litre bottle. These coca cola bottles visually when you look at them it contained liquid yellowish colour. The 2 jerry cans were clear jerry cans with the same colour of liquid inside. They asked witness to confirm that this is unleaded gasoline. Witness asked them to open it in front of him taking each and every sample putting in a lab jar and check it with the hydrometer, but pouring it the smell indicated clearly that it was gasoline unleaded gasoline because once you pour it in the jar you can smell it and the smell is also a test.
- [74] Witness was shown exhibit 6(b), Exhibit 7(b), Exhibit 9(b) and 9(c), Exhibit 12(a), Exhibit P15(a), Exhibit P16(a), exhibit 17(a). Witness testified that he has seen the 2 jerry cans and 2 coca cola bottles and the 4 lab jar bottles before. He stated that he has seen the 2 coca cola bottles that were brought to the lab to be analysed and the 2 jerricans, these were the samples that was sent and it was labelled. The big jerry can and the small jerry can was brought to him by the police.
- [75] Witness identified exhibit P12(a). Witness identified the big can as exhibit P6(b). The police brought this jericans to him. Witness identified exhibit P9(c), stating that the police brought 2 coca cola bottles. Witness used Lab jar to take the samples from these 4 items. The witness identified 4 glass bottles transparent bottles, ExP68, ExP78, ExP58, Ex78. The analysis was conducted by what they had in the coca cola bottles was poured into the Lab jar to check the density and the smell. Then it was poured into the glass bottles. Witness provided them with the glass bottle because they wanted to keep what witness had analysed in the Lab jar for the jerricans and the coca cola bottles. Witness used a

Manual hydrometer. A hydrometer is used to check the weight of the fuel. His analysis was to compare what he had in the tank to compare to the once the density from the tank and density from the samples. Density is Mass divided by volume. Each and every grade of fuel has a density range, so more gases density range, gas oil has a density range, fuel oil has got a density range and jet fuel has got a density range. So these ranges of density will tell you that this is a range of density for more gas, this one for gas oil and this one for fuel oil. So more gas ranges from so and so density to so and so density, so you might be able to distinguish which product it is. After doing the analysis witness was able to determine that the 4 samples from those 4 items is unleaded gasoline. The smell could tell that this is gasoline. Witness stated that from where he was sitting he could smell it. After completing his analysis, he handed over the items to the police. During the analysis all three police officers were present.

[76] After that witness made a report. Witness was shown the report and identified it. He made the report on the 2nd of July 2021 at 1343 hours. **The Report of the witness was tendered and admitted as Exhibit P21.** Witness stated that he made a typing error and amended content of report. The sample ID for should read as DD04 DD01(a) and DD01(b). Witness went on to read his report. The report states that he conducted the analysis on the samples of unleaded gasoline that was brought to him by the police, and he was summoned by the CEO of Seypec to have it analysed to conclude that it is unleaded gasoline. So he made a test on the 2nd July 2021 using the ASTM D 1298-12B standard of 2017. The method used was manual hydrometer method. The sample that was brought to him, he did a smell test and observed the density. The samples were DD04, DD01A, DD01B, and K01. That is all the sample ID. Witness observed the density was .763 grams per millilitre; the sample for DD01A, the observed density was .763, DD01B observed density was .762 and sample K01, observed density was .762. Density in the petroleum industry is the mass divided by volume, so density means the weight of the fuel. So this is a test that is conducted every day to determine that the fuel meets the specification of the Seychelles Petroleum Company. After that, the witnessing of the test was witnessed by SI Dean Decommarmond, Corporal Kelly Auguste, and Sergeant Manju and it was concluded that the sample that witness analysed matches unleaded

motor gasoline that is imported by the Seychelles Petroleum company. This unleaded motor gasoline product is being used for petrol engines to operate vehicles.

[77] Upon cross examination witness testified that the purpose of the test was to make sure that the content of the container was motor gasoline imported by Seypec. They are the only oil company in the Seychelles that imports gasoline. Witness was referred to exhibit P19 which is a copy of his certificate. Witness testified that he has been in this capacity as quality assurance manager of Seypec for the last 10 years. The main content of the course related to jet fuels and aviation gasoline specifications, lab training on jet A1, short analysis Witness confirmed to the Court that both jet fuels and aviation gasoline and jetA1 are fuels relating to airplanes. Then he followed a course in marine fuels and vetting analysis, problem solving out of step issues. Exhibit P20 is a second certificate which relates to courses in fuel technology, particularly gasoline, diesel and aviation fuels. It was put to witness that he does not have the qualifications which relates to gasoline solely. His qualifications are confined to issues relating to jet fuels, and the likes but unleaded gasoline and aviation fuels, the characteristic are similar. Unleaded gasoline and aviation gasoline has got similar characteristics. When you conduct the density on fuel for gasoline, aviation gasoline and unleaded gasoline is the same method; it is the same the same standard is used. There is an ISO standard, but they have a preference on standard that they use. They use 10.02.10 - most of the time witness uses the 10.02.12 method as a preference. He was summoned by the CEO of Seypec at the time to assist the police by confirming whether the contents in the two bottles; the two plastic bottles, cola bottles and the two plastic jerry cans were unleaded gasoline. The first test was a smell test. The second test was to do a manual hydrometer standard test. The test was done in the small lab at Seypec. Witness identified the exhibits when it was shown to him relating to the two coca cola bottles and the two jerry cans. He took a sample from these four containers to do the test. He did the test witnessed by the police; the three police officers that were present. When he completed the test, he gave them glass bottles just to pour what has been poured in the lab jars to put in another bottle for them to preserve it. The police men were the ones who poured it and kept it. They wanted the analysis that witness conducted on that sample from the two coca cola bottles and the two jerry cans were poured; the amount that was taken from these recipients were poured into glass

bottles which was given to them by witness. All the samples that witness took from the 4 containers were eventually returned to the police. Witness was referred to exhibit P21 and testified that this is the report that he produced after he had analyzed the contents in the four containers.

[78] Witness testified that when he gave his evidence, he proceeded to make a correction as regard to the sample ID number. Court granted permission for him to amend the exhibit sample number to DD01-DD04, DD01A, DD01B, K01.K1 remained the same. In his report he stated that the method used for analysis was a manual hydrometer method. A master hydrometer is a hydrometer that is used to verify all the hydrometers that the use in the fields. The master remains in the lab, and according to the industry norms, all hydrometers that are used in the fields for measuring of petroleum products has to be verified against the master. The hydrometer is a piece of equipment which is used to do the analysis to confirm whether it is fuel up to standard. Hydrometers are made of glass, and it is calibrated in the metrology laboratory. They do not calibrate hydrometers in the Seychelles; they verify against the master. Standards are required to be verified at all times so it is calibrated in metrology lab overseas. Working hydrometers are verified against the master every six months. This can be done locally here. It was put to witness that his analysis will not be as accurate as one would expect it to be, given the fact that his hydrometer would have been calibrated way back in 2016 and not closer to the time that he did the analysis in 2021. Witness testified that according to the industry norms, master hydrometers are calibrated every five years. Working hydrometers, the one that they use in the fields are verified every six months. There is a difference between calibration and verification. It is important to verify the master according to industry norms every five years. The working hydrometers that are used in the fields are verified every six months. Witness stated that his instruments are accurate.

[79] In re-examination witness testified that he has been working with products for 30 years of his life. All products that are importer by the Seychelles Petroleum Company, he is the one who does the quality checks whenever a tanker arrives in port, he is the one who confirms that the fuel is on specification and can be offloaded. Seychelles has its own national quality assurance standard when it comes to petroleum products. They have the

specification which is called the Seychelles specs. The Seychelles itself does not have a legislation that governs the quality of fuel that is imported, so they their own specification for fuel oil, gasoil, gasoline. The only specification that they use; international specifications are for aviation gasoline and jet fuel; that is international. The industry norms states that aviation fuel that are used for aircrafts has got to be from international specification; international norms. That is the industry norms.

[80] Next witness Hubert Oredy testified that he works with POTRU unit. Public Order and Tactical Respond Unit, that is the former PSSW. He is now in charge of the transport division in the department and also attached with NEDEX. It is affiliated with bomb squad; (Netralisation d'explosive Emproviseur dan l'exterieur). He is in the PSSW and within the PSSW, a specific unit called NEDEX to neutralize explosive and diffuse explosive. Witness produced the letter. **Letter issued by the Deputy Commissioner on behalf of the Deputy Commissioner's Secretariat by Sub Inspector Andre Ally relating to re: explosive training summary of Officer, Sub Inspector Oredy was tendered and admitted as exhibit P22.**

[81] Witness read contents of exhibit P22. This letter confirms the training programs he had undergone in the field of explosives. Since witness stated that he is part of the unit called NEDEX he provided a document to confirm his presence in the unit. **Document entitled NEDEX structure was tendered by the witness and admitted as exhibit P23.** Witness explained the document. He stated that at that time, it was SI Magnan who was in charge of the NEDEX unit, witness was the deputy as Sergeant Oredy. There is PC Leroy Desire, Constable Landry, Corporal Loizeau, PC Lafortune, Sergeant Atalla, Sergeant Joubert, Corporal Michael Cherry and PC Thelermont and at that time Sub-Inspector Magnan was the officer in charge. The role of SI Magnan was to conduct, collect evidence from the scenes, and the role of witness was to follow, coordinate, search of explosive, interact and diffuse any explosives and he had to interact with the other officers to see if everything went well, replace the 901 officers which is the the bomb suit. The group that wears the bomb suit in order to interact with any object suspected to be explosive devises, witness was one of the officers that could carry out this role. Sergeant Nadine Atalla is in responsible for recording of notes of evidence and situation

on the site/scene. W. Sergeant Renette Joubert records the notes and make sure that the security measures are in place to ensure that all personnel are in a safe and secure location while on site. Corporal Mervin Loizeau and PC Johannes Lafortune are in charge of preparation for equipment in case there is a second blast and deal with any situation if anything arises. Corporal Marlon Cherry, PC M. Thelemont, they are part of the second team for the explosive operation and to interact with explosive and if they are unavailable, witness step in. PC Andy Landry, PC Leroy Desire, they make sure that all equipment that will be used are in good operation condition and ready for use and that includes transport also. NEDEX was established since 2009. Witness produced the certificates he obtained. The following certificates are tendered by the witness; **Certificate Force Francoise de la zone sud de Ocean Indien, Group d'intervention Nedex, dated 6th November 2009 as exhibit P24. Certificat Force Française de la zone sud de L'Océan Indien dated 27th November 2009 as P25. Certificat Force Française de la zone sud de l'océan Indien dated 1st April 2011 as P26. Certificat Force Française de la zone sud de l'océan Indien dated 16th January 2014, P27. Certificat Force Française de la zone sud de l'océan Indien dated 13th April, P28. Certificat Force Française de la zone sud de l'océan Indien dated 23rd May 2014, P29. Certificat Force Française de la zone sud de l'océan Indien dated 18th September 2014, P30. Certificate of attendance to the witness issued by the Yatco counter terrorism training course crime scene management dated 21st October 2014, P31. Certificate issued by gendarmerie national de la Republique Française, attestation de stage dated 13th December 2013, as P32. Certificate issued by Institute for Security Studies and Seychelles Police Force dated 23rd October 2009, as P33. Certificate of participation to the witness relating to introduction to weapons and ammunition management raining, held at the Seychelles Police Academy, dated 17th -21st December 2012, as P34. Certificate issued by the National Security Guard Training Center, MENASAR, India, dated 2nd April 2019 as P35. Certificate issued by the Gujarat Forensic Science University dated from 2nd July -13th July 2018, as P36.**

