

THE HIGH COURT

[2021] IEHC 536

[2021 No. 1 CAB]

PROCEEDS OF CRIME

**IN THE MATTER OF SECTION 3(1) OF THE PROCEEDS OF CRIME ACTS 1996-
2016**

BETWEEN:

CRIMINAL ASSETS BUREAU

Applicant

-and-

AUTOLOGY LIMITED T/A AUTOPACE

-and-

AGNE KHAN

Respondents

JUDGMENT of The Hon. Mr. Justice Alexander Owens delivered on the 25 day of June, 2021.

1. The Criminal Assets Bureau (“the Bureau”) claims that a credit balance of over €153,000 in an account at Bank of Ireland in Tralee, County Kerry, and 84 motor vehicles and a trailer seized from a motor

dealer yard in County Tipperary and at other locations constitute, directly or indirectly, proceeds of crime, or were acquired, in whole or in part, with or in connection with property which constituted proceeds of crime.

2. The respondents to this application are Autology Limited ("Autology") and Agne Khan. Agne Khan is listed as the 100% holder of issued shares in Autology. She was also listed as a director of that company during the period between May 2019 and April 2020, after which she was replaced. At the same time Simona Khan, wife of Jawad Khan, became the company secretary. The registered office of Autology is at Unit 1, Ballywilliam, Carrigatogher, Nenagh, County Tipperary and it traded from this property.
3. Agne Khan and her brother in law, Jawad Khan controlled the company bank account, which was maintained at Bank of Ireland, Tralee. Agne Khan and Simona Khan are originally from Lithuania. Agne Khan is married to Khurram Khan.
4. On 24 September 2020, members of this Khan family were arrested in England, and premises in England were searched on foot of warrants. The motor dealer's yard at Unit 1, Ballywilliam and houses at Slate Quarry, Tipperary and Killaloe, County Clare were also searched. Eighty-nine vehicles and a trailer were seized in Ireland. Five of these vehicles were not associated with the Khans and were handed back to their owners. These included one vehicle with a UK registration. Two of the vehicles seized were registered to Autology.
5. A VW Amarok pick-up type truck seized outside the house at Slate Quarry was registered to Agne Khan. This is the home of Simona Khan and Jawad Khan. Agne Khan does not live at this address. Jawad Khan had the use of this vehicle which he described as a company car.

6. These actions by law enforcement agencies related to investigation of complicated mandate frauds in which money was stolen and then laundered. In ten linked frauds investigated in "Operation Brasenose", over £1,300,000 was stolen. In another series of frauds concerning the NHS and investigated in "Operation Kangchenjunga", over £900,000 was stolen. During police investigations of these crimes further mandate frauds were identified.
7. The Bureau claims that funding for stock in trade and business operations of Autology was sourced in proceeds of mandate frauds. It claims that these frauds and laundering of benefits received as a result of them were perpetrated by the Khans and their associates. It claims that an underlying purpose of Autology's operations as a motor dealer was to launder benefits obtained from proceeds of crime.
8. Having considered the affidavits and the exhibits, I conclude that the Bureau has established these matters to the requisite standard of proof. There is cogent evidence that the Khans and their associates received substantial benefit from mandate frauds. Some proceeds of these frauds were used to fund business activities of the Khans in England and Ireland. These activities involved a number of companies and other trading identities controlled by the Khans. Proceeds of frauds were laundered by being introduced into business operations to buy cars from British Car Auctions. These cars were then sold off through second-hand motor dealers controlled by the Khans in England and Ireland. At this stage, proceeds of frauds were represented by other assets such as receipts and trade-in vehicles.
9. The evidence presented fully supports the belief of Detective Chief Superintendent Gubbins that the credit balance in the Autology bank account and the vehicles seized by the Bureau are at least partly derived from proceeds of crime. I accept that his belief is well-founded and that he has reasonable grounds for holding this belief. I

am treating his belief as evidence of the matters which the Bureau must prove in order to succeed in this application.

