

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

Sulaiman Lebbe Mohamed Yoosuf Riyas .

**Accused-Appellant.**

Vs.

The Hon. Attorney-General.

**Respondent.**

**CA No. 196/2010**

**HC KALMUNAI CASE NO. 121/2009.**

**BEFORE:** Sisira J De Abrew, J. (Acting P/CA)

P.W.D.C. Jayathilake, J.

**COUNSEL:** Neranjan Jayasinghe for the Accused-Appellant.

Chethiya Gunasekara SSC for the Respondent.

**ARGUED & DECIDED ON:** 31.01.2014, 03.02.2014.

**Sisira J De Abrew, J. (Acting P/CA)**

Heard both Counsel in support of their respective cases.

The Accused-Appellant in this case was charged for being in possession of an automatic gun. It is an offence punishable under Section 22 (3) of the Firearms Ordinance read with Section 22 (1) as amended by Act No. 22 of 1996.

After trial, the learned trial Judge imposed life imprisonment on the accused-appellant. Being aggrieved by the said conviction and the sentence he has appealed to this Court.

✓ According to the prosecution case, T56 gun and one magazine containing 20 live bullets and another magazine containing 30 live bullets were recovered in consequence of a statement made by the accused-appellant. According to the prosecution case I.P. Ajmeer had recovered the said productions. According to I.P. Ajmeer the number of the T56 gun is 21380447. But according to the Government Analyst's report, the number of the T56 gun is 1380447. According to the said evidence there is a discrepancy in the number of the gun. Thus we do not know what was recovered by I.P. Ajmeer was examined by the Government Analyst. I.P. Ajmeer says that he recovered the said productions when he noticed it under a cement slab of the kitchen. But PC Sadath who went with I.P. Ajmeer says that productions were recovered from the roof of the bathroom area. This information was conveyed to PC Sadath by I.P. Ajmeer. Therefore we note that there is a vital contradiction between I.P. Ajmeer's evidence and PC Sadath's evidence. According to I.P. Ajmeer's evidence, he, after recovering the said productions, handed over them to PC Upul. But PC Upul did not give evidence. Government Analyst says that he received the production from Magistrate Court of Akkeripattu. There was no evidence to suggest that the production handed over by I.P. Ajmeer to PC Upul has been handed over to the Government Analyst. Although I.P. Ajmeer says that he recovered a T56 gun and two magazines containing 50 live bullets, it appears from the Government Analyst evidence that all the said productions had not been forwarded to the Government Analyst. According to the Government Analyst he has received a T56 gun and a spent bullet. What happened to the live 50 bullets and two

T56 gun and a spent bullet. What happened to the live 50 bullets and two magazines. There is no answer to this question. Both Counsel, in their submissions, admitted the above facts. Learned Senior State Counsel submits that he does not support the conviction.

When we consider the above matters, we hold that the prosecution has not proved the charge beyond reasonable doubt. From the evidence led at the trial there are so many reasonable doubts. We hold the view that the benefit of the reasonable doubts must be given to the accused-appellant. Learned Trial Judge has failed to consider the above matters. We are unable to agree with the conclusion reached by the learned trial Judge. We therefore decide to interfere with the learned Trial Judge's conclusion. We set-aside the conviction and the sentence and acquit the accused-appellant of the charge with which he was convicted.

The Prison Authorities will have no power or authority to keep the accused-appellant in their custody once they receive a copy of this Judgement. We nullify the committal signed by the learned trial Judge imposing life imprisonment to the accused-appellant. It is not necessary for the Prison Authorities to produce the accused-appellant in the relevant High Court and get an order of release. We direct the Registrar of this Court to send copy of this Judgment to the Prison Authorities and to the relevant High Court.

*Appeal allowed. Accused acquitted.*

**ACTING PRESIDENT OF THE COURT OF APPEAL.**

**P.W.D.C. Jayathilake, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL.**