



Specialist practice areas: Serious Crime, Criminal/Civil Fraud,

## Regulation/Compliance, Extradition, Asset Forfeiture

Muthupandi Ganesan is an able and versatile junior, who is developing a strong reputation in proceeds of crime, asset forfeiture and financial crime. Muthupandi also has particular interest and experience in cases involving medical / pharmaceutical industry.

Confiscation / Proceeds of Crime

Muthupandi is a specialist in proceeds of crime and asset forfeiture proceedings. Muthupandi has particular experience of confiscation proceedings under the Proceeds of Crime Act 2002, especially in cases involving “criminal lifestyle” provisions.

Muthupandi is now regularly instructed as a ‘new counsel’ (separate from trial counsel) specifically to deal with ‘confiscation proceedings’ for defendants as well as for ‘interested parties’ especially under VHCC regime.

In addition, Muthupandi has particular expertise in ancillary applications arising from ‘confiscation’ proceedings such as:

**Certificate of Inadequacy applications** to the High Court for variation of the 'confiscation order' pursuant to Drug Trafficking Act 1994 and Criminal Justice Act 1988.

**Confiscation Variation Applications** to the Crown Court pursuant to section 23 of the Proceeds of Crime Act 2002.

**Reconsideration of 'benefit' and 'available amount'** to the Crown Court pursuant to section 21 and 22 of the Proceeds of Crime Act 2002.

**Variation of Restraint Orders** in the High Court and the Crown Court.

**Compliance with 'Production Orders'** in the High Court and the Crown Court.

**Enforcement proceedings** at Magistrates Court for failure to pay the 'confiscation order' within the stipulated time.

Muthupandi welcomes instructions in relation to complex confiscation/ proceeds of crime issues and is able to provide advice and assistance at a short notice. Muthupandi is currently representing a Defendant with the benefit value in the region of £9 million.

## **Cash forfeiture**

Muthupandi regularly represents 'individuals' and 'interested 3<sup>rd</sup> parties' in relation to cash detention (section 295 of Proceeds of Crime Act 2002) and cash forfeiture (section 298 of Proceeds of Crime Act 2002) in the Magistrates Court and on appeal in the Crown Court.

Muthupandi represented the main Respondent on one of the longest forfeiture application (16 days) hearing in the Magistrates Court.

## Prosecution

### **Financial Services Authority**

Muthupandi has recently (2008 – 2009) completed a 10 month secondment at the Financial Services Authority (Wholesale Enforcement Division) in relation civil enforcement proceedings against a multinational bank for breaches of systems and control. The secondment related to an internal \$50 million investment banking fraud by employees of the bank. In addition, Muthupandi assisted in the investigation and prosecution of Significant Influence Functions holders of the bank.

## **Serious Fraud Office**

Muthupandi has been instructed as an 'Independent Counsel' and 'Disclosure Counsel' on numerous occasions by the Serious Fraud Office in relation to review of legal professional privilege and 'unused' material.

## **NHS Legal Protection Unit**

Muthupandi is regularly instructed by the NHS Counter Fraud and Security

Management Service in private prosecutions for assaults on NHS staff and fraud on the NHS. The advice provided range from pre-charge to post conviction and very often requires consideration of complex medical and mental health evidence.

## Defence

Muthupandi has built up a substantive defence experience in cases involving fraud, money laundering and regulatory breaches. Muthupandi has particular experience of defending in cases with high volume of data especially in electronic format, as illustrated by the recent case described by the prosecution as the “most sophisticated counterfeit document factory to date” (R v Koma, Snaresbrook Crown Court, 2008 / 2009).

## VAT and Duties Tribunal

Muthupandi represents parties in the VAT and Duties Tribunal especially in relation to withholding of ‘input tax’ by HMRC in circumstances involving MTIC fraud. Muthupandi was instructed as second junior counsel in a complicated appeal against customs duties.

## Extradition

Muthupandi represents both foreign governments and defendants in extradition proceedings at first instance.

## Immigration

Muthupandi advises and represents individuals at the Asylum and Immigration Tribunal in relation to revocation of business visa, permanent residence and deportation orders. Muthupandi can also provide pre-application advice at a short notice.

## Current instructions

Muthupandi is currently instructed in the following cases of note:

- Instructed on numerous confiscation proceedings as a 'specialist counsel' with high volume case materials (4000 pages plus) (Bradford Crown Court, Croydon Crown Court, Southwark Crown Court)
- Advising on a civil interim 'property freezing order' and claims for declaratory relief by a wife of a convicted defendant in relation to assets subject of a confiscation order. [High Court]
- Representing a 16 year old child as an interested '3<sup>rd</sup> party' in a very unusual 'cash forfeiture application. (Thames Magistrates' Court)
- Junior Counsel representing a business man charged with money laundering and fraudulent trading allegations arising out of high yield investment scheme. (Bournemouth Crown Court: September 2010)

## Other

## Languages

Tamil (Indian language) (Fluent)

## **Appointments (voluntary)**

Mental Health Act Hospital Manger (City and East London Mental Health Trust)  
(2008 – current)

Secretary to the World Tamil Organisation (UK) (2005 – current)

<http://www.worldtamilorg.co.uk/>

<http://www.timesonline.co.uk/tol/comment/letters/article5853770.ece>

**Notable Cases**

## Confiscation

**R v Adams (2007 / 2009) (Southwark Crown Court) (2009):** Acted on behalf of the defendant in the 2<sup>nd</sup> successful variation of the confiscation order.