10. Autology was supplied with cars from England which were bought using proceeds of crime derived from mandate frauds. Autology followed the model of other business entities used by the Khans for the same purpose. Proceeds of these frauds were a source of capital for acquisition of motor vehicles and ended up being represented by the vehicles and trailer which were seized by the Bureau and the credit balance in the bank account.
11. Khurram Khan and Agne Khan live in the West Midlands in England. They both have a track record of significant criminal activity involving fraud. They are presently facing potential criminal charges arising from activities which have resulted in these proceedings.
12. In 2010 Khurram Khan was convicted in England of mortgage fraud offences involving £7.9 million. Agne Khan was also involved in this fraud and received a prison sentence of 18 months. She fled England in 2009 and did not return until 2014.
13. The evidence establishes that these Khans controlled Autology and a number of other companies and unincorporated business entities in Ireland and England which were involved in paying for, buying or trading second-hand motor vehicles.
14. Between the end of April 2018 and the end of October 2019, at least £1,325,490 was fraudulently intercepted in ten linked mandate frauds which involved the Khans and their associates, and which were investigated as part of "Operation Brasenose". Over 150 bank accounts were used. Another mandate fraud involving the Khans where the NHS was the victim resulted in a loss of £904,043 of which £266,957 was routed to enable SJK Wholesale Limited ("SJK") to buy cars from British Car Auctions. This fraud was investigated in "Operation Kangchenjunga". The evidence indicates that these

fraudulent activities began in 2017. Further substantial mandate frauds by this group have come to light during the investigation which have involved theft of an extra £1.32 million.

15. Autology is incorporated in Ireland. Khurram Khan took control of it from in September 2018. Autology subsequently adopted its current company name and changed its business activity to that of sale of cars and light motor vehicles. It began trading in used motor vehicles under name "Autopace" which was registered as a business name in May 2019. In early 2019 it opened the bank account in Bank of Ireland, Tralee. Autology operated out of Unit 1, Ballywilliam. This commercial unit is owned by another company controlled by the Khans.
16. SJK previously traded as a motor dealer from the same premises using various business names. SJK was also controlled by the Khans. SJK was involved in selling vehicles sourced by the Khans and their associates in England.
17. SJK ceased trading in December 2018 after tax irregularities were discovered in an investigation by the Revenue Commissioners. A liquidator was subsequently appointed. Proceeds of sales by SJK were routed back to the Khan family in England. The Khans walked off from SJK, taking with them trading proceeds. They left behind the Irish revenue liabilities associated with SJK's operations. SJK has an unpaid VAT liability of over €623,000.
18. I refer to the explanations given by Jawad Khan to Bureau investigators. He claimed that he set up SJK and that Agne Khan had no role in this business. He claimed that SJK sold cars supplied on credit. He claimed that he was just a manager of Autology and that when he ran SJK he had no idea where the money to buy cars for that company came from. It is clear from the content of his answers

to Bureau investigators that the business affairs of SJK were controlled by Khurram Khan and a business associate.

19. Jawad Khan stated that the VW Amarok was bought by Agne Khan in England and sent over to Ireland. All of the employees of Autology were insured to drive it on a trade policy in the name of Jawad Khan. Jawad Khan arranged the VRT on importation of this vehicle and the documents for it were kept at the Autology offices. Revenue records disclose that ownership of this vehicle was registered to Agne Khan on 27 August 2019.
20. The evidence establishes that many motor vehicles supplied to SJK from England for sale in Ireland were sourced from British Car Auctions and paid for with money which came from a variety of obscured sources which are inconsistent with any legitimate form of commercial activity. In my view, the only rational inference is that these vehicles were bought with proceeds of crime derived from mandate frauds by the Khans and their associates.
21. Money was sent by a roundabout route, using accounts of friends and relations of the Khans. It was used to buy motor vehicles. Some of the vehicles were purchased from British Car Auctions using Irish IP addresses associated with the Khans, Autology and SJK and using business names associated with those entities. Money then came back from Ireland into accounts associated with businesses controlled by the Khans and was withdrawn. The Khans and their associates were the ultimate beneficiaries of these activities.
22. Examples of specific transactions are given in an affidavit sworn by Police Constable Luke Knight of West Midlands Police. The Irish IP addresses which were used in relation to proceeds of specified mandate frauds include addresses used by Autology and other persons associated with the Khans. Cars were bought from British Car Auctions using these IP addresses. Purchases of vehicles through

English business entities connected with the Khans bearing the names "Natal Auto Zone" and "Autolink Trade Centre" are associated with these purchases and these are in turn linked to stolen funds traced to frauds investigated as part of "Operation Brasenose."

