

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

**In the matter of an Appeal in terms of the Section
331 of the Code of Criminal Procedure Act No. 15
of 1979 and in terms of the Article 138 of the
Constitution of the Democratic Socialist Republic
of Sri Lanka**

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

CA HCC 0395/2019

High Court of Colombo
Case No. HCB 2010/14

Vs.

Complainant

Liyanage Shanthapriya Wijesuriya,
Rathmalla,
Katupotha.

Accused

AND NOW BETWEEN

Liyanage Shanthapriya Wijesuriya,
Rathmalla,
Katupotha.

Accused-Appellant

Vs,

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

Complainant-Respondent

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

Counsel: Laknath Seneviratne for the Accused-Appellant
 Sharanya Jeyaraja (Assistant Director (Legal) of Commission to Investigate
 Allegations of Bribery or Corruption) for the Respondent

Argued on: 30.01.2026

Judgment on: 13.02.2026

Judgment

Amal Ranaraja. J,

1. The accused-appellant (hereinafter referred to as “appellant”) has been indicted in the High Court of Colombo in High Court Case Number HCB 2010/14. The charges in the indictment are as follows;

- i. On or around 12.06.2011, at *Modara*, within the jurisdiction of this Court, you, the above-named, as Police Constable 22722, attached to the *Mattakkuliya* Police Station and posted at the *Kadirana* roadblock, solicited a gratification of Rs. 25,000/- from *Sinivasagam Rathees* as an inducement to refrain from instituting legal action against him for transporting medicine without a permit, thereby you have committed an offence punishable under section 16(b) of the bribery act (as amended).
- ii. At the time , location and course of action mentioned in the first charge above, you, the above-named, a government employee solicited a sum of Rs.25,000 /- from one *Sinivasagam Rathees*, thereby committing an offence punishable under section 19(c) of the bribery act (as amended).
- iii. At the time, location and course of action mentioned in the first charge above, you, the above-named as Police Constable 22722, attached to the *Mattakkuliya* Police Station and posted at the *Kadirana* roadblock, solicited a gratification of Rs. 25,000/- from *Sinivasagam Rathees* as an inducement to refrain from instituting legal action against him for transporting medicine without a permit, thereby you have committed an offence punishable under section 16(b) of the bribery act (as amended).
- iv. At the time, location and course of action mentioned in the first charge above, you, as a government employee solicited a sum of Rs.2500/- from one *Sinivasagam Rathees*, thereby committing an offence punishable under section 19(c) of the bribery act (as amended).
- v. At the time, location and course of action mentioned in the first charge above, you, the above-named as Police Constable 22722, attached to the *Mattakkuliya* Police Station and posted at the *Kadirana* roadblock, accepted a gratification of Rs. 1000/- from *Sinivasagam Rathees* as an inducement to refrain from instituting legal action against him for transporting medicine without a permit, thereby you have committed an offence punishable under section 16(b) of the bribery act (as amended).

- vi. At the time, location and course of action mentioned in the first charge above, you, the above-named as a government employee accepted a sum of Rs.1000/- from one *Sinivasagam Rathees*, thereby committing an offence punishable under section 19(c) of the bribery act (as amended).
 - vii. At the time, location and course of action mentioned in the first charge above, you, the above-named as Police Constable 22722, attached to the *Mattakkuliya* Police Station and posted at the *Kadirana* roadblock, accepted a gratification of Rs. 1000/- from *Sinivasagam Rathees* as inducement to refrain from instituting legal action against him for transporting medicine without a permit, thereby you have committed an offence punishable under section 16(b) of the bribery act (as amended).
 - viii. At the time, location and course of action mentioned in the first charge above, you, the above-named as a government employee accepted a sum of Rs.1000/- from one *Sinivasagam Rathees*, thereby committing an offence punishable under section 19(c) of the bribery act (as amended).
2. At the conclusion of the trial, the learned high court judge has acquitted the appellant of the first to sixth charges and convicted him of the seventh and eighth charges. The appellant has been sentenced thereafter as follows;
 - i. One-year rigorous imprisonment each in respect of the seventh and eighth charges and also fined Rs.2500 each with a term, of nine months simple imprisonment in default.
 - ii. The substantive terms of rigorous imprisonment and the term of simple imprisonment in default have been directed to run concurrently.
 3. When the matter was taken up for argument, the learned counsel for the appellant informed this Court that the appellant was not disputing the convictions but only the sentencing order.

4. Accordingly, the learned counsel urged the following ground of appeal;
 - i. Is the sentence imposed on the appellant manifestly excessive?

The learned counsel for the appellant argued that the appellant has no previous convictions, was forty-eight years old at the time of the alleged offences and a father of two.

That the offences in question occurred in June 2011 over fourteen years ago, furthermore, the charges have weighed upon the appellant for nearly six additional years representing a substantial period of prolonged uncertainty.

Crucially, there is no minimum mandatory sentence prescribed for the offences of which the appellant has been convicted. That the appellant has demonstrated genuine remorse for his actions.

