

**IN THE HIGH COURT OF FIJI**

**AT SUVA**

**CRIMINAL JURISDICTION**

**Crim. Case No: HAC 322 of 2025**

**STATE**

vs.

**SIMIONE SERUKALOU**

**Counsel:** Mr. T. Naimila for the State  
Mr. J. Dinati for the Accused

**Date of Ruling:** 02<sup>nd</sup> April 2026

---

**RULING**

**[The Jurisdiction of the Magistrates' Court under the Proceeds of the Crime Act]**

---

1. The Accused Mr. Simone Serukalou was brought before the Magistrate's Court at Nasinu on 28th October 2025, charged with one count of Unlawful Possession of Illicit Drugs, contrary to Section 5 (a) of the Illicit Drugs Act, and one count of Possession of Property suspected to being Proceeds of Crime, contrary to Section 70 (1) of the Proceeds of Crime Act. The Learned Magistrate, on 4th November 2025, transferred the matter to the High Court, stating that the Magistrates' Court has no jurisdiction to hear the second count as Section 3 of the Proceeds of Crime Act defines the Court as the High Court.
2. The Acting Director of the Public Prosecution on the 9th of February 2026 filed an Information, charging the Accused with one count of Unlawful Possession of Illicit Drugs, contrary to Section 5 (a) of the illicit Drugs Act and one count of Possession of Property

suspected to being proceeds of crime, contrary to Section 70 (1) of the Proceeds of Crime Act.

3. The Learned Counsel for the Prosecution informed the Court that in **State v Petridis [2019] FJHC 861; HAC196.2018 (5 September 2019)**, this Court held that the jurisdiction to hear offences under the Proceeds of Crime Act lies with the Magistrates' Court pursuant to Section 5 (2) of the Criminal Procedure Act. Subsequently, the Court invited the Prosecution and Defence to make submissions on whether the order made by the Learned Magistrate on 4 November 2025 to transfer this matter to the High Court, on the basis that the Magistrates' Court lacked jurisdiction to hear cases involving offences under the Proceeds of Crime Act, was correct.
4. The Learned Counsel for the Prosecution argued in his submissions that Section 3 of the Proceeds of Crime Act interprets the word "Court" as the High Court of Fiji. He further emphasized that Section 70 (2) of the Act uses the term "the Court," indicating that the jurisdiction to hear the second count lies with the High Court.
5. The Criminal Procedure Act provides the procedure to be applied in conducting criminal trials and other related matters. Part 2 of the Criminal Procedure Act outlines the powers of the Courts. Section 4 enunciates the jurisdiction of the High Court and the Magistrates' Court in respect of offences created under the Crimes Act. The jurisdiction to try the offences created under other laws has been outlined under Section 5 of the Criminal Procedure Act, which states:

*1) Any offence under any law other than the Crimes Act 2009 shall be tried by the court that is vested by that law with jurisdiction to hear the matter.*

*(2) When no court is prescribed in any law creating an offence and such offence is not stated to be an indictable offence or summary offence; it may be tried in the Magistrates Courts in accordance with any limitations placed on the jurisdiction of classes of Magistrate prescribed in any law dealing with the administration and jurisdiction of the Magistrates Courts.*

6. Therefore, the jurisdiction to hear offences created under any law other than the Crimes Act lies with the Magistrates' Court if that law does not specify which Court has jurisdiction to try the offence.
7. Section 3 of the Criminal Procedure Act states that the provisions of this Act shall not affect the validity or diminish the application of any other laws concerning criminal procedure. Having stated that, Section 3 (2) (a) of the Criminal Procedure Act states:
  2. *The provisions of this Act shall be subordinate to, and shall be read and applied subject to any provisions of another Act making specific provision in relation to— (emphasis added)*
    - a) *the jurisdiction of any court to hear any criminal proceeding.*
8. Accordingly, if any other Act explicitly grants jurisdiction to a Court to hear and try the offences created by that Act, then only such jurisdiction prevails over the jurisdiction established under Sections 4 and 5 of the Criminal Procedure Act.
9. The jurisdiction of the Court is a fundamentally essential component of the administration of justice, comprising two main elements: viz, the existence of jurisdiction and its exercise. Jurisdiction is the authority conferred upon the Court to hear and determine disputes, and it must be exercised in accordance with the procedures established by law. Therefore, the Court's jurisdiction is a crucial factor that confers legitimacy on its judicial decisions. As a result, the Court's jurisdiction must be clearly and precisely defined, without any ambiguity or uncertainty.
10. Charles Dickens, in his 19th-century classic "**The Bleak House**", famously depicted the chaotic confusion and delay caused by the ambiguity and uncertainty of the jurisdiction between the Courts of equity and common law Courts in the first half of the 19th century in England, using the fictional litigation of Jarndyce v Jarndyce. The fictional character of Mr. Jarndyce explained his ordeal, saying:

*“.....everybody must have copies, over and over again, of everything that has accumulated about it in the way of cartloads of papers (or must pay for them without having them, which is the usual course, for nobody wants them); and must go down the middle and up again, through such an infernal country-dance of costs and fees and nonsense and corruption, as was never dreamed of in the wildest visions of a Witch’s Sabbath. Equity sends questions to Law, Law sends questions back to Equity; Law finds it can’t do this, Equity finds it can’t do that; neither can so much as say it can’t do anything, without this solicitor instructing and this counsel appearing for A, and that solicitor instructing and that counsel appearing for B; and so on through the whole alphabet, like the history of the Apple Pie”.*

11. It is evident that even the world of literature recognizes the importance of clarity and certainty regarding the jurisdiction of the Court for the effective administration of justice. Therefore, the certainty and clarity of jurisdiction are among the essential components of the right of access to justice.

12. **Maxwell, On The Interpretation of Statutes (11th Edition, p. 122)**, explains that the legislature should not make any significant innovation without explicitly stating its intention to do so, and such an intention should not be inferred. Maxwell **On the Interpretation of Statutes** states:

*“... It is supposed that the legislature would not make any innovation without a very explicit expression of its intention, especially since in recent years such an intention has often been very explicitly expressed. It would not be inferred, for instance, from the grant of a jurisdiction to a new tribunal over certain cases, that the legislature intended to deprive the superior court of the jurisdiction which it already possessed over the same case”.*

13. Bindra states that, referring to the Civil Court, the legislature must make a specific provision if it confers any authority on a civil court. (see: *Bindra’s Interpretation of Statutes, 12th Ed,*

p 229). Commenting on the “presumption against the ouster of jurisdiction”, Bindra observed:

*“If a statute purports to exclude the ordinary jurisdiction of civil courts, it must do so either by express terms or by the use of such terms as would necessarily lead to the inference of such exclusion. When the language is doubtful, the court will lean against an ouster of the jurisdiction of the ordinary courts, except in cases which are clearly and specifically indicated by the legislature”. (Bindra’s Interpretation of Statutes, 12th Ed, p 233)*

14. I do see no obstacle to adopting Bindra’s above observation regarding the Civil Court, *mutatis mutandis*, in relation to the Criminal Court. Hence, I find Bindra’s and Maxwell’s authoritative commentaries to be legally persuasive on the issue discussed in this ruling.
15. The essence of Maxwell and Bindra's commentaries is clearly reflected in the wording of Section 3 (2) (a) and 5 (1) of the Criminal Procedure Act. Therefore, if any other Act grants a Court jurisdiction to hear criminal proceedings as outlined in Section 5 (1) of the Criminal Procedure Act, it must explicitly specify that jurisdiction within its provisions so as to override the general jurisdiction provided under Sections 4 and 5 (2) of the Criminal Procedure Act.
16. I will now address the next issue of this inquiry, namely, whether the Proceeds of Crime Act has explicitly and specifically vested the jurisdiction in the High Court to hear and try offences created under the Act.
17. The Learned Magistrate relied on section 3 of the Proceeds of Crime Act, which serves as the interpretation clause, stating that the Court refers to the High Court of Fiji. It appears that the Learned Magistrate concluded that the interpretation of the Court provided under Section 3 grants the High Court the jurisdiction to hear and try offences under the Proceeds of Crime Act. Accordingly, the Learned Magistrate transferred this matter to the High Court.

