

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

**CRIMINAL CASE NO. HAC 118 OF 2014**

STATE

v

PREETIKA ANUWESH LATA

Counsel: Mr. Alvin Singh for State  
Mr. Ronil Kumar for Accused

Date of Summing Up: 21<sup>st</sup> November, 2017  
Date of Judgment : 22<sup>nd</sup> November, 2017

**JUDGMENT**

1. The Accused was charged with the following counts and tried before three assessors.

**FIRST COUNT**  
*Statement of Offence*

**RECEIVING:** Contrary to Section 306 (1) of the Crimes Decree, No. 44 of 2009.

*Particulars of Offence*

PREETIKA ANUWESH LATA between the 14<sup>th</sup> day of February 2013 and 14<sup>th</sup> day of May 2014, at Lautoka in the Western Division, dishonestly received \$285,680.96, knowing or believing the property to be stolen.

**SECOND COUNT**  
*Statement of Offence*

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

### *Particulars of Offence*

**PREETIKA ANUWESH LATA** between the 14<sup>th</sup> day of February 2013 and 14<sup>th</sup> day of May 2014, at Lautoka in the Western Division, received money to a total value of \$285,680.96, and she knew or ought to have known the money being proceed of crime were derived directly or indirectly from some form of unlawful activity.

2. Assessors unanimously found the Accused guilty on both counts as charged.
3. I direct myself in accordance with my own summing up and review evidence led in the trial.
4. Having concurred with the opinion of Assessors, I pronounce my judgment as follows.
5. Accused is charged with Receiving and Money Laundering. There is no dispute about the identity of the Accused. There is also no dispute about the physical element of each offence. Accused agrees that her two bank accounts had received money stolen from FSC during the period in question. Therefore, the money received by Accused's two bank accounts can be considered as proceeds of a crime for the purpose of the 2<sup>nd</sup> count.
6. The only dispute is with regard to the mental element or *mens rea* of each offence. In respect of the 1<sup>st</sup> count, Prosecution must prove that she received the money dishonestly and knowing or believing the property to be stolen. In respect of the 2<sup>nd</sup> count, Prosecution must prove that Accused knew, or ought reasonably to have known that the money was derived or realized directly or indirectly from some form of unlawful activity.
7. Accused denies any knowledge of stolen money deposited in her bank accounts and transactions during the alleged period. She in her evidence and her caution interview specifically denies that she had any knowledge about the stolen money or the proceeds of crime in her two accounts.
8. Accused admits that two bank accounts with stolen money belonged to her. When a bank account has been opened by a customer, he or she is bound by the Anti-Money Laundering (AML) legal regime. The material needed to operate or facilitate electronic transactions including easy access cards and Personal Identification Numbers (PINs) are issued to the customer. A high degree of confidentiality is attached to PINs. Bank statements are confidentially sent to the address provided by the customer on a monthly basis. It is assumed that the customer is in exclusive control of the bank

account and that all operations pertaining to the bank account are done by the customer. Therefore, the Accused, as the account holder, cannot under the Anti-Money Laundering (AML) legal regime simply deny her responsibility and say that she had no knowledge as to what was happening in her bank accounts.

9. Furthermore, in this case Prosecution proved beyond reasonable doubt that alleged transactions of Accused's two bank accounts happened with her full knowledge.
10. During the period in question, a number of withdrawals had been made from Automated Teller Machines (ATM's) using Accused's easy access cards and her Personal Identification Numbers (PIN's). As per bank statements, Accused does not deny any of those transactions. Her explanation is that those transactions had been carried out by her husband without her knowledge.
11. Accused however failed to substantiate her claim or create any doubt in the Prosecution case which proved that those transactions were done with her knowledge. Assessors disbelieved her evidence and explanations. The opinion of assessors in my judgment is correct and is available in evidence led in the trial.
12. Counsel for Defence argues that not a single CCTV footage was tendered to prove that it was Accused that had done those withdrawals. I think an acceptable explanation was given by the investigating officer in this regard.
13. Accused said that she checked the dates of questioned withdrawals with her duty roster and found that she was engaged in her work at Lautoka Hotel. If that is the case, she could easily have taken an alibi defence and tender her duty roster in evidence. She did not do that. Even though she did not have to prove her innocence as an accused, circumstances of this case are such that law requires her to advance a reasonable explanation when a prima facie case had been established by the Prosecution that withdrawals had been done using Accused's bank cards and PIN's. She failed to do that.
14. Only reasonable inference that assessors could have drawn from facts proved in evidence is that all transactions of Accused's two bank accounts had been carried out by the Accused or with her knowledge.
15. Accused's family expenses had gone beyond their legitimate means. She earned only a \$ 136 wage weekly. According to her evidence, her salary came directly to her BSP bank account. During the period in question, her husband

wanted her to save her earnings and took her BSP easy access card into his custody to ensure that she does not waste her money. She did not receive rent money because it was being used by her brother. Her husband earned an annual salary of \$18000.00. Therefore, monthly income for her family was only \$1500.

