

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

In the matter of an appeal in terms of section 331 (3) of the Code of Criminal Procedure Act.15 of 1979 read with Article 139 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Democratic Socialist Republic of Sri Lanka.

Complainant

Vs

Liyanage Sachith Ruchira Sandaruwan
alias Sachi

Accused

And now between

Liyanage Sachith Ruchira Sandaruwan
alias Sachi

Accused-Appellant

Vs

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

Complainant-Respondent

Before : **Hon. P Kumararatnam, J.**
Hon. Pradeep Hettiarachchi, J.

Counsel : Amila Palliyage with Sandeepani Wijesooriya for the Accused-Appellant.
Anoop De Silva DSG a for the Respondents.

Inquiry on : 26.05.2025

Decided on : 18.07.2025

Pradeep Hettiarachchi, J

JUDGMENT

1. This appeal arises from the judgment dated 25th February 2021, delivered by the learned High Court Judge of Negombo, by which he convicted the accused-appellant and sentenced him to life imprisonment for the offences set out in the indictment. The accused was indicted before the High Court of Negombo in Case No. HC 264/2014 on the following counts:
 - A. That on or above 3rd April 2014 at Wattala the Appellant trafficked 5.33g of heroin and there by committed an offence punishable under section 54 A(b) of Poisons, Opium and Dangerous Drugs Ordinance as amended by Act No 13 of 1984.
 - B. At the same time during the same transaction for possession of 5.33 g of heroin without the authority or a license as permitted by the director in terms of chapter 5 Poisons, Opium and Dangerous Drugs Ordinance an offence punishable under section 54 A (d) of the Ordinance.
2. On behalf of the prosecution, the officers who took part in the raid, as well as a witness from the Government Analyst's Department, testified. For the defense, the accused made a dock statement, and three additional witnesses testified.
3. Although several grounds of appeal were initially raised in the Petition of Appeal, when the matter was taken up for argument, counsel for the appellant limited the appeal to three grounds:
 - a. The Learned High Court Judge erred in law by failing to consider that the defense version is more probable than the prosecution;
 - b. Prosecution has failed to prove the chain of custody beyond reasonable doubt;
 - c. The Learned High Court Judge rejected the defense evidence on the wrong premise and therefore denied a fair trial.

4. According to PW1, the information pertaining to the raid was received from a private informant. The raid was conducted on 3rd April 2013, and the appellant was arrested on the same day at 19:45 hours. PW1 further stated that the Heroin was found packed in a pink-colored bag inside the right-side pocket of the appellant's pair of trousers.
5. Thereafter, they proceeded to the appellant's residence and conducted a search, but no illegal items were found. After sealing the substance recovered from the appellant, the officers arrived at the Police Narcotics Bureau at 21:45 hours.
6. According to PW 1's testimony, the Heroin parcel recovered from the Appellant was kept in PW 1's personal locker for three days and was then handed over to I.P. Rajakaruna on April 6, 2003, at 9:00 a.m.
7. The next witness testified for the prosecution was M.Upul Matharachchi PW2. It is noteworthy that, according to PW1, one pink-colored parcel was recovered from the appellant. However, PW2 testified that three pink-colored parcels were recovered from the side pocket of the appellant's pair of trousers. According to the Government Analyst's evidence, only one pink-colored bag was received for analysis. Therefore, the evidence of PW1, PW2, and the Government Analyst regarding the detection of the drugs from the appellant is contradictory and thereby seriously undermines the credibility of the prosecution's case.
8. These glaring loopholes in the prosecution's case that made it doubtful as to whether the samples drawn remained untampered or in safe custody from the time of seizure till it reached the Government Analyst.
9. More importantly, PW2 clearly stated in his evidence that, after sealing the substance recovered from the appellant, it was handed over to Sub-Inspector Rajapaksha upon their arrival at the Police Narcotic Bureau. In contrast, PW1 testified that the production was handed over to Police Inspector Rajakaruna only after he had kept it in his personal locker for three days following the alleged detection.
10. In a case of this nature, one of the most important components the prosecution must establish beyond a reasonable doubt is the chain of custody. This refers to the chronological documentation of the custody, transfer, and disposition of the substance recovered from the Appellant. It tracks the movement of the seized drugs from the time of recovery to their presentation as evidence in court. The chain of custody serves as a safeguard against

contamination, substitution, tampering, or loss of evidence, thereby ensuring its reliability and authenticity.

