

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

In the matter of an Appeal made under
Section 331 of the Code of Criminal
Procedure Act No.15 of 1979.

Court of Appeal Case No:
CA/HCC/ 0081/2018
High Court of Colombo
Case No. 5793/2011

Liyana Arachchige Manoj Bimsara
Dissanayake

ACCUSED-APPELLANT

Vs.

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

COMPLAINANT-RESPONDENT

BEFORE : **P. Kumararatnam, J.**
R. P. Hettiarachchi, J.

COUNSEL : **A.S.M. Perera, PC with Chathunika**
Vitharana for the Appellant.
Asoka Weerasooriya with Akarsha
Weerasooriya and Pasan Karunaratne for
the Aggrieved Party.

Anoopa De Silva, DSG for the Respondent.

ARGUED ON : 08/10/2025

DECIDED ON : 26/01/2026

ORDER

P. Kumararatnam, J.

The above-named Accused-Appellant (hereinafter referred to as the Appellant) was indicted by the Attorney General in the High Court of Colombo for committing a Criminal Breach of Trust of \$108,500 Australian Dollars between the period of 15.03.2010 to 30.03.2010 and thereby committing an offence punishable under Section 389 of the Penal Code.

At the conclusion of the trial, the learned High Court Judge found the Appellant guilty as charged and proceeded to impose 3 years rigorous imprisonment with a fine of Rs.500,000/- with a default sentence of 9 months rigorous imprisonment. Additionally, the learned High Court Judge imposed a compensation of Rs. 9 million payable to PW1 with a default sentence of 18 months rigorous imprisonment.

Being aggrieved by the aforesaid conviction and sentence, the Appellant preferred this appeal to this court. The Appellant is on bail pending appeal.

After the trial, it was revealed that the Criminal Investigation Department and the virtual complainant, although had possession of the genuine Audit Report marked as A1, an incomplete Audit Report was marked P12 as the genuine Audit Report of the said company. Therefore, the learned President's Counsel for the Appellant moves this court to accept the document marked

A1 as fresh evidence, as the Appellant had no knowledge of this document during the trial.

Upon considering the application as well as the objections raised, this Court is of the view that this Audit Report, which the learned President's Counsel for the Appellant moves to lead as fresh evidence, has some bearing in the case.

Therefore, this Court is of the view that this Audit Report should be admitted as fresh evidence.

It is further noted that at the inquiry to accept fresh evidence in the connected case No. CA/HCC/443/2019, this Court already has accepted the genuine Audit Report of the Hakwatuna Oya Resort (Pvt) Ltd, marked as A1, as fresh evidence with consent of all the parties.

JUDGE OF THE COURT OF APPEAL

R. P. Hettiarachchi, J.

I agree

JUDGE OF THE COURT OF APPEAL