

IN THE MAGISTRATES' COURT OF FIJI

AT SUVA

Criminal Case : 391/2015

STATE

V

MANJEET SINGH

Counsel : Ms.J.Prasad and Ms.L.Bogitini for the State
Ms.B.Malimali for the Accused

Date of Judgment : 30th of March 2017

Date of Sentence : 06th of April 2017

SENTENCE

1. **MANJEET SINGH**, you were convicted after a hearing to 3 counts of Money Laundering contrary to section 69 (2) (a) and 3(a) (b) of the Proceeds of the Crimes Act No 27 of 1997 and section 25(a) of the Proceeds of Crime (Amendment) Act No 07 of 2005.
2. During the hearing the following facts were proved beyond reasonable doubt by the prosecution. You were staying with Sat Narayan (1st complainant) in his home and had access to his personal bank details. Between the 5th day of December 2013 and the 16th of December of 2013 you were dealing with funds coming to your account from his BSP account. Further during the same period you were engaged in transactions from one Arti Reddy's BSP account. The funds were coming to her account from the Sat Narayan and Deo Chand (2nd complainant) accounts. These funds were withdrawn unlawfully by your co-accused using internet banking. You planned with him to withdraw funds from the victims and were aware that these were from unlawful source.
3. The maximum penalty for Money Laundering is 20 years imprisonment or a fine of \$120,000 or both.

4. In State v Singh [2015] FJHC 785; HAC250.2014 (19 October 2015) his Lordship Justice Wengappuli said :
“The maximum penalty for money laundering is a fine of \$ 120,000 and /or a term of imprisonment of 20 years. In State v Robin Shyam[2013] FJHC529 and State v Stephens [2012] FJHC 1010 the tariff for offence of money laundering was accepted as range of imprisonment between 5 years and 12 years.”
5. In Laisiasa Koroivuki v the State (Criminal Appeal AAU 0018 of 2010)the Fiji Court of Appeal discussed the guiding principles for determining the starting point in sentencing and observed :
"In selecting a starting point, the court must have regard to an objective seriousness of the offence. No reference should be made to the mitigating and aggravating factors at this time. As a matter of good practice, the starting point should be picked from the lower or middle range of the tariff. After adjusting for the mitigating and aggravating factors, the final term should fall within the tariff. If the final term falls either below or higher than the tariff, then the sentencing court should provide reasons why the sentence is outside the range".
6. Therefore considering the objective seriousness, I select 07 years as the starting point for each count which would be from lower end of tariff.
7. In UK Sentencing Guidelines of 2014 for Fraud, Bribery and Money Laundering Offences the following are identified as aggravating factors :
 - a. Attempts to conceal/dispose of evidence;
 - b. Established evidence of community/wider impact;
 - c. Failure to comply with current court orders;
 - d. Offence committed on licence;
 - e. Offences taken into consideration;
 - f. Failure to respond to warnings about behavior;
 - g. Offences committed across borders;
 - h. Blame wrongly placed on others;

- i. Damage to third party for example loss of employment to legitimate employees.**

8. The counsel for the accused in her mitigation submitted the above grounds were not present in this case. Further the counsel submitted that the aggravating factors considered for the co-accused (pre-planning, breach of trust) should not be taken in to consideration for the accused. In summary the point raised by the defence was that there were no aggravating factors present in this case to enhance your sentence.
9. But during the hearing it was clearly shown the accused planned with his co-accused to withdraw funds from the victims' accounts. Further the accused was staying with one the victim as a tenant. The victim allowed the accused to stay in the room without paying rent. The accused showed his gratitude by committing this offence thus breaching the trust of the victim. He was trying to implicate some innocent girls for this criminal enterprise and asking the co-accused to involve them in these offences. The bank lost substantial amount through these offending. These need to consider as aggravating factors and accordingly I add 05 years to reach 12 years imprisonment.
10. Again I turn in to the UK Sentencing Guidelines of 2014 for Fraud, Bribery and Money Laundering Offences which categorized various mitigating factors and they are :
 - a. No previous convictions ;
 - b. no relevant/recent convictions;
 - c. Remorse;
 - d. Little or no prospect of success;
 - e. Good character and/or exemplary conduct;
 - f. Serious medical conditions requiring urgent, intensive or long-term treatment;
 - g. Age and/or lack of maturity where it affects the responsibility of the offender;
 - h. Lapse of time since apprehension where this does not arise from the conduct of the offender;
 - i. Mental disorder or learning disability;
 - j. Sole or primary carer for dependent relatives;

k. Offender co-operated with investigation, made early admissions and/or voluntarily reported offending.

11. In mitigation the learned defence counsel submitted the following mitigating factors:

- a. 26 years old;
- b. First offender;
- c. Has completed Bachelor of Commerce and a post graduate diploma in accounting;
- d. Presently pursuing CPA Australia certificate and qualification;
- e. Father is 58 years old and a known case of hypertension and is on medication.
- f. Remorseful and seeking forgiveness.

12. For these mitigating factors I deduct 03 years to reach 09 years imprisonment for each count. Considering totality principle, I order these to be concurrent.


13. The public deposit their hard earned monies in the financial institutions hoping that it would be safe there. It would be devastating for them to find that their savings withdrawn by criminals. Even though the banks would normally take actions quickly to limit the impact to customers', reputation to their business would be suffered significantly. As the Fiji is becoming a regional hub in finance, confidently in banking and financial institutions need to be protected to attract the investments and to sustain development. The criminals who prey on innocent peoples' savings in the banks need to be denounced and deterred.

14. I would like to further add that even though your counsel was trying to show that you were used by your co-accused in this criminal enterprise, the evidence clearly showed that you planned with him to deprive the victims of their savings and was well aware about the source of the funds that were coming to your and Arthi account. Hence you can't blame anyone for this long custodial sentence you going to serve from today.

15. **MANJEET SINGH** , for these 3 counts of Money Laundering contrary to section 69(2) and (3) (b) of the Proceeds of Crime (Amendment) Act No 07 of 2005, I sentenced you to 09 years imprisonment with a non-parole period of 07 years.

16. 28 days to appeal.




Shageeth Somaratne
Resident Magistrate