

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

In the matter of an Appeal under and in terms of Article 154P (6) of the Constitution read with Section 11(1) of the High Court of the Provinces (Special Provisions) Act No.19 of 1990 and Section 331 of the Code of Criminal Procedure Act No. 15 of 1979

CA CASE No : HCC 33/21

HC of Colombo HC/339/2019

The Democratic Socialist Republic of Sri
Lanka

-Vs-

Senanayake Mudiyanseelage Sanjeewa
Mewan Senanayake
No 155/5, Waththegedara Road
Maharagama

Accused

Now Between

Senanayake Mudiyanseelage Sanjeewa
Mewan Senanayake
No 155/5, Waththegedara Road
Maharagama

(Presently in the Welikada Prison)

Accused Appellant

-Vs-

The Attorney General
Attorney General's Department
Colombo 12

Respondent

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

Counsel : Anura Maddagoda PC, with R.Y.D.Jayasekara, Nadeesha Kannangara
Prabodhinee Nissanka for the Accused- Appellant
Arzard Navavi, ASG for the Respondent

Written 11.01.2022(by the Accused-Appellant)

Submissions: 18.02.2026 (by the Respondent)

On

Argued On : 02.02.2026

Judgment On: 29.04.2026

JUDGEMENT

B. Sasi Mahendran, J.

The Accused Appellant (hereinafter referred to as 'the Appellant') was indicted before the High Court of Colombo for Possession and trafficking of heroin under Section 54 (a) (d) and Section 54 (a) (b) of the Poisons, Opium and Dangerous Drugs Ordinance, No. 13 of 1984, as amended.

At the trial, the prosecution presented evidence through five witnesses, and the appellant, in his defense, gave evidence in the witness box.

Upon conclusion of the trial, the Learned High Court Judge, by judgment dated 29.04.2021, found the Appellant guilty of both charges and imposed life imprisonment.

Being dissatisfied with both the conviction and the sentence imposed by the Learned High Court Judge, the Appellant has preferred an appeal before this Court, articulating the following grounds in support of his challenge.

1. That the Judgement of the learned Judge of the High Court is erroneous and bad in law;
2. That the learned Judge of the High Court has misdirected himself and erred in law and in fact;
3. That the prosecution has failed to prove the case and discharge its burden of proof beyond reasonable doubt;
4. That the prosecution has failed to place evidence before Court to establish the elements of the offences of possession and trafficking beyond reasonable doubt;
5. That the learned Judge of the High Court has failed to examine and evaluate the evidence placed before Court by the prosecution in accordance with well settled principles of criminal law;
6. That the learned Judge of the High Court has misdirected himself with regard to the evidence placed before Court to establish the ingredients of the charges;
7. That the learned Judge of the High Court has failed to bring to bear a judicial mind in evaluating the evidence with regard to the veracity of the first information received by PW4 PC 60485 Upul Mathara Arachchi which raises serious doubts about the entire prosecution case;

8. That the learned Judge of the High Court has failed to consider the prosecution's failure to establish beyond reasonable doubt the evidence pertaining to chain of custody of the alleged narcotic substance upon and after the purported detection;
9. That the learned Judge of the High Court has failed to consider the material contradictions with regard to the detection as testified by witnesses IP Ruwan Kumara and PC Upul Mathara Arachchi;
10. That the learned Judge of the High Court has failed to consider the contradictions inter se in the evidence of witnesses IP Ruwan Kumara and IP Senarath Bandara;
11. That the evidence placed before Court by the prosecution itself has created a reasonable doubt with regard to the guilt of the Accused;
12. That the learned Judge of the High Court has failed to give the benefit of the doubt to the Accused and thereby acted contrary to well established principles of criminal law;
13. That the learned Judge of the High Court has failed to examine and evaluate the evidence given by the Accused and other defence witnesses in accordance with well settled principles of criminal law;
14. That the Accused has been deprived of the right to a fair trial.

The facts and circumstances of this case are as follows,

PW 01, IP Ruwan Kumara, testified that, according to information received by PW 4, PC Mathararachchi, from a private informant, two residents near the Maharagama Vivekananda Temple were engaged in drug trafficking. After leaving the office of the PNB at 15:30 hours, they arrived at the Vivekananda Temple at 17:45 hours, where the private informant was waiting. The informant pointed out the house where the suspects resided and further stated that suspect, Janaka, one of the suspects, was approaching the road. Upon observing the suspect, Janaka's arrival at the house, the officers arrested him. During the search, they found a white grocery bag in his possession containing heroin. His nearby house was searched until 21:15 hours, during which no illegal items were discovered.

At 22:05 hours, while escorting the suspect Janaka back to the PNB, another informant linked to PW 4 reported that a man named Sanjeewa, the appellant residing at Maharagama Watte Gedara, had traveled to Kottawa to procure drugs from an individual known as Chameel. The informant added that Sanjeewa, the appellant, could be identified upon his return. Acting on this information, the witness and the other officers resolved to

join the ensuing raid. They proceeded towards Kottawa and halted their vehicle near the Wattededara junction in Maharagama. At approximately 22:55 hours, the witness and PW 4 disembarked from the vehicle, instructing the driver to park 100 meters further along the road.

At that moment, the informant arrived on a motorbike. Following a brief discussion, he stated that he could identify the appellant. He further explained that the appellant was disabled, missing his arm from the elbow, and that he was traveling in a three-wheeler belonging to a friend. Shortly thereafter, the informant pointed out a green three-wheeler from which the appellant alighted and proceeded down the road. The informant then departed, while the witness and PW 4 moved forward to approach the appellant.

