

**IN THE COURT OF APPEAL OF THE DEMOCRATIC SOCIALIST**

**REPUBLIC OF SRI LANKA**

In the matter of an Appeal filed in terms of  
Section 331(1) of the Code of Criminal  
Procedure Act No. 15 of 1979, read with  
Article 138 of the Constitution

Democratic Socialist Republic of Sri Lanka

**Complainant**

Court of Appeal Case No:  
**CA/HCC/0343/2019**

High Court of Colombo Case No:  
**HC 6919/2013**

**Vs**

Mohammed Anishdeen Mohammed Istikar

**Accused**

**AND NOW BETWEEN**

Mohammed Anishdeen Mohammed Istikar

**Accused – Appellant**

**Vs**

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

**Complainant - Respondent**

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

Counsel : S.T. De Zoysa for the Accused-Appellant.  
: Yuhan Abeywikrama D.S.G for the Respondent.

Argued on : 16.03.2026

Decided on : 11.06.2026

**Pradeep Hettiarachchi, J**

### **Judgment**

1. The Accused-Appellant (hereinafter referred to as “the Appellant”) in the present case was indicted before the High Court of Colombo on two counts, namely:
  - a. For trafficking 40.06 grams of Heroin without the authority of a license as permitted by the Director in terms of Chapter V of the Poisons, Opium and Dangerous Drugs Ordinance, an offence punishable under Section 54A (b) of the aforesaid Ordinance;
  - b. At the same time, and during the same transaction, for possessing 40.06 grams of Heroin without the authority of a license as permitted by the Director in terms of Chapter V of the Poisons, Opium and Dangerous Drugs Ordinance, an offence punishable under Section 54A (d) of the aforesaid Ordinance.
2. At the conclusion of the trial, the Learned Trial Judge found the Appellant guilty of the second count and accordingly convicted and sentenced him to life imprisonment. The Appellant was, however, acquitted of the first count. Being aggrieved by the said conviction and sentence, the Appellant has preferred the present appeal.

3. No specific grounds of appeal were advanced on behalf of the Appellant. However, it was generally contended that the Learned Trial Judge had failed to analyze and evaluate the evidence adduced at the trial properly.
4. When the matter was taken up for argument, both parties informed the Court that they would rely on the written submissions already filed of record.
5. At the trial before the High Court, four witnesses testified on behalf of the prosecution, whilst the Appellant made an unsworn dock statement in his defence.
6. Since the Appellant has contended that the Learned Trial Judge failed to properly evaluate the evidence, I shall now consider whether such a contention is borne out by the judgment, in light of the evidence adduced by the prosecution.
7. The raid which led to the arrest of the Appellant was conducted upon information received by PW1 from one of his informants. PW1 entered the said information in his pocket notebook at 16.38 hours. According to the information received, a person named Iftikar was expected to arrive at Kumara Gate, Armour Street, carrying dangerous drugs.
8. Having apprised his superior officer of the information, PW1 organized the raid at approximately 16.40 hours. The raiding party comprised PC 15109 Rajapaksha, PC 22836 Sandaruwan, PC 60980 Rathnayake, PC 67831 Gayan, PC 70731 Weerasinghe, and PC 40223. Thereafter, they left the Police Narcotics Bureau at 17.35 hours and proceeded to the petrol station near the Sangaraja Mawatha roundabout, as instructed by the informant.
9. As the informant informed PW1 that the Appellant had not yet left the location, the officers remained there until about 19.30 hours. In the meantime, the informant arrived at the location in a three-wheeler and informed PW1 that the Appellant had already left. Thereupon, PW1, together with PC 70731 Weerasinghe, got into the three-wheeler and proceeded towards the vicinity of Kumara Gate.
10. Thereafter, the informant alighted from the three-wheeler and instructed PW1 and PC 70731 Weerasinghe to remain inside the vehicle. Shortly thereafter, the informant returned and informed them that the person concerned was approaching Armour Street

wearing a blue, black, and white short-sleeved shirt and a blue sarong, while carrying a white bag.

