

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

Court of Appeal Case No : CA HC /283/2008

Mapalagama Acharige Vajira
Laxmi

Petitioner

Vs.

The Director General
Commission to Investigate
Allegations of Bribery and
Corruption

Respondents

C.A.283/2008**H.C.B 1568/2005**

Before : **S.Devika de L. Tennakoon, J and
S. Thurai Raja, P.C. J**

Counsel : Saliya Peiris, P.C. with Thanuka Nandasiri for the
Accused Appellant.

A.Nawavi, SSC with Lakmali Dissanayake SC, for the
Respondent.

**Argued and
Decided on** : 24.01.2018

S. Thurai Raja, P.C. J

Accused Appellant is present in Court.

Heard counsels in submission. President's Counsel for the Accused Appellant submits that there are several grounds of appeal that he raises and submits that the defence also was not conducted properly in the trial. The Accused Appellant submits that without prejudice to his submission he wishes to urge the Court that this incident alleged to have happened in 2001 and the trial was concluded in 2008 and the Accused Appellant was sentenced in 2008. It is ten years before. The children were small and now they are on their tertiary education. Therefore she pleads to Court that she be given a very lenient sentence. Even though there are shortfalls in the judgment as well as in the case for the prosecution. The Counsel submits

that they want to save the time of the Court and seeks the mercy of the Court. State Counsel submits that the prosecution case is strong and there are certain shortcomings in the judgment. Anyhow he is not objecting the submissions made by the President's Counsel regarding the sentence. And he leaves sentencing to the hands of Court. Anyhow Court finds that there are certain shortcomings in the judgment. Considering all the submissions we find that the incident had happened in 2001 and the Complaint was made much later. Further the Accused Appellant was convicted in 2008 and sentenced to four years rigorous imprisonment on each count to run concurrently and a fine of Rs.5000/= on each count in default one year simple imprisonment on each count. Further the Accused Appellant was imposed of further fine of Rs.10,000/= in default one year rigorous imprisonment. After carefully considering the facts of the case especially the judgment of the High Court Judge and other submissions by both Counsels we set aside the sentence imposed earlier and we impose the following sentence. We impose one year rigorous imprisonment on the first count and the second count. We further impose a fine of Rs.5000/= on each count in default 6 months simple imprisonment. Further as per the Bribery Act we impose a fine of Rs.10,000/= in default one year rigorous imprisonment. We order both sentence one year on each count to be suspended for a period of five years. If fines are not paid the default sentence will be implemented consecutively.

Registrar is hereby directed to transfer the case record to the Registrar of High Court of Colombo to implement the sentence and to take steps under the Provisions of the Bribery Act.

Appeal partially allowed.

Devika de L. Tennakoon, J.

I agree.

Lwm/-

JUDGE OF THE COURT OF APPEAL

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