

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

In the matter of an Appeal under and in terms of Section 331 of the Code of Criminal Procedure Act No 15 of 1979 and Article 138 (1) of the Constitution of the Democratic Socialist Republic of Sri Lanka.

**CA Case No: CA/HCC 0026/22**

HC of Colombo Case No: HC 6636/13

The Democratic Socialist Republic of Sri Lanka

**.Complainant**

**V.**

1. Cyril Randeniya  
2. Hettiarachchige Kalochna Manike Kumari

**Accused**

**AND NOW BETWEEN**

1. Cyril Randeniya  
2. Hettiarachchige Kalochna Manike Kumari

**Accused- Appellants**

Hon. Attorney General  
Attorney General's Department  
Colombo 12

**Complainant-Respondent**

**Before:** B. Sasi Mahendran, J.

**Amal Ranaraja, J.**

**Counsels:** Dulindra Weerasooriya, PC with Ranjith Caldera and Pasan  
Malinda for the Accused-Appellants  
Anopa de Silva, DSG for Respondent

**Written**

**Submissions:** 12.10.2022(by the Appellant)

**On** 30.05.2023 (by the Respondent)

**Argued On:** 16.06.2025

**Judgment On:** 29.07.2025

### **JUDGMENT**

**B. Sasi Mahendran, J.**

The Accused-Appellants (hereinafter referred to as ‘the Accused’) were indicted before the High Court of Colombo on the following charges,

1. The 1st Accused gave medicine to cause a miscarriage of one WPC 4035 Renuka, thereby committing an offence punishable under Section 303 of the Penal Code read with Section 490 of the Penal Code.
2. The 2nd Accused aided and abetted the 1<sup>st</sup> Accused to commit the 1<sup>st</sup> offence mentioned above and thereby committed an offence punishable under Section 102 read with Section 303 of the Penal Code.
3. the 1st and the 2nd Accused with the intention of causing injuries to a Public Servant namely: WPS 4055 Renuka while she was discharging her duties namely: acting as a decoy in the execution of a Search Warrant obtained from the Magistrate's Court of Hulftsdorp in Case No: 1851/2/2009 an offence punishable under Section 323 of the Penal Code.

At the trial, the prosecution led the evidence through 11 witnesses and marking P01-P06 productions and thereafter closed its case. The 1<sup>st</sup> Accused gave evidence from the witness box and the 2<sup>nd</sup> Accused made a dock statement in their defence.

At the conclusion of the trial, the Learned High Court Judge, by judgement dated 28.10.2021, acquitted both Accused in respect of Counts 1 and 2. However, both were found guilty on Count 3 and were accordingly sentenced to a fine of Rs. 25,000/- each, with a default term of six months' simple imprisonment.

Being aggrieved by the afore-mentioned conviction and the sentence, the 1<sup>st</sup> and 2<sup>nd</sup> Accused have preferred this appeal to this Court. The following grounds for appeal were urged by the Accused in the written submission.

1. The Prosecution failed to establish that the person on whom the hurt was caused was a Public Servant
2. The Prosecution has failed to establish that WPC 4035 Renuka was performing as a decoy on a search warrant issued in MC Case Number 1831/2/2009.
- 3.

**The Facts and Circumstances of the case are as follows;**

According to PW 01, Buddika Prasad Balachandran received information on 25.11.2009 from a private informant, and later an anonymous letter dated 04.12.2009, alleging that illegal abortions were being performed at Randeniya Medical Center, Dematagoda. Initial surveillance being inconclusive, Police Constable Chandana was deployed on 08.12.2009 and reported suspicious activity. Based on a search warrant (No. B 1851/2/09), PW 01 initiated a decoy operation assigning PW 04, WPS 4055 Renuka, to pose as a pregnant woman. PW 04 testified that a fee of Rs. 20,000/- was charged, along with a scanned image of a fetus.

PW 04 and PW 06, WPC Nadeeka visited the premises, received token No. 2, and were ushered into rooms on the ground. Inside, the first Accused was present along with an assistant. Then the 1<sup>st</sup> Accused questioned the purpose of their visit and what procedure they wished to undergo. Then the first Accused instructed the second Accused to take PW 04 to the 1<sup>st</sup> floor and again made inquiries from PW 04. According to evidence of PW 04, she has stated the reason for the abortion. After receiving instructions, she was given tablets and told she would

experience pain, followed by insertion of a capsule into the anus and additional medication to relieve the pain.

