



## OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

### COMMUNIQUE

#### P v Yogida Sawmynaden – CN 363/23

1. This Office has duly considered the Judgment of the Learned Magistrate in the case against former Minister Yogida Sawmynaden. As in all decisions where criminal charges have been dismissed, this Office assesses whether an appeal should be made. In deciding whether or not to appeal, this Office will look at the soundness of the legal reasoning and, in relation to findings of fact, whether these are perverse i.e. **that no other reasonable court would have reached the same conclusion**. Dismissal of criminal charges based on credibility is a usual occurrence where the benefit of doubt is given to the accused. It is only in exceptional cases - where the finding is perverse - that this Office normally appeals against the decision.
2. In the present matter, the case for the prosecution rested primarily on the evidence of the main witness. The case was fact-sensitive and everything revolved around her credibility. Credibility assessments of witnesses in a criminal trial are always matters for a court to decide upon.
3. The decision of the Learned Magistrate dismissing the charges against Mr Sawmynaden is essentially a factual finding. The Learned Magistrate noted several inconsistencies in the testimony of the main prosecution witness. One of these was a contradictory averment made by the witness in her affidavit. Everyone will have his or her own interpretation as to whether an inconsistency is material or not. However, what matters is the finding of the Learned Magistrate because she had the distinct advantage of assessing the demeanour of witnesses who testified before her. As explained above, an appellate court will be slow to reverse the findings of the Learned Magistrate in the absence of clear perversity in her assessment of the facts. This Office, despite having a divergent appreciation of some of the findings, is not satisfied that these were necessarily perverse. As such, there is no sufficient basis to appeal.
4. In view of the above, this Office has decided that it will not appeal against the decision of the Learned Magistrate.
5. This Office would like to reassure the public that the prosecution left no stone unturned in seeking to prove its case. In so doing, it relied to all the relevant information and evidence found in the police casefile and submitted to this Office.

10 June 2024

Garden Tower, Port Louis

