

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

**In the matter of an Appeal in terms of
Section 320 of the Code of Criminal
Procedure Act No. 16 of 1979.**

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

Court of Appeal
Case No. CA HCC 180/2025

Complainant

Vs.

High Court of Gampaha
Case No. HC/01/2018

Mathagadheera Arachchige Saliya Kumara

Accused

AND NOW BETWEEN

Mathagadheera Arachchige Saliya Kumara

Accused-Appellant

Vs.

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

Complainant-Respondent

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

Counsel: Maldini Herath for the Accused-Appellant.

Akila Dalpadatu, S.C. for the Respondent.

Argued on: 11.02.2026

Judgment on: 17.03.2026

JUDGMENT

AMAL RANARAJA, J.

1. The accused appellant hereinafter referred to as the appellant has been indicted in the *High Court of Gampaha* in High Court case number HC 01/2018.

The charges in the indictment are as follows:

Charge 01

That on or about the period between September 09, 2011, and August 30, 2015, the appellant deposited a sum of Rs. 8354869.46 to the bank account bearing No. 2632271780215 of *Pan Asia Bank in Kadawatha*, knowing or having reason to believe that such money was derived or realized, directly or indirectly from the trafficking of heroin or from proceeds of such illegal activity in violation of the Poisons, Opium and Dangerous Drugs Act, and thereby committed an offence punishable in terms of section 3(1) of the Prevention Of Money Laundering Act No.5 of 2006 as amended.

Charge 02

That on or about March 03, 2011, the appellant purchased a land worth Rs. 1300000.00 as described in the schedule to Deed of Transfer bearing No. 2797 attested by *Ratnayake Mudiyansele Gunasekara Banda* Notary Public in *Kadawatha*, knowing or having reason to believe that such money was derived or realized, directly or indirectly from the trafficking of heroin or from proceeds of such illegal activity in violation of the Poisons, Opium and Dangerous Drugs Act, and thereby committed an offence punishable in terms of section 3(1) of the Prevention Of Money Laundering Act No.5 of 2006 as amended.

2. At the conclusion of the trial, the learned High Court Judge has convicted the appellant of the charges and sentenced him to five years simple imprisonment each in respect of the first and second charges. It has also been directed that the substantial terms of imprisonment shall run consecutively.
3. The appellant aggrieved by the conviction, disputed judgment together with the sentencing order has preferred the instant appeal to this Court.
4. Money laundering is just not a financial crime, it is the clandestine lifeblood of a vast, illicit global economy. It is the process by which criminals disguise the illegal origins of their funds making 'dirty money' appear 'clean' or 'legitimate'. This process enables criminals ranging from drug traffickers to fraudsters, terrorists to corrupt officials to utilize their gains without revealing their unlawful sources, thereby protecting themselves from detection and prosecution and ultimately legitimizing their criminal enterprises.
5. The fundamental purpose of money laundering is two-fold i.e. concealment and legitimacy. Criminals generate vast sums of cash or

other assets through activities like drug trafficking, extortion, fraud or bribery. These funds are problematic because their volume or unusual nature can draw unwanted attention from the law enforcement and financial regulators.

6. In such circumstances, money laundering provides a mechanism to:
 - i. Disconnect the funds from the criminal activity that generated them.
 - ii. Hide the true beneficial owner of the funds.
 - iii. Allows criminals to spend, invest or move their wealth freely within the legitimate financial system without suspicion.
7. Without money laundering, the profits of crime would be largely unusable, trapping criminals in a cycle where their illicit gains are a liability rather than an asset.
8. Money laundering is typically understood as a three stage process.
 - i. Placement – Criminals aim to convert bulk cash into less suspicious financial instruments. Common methods include depositing small non reportable amounts into multiple accounts or directly depositing into businesses that handle a lot of cash like restaurants, casinos or car washes. The goal is to move the money away from its physical form and into digital realm or other assets.
 - ii. Layering – This stage involves creating a deliberately confusing trail to obscure the origin and ownership of the funds. Techniques include transferring money electronically through multiple bank accounts across different jurisdictions, investing in complex financial products, etc. The aim is to make it difficult for

investigators to trace the funds back to their illegal origins, adding layers of uncertainty.

iii. Integration – At this point, the funds would have been sufficiently distanced from their criminal origins and would have acquired a face of legitimacy. Criminals can thereafter spend, invest or use these funds openly.

9. The creativity of money launderers is constantly evolving but some common methods and vehicles include:

- i. Shell companies and trusts, i.e., legal entities used to obscure ownership and facilitate transfers.
- ii. Real estate, i.e., buying and selling properties often at inflated or deflated prices or using cash.
- iii. Casinos, i.e., converting cash into chips, gambling minimally and then cashing out.
- iv. Trade-based laundering, i.e., manipulating invoices for goods and services to move goods.
- v. Bulk cash smuggling, i.e., physically transporting large sums of cash across borders.
- vi. Art and antiques, i.e., high value, easily transportable assets with subjective pricing.
- vii. Crypto-currencies, i.e., while transparent on ledgers, the anonymity of the users can be exploited.
- viii. Professional services, i.e., using lawyers, accountants or real estate agents who may be complicit or unwitting.

10. In many jurisdictions, the “presumption of ill-gotten assets” (also known as the presumption of illicit enrichment or unexplained wealth) is a legal mechanism designed to counter money laundering, by placing the

burden on the asset holder to prove the legitimate origin of their property. This approach addresses the difficulty prosecutors face in linking assets to the criminal act or the unlawful activity.

