

SUPREME COURT OF SEYCHELLES

Reportable

MC5/2023

In the matter between:

THE REPUBLIC

(represented by Mrs. Nissa Thompson)

Applicant

and

REGILIO CLAIFIELLIS

(represented by Ms. Almeida)

Respondent

Neutral Citation: *Republic v Claifiellis* (MC5/2023) (11th December 2023).

Before: Adeline J

Summary: Application under the Anti-Money Laundering and Countering the Financing of Terrorism Act, 2020 as amended (AMLCFTA) forfeiture of cash seized and detained in euro 3101 and SCR90.00 converted in SCR 47,961.3064

Heard: 11th December 2023

Delivered: 11th December 2023

ORDER ON MOTION

Adeline, J,

- [1] This is an application by the Republic instituted by way of notice of motion supported by an affidavit made pursuant to Section 76(1) of the Anti-Money Laundering and Countering the Financing of Terrorism Act 2020, as amended, (“the AMLCFT ACT”) for forfeiture of cash seized and detained under the provisions of Section 74(3) and (4) of the AMLCFT ACT as amended, in the total sum of euros 3101 and SCR90.00 which converted into Seychelles rupees add up to 47,961.3064.
- [2] The Republic also applies for “any further other order as the Court shall see just and proper in all the circumstances of this case”.

[3] The Applicant's application for the orders being sought for is based on the following grounds as averred;

(a) "That for the reasons that have been elaborated upon as part of my affidavit, I have reasonable ground to believe that the specified property represents proceeds of crime.

(b) The fact that the Respondent declared the sum of euro 580 only upon arrival, yet excess cash in foreign currency was found in his possession. That had the cash been legitimate, the Respondent would have disclosed same to law enforcement authority upon arrival when he was asked to place all cash in his possession on the table.

(c) During various search instances, excess cash was found in the possession of the Respondent.

(d) The fact that the Respondent repeatedly failed to disclose excess cash found in his possession at different instances when he was asked to do so, particularly upon arrival and the euros 1,100 found concealed in his wallet by the SS & CRB officer and

(e) That concealment of proceeds of crime constitutes an offence of Money Laundering"

[4] The affidavit in support of the application is sworn by Police sergeant (Sgt) Terence Dixie currently attached to the Financial Crime Investigation Unit who was the investigating officer in this matter, and who is duly authorised to swear this affidavit on behalf of the Republic.

[5] *Inter alia*, it is averred by Sgt Dixie, that his affidavit in support of the application contains facts within his personal knowledge, save where otherwise appears, and where so appearing, he believes the same to be true.

[6] It is also averred by Sgt Dixie, that he has reasonable grounds for suspecting that the cash seized from the Respondent and detained, represents proceeds of crime or is intended to be used in connection with criminal conduct, namely, money laundering.

[7] The facts and circumstances of the case that are the basis giving rise to Sgt Dixie's reasonable grounds for suspecting that the cash seized and detained represents proceeds of

crime, or is intended to be used in connection with criminal conduct are borne out of his affidavit in support of the application dated 3rd November, 2023.

- [8] The Respondent who is represented by learned Counsel and who had been given the opportunity to file an affidavit in reply has failed to do so, and on its instructions, the Court was informed by learned Counsel that the Respondent will not file an affidavit in reply thus waving his right of reply.
- [9] I have carefully perused the affidavit of Sgt Dixie in support of the application which affidavit has not been challenged by the Respondent. I accept the averments in the affidavit as the facts that led to the seizure of the cash detained, which facts are uncontroverted. As such, I am satisfied, that the affidavit evidence of Sgt Dixie does give rise to reasonable grounds for suspecting that the euros 3101 and the SCR90.00 seized from the Respondent directly or indirectly represents proceeds of crime or is intended to be used in connection with criminal conduct, namely, money laundering.
- [10] In the circumstances, in exercise of the powers conferred upon this Court by virtue of Section 76(1) and Section 76(3) of the AMLCFT Act, I order the forfeiture to the Republic the euros 3101, and SCR90.00 which converted in Seychelles rupees add up to the total sum of SCR 47,961.3064.

Signed, dated and delivered at Ile du Port on 11th December 2023.

