

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 No. 15 of 1979.

Democratic Socialist Republic of Sri Lanka

Complainant

Court of Appeal Case No:
CA/HCC/0237/25

High Court of Galle Case No:
HC-2783/2006

Vs.

Uragaha Chamil Priyanka *alias* Suranga,
Devenigoda, Ratgama

Accused

AND NOW BETWEEN

Uragaha Chamil Priyanka *alias* Suranga,
Devenigoda, Ratgama

Accused-Appellant

Vs.

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

Complainant-Respondent

Before : **Hon. P Kumararatnam, J.**
Hon. Pradeep Hettiarachchi, J.

Counsel : U.R.de Silva P.C. for the Accused-Appellant
Yohan Abeywikrama DSG for the Respondent

Argued on : 31.03.2026

Decided on : 12.05.2026

Pradeep Hettiarachchi, J

Judgment

1. The Accused-Appellant (hereinafter referred to as “the Appellant”) was convicted by the Learned High Court Judge of Galle for the possession of 1.3 grams of heroin, an offence punishable under section 54A(b) of the Poisons, Opium and Dangerous Drugs Ordinance.
2. The Appellant was sentenced to 12 years’ rigorous imprisonment and a fine of Rs. 500,000.00, with a default sentence of six months’ simple imprisonment. Being aggrieved by the said conviction and sentence, the Appellant has preferred the present appeal.
3. The Appellant principally contended that the Learned High Court Judge failed to take into account certain material contradictions and inconsistencies in the evidence of the prosecution witnesses, which go to the root of the prosecution case, thereby rendering the conviction bad in law.
4. PW1, Buddhika Prasad Balachandra, was the first witness to testify for the prosecution. According to his evidence, he received information from PC 35209

Rohitha on 16.03.2014, which led to the arrest of the Appellant. Upon his instructions, eleven Police Officers took part in the raid. They left the Police Station at 5.05 a.m., proceeded along Galle Road, and reached Rathgama at 9.10 a.m.

5. They stopped their vehicle along the main road, and PC 35209 Rohitha walked along a by-road towards the landside. After crossing the railway track, Rohitha entered a compound situated near the track, where there were two persons present. PW1 observed these two individuals from a distance. Thereafter, Rohitha offered a Rs. 100.00 note to one of them; however, that person refused to accept it but handed over something to Rohitha. The currency note was then accepted by the other person.
6. At that point, Rohitha apprehended the person who had handed something to him, while PW1 apprehended the other person who had accepted the currency note. The person apprehended by Rohitha was identified as the Appellant. Upon searching the Appellant, a pink-colored cellophane packet was recovered, containing several small packets wrapped in printed paper bearing a floral design. Rohitha handed over to PW1 the packet that had been given to him by the Appellant. When PW1 opened one of the packets, heroin was found inside.
7. Thereafter, both individuals were arrested, and the Appellant's house was searched with the assistance of the other officers who were summoned to the location. Upon searching the house, the officers recovered several cellophane bags and pieces of paper similar to those found in the Appellant's possession. Subsequently, the house of the Appellant's mother was also searched; however, no illegal items were found. The police team then left for the PNB at 10.55 a.m. and arrived there at 1.55 p.m.
8. According to PW1, the raid was conducted pursuant to information received from PC 35209 Rohitha. Therefore, prior to their departure from the PNB, the officers were aware that they were proceeding to arrest a person allegedly in possession of heroin. In a raid of this nature, it is the usual practice of anti-narcotic officers to carry the necessary equipment for measuring and sealing the seized substances. However, it is noteworthy that PW1 did not take with him any such equipment

required for the measurement and sealing of the alleged contraband. No plausible explanation was forthcoming in that regard.

9. It is significant to note that PW1 has contradicted his own evidence. At page 147 of the record, he stated that he conducted a field test on the packet of heroin allegedly purchased, which is inconsistent with his earlier testimony.
10. At the outset of his evidence, PW1 stated that it was Rohitha who offered Rs. 100.00 to the Appellant, but the Appellant refused to accept it, and the money was instead accepted by the second Accused. According to PW1, the packet of heroin was handed over to Rohitha by the Appellant. PW1 further stated that he arrested only the second Accused, who was attempting to flee the scene, while Rohitha apprehended the Appellant.
11. It is also noteworthy that none of the officers who participated in the raid made an “out entry” at the time of leaving the Police Station. Instead, the out entry was made by PS 18934 Gunarathne of the Police Reserve, who was not a member of the raiding party. It is in evidence that PW1 was present at PNB until 4.50 a.m., although he had arrived there at 1.45 a.m. Therefore, PW1 had ample opportunity to make the out entry at the time of departure. However, for reasons best known to him, he failed to do so. This omission casts serious doubt on the prosecution’s version, particularly since the out entry marks the start of the raid.
12. More importantly, PS 18934 Gunarathne was not called by the prosecution to testify. In the absence of his evidence, the making of the out entry by him further undermines the credibility of the prosecution's case.
13. Furthermore, PW1 was unable to state the name of the by-road along which PC 35209 Rohitha proceeded in order to reach the premises where the Appellant was arrested. PW1 had also failed to record the name of this road, even in the “in entry” made upon his return to the PNB. If PW1 had in fact participated in the raid as claimed, there would have been no reason for such an omission. This lapse casts doubt on his presence and participation in the alleged raid.