[82] Witness testified that throughout his career he has intercepted with expired explosives; all the explosives that were kept on the island for safety which he had to interact with and

submit to destroy and also explosives on vessels that had been intercept with explosive on board which he had to interact to remove and destroy. He has met with different kind of explosive, for example like flares and hand grenades, homemade explosives, again flares and explosives that he notes that are here in Seychelles, they do not have a lot of explosives but more in the industrial kind. And there is also gel explosive like dynamite which companies like UCPS and CCCL use which he has interact with to diffuse. Court was satisfied that witness possessed sufficient skills, competence and qualification for him to be treated as an expert in explosive and bomb disposal. Witness testified that regarding this case, After the investigating officers had gathered evidence in their case, they contacted witness to come and identify the objects that they had gathered or picked up at the CID office. It was Friday the 2nd July 2021.

- [83] Witness testified that upon reaching the office, they informed about the incident that they came across and asked his advice about the objects collected, if it was safe to keep them at the office and were they explosives. Those objects which witness observed were bottled and with some liquid in them and one of them witness remembered having a white substance in there and they were taped together; the bottles were taped together. Witness informed them to remove the bottles together and keep them separate from one another. Witness left the objects in their possession. Witness informed them of what could be inside the bottle and also the white substance that was in the other bottle, and then he left it in their possession so that they can continue with their further analysis. Witness went with them on the scene on several occasions where the situation was and he advised them on how to perform other tests on the scene and how those objects would have been used in this situation. Witness informed them that these were chemicals that could be used in the creation of an artisanal bomb. Witness observed the tank itself and the designated place where the objects were supposed to be placed, and he also asked the gentleman at the petroleum company if there is any instrument that they use to measure the fumes on the area of the station itself during peak hours and outside of peak hours. The name and the place of the scene he visited in connection to this case was the Grand Anse Petrol Station. The exercise he did at the Grand Anse Petrol Station was that he performed some observations and analysis of the situation and possible scenarios that could have happened if the incident would have taken place and that is why he asked the

gentleman at the petroleum station about the instrument used to measure the fumes, so he can compare with the different condensation in the area, so that he can know the gravity of the incident if it would have taken place. With the information he was provided, witness was able to establish possible scenarios that if the incident would have happened, the gravity; if there would have been a mass destruction or gravity of the incident itself if it would have happened. After conducting all this analysis at the scene in Grand Anse Petrol Station, and in respect of the opinion witness had given about the objects shown to him at the CID office on the 2nd July 2021, witness gave a written report to the police.

[84] Witness was shown exhibit P4 photograph 6. Witness stated that he can identify the objects. He identified a small black bottle in the picture. He remembered it because it has some specific writings on it and inside it contained dot 3 oil. (Dot 3 is a brake fluid). And in the two coca cola bottles, he suspected that inside it contained unleaded petroleum used in vehicles. And in the smaller bottle, he suspected that it contained chlorine; the kind that are used to clean swimming pools. And that is what he suspected before anything was analyzed. These are the objects shown to him at the CID office on the 2nd July 2021. Witness was shown exhibit 9(b), 9(c), and 10(a) and 11(a). These four objects placed before him in Court, are the same objects shown to him by the police on 2nd July 2021. Witness was shown exhibit P2; the photographs 1,2,3 and testified that this is the scene, Grand Anse Petrol station he visited in connection to this case. Witness was shown the report he prepared subsequent to the exercise he conducted at the scene. He showed the court where he signed to the last page at the bottom. The date of the report is 9th August 2021. The report of the witness dated the 9th August 2021 was tendered and marked as exhibit P37. Witness went on to explain his analysis and findings you did in this case. Witness seek the Court's permission to make a correction concerning the diagram of the 3 bottles to replace 200 ml with 250 ml instead. Court allowed him to make the correction and then sign next to it. Defense was allowed to cross examine on the error. Witness read and explained his report on his analysis and findings as follows:

[85] On Friday 2nd day of July 2021 approximately 1030 hrs. an Inspection Team consisting of SI Oreddy of POTRU OIC of Bomb disposal team accompanied by Edmee Durup of the POTRU Armory Section conducted an inspection at the request of Detective Sergeant

Mariana Eulentin of CID Bois De Rose under the inspection of SP Justin Dogley. The Inspection the team arrived at CID, I arrived at CID headquarters and meet with SI Dean Decommarmond the Exhibit Officer who show the Inspection team an exhibition consisting of two 1.5 liter bottles of Coca Cola and one the 250 ml of Coca Cola which had been taped together around the middle of the bottles of two 1.5 liter bottles as per example in diagram below. The two 1.5 liter bottles of Coca Cola contained a strong smell presume liquid fuel either petrol of diesel which was fully filled with the bottles cap on. Note further analysis required to confirm the contents, the 250 ml bottles of Coca Cola were nearly half filled with a white powder substance presumes to be chloride which is either based on sodium calcium hypochlorite possible use for application in swimming pool or purifying during water. Note further analysis require to confirm the compositions of the contents. Additionally, there was a small container the brake fluid which was among the exhibit which has believed in the solution used to ignite the device by mixing with the chlorine. As a safety precaution CID SI Decommarmond was advised to immediately separate the 250 ml bottle from the two 1.5 litre bottle as if the presume contents are combined a chemical reaction will be inevitable leading to an uncontrolled combustion. It is presumed that the 1.5 liter bottles of fuel will be ignited by the reaction with the chloride and brake fluid and may have caused fire ball hazardous to the health of the person and may have caused damage to property in under immediate vicinity, chlorine and petrol base solution such fuel of brake fluid are uncontrollable mixture that may burn explode and produce a hazard fumes. Therefore, based on my knowledge and experience I believe the above detail items are components to a homemade explosive devices or an ID improvise explosive device. As a result of the above inspection at approximately 9 hours on the 19th of July 2021 I visited the Grand Anse Police Station accompanied by Corporal E. Durup at the rescue of the Detective Sergeant Eulentin and CID to assist with an ongoing investigation. On arrival we were showed the positions a suspicious package presumed to be an ID which had been placed on the front of the automatic barrier control facing the petrol pump which were locate about 6 .7 meters away. And another visit has been conduct on the 20th of July 2021 at 0900 hrs. and I was accompanied by Mr James Marengo of Seypec and Sergeant Eulentin and Sergeant N.Fred. Mrs Marengo brought a detection's device XAM700 which detect particles in

PPM part per million. I request that the reading been conduct at the same time the incident occurred. Device was placed which was at approximately 19.00 hours which they agreed to do it that same evening 1945 hours when revisited the sight accompanied by Mr Jones Madeleine to conduct same test with the XAM700 as stated. That the 3 readings were as following after limits OPPM with lower limits of OPPM and confirmations of OPPM meaning there has been no fuel vapors present in the air at the time the device ID was planted. Based on my experience all items found in the vehicle of the person we questioned the way in which the bottle were packed which contained components which are used as ingredient in the fabrication of explosive. The extent of the blast radius and impact of the explosive is determined by the location and position in which is placed. So if the homemade explosive devices ID is placed with the bottle open it will have a different impact as compare to when the ID is placed with the bottle being closed. However, I wish to point out according to the analysis of the site selected to place the explosive did not have a high enough concentrations of fuel vapors to cause a change reaction which will result in the greater level of impact so in case impact will be minimal. If the bottles are placed will be in close the intensity of the blast and its result shock wave will be strong enough to read and damaged the fuel host of the fuel pumps which already have a percentage of fuel in them which in my opinion will enough to cause a change reaction which in turn will cause a great amount of destruction. Witness signed in the report. Witness stated that these exhibits comes under the category of homemade explosive device. This was his conclusion on the analysis he did on the exhibits connected to this case.

[86] Upon cross examination witness testified that none of these bottles that they saw in exhibit that he identified were placed on the gate or at the Petrol Dispensing machine at the Station. Witness was asked about NEDEX. He testified that NEDEX is he neutralization of explosive in exterior. Intercept different objects made and hidden conceal in different position that they might not be aware and to defuse them. NEDEX is a branch in the Police Force which at the same time has been trained by the French Police Gendarmerie. When witness was presenting the NEDEX Structure Chart which he identified himself to be the Deputy OC of NEDEX. The chart was drafted by the Police Department. There is no date but it is structured like this in the Police Force. NEDEX still

exist as a Unit in the Seychelles Police. The OC of NEDEX is SI W Magnan but at the same time he is in charge of small arms. Witness testified that in relation to this case when his services was solicited in the 2nd of July of 2021 in relation to the investigation of this case witness the produced the chart to represent the Unit and the only exception is that Michael Chetty and PC Lafortune is absent but the rest of the officers are still a member of the Squad and he does now if it is of relevance to the Report to have made a new Chart. It was put to witness that this unit does not exist as a Unit of the Seychelles Police Force it is perhaps a small gathered group of officers which in relation to this case was called upon, witness was singled out for him to present a report in relation to this case. Witness testified that It's still existing as a part of the Seychelles Police Force. Sub Inspector William Magnan was not as the overall commander of NEDEX was not called upon on the scene on the 2nd of July in 2021 because at the time he had other duties in the small Arms Unit that needed to be attended to urgently.