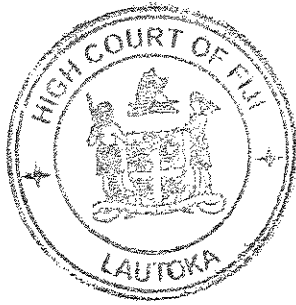
16. Her husband had purchased cash a Toyota Fielder during this period. They spent a night at Sofitel in Denarau. Both of them had obtained multiple visas in expectation to travel to Australia and USA. Her husband suddenly travels to the USA. A considerable amount of money had been withdrawn from shopping malls in Suva and Nadi. There can be no doubt that expenses of the Accused and her husband had gone beyond their legitimate means.
17. Accused failed to substantiate her explanations for extravagant expenses. Accused said that her brother-in-law Salesh sponsored and sent money from the USA. There is no evidence that Salesh was sending money from the USA. It is hardly believable that Salesh, as an employee of a US university could become a multi-millionaire. If she had such a generous multimillionaire brother-in-law, it is hardly probable that her husband would want to steel money from FSC pay packet.
18. Under these circumstances, I come to the conclusion that the Accused knew or she had reasons reasonably to believe that stolen money was being used by her and her husband.
19. On the 8<sup>th</sup> of August 2014, no sooner she became aware of the police investigation, Accused had given a written assurance to FSC that stolen money will be returned. She could not satisfactorily explain how she could have promised to return the money if she had no knowledge of stolen money.
20. The Westpac Bank Account was opened by the Accused just 3 days before the stolen money started coming into her BSP bank account. According to her evidence the only purpose to open this account was to receive rent money from her mother's rented house. However, she admitted that not a single rent dollar had come to that account. Instead, all the money in the account had come from FSC. In this context, it can easily be inferred that she opened this account for the illegal purpose.
21. Bank statements had been delivered to her family mail box at regular intervals. She could have known the balances of her bank accounts. Her explanation was that the key of the mail box was taken over by her husband. However, her evidence in this respect is contradictory not only to her own evidence and her previous statement to police but also to his brother's

evidence in Court.

22. Accused lived in a small three bed roomed simple house and therefore it is hardly possible that the money discovered could have been hidden without her knowledge.
23. Accused had taken the stolen money first to the FSC because she knew where the money belonged. In her letter dated 8<sup>th</sup> August 2014, she had undertaken to return the stolen money to the FSC and therefore by that time she knew very well that FSC money had come to her and her husband's bank accounts. Notwithstanding she denies such knowledge until she was questioned by police on 13<sup>th</sup> August, 2014.
24. Evidence of her brother Ritesh is unacceptable as far as his evidence relating to the overseas telephone call is concerned. He admitted that he told the truth to police in his previous statement. However, he had never mentioned about a telephone call received from his brother-in-law from America revealing the place where the stolen money was being hidden. He said he is prepared to do everything at his disposal to save her only sister. If that is the case, a question arises as to why he did not mention about this vital information to police to defend her sister.
25. She said she never withdrew money from any of the ATM's as mentioned in the bank statements during period in question and said that her husband was in control of her BSP bank access card from January 2014. However, in her caution statement she had admitted the withdrawal of \$500.00 done on 27<sup>th</sup> May 2014 at Sofitel Nadi from her BSP account. To explain this contradiction she gave a detailed explanation in Court. However, her explanation is unacceptable because it is inconsistent not only with her own evidence but also with her caution statement. She had never given such a detailed explanation to police. Furthermore, at question 164 of her caution interview, she had told police that she could not recall if her husband did any withdrawals while in Denarau. According to her BSP bank statement, the balance after the said withdrawal was \$96,068.65. I am sure that she made a desperate attempt to suppress this withdrawal because if she had admitted, she can't deny her knowledge as to the huge amount of money in her BSP account.
26. I do not believe assertions of the Accused that she had multimillionaire brother-in-law in the USA to finance her family, that she had multiple visas to USA and Australia that her brother had undergone 3 hernia operations during this period and that she was engaged in work at Lautoka Hotel on each day when suspicious withdrawals were done because if they were true,

she could have easily substantiated her evidence perhaps with documentary evidence. I do not attach any weight to her good character assertions either.

27. Explanations given by the Accused to deny her knowledge about illegal transactions and deposits in her accounts are completely unacceptable.
28. I carefully observed Accused's demeanor. I found her to be evasive. Whenever she was being asked crucial questions by the Prosecutor, she jumped into what appears to be pre-arranged explanations without giving 'yes' or 'no', answers despite repeated warnings by Court. Her demeanor is not satisfactorily consistent with her honesty.
29. I reject the evidence of the Defence.
30. Prosecution proved each count beyond reasonable doubt. I find the Accused guilty on each count and convict her accordingly.
31. That is the judgment of this Court.



  
Aruna Kluthge  
Judge

At Lautoka  
22<sup>nd</sup> November, 2017

Solicitors: Director of Public Prosecution for State  
Iqbal Khan and Associates for Accused