

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

D.V.A. Rasika Priyadarshanie.

Accused-Appellant

C.A. Appeal No. 203/2008

H.C. Welikada Case No. 253/2006

Vs.

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

Respondent

Before : **SISIRA DE ABREW, J. &  
D.S.C.LECAMWASAM,J.**

Counsel : Ananda Hettiarachchi for the  
Accused-Appellant

Yasantha Kodagoda D.S.G. for the Attorney  
General

Argued &  
Decided on : 02.11.2011.

**Sisira de Abrew, J.**

Heard both counsel in support of their respective cases.

The accused-appellant in this case was convicted for being in possession of 12.7 grams of heroin and was sentenced to life imprisonment. Being aggrieved by the said conviction and the sentence, the accused-appellant has appealed to this Court.

Facts of this case may be briefly summarized as follows:

On the day of incident, when the accused was walking towards her mother's house, police officers who were waiting for her arrested her. At this time she was carrying a parcel containing heroin. This was the story narrated by the prosecution.

The accused who made a dock statement denied the prosecution story and stated that whilst she was feeding her baby at home, police officers came and arrested her. The learned trial Judge however disbelieved her story, convicted her and sentenced to life imprisonment. The position taken by the accused-appellant in her dock statement is supported by the evidence given by I.P. , Balachandra who was the main investigating officer in this case. I.P., Balachandra admitted in

cross-examination that soon after the arrest, when he went to the house of the accused-appellant he saw the accused-appellant carrying a baby. The baby was an infant. (Vide page 105 of the brief) I.P., Balachandra in examination of chief admitted that after the arrest of the accused-appellant he kept her in his custody (Vide page 64 of the brief) If the prosecution story is true, then question arises as to how the accused-appellant was carrying a baby inside the house soon after the arrest. We therefore note that I.P., Balachandra under cross-examination had admitted the version taken up by the accused-appellant in her dock statement. In these circumstances, we hold the view that the version taken by the accused-appellant in her dock statement should succeed. When we consider all these matters, we hold the view that the dock statement creates a reasonable doubt in the prosecution case.

It is settled law that if the dock statement creates a reasonable doubt in the prosecution case, the accused is entitled to be acquitted.

Learned D.S.G. appearing for the Attorney General upholding the best traditions of the Attorney General's Department brought this matter to our notice and submitted that in view of the evidence of I.P., Balachandra, he was unable to

support the conviction. We are pleased with the submissions made by the learned D.S.G. and thank the D.S.G. for bringing the relevant matters to the notice of this court.

Since the dock statement creates a reasonable doubt in the prosecution case, we hold that the prosecution case has not proved its case beyond reasonable doubt. We therefore set aside the conviction and the sentence imposed by the learned trial Judge and acquit the accused-appellant from the charge. Accused is acquitted.

*Appeal allowed.*

**JUDGE OF THE COURT OF APPEAL**

**D.S.C. Lecamwasam, J.**

I agree.

**JUDGE OF THE COURT OF APPEAL**

/mds