

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

In the matter of an Appeal in terms of  
Article 138 of the Constitution.

The Director General  
Commission to Investigate  
Allegations of Bribery or Corruption  
No. 36, Malalasekera Mawatha  
Colombo 07.

**COMPLAINANT**

**Vs**

D.G.K. Hasantha Sirimanne

**ACCUSED**

**Case No. CA 213/2005**

**HC (Colombo) Case No. B1364/2001** AND NOW BETWEEN

D.G.K. Hasantha Sirimanne  
No. 17, Welikanna  
Waga, Hanwella.

**ACCUSED – APPELLANT**

**Vs**

The Director General  
Commission to Investigate  
Allegations of Bribery or Corruption  
No. 36, Malalasekera Mawatha  
Colombo 07.

**COMPLAINANT – RESPONDENT**

**BEFORE**

: Deepali Wijesundera J.

: Achala Wengappuli J.

**COUNSEL**

: Anil Silva PC with Eranga Udawatte

For the Accused – Appellant.

Thusith Mudalige D.S.G. for the

Complainant – Respondent.

**ARGUED ON**

: 05<sup>th</sup> July, 2018

**DECIDED ON**

: 03<sup>rd</sup> August, 2018

**Deepali Wijesundera J.**

The appellant was indicted in the High Court of Colombo under section 16 (b), and section 11 of the Bribery Act. After trial he was convicted on all four charges.

The complainant in the High Court case is a businessman who's nephew was arrested by the Ruwanwella Police with two motor bicycles and a lorry in which the bikes were transported on suspicion of possession of stolen property. The complainant Abuthahir has gone to the police station to meet the OIC to get his nephew released. He has met the appellant at the police station and was asked to produce the real owners of the motor bikes along with the relevant documents. According

to the evidence of Abuthahir he has gone with the documents the next day and several times thereafter to meet the appellant. But the suspect was produced in court and was remanded. The appellant has called Abuthahir to his side inside the court premises and indicated about the need of a gratification. The appellant is alleged to have asked for Rs. 35,000/= to release the productions. The complainant has made a complaint to the Bribery Commission thereafter, and a raid has been organized for the 07<sup>th</sup> of March. The complainant and the decoy P.C. Hashan has gone to meet the appellant at the police station. After the money was handed over to the appellant in front of the decoy the appellant had moved away from them and subsequently he was arrested by the Bribery Commission officers.

The learned President's Counsel for the appellant argued that there are per-se and inter-se contradictions in the evidence of the complainant and the decoy which the learned High Court Judge has referred to in the judgment but has not clearly appreciated the vital inconsistent positions, thus creating a failure of Justice to the appellant. The appellant's counsel stated that the prosecution failed to prove beyond reasonable doubt that there was a solicitation by the appellant. Therefore the appellant should have been acquitted.

The appellant's counsel stated that in evidence the complainant has stated that the appellant the moment they met on the 07<sup>th</sup> asked him about the money but the decoy did not say the appellant asked for the money which is an important inter-se contradiction which the learned High Court Judge did not consider which made him misdirect himself on this facts. This can not be considered as a major issue on contradiction. The decoy who is a police officer has given evidence after perusing his notes whereas the complainant who is an uneducated person was giving evidence by memory. The fact that the money was given to the appellant and was taken by him remains as it is.

The position of the appellant was that the case was an introduction. The appellant has given evidence to say that the money was put into his trouser pocket from behind while he was walking. This as argued by the respondent, is hard to believe. Will any sane person try to introduce a bundle of currency notes into the pocket of a Police Inspector inside the premises of a police station? A fabrication of evidence against an officer inside the police station by the Bribery Commission officers is hard to believe as well.

The grounds urged by the appellant in support of his appeal is not credible. The learned High Court Judge has carefully analysed the evidence place before him.

The judgments cited by the appellant **Rex vs Gunathilake 51 NLR 302, Singho vs Werapitiya 55 NLR 155** and **R VS Bellin 1966 1 AFR 522** with reference to the good character of the appellant is not relevant to his arguments.

For the afore stated reasons we decide to affirm the judgment dated 06/10/2005 of the High Court of Colombo, and dismiss the appeal.

Appeal dismissed.

**JUDGE OF THE COURT OF APPEAL**

**Achala Wengappuli J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**