

IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST

REPUBLIC OF SRI LANKA

An Appeal filed in terms of Section 331 of the Code of Criminal Procedure Act No. 15 of 1979, read with Article 138 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

Democratic Socialist Republic of Sri Lanka

Complainant

Vs

Court of Appeal Case No:
CA/HCC/485-2017

High Court of Colombo Case No:
HC 6656/2013

Satchidanandan Ananda Sudhar

Accused

AND NOW BETWEEN

Satchidanandan Ananda Sudhar

Accused – Appellant

Vs

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

Complainant - Respondent

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

Pradeep Hettiarachchi, J.

Counsel : Amila Palliyage with Sandeepani Wijesuriya, Savani Udugampola, Lakitha Sakishta Arachchi, and Subaj De Silva for the Accused-Appellant.

Azard Navavi, ASG for the State.

Argued on : 25.11.2025

Decided on : 26.03.2026

Pradeep Hettiarachchi, J

Judgment

1. In the present case, two Accused persons were indicted before the High Court of Colombo for committing offences under the Prevention of Terrorism (Temporary Provisions) Act, No. 48 of 1979 (PTA). The indictment contained 94 charges. During the pendency of the proceedings, one of the Accused died. Consequently, the trial proceeded against the 1st Accused, who is the Appellant in the present appeal.
2. The evidence adduced by the prosecution against the Accused-Appellant (hereinafter referred to as the Appellant) consisted of a confession allegedly made by the Appellant to a Superintendent of Police while in custody, together with recoveries effected under Section 27(1) of the Evidence Ordinance, including a remote controller and a fingerprint analysis report marked as p10, which stated that the fingerprints recovered from the residence of the Accused-Appellant were consistent those of the said Accused-Appellant.

3. However, the prosecution primarily relied on the alleged confession made by the Accused-Appellant to the said Superintendent of Police.
4. When the prosecution sought to lead the said confession in evidence before the High Court, the defence raised an objection on the basis that the Appellant had not made a voluntary confession before the SP. Accordingly, a *voir dire* inquiry was conducted before the Learned High Court Judge to determine the voluntariness and admissibility of the confession.
5. At the conclusion of the *voir dire* inquiry, the Learned High Court Judge held that the said confession had been made voluntarily by the Appellant. On the basis of the contents of the confession and the recoveries made under Section 27 of the Evidence Ordinance, the Appellant was found guilty of the charges and was accordingly convicted. The Appellant was sentenced to life imprisonment on the relevant counts. This appeal has been preferred against the said conviction and sentence.
6. Since the Appellant was indicted under the Prevention of Terrorism Act and convicted on the strength of the alleged confession, it is pertinent to consider the relevant statutory provisions governing the admissibility of such a confession. In this regard, Section 16 of the Act permits the use of a confession as evidence against an Accused.

Section 16 of the PTA reads:

16 (1) Notwithstanding the provisions of any other law, where any person is charged with any offence under this Act, any statement made by such person at any time, whether –

(a) It amounts to a confession or not;

(b) Made orally or reduced to writing;

(c) Such person was or was not in custody or presence of a police officer;

(d) Made in the course of an investigation or not;

(e) It was or was not wholly or partly in answer to any question, may be proved as against such person if such statement is not irrelevant under section 24 of the Evidence Ordinance; Provided however, that no such statement shall be proved as against such person if such statement was made to a police officer below the rank of an Assistant Superintendent.

(2) The burden of proving that any statement referred to in sub section (1) is irrelevant under section 24 of the Evidence Ordinance shall be on the person asserting it to be irrelevant.”

7. In terms of the said Section, any statement, whether amounting to a confession or otherwise, if recorded by an Assistant Superintendent of Police or an officer above that rank, is admissible in evidence against the maker. Where the Accused challenges the voluntariness of such a statement, the burden lies on the Accused to establish that it was made under threat, inducement, or promise.
8. Accordingly, it is incumbent upon the Accused to demonstrate that the statement is inadmissible on the grounds set out in Section 24 of the Evidence Ordinance.

