

**IN THE HIGH COURT OF FIJI**  
**AT LAUTOKA**  
**CRIMINAL JURISDICTION**

**CRIMINAL CASE NO.: 067 OF 2009**

STATE

-v-

FAIYAZ KHAN

**Counsels** : Mr. F. Lacanivalu for the State

Mr. I Khan for the accused

**Date of Trial** : 28 October -31 October 2013

**Date of Summing Up** : 1 November 2013

**SUMMING UP**

Madam Assessor and Gentlemen Assessors:

1. We have now reached the final phase of this case. The law requires me – as the Judge who presided over this trial –to sum up the case to you on law and evidence. Each one of you will then be called upon to deliver your separate opinion, which will in turn be recorded. As you listened to the evidence in this case, you must also listen to my summing up of the case very carefully and attentively. This will enable you to form your individual opinion as to the facts in accordance with the law with regard to the innocence or guilt of the accused person.
2. I will direct you on matters of law which you must accept and act upon.

3. On matters of facts, however, which witness you consider reliable, which version of the facts to accept or reject, these are matters entirely for you to decide for yourselves. So if I express any opinion on the facts of the case, or if I appear to do so, it is entirely a matter for you whether to accept what I say, or form your own opinions.
4. In other words you are the Judges of fact. All matters of fact are for you to decide. It is for you to decide the credibility of the witnesses and what parts of their evidence you accept as true and what parts you reject.
5. The counsel for Prosecution and the counsel for the defence made submissions to you about the facts of this case. That is their duty as the Prosecution Counsel and the defence counsel. But it is a matter for you to decide which version of the facts to accept, or reject.
6. You will not be asked to give reasons for your opinions, and your opinions need not be unanimous although it is desirable if you could agree on them. I am not bound by your opinions, but I will give them the greatest weight when I come to deliver my judgment.
7. On the matter of proof, I must direct you as a matter of law, that the accused person is innocent until he is proved guilty. The burden of proving his guilt rests on the prosecution and never shifts.
8. The standard of proof is that of proof beyond reasonable doubt. This means that before you can find the accused guilty, you must be satisfied so that you are sure of his guilt. If you have any reasonable doubt as to his guilt, you must find him not guilty.
9. Your decisions must be solely and exclusively upon the evidence, which you have heard in this court and upon nothing else. You must disregard anything you might have heard or read about this case, outside of this courtroom. Your duty is to apply the law as I explain to you to the evidence you have heard in the course of this trial.
10. Your duty is to find the facts based on the evidence and apply the law to those facts. Approach the evidence with detachment and objectivity. Do not get carried away by emotion.
11. As assessors you were chosen from the community. You, individually and collectively, represent a pool of common sense and experience of human affairs in our community

which qualifies you to be judges of the facts in the trial. You are expected and indeed required to use that common sense and experience in your deliberations and in deciding.

12. In assessing the evidence, you are at liberty to accept the whole of the witness's evidence or part of it and reject the other part or reject the whole. In deciding on the credibility of any witness, you should take into account not only what you heard but what you saw. You must take into account the manner in which the witness gave evidence. Was he/she evasive? How did he/she stand up to cross examination? You are to ask yourselves, was the witness honest and reliable.
13. In this case the prosecution and the defence have agreed on certain facts. The agreed facts are part of evidence. You should accept those agreed facts as accurate and truth. They are of course an important part of the case. The agreement of these facts has avoided the calling of number of witnesses and thereby saved a lot of court time.
14. The agreed facts of this case are:

The following exhibits are agreed between the Prosecution and the Defendant under the provisions of section 135 of the Criminal Procedure Decree of 2009.