After obtaining the signatures of PW 04 and PW 06, the first accused instructed PW 06 to leave the room. Then asked the witness to lie down and raise her skirt. Subsequently, he handed over some tablets and handed her a glass of water. At that point, PW 04 revealed her Police identity. In the resulting commotion, the first accused bit PW 04's left hand. When she attempted to contact the team, the second accused snatched her phone. After PW 04 lost her grip, the first accused managed to get all but one of the tablets. According to the evidence of PW 06, when PW 04 screamed upon entering the room, she was seen holding onto both the first and second accused.

PW 01 received a call summoning him to the Dematagoda premises, and found PW 04 with bleeding injuries, along with 5 tablets from PW 04 and SI Edirisinghe, uncovered marked currency notes from the 1st Accused's leather bag and seven additional tablets were recovered from the building's third floor.

The main ground argued by the Accused was the absence of a search warrant in the possession of PW 04 at the time of the incident, as the warrant was held by PW 03. Counsel for the Accused contends that the Accused reacted out of fear upon the revelation of PW 04's police identity, citing prevalent concerns about the impersonation of police officers during robberies. It is further submitted that the Accused did not exhibit any resistance towards PW 01, who entered the premises in police uniform.

Despite conflicting testimony from both Accused concerning the identity card that was revealed, the Learned High Court Judge ruled that the search warrant was not necessary in this instance, as PW 04 was acting as a decoy. The Learned High Court Judge concluded that the conduct of both accused, following the disclosure of PW 04's identity, was executed with the intent to inflict harm upon a public servant and untenable to convict them of the third charge, which has proven beyond a reasonable doubt.

The primary argument presented by the Counsel for the Accused was that the testimony of PW 04 lacked corroboration from other evidence. This raises the question: Is there a legal requirement for corroborating a decoy's testimony?

In *The Law of Evidence*, Volume 2, Book 2, page 653, E.R.S.R. Coomaraswamy define decoys and spies as follows:

“Decoys are not accomplices. Thus, the evidence of a police officer, who pretended to be an accomplice, does not require corroboration as in the case of an accomplice. The rule does not apply to persons who have joined in, or even provoked the crime as police spies, or the police, who have assented thereto. Though there is no rule for corroboration of the evidence of a decoy, it should be examined with caution, and it is desirable not to convict on the sole evidence of a decoy.”

**Beddewela v. Albert, 42 NLR 136 at page 139, Soertsz J held that;**

I have examined most of these cases, and it seems clear that in nearly every one of them the evidence of the decoy was rejected not merely because he was a decoy, but for some additional reason, such as his bad character, his ill-will towards the accused, his unsatisfactory demeanour, and things like that.

For instance, in *Coldera v. Pedrick*, there was evidence to show that there was a special reason and a special motive for the decoy wishing to implicate the accused. It is true, Garvin J. indeed said, " whether there was such a motive or not, there is the fact that he was a decoy". In estimating the assistance that can be derived from that judgment, proper emphasis must be laid on the words" in this case " in view of the fact that there was evidence of " special motive".

Further, he held that in *Almeida v. Adiriya*, Akbar J. rejected the evidence of the decoy not only because he was a decoy but also because there were strong reasons in that case for suspecting the bona fides of the prosecution. Moreover, he found that the decoy's and the Inspector's version of the sale was unconvincing. All he said, by way of general observation on the evidence of decoys, was that their " evidence should be examined with great care as interested parties may on little inducement give the necessary touch to their evidence in order to secure a conviction". That is, if I may say so, an unexceptionable observation.