[87] Witness testified that after the CID has collected the items from scene; they then contacted him to come to the CID office to identify the objects. He was not called upon to attend the scene in situ where the exhibits were first spotted on the scene. He first saw the exhibits; the three bottles that were cello-taped together on the 2nd July 2021. Witness stated that at the time that he was called, it was on a Friday and the exhibit had been found on the scene since before; he found it a bit odd that if those things were considered to be dangerous, that he was not called urgently in order to attend the scene and see for himself. Witness informed the CID officers about his concern and saw that things should have been done differently and he should have been called urgently. On the 2nd July 2021, when he saw the exhibits, specifically the three bottles, they were cello-taped together witness advised them to release them by removing the cello-tape around them and to put them separate. Witness stated that in terms of going on scene, taking the exhibits and secure the exhibits until a test is done on the exhibit which is suspected to be explosive, that is something he will do and he will take possession of that thing. Usually when he takes possession of the items he will keep it in an exhibit room that is safe and as the first officer should have been able to have access to it. In relation to this case it was not him that collected the evidence from the scene and it was not him that followed this line of procedure. As someone that has knowledge in explosive, it is procedure to follow

and make sure that the exhibits; the device is kept separately and safe, so it does not detonate or anything of such matter can happen to it. Witness went on the scene on the 19th July 2021. The purpose was to see the circumstances around where the object would have been placed and the place itself and what kind of damage could have happened if the offence had been carried out. He went there with Lance Corporal Durup. Witness was shown exhibit P2 and testified that this is Petrol Station Grand Anse. Lance Corporal Durup did not show witness around. Witness stated that he just went there to see what kind of damage could have happened if the offence would have happened.

[88] Witness was shown exhibit P32 – P37 which is the report that he produced and he was referred to Page 2 paragraph 4 which reads as follows: “on arrival, we were shown the position that the suspicious package presumed to be an EID which had been placed on the front of the automated barrier control facing the petrol pumps which were located about 6-7 meters away”. Witness testified that when he got there, he stood there and examined the place and according to Eulentin, he was the one told him that the suspect would have been there and the suspect was the one that showed the officers where the package would have been placed. Witness put a blue spot on the album of photographs. The package was placed right next to the post of the gate on the inside. It was located about 6-7 meters away from the petrol pumps.

[89] Witness was referred to exhibit P37. He stated that in his report he identified in the first paragraph on page 2, the three bottles that he saw or the three containers that he saw were cello-taped together. In relation to the smaller of the 3 bottles; the 250ml coca cola bottle that witness had presumed that a white granular powdery substance to be chlorine. He continued in his report to state that chlorine and petroleum-based solution can be hazardous when mixed. It can explode only if it is mixed additionally with brake fluid. Witness stated that at the time he presented his report he had not done the test to confirm that the white powdery product inside the smaller bottle was indeed chlorine. It was only after the other analysis had been done. That is what he was suspecting. His report is based on the presumption because he was waiting for the other analysis from the CID to come in and confirm. According to his report, he had the presumption that these three substances; the smaller one being chlorine and the other two being unleaded petroleum.

Witness testified that his work is conclusive because by his experience what he saw and while he was waiting for the analysis, he had this sense that the result of the analysis and his presumption would have been the same. Witness suspected it to be an IED at that time. Witness did not personally conduct a test to confirm the presence of chlorine in the white substance in the small bottle. The test was done by the CID and in laboratories in Mauritius. The result came in on the 24th December 2021. Witness received a copy of the report from the prosecution lawyer when he came to court. The result of the report had come in late. According to the report that came in, there was chlorine present.

[90] Witness stated that when he was giving evidence he stated that he one other reason why he went on the scene at Grand Anse was for him to do an observation and analysis of the situation on how things could have happened He was not instructed to this by the CID. He took it up on himself that where the objects were collected, he wanted to do an analysis on what could have happened. This was done after the package had been removed from the scene, without you having first seen that package on scene, whereupon he would have a better assessment of how things could have happened. In his analysis of exhibits retrieved, there were no gun powder present. There was no presence of nitroglycerine. There was no presence of dynamite. There was no gelignite present. There was no guncotton present. There were no blasting powders present. There was no fulminate mercury present. There was no fuse present. There was no rocket present. There was no detonator present.

[91] Witness was re-examined and shown exhibit P4; photograph 6. Witness confirmed on 2nd July 2022 there were Sergeant Eulentin and Inspector Decommarmond and there were some other CID officers present also that assisted and shown these exhibits connected to this case. Witness was the one who advised the CID officer to separate these three bottles to avoid the reactions. Aside from the three bottles wrapped together, Witness saw that it was an IED and advised them to separate it and he also smelled it and told them just to be sure, to go for further analysis. They took his advice; it is just that the results were late. The analysis for the content of the two big bottles was done here in Seychelles at the petrol station. The content of the two bottles were confirmed to be unleaded motor gasoline sample DD4. That is petrol itself. Witness advised the CID to do

further analysis on the small bottle which was attached along with these two big coca cola bottles; the contents found and believed and presumed it would be chlorine. They took his advice, but the result came in late, but it confirmed that it was in fact chlorine calcium. The one black bottle with the blue cap was Brake fluid. These four items and their contents, if they are mixed together in a closed space, they would have a reaction and if it is in the open also, it would have a reaction. This is what normally classifies as an IED. Witness was asked where did he mention the reaction of this Improvised Explosive Device in the event that those device is used against something. Witness testified that in his report he said if the contents were closed – the caps were closed together, it would have had a different impact, where there could have been a blast; a shock wave that would have heated up the pump and cause the damage, but if it was open, there would have had a different impact whereby there could have been an explosion like a ball of fire at the top, that could have gone in an upward direction.

[92] Next witness Marcel Naiken testified that he lives at Baie Lazare and owns a Security Company. His office is based at Perseverance in Armani Complex called 24/7 Company Limited. He has been at his current office for three years. He does anything which concern security, especially Government and private contracts, and different type like cash transit, static guard, patrol. Whatever he gets which concern security. He employs about 80 staff. At first he was a Police Officer for about 45 years, then worked at Custom Security; transferred to Custom, which is a Government service where he worked for 4 years. He later transferred to NDEA for eight years where he was selected to work at the State House as part of the delegation of the Security for the President. Then the President went and somebody else was elected and now he is presently working in his business. During the period of June 2021 the Police called him in respect of this case.

[93] Witness testified that he was at his office and some Officers came by saying that they need to conduct a search at his office. He asked them what it was about and they told him that they need to conduct a search for the reason to search for explosives. He told them to feel free to look around. They later confiscated telephones, laptops, any electronical devices. He asked them what does his personal telephone and computer has to do with this and they said that it is the protocol. They conducted their search and when they had

finished they wanted to see the jerry can of fuel and sometimes witness keep those around in stock because of the operations that they conduct, just in case they do not have time to go all the way to the shell, so they confiscated it. He told them that he uses it and they said that they will give it back if it has nothing to do with the case. After that they told him that they have to conduct a search at his house, and he asked why but later agreed to do so. When they reached at his place of residence they started to conduct the search everywhere. They came to his office in the morning around 9.30 to 10 a.m. around the 28th or the 29th. There were some CID Officers and also some Officers from the Police Force. They took witness from his home and brought him to the CID's office and from there they told him to do a statement. Witness told them that he does not have a statement to give and they said it's okay as this is his right. Thereafter, subsequently witness came forward to give his statement informing the details he knows about this case.

[94] In his statement he said that in the month of June 2021 he mentioned that there was a conversation between Andrew Estrale. He came to his office for several times, and witness would like to mention that Andrew Estrale was a good friend of his. They trained together and he normally comes to his office when he has some time and they like to discuss some things which they did so. When he came to the office he was talking about some sort of chaos in a sense to give problems to the President. They spoke and there was also Roy Azemia which witness also knew, and he looked for a place of work which is at the Company of the witness and witness gave him a place to work. Roy Azemia is somebody who would join a conversation when there is a conversation going on, that is how he was. Witness stated that from there when he was talking to Andrew Estrale, Roy Azemia joined the conversation and he added some information, and he tried to put ideas into what Andrew was saying. And there was a moment when he said he could get arms from somebody named Jean-Pierre on Praslin. Witness stated that he knew of Jean-Pierre when he was working at NDEA and when he used to be in the Drug Squad and when he used to go and do searches. Witness stated that he told him that he was not sure whether Jean-Pierre had arms but he told him that he knew that when they went to Jean-Pierre to do searches they went over there because of drugs. Witness stated that first it started like that, they were joking at first but then he realized it was serious. Witness was listening

globally that is when he realised they wanted to have some places they had targeted. He realised that it was something very serious and he said that it is not something that they should go to that extent to do. Then they said they would proceed with their plan. Witness told them “but you must have everything in order to proceed,” and then witness realised that their plan would be a chaos for the country. Witness stated that when he realised the damage that it would cause and the location that they decided it was Grand Anse Mahe, and realised the effects of the explosion, it would be a big loss for the country. Their plan was to affect the event on the 29th of June 2021, Independence Day. The moment where the parade of the country is celebrated.

[95] Witness testified that he was concerned with the plan, because the plan was to attack the Grand Anse Mahe Petrol Station and they were going to do that when the Fire Fighters would be mobilised to deal over the situation. That was part of the plan, and then they had another plan for them to move towards town. They had two areas in the town area where they had selected. There was somewhere next to where the stadium is, where there is a van at the car park stadium. Witness stated that what he was saying it happened before him and it was discussed before him. The other one would be at the SMB warehouse where they store all the food there. The second location would be there. When he assessed that, witness saw that they were serious and they were going with the plan that they had in mind. From there that is when witness informed the people from the authority of what could have happened and what the situation was. When he had alerted the authorities they still conducted their plan and they made sure that their plan was accurate. Witness stated that, since he is a citizen of the Seychelles and he is aware that we have tourists and that is why he alerted the authorities and kept in contact with the authorities so that they can know what is happening. After one week and then they were doing their plans and each time they would come and tell witness their information he would inform the authorities. He alerted the authorities the week before the National Day event. There were preparations of how they would do the explosive. They did their preparations in regard to looking for empty plastic bottles. They had everything that they needed.

