

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO. HAC 086 OF 2009S**

**STATE**

**vs**

**DOREEN SINGH**

**Counsels** : **Ms. N. Tikoisuva for State**  
**Mr. M. Raza for Accused**

**Hearings** : **8<sup>th</sup>, 9<sup>th</sup>, 11<sup>th</sup>, 15<sup>th</sup> to 19<sup>th</sup>, 22<sup>nd</sup> to 26<sup>th</sup> and 29<sup>th</sup> to 30<sup>th</sup> October, 2012**

**Summing Up** : **1<sup>st</sup> November, 2012**

**Judgment** : **1<sup>st</sup> November, 2012**

**Sentence** : **25<sup>th</sup> February, 2013**

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**SENTENCE**

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1. In a judgment delivered on 1<sup>st</sup> November, 2012, the court found Doreen Singh guilty of the following three counts:

**FIRST COUNT**

**Statement of Offence**

**MONEY LAUNDERING:** Contrary to Sections 69(3)(a) and 2(a) of the Proceeds of Crime Act 1997.

**Particulars of Offence**

**DOREEN SINGH** in between the 24<sup>th</sup> of May, 2008 and 2<sup>nd</sup> September, 2008, at Suva in the Central Division, whilst being employed at ANZ Bank, Samabula directly or indirectly engaged in a transaction involving FEA

Cheque Numbers 085986, 088310 and 086635 in the total sum of **\$50,200.00**, that is proceeds of crime, knowing or ought to have reasonably known that the said **\$50,200.00** was derived or realized directly or indirectly from some form of unlawful activity.

#### **SECOND COUNT**

##### **Statement of Offence**

**MONEY LAUNDERING:** Contrary to Section 69(3)(a) and 2(a) of the Proceeds of Crime Act, 1997.

##### **Particulars of Offence**

**DOREEN SINGH** in between the 19<sup>th</sup> of September and 6<sup>th</sup> of November, 2008, at Suva in the Central Division, whilst being employed at ANZ Bank, Samabula directly or indirectly engaged in a transaction involving the withdrawals in the total sum \$11,180.00 from ANZ Bank Account No. 5551168 and the sum of \$10,200 from ANZ Account No. 9966779, that is proceeds of crime, knowing or ought to have reasonably known that the total sum of **\$21,380.00** was derived or realized directly or indirectly from some form of unlawful activity.

#### **THIRD COUNT**

##### **Statement of Offence**

**MONEY LAUNDERING:** Contrary to Section 69(3)(a) and 2(a) of the Proceeds of Crime Act 1997.

##### **Particulars of Offence**

**DOREEN SINGH** in between the 23<sup>rd</sup> of October, 2008 and 14<sup>th</sup> of February, 2009, at Suva in the Central Division, whilst being employed at ANZ Bank, Samabula directly or indirectly engaged in a transaction involving FEA Cheque Numbers 089379, 089652, 089651, 091225, 091467, 090111, to the total sum of **\$85,843.94**, that is proceeds of crime, knowing or ought to have reasonably known that the said sum of **\$85,843.94** was derived or realised directly or indirectly from some form of unlawful activity.

2. The summary of the case, was exactly the same as that put to the assessors by the prosecutor, and I will quote directly from the Summing Up "...According to the prosecution, the problem in this case started when one Erami Tute, a finance officer at the Fiji Electricity Authority (FEA) at the time, started producing FEA fraudulent cheques, between June 2008 and February 2009. Some of these fraudulent FEA cheques found their way to ANZ Bank, Samabula, where the accused worked as a teller. According to the prosecution, Mohammed Mukhtar Maqbool, the accused's defacto-husband, often did jobs for the FEA. He somehow became

acquainted with Erami Tute, and some of these FEA fraudulent cheques found their way to Samabula ANZ Bank, through Mohammed Mukhtar Maqbool. When the fraud at FEA was discovered, Erami Tute and Mohammed Mukhtar Maqbool fled to Australia in April or May 2009. The case against them is still pending.

