

**IN THE COURT OF APPEAL OF THE DEMOCRATIC  
SOCIALIST REPUBLIC OF SRI LANKA**

In the matter of an appeal in terms  
of Section 331 of the Code of  
Criminal Procedure Act No. 15 of  
1979 read with Article 138 of the  
Constitution of the Democratic  
Socialist Republic of Sri Lanka.

Director General,  
Commission to Investigate  
Allegations of Bribery or Corruption.

**Court of Appeal Case**

**No. HCC/0005/2021**

**Complainant**

**High Court of Colombo**

**Vs.**

**Case No. HCB 08/2017**

Ranaweera Mudiyanseelage Anura  
Hemantha Kumara Ranaweera.

**Accused**

**AND NOW BETWEEN**

Ranaweera Mudiyanseelage Anura  
Hemantha Kumara Ranaweera.

**Accused-Appellant**

**Vs.**

1. Director General,  
Commission to Investigate  
Allegations of Bribery or  
Corruption.

**Complainant-Respondent**

2. The Hon. Attorney General,  
Attorney General's Department,  
Colombo 12.

**Respondent**

**BEFORE :** **MENAKA WIJESUNDERA, J**  
**WICKUM A. KALUARACHCHI, J**

**COUNSEL :** Anil Silva, PC with Amaan Bandara and Isuru  
Jayawardena for the Accused - Appellant.  
Wasantha Perera, D.S.G. with Gayan Maduwage for the  
Complainant – Respondent.

**ARGUED ON :** 14.03.2024

**DECIDED ON :** 04.04.2024

**WICKUM A. KALUARACHCHI, J.**

The accused-appellant was a Divisional Development Officer in Ranorawa branch of the Department of Agrarian Service at the time of the incident. The complainant, PW-1 was a contractor and the president of Vimukthi Farmer Organization in Ranorawa area. In the High Court of Colombo,

the accused-appellant was indicted on the following four counts in terms of Bribery Act No. 11 of 1954 as amended.

- I. On or about 12<sup>th</sup> January 2016, for soliciting a gratification in a sum of Rs.30,000/- from Muthu Bandage Jagath Disanayake as an inducement or reward to an official duty (to do an official act of giving a recommendation to a cheque in order to realize the cheque from the Bank of Ceylon) thereby committing an offence punishable under Section 19(b) of the Bribery Act.
- II. During the same time, place and during the same transaction for soliciting a gratification in a sum of Rs. 30,000/- from Muthu Bandage Jagath Disanayake, thereby committing an offence punishable under section 19(c) of the Bribery Act.
- III. On or about 13<sup>th</sup> January 2016, for accepting a gratification in a sum of Rs.30,000/- from Muthu Bandage Jagath Disanayake, as an inducement or reward to an official act (to do an official act of giving a recommendation to a cheque in order to realize the cheque from the Bank of Ceylon) thereby committing an offence punishable under section 19(b) of the Bribery Act.
- IV. On or about 13<sup>th</sup> January 2016, during the same time, place and during the same transaction for accepting a gratification in a sum of Rs.30,000/- from Muthu Bandage Jagath Disanayake, thereby committing an offence punishable under section 19(C) of the Bribery Act.

After trial, the accused-appellant was found guilty by the Judgment dated 15.01.2021 for the four counts and sentenced to rigorous imprisonment extending to 5 years and a fine of Rs. 5000/- which carries a default

sentence of one-year rigorous imprisonment on each count. This appeal is preferred against the said convictions and sentences.

Prior to the hearing, written submissions were filed on behalf of both parties. At the hearing of the appeal, the learned President's Counsel for the appellant and the learned Deputy Solicitor General for the respondent made oral submissions.

The following is a summary of the facts relating to the prosecution case:

The appellant was a Divisional Development Officer in Ranorawa branch of the Department of Agrarian Services. The complainant, PW-1 was a contractor and the president of Vimukthi Farmer Organization in Ranorawa area. PW-1, through the said organization, had undertaken to complete two contracts for the removal of soil from Maha Aliyawidda tank in Ranorawa. He had completed the two contracts and for the 2<sup>nd</sup> contract, got a cheque worth of Rs.466,490/- issued by the Department of Agrarian Service. PW-1 had given a phone call to the appellant and informed the necessity to get the approval of the appellant to encash the said cheque as he was the relevant authorized officer for the said official duty. According to the prosecution, for the purpose of giving his approval to the cheque to realize it from the Bank of Ceylon, the appellant had solicited a sum of Rs. 30,000/- from PW-1 as an inducement and accepted the same as a gratification.

Thereafter, PW-1 had lodged a complaint to the Commission to Investigate Allegations of Bribery or Corruption (hereinafter sometimes referred to as CIABOC). Investigation Officers of the CIABOC organized a raid and arrested the appellant when he accepted the bribe of Rs.30,000/-.

At the hearing of the appeal, the learned President's Counsel for the appellant confined his arguments to the following two grounds.

- i. The prosecution has not proved the charges beyond a reasonable doubt.
- ii. The defence case and the matters raised by the accused-appellant were not considered by the learned Trial Judge.

The accused-appellant has given evidence in this case and called witnesses on his behalf. The appellant has admitted the acceptance of Rs. 30,000/- from the complainant. The appellant's position is that the said Rs. 30,000/- is consisted of a return of a loan of Rs. 15,000/- given by him to the complainant as well as a part of a sum of 1% of the total cost of the project which had to be given to the Agrarian Service Committee in respect of a previous contract as well as this contract.