[96] They were doing all these preparations to execute their plan at Perseverance outside the office of witness, downstairs. The date they decided to go and execute that plan was on the 28th June 2021. When they were doing the preparations they were really professional in what they were doing, because they did the test to ensure that what they were doing was okay. It was very simple but effective. They had their bottles of fuel, they had the chlorine and the brake fluid. Simple things but they were very effective. They were preparing all these things outside the office of witness, downstairs. It was around 5.30 to 6 p.m. where they were checking to see that everything was in order, that is when they were conducting the test. Witness observed was that they were satisfied with the preparation and they were simply waiting for night time to execute the plan, witness had the chance to alert the authorities that the plan is on, they were going to execute the plan. They had their bottles filled with fuel, they had their chlorine and a bottle of brake fluid. They also had two big coca cola bottles and one small pet, around 2.5 maybe and they had their chlorine also, which was in that small bottle. The coca cola bottles were tapped all around, they were secured together and for them that was all the preparation that was needed, they were ready to go. The first mission to Grand Anse Petrol Station. This is the first place they were going to target. For them at that time they told witness that when he was on his way to go home, to check and see if the road were clear for them to go. While witness was doing that he informed the authorities that they are ready to go with their plan and witness was on his way to see whether the road was clear. Witness stated that the authorities told him to make sure he keeps contact with them and make sure that they are really coming to Grand Anse Police Station. Witness stated that it was a really positive thing to keep in contact with the Police, to make sure that they would get caught. That was the motivation behind that. On the 28th June 2021, when Andrew Estrale and Roy Azemia were about to leave at Perseverance to go to Grand Anse Petrol Station it was around 9 pm. Witness testified that they used his H1 van in this operation. They did not have any means of transport. Witness stated that he told the authorities that this way they can keep tabs on them and know that they are still making their way to Grand Anse, because if they were in an unknown vehicle they would not have been able to keep tabs on them and known that they were truly on their way to Grand Anse.

[97] Witness testified that when they were about to leave his workplace at Perseverance to go to Grand Anse Petrol Station, he was a bit in front of them. He was driving in front of them and they were further back. They kept in contact and witness kept asking them where they are and they said that they were on their way and that they are observing. Witness told them that he was also observing. When they reached the Petrol Station witness informed them that he was going home because he cannot go up and down, to go home, go back and forth. Witness also alerted the authorities and told them that he had already passed the Petrol Station and that he would not be able to keep tabs to know what will be happening after that. The time was around 9 to 10 pm. Witness stated that when he got home he did not sleep. When he came, he just wanted to know what's really happened, if they've really been stopped before they do the bombing the place. That was the plan, witness called them to see how the things went. Witness called the authorities and they said that they had captured the two and they did not have time to execute their plan. That is all the conversation he had with the authorities. Witness stated that from then on he did not have any more conversations or no more calls. He knew that this would be a problem for him because these were two people that he had known since way before, but he was proud and can stand proud as a citizen of Seychelles and say that he did not want that to happen. Andrew Estrale and Roy Azemia are two people that he is still friends with them. They are like brothers to him. Witness identified the first and second accused in the accused dock.

[98] Witness was shown exhibit P4 photograph 1, 2, 3, 4. Witness testified that the H1 van belongs to him. Witness was shown photograph number 6 and stated that he had seen these items before at his office on the 28th June 2021 prepared by Andrew Estrale. Witness stated that they got the materials at his office. They took the jerry cans of diesel and petrol and they also took the chlorine which is use to clean outside from time to time. They used simple things that witness uses with his transports to make the bomb that they were going to use. Witness stated that this is exactly what he saw that day before they left to go to the Petrol Station. Witness was shown Exhibit 9 A, 9 B and Exhibit P10 A, and P11 A. Witness stated that yes he saw the chlorine. Witness identified Exhibit P9 C, and Exhibit P9 D, Exhibit P10 A and P11 A and stated that it is the same two bottles but

it was filled fully. Witness was shown Exhibit P6 B and identified the jerry can with its contents seized by the Police from his workplace on 29th June 2021.

[99] When cross examined witness was asked where were the 2 accused persons working at the material time. Witness testified there was only one working with him namely Roy Azemia. Estrale is not employed with witness. Mr Azemia asked to lend him the bus. Witness stated that he does not know who was the driver and he does not know what they were going to do with the bus that night. It was put to witness that he organized everything and got them the bus for them to do something that he instructed them to do. It was put to witness that that the chlorine, the benzene and everything were at his office they were all done at his place and put into the bus. Witness testified that it was done outside his office but it was not organized by him. Witness stated that he was aware what was happening but he did not give any instructions. He does not have a premises or property he rent an office there. It happened on the premises that he rent. Witness stated that he did not lie, fabricate all for him to put these two gentlemen into trouble.

[100] Witness testified that when he gave his evidence he described his relationship with Estrale as being a good friend. Him and Estrale had worked together in at least 3 places. At SBS, as President Personal Security, at the Ex-NDEA. At the NDEA witness was superior in rank to him. Witness stated that when he gave his evidence the 1st time was in June of 2021 when he heard certain conversation between Estrale and Azemia. Around the same time in June of 2021 Estrale had come to witness and expressed certain desire to do sabotage to give problem to the current President. Witness stated that he came to his office. He came as he usually comes and after that conversation escalated to what he really wanted to say. Witness stated that he did not expect nothing that he was serious at the first instance when he was speaking to him. He expressed himself as he wanted to cause trouble for the President Mr Wavel Ramkalawan at that year and after one year that he took the presidency he wanted to sabotage the country. At first he was very brief on what he wanted to do and after that he gave a detail explanation of what he wanted to do and that includes blowing up the Petrol Station. Witness stated that when he listened to his conversation it seems that he was the one who came up with the idea.

[101] Witness testified that he gave a statement to the police. Witness confirmed to the Court the copy of his statement. Witness identified his signature on the last page bottom part and the second page bottom part, third page bottom part. He gave the statement on the 21st of June 2021. When CID came to do the search they took some jerry cans of fuels at his office. When he gave his evidence he said that he would give a statement. But later on he volunteered to give his statement. He did not give his statement on the same day he was brought to the CID. It was a few days later. It was put to witness that he had the opportunity for him to think about the incident, for him to refresh his memory about the incident after they brought him there. Witness testified that he gave a statement after but it's not the way it is being put forward that he had to take some time to think about the incident. What was written in his statement is what he remembered what happen on that. Witness was referred to his statement on six lines of the statement that read as follows: *But this conversation was mostly on how to set fire by means of explosion in certain places such as Grand Anse Mahe Petrol Station... I informed them that this is not a good idea? ... they said that this proposition come from Doctor Herminie and that such action will get the population to revolt so that the President will be removed before one year in office so that new election will held.* Witness testified that he said that in his statement. Witness was asked why when he gave his evidence he never mentioned the name of Doctor Herminie. Witness testified that maybe when he was giving his statement he explained it briefly but not in details and even if he missed out some names it did not mean that the conversation did not happen. Witness was again referred to his statement where he sated as follows: *"the week before Independence they were more active, I overheard them saying that Doctor has said that they have to cause trouble to the President during Independence celebration because he wants to have a parade along to be saluted by its soldiers. He said that the sabotage should occur before Independence so that the ceremony will be cancelled"* Witness confirmed this is what he said. It was put to witness that when he gave his evidence in court he never mentioned anything about Doctor Herminie. Witness testified that even though he did not address it in Court but the fact remains that it is included in his statement that was written by the Police.

[102] Witness was asked if he recalls in the month before June 2021 before the incident happen on 2 occasions he had met with Estrale at Grand Kaz and in Grand Kaz on 2 occasions he

had spoken Estrale about the President, the current President Mr Wavel Ramkalawan. He had expressed his desire to remove him and wanted to organize something to overthrow him. Witness testified that this is not true. Witness stated that he never had any conversations at Gran Kaz. Witness was asked if he recalls on the 27th of June 2021 he called Estrale from the number 2513399 and told him to come to his office for him to talk about the President. Witness testified that he called him and asked him to come and see him at his office but the President is not true. Witness stated that normally when Estrale comes to his office he usually come on his motorcycle as this is his only means of transport. Witness asked him to come and see him, they were speaking as usual and then witness asked him if his program or his plan he wanted to blow the petrol station was still on. It was put to witness that he was the one who instigate the whole situation. Witness testified that he was present on certain occasions where he heard them speaking about their plan but there is no fabrication, he is not lying. He heard them speaking about the bomb and what they wanted to blow but everything that he is saying is the truth and nothing but the truth.

[103] Witness testified that he does not recall on the morning of Monday 28th June 2021 if he called Estrale or he came by himself maybe he did call him that's the reason why he came to the office. It was put to witness that on that morning he called him he told witness that he was busy he was not able to come at 5.00 p.m. on that day. Witness testified that he does not recall this part but he knows that Estrale came to his office. It was put to witness that Estrale came on the 28th of June 2021 this is when witness told him that he had a plan to sabotage by setting fire. It was at this point that he got the jerry can of petroleum fuel, the chlorine and the diesel and organized to pour them to test outside of the building. Witness testified that this is not included in his statement. He never said that he brought this 2 people to his office to help sabotage the country. At his office they do keep fuel and also diesel because they do the refueling of the transport themselves. Witness further testified that he is not condoning anybody he is here to confirm that these 2 people they did mix the liquid together and they tried to spark it as they wanted to know if their plan was going to work or not. Witness stated that he was concerned, the reason why was he concerned because he had already envisioned their

program and what will happen or how it will happen because all of the steps that they were taken to finish their program the authority was aware.