Section 24 of the Evidence Ordinance reads:

A confession made by an accused person is irrelevant in a criminal proceeding if the making of the confession appears to the court to have been caused by any inducement, threat, or promise having reference to the charge against the accused person, proceeding from a person in authority, or proceeding from another person in the presence of a person in authority and with his sanction, and which inducement threat, or promise is sufficient in the opinion of the court to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

9. Section 24 of the Evidence Ordinance provides that a confession is inadmissible where it appears to the court that such a statement was made due to threat, promise, or inducement.

10. Moreover, it is a well-established law that, in terms of Section 25(1) of the Evidence Ordinance, a confession made to a Police Officer shall not be proved as against an Accused person. However, Section 16 (2) of the Prevention of Terrorism Act provides an exceptional situation to the aforesaid Section, rendering admissible any confession made to an Assistant Superintendent of Police or an officer above that rank, and such confession may be proved in evidence against the Accused.

Section 25(1) of the Evidence Ordinance reads:

25(1) No confession made to a police officer shall be proved as against a person accused of any offence.

11. In determining the voluntariness of a confession made by an Accused through a *voir dire* inquiry, the court must assess whether, on the evidence, it is reasonably probable that the statement was made as a result of such threat, inducement, or promise. Mere conjecture or speculative possibilities are insufficient to justify the exclusion of a confession.

12. In *Attorney General vs. Selvarasa Kirubakaran SC/Appeal/82/2022*, at page 8, the Supreme Court held thus:

“In this context it is of paramount importance to clearly identify and demarcate the parameters within which section 24 of the Evidence Ordinance could be invoked. It is clear that a determination on the irrelevancy of any statement in the context of Section 24 of the Evidence Ordinance is confined and limited to the circumstances where the presence or existence of a threat, promise, or inducement is in issue and could not extend to encompass situations or circumstances where the admissibility of any statement is challenged or any other ground.”

13. Accordingly, the prosecution bears the burden of proving beyond a reasonable doubt that the Accused made the confession and that it was voluntary. Once such a burden is discharged, a confession cannot be rejected on mere doubt or suspicion. The court must

determine, on the totality of the evidence, whether there is a real likelihood that it was procured by improper means within the meaning of Section 24.

14. However, it is pertinent to note that under the Prevention of Terrorism Act and Emergency Regulations, any statement, whether amounting to a confession or otherwise, recorded by an Assistant Superintendent of Police or an officer of a higher rank is admissible in evidence against its maker. When the Accused challenges the voluntariness of such a statement, the evidential burden shifts to the Accused to establish that it was made under threat, inducement, or promise.

15. I shall now proceed to consider the evidence presented before the High Court, where PW137 is the officer who recorded the alleged confession of the Appellant. During the relevant period, PW137 served as the Superintendent of Police of the Mt. Lavinia Division. According to his evidence, he used to visit the Mt. Lavinia Police Station for inspections. On 14.07.2008, when he went there for an inspection, three suspects who were detained at the station informed him that they wanted to speak to him personally. Thereupon, the witness directed PC 63974 Alwis to produce them before him. Accordingly, PC 63974 produced the said suspects before the witness, at which point they informed him that they intended to make confessions.

16. Although two of the suspects were conversant in Sinhala, the suspect named Ananda Sudhaharan, who is the Appellant in the present case, did not appear to be conversant in Sinhala. Accordingly, the witness summoned PC 44753 Fizer from the Kohuwala Police Station, who frequently assisted in questioning suspects who were not conversant in Sinhala.

