

**ICAC v Reebye and Anor CN: FCD 3/2021 Ruling**

**2022 INT 89**

**ICAC v Deshmukh REEBYE and Anor**

**FCD CN: FR/L3/2021**

**IN THE INTERMEDIATE COURT OF MAURITIUS**  
**(FINANCIAL CRIME DIVISION)**

**In the matter of:**

**ICAC**

**V**

- 1. Deshmukh REEBYE**
- 2. Chemical and Technical Suppliers (IO) Ltd**

**RULING**

Accused No.1 is being prosecuted, under Count 1, for the offence of Receiving Gift for a Corrupt Purpose in breach of section 15(a) of the Prevention of Corruption Act. Accused No.2 is being prosecuted, under Count 2, for the offence of Treating of Public Official in breach of section 14 of the Prevention of Corruption Act coupled with section 44(2) of the Interpretation and General Clauses Act. Both Accused have pleaded not guilty and are represented by Counsel.

During the course of the trial, the prosecution called one Mrs. Prishila Ramasawmy (Witness No.13), who is an accountant at Atom Travel Services Ltd. Whilst deposing, the prosecution sought to produce, through her, a VAT Invoice dated 18 July 2012 from Atom Travel Services Ltd under the name of Chemtech for the sum of Rs. 108,280/- representing air ticket for Accused No.1 and one Veronique Gaudet.

In that respect, Mr. G.Glover, SC, counsel for Accused No.1 objected to the examination in chief of the prosecution since this this would amount to adducing evidence which is irrelevant in respect to the charge against Accused No.1 because that evidence is not connected to Count 1 and the prosecution has not established the background for that evidence to be adduced. He further submitted that the prejudicial effect of that evidence outweighs its probative value.

Mrs. A.Parsooramen for the prosecution submitted that this evidence is relevant for the purposes of proving the mens rea of Accused No.1 and therefore should be admitted in evidence.

It is undisputed that as per Count 1 of the information, the charge against Accused No.1 is dated "...on or about the month of December 2012..." and he is being prosecuted for having, at that date, accepted an air ticket for himself for the sum of Rs. 69,800/- from Accused No.2. It is also undisputed, as per the version of the prosecution, that the VAT Invoice dated 18 July 2012 representing the sum of Rs. 108,280/- is not connected to Count 1, i.e., does not represent or include the sum specified in Count 1 of the information. As such, the Court fails to see the relevance of such evidence to prove the mens rea of Accused No.1 especially when the Court is not aware in what circumstances Accused No.1 came to accept an air ticket from Accused No.2 in July 2012 and whether such circumstances revealed any mala fide action.

Indeed, allowing the prosecution to proceed on this line of examination in chief would amount to the prosecution adducing similar fact evidence. It is trite law that similar fact evidence is generally not admissible to prove a fact in issue unless the relevance of such evidence is established and its probative value outweighs its prejudicial effect – **See O'Brien v Chief Constable of South Wales [2005] UKHL 26.**

In the present case, having concluded that the VAT Invoice sought to be adduced is not relevant to the issue of mens rea, the Court, at this stage, having assessed the evidence on record, cannot attach any probative value to the said VAT Invoice. In the circumstances, the objection of learned Senior Counsel for Accused No.1 is well taken and the prosecution is not allowed to proceed on this line of examination in chief in relation to Mrs. Prishila Ramasawmy (Witness No.13), vide the evidence related to the VAT Invoice.

**A.R.TAJOODEEN**  
**Ag Magistrate of the Intermediate Court (Financial Crime Division)**  
**13.04.2022**