1. Police Search List at the Office of Coral Coast Hardware dated 14<sup>th</sup> of September 2008.
2. Invoice from Bombay Trading (Investments) Ltd – No. 14342 to Coral Coast Hardware dated 28/08/08 amounting to \$847.15.
3. Invoice from Bombay Trading (Investments) Ltd – No. 14343 to Coral Coast Hardware dated 28/08/08 amounting to \$265.75.
4. Invoice from Bombay Trading (Investments) Ltd – No. 14344 to Coral Coast Hardware dated 28/08/08 amounting to \$737.50.
5. Invoice from Bombay (Investments) Ltd – No. 59207 Received from Coral Coast Hardware amounting to \$1,850.40.
6. Invoice from Tubemakers & Roofmart (SP) Ltd – No. 1600012470 to Coral Coast Hardware dated 29/08/08 amounting to \$5, 860.63.
7. Invoice from Multiline Distributors Ltd – Cust. No. C027 for the month of 31 August 2008 amounting to \$965.71.
8. Invoice to Multiline Distributors Ltd – No. 5200 to Coral Coast Hardware Sigatoka dated 05/09/08 on receiving cash of \$965.71.

The following statements are further agreed between the Prosecution and the Defendant under the provisions of section 135 of the Criminal Procedure Decree of 2009.

1. Abhi Ram
2. Josefa Vakalala
3. Monita Devi
4. Betty Roko
5. Maimun Singh
6. Rigamoto Kamoe
7. Rajendra Patel
8. Mukeshwar Singh
9. Amrita Reddy
10. Shalendra Kumar
11. Nicolaus Praniel Deo
12. DC Asesela Tuitai
13. Savenaca Siwatibau

As a result, as a matter of law, you may take the above facts, as proven beyond reasonable doubt by the prosecution. They are not disputed facts.

15. The charges against accused are as follows:

**COUNT 1**

***Statement of Offence***

**UTTERING FORGED DOCUMENT:** Contrary to Section 343 (1) of the Penal Code, Cap 17.

***Particulars of Offence***

**FAIYAZ KHAN** s/o Mubarak Khan, on the 27<sup>th</sup> day of August 2008 at Sigatoka in the Western Division, knowingly and fraudulently uttered a Fiji Islands Revenue & Customs Authority cheque number 230415 in the sum of \$186,561.65 knowing the same to be forged.

## **COUNT 2**

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

**OBTAINING MONEY ON FORGED DOCUMENT:** Contrary to Section 345 (a) of the Penal Code, Cap 17.

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

**FAIYAZ KHAN** s/o Mubarak Khan, on the 27<sup>th</sup> day of August 2008 at Sigatoka in the Western Division, obtained the sum of \$186,561.65 by virtue of a forged instrument namely Fiji Islands Revenue & Customs Authority cheque number 230415 knowing the same to be forged.

## **COUNT 3**

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

**MONEY LAUNDERING:** Contrary to Section 69 (3) (a) of the Proceeds of Crime Act, Cap 27.

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

**FAIYAZ KHAN** s/o Mubarak Khan, on the 28<sup>th</sup> day of August 2008 at Ba in the Western Division, engaged directly in a transaction in particular the purchasing of hardware materials from Bombay Trading (Investments) Limited with \$1,850.40 that was proceeds of crime, knowing that the aforesaid money was derived indirectly from an unlawful activity namely the forgery of Fiji Islands Revenue & Customs Authority cheque number 230415.

## **COUNT 4**

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

**MONEY LAUNDERING:** Contrary to Section 69 (3) (a) of the Proceeds of Crime Act, Cap 27.

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

**FAIYAZ KHAN** s/o Mubarak Khan, on the 29<sup>th</sup> day of August 2008 at Lautoka in the Western Division, engaged directly in a transaction in particular the purchasing of hardware materials from Tubemakers & Roofmart (SP) Limited with \$5,860.63 that was proceeds of crime, knowing that the aforesaid money was derived indirectly from an

unlawful activity namely the forgery of Fiji Islands Revenue & Customs Authority cheque number 230415.