[104] Witness was asked if he knows Colin Naiken. Witness stated the Colin Naiken is his nephew. Witness was not sure if in June 2021 he had started employment with him. Witness recalls on the 28th of June before he got Estrale to come on his premises he gave Colin Naiken who was an employee instruction to go to the Ile Du Port Petrol Station to buy brake fuel or coolant. He went to that Petrol Station he forgot what to get because it was not something that was normal for him to buy in the line of your business. When he got there because a he forgot that he took his mobile and he got witness to talk to one Gino Labiche who was a worker at the Petrol Station. Witness specifically told Gino that he wanted 2 types of oil, one is a Dot 4 and the other is hydraulic oil. Witness was shown photograph No.6 and photograph No.7. Witness confirmed to the court that this black on photograph No.6 this black plastic bottle there with blue cap that's the same Dot 4 that he you got Colin to purchase on that night. It was put to witness that the reason why he gave instructions to his nephew to his employee Colin Naiken to go there and purchase the oil was because he was planning to use them. It was his plan to use them to create the explosive that he tried outside of your premises. Witness testified that what was being said was not true. The reason why he went to buy the oil because witness usually use it for his cars and he was also aware that the 2 accused persons were going to use it for their plan to blow up the Petrol Station. The dot 4 he uses for his Ford Ranger. It was put to witness that when Colin Naiken went to speak to Gino he had represented that the oil was going to be used in the bus H1 Bus. Witness testified that he does not see any sense of any reason while purchasing the oil he has to give a reason or where or how or for what he is going to use the oil. If he wants to purchase it he purchases it he does not have to give a reason why. It was put it to witness that even Gino Labiche found it strange that the oil was being purchased for purpose of the bus as represented by Colin Naiken, because it's a hydraulic bus it doesn't use oil., this was the very first time that his Company 24/7 had gone on the shelf on the Petrol Station to purchase oils because he never does it. Witness testified that for all that he knows is that all transport needs oil for them to be able to move or to be able to transport anybody or anything. The oil is not only sold at Ile Du Port Petrol Station he can go anywhere to purchase the oil so he does

have a reason why he has to buy it at the same place. Witness confirmed to the Court that his Company 24/7 has an account a fuel account that he uses with the Petrol Station at Ile Du Port. Witness further stated that not necessary that he has an account at Perseverance Petrol Station that he is oblige or need to take fuel or purchase anything only at this Petrol Station, he is free also to purchase at Anse Royale or anywhere that he needs to purchase.

[105] Witness confirmed to the Court that 24.7 Security company has a pick-up truck with registration number S19268. Witness does not remember if 28th of June 2021, he instructed Colin Naiken at 5.55 p.m. to purchase a jerry can of fuel to the amount of Rs1185/-. It was put to witness that he gave instructions to Colin to buy the oils because at all times it was his plan to get the fuel, get the oil for him to do his explosive because it was his plan. Witness testified that he had nothing to do with any mixture or anything purchased to make a mixture for the blowup. He heard about their plan, all their conversations and he knew each steps that they were going to take and as it is his duty as a Seychelles national or citizen to inform the authorities as he would not like to have remove an eye on it and this would have taken place and he would feel guilty as a Seychellois so he took upon his duty to report this incident.

[106] It was put to witness that after he had done the mixtures, he had tried to have it exploded, he attempted it on 2 occasions it failed, on the 3rd occasion it succeeded. He went back upstairs in his office along with the 2 accused persons, got the chlorine, the fuel, the diesel, put them in a green plastic bag and went back and placed them in the H1 which he volunteered to give to Azemia to drive. Witness testified that all that is not true, he never took anything to mix them up, he did not put them in a green plastic bag. It was put to witness that the reason he drove up there first was to clear the way to see if everything is okay so that then he could carry out his attacks. Witness testified that all that is not true. The reason why he went first is because he lives at Baie Lazare and have to pass by Grand Anse every day to go home. Everything that was being planned was put to the attention or the authorities were already aware of what was happening. It was put to witness that at around 9.00 p.m. whilst Estrale and Azemia was driving towards Grand Anse he had called Estrale on his phone to inform him that the Petrol Station at Grand

Anse Mahe was okay. Witness testified that, that is true the phone call was made this is because he was in contact with the authority throughout to make sure that they were aware about everything and that this disaster would not happen because this would be a disaster for the country. Witness further stated that he never received a call from Estrale telling him that the Plan is not going to take place or he has change his mind. He never instigated the situation to happen. Witness testified that if they did not go through with their plan it has nothing to do with him because he was never the person that instructed them to blow up the Grand Anse Petrol Station, STC where food is stored at the Stad Popilar where there are also the gas cylinders and also a place where they sell food, it was never his plan. He never put pressure on anybody or Estrale or any of the two accused to do what they say he told them to do. Witness stated that how can you expect him to put pressure on two people did he hold their hands, did he hold their feet to force them to do whatever they said he forced them to do, they could simply divert to the Police Station and report that he was putting pressure on them to commit this offence. The only thing that he did he inform the Authority the Authorities took control they made their decision.

[107] When re-examined witness testified that it is not true and he is not accepting that he during the month of May 2021 and subsequently during the month of June 2021, actually encouraged, instigated even as they are alleged threatened this 2 accused persons Roy Azemia and Andrew Estrale to go on explode the Petrol Station at Grand Anse. Witness further stated that whenever he came across the plans of Roy Azemia and Andrew Estrale to go and do some sort of sabotage to the current President he kept on informing the authorities. The Authorities were informed about everything but he is not in a position to mention any names of the people that he maybe texted or called because does not want to put their life at risk. They work in the government. The instructions given to him by the authority was to observe them, follow up with their plan and also inform the Authorities of whatever they had planned because if he did not do what was asked to do they might have just go on with their plan and their plans would have been realized and it would have been a disaster for the country. Witness further stated that he is trying to prove to the Court that it is this 2 people Roy Azemia and Andrew Estrale that plan the whole plan or situation.

[108] Next witness Mr. Khaidoo testified that he works in coastguard in Mauritius and specializes in mechanical engineering for 10 years. He was in Seychelles in the month of September 2021 last year on an official mission. When he was in Seychelles during his official mission the Seychelles Police handed over exhibits to him in connection to this case. When he received the exhibits he signed a document on the 9th September 2021. Witness was shown exhibit P38 and identified his signature found in the column received by and date in the first column. After he received the exhibits mentioned in this exhibit chart he took the exhibit, first of all checked it, pursue and then took it and go directly on the aircraft. This aircraft is a Dornier aircraft. There is only one seat. He kept the exhibits by his side. On the next date on the 10th September 2021 he handed it over to Mrs Rekha. Witness was placed on the quarantine at Hotel D'Or in Mauritius. Ms Rekha came over at Hotel D'Or then witness handed over the exhibit to her. He was told to hand over to Ms Rekha fom QuantiLAB Mauritius. She would come to meet witness for the handing over of exhibits. Ms Manju Chettiar from the Police Force of Seychelles told witness to hand over these exhibits to the representative of Quantilab. Ms Rekha signed in the document on the 2nd column, received by and date on the 10th September 2021 at 14 hours 45. In this first column as received by and date witness stated that this is his signature.

[109] Upon cross examination witness was asked if he could have made a mistake with regards to the time Ms Rekha took the exhibits from him because in his statement he said Ms Rekha came to collect the exhibits at 2pm. Witness stated that he does not think so. Because at around maybe for the timing there's lots of protocol so that she can meet him. She came a bit early and they have maintained the strict setting. He had 2 tables. Witness had to set the place the exhibits and then she checked and let witness know and in quarantine there was COVID protocol that they needed to respect. The timing might take some time. At that time when she came they called him at the hotel that she had come. Witness stated that he had to get himself ready, had to put on the PPs, the guy should have come to check he had set the table and all that so that he can do the handover the exhibits to her. At 2pm witness got the call that she had come. At 2.45 this is when she took possession of the exhibits. After he handed over the exhibits to Ms Rekha he did not have anything else to do with those exhibits. He did not take possession of those exhibits again. He does not know what happened to those exhibits.

[110] Next witness Doolaree Lofur works work at the Quantilab in the capacity of a link manager and was instructed to collect the samples from the police. She has been working at Quantilab since 2015. Quantilab is situated in the region of Phoenix in Mauritius. Her job is to deal with collection of samples, to verify the samples and register the samples. On 10th September she collected a sample from Police Constable Khaidoo at the quarantine center as sometimes is not necessarily in their usual environment as they used to do in the lab due to the protocols that the Ministry of Health had put on due to the quarantine situation in Mauritius she had to go there and collect samples from Khaidoo. When she collected the samples from Mr Khaidoo at the quarantine center in Mauritius she signed a document in connection to the collection of the documents. Witness was shown Exhibit P38 and pointed that she signed next to the column where Mr Khaidoo signed. Witness confirmed to court the details of the exhibits mentioned in this document being collected by her on that day. After she collected all these 5 exhibits from Mr Khaidoo witness brought the exhibits to the lab and the exhibits came to the lab to the testing department. Witness testified that she handed over the 5 exhibits to the analyst at QuantiLAB namely Mr Gaston Yu, Mr Prakash Gokhool and Mr Mahmoud Kamel.

[111] In cross examination witness stated that there were 5 exhibits in all. One was a container containing some dark substances. The second one was one small clear container containing yellow liquid. Third one was one small container containing yellow substances (a). The fourth one was one small clear container containing yellow substances (b) and the fifth one was one small clear container containing yellow liquid. They were all packed together as one package. Witness testified that once she took possession of the exhibits she identified the exhibits with the certificate and then brought the samples to the lab for analysis on the 10th September 2021. Witness confirmed to the court that she has a record that she kept in regards to the handing over of those exhibits to the lab. When she brought the samples to the lab she handed it to the lab for testing and she has a second copy of the request that she was given by the police constable she handed the copy of the request to the lab to Mr Gaston Yu. He is the manager of Inorganic Section. Witness does not recall whether Mr Yu had signed any document to confirm that he took possession of those exhibits from her. Witness stated that they do not have any protocol for this because they are all working at Quantilab. Whenever a

sample comes to the lab whether it is exhibit or other samples when it is handed the department on the same secrecy counter they do not keep records. It is handed over hand to hand.

[112] Next witness Gokhool Amersingh Prakash testified that he works for Quantilab Ltd. Quantilab is a laboratory and his function there, the lab is divided into several sections mainly there are 3 technical parts. There is the Organic section, Inorganic section and the Micro biotic section. The other sections are the Inspective and the Link, the Sales department and the Finance department etc, but mainly the department that do analytical work are the Inorganic, Organic and Micro and in the Inorganic section witness manage, he is the Inorganic Manager. The lab is situated in Mauritius and the town is Phoenix. Witness has been there since 2014. He joined the lab in 2014 as the Inorganic Manager. When this lab was launched he was previously working as a teacher in the year 2000. He was a teacher in college and then after that joined the ministry the Waste Water Management Authority and after one year working in the administration he skipped to the Waste Water Management Authority laboratory in 2003 starting like that. Until 2014 he worked at the Waste Water Management laboratory. He started as a Technician and became acting Senior Technician, then Quality Coordinator and Assistant Quality Manager and finally became the Quality Manager plus Acting Senior Laboratory Technician and then when Quantilab was being set up as a corporate body so that is how he joined Quantilab.