**R v Shields (2008 / 2009) (Liverpool Crown Court):** Represented the defendant in multi-handed confiscation proceedings, arising from a large drugs conspiracy. (VHCC - 4500 pages)

**R v Shahzad (2008) (High Court):** Acted on behalf of the defendant in successful

certificate of inadequacy application.

**R v Warden (2008) (Cambridge Crown Court):** Acted on behalf of the defendant in the successful variation of a confiscation order. This case involved novel issue as to whether 'interest' accrued can be separated from the original confiscation order for the purpose of variation of the confiscation order under section 23 of the Proceeds of Crime Act 2002.

**R v Harrison (2008) (Birmingham Magistrates Court):** Acted on behalf of the Crown in enforcing a confiscation order with a delay of 8 years.

**R v Oladepo (2008) (Inner London Crown Court):** Acted on behalf of the defendant in a successful variation of a confiscation order.

**Re: MF (2008) (Divisional Court):** Acted on behalf of the Crown Prosecution Service (the Interested Party) in an application for judicial review of enforcement proceedings at City of Westminster Magistrates' Court.

**R v Johnson (2008) (Kingston Crown Court):** Acted on behalf of the defendant in a successful variation of a confiscation order.

**Steen v SFO (2007) (High Court):** Acted on behalf of the defendant in a variation of a Restraint Order.

**R [MHRA] v Kaul (2007) (High Court):** Acted on behalf of the Prosecution in a certificate of inadequacy application.

**R [MHRA] v Kaul (2007) (Croydon Crown Court) -** Acted on behalf of the Prosecution in a confiscation variation hearing.

**RE: Lingham (2007) (Marylebone Magistrates' Court):** Acted on behalf of

RCPO in relation to enforcement proceedings, where the court enforced a default period of 3 ½ years.

## Cash Forfeiture

**SOCA v VK (2009) (City of Westminster Magistrates Court):** Represented a money change bureaus in relation to cash forfeiture application by SOCA. (value £200k) (4 day trial)

**HMRC v Kumar & Ors (2007) (Dover Magistrates Court):** Represented a businessman stopped at Dover port with £70,000.00 in cash. It was a complicated case involving four 3<sup>rd</sup> party claimants pursuant to section 301 of the Proceeds of Crime Act 2002. The case involved expert evidence in relation to gold trade, gold notice, VAT and Post Traumatic Stress Disorder. (16 day trial)

## Serious Fraud

**R v Yusupov (2009/ 2010) Southwark Crown Court:** Represented the Defendant on an American Express counterfeit credit card fraud. (Value £150k).

**R v SL (2009) (Southwark Crown Court):** Junior counsel (led by Peter Martin) in the successful defence of a businessman charged with 'invoice factoring' fraud and money laundering. (Value £1 million). (4 week trial)

**R v DD (2007 - 2009) (Kingston Crown Court):** Junior Counsel (led by Edward Henry) in the successful defence of a businessman charged with money laundering in excess of £7 million. This case involved substantive medical evidence in relation to fitness to plead and stand trial.

**R v Koma (2008 / 2009) (Woolwich Crown Court):** Junior counsel (led by Mahmud Aslam) for the defence in a large scale commercial counterfeit document factory case involving a range of counterfeit identity documents such as 1100 national insurance cards, 500 driver's licence, 200 British passports and hundreds of immigration documents re indefinite leave to remain and asylum.

**R v Sonekan (2008 / 2009) (Woolwich Crown Court):** Represented the wife of a serial fraudster in relation to charges of mortgage fraud and money laundering. (Value £165k). Achieved a very lenient suspended sentence.

**Re: KFC (2008) (Serious Fraud Office):** Acted on behalf of the Serious Fraud Office as a 'disclosure counsel' for 3 months in relation to a substantial collective investment fraud. Reviewed the 'unused' material as part of a team.

**Re: E (2008); A (2008) (Serious Fraud Office): Instructed on behalf of the Serious Fraud Office as an 'independent counsel'.** Advised the SFO in relation to documents that are subject of Legal Professional Privilege / Litigation Privilege in a complicated share / banking fraud **and** advance fee fraud investigation.

**R v SD (2006 / 2007) (Basildon Crown Court):** Junior Counsel (led by Peter Martin) in the successful defence of a company director charged with trading while insolvent contrary to the Companies Act 1985 (value in excess of £1million) and taking steps to evade VAT. The case involved complicated expert evidence from a forensic accountant.