17. Through PC 44753 Fizer, the witness explained to the suspects the provisions of the Prevention of Terrorism Act, the Evidence Ordinance, and the Emergency Regulations, as well as the possible consequences of making a confession. Thereafter, the suspects were handed over to the Police Reserve. (*vide page 494 of the Appeal Brief*)

18. On 16.07.2008, when the witness visited the police station again, the Appellant was produced before him by PC 44753 Fizer and informed that he wished to make a confession. The witness then proceeded to record the confession of the Appellant with the assistance of WPS 4557 Nirmala, who typed the statement, which was translated into Sinhala by PC 44753 Fizer.
19. The witness further testified that he questioned the Appellant to ascertain that the confession was being made voluntarily, without any threat, promise, or inducement. Moreover, the witness satisfied himself that the Appellant was in a proper physical and mental condition to make the confession.
20. According to the witness, the recording of the confession commenced at 9.15 a.m. and concluded at 13.30 hours, with a 20-minute break taken at 11.00 a.m. After the conclusion of the recording, PC Fizer explained the contents of the confession to the Appellant in the Tamil language.
21. In support of the prosecution, PC 44753 Fizer and WPS 4557 Nirmala also testified. At the conclusion of the prosecution's case, the Appellant elected to give evidence.
22. The Appellant's principal contention was that he did not make any confession before PW137, SP Gunawardhana. He further stated that he signed certain typewritten documents upon being promised that he would be sent to remand custody with the instruction of an officer named Raveendra. However, no such suggestion was put to SP Gunawardhana during his cross-examination. It is noteworthy that the Appellant had put suggestions to Fizer and Nirmala that the above-named Raveendra had recorded a statement from him, which is inconsistent with his own testimony that Raveendra merely requested him to sign certain typewritten documents.
23. The Appellant also stated that he was subjected to assault while in detention and sustained injuries as a result. He further asserted that he was taken to hospital on several occasions

and was examined, including by a Judicial Medical Officer, who recorded his injuries and prepared a report.

24. Upon considering the evidence presented before the High Court, the Learned High Court Judge, by Order dated 04.08.2017, held that the alleged confession had been made voluntarily and therefore admissible, permitting the prosecution to proceed on the basis of that confession.
25. In arriving at this conclusion, the Learned High Court Judge has carefully considered and evaluated all material evidence placed before the court, including the assessment of PC 44753 Fizer's competence to translate the statement given by the Accused-Appellant, which was tested in open court through a practical exercise requiring the witness to translate selected words into the Tamil language (*vide page 515 and 516 of the Appeal Brief*), the consistency of the testimony of SP Gunawardhana, PC 44753 Fizer and WPS 4557 Nirmala throughout the trial, and the absence of any medical evidence to substantiate the Accused-Appellant's allegation of assault.
26. The main issue in the present appeal revolves around the manner in which the relevant statement was recorded. It is common ground that the document the prosecution sought to produce at the trial is typewritten in Sinhala. According to the evidence of the prosecution, the Accused made the statement in the Tamil Language to the SP Gunawardana, and it was translated into the Sinhala language by PC Fizer 44753 (PW 146).
27. The evidence of SP Gunawardhana, PC 44753 Fizer, and WPS 4557 Nirmala, when considered in totality, does not disclose any material inconsistencies or contradictions that would vitiate the voluntariness of the said confession. The defence challenged the competence of PC 44753 Fizer, who acted as the translator during the recording of the confession. However, it must be noted that the Appellant himself admitted in his testimony that Fizer had previously questioned him in Tamil and had also acted as a translator while he was detained at the Piliyandala Police Station. Significantly, at no stage in his testimony

did the Appellant dispute Fizer's competence in translating between Sinhala and Tamil. (*vide page 510 of the Appeal Brief*)

28. While it is true that Fizer did not possess formal qualifications as a Sinhala–Tamil translator, the Appellant's own admissions that Fizer had communicated with him in Tamil on a prior occasion, coupled with the absence of any complaint regarding his competence, indicate that the mere lack of formal qualifications does not, in itself, vitiate the recording of the confession.

29. In *Attorney General vs. Selvarasa Kirubakaran SC/Appeal/82/2022*, at page 10, the Supreme Court held thus:

“Therefore, there is no illegality per se in recording a statement of a witness in one of the official languages, even though the statement is made in a different language.”