This concept of evidence should be examined with great care, as considered by Justice **Sameerawickrame J** in the case of **Ariyarantne v. Food and Price Control Inspector, Galle, 74 NLR 19 at page 21**, stating that;

The learned magistrate makes no mention of the fact that Gunasekera was not called as a witness and states that the two prosecution witnesses, namely, Bamunuvitarane and the decoy, corroborated one another and were consistent in their testimony. He has misdirected himself in

thinking that there was corroboration of the decoy's evidence to be found in the evidence of Bamunuvitarane. I think, however, that a decoy is on a different footing from an accomplice so far as the rule of practice regarding corroboration is concerned, but that his evidence should, however, be probed and examined with great care-*vide Beddewela v. Albert*.

We are also mindful to consider the evidence of the decoy, PW 04 in accordance with the observation made by **Wijayatilake, J**, in the case of **Wickremadasa v. The Food Price Controller, 78 NLR 3 at page 4**, held that;

"Although a decoy is on a different footing from an accomplice so far as the rule of practice regarding corroboration is concerned, his evidence should, however, be **probed and examined** with great care."

Adopting this principle, we have sought to examine the evidence, and we are inclined to agree with the learned counsel for the 2nd accused appellant that the failure to produce the dairy, in which the number of the note was recorded, throws a reasonable doubt in regard to the version for the prosecution. We would accordingly give the benefit of such doubt to the 2nd accused appellant and quash the conviction and sentence passed against him and acquit him."

With the above authority, we focus on the evidence of PW 04 and whether the evidence is convincing. According to the PW 04, he has stated that when she showed the identity card explained the reason for her visit, then both accused got frightened and held both their hands. With the reserve she incurred, which was not disputed by the accused. Then the PW 04 showed the injuries to the doctor, and the doctor confirmed the injury. According to PW 04, while they held her hands, they were trying to take medicine from her. The PW 05 has stated that when she entered the room, both Accused were holding the witness's hand. The first Accused has admitted that the fourth witness has identified him as a police officer. The Learned High Court has correctly come to the conclusion that they have prevented her from performing her official duty.

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03 වන චෝදනාවේ හරය වනුයේ සෝදිසි වරෙන්තුව අනුව උපාය දුන්නාව ලෙස කටයුතු කිරීමේදී එයට බාධා කිරීමේ හෝ වැළැක්වීමේ අදහසින් 01 සහ 02 ප්‍රදිනයිත් පැ.සා. 04 ට තුවාල සිදුකර ඇති බවයි.

02 වන විත්තිකාරිය විත්ති කුඩුවේ සිට කර ඇති ප්‍රකාශයෙහි සඳහන් වනුයේ පැ.සා. 04 කිසිදු අවස්ථාවක පොලිස් හඳුනාගැනීමක් පෙන්වා නොසිටි බවයි. නමුත් 01 වන විත්තිකරු සිය සාක්ෂියේ සඳහන් කර ඇත්තේ පැ.සා. 04 සිය බැගයෙන් ගෙන පොලිසියෙන් බවට පවසා හඳුනාගැනීමක් පෙන්වා සිටි බවයි. පැ.සා 04 ද තමා හඳුනාගැනීම පෙන්වා සිටි බවත් ඒ අවස්ථාවේ 01,02 විත්තිකරුවන් කලබල වූ බවත් ප්‍රකාශ කර ඇත. එබැවින් පැ. සා. 04 විසින් 01,02 විත්තිකරුවන් වෙත පොලිසියෙන් බවට ප්‍රකාශ කර සිය හඳුනාගැනීම පෙන්වා සිට ඇති බව සාධාරණ සැකයෙන් තොරව ඔප්පු වී ඇති බව තීරණය කරමි.

When we analyse the evidence in total, PW 04's evidence is convincing; she has established that when the Accused identified herself as a police officer, they held her hand by preventing her from performing her duty. We are satisfied with the above evidence that the Learned High Court Judge has correctly examined the witness with great care. Therefore, there is no reason for us to reject the findings of the Learned High Court Judge regarding the Evidence of PW04.

There is no reason for us to disagree with the findings of the Learned High Court Judge.

We hold that the prosecution has established beyond a reasonable doubt with regard to the third count.

For the aforementioned reasons, we dismiss the appeal and affirm the conviction and the sentence.

**JUDGE OF THE COURT OF APPEAL**

**Amal Ranaraja, J.**

**I AGREE**

**JUDGE OF THE COURT OF APPEAL**