23. A total of 305 vehicles were purchased from British Car Auctions for SJK for a total price of £2,286,500. Two hundred and twenty-two vehicles were bought from British Car Auctions for three other business entities associated with the Khans which operated in England. A total of over £701,000 was spent from funds stolen in the ten frauds being investigated under "Operation Brasenose" was diverted towards these purchases.
24. Autology bank statements show a lodgement of over €22,700 in early March 2019 which may represent transfer of funds from an English account. This was followed by payments to the company which owns the Ballywilliam premises. These appear to represent rent. Lodgements to the bank account indicate that Autology began to deal in motor vehicles in May 2019.
25. Autology had no overdraft facility and its bank account does not show any other source of working capital. Brian Durrant was employed by Autology until 2020. He claims that he invested approximately €47,000 in cash in Autology for a brief period. This is not reflected in any bank statement. Mr Durrant was paid €49,400 out of the Autology bank account at the end of February 2020. He left to set up his own car sales business in County Clare. The Autology bank account showed healthy credit balances. Autology did not require loans or investments for working capital from Mr Durrant.
26. The bank statements do not identify any credits which would explain the source of funds for the inventory of vehicles seized by the Bureau and the credit balance in the bank account. Any funding came

in the form of cars supplied on credit terms by the Khans through their English business entities.

27. The bank account does not show any substantial disbursements which might reflect payment for vehicles until June 2019. Thereafter, payments were made through Interpay until mid-November 2019. The total value of payments to SJK Motors Limited using Interpay services was £1,164,715.85. This was followed by direct debit payments of sums of €67,345.14, €30,415.06 and €38,608.92 to SJK Motors limited on 26 November 2019, 3 December 2019 and 13 December 2019, and a further payment of €69,588.23 to the same payee on 23 January 2020. A direct debit payment of €91,126.02 was made to Clay Motors Limited on 30 January 2020. SJK Motors Limited and Clay Motors Limited are entities controlled by the Khans in England. The former company was the source given for most of the vehicles imported during 2019 and into early 2020.
28. Prestige Motorhouse Limited was set up in April 2020. During 2020 cars were supplied to Autology; predominantly by Prestige Motorhouse Limited to which it paid €446,389.36, and also by Rabone Cars Limited (another Khan linked business) to which it paid €96,278.15. Autology began to buy cars on its own account in Irish auction houses from December 2019.
29. I refer to the analysis in the affidavit of Revenue Bureau Officer 83 and exhibit RBO2. This examines exhibit LK 1 in the affidavit of Police Constable Luke Knight which lists vehicles supplied to Autology through Khan related entities which had been acquired with money sourced in the frauds investigated in Operations "Brasenose" and "Kangchenjunga". An audit trail relating to 25 vehicles bought with funds sourced in these frauds shows that the total revenue generated on sales was €271,785 and that their purchase value was approximately €207,000. These vehicles were bought between 27 May 2019 and 27 January 2020. The deponent has traced payments

of approximately €53,000 back to SJK Motors Limited in respect of these vehicles.

30. Forty-three vehicles came to Autology from Prestige Motorhouse Limited. These include 19 vehicles listed at items 2, 3, 5, 6, 7, 8, 9, 18, 24, 25, 26, 27, 28, 31, 36, 40, 41,43 and 72 in the schedule of vehicles seized and retained by the Bureau. The evidence establishes that Khurram Khan and Agne Khan were the controlling minds behind Prestige Motorhouse Limited. Another seven vehicles obtained by Autology were sourced from Clay Motors Limited. The vehicle listed as 57 in the schedule to the originating notice of motion was sourced from this company. These acquisitions were organised by Khurram Khan and Agne Khan. Autology Limited sourced 283 vehicles from SJK Motors Limited. The vehicles listed at 52 and 80 in the schedule to the originating notice of motion came from this source.

31. Twenty-six of the vehicles taken from the Tipperary facility on 24 September 2020, had UK registration plates. Twenty-one of these were recorded by British Car Auctions as purchased by "Varadi Enterprises". This is a business name associated with an address in the West Midlands. Some cars bought in the name of this entity were acquired by persons using an IP address which was also used in car purchases associated with an address of Khurram and Agne Khan.