## COUNT 5

### *Statement of Offence*

**MONEY LAUNDERING**: Contrary to Section 69 (3) (a) of the Proceeds of Crime Act, Cap 27.

### *Particulars of Offence*

**FAIYAZ KHAN** s/o Mubarak Khan, on the 05<sup>th</sup> day of September 2008 at Sigatoka in the Western Division, engaged directly in a transaction in particular the purchasing of hardware materials from Multiline Distributors Limited with \$965.71, that was proceeds of crime, knowing that the aforesaid money was derived indirectly from an unlawful activity namely the forgery of Fiji Islands Revenue & Customs Authority cheque number 230415.

16. I will now deal with the elements of the offences. The offence of Uttering Forged Document is defined under Section 343 (1) of the Penal Code. Any person who knowingly and fraudulently utters any forged document is guilty of the offence of like degree and is liable to the same punishment as if he himself had forged the document.

17. The elements of the offence of Uttering Forged Document are:

- (i) The accused,
- (ii) With intend to defraud,
- (iii) Presented a forged cheque for payment to his account,
- (iv) With knowledge that the cheque was forged.

18. A document is false if, in a material respect it tells a lie about itself. Changing the name of the payees without authority is forgery, as is signing the cheque without authority. The accused is not charged with forgery in this case. Thus State must only prove that accused presented a forged cheque with the knowledge that it was forged with intend to defraud.

19. Knowledge is one of the main ingredients to all three counts, therefore I will address about "knowledge" before we proceed to other two counts. In fact the word knowledge has several meaning. Here the Counsels were saying about "intention".
20. In the Criminal Law the word offence has two main ingredients, like a coin has two sides. One is the '*actus reus*' means action, someone is doing something, for example somebody is cutting a person with knife. The other side of the coin is '*mens rea*' that is intention. If a person does an act with the intention then he has to take responsibility of his action. For an example, if he cuts another person with the intention to cause the death of the person then he commits an offence. If a medical doctor cuts a patient during a surgery, he commits the act but he has no criminal intention therefore he commits no offence. If there is no intention and action together, there is no offence. So it is important if you want to come to conclusion a person committed an offence these two main ingredients must be proved, if not he commits no offence.
21. A person's intentions are locked up in mind. They are not often spoken out. The intent, therefore, cannot be physically observed. However this intent can be proved by what one tells others, or can be inferred from one's conduct prior to, during and subsequent to the act or conduct in question.
22. A person's state of mind is as much a question of fact for you to determine as any other question of fact. It is not possible to have direct evidence of this. No witness can look into the Accused's mind and describe what he was thinking at any particular time. However, it is something that can often be inferred from all the proved facts and circumstances.

They include, for instance, what the Accused himself actually did. That will often be a very important matter. A person's actions, in themselves, may clearly show his purpose or intention. Other matters that may be relevant are:

- (i) What the Accused said and did before the alleged offence,
- (ii) What the Accused said at the time of the alleged offence, and
- (iii) What the Accused said and did after the alleged offence (including his Caution interview to the police)

23. You should consider all the proved facts and circumstances, including those I have just mentioned, and from them you are entitled to draw proper inferences as to the Accused's beliefs, knowledge, purposes and intentions to come to the conclusion that the Accused had a specific intention or knowledge at the time of the alleged offence, you would need to be satisfied that this is the logical inference to be drawn from the proved facts and is not mere speculation or guesswork. As it is an element of the crime that must be proved by the state you must be able to infer that intention or knowledge beyond reasonable doubt.

24. The offence of Obtaining money on Forged document is defined in Section 345 (a) of the Penal Code. Any person who intend to defraud, demands, receives, or obtains, or causes or procures to be delivered, paid or transferred to any person, or endeavours to receive or obtain or to cause or to procure to be delivered, paid or transferred to any person any money, security for money or other property, real or personal-

Under, upon, or by virtue of any forged instrument whatsoever, knowing the same to be forged:

Is guilty of felony.

