

**IN THE COURT OF APPEAL**  
**AT SUVA**

**CRIMINAL APPEAL NO. AAU 0009 OF 2013**  
**(High Court Criminal Action No. HAC 86 of 2009)**

**BETWEEN** : **DOREEN SINGH** *Appellant*

**AND** : **THE STATE** *Respondent*

**Coram** : **Chandra RJA**

**Counsel** : **Ms. M. Raza for the Appellant**  
**Mr. S. Perera for the Respondent**

**Date of Hearing** : **2 June 2014**

**Date of Ruling** : **23 July 2014**

**RULING**

1. This is an application for leave to appeal against conviction and sentence.
2. The Appellant was charged on three counts of Money Laundering contrary to Sections 69(2) (a) and 3(a) of the Proceeds of Crime Act 1997.
3. The Appellant was sentenced on 25 February 2013 to 6 years imprisonment with a non-parole-period of 5 years imprisonment.
4. The Appellant set out the following grounds in her notice of appeal:
  1. *That the learned trial Judge erred in law and in fact in failing to comprehend and/or evaluate the evidence properly and/or adequately.*

- 2. That the learned trial Judge erred in law and in fact in failing to consider the defence case.*
  - 3. That the learned trial Judge erred in law and in fact in misdirecting the Assessors on the elements of the Offence of Money Laundering.*
  - 4. That the learned trial Judge erred in law and in fact in admitting the caution interview conducted by the Police.*
  - 5. That the learned trial Judge erred in law and in fact in failing to direct himself and/or the Assessors on relevant issues and/directing the Assessors on irrelevant issues, which were highly prejudicial to the Appellant's case.*
  - 6. That the sentence is wrong in principle, harsh and excessive in the circumstances of the case.*
5. The basis of the charges against the Appellant was that the Appellant being a Bank teller directly or indirectly processed fraudulent cheques and encashed the same knowing or ought to have reasonably known that the cheques and cash were derived directly or indirectly from some form of unlawful activity.
  6. The Assessors brought in a unanimous verdict of guilty and the learned trial Judge agreed with the said verdict and pronounced his judgment and convicted the Appellant.
  7. The first ground of appeal is to the effect that the learned trial Judge erred in law in failing to comprehend and/or evaluate the evidence properly and/or adequately. This as has been submitted is on the basis that the directions given by the learned trial Judge to the Assessors have not been on the basis of the evidence before Court and that some of the directions were on the basis that there was evidence on certain matters whereas there was no such evidence.

8. This submission therefore requires a perusal of the entirety of the evidence in the case which is not possible at this stage of seeking leave and would best be considered by a Full Court when hearing the appeal. All that has to be considered is whether this ground presents an arguable ground.
9. In view of this position taken up by the Appellant and also considering the fact that the Appellant chose not give evidence or call any evidence at the trial leave is granted on this ground.
10. The second ground of appeal is on the basis that the learned trial Judge failed to consider the defence case adequately or at all.
11. The Appellant chose not to give evidence in the case or call any evidence. The learned trial Judge in his directions to the Assessors directed them that the burden rests on the prosecution to prove beyond reasonable doubt the case for the prosecution. That the Appellant was entitled to remain silent.
12. In his summing up the learned trial Judge directed the Assessors regarding the evidence led by the prosecution and stated that it was left to them to decide on the facts so presented. Having stated that the defence was entitled to remain silent, the learned Judge had stated "However, all is not lost for you" in paragraph 22 of the summing up. Thereafter he referred to certain aspects of the caution statement of the Appellant and stated that certain answers amounted to confessions.
13. Considering the summing up as a whole although the learned trial Judge had stated on more than one occasion that the burden of proof was on the prosecution, the fact that the

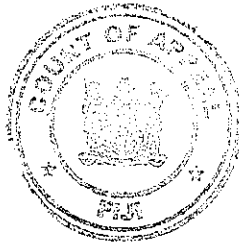
learned trial Judge made comments regarding the caution interview in the manner stated may have been prejudicial to her case and would therefore would be an arguable matter. On this basis leave to appeal is granted on the second ground.


14. The next ground of appeal which is on the basis that the learned trial Judge misdirected the Assessors on the elements of the offence Money Laundering. This has no merit as the learned trial Judge has adequately dealt with the elements of the offence when giving his direction to the Assessors.
15. The ground of appeal dealing with the caution interview is also not arguable as the learned trial Judge has not allowed the entirety of the caution interview which therefore was favourable to the defence.
16. The next ground of appeal is on the basis that the learned trial Judge failed to direct himself and/or the Assessors on relevant issues and /or directing the Assessors on irrelevant issues, which were highly prejudicial to the Appellant's case.
17. This ground has been couched in very wide terms and requires a perusal of the entirety of the evidence led at the trial and the summing up. As stated in respect of ground 1, it is not possible at this stage to consider the entirety of the evidence and it is best left to the Full Court.
18. In the written submissions filed on behalf of the Appellant it has been urged that there were erroneous directions regarding the knowledge of the Appellant relevant to the ingredients of the offence when considering the evidence led by the prosecution.

19. It was also submitted that the learned trial Judge had failed to address the Assessors regarding the contradictions in the prosecution case regarding the element of knowledge of the Appellant.
20. The submissions urged in respect of ground 5 spell out arguable matters and therefore leave is granted on that ground.
21. The 6<sup>th</sup> ground is regarding sentence on the basis that it is harsh and excessive which would be a matter for the Full Court to consider in all the circumstances of the case and therefore leave is granted for that ground.

*Order of Court:*

- (1) Leave to appeal is granted on grounds 1, 2, 5 and 6.



  
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Hon. Justice S. Chandra  
**Resident Justice of Appeal**