

IN THE MAGISTRATES' COURT
AT BA
CRIMINAL JURISDICTION

Criminal Case No. 15/2025

BETWEEN: **STATE**

PROSECUTION

AND: **SHANIL RAMAN**

ACCUSED

Counsel: PC 5647 Pranil Nair for Police Prosecution
 Accused unrepresented and in person.

Date of Trial: 22 September 2025
Date of Judgment: 30 September 2025

JUDGMENT

Introduction

1. Mr. Shanil Raman ("the Accused") was charged with 1 count of Unlawful Possession of Illicit Drugs contrary to section 5(a) of the Illicit Drug Control Act 2009, 1 count of Bribery of Public Officials contrary to section 134(1)(a)(iii)(b) of the Crimes Act 2009 and 1 count of Breach of Bail Conditions contrary to section 25(1)(b) and 26(1) of the Bail Act 2002 and Bail Amendment Act 2012. The particulars of the offence are:

Count 1
Statement of Offence

Unlawful Possession of Illicit Drugs: *Contrary to Section 5(a) of the Illicit Drug Control Act 2009.*

Particulars of Offence

Shanil Raman on 9th day of January, 2025 at Nailaga, Ba in the Western Division without lawful authority had in his possession 0.9 grams of illicit drugs namely cannabis sativa or Indian Hemp.

Count 2
Statement of Offence

Bribery of Public Officials: *Contrary to Section 134(1)(a)(iii)(b) of the Crimes Act 2009.*

Particulars of Offence

Shanil Raman on 9th day of January, 2025 at Nailaga, Ba in the Western Division without reasonable excuse offered to provide cash \$25.00 to PC5867 Mesulame with intention of influencing the said PC 5867 Mesulame in exercise of his duties as a public official.

Count 3
Statement of Offence

Breach of Bail Conditions: *Contrary to Section 25(1)(b) and 26(1) of the Bail Act 2002 and Bail Amendment Act 2012.*

Particulars of Offence

Shanil Raman on 9th day of January, 2025 at Nailaga, Ba in the Western Division being bailed by the Rakiraki Magistrates Court vide Criminal Case No. 29/24 with conditions not to re-offend breached the said bail condition by re-offending.

2. As Count 2 is an indictable offence triable summarily, on 10 January 2025, you elected the Magistrates' Court to deal with the offence.
3. On 25 February 2025, you pleaded Guilty to Counts 1 and 3 but Not Guilty to Count 2. You were subsequently sentenced for the charges you pleaded Guilty to on 19 May 2025.
4. Trial for Count 2 was fixed for 22 September 2025 and on that date, Prosecution called 2 witnesses and thereafter closed its case. This Court found that a case was made out against the Accused to sufficiently require him to make a defence in respect of both charges. The procedure under section 179 of the Criminal Procedure Act was explained to the Accused. It was also explained to the Accused that he had a right to remain silent. The Accused chose to give evidence and not call a witness. The Accused then closed his case and parties chose to rely on Court records.
5. Having considered the evidence presented by Prosecution and Defence, I now pronounce my Judgment.

Burden of Proof

6. It is imperative to highlight that as a matter of law, the onus or burden of proof rests on the prosecution throughout the trial and it never shifts to the accused. There is no burden on an accused to prove his or her innocence as an accused is presumed to be innocent until proven guilty.
7. It is for the prosecution to prove the accused's guilt beyond a reasonable doubt. If there is doubt, so that the court is not sure of the accused's guilt, or if there be any hesitation in the court's mind on any of the ingredients or on the evidence led by prosecution, the accused must be found not guilty of the charges and accordingly acquitted.

Summary of Evidence

8. PC 5867 Mesulame ('PC Mesulame') testified that on 9 January 2025 at about 10:50am he had been under operation team at Ba Police Station and that they had been on patrol from Ba Town towards Raviravi with PC Alivereti and PC Rinal. He testified that during one search the Accused offered him \$5.00 for his juice or whatever he wanted to buy with it. PC Mesulame stated that he informed the Accused that he could not do that as he could be arrested for bribery. The Accused kept offering the money even though PC Mesulame kept refusing. Thereafter, the Accused took PC Mesulame's hand and placed the money in it. PC Mesulame also stated that the Accused gave a \$20.00 note to him after he was arrested. He explained that when the Accused gave him the \$20.00 note, the Accused had asked to be released. The \$5.00 note and \$20.00 note tendered as 'PEX1'.
9. PC 7824 Alivereti ('PC Alivereti') testified that on 9 January 2025 at about 10:50am he had been present and witnessed when the Accused bribed PC Mesulame. He explained that this happened at opposite the shop at Nailaga going towards Waterways. He testified that the Accused had bribed PC Mesulame first with a \$5.00 note and then another \$20.00 note. He stated that the Accused had said to PC Mesulame that the money was for his lunch and for PC Mesulame to release him.