Evidence clearly shows that in the contract relating to this case, the contractor is entitled to 95% of the amount due. 5% should be deposited in the Vimukthi Farmer Organization, the society that had been awarded the contract, and 1% should be given to the Agrarian Service Committee from the said 5%.

The position taken up by the appellant was that he asks the complainant to pay a part of the said 1% in respect of this contract as well as the previous contract and a Rs. 15,000/- loan that the complainant obtained from the accused-appellant. The learned President's Counsel contended that the learned High Court Judge has failed to analyze properly the evidence of the case and there is a factual misdirection which affects the findings of the learned Judge regarding the rejection of the defence evidence.

The learned Deputy Solicitor General appearing for the respondent contended that the appellant demanded Rs. 30,000/- from the complainant to give the approval to encash the cheque received from the

Vimukthi Farmer Organization. He further contended that although the Agrarian Service Committee is entitled for 1% of the amount from the 5% retained, the appellant cannot demand the complainant to pay the said 1% separately.

In this appeal, the only issue to be determined is straightforward and simple because soliciting and acceptance of Rs. 30,000/- were admitted by the appellant. The only matter to be decided is that whether the said Rs. 30,000/- had been solicited and accepted by the appellant as a gratification or as part of the 1% due from the contracts and the purported loan obtained by the complainant from the appellant.

When the complainant was cross-examined by the Defence Counsel, the aforesaid defence position has been suggested to him. It has been suggested that the said Rs. 30,000/- was consisted of a part of 1% from the two contracts and the Rs. 15,000/- loan obtained from the appellant. The complainant denied the suggestion. In giving evidence, the accused-appellant has taken up the same position and stated that he gave Rs. 15,000/- loan to the complainant and he asked the complainant to pay the said Rs. 15,000/- and part of the said 1%.

There is no receipt or whatever document to show that he gave a loan. In addition, the appellant has not stated the date or a period of time that he gave the loan, the place where he gave the loan. Apart from just stating that he gave Rs. 15,000/- loan to the complainant, there is no any detail regarding the loan that the appellant had purportedly given to the complainant. In these circumstances, I agree with the learned High Court Judge that the story of Rs.15,000/- loan given to the complainant is not believable. It appears to be a fabricated story to justify the money that was taken. Even if the said Rs.15,000/- is added to the 1% due from the said two contracts, it will not be Rs. 30,000/-.

The appellant says that he took a part of the 1% and the Rs.15,000/-. If the appellant asked the amount of Rs.30,000/- to recover the 1% due to the Agrarian Service Committee and to get back the purported loan given by him, why he demanded and accepted only a part of the 1%? This is indeed unusual and unacceptable defence. According to the evidence of the case, there was no procedure to demand and accept separately the said 1% from the due amount. The said 1% should be given by the society to the Agrarian Service Committee from the 5% that the society retained. Anyhow, it is amply clear that there is absolutely no way to recover only a part payment from the 1%.

The learned President's Counsel for the appellant pointed out that there were instances where the said 1% was not paid by the society to the Agrarian Service Committee although the said Committee is entitled to it. In the transaction pertaining to this case, it has not been transpired from the evidence that there was a necessity to recover this 1% separately from the complainant. In addition, there was no such procedure to recover the 1% separately from the complainant as stated previously.

If the appellant collected a part payment of the 1% as he stated although there was no such way to collect the same, undisputedly, a receipt must be issued. As a reason for not issuing a receipt for the part of the 1% charged, the learned President's Counsel for the appellant stated that there was no time to issue a receipt because the appellant was arrested before issuing the receipt. In reply, the learned DSG contended that according to the evidence presented, the complainant came out from the office after giving Rs. 30,000/- to the appellant and if the appellant wanted to issue a receipt, he could have told the complainant to remain in the office until the receipt is issued. Therefore, the learned DSG contended that the story of arresting him before issuing the receipt is false. It is

apparent from the document P-3 that the appellant had given the approval to encash the cheque after receiving the Rs. 30,000/-. Even the appellant stated in his evidence that he endorsed the approval in P-3. If money is taken from a person in performing an official duty, the first thing that the officer should do is to issue a receipt for the money taken. After issuing a receipt for the money that the complainant gave, the appellant should have given the approval. The appellant did not issue a receipt but did give his approval. Therefore, I agree with the contention of the learned DSG that it is apparent that the appellant had time to issue a receipt before the arrest if he wanted to issue a receipt but he did not. Not issuing a receipt is also a reason to conclude that Rs.30,000/- was taken not as a part of 1% and the loan but as a bribe.

In considering the aforesaid circumstances, the only conclusion that could be arrived is that the accused-appellant had taken the Rs. 30,000/- as a gratification and not as a part payment of 1% and loan given to complainant by him. Therefore, it is my view that the four charges leveled against the accused-appellant have been proved beyond a reasonable doubt.

The learned President's Counsel for the appellant pointed out page 18 of the impugned Judgment and contended that the learned Trial Judge has come to a conclusion that the defence version cannot be believed because the evidence of PW-1 is highly credible and that it is entirely a wrong analysis of evidence. I agree with the said contention of the learned President's Counsel. However, for the reasons stated in this Judgment, I hold that the conclusion of the learned High Court Judge to reject the defence version is correct. In addition, the conclusion of the learned Judge that the four charges against the accused-appellant have been proved beyond a reasonable doubt is also correct. The sentences imposed by the learned Trial Judge are also lawful and correct in principle.



Accordingly, the Judgment dated 15.01.2021, the convictions and the sentences imposed on the accused-appellant are affirmed.

The appeal is dismissed.

**JUDGE OF THE COURT OF APPEAL**

Menaka Wijesundera, J

I agree.

**JUDGE OF THE COURT OF APPEAL**