[113] Witness testified that he has issued an analysis report in connection to the exhibit connected to this case. There is one exhibit which he analyzed and a report was issued. The report number is P2 21/16/13. The exhibit number is CB/06. Witness was shown Item P3(a) and stated that this is the analysis report he provided in respect of the analysis done in connection to the exhibit DV06 of this case. Witness identified his signature found in this document as his signature. **The certificate of analysis made by the witness is tendered and marked as exhibit P39.** Witness went on to explain the details he wrote down in the report number E.2021.6813. Witness explained that the date is the date when the report was finalized. The customer comes from the Link section. The information that the Link section provided to him is Mrs Rekha. The address was Gokhool for the

Link Section. The comparative found in the date provided again by the Link section because they are responsible for the sample registration. The tested performed is the name of witness. Witness performed between the 2nd October 2021 and concluded the test by 24/12/21 and the test requires for his request was chemical analysis. Witness came to the result which he reported the result which result was found to contain calcium chloride. The method used to determine calcium was ICMS which is and the chloride determination went through an ION vacuum which is an ice. Calcium was in excess, in a very huge concentration, huge amount was observed and from the ice a huge amount of chloride was detected. Witness testified that calcium chloride is used in various purpose. It has one very good amount calcium chloride which is used as end product which is healthy for the body. It is used in drinks, it is used in energy drink, it can be consumed and it is not harmful for the body. You can say calcium chloride is very close being a sodium chloride. Calcium chloride dissolves in water and it is beneficial for the body. It is often used in drinks to hydrate your body. Witness stated that is what he observed of the sample DV06.

[114] Witness testified that his name is Mahmoud Kamel Mohamed and he works in Quantilab since 2014. He works as the Support section manager and supervise the department. Witness stated that the report was issued by him and analysis was done by Mrs Elzarah. He provided a report in respect of the analysis carried out on the exhibits connected to this case. Witness provided 4 reports in respect of the analysis carried out in connection to this case. Witness stated that if he sees the four reports he will be able to identify them. The report number for the first one is C2021 6814. Witness confirmed this is the report and his signature. **The report made by the witness Mr Mohamed Kamel dated 24th December 2021 is tendered and marked as exhibit P40.** Based on the analysis the first sample which is marked as exhibit no. PP11 as contained hydrocarbon and in the range of C10-C12. This sample contains the chemical substance called hydrocarbons. Some substance the hydrocarbon can be in many substances like in diesel, petroleum products, it can be mineral oils as well and sometimes used for lubricants. C10 to C12 is the number of carbon atoms in the contents which is this has contained 10 carbons, 11 carbons and 12 carbons.

[115] The next report number is T2021 6815. Witness identified the report and showed his signature. The exhibit number is DD12. It was found to contain hydrocarbon in the range to C18 to C40. This hydrocarbon can be in petroleum products. **The certificate of analysis of Mr Mohamed Kamel dated 24th December 2021 was tendered and marked as exhibit P41.**

[116] Witness identified the next report number as T2021 6810 and also identified his signature. They did not find anything, any significant chemicals in this sample. The technician reported that there were very few substances left in the container and the container was almost empty. **Certificate of analysis of Mr Mahmoud Kamel dated 24th December 2021 was tendered and marked as exhibit P42.**

[117] Witness identified the final report as T2021 6817 and identified his signature on it. **Certificate of analysis of Mr Mahmoud Kamel dated 24th December 2021 was tendered and marked as exhibit P43.** In this sample as well they could not find any significant chemicals the same as sample before. The container was almost empty and they had to swab the container to do the analysis. Therefore, there was no significant chemicals found Being an expert and the manager support section in Quantilab witness provided these reports based on his expertise and based on the analysis data he obtained from the lab in connection to this exhibits.

[118] Next witness testified that he is Detective Sergeant Davis Simeon, presently attached with Criminal Investigation Unit CID Bois De Rose. On 28th June 2021 he was posted on standby after receiving a report from 1700 hours. He was informed that there was a report about 2 persons being arrested namely Jimmy Azemia and Andrew Estrale, at La Misere in a H1 and they had in their possession explosives. This Report was done by Sergeant Jean at FCIU.

[119] Witness went to La Misere at night near the bus stop station he saw the vehicle with the 2 Suspects and then he approached the vehicle with the 2 Suspects inside. Then he informed Sergeant Jeanne who was in charge of the operation he told them to go down to the CID Office. Witness arrived to the CID Headquarters along with this 2 Suspects and the vehicle which the Suspects used in connection to this case at 1136 at night. Witness

was shown exhibit P4 photograph 1, 2, 3, 4. Witness identified the vehicle. The witness identified the 2 accused persons in Court namely Jimmy Azemia and Andrew Estrale brought to the CID Headquarters along this 1136 p.m. on 28th June 2021.

[120] Witness testified that early morning the 29th he had the chance to interview Jimmy Azemia. At 1.50 he read his rights to him and questioned him, he activated his Constitutional rights to remain silent but witness continued to question him. He voluntarily told witness that the day before he was stopped under the instruction of his Supervisor Marcel Naiken, Marcel told him to take the white H1 to Grand Anse Petrol Station for him to put an explosive there. He was under pressure from Naiken when he got there he refused and he left after that. Constable Roudy Pillay was there as a witness. The afternoon at 6.24 witness had the chance to question Marcel Naiken he exercised his right to remain silent as well. There was other Suspects who were named that witness got the chance to interview them in relation to this case but after they did not continue in the case. Few others Suspects such as Colin Naiken was also interviewed. These are the Police work he did in connection to this case.

[121] Upon cross examination witness stated that had the opportunity to interview Colin Naiken. Colin Naiiken informed him that he is an employee of Marcel Naiken at that time. When witness cautioned him he exercised his right to remain silent but he did voluntary some information to witness. He told witness in the presence of Detective Sergeant Eullentin that on the 28th of June 2021, from instructions that he received from his Director Marcel Naiken he went to a small shop at the Ile Du Port Petrol Station to buy some break fuel or coolant. He also further said that at the shop at the Ile Du Port Petrol Station he was confused as to what to purchase exactly and hence he phoned his Director Marcel Naiken and thereafter passed the phone between Marcel Naiken and the shop Assistant Attendant. From that conversation between the shop Assistant and Marcel Naiken, Colin Naiken informed witness in the presence again Detective Woman Sergeant Eullentin that the shop Attendant then gave him a small bottle of brake fuel and a coolant. He also said that on the same day after he made that purchase he gave both the coolant and the small bottle of brake fuel to Marcel Naiken at his office at Perseverance. On the same day at the CID Office at 4.25 p.m. witness sated that he was present when Vincent

Uzice was arrested. He was also arrested as a Suspect for possession of explosive with intends to endanger lives or causing injury to property. He was also cautioned by Detective Sergeant Fred and thereafter he openly stated in the presence of witness that he was constantly in contact with Marcel Naiken when Marcel Naiken left his workshop to when he arrives home on that day. Witness testified that Vincent Uzice was a suspect in connection to this case. He did inform that Marcel Naiken for some reasons was also contacted him that night.

[122] Next witness Roudy Pillay testified that he is a Detective Constable based at CID Priority Crime at Bois De Rose for the whole 3 years. On 28th June 2021 he started work at 8 o'clock to resume duty at CID Priority Crime Bois De Rose. They received instructions to standby at around 5 o'clock, then at 1.50 in the morning the following day which is the 29th he witnessed Detective Sergeant Simeon at the cautioning and interviewed of one Jimmy Roy Azemia. He was cautioned he was told he was not obliged to say anything but whatever he says may be put in writing and be used as evidence, and it was at that point that Jimmy Roy Azemia voluntarily said that during the night of the 28th which was the night of when he was arrested he was instructed by one Mr Naiken to accompany one Andrew Estrale to Grand Anse Petrol Station whereby they were supposed to put explosive at the Grand Anse Police Station. He also mentioned that when they arrived there they were under a lot or pressure, even if Mr Naiken was pressuring them to do so they changed their minds and they returned back. Jimmy Roy Azemia did not want to give a statement and he also refused to sign his statement but there no inducement, promises or any threats. Witness identified the 1st accused in the box. This is the assistance he provided to Mr Davis Simeon in respect of Suspect Jimmy Azemia.

[123] Upon cross examination witness testified that Roy Jimmy Azemia said in his interview was done voluntarily. No pressure, no threats, no inducement. When the 1st accused informed witness that they were to go there on the instructions of Naiken he was subjected to a lot or pressure from Naiken. When they reached Grand Anse they decided not to proceed as per instruction from Mr Naiken.

[124] Witness Detective Sergeant Marianna Eullentin testified that she is based at CID Bois de Rose. Witness was the investigating officer in this case. Witness testified that on Monday the 28th of June 2021 they received instruction to stay at the office together with Simeon, Officer Pillay and Officer Fred. There was an information that they received there was an intention to bomb the Petrol Station at Grand Anse Mahe. The same day at around 1130 at night she got instruction for her to interview and caution one of the Suspect that was arrested Andrew Estrale. She cautioned him in the presence of Constable Pillay. She cautioned him at around 1159 at night he agreed to give her a statement which she took the statement in Creole. They started 1205 in the morning and finished at 1.39 in the morning. She listened to his statement she read his statement to him and she informed him that he can change, add anything that he wants to it and he did not do anything and he signed his statement and it was recorded well. Witness signed the statement as a Recording Officer and Constable Pillay signed as a witnessing Officer. Witness stated that if she saw the statement she recorded for the suspect she would be able to identify it. Witness was shown the statement and identified it. She signed on the bottom left at the back the last page of the statement. Constable Pillay signed next to her on the bottom right at the back.

[125] Suspect Andrew Estrale signed his statement on the 1st Page where she cautioned him. He signed on the 1st Page where he gave her authorization to write his statement. On the 1st Page again where his statement start, on the 1st Page where his statement finishes. On the 2nd Page he signed on the top where the statement starts. On the 2nd Page where the statement finishes. On the 3rd Page where the statement starts. On the 3rd Page where the statement finishes. On the 4th Page where his statement starts. On the 4th Page where the statement finishes. On the 5th Page again where the statement starts. On the 5th Page again where the statement finishes. On the 6th Page on the top where the statement starts. On the 6th Page again where the statement finishes. And on the 6th Page again where witness finished doing her certification. Witness identified the 2nd accused in the dock.