25. The elements of the offence of Obtaining money on Forged Document are:

- (i) The accused,
- (ii) With intend to defraud,
- (iii) Obtained credit to his account,
- (iv) By virtue of forged cheque.

26. This offence too there is no dispute that the accused obtained credit to his account by virtue of a FRCA cheque. Only issue is whether accused was acting with intend to defraud.

27. The offence of Money Laundering is defined in Section 69 (3) of the Proceeds of Crime Act No.27 of 1997. 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

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

28. The words "Proceeds of the crime" , "Serious offence" and "Unlawful activity" are defined in Section 3 of the Proceeds of Crime Act as:

"Proceeds of the crime means:

- (a) Proceeds of a serious offence; or
- (b) Any property that is derived or realized, directly or indirectly, by any person from acts or omissions that occurred outside Fiji and would, if the acts or omissions had occurred in Fiji, have constituted a serious offence"



“Serious offence means an offence of which the maximum penalty prescribed by law is death, or imprisonment for not less than 06 months”.

“Unlawful activity means an act or omission that constitutes an offence against a law in force in Fiji or a foreign country.”

29. As a matter of law I direct you that the counts 1 and 2 in the information, alleges serious offences according to the Proceeds of Crime Act, 1997.

30. The elements of the offence of Money Laundering are:

- (i) The accused,
- (ii) Involved in a transaction of money,
- (iii) Which money represents the proceeds of crime,
- (iv) The accused had knowledge that money was generated by crime/unlawful activity.

31. The first three elements there is no dispute considering the agreed facts. Only issue is whether the accused had knowledge that the money was generated by crime/unlawful activity. If you find accused guilty to either first or second counts above then that is sufficient to establish the knowledge on the part of the accused that money was generated by crime/illegal activity.

32. Apart from the elements of the offence, the identity of the person who alleged to have committed the offence is very important. There must be positive evidence beyond reasonable doubt on identification of the accused-person and connect him to the offence that he alleged to have been committed. There is no dispute in this case as the accused is the person who presented the FRCA cheque in question to the ANZ bank.

33. Proof can be established only through evidence. Evidence can be from direct evidence that is the evidence of a person who saw it or by a victim who saw, heard and felt the offence being committed.

34. Documentary evidence is also important in a case. Documentary evidence is the evidence presented in the form of a document. In this case, the cheques, search lists and the invoices are example if you believe that such a record was made. Then you can act on such evidence. You can take into account the contents of the document as all the documents presented in this case are not disputed by the defence.

35. In assessing evidence of witnesses you need to consider a series of tests. They are for examples:

**Test of means of opportunity:** That is whether the witness had opportunity to see, hear or feel what he/she is talking of in his/her evidence. Or whether the witness is talking of something out of pace mechanically crated just out of a case against the other party.

**Probability and Improbability:** That is whether what the witness was talking about in his or her evidence is probable in the circumstances of the case. Or, whether what the witness talked about in his/her evidence is improbable given the circumstances of the case.

**Belatedness:** That is whether there is delay in making a prompt complaint to someone or to an authority or to police on the first available opportunity about the incident that was alleged to have occurred. If there is a delay that may give room to make-up a story, which in turn could affect reliability of the story. If the complaint is prompt, that usually leaves no room for fabrication. If there is a delay, you should look whether there is a reasonable explanation to such delay.

**Spontaneity:** This is another important factor that you should consider. That is whether a witness has behaved in a natural or rational way in the circumstances that he/she is talking of, whether he/she has shown spontaneous response as a sensible human being and acted accordingly as demanded by the occasion.

**Consistency:** That is whether a witness telling a story on the same lines without variations and contradictions.

36. You need to consider all those matters in evaluating the evidence of witnesses. You shall, of course, not limit to those alone and you are free to consider any other factors that you may think fit and proper to assess the evidence of a witness. I have given only a few illustrations to help what to look for to evaluate evidence.