**Regulation & Compliance**

**RE: X (Financial Services Authority) (2008/2009):** Muthupandi has recently completed a 10 month secondment to the wholesale enforcement division of the Financial Services Authority. He assisted in a civil regulatory enforcement proceedings against a multinational bank for breaches of systems and control and its individuals for breach of principles. The regulatory proceedings related to an internal \$50 million investment banking fraud by employees of the bank. This has been excellent experience as it has given him a good knowledge of Financial Services and Markets Act 2000. In addition, during the secondment, Muthupandi advised and considered various legal and investigative issues such as the scope of CF30, 3rd party rights in a warning notice and anti-money laundering requirements of a multi-national bank.

**Re: X (A Firm) (2007 / 2010):** Muthupandi continues to act for a firm of solicitors in relation to complicated money laundering and production order issues surrounding arrest and charge of a partner at the firm.

**R v Walker & Ors (2008)(Bedford Magistrates Court):** Junior Counsel (led by George Carter-Stephenson QC) in the successful defence of 3 men charged with killing 29 swans contrary to Wildlife and Countryside Act 1981. The case was jointly brought by RSPB and CPS and was described as the 'worst wildlife crime in

the last 10 years' and involved forensic evidence in the field of veterinary pathology and firearms.

**R v Huxley & Pownall (2007 - 2008) (Sheffield Crown Court):** Junior Counsel (led by Sandip Patel) acting on behalf of Medicines Healthcare Regulatory Products Agency prosecuting in a case involving various breaches of Medicines Act 1968 and associated regulations (value in excess of £2 million).

**R v Halai, Haywood, Patino and others (2007) (Kingston Crown Court):**

Assisted the prosecution team in preparation for a multi-handed trial of global medicines counterfeiting ring. Muthupandi was instructed to analyse financial activities / money movements of the defendants and their associated companies. This case involved use of specialist computer software such as Microsoft Visio, Case Map and Time Map.

**Secretary of State for Trade & Industry v Scott Dunn (2007) (Southend County Court):** Represented a businessman Respondent in Directors Disqualification proceedings.

## Private Prosecutions

Muthupandi has represented the prosecuting agency (NHS Counter Fraud and Security Management) in relation to the following cases:

**NHS SMS v Lowry (2010) (Reading Magistrates Court):** successful conviction for common assault on NHS staff. This was unique in that the Crown Prosecution Service were invited by the defence to 'intervene' and take over the conduct of the private prosecution by the NHS SMS regarding issues of public interest and mental health of the Defendant. CPS interests were successfully resisted.

**Re: MB (2010):** pre-charge advice regarding commencing private prosecution for assault on a female NHS staff at a Doctor's surgery.

**Re: CB; AL; MM; AW (2008 / 2009):** pre-charge advice regarding commencing private prosecution for assault on NHS staff.

**NHS SMS v Dougherty (2009) (North East Northumberland Magistrates Court):** successful conviction for assault occasioning actual bodily harm on NHS staff. Matter currently pending sentence at Newcastle Crown Court.

**NHS SMS v Parrish (2008) (Ipswich Magistrates & Ipswich Crown Court):**

Successfully obtained a Hospital Order with Restriction under section 41 Mental Health Act 1983 for assault occasioning actual bodily harm on NHS staff.

**NHS SMS v NN (Thames Magistrates Court) (2008):** prosecution of a 17 year old youth for a serious GBH on a NHS staff. Matter discontinued.

**NHS SMS v McIntosh (Taunton Magistrates Court) (2007/ 2008):** successful conviction for assault occasioning actual bodily harm on NHS staff and obtained a Hospital Order with Restriction under section 41 Mental Health Act 1983.

## Serious Crime

**R v RB (2010) (Inner London Crown Court):** Junior Counsel (led by Philippa McAtasney QC) in successful defence of a 12 year old boy charged with rapes on a 3 year old child. Crown offered 'no evidence' during substantive legal arguments. The case involved complicated legal arguments regarding competency of child witnesses and abuse of process due to delay.

**R v Saleem (2009/2010) (Kingston Crown Court):** Represented the Defendant (a courier) in a multi-handed money laundering / drugs conspiracy.

**R v McCulloch (2009) (Luton Crown Court):** Junior Counsel (led by Dominic Bell) in a multi-handed in a conspiracy to burgle high value motor vehicles. (Value £300k).

**R v Toussaint-Collins (2009) (Court of Appeal Criminal Division):** Junior Counsel (led by Henry Grunwald QC) in an appeal against murder conviction. The case involved consideration of witness anonymity orders.

**R v Smeeth (2007) (Woodgreen Crown Court):** Represented a defendant charged with substantial quantities of Class A [cocaine 10kg] and Class C [Cannabis - 110 kg] drugs with intent to supply.

**R v Warwick (2007) (Snaresbrook Crown Court):** Junior Counsel (led by Simon Molyneaux) in a multi-handed conspiracy to supply Class A [Cocaine 6.5 kg].