[126] Defense counsel objected to the production of the statement of the 2nd accused to being admitted as exhibit that statement was induced and not given voluntarily by Mr Estrale on the promise that the Police was after Marcel Naiken on the first instance and it was on

that basis that he's volition to give the statement. Therefore, the voire dire commenced where Mr Kumar produced two witnesses namely Roudy Pillay and Marianna Eulentin. The defense produce Andrew Estrale, the 2nd accused. After both parties closed their case on the voire dire, they were given time to file submissions. This court gave a ruling on the 21st June 2023. Court found that the statement under caution taken from the 2nd Accused given in the early hours of 29th June 2022 to have been voluntarily taken without breaching his constitutional rights. The trial therefore continued with Sgt Eulentin continuing her evidence.

[127] Witness was shown the statement recorded by her from one of the accused namely Mr Andrew Estrale on 28th June 2021 around 11.59pm at CID headquarters. Witness confirmed that this is the same statement. **The original creole version of the Seychelles Police Statement form containing the statement under caution of the accused is P44 and the translated statement in English attached was exhibit P44(a).** P44 was read in court. Witness testified that as the investigating officer of this case apart from the statements she obtained from the 2nd accused Mr Estrale, in respect of the vehicle seized from the accused connected to this case she wrote a request letter to SLA where she requested any details that they might have on the vehicle. Witness was shown a letter and she confirmed that this is the letter she went to SLA. Witness signed at the bottom just above where it is written yours respectfully and her name. **Letter dated 15th July 2021 of the Seychelles Police Force written by the witness was tendered and marked as exhibit P45.** P45 was read in open court. Witness received a reply from the Seychelles Licensing Authority. **A letter written by Ms Ria Alcindor, legal officer of the SLA dated the 13th August 2021 was tendered and marked as exhibit P46.** P46 was read in open court.

[128] Upon cross examination witness was referred to P46 which is a certificate that was issued by SLA, Seychelles Licensing Authority in respect to her query that she made in exhibit P45. It was confirmed in that certificate that this vehicle belongs to a company 24/7 Company Ltd. Witness confirmed to the court that the company 24/7 Company Ltd is a company owned by Mr Marcel Naiken. In relation to that witness also gave a statement. In her statement she said that in relation to this case which is CB673/21 on Friday 20th

August 2021 at 10.27 her, Detective Simeon arrest one Collin Julien Patrick Naiken of Mont Buxton for the offence of possession of explosive with intent to endanger lives or cause injury to property. Collin Naiken was cautioned in her presence and in her hearing she heard Collin Naiken overtly stated to Detective Simeon that on the 28th June 2021 from the instruction of his director Marcel Naiken he went to a small shop at Ile Du Port petrol station to buy either a brake fluid and/or coolant. In the small shop Mr Collin Naiken furthered that he was confused on what to purchase exactly and hence he phoned his director Marcel Naiken. Mr Collin Naiken added that he passed the call to the shop attendant on that day whereby Marcel Naiken spoke to the shop attendant as they did not have vouchers to buy such items. Mr Collin Naiken furthered that after the phone call the shop attendant gave him a small bottle of brake fuel and a coolant. On the same day he gave both the coolant and the small bottle of brake fuel to Mr Marcel Naiken at Perseverance. Witness confirmed to the court these things were said in her presence by Collin Naiken after he had been arrested Detective Simeon. Collin Naiken refused to give a statement but she does recall if he refused to sign the caution. She did not record the first statement from Mr. Estrale. It was his first statement that he recorded with the police. There was a second statement recorded from him. Witness did not record the second statement either but there was a second statement that was recorded from him. In the presence of the witnessing officer that was there at the time Constable Pillay he was read out his constitutional right before recording the statement. Before he was informed of his constitutional right and in his constitutional right it states that he has the right for a lawyer present or to contact a lawyer of his own choice.

[129] Witness testified that in relation to Marcel Naiken he was arrested in relation to this case and witness was the one who arrested him. He was arrested as a suspect in the same case for the offence of possession of explosives with intent to endanger lives or cause injury to property. He was cautioned and asked to give a statement. He exercised his right to remain silent. Mr Marcel Naiken is not charged in this case.

[130] Thereafter the prosecution closed its case but before that with no objections of the other counsels A letter written by Mrs Sarah Romain to Mr Kumar dated the 21st January 2022 is tendered and without any objections from parties representing the defence was

admitted as *exhibit P47*. The Court put the rights to the 1st and 2nd accused. The first accused chose to remain silent. The 2nd accused chose to remain silent but brought a witness to testify.

Evidence of defence

[131] Witness Gino Achilles Labiche lives at Perseverance. In June of 2021 he was working on Victoria North Petrol Station for 3 years. That is the Perseverance petrol station. On the 28th June 2021 he was working in the evening from 2.30 until 11pm. Witness recalls an incident which happened on the 28th June 2021 whilst he was working there regarding a request for fuel. On that day the 24/7 company, the security company that usually takes fuel on credit basis usually comes every 2 to 3 days to fill up the trucks. On that day Mr Jimmy Azemia came and ask him for brake fluid or hydraulic fluid but it seems to him like he did not know what he was coming to buy. So he took his phone and he called his boss which he then passed the phone to witness and he told witness that he needed DOT4 brake fluid. Mr Naiken said that over the phone that he need DOT4 brake fluid. Witness gave it to him and put it in his credit book. He rarely requested for such fuel before. He did not say why he needed that fuel. Witness was shown exhibit P4 photograph 7. Witness testified that photograph number 7 is brake fluid for your car. It actually makes your brakes work.

[132] In cross examination witness was asked if he could identify Jimmy Azemia if he saw him. Witness testified that he is the one with long hair. Witness pointed to Mr Azemia as being the person that he says is Mr Jimmy Azemia.

[133] Thereafter the 2nd accused closed his defense. The 1st accused also closed his. Both accused tendered submissions.

Submissions of Counsels

[134] Prosecution submitted that the charges filed against both accused and relayed before this court was proved by the evidence and by the production of exhibits. Prosecution submitted that by the evidence of witness Marcel Naiken, the confessions of both accused, the suspected movements observed by special forces and police officers, the

explosive materials seized from the vehicle from which both accused was in, proves count 1. He further submitted that count 2 was proved as the evidence shows that both accused were in the vicinity of Grand Anse Petrol Station. Prosecution further submitted that witness Hubert Orredy defined the substances found as Homemade Explosive Devices which proves Count 3 of the said charges.

[135] Thereafter defence counsels Mr Bonte and Mr Camille made joint submissions. Their defence is that the charges under count 1 and 2 are misconceived in law and must be quashed. They further submitted that both accused persons had withdrawn from the agreement to pursue the illegal act. Defence also raised the defence of agent de provocateur as they stated in their submissions that witness Marcel Naiken was his own brainchild, that he instructed A2 to sabotage the petrol station. As for count 3, defence submitted that prosecution did not prove the essential element beyond reasonable doubt to establish whether homemade explosive devices in indeed an explosive in law.

Analysis and Determination

Count 1

[136] The offence of conspiracy referred to in count 1 is set out in s 20 (c) of the Prevention of terrorism Act as follows;

20. Every person who—(c) conspires to commit; an offence under this Act is guilty of an offence and shall on conviction, be liable to the same punishment as is prescribed for the first mentioned offence.

[137] To prove conspiracy, the prosecution must show the existence of two elements: the agreement, which is the actus reus, and the mens rea, which is the intention to enter into the agreement to carry out the intended underlying offence. The exercise of distinguishing between these two elements with respect to the offence of conspiracy is not always an easy task. This is because the act of agreeing is itself considered to be essentially a ‘mental operation’¹. The offence of conspiracy involves making an

¹ The Crime of Conspiracy in International Criminal Law, Juliet R. Amenge Okoth, ISBN 978-94-6265-017-6 (eBook), Chpt 2 Comparative analysis, page 16

agreement, and no further action needs to be taken to fulfil the agreement (*Mulcahy v R (1868) LR 3 HL 306*). In *R v Simmonds [1969] 1 Q. B. 685* the court observed that a conspiracy involves two or more persons acting or planning to act in concert under some agreement in pursuit of a criminal design.

[138] After carefully considering the evidence above, the evidence of witness Marcel Naiken indicates that there was an agreement of two or more to do an unlawful act by unlawful means². Witness Marcel Naiken testified that in his statement he mentioned that in the month of June 2021 there was a conversation between him, his employee Roy Azemia and Andrew Estrale. When Andrew Estrale came to the office he was talking about some sort of chaos in a sense to give problems to the President. Roy Azemia joined the conversation and added some information, and tried to put ideas into what Andrew was saying. Witness stated that first it started like that, they were joking at first but then he realized it was serious. Witness was listening globally that is when he realised they wanted to have some places they had targeted. Then they said they would proceed with their plan. The plan was to attack the Grand Anse Mahe Petrol Station then they had another plan for them to move towards town. They had two areas in the town area where they had selected. Witness stated that what he was saying it happened before him and it was discussed before him. Witness saw that they were serious and they were going with the plan that they had in mind. From there that is when witness informed the people from the authority of what could have happened and what the situation was. When he had alerted the authorities they still conducted their plan and they made sure that their plan was accurate. After one week and then they were doing their plans and each time they would come and tell witness their information he would inform the authorities. He alerted the authorities the week before the National Day event. There were preparations of how they would do the explosive. They did their preparations in regard to looking for empty plastic bottles which witness identified in exhibits Exhibit P10 A and P11 A. They had everything that they needed. They were doing all these preparations to execute their plan at Perseverance outside the office of witness, downstairs. The date they decided to go and

² *Mulcahy v. The Queen (1868)*, L.R. 3 H.L. 306 at p. 317- "A conspiracy consists not merely in the intention of two or more, but in the agreement of two or more to do an unlawful act, or to do a lawful act by unlawful means. So long as such a design rests in intention only, it is not indictable. When two agree to carry it into effect, the very plot is an act in itself, and the act of each of the parties ... punishable if for a criminal object."

execute that plan was on the 28th June 2021. When they were doing the preparations they were really professional in what they were doing, because they did the test to ensure that what they were doing was okay. They had their bottles of fuel, they had the chlorine and the brake fluid. They were preparing all these things downstairs outside the office. It was around 5.30 to 6 p.m. when they were checking to see that everything was in order, that is when they were conducting the test. Witness observed was that they were satisfied with the preparation and they were simply waiting for night time to execute the plan. Witness stated that he had the chance to alert the authorities that the plan is on, they were going to execute the plan. They had their bottles filled with fuel, they had their chlorine and a bottle of brake fluid. They also had two big coca cola bottles and one small pet, around 2.5 and they had their chlorine, which was in that small bottle. The coca cola bottles were tapped all around, they were secured together and for them that was all the preparation that was needed, they were ready to go. The first mission to Grand Anse Petrol Station. This is the first place they were going to target.