3. On Count No. 1, according to the prosecution, three fraudulent FEA cheques were involved, that is, Cheque No. 085986, in the sum of \$8,750, payable to Doreen Singh, (the accused) [Prosecution Exhibit 9 (c)]; Cheque No. 088310, in the sum of \$9,520, payable to Amna Khaton (Mohammed Mukhtar Maqbool's mother and accused's defacto mother-in-law) [Prosecution Exhibit 1(f)], and Cheque No. 086635, in the sum of \$31,930, payable to Sherina Khatoon (Mohammed Mukhtar Maqbool's sister and accused's defacto sister-in-law) [Prosecution Exhibit 2(f)]. According to the prosecution, all the above fraudulent FEA cheques were generated by Erami Tute. All the cheques were taken to Samabula ANZ Bank by Mohammed Mukhtar Maqbool, the accused's defacto-husband. According to the prosecution, the accused directly or indirectly processed the cheques in term of its deposits and withdrawals. She knew the cheques were prepared in such a way to avoid tax, and thus was aware that the cheques were derived directly or indirectly from some form of unlawful activity.
4. On Count No. 2, according to the prosecution, Doreen facilitated the deposit of \$9,520 to Mohammed Mukhtar Maqbool's mother, Amna Khatoon's ANZ Bank account 5551168, from an FEA fraudulent Cheque No. 088310. According to the prosecution, Maqbool asked her to do the above, and she complied. She knew the cheque were payable to Amma Khatoon to avoid tax, an unlawful activity. Then she processed and facilitated six withdrawals from Account No. 5551168, between 19<sup>th</sup> September 2008 to 5<sup>th</sup> November 2008, knowing fully well the funds transacted were proceeds of crime. The above was repeated with FEA fraudulent Cheque No. 088792, in the sum of \$10,863, which was deposited in Khairul Nisha's ANZ Bank Account No. 9966779. Khairul Nisha was Maqbool's aunty. The deposit was made to avoid tax, an unlawful activity. According to the prosecution, Doreen facilitated the withdrawal of \$10,200 from Nisha's account 9966779, knowing fully well, it was proceeds of crime.

5. On Count No. 3, according to the prosecution, six FEA fraudulent cheques were involved. The cheques were as follows: Cheque No. 089379, in the sum of \$9,545, payable to Mehimood Ahmed [Prosecution Exhibit 3(e)]; Cheque No. 089652, in the sum of \$6,900, payable to John Mohammed [Prosecution Exhibit 4(f)]; Cheque No. 089651, in the sum of \$7,000, payable to Rosalina Khan [Prosecution Exhibit 5(e)]; Cheque No. 091225, in the sum of \$25,200, payable to Shameel Shafique [Prosecution Exhibit 6(f)]; Cheque No. 091467, in the sum of \$18,413, payable to Begum Mubarak [Prosecution Exhibit 6(i)] and Cheque No. 090111, in the sum of \$18,785.94, payable to Faizal Ali [Prosecution Exhibit 8(c)]. According to the prosecution, Erami Tute of FEA generated all the above fraudulent cheques. The above cheques were handed to Doreen by Mohammed Maqbool – her defacto husband. According to the prosecution, Doreen processed the deposits and the withdrawals, and knew she was dealing with proceeds of crime. According to the prosecution, Doreen processed a total of \$85,843.94 from the above cheques, and gave the same to her defacto husband. Given the above, the prosecution is asking you, as assessors and judges of fact, to find the accused guilty as charged, on all counts. That was the case for the prosecution...”
6. On 1<sup>st</sup> November, 2012, the three assessors accepted the prosecution’s case, and unanimously found the accused guilty as charged on the three counts. The court agreed, and convicted the accused accordingly on the three counts.
7. This case was a prosecution under section 69(2)(a) and 3(a) of the Proceeds of Crime Act 1997. It was not a prosecution under section 69(2)(a) and 3(b) of the Proceeds of Crime Act 1997, which was the case in State v Monika Monita Arora, Criminal Case No. HAC 125 of 2007S, High Court, Suva. In Monika Arora’s case (supra), it was a case of an employee (ie. Monika) disposing of \$472,466.47 cash, being proceeds of crime, for her and other's benefit, when she knew she stole the same from her employer (ie. Vinod Patel & Company), as a result of the falsification of her employer’s book of accounts. In this case, it was a case of someone working in a bank as a teller, and knowingly assisting others, cash fraudulent Fiji Electricity Authority (FEA) cheques. In Monika’s case (supra), Monika duped several ANZ Bank tellers, to obtain the \$472,466.47, which

she knew were the proceeds of crime. In this case, Doreen, an ANZ Bank teller, duped the ANZ Bank, to assist her defacto-husband, obtain a total of \$157,423.94, which she knew were the proceeds of crime. There were strong circumstantial evidence and direct evidence to show she knew she was dealing with proceeds of crime.