32. This entity registered with British Car Auctions in October 2019. Purchases of vehicles from British Car Auctions were made using this name between 15 January 2020 and 7 August 2020. Approximately two hundred and sixty-three vehicles were bought for £3,772,828. A variety of accounts were used to fund purchases of cars from British Car Auctions by "Varadi Enterprises" using multiple different card payment numbers. This modus operandi of using a number of accounts and payment methods is the same method as was used to

introduce proceeds of mandate frauds investigated in "Brasenose" into their businesses.

33. In interview with Bureau officers Jawad Khan described Mr Varadi as working for Rabone Cars Limited in Birmingham. He stated that he never met this person.
34. There is a duplication between the UK registered vehicles seized from Autology and recorded as bought from British Car Auctions through "Varadi Enterprises" and vehicles recorded by Autology as sourced from Prestige Motorhouse Limited.
35. Vehicle registration number FV17 LVZ listed at 55 in the schedule to the notice of motion is listed as being purchased by "Varadi Enterprises" on 9 July 2020. The IP address used for the purchase of this vehicle was also used to buy vehicles with funds stolen in in frauds investigated in "Operation Brasenose".
36. Vehicle registration RV16 CVC was purchased using the Bank of Ireland Tralee Bank Account of Autology on 26 May 2020. The amount paid is inconsistent with the likely value of a second-hand Honda Civic and it may be that other vehicles were bought at the same time.
37. This evidence establishes that funds used to buy cars supplied through "Varadi Enterprises" purchases do not come from any legitimate business source. The funds to buy these vehicles did not originate from Prestige Motorhouse Limited. Four of the UK registered vehicles seized from the Tipperary yard are not sourced from British Car Auctions.
38. The Irish registered motor vehicles seized from Autology are a mixture of re-registered vehicles imported from England, trade-ins and vehicles bought by Autology in Ireland for resale.

39. Khurram Khan controlled the activities of the sole director of Prestige Motorhouse Limited. Between the months of April and September 2020 turnover of £2,387,007 is shown on the bank account of this company and of that turnover £2,000,000 is not accounted for on the business figures provided by the director.
40. On 24 September 2020 90 vehicles were seized from premises used by Prestige Motorhouse Limited in England. The owner of this premises is recorded since 2019 as being the father of Khurram Khan. No claim has been made by Prestige Motorhouse Limited for the return of these vehicles.
41. One of these vehicles was bought with funds from the Autology account in Bank of Ireland, Tralee on 17 March 2020 using an IP address associated with use of stolen funds by other Khan associated entities to buy vehicles from British Car Auctions. Ten of these vehicles were not sold by British Car Auctions. Forty-two vehicles were purchased by Varadi Enterprises. Thirty-one vehicles were bought through an Atanas George Bardukov using a variety of bank accounts of different entities to effect payment. These purchases were not funded by payments which can be traced to any legitimate source. Two other vehicles were bought through Rabone Cars Limited.
42. My general conclusion from the material presented is that a substantial element of the assets of businesses controlled by the Khans is derived from proceeds of very large mandate frauds and that these proceeds have been introduced into their motor dealerships in both England and Ireland for purchase of motor vehicles. The evidence establishes that Agne Khan and Khurram Khan were at the heart of these frauds and that others such as Jawad Khan were employed in motor dealership businesses used to launder proceeds.

43. It is clear that the frauds have enriched the Khans by an amount in excess of £3,500,000 and that large elements of personal and business assets under their control are derived from these frauds. The sources of much of the money put into the acquisition of motor vehicles seized from Prestige Motorhouse Limited and Autology were obscured and followed the pattern of fraudulent concealment as was used when proceeds of mandate frauds were introduced to buy vehicles which ended up with dealers such as Autology and SJK. These transactions do not accord with any honest or normal method of introducing capital into a business.

44. The assets seized by the Bureau as listed in the schedule to this application under s.3 of the Proceeds of Crime Act 1996 are all proved to me to be under control of Agne Khan and Autology and to constitute property which was acquired in whole or at least in substantial part, with or in connection with property that, directly or indirectly, constitutes proceeds of crime. It is therefore appropriate to make an order prohibiting Autology and Agne Khan or any other person having notice of this order from disposing of or otherwise dealing with any property representing the credit balance in the bank account and the motor vehicles and the trailer. No material has been placed before me which suggests that it would be inappropriate to make this order on grounds that it would result in a serious risk of injustice to any person who may be potentially affected.