

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

C.A. 176/2010

H.C. Negombo Case No: 200/2002

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

Complainant

-Vs-

Sellamuttu Jeewa Malar

Defendant Appellant

C.A. 176/2010

H.C. Negombo Case No: 200/2002

Before : Sisira.J. de Abrew,J. &
P.W.D.C. Jayathilaka,J.

Counsel : Dr. Ranjit Fernando with Ms. Samanthie
Rajapakshe for the accused-appellant.

W.N. Bandara DSG. for the A.G.

Argued &

Decided on : 21.06.2013.

Sisira.J. de Abrew,J.

Heard both Counsel in support of their respective cases.

The accused-appellant in this case was convicted for importing and being in possession of 991 grams of heroin. Learned trial Judge, on both counts, imposed life imprisonment on the accused-appellant.

Being aggrieved by the said conviction and the sentence she has appealed to this Court.

Facts of this case may be briefly summarized as follows:

The accused-appellant who arrived at Bandaranayake International Air Port from India was arrested by the officers attached to Police Narcotic's Bureau. At the time of the arrest she was having three travelling bags and two boxes on the trolley that she was pushing. The officers attached to the Police Narcotics Bureau examined the bags and in one bag, they found 20 containers which indicate that there was Calgate tooth powder inside the containers. When they examined each containers they found heroin in 13 containers. The accused-appellant in his dock statement did not deny the possession of the said 20 containers. She took up the position that somebody at the Indian Airport gave this bag to her and requested her to handover the bag to a person in Colombo. Her position was that she was unaware of the contents of the 20 containers.

The learned counsel appearing for the accused-appellant contended that she did not have any knowledge of heroin found in the containers and that therefore she cannot be convicted for the two offences that I have described above. This was the main contention of the learned counsel for the accused-appellant. I now advert to this contention. In deciding whether there is any truth in the dock statement of the accused-appellant and whether the argument of learned counsel for the accused-appellant can be accepted or not following matters are relevant.

- 1) Whether the accused-appellant would accept a bag given by an unknown person in India.
- 2) Whether the said unknown person gave his address to her.
- 3) Whether she would undertake to handover a bag to a person unknown to her.
- 4) She, in her dock statement, does not indicate the name of the person who gave the bag and the name of the person to whom the bag to be handed over.

5) The bag was unlocked. If the bag was unlocked why didn't she open the bag and examine.

In my view no reasonable prudent person will accept a bag from an unknown person in India to be given to another person in Colombo. When I consider all these matters, I am unable to accept the contention that the accused-appellant did not have any knowledge of the contents of the 13 containers of heroin found in the bag carried by the accused-appellant. Further I am unable to accept the dock statement of the accused-appellant.

I further hold that the dock statement of the accused-appellant is not capable of creating any reasonable doubt in the prosecution case. When I consider the evidence led at the trial, I hold the view that the prosecution has proved its case beyond reasonable doubt. I therefore refuse to interfere with the judgment of the learned High Court Judge.

For the above reasons, I affirm the convictions and the sentences imposed by the learned trial Judge and dismiss the appeal.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

P.W.D.C. Jayathilaka,J.

I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-