11. Laws such as the Prevention Of Money Laundering Act in various countries, establish that if a person holds assets that cannot be accounted for through their known income or legal receipts, it is presumed, until proven otherwise, that the property is derived from unlawful activity. This applies to both movable and immovable assets including cash, real estate, jewelry and digital/electronic instruments.
12. This is not an absolute conviction, it is a rebuttable presumption, meaning the accused has the opportunity to prove on a balance of probability, that the assets were acquired through legal means. The presumption is triggered when a person's wealth or property acquisition excess his lawful income.
13. Law enforcement can request an individual to explain the source of his property. Failure to provide a satisfactory explanation leads to a presumption that the property is ill-gotten. Unlawful activity indicators include transactions that cannot be linked to a known, legitimate business or income source.
14. Having discussed the concept of money laundering and the legal mechanism to counter it, I shall now examine the relevant provisions of the Prevention Of Money Laundering Act No. 05 of 2006 as amended.
15. Section 3 of the Prevention Of Money Laundering Act No. 5 of 2006 (as amended) reads as follows:

(1) Any person who-

(a) engages directly or indirectly in any transaction in relation to any property which is derived or realised, directly or indirectly, from any unlawful activity or from the proceeds of any unlawful activity;

(b) receives, possesses, conceals, disposes of, or brings into Sri Lanka, transfers out of Sri Lanka, or invests in Sri Lanka, any property which is derived or realised, directly or indirectly, from any unlawful activity or from the proceeds of any unlawful activity,

knowing or having reason to believe that such property is derived or realized, directly or indirectly from any unlawful activity, or from the proceeds of any unlawful activity shall be guilty of the offence of money laundering and shall on conviction after trial before the High Court be liable to a fine which shall be not less than the value of the property in respect of which the offence is committed and not more than three times the value of such property, or to rigorous imprisonment for a period of not less than five years and not exceeding twenty years, or to both such fine and imprisonment.

(1A) The assets of any person found guilty of the offence of money laundering under this section shall be liable to forfeiture in terms of Part II of this Act.

(2) Any person who attempts or conspires to commit the offence of money laundering, or aids or abets, the commission of the offence of money laundering shall be guilty of an offence under this Act and shall be liable after trial before the High Court to be punished with the same punishment as is specified for the offence of money

laundering. In this subsection "abet" shall have the same meaning as in sections 100 and 101 of the Penal Code.

(3) For the avoidance of doubts, it is hereby declared that a conviction for the commission of the unlawful activity shall not be necessary for the proof of the offence under the provisions of this Act.

16. Section 4 of the Prevention Of Money Laundering Act No. 5 of 2006 (as amended) reads as follows:

For the purposes of any proceedings under this Act, it shall be deemed until the contrary is proved, that any movable or immovable property acquired by a person has been derived or realized directly or indirectly from any unlawful activity, or are the proceeds of any unlawful activity, if such property-

(a) being money, cannot be or could not have been-

(i) part of the known income or receipts of such person; or

(ii) money to which his known income or receipts has or had been converted; or

(b) being property other than money, cannot be or could not have been-

(i) property acquired with any part of his known income or receipts; and

(ii) property which is or was part of his known income or receipts; and

(iii) property to which is any part of his known income or receipts has or had been converted.

17. Section 4 of the Prevention Of Money Laundering Act No. 5 of 2006 (as amended) includes a provision that any property acquired by a person

that cannot be a part of his known income or receipts, it is presumed to be from an unlawful activity until the contrary is proved. Further, the aspects of the legal presumption include:

- i. The law deems that if the property is money, it to be derived from an unlawful activity, not a part of the known income and if the property is one other than money, that the property acquired by person is derived from an unlawful activity, if it cannot be accounted for by a known income. The burden of proof shifts to the person to prove that the assets were acquired legally.
 - ii. It is not necessary to convict the individual of a specific predicate offence to seize the assets. The focus is on the inability to explain the source of the wealth.
 - iii. If the presumption is not rebutted, assets as subject to forfeiture.
 - iv. This typically applies to any property movable or immovable, including cash, real estate or financial instruments.
18. In the present case, the prosecution has adduced evidence of the appellant's known income, i.e., declared sources of income. Having carefully evaluated the material, the learned High Court Judge has found that the prosecution has established that the investments particularized in the indictment could not have been funded from the appellant's known income.
19. The learned High Court Judge has then addressed the second issue, whether the appellant has on a balance of probability, rebutted that inference by demonstrating an alternative, legitimate source of funds. The learned High Court Judge has decided that the appellant has failed to discharge that burden. His reasons are set out at length in the judgment and they are detailed, logical and in no way perverse.

20. In a matter of this nature, the appellant must prove the alleged facts on a balance of probability, i.e., that the occurrence of those facts is more probable than not. Here, the narrative of the appellant has not been corroborated by contemporaneous documentation, e.g., bank statements, tax returns, etc.

21. On the totality of the evidence adduced at the trial, the learned High Court Judge has not been persuaded that the appellant's version is more plausible than the prosecution's. Accordingly, the appellant has failed to discharge the requisite burden of proof.

22. In those circumstances, I am not inclined to interfere with the conviction, disputed judgment, together with the sentencing order and I proceed to affirm the same. I dismiss the appeal and make no order regarding costs.

Appeal dismissed.

23. The Registrar of this Court is directed to send this judgment to the *High Court in Gampaha* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree

Judge of the Court of Appeal