37. I will now deal with the summary of evidence in this case.

38. Prosecution called DC Simone Vadugu as the first witness. He is a police officer with 20 years experience. He is based in the Anti Money Laundering Unit for 6 years. He is the investigating officer of this case.

39. On 27.8.2008 he had received information about eight FRCA cheques being stolen from Nadi Airport post office. On 11.9.2008 he had received information that one of those cheques was cashed at the ANZ branch at Sigatoka. The cheque was cashed by Coral Coast Hardware. He identified the original cheque and produced the same marked PE 1. The accused had cashed the cheque on 27.8.2008.
40. On 12.9.2008 he had obtained a search warrant and gone to ANZ bank branch at Sigatoka. He further submitted the search list and Deposit receipt obtained from this branch. The proprietor of Coral Coast Hardware is the accused. He also produced the three cheques written by the accused to withdraw money from his account PE 4 to the value of \$70,000 written on 29.8.2008. PE6 to the value of \$60,000 and PE 7 to the value of \$40,000.
41. He had conducted a search at the residence of the accused on 12.9.2008 and submitted the search list marked PE 8 for the items recovered. From Lautoka ANZ bank branch he had obtained the CD containing video footage of accused withdrawing money and produced the same CD marked PE 9.
42. On 13.9 2008 he had caution interviewed the accused. It was commenced at 1550 hours and concluded at 0050 hours on 14.9.2008. The accused was not forced or assaulted before the interview. He was not threatened to make an admission. The interview was in question and answer format in English. The accused was not assaulted during the interview. The accused was given opportunity to consult family member or lawyer. The accused had called his lawyer. The accused was given opportunity to rest. During the interview no inducement, promise or threat made to the accused. After the interview the content was read over to the accused and opportunity was given to him to add, alter or delete. He had counter signed. The cautioned statement was read out and marked as exhibit PE 10.
43. A search was done at the Coral Coast Hardware on 14.9.2008, and he had taken several invoices to the custody. These are attached to the agreed facts. Another search was done on 25.1.2009 and some hardware materials were taken to the custody. He produced the search lists. Third search was done on 25.3.2009.
44. Under cross examination this witness admitted that accused cooperate with the investigation. Accused had given a name John as the person who gave him the cheque. This person was later identified as Salendra Sen Sinha a con man who had conned more

than 100 people. He had forged FRCA cheques earlier. For the cheque in question he was charged and he had pleaded guilty and was sentenced for 4 years.

45. He further admitted that accused is a person with good character and told police that he did not know that that he committed an offence.
46. The next witness for the prosecution was Satish Chand Dip. He is an employee of FRCA since 1982 and presently acting manager of the customer inquiry center. He had processed a Vat return application of the accused and had approved the same. A payment of \$1,384 was approved. This for the period January to March 2008. When questioned by court he said that FRCA is giving Vat and Tax returns only on application.
47. Prosecution called Umlesh Chandra as the third witness. He is working in FRCA since March 2005 as the National Manager Information technology. He explained the procedure of Vat refund. He observed a discrepancy in the PE 1 as the TIN number there is normally issued to an individual. Under cross examination he admitted that common man will not know about difference in TIN numbers.
48. The next witness for the prosecution was Joseph Work. He had worked in the ANZ bank for 21 years. On 27.8.2009 he was employed at ANZ branch Sigatoka as an assistant manager. He had known the accused since 2008. Accused had called him on 27.8.2008 and told that he is coming from Lautoka to cash a cheque and requested special answer for that cheque. This is to cash the cheque same day with a fee being paid. When the accused came he had called the account controller of FRCA account David Dudley at ANZ house, Suva and had taken the cheque to his manager. The cheque was given to another employee for further check. After 1 hour money was available in accused's account. Accused wanted \$60,000 same day. He wrote and cashed a cheque for \$60,000. Further \$70,000 was withdrawn on 29.8.2008. Further withdrawal of \$40,000 was done at Lautoka branch. The accused had called from Lautoka when he was in front of teller.
49. Under cross examination he denied accused requesting him to advice whether cheque was genuine or asking to check with FRCA. He further stated he only inquired about funds.
50. The next witness for the prosecution was Nirma. She had worked as an account clerk in Coral Coast Hardware for 5 years. She had kept all the accounts and had prepared the wages. On 27.8.2009 a person (new guy) had come and asked for Faiyaz Khan.

