

IN THE HIGH COURT OF FIJI

AT LAUTOKA

CRIMINAL JURISDICTION

CRIMINAL CASE NO. HAC 59 OF 2013

BETWEEN: RIMAKSHNI RANIGAL

APPLICANT

AND: STATE

RESPONDENT

Counsel: Mr. Iqbal Khan, Ms. S Khan for Applicant

Mr. S Babitu for Respondent

Date of Application : 10 September, 2018

Date of Ruling : 10 September, 2018

Date of Reasons : 18 September, 2018

RULING

1. The Applicant with two others is charged with Money Laundering (on Count 6 only) and was convicted by this Court on the 4th day of September, 2018.
2. When the matter was adjourned to 10th September, 2018 for Sentencing Submissions and Mitigation the Counsel for Applicant filed a Notice of Motion supported by an affidavit and sought following Orders:

a. *That this Honorable Court grants a stay to above proceedings and/or not to proceed with sentence and/or if this Honorable Court proceeds to sentence then the execution of sentence be stayed pending further investigation of the misleading/false evidence given by Prosecution witness, Ravinesh Mani.*

b. *That the current trial be declared a mistrial.*

c. *Any other order/orders this Honorable Court seems just and expedient.*

d. *That the time of service of this Motion be abridged.*

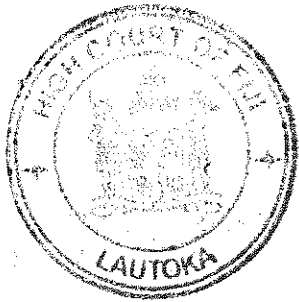
3. In her affidavit, the Applicant says that whilst preparing for her mitigation, and when she requested her former employees to give evidence in Court on her behalf, she discovered that Ravinesh Mani who gave evidence in Court for prosecution was not truthful in that he failed to disclose to Court that his company City Forex (Fiji) Proprietary Limited was charged for money laundering and that he is a Fiji citizen Director of the said company and as such he ought to have disclosed to this Court.
4. The Applicant further says that her Solicitors had made enquiries and had been advised that City Forex (Fiji) Proprietary Limited has been charged for money laundering in Action No. 1856 of 2015 and that the said Ravinesh Mani is the Fiji Director of the company and as such this matter is set down for mention on 30th day of October, 2018 at Suva Magistrate's Court No. 6 before Resident Magistrate Mr. Wickramasekara.
5. The Applicant further says that Ravinesh Mani did not tell the court in his evidence that in his capacity as the Director of City Forex was facing a charge of money laundering and as such his credibility and his evidence this court accepted cannot be reliable since it was perjured evidence.
6. She contends that since this Court in finding the Applicant guilty for the offence of money laundering relied on Ravinesh Mani's evidence that she violated policy guidelines and instructions given by Western Union, she was prejudiced.


7. The Counsel for Applicant is requesting this Court to stay her proceedings pending further enquiries and applies for a stay of proceedings and/or mistrial or alternatively, and if the court declines her application, then to stay the execution of her sentence pending appeal.
8. This is rather a peculiar application that is not known to the law this country. There is no provision of law that enables a court to revisit its judgment even if it later discovers that one of the witnesses had lied in the course of the trial. The Counsel for Applicant says that the Applicant is invoking the inherent jurisdiction of this court. This Court has no jurisdiction to stay the proceedings or the sentence pending appeal or inquire into this allegation after the judgment has been pronounced. Once the judgment is entered the court becomes *functus officio* and it has no other option but to proceed to sentence.
9. Furthermore this application is misconceived. This court accepted the majority opinion of assessors and convicted the Applicant. In the judgment, the court has given reasons why the version of the prosecution was accepted. The court has not solely relied upon the evidence of Ravinesh Mani in coming to its decision. It took into account all circumstantial evidence led in trial including the evidence of the 1st accused who had worked for Western Union.
10. Ravinesh Mani under cross examination specifically denied that he was charged with money laundering. If his denial was not truthful, the defence counsel could have challenged his evidence in rebuttal. According to the affidavit, the money laundering Action No. 1856 of 2015 was instituted in 2015 against City Forex (Fiji) Proprietary Limited and not against Ravinesh Mani. The defence counsel could have obtained a copy of the case record and confronted the witness asking him to clarify his position.
11. Ravinesh Mani merely explained the policy guidelines of Western Union in sending and receiving money and also exchange control and anti-money laundering guidelines of the RBF. Even the Applicant in her caution interview had admitted in her explanation that, due to her ignorance as to guidelines, she had facilitated third part transactions on the request of the 1st accused. She had never told that she was sending money on instructions of Ravinesh Mani. The court can even take judicial notice of the anti-money

laundering legal regime incorporated in Financial Transactions Reporting Act 2004 that governs all financial institutions including Western Union in coming to its judgment.

12. There is no basis for this application and must necessarily be rejected.

13. The application is dismissed.




Aruna Aluthge
Judge

At Lautoka

18 September, 2018

Counsel:

- Iqbal Khan Associates for Applicant
- Office of the Director of Public Prosecution for Respondent