11. When the Appellant approached them, PW1 and PW6 approached him, revealed their identities, and escorted him to a side before searching the bag in his possession. Upon searching the bag, they discovered two parcels wrapped in blue-coloured grocery bags, inside which they observed a brownish-coloured powder later identified as heroin. Thereafter, the Appellant was informed of the charges against him and was placed under arrest.
12. The Appellant's name and identity were subsequently verified upon questioning him. During the course of questioning, it was revealed that the heroin had allegedly been supplied to him by one Rifard, who was said to be residing at the Sahaspura Flats. Thereafter, the police party, together with the Appellant, proceeded to Sahaspura in search of the said Rifard, but they were unable to locate him.
13. Thereafter, they returned to the Police Narcotics Bureau (PNB) at about 21.10 hours and made the necessary entry notes. Upon arrival, a field test was conducted on the substance recovered from the Appellant, which tested positive for heroin.
14. Each of the two parcels was weighed separately, and the weight of each was recorded as 500 grams. Thereafter, each parcel was sealed after affixing labels of identification bearing the signature and left thumb impression of the Appellant, together with the signature of PW1. The parcels were then placed in envelopes and sealed using PW1's personal seal along with the Appellant's left thumb impressions.
15. The white and orange-coloured bag in which the Appellant had carried the said two parcels was also separately enclosed in an envelope and sealed in the same manner. The productions were entered in PR Receipts No. 144/2012 and 145/2012 respectively.
16. Thereafter, both parcels were kept in the personal locker of PW1 and were subsequently handed over to IP Rajakaruna on 04.12.2012. When the productions were shown to the witness in open court, he identified them.
17. The other police officer who assisted PW1 in effecting the arrest of the Appellant was PW6, Sumedha Weerasinghe. He also testified and described the sequence of events

leading to the arrest of the Appellant, as well as the subsequent recovery of the productions and the sealing process.

18. PW8, Ganga Umagiliya, is the Senior Government Analyst who examined and analyzed the substances recovered from the Appellant. The report prepared by her upon analysis of the substances was marked as P14.
19. PW7, CI Rajakaruna, is the officer who had custody of the productions until they were handed over to the Government Analyst Department. He testified and explained the procedure followed in receiving the parcels and subsequently transmitting them to the Government Analyst Department.
20. Although PW1 was extensively cross-examined by defence counsel, the credibility of his testimony remains intact. No material discrepancies were elicited in his evidence. Moreover, PW1's testimony is consistent with that of PW6 on all material aspects. PW6 was also subjected to rigorous cross-examination; however, no material contradictions or omissions were brought out in his evidence.
21. More importantly, the evidence of PW1 and PW6 is mutually corroborative and discloses nothing that would affect their credibility. The Learned Trial Judge has carefully considered and evaluated the testimonies of both PW1 and PW6 and has given sufficient reasons for accepting and relying on the same.
22. More importantly, the Learned Trial Judge has given due consideration to certain minor infirmities discernible in the evidence and has stated reasons as to why such infirmities do not affect the overall credibility of the prosecution case.
23. The credibility of the evidence relating to the arrest of the Appellant, the recovery of heroin from his possession, the sealing process, the identification of the productions, and, more importantly, the transmission of the same to the Government Analyst Department and its subsequent analysis, remains intact notwithstanding the fact that the evidence was subjected to cross-examination.
24. The Learned Trial Judge has carefully examined and analyzed the evidence relating to the aforesaid matters and has correctly concluded that the prosecution has established them beyond reasonable doubt.

25. The Appellant contended that since he did not have his identity card with him at the time of arrest, and also as the informant had not provided a sufficient description of the Appellant prior to the arrest, the prosecution version of the arrest is doubtful. It is to be noted that, as stated by PW1, the informant had in fact given a sufficient description of the Appellant, particularly the colour of his attire and the bag he was carrying, and more importantly, had also provided the name of the Appellant.
26. PW1 in his evidence also stated the manner in which he verified the identity of the Appellant, and this aspect of his testimony was not challenged in cross-examination. The Learned Trial Judge, in his judgment, has addressed the issue of identification and has also given due consideration to the minor inconsistencies in the evidence of PW1 and PW6, stating reasons as to why such inconsistencies do not give rise to any reasonable doubt regarding the prosecution case.
27. In a case of this nature, the most vital ingredients to be established by the prosecution are the identity of the Appellant, his arrest, the recovery of the drugs from his exclusive possession, the sealing of the productions, and the transmission of the productions to the Government Analyst Department. The purpose of establishing the chain of custody of the productions is to ensure that there was no possibility of tampering from the time of seizure until the productions reached the Government Analyst Department.
28. The importance of proving the inward journey of the chain of production was considered in *Witharana Doli Nona vs. Republic of Sri Lanka (CA 19/19)*; Sisira De Abrew J. observed that:

*“It is a recognized principle that in drug-related cases, the prosecution must prove the chain relating to the inward journey. The purpose of this principle is to establish that the productions have not been tampered with. The prosecution must prove that the productions taken from the accused appellant were examined by the government analyst. To prove this, the prosecution must prove all the links of the chain from the time it was taken from the accused-appellant to the Government Analyst's department.”*

29. J.A.N de Silva J., (as he then was) in *Perera vs. AG* [1998] 1 SLR 378 opined that;

*“It is a recognized principle that in a case of this nature, the prosecution must prove that the productions had been forwarded to the Analyst from proper custody, without allowing room for any suspicion that there had been no opportunity for tampering or interfering with the production till they reach the Analyst. Therefore, it is correct to state that the most important journey is the inward journey because the final analyst report will depend on that. The outward journey does not attract the same importance.”*

30. In the present case, the prosecution evidence relating to the chain of custody remains intact. The Learned Trial Judge has considered the evidence in its correct judicial perspective before arriving at his conclusion.

31. Further, it should be noted that the prosecution has established, beyond a reasonable doubt, that the Appellant was in exclusive possession of the alleged drug, as the questioned substance was recovered from the bag carried by the Appellant himself.

32. In this regard, the following legal authorities are of considerable relevance.

33. In *Warner vs. Metropolitan Police Commissioner* (1968) 52 Criminal Appeal Report 373 held as follows;

*“The question, to which an answer is required, and in the end a jury must answer it, is whether in the circumstances the accused should be held to have possession of the substance, rather than mere control. In order to decide between these two, the jury should, in my opinion, be invited to consider all the circumstances - to use again the words of Pollock & Wright, Possession in the Common Law, p. 119 - the 'modes or events' by which the custody commences and the legal incident in which it is held. By these I mean, relating them to typical situations, that they must consider the manner and circumstances in which the substance, or something which contains it, had been received, what knowledge or means of knowledge or guilty knowledge as to the presence of the substance, or as to the nature of what has been received, the accused had at the time of receipt or thereafter up to the moment when he is found with it; his legal relation to the substance or package (including his right of access to it). On*

*such matters as these (not exhaustively stated) they must make the decision whether, in addition to physical control, he has, or ought to have imputed to him the intention to possess, or knowledge that he does possess, what is in fact a prohibited substance. If he has this intention or knowledge, it is not additionally necessary that he should know the nature of the substances."*

34. In this regard, the following passage by R.S. Wright [Pollock and Wright] in their admirable book "*An Essay on Possession in Common Law*" [1888 Part III Chapter 1 page 119] would also be of much relevance.

*"The 'modes or events' by which the custody commences and the legal incident in which it is held. By these I mean, relating them to typical situations, that they [the jury] must consider the manner and circumstances in which the substance or something which contains it, has been received, what knowledge or means of knowledge or guilty knowledge as to the presence of the substance, or as to the nature of what has been received, the accused had at the time of receipt or thereafter up to the moment when he is found with it; his legal relation to the substance or package (including his right of access to it) On such matters as these (not exhaustively stated) they [the jury] must make the decision whether, in addition to physical control, he has, or ought to have imputed to him the intention to possess or knowledge that he does possess what is in fact a prohibited substance. If he has this intention or knowledge, it is not additionally necessary that he should know the nature of the substance."*

35. Accordingly, I see no reason to interfere with the findings of the Learned Trial Judge.
36. The grounds of appeal advanced by the Appellant are devoid of merit and accordingly fail. For the foregoing reasons, it is my considered view that the prosecution has proved the second count against the Appellant beyond reasonable doubt.
37. I therefore affirm the conviction and sentence dated 01.07.2009 imposed by the Learned High Court Judge of Colombo.

38. Accordingly, the appeal is dismissed.

**Judge of the Court of Appeal**

**P. Kumararatnam, J**

I agree

**Judge of the Court of Appeal**