18. In construing an Act, the Court must consider each component of the Act, i.e., the Title, Preamble, interpretation clause, headings, section, *etc.*, and the significance contained in those components. (*See: Bennion on Statutory Interpretation, 7th Ed, p 26*).
19. It is common practice in modern legislation to include an interpretation clause that defines the meaning of the words and terms used in the Act. It is an interpretive principle that the same word or term in an Act should generally be given the same meaning throughout, unless a specific provision requires a different or distinct definition. (*see: Bindra's Interpretation of Statutes, 12th Ed, p 262*). Therefore, the main aim of the interpretation clause is to ensure certainty and coherence when interpreting the words and terms of the Act, unless the context otherwise requires.
20. Generally, the interpretation clause defines a word to mean a specific thing, and such interpretation is explanatory and usually restrictive. If the interpretation clause defines a term to include something, such a definition is extensive. The definition, whether restrictive or extensive, should not be strictly applied if using that meaning in a particular section of the Act would hinder the legislative intent from being achieved. To allow this flexibility in applying the meaning from the interpretation clause, it is usually accompanied by a qualification phrase such as "unless the context otherwise requires". Bindra summarized the purpose of the interpretation clause, stating:

*"An authoritative statement on the value of an interpretation clause comes in Commissioner of Gift-tax v NZ Chetty Chettiar, where the court observed as follows:*

*"An interpretation clause which extends the meaning of a word does not take away its ordinary meaning. An interpretation clause is not meant to prevent the word receiving its ordinary, popular and natural sense whenever that would be properly applicable, but to enable the word as used in the Act, where there is nothing in the context or the subject matter to the contrary to be applied to something to which it would not ordinarily be applicable". (see: Bindra's Interpretation of Statute, 12<sup>th</sup> Ed. P. 260)*

21. Section 3 of the Proceeds of Crime Act states:

*“In this Act, unless the context otherwise requires -  
Court means the High Court of Fiji”*

22. Accordingly, it is apparent that the purpose of assigning the meaning to the term “Court” as the High Court of Fiji under Section 3 of the Proceeds of Crime Act is that whenever the word “Court” appears in any provision of the Act, it should be interpreted or give the meaning as the High Court of Fiji unless the context of that section otherwise requires. Therefore, it is clear that Section 3 of the Proceeds of Crime Act has not explicitly established any jurisdiction conferring the authority on the High Court to hear and try offences under the Proceeds of Crime Act.

23. The Proceeds of Crime Act provides several procedural mechanisms to fulfil its purpose, as outlined in the preamble. Part 2 of the Act details the procedures for obtaining forfeiture orders and pecuniary penalty orders, which may be initiated following a conviction for a serious offence. The relevant sections that define jurisdiction explicitly state that the Director of Public Prosecutions must apply to the Court, clearly indicating that the authority to grant such orders lies with the High Court. (*See Sections 5(1), 11, 19A, 19B, 19C, and 20 of the Act*). Furthermore, Section 6 of the Act explicitly states that the High Court has jurisdiction to issue forfeiture orders. Section 27B of the Proceeds of Crime Act specifies that proceedings under Part 2 are civil, not criminal.

24. Part 3 of the Proceeds of Crime Act deals with the provisions for facilitating police investigations and preserving properties related to the purpose of the Act. Section 28 of the Act has given the Magistrate jurisdiction to issue search warrants on an application made by the Police. However, the jurisdiction to grant restraining orders, production orders and monitoring orders is specifically given to the High Court. (*see: Section 34, 35, 50, and 55 of the Act*).

25. The Proceeds of Crime Act created several offences, including four under Part 5 and three under Sections 30, 42, and 54.