5. The learned counsel for the respondent argued for an appropriate sentence for the appellant.
6. In *Asan Mohammed Rizwan vs. Attorney General*, M.C. Pelamadulla Case No. 33332, H.C. Ratnapura Case No. HC 25/2010, Court of Appeal Revision No. CA [PHC] APN 141/2013 decided on March 25, 2015, Chitrasiri, J, has discussed a gamut of issues regarding sentencing, stating the following:

“Sentencing is an important aspect in the administration of criminal justice system. A sentence ranges from death penalty to the mere censure in the form of good behavior bond or probation. There are multiple considerations relevant to the determination of a sentence. The most important consideration is the seriousness of the crime. Jurisprudentially, this position is persuasive despite pragmatic difficulties associated with matching the harshness of the sanction to the severity of the crime.”

“...Therefore, it is necessary for the judges to keep in mind the objectives of sentencing and also the sentencing guidelines, in order to arrive at the correct and appropriate decision.

Objectives of sentencing include the following:

- (i) To punish offenders to an extent and in a manner, which is just in all circumstances;*
- (ii) To protect the community from offender;*
- (iii) To deter offenders or other persons from committing offences of the same or similar nature;*
- (iv) To establish conditions so that rehabilitation of offenders may be promoted or facilitated;*
- (v) To signify that the court and the community denounce the commission of such offences;*
- (vi) To maintain the required standards of societal expectations in making decisions;*
- (vii) To prevent overcrowding prisons also could be considered as one such objective particularly when it comes to developing countries such as ours.”*

“...I will now advert to the other aspects that are necessary to consider before a sentence is determined. Those can be categorized as follows:

- a) The maximum and the minimum (if any) penalty prescribed for the offence;*
- b) The nature and gravity/seriousness of the particular offence.*
- c) The offender's culpability and degree of his/her responsibility for the offence,*
- d) Mental state of the accused at the time the offence was committed;*
- e) Evidence as to pre-arrangement for the commission of the offence;*
- f) The impact of the offence on any victim and the injury, loss or damage caused as a result of the offence committed;*
- g) Whether the offender pleaded guilty to the offence and if so, the stage in the proceedings at which the offender did so or the stage at which it was indicted;*
- h) The conduct of the offender during the trial as an indication of remorse or the lack of remorse*

- i) Any action taken by the offender to make restitution of the injury, loss or damage arising from the offence, including his or her willingness to comply with any order for restitution that a court may consider.*
- j) The offender's previous character, good or bad;*
- k) Imprisonment should be used when no other sentence is adequate;*
- l) Proportionality between the crime and the sentence*
- m) Possibility of reforming the offender;*
- n) To ensure consistency in deciding sentences;*
- o) Presence of any aggravating or mitigatory factors concerning the offender or any other circumstance relevant to the commission of the offence."*

7. To fully understand the context of this case, it is crucial to consider the Appellant's personal circumstances. The appellant is a sixty-two-year-old first-time offender who possesses an otherwise unblemished record demonstrating no prior convictions or pending legal cases. This status of a first-time offender strongly suggests that the incident in question may represent an isolated aberration rather than indicating a sustained pattern of criminal behavior. This unique position points towards a significantly lower risk of relapse and a substantial potential for rehabilitation, distinguishing this case from that of a habitual offender.
8. Furthermore, the appellant has unequivocally expressed genuine remorse regarding the incident by accepting responsibility for the underlying conviction and only challenging the sentencing order. This demonstration of remorse serves as a crucial indicator not only of his acceptance of responsibility but also of his potential for rehabilitation. It signifies a profound understanding of the gravity of his actions a clear commitment to learning from his experience rather than repeating past mistakes.
9. Second, imposing a non-custodial sentence would serve the interest of justice and rehabilitation. Non-custodial measures are effective in reducing relapsing and allowing individuals to maintain their ties to family, employment and community.

10. By facilitating the appellant's reintegration into society, this Court can promote accountability and encourage positive behavioral changes.
11. Furthermore, the imposition of a non-custodial sentence will also alleviate the burden on the correctional facilities, which are overcrowded and under-resourced.
12. As the learned counsel for the appellant has argued, the offences in question have occurred in 2011, a staggering 14 years ago. Thereafter, the charges have been hanging over the head of the appellant for almost another 6 years, which is a substantial amount of time.
13. Taking all these matters into consideration, this Court is of the view that a custodial sentence should not be imposed on the appellant for an offence committed 14 years ago.
14. Ends of justice will be met by suspending for a period of five years, the substantial terms of imprisonment of one year each imposed in respect of the seventh and eighth charges and directed to run concurrently.
15. The fines imposed in respect of the charges convicted of shall remain unchanged together with the terms of imprisonment imposed in default.
16. Accordingly, I affirm the convictions and vary the sentencing order.

The appeal is partly allowed.

I make no order regarding costs.

17. The Registrar of this Court is directed to send a copy of this judgement to the High Court of Colombo together with the original case record for compliance.

Judge of the Court of Appeal

B. Sasi Mahendran. J,

Judge of the Court of Appeal