11. To elaborate further, the prosecution must prove that the productions had been forwarded to the Government Analyst from proper custody, without allowing room for any suspicion that there had been no opportunity for tampering or interfering with the production till they reach the Government Analyst. Therefore, it is correct to state that the most important journey is the inwards journey because the final Analyst report will depend on that.
12. In this case, the evidence of PW1 and PW2, particularly with regard to the number of parcels recovered from the appellant and the person to whom the production was subsequently handed over, is contradictory. These inconsistencies strike at the very root of the prosecution's case, rendering the credibility of the prosecution evidence irreparably damaged. Unfortunately, these material discrepancies between the testimonies of PW1 and PW2 on this vital issue appear to have escaped the attention of the learned High Court Judge.
13. Due to the aforesaid inconsistencies in the evidence of PW1 and PW2, it was no longer certain, at the time the Government Analyst examined and identified the production in the trial court, whether it was the same substance that had been seized from the accused-appellant. Where the substance has passed through several hands, the evidence must clearly establish who had custody of it and what was done with it between the time of seizure and analysis; it must not be left to conjecture.
14. Had the learned High Court Judge paid adequate attention to the contradictions between the testimonies of PW1 and PW2 regarding the aforementioned factual matters, the appellant could have been acquitted without being called upon to present a defense, in terms of Section 200(1) of the Code of Criminal Procedure Act. These contradictions give rise to the inescapable inference that the prosecution miserably failed to prove the necessary chain of custody to satisfy the Court that the sample packets were safely handled from the time of seizure until they reached the Government Analyst.
15. Moreover, these discrepancies in the testimonies of PW1 and PW2 regarding the chain of custody severed the connection between the substance seized from the accused at the time of arrest and those produced in court during the trial, rendering the case of prosecution entirely unreliable.
16. The object and purpose of proving the chain of productions is to ensure that what was recovered is sent to the Government Analyst, and to exclude any possibility of mixing up or

tampering with the production. This position was emphasized in ***Witharana Doli Nona vs Republic of Sri Lanka (CA-19/19)*** and in ***Perera vs Attorney General [1998] 1 S.L.R. 378*** as follows:

“The prosecution must prove the chain relating to the inward journey. The purpose is to establish that the productions have not been tampered with and that the very productions taken from the accused-appellant was examined by the Government Analyst. To this end, the prosecution must prove all the links of the chain from the time it was taken from the accused-appellant to the Government Analysts’ Department”

17. In ***Mahasarukkalige Chandrani vs AG (CA 213/2009 C.A.M. 30.09.2016)*** Court observed: *Government Analyst Report which is the principal evidence in a drug offense is entirely dependent on the inward journey of the production chain and therefore, there is a duty cast on the prosecution to establish the inward journey of the production with reliable evidence.*
18. The importance of proving the chain of evidence was emphasized In ***S v Matshaba 2016 (2) SACR 651 (NWM)*** as follows:

“The importance of proving the chain of evidence is to indicate the absence of alteration or substitution of evidence. If no admissions are made by the defense, the State bears the onus to prove the chain of evidence. The State must establish the name of each person who handles the evidence, the date on which it was handled and the duration. Failure to establish the chain of evidence affects the integrity of such evidence and thus renders it inadmissible”.

19. During the argument, when this Court inquired from the learned Deputy Solicitor General about the vital contradictions in the evidence of the prosecution witnesses, she was unable to provide an explanation. Furthermore, upholding the best traditions of the Attorney General’s Department, the learned Deputy Solicitor General conceded the discrepancies arising from the evidence of PW1 and PW2 regarding the chain of custody. When the prosecution fails to establish the chain of custody beyond a reasonable doubt, it undoubtedly undermines the very core of the prosecution’s case.
20. Therefore, I do not delve into the evidence of the other prosecution witnesses or the strength of the defense evidence adduced at the trial. Hence, it is my view that this conviction cannot stand given the observable inter-se contradictions between the evidence of PW 1 and PW 2.

21. Therefore, I set aside the conviction and sentence entered by the learned Judge of the High Court of Negombo against the appellant.
22. Accordingly, the appeal is allowed and the Appellant is acquitted from all charges.

Judge of the Court of Appeal

Hon. P. Kumararatnam, J (CA)

I agree,

Judge of the Court of Appeal