

JUDGMENTS
SUPREME COURT

Curpen (Appellant) v. ICAC and Anor (2015 SCJ 66) - Judgment delivered on 27.02.15

Accused No.1 was charged with the offence of Bribery by Public Official in breach of sections 4 (1) (a) &(2) of PoCA. He pleaded not guilty and was assisted by Counsel. It was averred in the Information that Accused had solicited from another person, for himself, a gratification for doing an act in the execution of his duties. Accused, a Police Corporal, had allegedly, while enquiring in a case of "Issuing cheque without provision" against one Javed Toona Nanak, solicited the sum of Rs 5,000/- from latter, so as to carry out the investigation in such a way that the said Javed Toona Nanak would not be prosecuted.

The Intermediate Court found him guilty as charged and he was sentenced to undergo three months imprisonment and to pay Rs 500 as costs. He gave notice of appeal on the same day.

At the hearing of the appeal, both Counsels for the Respondents informed the Court that they would not be resisting the appeal on its merits on the ground that the state of the evidence on record rendered it unsafe to allow the conviction to stand. Since the trial stage, the main witness for the prosecution had been inconsistent in his testimony with regard to the purpose for which the sum of money was solicited, i.e. to carry out the investigation in such a way that the said person would not be prosecuted for "knowingly agree to receive a cheque without provision".

In its judgment, the Supreme Court held amongst other reasons, that the inconsistencies in the version of the complainant in the course of the trial made it unsafe to rely on his sole testimony to find all the elements of the offence proved. The appeal was accordingly allowed and the conviction and sentence against appellant were quashed.

Noormamode A. B. S. (Appellant) v. ICAC & Anor (2015 SCJ 93) - Judgment delivered on 23.03.15

The Accused, a Civil Status Officer, was charged with the offence of (i) Forgery by a Public official in breach of sections 107 and 121 of Criminal Code; and (ii) Public Official using Office for Gratification in breach of sections 7(1) & 83 of PoCA. He pleaded not guilty and was assisted by Counsel.

It was averred in the Information that, in relation to the offence of forgery, Accused did, whilst being a public official drawing up a writing in the discharge of his duty, fraudulently altered its particulars by stating a false fact as true and that the said alteration was of a nature to cause prejudice. In relation to the offence under PoCA,

it was averred that in or about December 2005, Accused obtained the sum of Rs 1500 from Mrs Pushmawtee Vulcain for the publication and registration of the civil marriage of her daughter Olivia Poorun, born Vulcain with Mr Kounal Poorun.

It was the case for the Prosecution that Accused celebrated the marriage of one Olivia Vulcain who was not only a minor but was also under 16 years and as such was not legally allowed to marry. It was alleged that Accused altered the particulars in the Civil Marriage Entry Register of Petite Riviere Civil Status Office for Mr Kounal Poorun and the minor Ms Olivia Vulcain. He inserted the age of minor Olivia Vulcain as 16 years instead of 15 years. He obtained the sum of Rs 1500 from Mrs Vulcain for the publication and registration of the said civil marriage of her daughter with Mr Kounal Poorun.

The Intermediate Court found Accused guilty as charged and sentenced him to pay a fine of Rs 5000 and to undergo a term of six month's imprisonment.

Accused appealed against the decision of the Intermediate Court. The Supreme Court dismissed the appeal after having considered the grounds of appeal which essentially challenged the Learned Magistrate's assessment of the evidence of two of the Prosecution witnesses and the finding of facts. The Supreme Court held that the learned Magistrate's appreciation could not be faulted as she had the opportunity to observe the witnesses' behaviour in Court and that the learned Magistrate had correctly analysed the evidence and she was in presence of sufficient evidence to also find the offence of forgery proved.