Then he had gone away. After that she had gone to Lautoka. After coming back to Sigatoka the accused had gone to the bank. After coming from bank, the accused had told her that he did a sale of \$187,000. She had checked with the bank. The accused had told her that he withdrew \$60,000 and gave \$45,000 to the person who gave the cheque. The details of what was done with this \$15,000 are written in her 2006 personal diary. She had done so on the instructions of the accused. This exhibit was tendered marked PE 22. There were two more withdrawals of \$60,000 and \$70,000. Those were used to buy material from Tube makers and Carpenter's Hardware.

51. Under cross examination she stated that during the five years she worked with the accused no illegal funds were obtained to run the company. The accused is from a respectable family in Sigatoka and a person with good character.
52. Prosecution called Ms. Sherin Lata Narayan as the next witness. She had cashed the cheque for \$60,000 on 27.8.2008 after inquiring from Mr. Work, the account controller.
53. She was not cross examined by the defence.
54. The next witness for the prosecution was Mr. Pravin Kumar. He had prepared the Vat return for Handy Heart Marketing Ltd. on 6.8.2008. Although he had lodged the same he had not received any assessment from FRCA. One director of this company is Pravinesh Singh. He was not cross examined by the defence.
55. The last witness for the prosecution was Ms. Dulari Doras. She had worked in FRCA as tax auditor in August 2008. Eight FRCA cheques sent to the Nadi airport post office were stolen at that time. Some of these were recovered from ANZ bank and from the police officers. In all of those the names were altered. In two cheques the TIN number and the amount were also altered. She identified PE 1 as one of the cheques stolen. The alterations are that the name was altered from Pravinesh Singh to Coral Coast Hardware. The TIN number was altered from 19 series to 11 series. The amount was altered from \$1,400 to \$181,561.65.
56. When cross examined, she said according to investigations conducted, the cheques were stolen by post master and person named Sinha. This Sinha had stolen several cheques. He was charged and sent to prison.
57. After this evidence prosecution closed their case with the evidence led, the exhibits PE 1 to 22 and the agreed facts.

58. You watched all witnesses giving evidence in court. What was their demeanour like? How they react to being cross examined and re-examined? Were they evasive? How they conduct themselves generally in Court? Given the above, my directions on law, your life experiences and common sense, you should be able to decide whether witness's evidence, or part of a witness's evidence is reliable, and therefore to accept and whether witness's evidence, or part of evidence, is unreliable, and therefore to reject, in your deliberation. If you accept the evidence of any witness beyond reasonable doubt then you have to decide whether that evidence is sufficient to establish the elements of the charges.
59. It is up to you to decide whether the accused made a statement under caution voluntarily to DC Simione. If you are sure that the caution interview statement was made freely and not as a result of threats, assault or inducements made to the accused by persons in authority then you could consider the facts in the statement as evidence. Then you will have to further decide whether facts in this caution interview statement are truthful. If you are sure that the facts in the caution interview are truthful then you can use those to consider whether the elements of each charge are proved by this statement.
60. After the prosecution case was closed you heard me explaining the accused his rights in defence.
61. The Accused elected to remain silent. That is a right guaranteed for the accused. You must not make any adverse inference against the accused from the fact that he did not give evidence. He is presumed innocent until he is proven guilty.
62. I have summarized all the evidence before you. But, still I might have missed some. That is not because they are unimportant. You heard every item of evidence and you should remind yourselves of all that evidence and from your opinions on facts. What I did was only to draw your attention to the salient items of evidence and help you in reminding yourselves of the evidence.
63. The defence in this case is not disputing the *actus reus* or the physical act in respect of each count. They are only disputing the *mens rea* or the mental element of each count that the accused had no intention or knowledge. It is up to you to decide whether the accused had passed the test of a reasonable man in the given circumstances, that he was acting in good faith or given his position in society and his knowledge he should

have known that the FRCA cheque was a forged one but still went and cashed the same.

