

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

CA HC Appeal No. 279/2009

Sulaiman Lebbe Segu Ibrahim

Appellant

Vs.

Commission to investigate allegations of
Bribery or Corruption

Respondent

C.A. No:279/2009

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H.C. Colombo Case No:B 1469/2004

BEFORE

:

M.M.A. GAFFOOR, J. &

K.K. WICKRAMASINGHE, J.

COUNSEL

:

Dr. Ranjit Fernando for the Accused-Appellant.

Shanil Kularatne SSC for the A.G.

ARGUED &

DECIDED ON

:

29.09.2016.

K.K. WICKRAMASINGHE, J.

Accused-Appellant is present in Court produced by the Prison Authorities.

Counsel for the accused-appellant states as follows:

“ This is a matter where the accused had been convicted for bribery and acceptance and solicitation by the High Court of Colombo on 25.11.2009. Since such date he has been incarcerated serving a sentence of 3 years on the count of solicitation and 3 years on the count of acceptance. Both to run consecutively together with a fine of Rs.50,000/- with a default term. He is at the tail end of his career and has no hope of resuming his government position back in the agricultural department. My application to Court is whether a

concession of some sort could be considered with regard to the question of sentence particularly because he has virtually completed serving his sentence since the date of conviction. He chooses upon advice given not to waste anymore judicial time as if the matter is contested and evidence gone into no one can predict the ultimate result. My prayer to this Court is that the accused-appellant be given a noncustodial sentence effective from the date of his conviction which would mean that his sentence would have to be reduced to 2 years rigorous imprisonment. The fine may remain unaltered. At the end of the day justice would have been met out that no prejudice caused to the respondent or any other party”.

Learned Senior States Counsel states as follows-

“ I do concede the position that the accused had been in remand custody since the date of conviction, i.e. 25.11.2009. Initially he was sentenced totally for 6 years. The learned High Court Judge imposed a sentence of 3 years for the first count and another 3 years in respect of the second count and he ordered the two sentences to take effect consecutively. Therefore, if he considered the date of conviction his sentence would have been over in November 2015. I do concede that his freedom had been incarcerated for a long period. Therefore, I will not standing the way for granting certain concession to the accused. I leave the decision in the hands of Your Lordship and Your Ladyship Court and the Court can suspend the sentence with effect from today”.

Order

Considering the submissions made by the both parties we observe that the accused-appellant had been incarcerated for a long time even more than the period that he was sentenced (since 25.11.2009). The Senior State Counsel also mentioned that he is agreeable either to bring down the sentence or/and suspend the same. Therefore, we affirm the conviction and we make order bringing down the sentence of 3 years on each count to 2 years rigorous imprisonment on each count to run concurrently and suspended the same for 5 years. We affirm the conviction and the fine of Rs.50,000/- to remain as it is. Subject to the said variation, the appeal is hereby dismissed.

Registrar is directed to send a copy of this judgment to the High Court of Colombo forthwith.

JUDGE OF THE COURT OF APPEAL

M.M.A. GAFFOOR, J.

I agree.

JUDGE OF THE COURT OF APPEAL

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