Caution in Using Hearsay – s 93C(2) *Evidence Act* 1977

Special considerations arise in relation to things which (name of witness) testified that (name of source**) told him.**

There is a risk that the witness's testimony is not a reliable account of what actually happened.

(Source's**) statement reaches you through the perceptions, interpretations and recollections of the witness, not through the recollections of (**source**). A witness who tells you of what somebody else said may have misheard or misinterpreted what was said. Or the witness might not recall things accurately because of faulty memory.**

Also the statements said to have been made to (witness**) were not on oath. In saying these things to (**witness**), (**source**) was not then under the same imperative to speak truthfully as if here in Court testifying on oath.**

No less importantly, what (source) told (witness) is untested and untestable: that is, what (source) said cannot be examined to ascertain its reliability by the usual means for testing the honesty and reliability of witnesses: cross-examination; and the opportunity given to a jury to see and hear the source of the information.

(Here add any particular consideration which may affect reliability: as, for example, motive in the source to concoct or exaggerate, or any other reason there may be to call into question the source's veracity.)

So there is need for caution in deciding whether to accept as reliable the things relayed to you as hearsay and, if you accept any of it, in forming a view about the weight that ought to be given to this information.

This section does not require a warning as to the unreliability of hearsay evidence. It is required only when admitted under this section and where a party requests it and unless there is a good reason for not doing so.[1]

[1] *R v Warradoo* [2014] QCA 299. See also *TJF v The Queen* (2001) 120 A Crim R 209 at [59].