8. However, the law, treats the above cases equally. It prescribed the same penalty. Section 69(2)(a), 3(a) and 3(b) of the Proceeds of Crime Act 1997, reads as follows:

**“(2) A person who after the commencement of this Act, engages in money laundering commits an offence and is liable on conviction, to:**

**(a) if the offender is a natural person – a fine not exceeding \$120,000 or imprisonment of a term not exceeding 20 years, or both;**

**(3) A person shall be taken to engage in money laundering if, and only if:**

**(a) the person engages, directly or indirectly in a transaction that involves money, or other property, that is proceeds of crime, or**

**(b) the person receives, possesses, conceals, uses, disposes of or bring into Fiji any money or other property that are proceeds of crime, ...**

**and the person knows, or ought reasonably to know, that the money or other property is derived or realised, directly or indirectly, from some form of unlawful activity...”**

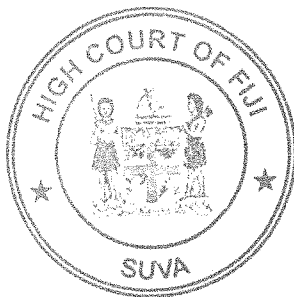
9. Because section 69(2)(a) prescribed the same penalty for section 69(3)(a) and section 69(3)(b) Proceeds of Crime 1997 prosecutions, I am thereby persuaded to accept the prosecution's submission that, the court must apply the sentencing tariff applied in **State v Monika Monita Arora** (supra). In **Monika Arora's** case (supra), it was accepted that, Parliament treats “money laundering” offences as a serious matter, with the maximum penalty described above. Even the Fiji Court of Appeal in **O'Keefe v State**, Criminal Appeal No. AAU 0028 of 2007, recognized the seriousness of the offence of “money laundering”, when it said in paragraph 15, the following:

**“...Money laundering is clearly potentially a very serious offence. It can be, and is, used to disguise the true nature of money derived from criminal activity and so make it available**

**for legitimate use...That is why Parliament imposed the heavy penalties under the Proceeds of Crime Act...”**

10. As members of the Judiciary, our role is to interpret and apply the will of Parliament/Law Makers, as enshrined in Section 69(2)(a), 3(a) and 3(b) of the Proceeds of Crime Act 1997. Our role is not to defeat the intention of Parliament, as expressed in the words of Section 69 of the Proceeds of Crime Act 1997. Our role is to apply the will of Parliament to the facts of this case. In my mind, Doreen Singh's offending in this case, was a very serious matter, despite the strong plea in mitigation and her sentence submission, submitted by her counsel. People who work in the bank and other financial institutions are in a privileged position. They have the ability to influence transactions that result in the withdrawal of large sums of money, as in this case. In this case, the fraudulent activities emanating from Erami Tute at FEA, which passed through Mohammed Mukhtar Maqbool (Doreen's defacto-husband) would have been unsuccessful, if it wasn't for Doreen Singh. With the utmost respect to defence counsel's submissions to the contrary, in my view, Doreen Singh was the main culprit in this case, because she, metaphorically speaking, literally opened the ANZ Bank's safe to Erame Tute and her defacto-husband, when she deliberately flouted bank procedures and policies.
11. Consequently, I adopt what I said in the **State v Monika Monita Arora** (supra) and accept that the tariff for money laundering offences in Fiji is a sentence between 8 to 12 years imprisonment. The actual sentence will depend on the aggravating and mitigating factors.
12. The mitigating factors in this case were as follows:
  - (i) At the age of 34 years, this is your first offence;
  - (ii) This case has been hanging over your head since the 14<sup>th</sup> August, 2009, when you first appeared in the Magistrate Court, and that was punishment in itself;
  - (iii) You have been remanded in custody since 1<sup>st</sup> November, 2012, when you were found guilty as charged – that is, a total of approximately 4 months.
13. The aggravating factors were as follows:

- (i) You seriously breached your employer's trust in you. In other words, ANZ Bank depended on you to serve the public honestly and diligently. As a teller, you were expected to be upright, honest and hard working. But you turned into a devious and lying ANZ Bank teller, by openly flouting bank procedures and policies. In your bank work, you secretly showed loyalty to your corrupt defacto husband Mohammed Mukhtar Maqbool, by following his will, instead of the institution that paid you, that is, ANZ Bank. You deliberately undermined your ANZ fellow-workers and supervisors, by secretly flouting bank rules and procedures, and assisted your corrupt defacto-husband obtained a total of \$157,423.94, from ANZ Bank.
- (ii) You showed no remorse in court, to this day.
14. On Count No. 1, I start with a sentence of 8 years imprisonment. I add 2 years for the aggravating factors, making a total of 10 years imprisonment. I deduct 4 years for the mitigating factors, leaving a balance of 6 years imprisonment. On Count No. 1, I sentence you to 6 years imprisonment, with a non-parole period of 5 years imprisonment, effective forthwith.
15. On Count No. 2 and 3, I repeat the above process and sentence. All the sentences are concurrent to each other, that is, a total sentence of 6 years imprisonment, with a non-parole period of 5 years imprisonment.
16. Before I leave this case, the above sentence is a warning to those who work in Banks and other financial institutions, not to undermine their employers from within, or they will suffer the same fate as Doreen Singh.



**Salesi Temo**  
**JUDGE**

**Solicitors for the State :** Office of Director of Public Prosecution, Suva.

**Solicitors for Accused :** M. Raza & Associates, Barristers & Solicitors, Suva.