

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA

In the matter of an appeal in terms of section 331 (3) of the Code of Criminal Procedure Act.15 of 1979 read with Article 139 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Democratic Socialist Republic of Sri Lanka.

Complainant

Vs

Ranasinghe Arachchige Wijedasa,

Accused

AND NOW BETWEEN

Ranasinghe Arachchige Wijedasa,

Accused-Appellant

Vs

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

Complainant-Respondent

Court of Appeal Case No:

CA/HCC/0203/20

High Court of Balapitiya Case No:

HCB-1718/2014

Before : **P. Kumararatnam, J.**

Pradeep Hettiarachchi, J.

Counsel : Nihara Randeniya for the Accused - Appellant.

Suharshi Herath DSG for the Respondents.

Argued on : 24.09.2025

Decided on : 19.12.2025

Pradeep Hettiarachchi, J

Judgment

1. This is an appeal preferred by the accused-appellant (Hereinafter referred to as the appellant) against the conviction and sentence dated 13.02.2020 of the High Court Judge of Balapitiya.
2. The appellant was indicted under the Poisons, Opium and Dangerous Drugs Ordinance for possession and trafficking of 21.44 grams of heroin. The trial commenced on 01.07.2019, during which ten witnesses testified for the prosecution, and the appellant made a dock statement.
3. At the conclusion of the trial, the learned High Court Judge found the appellant guilty on both counts and accordingly convicted him and sentenced him to life imprisonment. It is against the said conviction and sentence that the appellant has preferred the present appeal.
4. Although the appellant had advanced eleven grounds of appeal, during the course of oral submissions learned counsel for the appellant informed Court that he would confine his arguments to the 1st and 4th grounds of appeal set out in written submissions.
5. The 1st and 4th grounds of appeal primarily relate to the learned High Court Judge's failure to consider the defense's position that the prosecution evidence is

untrustworthy when tested by the standard of probability. These grounds also highlight the trial Judge's failure to properly evaluate the evidence of police officer D.D. Wijesekara, in particular, his explanation to the Magistrate regarding the initial refusal by the Government Analyst Department to accept the productions and the subsequent resealing of the same.

The facts of the case may be briefly stated as follows:

6. According to the prosecution, during the relevant period, PW1 was the Officer-in-Charge of Ahungalle Police Station. On 13.01.2013, pursuant to information received from PS Gnanadasa (PW3), PW1 organized a raid. The information indicated that a person travelling by bus from Colombo to Galle was allegedly carrying a parcel of heroin.
7. PW1 made the necessary arrangements to conduct the raid and proceeded to a petrol shed at Ahungalle, accompanied by IP Jayasuriya, PS 28850 Gnanadasa, PS 31908 Karunaratne, PC 13413 Priyantha, and PC 12104 Kalum. The party set off from the police station at 17.10 hours and reached the petrol station, where they positioned themselves at different locations. PW1 and IP Jayasuriya were in uniform, while the remaining officers were in civilian attire.
8. Shortly thereafter, a bus arrived, and upon a signal from PW3, PW1 proceeded to his location and found a person in PW3's custody. The person was then taken to the bus halt, where PW1 conducted a search and recovered a small parcel concealed under the person's undergarment. PW1 untied the parcel, examined its contents, and identified the substance as heroin. Subsequently, the parcel and the appellant were taken to a jewelry shop, where the substance was weighed. Thereafter, the police party returned to the station with the appellant and the parcel, and both were handed over to the police reserve.
9. PW1 admitted in his evidence that he had failed to record the odometer reading of the police vehicle at the time of leaving for the raid. It is an accepted and well-established procedure that when police officers leave for an official duty, particularly for a raid of this nature, the odometer reading of the vehicle used must be recorded. What is more

disturbing is the fact that PW1 left the relevant column blank in the original notes where the odometer reading was required to be entered, yet when the I.B. extracts were subsequently forwarded to the Attorney General's Department, an odometer reading had been included. This conduct inevitably raises serious doubts as to the genuineness and authenticity of the alleged raid. The explanation tendered by PW1 for his failure to record the odometer reading at the material time is wholly unsatisfactory and cannot be accepted.