14. Moreover, according to PW1, upon reaching Panadura, PW2 was instructed by his informant to act as a potential buyer. This version is directly contradicted by PW2, who stated that there was no necessity for him to engage with the informant at that stage, as he had already been fully briefed by the informant regarding the manner in which the raid was to be conducted.
15. Additionally, according to PW1, the productions were handed over to S.I. Rajakaruna of the Police Reserve, who was entrusted with taking them to the Government Analyst Department. PW1 testified that S.I. Rajakaruna had proceeded to the Government Analyst's Department on 18.03.2004 with the productions but returned to the PNB on the same day without handing them over. He is said to have gone again on 22.03.2004 and handed over the productions on that date. However, PW1 was unable to provide any explanation as to why S.I. Rajakaruna failed to hand over the productions on his first visit.
16. However, S.I. Rajakaruna, in his testimony, did not state that he had gone to the Government Analyst's Department on 18th March and failed to hand over the contraband, necessitating a subsequent visit on 20th March.
17. These unexplained omissions and inconsistencies in the evidence of PW1 and PW2 raise serious doubts regarding the integrity of the investigation and the chain of custody of the productions.
18. Another inconsistency between the evidence of PW1 and PW2 arises in relation to the description of the premises where the alleged raid was conducted. According to PW1, he observed the activities of PW2 and the Accused within the compound through a partly opened gate. He was categorical that the premises had a gate as well as a parapet wall. In contrast, PW2 stated that there was no gate, but only a parapet wall enclosing the premises.
19. Further, PW2 initially stated that he had entered the house; however, upon being questioned by State Counsel, he altered his version and stated that he had, in fact,

meant the compound. This inconsistency in the description of the scene raises doubt as to the accuracy and reliability of the prosecution's evidence.

20. It is also in evidence that, upon arrival at the PNB, the statement of the Appellant was recorded by an officer named Kandiah Stanley Richard, who had not participated in the arrest of the Appellant. He recorded the statement not in the Information Book of the PNB, but in his personal notebook, which is not the usual practice followed by the Police. Notably, the chief investigating officer had failed to endorse the said statement. In fact, the Learned Trial Judge has made a specific observation in this regard in the proceedings dated 24.07.2023.
21. The cumulative effect of the aforementioned contradictions and omissions in the evidence of PW1 substantially undermines his credibility. His inconsistent statements regarding the conduct of the field test, the manner in which the alleged transaction took place, and the roles played by the officers in effecting the arrest create serious doubt as to the reliability of his testimony.
22. These are not minor discrepancies but go to the root of the prosecution's case, particularly in relation to the detection, recovery, and identification of the alleged contraband. In a case of this nature, where the prosecution's case rests predominantly on the evidence of police officers, it is imperative that such evidence be clear, consistent, and free from material contradictions. The failure to meet this standard renders it unsafe to place reliance on the testimony of PW1, thereby entitling the Appellant to the benefit of a reasonable doubt.
23. Owing to the contradictory nature of the prosecution evidence, a reasonable doubt arises regarding the manner in which the raid was allegedly conducted. Moreover, these inconsistencies directly undermine the credibility of PW1 and PW2, as the discrepancies in their evidence have not been sufficiently explained and are difficult to justify. The following authorities illustrate the consequences of the prosecution's failure to establish the charges beyond a reasonable doubt.

24. In *Kalinga Premathilake vs. The Director General of the Commission to Investigate Allegations of Bribery or Corruption, SC Appeal No. 99/2007*, decided on 30-07-2009, it was held,

“What needs consideration now is when the evidence led for the prosecution in this case is closely scrutinized, whether it would be satisfied that the prosecution had discharged the burden of proving the case beyond a reasonable doubt. If not, the appellant is liable to be acquitted of the charges. The prosecution must stand or fall on its own legs, and it cannot derive any strength from the weaknesses in the defence, and when the guilt of the accused is not established beyond a reasonable doubt, he is liable to be acquitted as a matter of right and not as a matter of grace or favour.”

25. In *Narendra Kumar vs. State (NCT of Delhi), AIR 2012 SC 2281*, the Indian Supreme Court held:

“Prosecution case has to stand on its own legs and cannot take support from the weaknesses of the case of defence. However great the suspicion against the accused and however strong the moral belief and conviction of the Court, unless the offence of the accused is established beyond a reasonable doubt on the basis of legal evidence and material on the record, he cannot be convicted for an offence. There is an initial presumption of innocence of the accused, and the prosecution has to bring home the offence against the accused by reliable evidence. The accused is entitled to the benefit of every reasonable doubt.”

26. It is also desirable to emphasize that the officers, when conducting a raid of this nature, are required to make notes on every important event and are also entitled to peruse their notes in order to refresh their memory when testifying. Hence, where material contradictions are present in their testimony, the Court cannot lightly disregard such inconsistencies and proceed to convict the Accused.

27. Unfortunately, the aforesaid infirmities, together with the material inconsistencies in the prosecution evidence, appear to have escaped the attention of the Learned Trial Judge. It is also pertinent to note that, when Counsel for the Appellant highlighted the contradictory nature of the prosecution evidence and the existence of such material inconsistencies, the Learned Deputy Solicitor General, in keeping with the highest traditions of the Attorney General's Department, fairly conceded them.
28. For the reasons set out above, it is unnecessary to consider the other grounds of appeal advanced on behalf of the Appellant. The infirmities discernible in the prosecution's evidence render the conviction unsafe and untenable.
29. Accordingly, the conviction and sentence dated 13.06.2025 are hereby set aside. The Appellant is acquitted of all charges.
30. The appeal is allowed.

Judge of the Court of Appeal

P. Kumararatnam, J

I agree,

Judge of the Court of Appeal