Upon being identified as a PNB officer, the witness stated that the appellant appeared frightened. When the witness attempted to restrain him by the arm guard, the appellant, being disabled and lacking an arm from the elbow, slipped free. However, the witness managed to seize his other hand and face. A search was then conducted jointly with PW 4, during which a pink-colored grocery bag containing heroin was discovered in the appellant's possession. At approximately 23:50 hours, the appellant was formally placed under arrest.

After returning to the van and conducting further questioning, the witness identified the appellant's residence. A search was carried out there the following day at 01:20 hours, but no illegal items were found. Subsequently, the appellant was questioned again at his residence in connection with another offence. Thereafter, the witness, accompanied by the suspect, Janaka, and the appellant, proceeded back to the PNB office

The witness testified that the production found in the appellant's possession was weighed and recorded as 15 grams and 400 milligrams. The production was then sealed using the appellant's thumbprint together with the witness's private seal under PR No. 42. When counsel inquired further about the sealing process, the witness clarified that, since the appellant was disabled and did not have his left hand from the elbow, the right thumbprint was used instead. The witness stated that, since the reserve duty officer responsible for handling productions in High Court cases was not present, he secured the appellant's productions in his private locker. On 22.12.2017 at 15:30 hours, he handed them over to PW 7, IP Bogamuwa, who was on reserve duty at that time.

During cross-examination, the defence questioned the witness regarding how the appellant attempted to escape. When the defence suggested that the appellant had not been taken to his home and that he was arrested only after the first suspect, Janaka, called him, the witness denied these allegations. The witness admitted that after arresting the first suspect, they attempted to make calls from his phone and gather further information, but the appellant was not identified through that process. When the defence further suggested that the appellant was arrested inside the suspect's house, the witness denied this claim.

According to the testimony of PW 7, IP Bandara Bogamuwa, on 22.12.2017 at 15:35 hours, under PR No. 42/2017, PW 01 handed over the productions. On 27.12.2017, the production was handed over to the Government Analyst by Officer PC Bandara (No. 60384).

PW 4, Police Sergeant Mathararachchi, testified that on 21.12.2017, he received information from a private informant. He further confirmed, in corroboration with the evidence of PW 1, the arrest of both the suspect and the appellant, as well as the recovery of the production.

PW 9, Government Analyst Udani Lalanika, testified that on 27.12.2017, she received the productions, which were duly sealed. Upon examination, the initial weight of the production was recorded at 14.72 grams, with the net weight of pure heroin determined to be 4.58 grams.

Upon the conclusion of the prosecution's case, the appellant gave testimony in the witness box. He stated that on the alleged day, he was on his way to attend a birthday party when he received a call from the suspect, Janaka. As he was passing the suspect's house, he was asked to stop nearby. It should be noted that this was not proposed during the cross-examination of PW 1. At that moment, four police officers approached and forcibly apprehended him. The officers demanded production and took him to the suspect's residence. There, the officers questioned him and subsequently escorted him to his own house. He further stated that he was questioned continuously until the following morning. The appellant denied all allegations made against him.

The main argument advanced by the counsel for the appellant was that the prosecution had failed to prove the case beyond a reasonable doubt. He further contended that the learned High Court Judge had failed to properly analyze the defence version.

In drug-related cases, our courts expect that the following items should be established by the prosecution beyond reasonable doubt.

1. The accused was arrested with illegal substances.
2. The accused had the exclusive possession of such product,
3. After the arrest, the substance was properly sealed and handed over to the reserve, and it was kept under custody till it was sent to the Government Analyst.
4. Then the government analyst should confirm whether the production received by him comes under the Poisons, Opium and Dangerous Drugs Ordinance.

I am mindful of the observation made by His Lordship Yasntha Kodagoda PC, J, in the case of *Jayakodi Arachchige Anura Chaminda Appuhamy and others v. AG*, SC/TAB 05/2023, decided on 09.06.2025,

“It is necessary for this Court to observe that, in a case of this nature, where it is alleged that heroin was found in the possession of the Accused, as regards the said substance (commonly referred to as the ‘productions’), what is necessary for the prosecution to establish are the following:

- (i) That the productions referred to in the prosecution’s case were in fact recovered from the possession of the Accused.*
- (ii) That without unnecessary delay, the productions recovered from the suspects were properly sealed and given unique markings.*
- (iii) That without unnecessary delay, such sealed and marked productions were forwarded to the Government Analyst in the manner provided by law.*
- (iv) That what the Government Analyst received were the sealed and marked productions recovered from the suspects.*
- (v) That what the Government Analyst analyzed and reported on were the productions that were recovered from the suspects.*
- (vi) That the Government Analysts Report arises out of the quantitative and qualitative scientific analysis of the productions recovered from the possession of the Accused.”*

Through the testimony of PW 1, the prosecution established that the drugs in question were recovered from the possession of the appellant. PW 7 confirmed that the productions

were duly handed over to the Government Analyst without any evidence of tampering. PW 9 further testified that, upon receipt, the productions were properly sealed, and she conclusively identified the substance as heroin. The central issue was whether the appellant's version created any doubt over the prosecution's case. The learned High Court Judge correctly concluded that the defence had not succeeded in creating any doubt in the prosecution's evidence.

In this instant case, I note that it is observed that the prosecution has established that the Appellant was in exclusive possession of the heroin, which was duly forwarded to the Government Analyst in accordance with proper procedure.

Taking all the aforementioned matters into account, I find no reason to interfere with the judgment of the Learned High Court Judge.

Accordingly, the appeal is dismissed, and the conviction and sentence imposed on the Appellant are affirmed.

The appeal is accordingly dismissed.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE

JUDGE OF THE COURT OF APPEAL