10. Further, having allegedly received prior information that the appellant was in possession of a parcel of heroin, and being fully aware that any illegal narcotic substance recovered is required to be sealed at the place of detection, the police party had failed to carry the necessary equipment for sealing the alleged recovery. This omission, viewed in light of the other infirmities already identified, further undermines the credibility and reliability of the prosecution case.
11. The evidence of PW2 also discloses several infirmities which seriously undermine the credibility of the prosecution case. PW2 had submitted an affidavit dated 12.02.2013 to the Magistrate's Court, in which he stated that the raid was conducted at Galkanda Junction.
12. However, during cross-examination, PW2 admitted that this statement was incorrect and that the raid had, in fact, been conducted near the bus stand. Further, PW2 admitted that the appellant was searched inside the bus stand, yet no notes whatsoever were made in respect of this crucial aspect of the raid.
13. According to the evidence of both PW1 and PW2, the police vehicle used for the raid was driven by PW2. Nevertheless, neither PW1 nor PW2 recorded any odometer readings in their notes. PW2 further admitted that although he carried a weapon, a CIB, and cash, he failed to record these items in his notes. He also conceded that, inadvertently, he had made out-entries in two different places. Additionally, PW2 admitted that although the in-entry reflects a return time of 6.55 p.m., they had in fact returned to the station at 6.45 p.m. These discrepancies and omissions, viewed cumulatively, further erode the reliability of the prosecution evidence.

14. It is also in evidence that when the productions were handed over to the Magistrate Court, only one witness had signed, whereas the procedure requires the signatures of two witnesses. This omission further undermines the credibility and regularity of the handling of the productions.
15. The evidence of PW3, PS 28850 Gnanadasa, is also not free from blemish. According to his testimony, he was the officer who initially received the information; however, he took approximately forty minutes to communicate the same to PW1. No satisfactory explanation was offered for this inordinate delay, which casts further doubt on the reliability of the prosecution narrative.
16. PW2's evidence regarding the handing over of the productions to the Magistrate Court further weakens the credibility of the prosecution case, inasmuch as PW5 admitted that it was he who signed document P8, despite the fact that the productions were allegedly handed over by PW2. This inconsistency raises a serious doubt as to the authenticity of the procedure adopted and the reliability of the prosecution evidence relating to the chain of custody.
17. The credibility of the prosecution evidence was further gravely undermined by the testimony of Senior Assistant Government Analyst Kanchan Ratnapala. She stated in her evidence that when the productions pertaining to this case were first brought to the Government Analyst Department on 20.02.2013, the Department refused to accept them on the ground that the cover containing the production was damaged. Consequently, the productions were returned to the officer who had produced them. According to her testimony, the officer who brought the productions on that occasion was PC 18334 Wijesekara.
18. When the damaged cover was shown to the witness in Court, it was revealed that the damaged portion measured approximately 8 cm in length. She further testified that through this damaged area, it was possible to remove or insert contents without disturbing the seals.

19. Thereafter, when the productions were brought again to the Government Analyst Department on 22.02.2013, they were accepted as the damaged cover had been enclosed within a new sealed cover. The damaged cover was marked P10, while the new outer cover was marked P3.
20. More significantly, attention was drawn to the Government Analyst's Report itself, wherein a substantial discrepancy was noted between the gross weight of the productions recorded by the police and that recorded by the Government Analyst Department, amounting to a difference of 12.33 grams. This unexplained discrepancy, when considered together with the earlier rejection of the productions due to damage and the possibility of interference without breaking the seals, severely compromises the integrity of the chain of custody and casts a serious doubt on the reliability of the prosecution case.
21. The productions were obtained by PW9 from the Magistrate's Court on 20.02.2013 for the purpose of delivering them to the Government Analyst's Department. However, it is evident that PW9 did not deliver the productions on the same day. Instead, he retained them in his personal locker until 22.02.2013, and only thereafter delivered them to the Government Analyst's Department.
22. In my view, this conduct is wholly contrary to accepted procedure and seriously undermines the integrity of the chain of custody. PW9 did not even take steps to hand over the productions to the Police Reserve, but instead kept them in his personal custody. Notably, PW9 had not recorded the time of receiving the productions from the Magistrate's Court, nor had he made any such entry in his pocket notebook.
23. In cases of this nature, the prosecution must establish beyond reasonable doubt the integrity of the chain of custody. This requires a clear record of the seizure, handling, and transfer of the substance from the point of its arrest to its presentation to the Government Analyst Department for analysis. The chain of custody is essential to prevent contamination, tampering, or loss, thereby safeguarding the reliability and authenticity of the evidence.