26. As outlined by Section 42 (1) of the Act, a person who knowingly contravenes a restraining order issued by the High Court commits an indictable offence, clearly indicating that the jurisdiction to hear and try this offence resides with the High Court pursuant to Section 5 of the Criminal Procedure Act. Conversely, none of the offences created under Part 5 or under Sections 30 and 54 explicitly specify which court has the jurisdiction to hear and try these offences.
27. It is important to note that none of these sections, apart from Section 70 (2), which I discuss below, even use the word “Court” when defining these offences. The absence of the term “the Court” prevents the Court from applying the meaning of “the Court” as given under Section 3 when interpreting these offences. If the Court attempts to artificially insert or include the word “Court” into these sections, it would clearly amount to usurping Parliament's authority by amending the sections of the Act.
28. Considering the reasons outlined above, it is clear that neither Section 3 nor any other parts of the Proceeds of Crime Act explicitly grant the High Court the jurisdiction to hear and try offences under Part 5 and under Sections 30 and 54 of the Proceeds of Crime Act.
29. I will now turn to the offence that is relevant to this matter, which is Possession of Property suspected of being proceeds of crime, contrary to Section 70 (1) of the Proceeds of Crime Act. Section 70 of the Act states:

*“1) A person who, after the commencement of this Act, receives, possesses, conceals, disposes of or brings into Fiji any money, or other property, that may reasonably be suspected of being proceeds of crime commits an offence and is liable on conviction to—*

*a) if the offender is a natural person, a fine not exceeding \$12,000 or imprisonment for a term not exceeding 2 years, or both; or*

*b) if the offender is a body corporate, a fine not exceeding \$60,000.*

*(2) It is a defence under this section if a person satisfies the court that the person had no reasonable grounds for suspecting that the property referred to in the charge was derived or realized, directly or indirectly, from any unlawful activity.*

*(3) The offence under subsection (1) is not predicated on proof of the commission of a serious offence or foreign serious offence”. (emphasis added)*

30. It was submitted by the Learned Counsel for the Prosecution that the meaning of “the Court” as enunciated under Section 70 (2) of the Act is the High Court; hence, the jurisdiction to hear and try this offence is vested in the High Court.

31. It is a fundamental rule of interpretation that a word or phrase within an Act or a specific section of an Act must always be understood in the context of the surrounding text, a principle known as “*noscitur a sociis*”. **Bennion on Statutory Interpretation, 7th Edition, at pp. 549 & 550**, states that:

*“A word or phrase in an enactment must always be construed in the light of the surrounding text. As Lord Simmonds said in A.G. v HRH Prince Ernest Augustus of Hanover, words and particularly general words, cannot be read in isolation; their colour and content are derived from their context or as Stamp J put it in Bourne (Inspector of Taxes) v Norwich Crematorium Ltd,*

*“English words derive colour from those which surrounded them. Sentences are not mere collections of words to be taken out of the sentence, defined separately by reference to the dictionary or decided cases, and then put back into the sentence with the meaning which you have assigned to them as separate words....*

32. As outlined above, the meaning provided under the interpretation clause is not fixed and should be applied unless the context indicates otherwise. The primary purpose of Section 70

(2) is to introduce a defence for the Accused concerning the offence outlined in Section 70 (1). Accordingly, the word “Court” has been used more as a passive subject, referring to the person whom the Accused must satisfy in establishing his defence. Consequently, the meaning of the Court as outlined in Section 70 (2) must be understood within its context, including the surrounding text and the primary purpose of the subsection.

33. Considering the reasons discussed above, I conclude that the Proceeds of Crime Act has not conferred jurisdiction on the High Court to hear and try offences created under the Act, except for the offence specified in Section 42. Therefore, the Magistrates’ Court has jurisdiction to hear and try these offences pursuant to Section 5 (2) of the Criminal Procedure Act.

34. In conclusion, I find that the order made by the Learned Magistrate on 4th November 2025, transferring this matter to the High Court on the basis that the Magistrates’ Court lacks jurisdiction to hear and try the second count as charged, is not correct in law. Accordingly, I remit this matter back to the Magistrate’s Court at Nasinu to be heard in accordance with the applicable laws and procedures.



A handwritten signature in blue ink, appearing to be "R.D.R.T. Rajasinghe".

.....  
**Hon. Mr. Justice R.D.R.T. Rajasinghe**

**At Suva**

02<sup>nd</sup> April 2026

**Solicitors**

Office of the Director of Public Prosecutions for the State.

Dinati Lawyers for the Accused.