30. Moreover, the Accused-Appellant contended that SP Gunawardena, to whom he allegedly made the confession, PC 44753 Fizer, who translated the statement were members of the investigation team, and therefore, interested witnesses in recording the alleged confession. However, it is noteworthy that the Accused-Appellant was never in the custody of the said PC 44753 Fizer, and thus PC 44753 Fizer cannot be considered a member of the investigation team. Furthermore, SP Gunawardena was also not part of the investigation team.

31. The next issue to be determined is whether the said confession was made voluntarily, or whether it was obtained under inducement, threat, or promise.

32. More importantly, although the Appellant alleged that he had been assaulted and had sustained injuries while in detention, he failed to adduce any medical evidence in support of that claim. (*vide page 597 of the Appeal Brief*)

33. The Learned Trial Judge further observed that, during the cross-examination of SP Gunawardhana, it was never suggested that the confession had been made by the Appellant as a result of any inducement, threat, or promise.
34. It is also noteworthy that, at the conclusion of the examination-in-chief of SP Gunawardhana, the defence objected to the marking of the confession solely on the basis that the appellant had not made any voluntary statement to the SP. The defence did not specifically contend that the alleged confession had been obtained by inducement, threat, or promise. (*vide page 595 of the Appeal Brief*)
35. In *Attorney General vs. Selvarasa Kirubakaran (supra)*, at page 16, the Supreme Court held that the competency of the witness to translate the statement given by the Accused is different from the question of voluntariness of the alleged confession.

“In my view, by adopting the approach as reflected in the above portions of the Judgment, the Learned Justices had failed to apprehend the distinction between these two issues, namely voluntariness in the context of Section 24 of the Evidence Ordinance and the issue on the competency of the ASP to translate the statement, which has nothing to do with the issue on voluntariness based on “threat, promise or inducement” as set out in Section 24 of the Evidence Ordinance.”

36. In the present case, the appellant extensively challenged the language competency of PC 44753 Fizer, who acted as the translator during the recording of the alleged confession. However, the answers given by PC 44753 in cross-examination dispelled any doubt regarding his competency in translating the statement from Tamil to Sinhala.
37. The learned trial Judge, in his judgment, has carefully considered the uncontradicted nature of the evidence of PC 44753, WPS 4557, and SP Gunawardhana in concluding that the recording of the confession had been proved to the satisfaction of the court. Furthermore, the learned trial Judge has adequately addressed the issue of voluntariness of the confession

while examining and evaluating the evidence of the appellant, and has held that the appellant failed to establish that the confession was made involuntarily.

38. Accordingly, the learned trial Judge has correctly held that the said confession is admissible in evidence.

39. In addition to the foregoing, I shall now proceed to consider the further evidence adduced by the prosecution during the course of the trial. In the first instance, the Government Analyst's Report was tendered regarding the fingerprints of the said Appellant, which were found at his residence.

40. PW 139 (ASP Chandralath Kumara Weerasinghe), testified that, pursuant to the statement recorded from the Accused-Appellant on 30.04.2008 at the Piliyandala Police Station and acting on the directions given therein by the said Accused-Appellant, the police officers were able to recover a remote controller from the residence of the Accused-Appellant in terms of Section 27(1) of the Evidence Ordinance. The prosecution marked the relevant portion of the said statement pertaining to the recovery of the remote controller as p.29. Accordingly, the prosecution was able to establish that the recoveries were made in compliance with the necessary proceedings set out in law.

“ප්‍ර: දැන් සාක්ෂිකරු ඔබ කිව්වා මෙම භාණ්ඩය සොයා ගන්නේ මේ වින්තිකරුගේ ප්‍රකාශයෙන් අනතුරුව කියලා?”

උ: එහෙමයි ස්වාමිනි.

ප්‍ර: ඒ ප්‍රකාශයේ යම්කිසි කොටසක් ඔබට උපකාරී වුනාද එම භාණ්ඩය සොයා ගැනීමට?”

උ: එහෙමයි ස්වාමිනි.

ප්‍ර: ඒ මොන කොටසද කියලා ගරු අධිකරණයට කියන්න?”

