

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

**In the matter of an application for
Revision in terms of Article 138 of
the Constitution of the Democratic
Socialist Republic of Sri Lanka**

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

Court of Appeal Revision
Case No. CPA 0037/2025

Complainant

Vs.

High Court of Colombo
Case No. HCB 83/2021

1. Pahalagedara Nalin Kumara
Gunarathne
No. 32/2,
Piliwala,
Kandy.
2. Walhenage Dayaratne
No. 11/3,
Karagasthanna,
Ulpathgama.

Accused

AND NOW BETWEEN

Pahalagedara Nalin Kumara
Gunarathne
No. 32/2,
Piliwala,
Kandy.

1st Accused-Petitioner

Vs.

1. The Director General
Commission to Investigate Allegations
of Bribery or Corruption,
No. 36,
Malalasekara Mawatha,
Colombo 07.
2. Walhenage Dayaratne
No. 11/3,
Karagasthanna,
Ulpathgama.

Complainant-Respondents

Before: **B. Sasi Mahendran, J.**
 Amal Ranaraja, J.

Counsel: Nalin Ladduwahetty, P.C. with Vajira Ranasinghe and
 Rajith Samarasekara for the 1st Accused-Petitioner

Gayan Maduwage, A.D.L. for the Complainant-Respondent.

Supported on: 23.09.2025

Decided on: 30.09.2025

ORDER

AMAL RANARAJA, J.

1. In the High Court case bearing number HCB 83/2021, in the *High Court of Colombo*, the first respondent has submitted an indictment. The petitioner along with another have been named as the accused.
2. The petitioner has been charged with committing offences punishable under sections 19(b) and 19(c) of the Bribery Act No. 11 of 1954, while the second accused has been charged with aiding and abetting the petitioner.
3. When the case had come up in Court on September 26, 2023, the first respondent i.e. the Director General, Commission to Investigate Bribery or Corruption has informed the Court that the virtual complainant (PW01) was disabled and unable to testify due to medical issues.
4. Additionally, the first respondent has requested Court's permission to drop the charges related to the solicitation of a gratification and to proceed to trial against the petitioner solely on the charges of accepting a gratification, as well as the aiding and abetting charges against the second accused.
5. The petitioner has raised objections to granting of the request made on behalf of the first respondent. The basis for these objections includes the following arguments,
 - i) That calling for the evidence of PW02 (the decoy) prior to leading the evidence of PW01, causes grave injustice to the petitioner and constitutes a violation of the fundamental right to a fair trial.

- ii) Before presenting corroborative evidence, the testimony of the witness who is the sole and primary source of the bribery allegation – and whose account is to be corroborated – must first be led.
- 6. In response to the objections, the learned High Court Judge, by the disputed order dated February 10, 2025, has overruled the petitioner's objections.
- 7. This ruling has prompted the petitioner to file the instant application, seeking from this Court to exercise its revisionary jurisdiction as vested by Article 138 of the Constitution. The petitioner has prayed that this Court revise the disputed order and also make order that the first respondent cannot continue the proceedings of the High Court case bearing number HCB 83/2021 without leading the evidence of the virtual complainant i.e. PW01.
- 8. In a scenario where a raid is conducted in a bribery case, the decoy only observes the accused individual accepting a gratification. However, the purpose behind the solicitation of the gratification is known solely to the virtual complainant, in incidents where the virtual complainant is not accompanied, as referred to by the virtual complainant i.e. PW01 of the case bearing number HCB 83/2021.
- 9. It is the virtual complainant who informs the decoy and other investigators about the underlying motive for the solicitation.
- 10. As a result, when a decoy or another investigator testifies in court regarding the acceptance of a gratification by the accused individual, their testimony lacks completeness if the virtual complainant does not also testify on this matter.

11. Specifically, without the virtual complainant's testimony, the assertions made by the decoy or an investigator concerning the purpose of the gratification become hearsay. Consequently, this testimony is deemed inadmissible in court.
12. Further, in the context of the Bribery Act, it is essential to understand the role of a decoy's testimony in corroborating claims of bribery. A decoy by definition serves as an undercover agent whose testimony helps substantiate allegations of bribery. However, for such testimony to hold weight in a legal setting, there must be prior testimony – typically that of the virtual complainant.
13. Particularly, section 19(b) of the Bribery Act No. 11 of 1954 outlines specific purposes for which an accused individual might accept a gratification, making it imperative that the claims related to this section are substantiated with clear evidence. The testimony of the virtual complainant provides the necessary context and foundation upon which a decoy's testimony can corroborate the allegations of bribery.
14. If there is no initial testimony from the virtual complainant, the effectiveness of the decoy's testimony diminishes significantly. Without this foundational evidence, the decoy's claims cannot be utilized as reliable proof of the alleged bribery.
15. The absence of initial testimony by the virtual complainant creates a gap in the evidential chain making it difficult for the prosecution to establish the credibility of the case.
16. Therefore, it is crucial to recognize that both the virtual complainants' testimony and the decoy's account work in tandem to form a comprehensive narrative that can stand up in court. The

interdependence of these testimonies is a vital aspect of reinforcing the legal framework established by the Bribery Act.

17. In those circumstances, I'm inclined to set aside the disputed order and hold that the prosecution i.e. first respondent cannot continue the proceedings of the High Court case bearing HCB 83/2021 without leading the evidence of the virtual complainant i.e. PW01.

I direct the first respondent to present the evidence of the virtual complainant (PW01) in compliance with the directive of this Court.

I make no order regarding costs.

18. The Registrar of this court is directed to send this order to the *High Court of Colombo* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree

Judge of the Court of Appeal