[139] Ferdando JA in the case of *Dugasse & Ors v R (SCA 25, 26 and 30 of 2010) [2013] SCCA 6 (3 May 2013)* states as follows;

[32] The essence of conspiracy is the agreement. When two or more agree to carry their criminal scheme into effect, the very plot is the criminal act itself. Nothing need be done in pursuit of the agreement; repentance, lack of opportunity and failure are all immaterial. Proof of the existence of a conspiracy is generally:

a matter of inference, deduced from certain criminal acts of the parties accused, done in pursuance of an apparent criminal purpose in common between them.....Overt acts which are proved against some defendants may be looked at as against all of them. Vide Archbold (2012) 33-14.

[140] The same point was also made out in in the case of *Moustache v R (SCA 1 of 2012) [2015] SCCA 42 (17 December 2015)*. In this instant case, both accused persons made preparations to execute their plans and made discussions on the date and the location indicates that they agreed on doing the unlawful act. In furtherance to this, Sargent Dave Jeanne and Anil Bristol both testified that they identified the two accused persons in

white H1 van whilst they were going up and down the La Misere road and upon arrest and search of their vehicle Sargent Jeanne was handed over items thought to be explosives. Therefore, both accused agreed and had specific intent to commit the crime. I am of the view that there was an agreement unlawful between the two accused and both of them intent to commit the objective of the conspiracy, namely to bomb the Grand Anse Petrol station. A third person in the conspiracy was not charged that does not absolve the culpability. I hence find that the 1st count proven beyond a reasonable doubt.

Count 2

[141] Section 377 of the Penal Code defines attempt as follows;

When a person, intending to commit an offence, begins to put his intention into execution by means adapted to its fulfilment, and manifests his intention by some overt act, but does not fulfil his intention to such an extent as to commit the offence, he is deemed to attempt to commit the offence.

It is immaterial, except so far as regards punishment, whether the offender does all that is necessary on his part for completing the commission of the offence, or whether the complete fulfilment of his intention is prevented by circumstances independent of his will, or whether he desists of his own motion from the further prosecution of his intention.

It is immaterial that by reason of circumstances not known to the offender it is impossible in fact to commit the offence.

[142] In the evidence of this instant case, Sargent Dave Jeanne testified that when he got the call by Captain Fonseca to come to La Misere, he reached the vicinity of Grand Anse in 10 minutes time. He saw the H1 vehicle driven by Andrew Estrale and Roy Azemia on the passenger side. They were stopped and searched near a bus stop at La Misere. Witness was asked if the accused persons stopped at the Grand Anse petrol station. Witness testified that the van was not stopped at the Grand Anse petrol station. Witness had not seen the white van at the Grand Anse Petrol Station. When he saw the white van it went past him going up La Misere. Captain Fonseca also testified along similar lines

whereby he stated that the driver was Roy Azemia and in the left passenger side was Andrew Estrale were driving a white Hyundai transport van from La Misere down towards Grand Anse consecutively going back and forth proceeding up La Misere and down again. The same line of evidence was given by witness Anil Bristol whereby he testified that he first saw the white van it came down on 3 occasions. Witness did not see at any point white van going towards the entrance to enter the petrol station.

[143] For there to be an attempt, it *normally* requires an intention to commit the crime in question. (emphasis mine). I will make use of a textbook analogy. (*See Textbook of criminal law by Baker, Dennis J, 18. Attempt, page 482, 18- 011*). If a terrorist places a bomb at the front door of a cabinet minister, which does damage but fortunately does not kill anyone, could this be an attempt to murder? If there were evidence that the terrorist hoped to kill, it would be. But if there were no evidence on the intent, and the inference on the evidence could be no more than that the terrorist was completely reckless as to the killing, his particular object being to explode a bomb to create a sense of insecurity and to draw attention to his cause, then it would not be an attempt to murder. The terrorist could be dealt with for an offence in relation to explosives under the Explosives Act 1883. Along the same line of the analogy, if the Defendants were on their way to initiate their plans by placing the explosives but never went into the actual location does this count as an attempt to commit the act in question?

[144] It is in this courts view that the act must be more than merely preparatory to the commission of the offense. In the case of R v Geddes (1996) Crim. L.R D was charged with attempted false imprisonment whereby he was spotted trespassing in the boys' lavatory block at school. D's rucksack was found nearby which contained large kitchen knife, some lengths of rope and a roll of masking tape. The Court of Appeal stated:

“There was no rule of thumb test, and there must always be an exercise of judgement based on the particular facts of the case. It was an accurate paraphrase of the statutory test to ask whether the available evidence if accepted could show that a defendant had done an act showed that he had actually tried to commit the

offence in question, or whether he had only got ready himself or put himself in a position or equipped himself to do so...”

[145] This position was reinforced in the case of *R v Campbell 1991 93 CR App. R. 350.* Campbell was convicted of attempted robbery. The police had a tip off that a robbery was to happen at a post office so they put it under surveillance. Campbell was found loitering in the vicinity and was searched. Police found him to be carrying sunglasses a gun and a demand note. He admitted that he intended to rob the post office but asserted that he had changed his mind and was not going to go through with it. Watkins LJ said:

“If a person in circumstances such as this has not even gained [access to] the place where he could be in a position to carry out the offence, it is extremely unlikely that it could ever be said that he has performed an act which could be properly said to be an attempt.”

[146] Following the authority *Geddes supra*, exercise of judgement is based on the particular facts of each case. There was no inevitability in the commission of the act when two accused persons were arrested. I am of the view that the second count of attempt has not been proven beyond a reasonable doubt, their acts were merely preparatory to the commission of the offences.

Count 3

[147] Section 17 of the explosives Act states as follows;

Any person who makes or knowingly has in his possession or under his control any explosives, in such circumstances as to give rise to a reasonable suspicion that he is not making them or does not have them in his possession or under his control for a lawful object, is, unless he can show that he made them or had them in his possession or under his control for a lawful object, guilty of an offence and is liable to imprisonment for fourteen years, and the explosives shall be forfeited.

[148] When one considers the evidence of witnesses in this case, witness Francois Pierre received from Police Officers 2 coca cola pet bottles and 2 plastic jerry cans to confirm

that this was unleaded gasoline. Witness conducted the necessary test and it was concluded that the sample that witness analysed matches unleaded motor gasoline that is imported by the Seychelles Petroleum company. Next witness namely Hubert Oreddy testified that he went to identify the objects at the CID office. Those objects which witness observed were bottled and with some liquid in them and one of them witness remembered having a white substance in there and they were taped together. Witness informed them to remove the bottles together and keep them separate from one another. Witness informed them that these were chemicals that could be used in the creation of an artisanal bomb. Next witnesses were testimony of the Mauritian experts who identified the ingredients in the devices in possession of the accused.

[149] In the case of *Republic v Gemmel and Others (11 of 2007) [2010] SCSC 38 (21 January 2010)* Burhan J stated that section 17 of the Explosives Act is similar to section 4 of the Explosive Substances Act 1883 of England as set out in **Archbold Criminal Pleadings, Evidence and Practice 2008 edition pg 2178**. He further gave the elements of offence that the prosecution needs to establish as follows;

In this instant case in order to establish the charge, the prosecution has to establish;

a) that the accused were knowingly in possession or had under their control any explosive.

b) that the possession or control was in such circumstances as to give rise to a reasonable suspicion that they did not have it in their possession for a lawful object.

[150] The prosecution establishes the fact that both accused were together and the explosives were in their vehicle when they were stopped and searched near the bus stop at La Misere. This evidence has hardly been disputed by the defence.

[151] For the aforementioned reasons this court is satisfied that the prosecution has proved all the necessary ingredients of count 3 beyond reasonable doubt.

The defence of entrapment and ‘Agent de provocateur’

[152] “*Agent provocateur*” relates to a person or persons who induces another person to be violent or to commit an illegal act in order to incriminate that person thereafter. The Accused states that witness Marcel Naiken had them commit the offences charged but then they could not go through with it. **Archbold, Criminal Pleadings, Evidence and Practice 2008 edition pg 1710** contains the definition of an agent provocateur as “ *a person who entices another to commit an express breach of the law which he would not have otherwise committed and then proceeds to inform against him in respect of such an offence*”. In the case of *Republic v Servina (74 of 2008) [2009] SCSC 82 (30 March 2009)* Burhan J stated as follows;

“In the case of R v Mealey and Sheridan 60 Cr. App.R.59.CA it was held that the defence of entrapment is not known to English law. A defendant cannot entitle himself to an acquittal by showing that he acted in concert with or as a result of the conduct of an agent provocateur, though the matter may be highly relevant on the question of sentence”. In a more recent case R v Looseley [2002] 2 Cr.App.R.29 it was shown that, although it is not a substantive defence, English law had now developed remedies in respect of entrapment and went on to specify the said remedies.”

[153] Non state individuals may give rise to the defence of entrapment. This means that the defence can ask for the proceedings to be stayed on the grounds that they had been entrapped by a non-state individual to commit the offence. However, in this case Naiken, being a non- state individual did not create an exceptional opportunity for the commission of the offences that the two accused would not have otherwise committed , as Naiken, in the words of the decision in Looseley (see *Looseley [2001] UKHL 53, [2001] 1 W.L.R. 2060*) ‘*did not do more than...to afford the accused the opportunity to offend, of which they freely took advantage in circumstances where it appears that they would have behaved in a similar way if offered the opportunity by someone else*’.

Conclusion

[154] This court therefore finds both accused persons guilty of Counts 1 and 3, and finds both accused persons not guilty of count 2. They are accordingly convicted under count 1 and 3.

Signed, dated and delivered at Ile du Port on day of April 2024.

Govinden CJ