24. To elaborate, the prosecution must establish that the productions were forwarded to the Government Analyst from proper custody, without leaving any room for suspicion of tampering or interference along the way. The most critical stage in this process is the inward journey, as the reliability of the Government Analyst's report depends entirely on the integrity of this transfer.
25. In the instant case, the evidence of PW9, who was responsible for delivering the productions from the Magistrate Court to the Government Analyst Department, is fraught with infirmities that go to the very root of the prosecution case. These lapses have irreparably undermined the credibility of the prosecution evidence, yet, regrettably, they appear to have escaped the attention of the learned High Court Judge.
26. Furthermore, the out-entry made by PW9 is recorded as 22.15 hours on 21.02.2013, whereas he left for the Government Analyst's Department only on 22.02.2013, thereby contradicting his own testimony. Moreover, according to the in-entry made by PW9, he returned to the station only on 23.02.2013 at 8.10 a.m. after returning from the Government Analyst's Department. Thus, PW9 failed to comply with Police Regulations by not making the requisite entries on 22.02.2013 itself.
27. The above-mentioned infirmities in the prosecution evidence constitute serious lapses that cannot be lightly overlooked. The object and purpose of proving the chain of productions is to ensure that what was recovered is sent to the Government Analyst, and to exclude any possibility of mixing up or tampering with the production. This position was emphasized in *Witharana Doli Nona vs Republic of Sri Lanka (CA-19/19)* and in *Perera vs Attorney General [1998] 1 S.L.R. 378* as follows:
- “The prosecution must prove the chain relating to the inward journey. The purpose is to establish that the productions have not been tampered with and that the very productions taken from the accused-appellant was examined by the Government Analyst. To this end, the prosecution must prove all the links of the chain from the time it was taken from the accused-appellant to the Government Analysts' Department”*

28. In *Mahasarukkalige Chandrani vs AG (CA 213/2009 C.A.M. 30.09.2016)* Court observed: *Government Analyst Report which is the principal evidence in a drug offense is entirely dependent on the inward journey of the production chain and therefore, there is a duty cast on the prosecution to establish the inward journey of the production with reliable evidence.*

29. The importance of proving the chain of evidence was emphasized In *S v Matshaba 2016 (2) SACR 651 (NWM)* as follows:

“The importance of proving the chain of evidence is to indicate the absence of alteration or substitution of evidence. If no admissions are made by the defence, the State bears the onus to prove the chain of evidence. The State must establish the name of each person who handles the evidence, the date on which it was handled and the duration. Failure to establish the chain of evidence affects the integrity of such evidence and thus renders it inadmissible”.

30. The aforementioned unexplained and serious lapses in the handling of the productions, coupled with the failure to adhere to mandatory Police Regulations, have irreparably compromised the chain of custody. In cases involving narcotic substances, strict compliance with procedural safeguards is not a mere formality but a substantive requirement to ensure the integrity and reliability of the evidence. The prosecution has failed to offer any satisfactory explanation for these deviations. Consequently, the possibility of tampering or contamination cannot be ruled out. This deficiency strikes at the very root of the prosecution case and creates a reasonable doubt as to the authenticity of the production sent for analysis. In such circumstances, it would be wholly unsafe to allow the conviction to stand.

31. The importance of maintaining accurate and contemporaneous notes by officers involved in raids of this nature, as well as the necessity of preserving an unbroken chain of custody of productions from the time of arrest until their delivery to the Government Analyst for analysis, has been repeatedly emphasized by the courts on numerous occasions. Regrettably, however, only a few appear to take these obligations seriously.

32. It is also pertinent to emphasize the considerable time and public resources expended by the State in prosecuting cases of this nature. Accordingly, it is incumbent upon the relevant officers to act with diligence and care when handling narcotics-related investigations. Failure to do so only serves to enable offenders to evade the arm of the law. The facts of the present case amply demonstrate the negligent conduct of the officers concerned.

33. Upon consideration of the foregoing factual and legal context, it is manifestly unsafe to allow the conviction to stand. Accordingly, the conviction and sentence imposed on the appellant are set aside, and the appellant is acquitted of all charges. The appeal is therefore allowed.

Judge of the Court of Appeal

P. Kumararatnam. J.

I agree,

Judge of the Court of Appeal