10. The Accused denies bribing PC Mesulame and testified that when he was arrested at Nailaga, he had merely sat in the Police vehicle and came straight to the Station. He further stated that it was at the Station that he was searched and his money was taken out and placed on the table. The \$25.00 was then taken by the two Police Officers who then had a conversation between themselves and then the Accused was informed he would be charged for bribery.

Evaluation of Evidence

11. For a proper analysis of the evidence, it is imperative for the Court to turn its mind to the elements for the offence, which are:
- i. the accused
 - ii. without lawful authority or reasonable excuse
 - iii. offers to provide, or promises to provide
 - iv. a benefit to another person and
 - v. the accused does so with the intention of influencing a public official (who may be the other person) in the exercise of the officer's duties as a public official
12. Section 134(2)(a) and (b) of the Crimes Act 2009 ('the Act') clearly states that in a prosecution of such an offence, it is not necessary to prove that the defendant knew that the official was a public official or that the duties were duties of a public official.
13. Furthermore, the Court is aware of section 4(1) of the Act which defines a public official.
14. There is no dispute that the Accused was arrested for being in possession of an illicit drug namely marijuana on 9 January 2025. The only dispute is whether the Accused had bribed PC Mesulame with \$25.00 to allow PC Mesulame to release him from being arrested.
15. Thus, the Court will need to determine whether the Accused had without lawful authority or reasonable excuse offered to provide PC Mesulame with a benefit of \$25.00 with the intention of influencing PC Mesulame in his exercise as a public official.
16. In State v Prasad Criminal Case No. HAC 72 of 2021 (20 June 2024) His Lordship Justice Rajasinghe referred to the *Liberato* principle as expounded in Liberato and Others v The Queen [1985] HCA 66; 159 CLR 507 at 515 where Brennan J held that:
- "When a case turns on a conflict between the evidence of a prosecution witness and the evidence of a defence witness, it is commonplace for a judge to invite a jury to consider the question; who is to be believed? But it is essential to ensure, by suitable direction, that the answer to that question (which the jury would doubtless ask themselves in any event) if adverse to the defence, is not taken as concluding the issue whether the prosecution has proved beyond reasonable doubt the issue which it bears the onus of proving. The jury must be told that; even if they prefer the evidence for the prosecution, they should not convict unless they are satisfied beyond reasonable doubt of the truth of that evidence. The jury must be told that, even if they do not positively believe the evidence for the defence, they cannot find an issue against the accused contrary to that evidence if that evidence gives rise to a reasonable doubt as to that issue. His Honour did not make clear to the jury, and the omission was hardly remedied by acknowledging that the question whom to believe is "a gross simplification."*
17. Prasad [supra] also made reference to the case of Naidu v State [2022] FJCA 166; AAU0158.2016 (24 November 2022) where His Lordship Prematilaka highlighted the importance of modifying the *Liberato* principle and held:

[29] On the other hand Liberato has not uttered the final word on this issue. In *Johnson v Western Australia* [2008] WASCA 164; (2008) 186 A Crim R 531 at 535 [14]-[15] Wheeler JA identified one possible shortcoming in using Brennan J's statement in Liberato as a template for the direction: a jury may completely reject the accused's evidence and thus find it confusing to be told that they cannot find an issue against the accused if his or her evidence gives rise to a 'reasonable doubt' on that issue.

[30] For that reason, it was usefully held in *Anderson* [2001] NSWCCA 488; (2001) 127 A Crim R 116 at 121 [26] that **it is preferable that a Liberato direction be framed along the following lines (i) if you believe the accused's evidence (if you believe the accused's account in his or her interview with the police) you must acquit; (ii) if you do not accept that evidence (account) but you consider that it might be true, you must acquit; and (iii) if you do not believe the accused's evidence (if you do not believe the accused's account in his or her interview with the police) you should put that evidence (account) to one side. The question will remain: has the prosecution, on the basis of evidence that you do accept, proved the guilt of the accused beyond reasonable doubt?**