64. In this regard the caution interview statement of the accused may be helpful for you.

Question 55: Is this your Vat Refund cheque?

Answer: No

Question 56: Was this cheque posted to you in your post office box?

Answer: No

Question 57: How did you receive this cheque?

Answer: It was personally hand delivered to me by one Indian man namely John.

Question 66: What happened then?

Answer: He came in the morning about 10.00 am on 27/8/08 and we met and he told me that he is waiting for his payment and I told him that I am very busy and I have to go to Lautoka High Court and he asked me to give him my Vat TIN number and signed a deposit slip from ANZ. Also to give him my account number and before that I asked him what you are going to do with it and he stated that it is for his reference, then I signed the deposit slip with my account number on it and Vat TIN number.

Question 67: Did you meet John, on your way back?

Answer: He showed me the deposit slip with my account number, my signature and the date also with amount of \$ 186,561.65 also on the cheque, I then asked him why did you make this cheque in my name and he said that this was the Vat refund for his company and he has made arrangements with Inland Revenue for his Vat return to pay for the materials of the hardware from my hardware shop. I then took the cheque and went to my shop.

65. The TIN number of the accused in his tax return (PE 21) is the same number in the FRCA cheque PE 1. You heard the evidence of Umlesh Chandra. He observed a discrepancy in the PE 1 as the TIN number that is normally issued to an individual. Under cross examination he admitted that common man will not know about difference in TIN numbers. The TIN number is therefore for Mr. Faiyaz Khan (accused) and it is not a TIN number for Coral Coast Hardware. It is for you to decide as assessors whether the accused should have known that this TIN number is his personal TIN number and that is not of the Coral Coast Hardware and therefore the cheque is a forged cheque on the face of it.

66. Remember, the burden to prove the accused's guilt beyond reasonable doubt lies with the prosecution throughout the trial, and never shifts to the accused, at any stage of the trial. The accused is not required to prove his innocence, or prove anything at all. In fact, he is presumed innocent until proven guilty beyond reasonable doubt.
67. If you accept the prosecution's version of events, and you are satisfied beyond reasonable doubt so that you are sure of accused's guilt of each charge you must find him guilty for each charge. **You have to consider evidence against each charge separately.** If you do not accept the prosecution's version of events, and you are not satisfied beyond reasonable doubt so that you are not sure of the accused's guilt, you must find him not guilty as charged. The fact the accused is guilty of one count does not mean that he is guilty of the other counts as well.
68. Your possible opinions are as follows:
- |       |  |                              |
|-------|--|------------------------------|
| (i)   | First count of Uttering a False document           | Accused Guilty or Not Guilty |
| (ii)  | Second count of Obtaining money on Forged Document | Accused Guilty or Not Guilty |
| (iii) | Third count of Money Laundering                    | Accused Guilty or Not Guilty |
| (iv)  | Fourth count of Money Laundering                   | Accused Guilty or Not Guilty |
| (v)   | Fifth count of Money Laundering                    | Accused Guilty or Not Guilty |
69. You may now retire to deliberate on the case, and once you have reached your decisions, you may inform our clerks, so that we could reconvene, to receive the same.
70. Any re-directions?

Sudharshana De Silva  
**JUDGE**

**At Lautoka**  
**01 November 2013**

**Solicitors for the State : Office of the Director of Public Prosecution, Lautoka**  
**Solicitors for the Accused: Mr Iqbal Khan**