උ: රිමෝට් එක බෝඩීමේ තිබුණු ට්‍රැවලින් බැග් එකට දල එක ටී.වී. ස්ටෑන්ඩ් එක උද බැග් එකේ තියෙනවා. එම තැන මට පෙන්වන්න පුළුවන්.” (vide page 375 of the Appeal Brief)

41. Upon further search of the room from which the said remote controller was recovered, the Police Officers collected six fingerprint samples, including two from a clay jar, one from a baffle, and three from the said remote controller itself. And the prosecution also admitted the fact that the above-mentioned fingerprint samples were sent to the Government Analyst for examination.

“ප්‍ර: ඇඟිලි සටහන් කියක් පමණ සොයා ගන්නද?”

උ: ස්වාමිනි ඇඟිලි සටහන් 06 ක් සොයාගන්නා. මැටි ජෝගුවේ ඇඟිලි සටහන් දෙකක්ද, බලලයේ ඇඟිලි සටහන් එකක්ද, විදුලි පරිපථයේ ඇඟිලි සටහන් තුනක්ද තිබීම සොයාගන්නා.” (vide page 374 of the Appeal Brief)

42. The said witness further testified that the said recoveries were made in an enclosed room with a wooden door located at the rear of a two-storied house, belonging to the landlord of No. 124, into which no person could enter without the landlord’s permission. Accordingly, it is evident that the fingerprints recovered from the aforementioned items were properly secured, and therefore, the fingerprints found belonged to the Accused-Appellant and to no other person.

“.....

උ: ඩන්ටර් ප්‍රදේශයේ අංක 124 දරන නිවසේ තට්ටු දෙකේ එම නිවාස අයිති අයගේ නිවසේ පිටුපස ප්‍රදේශයේ කෙසේල්ගස් වලින් ආවරණය වූ ස්ථානයක ටකරන් තහඩු සෙවීමේ කර තිබුණු නිවසක්.

ප්‍ර: එකට ඇතුළු වීමට දොරක් එහෙම තිබුනද?

උ: එහෙමයි. ඉදිරිපස දොරක් තිබුණා.” (vide page 386 of the Appeal Brief)

43. It is also noteworthy that the fingerprint analysis report obtained from the residence of the Accused-Appellant was admitted by the defence in terms of Section 420 of the Code of Criminal Procedure Act. In light of the above fact that the defence has not disputed the fingerprints recovered from the said residence, it reinforces the involvement of the Accused-Appellant in the alleged incident. (vide page 449-450 of the Appeal Brief)

44. The said witness further testified regarding a financial transaction in which a person in London, alleged to be associated with the L.T.T.E, sent money to the said Accused-Appellant to cover his expenses. This transaction demonstrates the prior conduct of the Accused-Appellant and indicates his preparation in connection with the alleged incident. It is also significant that the defence did not challenge this evidence during the cross-examination of the said witness. (*vide page 382 of the Appeal Brief*)
45. In fact, having examined the evidence set out hereinbefore, apart from the alleged confession, the fingerprint analysis, which confirms that the fingerprints recovered from the Accused's residence were his own, provided further corroboration to the prosecution's case. When considered cumulatively, the totality of the evidence adduced constitutes a coherent and compelling body of proof that firmly establishes the guilt of the Accused-Appellant beyond a reasonable doubt.
46. Upon consideration of the foregoing factual and legal context, it is evident that the conviction is supported by credible and cogent evidence. The learned trial Judge has carefully and sufficiently analyzed and evaluated the evidence of both the prosecution and the appellant, and has provided sufficient reasons for accepting the prosecution's evidence.
47. Furthermore, the learned trial Judge has paid adequate attention to the evidence of the appellant and has evaluated it in its proper judicial perspective. More importantly, the conclusion reached regarding the voluntariness of the confession is well-founded and reasoned. Therefore, I find no basis to disagree with the findings of the learned trial Judge. Accordingly, the conviction and sentence imposed on the Accused-Appellant by the learned High Court Judge are hereby affirmed.
48. The appeal is accordingly dismissed.

Judge of the Court of Appeal

P. Kumararatnam, J

I agree,

Judge of the Court of Appeal