18. His Lordship Justice Rajasinghe in *Prasad* [supra] further stated "if the Court believes the evidence given by the Accused is true or may be true, then the Court must find the Accused not guilty of the offences. Even if the Court rejects the Accused version, that does not automatically imply that the Prosecution has established that the Accused is guilty of the crime. The Prosecution must satisfy that it has established, on the evidence accepted by the Court, beyond a reasonable doubt, that the Accused committed these offences as charged in the information".
19. Thus, the Court will need to evaluate the evidence by Prosecution whilst keeping in mind the evidence presented by the Accused insofar as they relate to the issue it is considering. The evidence presented by the parties will be evaluated to determine the testimonial trustworthiness of the evidence which will be done by evaluating the credibility – the correctness or veracity of the evidence and the reliability of evidence – the accuracy of the evidence - vide *State v Prasad* Criminal Case No. HAC 72 of 2021 (20 June 2024). In doing this, the Court should consider the promptness/spontaneity, probability/improbability, consistency/inconsistency, contradictions/omissions, interestedness/disinterestedness/bias, the demeanour and deportment in Court and the evidence of corroboration where it is relevant. (vide *State v Moroci* Criminal Case No. HAC 161 of 2023 (26 April 2024)).
20. When considering the Accused's evidence, he testified that he had been arrested at Nailaga Tramline Road and got into the Police vehicle and came to the Station. He stated that it was at the Station that he was searched and all his money was taken out and placed on the table. It was at this point that the Accused stated that the \$25.00 was taken and the 2 Police Officers had conversed with each other. Afterwards, the Accused testified that he was informed that he would be charged for bribery.
21. The Accused also stated in his evidence that the statements given by the Police were lies and even during cross-examination of PC Mesulame and PC Alivereti, the Accused had suggested that they were lying which they denied. The Court is mindful that although the Accused suggested or maintained that PC Mesulame and PC Alivereti were lying, he never suggested an ulterior motive to have caused them to lie about such an allegation against them. Moreover, merely suggesting that a witness is lying is not sufficient. If a witness is lying about his or her evidence in Court, the proper foundation needs to be laid to establish that the witness is lying.
22. Further, the Court is mindful of the probability of the Accused's evidence with respect to the Police Officers fabricating the charge of bribery against him at the Police Station after they

had conversed with each other. There was no reason to suggest that these 2 Police Officers had any animosity towards the Accused to falsely charge him for this offence.

23. Thus, the Court finds that the Accused's evidence has not created a reasonable doubt with respect to what transpired on 9 January 2025.
24. Now turning to Prosecution's evidence. PC Mesulame testified that on 9 January 2025 at about 10:50am he had been under operation team at Ba Police Station and that they had been on patrol from Ba Town towards Raviravi with PC Alivereti and PC Rinal. He testified that as they past Nailaga Village they had seen a vehicle with registration number CY 103 parked at the Nailaga shop. PC Mesulame stated that as soon as this vehicle saw them, it drove off. He further explained that they had tried to signal the vehicle to stop but it kept driving as such, they followed it towards Waterways which was where they managed to stop it.
25. The occupants of the vehicle were the Accused and another person. PC Mesulame testified that whilst the Accused was standing outside the vehicle, he had seen him throw something and when PC Mesulame approached him and questioned him, the Accused picked it up and put it back into this pocket. PC Mesulame explained that just before he was about to conduct a search of the Accused, the Accused offered him \$5.00 for his juice or whatever he wanted to buy with it. PC Mesulame stated that he informed the Accused that he could not do that as he could be arrested for bribery. The Accused kept offering the money even though PC Mesulame kept refusing. Thereafter, the Accused took PC Mesulame's hand and placed the money in it. PC Mesulame also stated that the Accused gave a \$20.00 note to him after he was arrested. PC Mesulame also explained that when the Accused gave him the \$20.00 note, the Accused had asked to be released.
26. The \$5.00 note and \$20.00 note tendered as 'PEX1'. PC Mesulame further testified that at the time, the Accused had been acting in a guilty way and his offering of the money was because he was trying to avoid arrest.
27. PC Alivereti's evidence confirmed that on 9 January 2025 at about 10:50am he had been present and witnessed the Accused bribing PC Mesulame. PC Alivereti testified that the Accused had bribed PC Mesulame first with a \$5.00 note and then another \$20.00 note. He stated that the Accused had said to PC Mesulame that the money was for his lunch and for PC Mesulame to release him.
28. The evidence of PC Mesulame in conjunction with PC Alivereti's evidence is credible and reliable with respect to the money being given for the purposes of PC Mesulame's lunch and for the Accused to avoid being arrested.
29. Moreover, when considering the Accused's admission in cross examination that at the time of being search he had been found with an illicit drug namely marijuana, the evidence of PC Mesulame and PC Alivereti with respect to the Accused offering PC Mesulame a \$5.00 note and \$20.00 note at that material time allows the Court to determine that the Accused had done this so as to influence PC Mesulame whilst he was exercising his duties as a police officer.
30. Thus, the evidence in totality allows the Court to determine that the Accused had provided PC Mesulame with a total of \$25.00 without lawful authority or reasonable excuse with the intention of influencing PC Mesulame in exercising his duties as a public official at the time
31. Thus, considering the reasons above, the Court finds that Prosecution has satisfied beyond a reasonable doubt that the Accused on 9 January 2025 without reasonable excuse offered

to provide \$25.00 cash to PC Mesulame with the intention of influencing PC Mesulame in the exercise of his duties as a public official.

Determination

32. I find that Prosecution has discharged its burden in proving all the elements for the offence of Bribery of a Public Official beyond reasonable doubt.
33. I, therefore, find the Accused, Shanil Raman, guilty as charged for 1 count of Bribery of a Public Official and accordingly convict him for the offence.



N. Mishra
Resident Magistrate