

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

**In the matter of an application for Leave  
to Appeal in terms of Section 15 of the  
Judicature Act**

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

**Complainant**

**CA HCC/91/25**

(CA LTA 01/2021)

High Court of Colombo

Case No. HCB 1967/2013

Vs.

Kanagasabe Ranjan,  
No. 2/6/6, Trillium Apartments,  
Alwitigala Mawatha,  
Colombo 06

**Accused**

**AND NOW**

Handun Harsha Prabath De Silva,  
No. 43, Thibirigaskatuwa,  
Negombo

**Virtual Complainant-Petitioner**

**Vs,**

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

**Complainant - Respondent**

Kanagasabe Ranjan,  
No. 2/6/6, Trillium Apartments,  
Alwitigala Mawatha,  
Colombo 06

**Accused - Respondent**

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

**Counsel:**    Anil Silva, PC with Anjana Abeyratne for the Appellant

Maithree Gunarathna, PC with Chanu Godakumbura for the  
Accused - Respondent

**Argued on:**    23.03.2026

**Judgment on:** **30.04.2026**

## Judgment

**Amal Ranaraja. J,**

1. The appellant has served as the first Prosecution Witness (PW01) in High Court Case No. HCB 1967/2013 at the High Court of Colombo. The charges in the indictment are as follows;

01. That between the dates of 05.12.2012 and 30.12.2021, within the jurisdiction of this Court in *Colombo*, you, as a public servant, serving as the Director of the Customs Clearance attached to the Customs Clearance Division, solicited a gratification of Rs. 5,000,000.00 from *Handun Harsha Prabhath De Silva*, as an inducement or reward for assisting and/or working to provide, approval for the release of used vehicle parts, imported from Japan by *Vehicles Lanka Private Limited*, after the containers holding such parts were inspected in the premises of *Vehicles Lanka Private Limited*. Thereby, you have committed an offence punishable under Section 19(b) of the Bribery Act.

02. In the time, place, and course of action of the above first charge, you as a public servant, the Director of Customs Clearance attached to the Customs Clearance Division, by soliciting a sum of Rs. 5,000,000.00 from *Handun Harsha Prabhath De Silva*, have committed an offence punishable under Section 19(c) of the Bribery Act.

03. In the time, place, and course of action of the above first charge, you, as a public servant, serving as the Director of the Customs Clearance attached to the Customs Clearance Division, solicited a gratification of Rs. 2,000,000.00 from *Handun Harsha Prabhath De Silva*, as an inducement or reward for assisting and/or working to provide, approval for the release of used vehicle parts, imported from Japan by *Vehicles Lanka Private*

*Limited*, after the containers holding such parts were inspected in the premises of *Vehicles Lanka Private Limited*. Thereby, you have committed an offence punishable under Section 19(b) of the Bribery Act.

04. In the time, place, and course of action of the above third charge, you as a public servant, the Director of Customs Clearance attached to the Customs Clearance Division, by soliciting a sum of Rs. 2,000,000.00 from *Handun Harsha Prabhath De Silva*, have committed an offence punishable under Section 19(c) of the Bribery Act.

05. In the time, place, and course of action of the above first charge, you, as a public servant, serving as the Director of the Customs Clearance attached to the Customs Clearance Division, solicited a gratification of Rs. 1,000,000.00 from *Handun Harsha Prabhath De Silva*, as an inducement or reward for assisting and/or working to provide, approval for the release of used vehicle parts, imported from Japan by *Vehicles Lanka Private Limited*, after the containers holding such parts were inspected in the premises of *Vehicles Lanka Private Limited*. Thereby, you have committed an offence punishable under Section 19(b) of the Bribery Act.

06. In the time, place, and course of action of the above fifth charge, you as a public servant, the Director of Customs Clearance attached to the Customs Clearance Division, by soliciting a sum of Rs. 1,000,000.00 from *Handun Harsha Prabhath De Silva*, have committed an offence punishable under Section 19(c) of the Bribery Act.

07. On or around the 3<sup>rd</sup> of January, 2013, within the jurisdiction this Court, in *Colombo*, in the course of action of the above fifth charge, you, as a public servant, serving as the Director of the

Customs Clearance attached to the Customs Clearance Division, solicited a gratification of Rs. 1,000,000.00 from *Handun Harsha Prabhath De Silva*, as an inducement or reward for assisting and/or working to provide, approval for the release of used vehicle parts, imported from Japan by *Vehicles Lanka Private Limited*, after the containers holding such parts were inspected in the premises of *Vehicles Lanka Private Limited*. Thereby, you have committed an offence punishable under Section 19(b) of the Bribery Act.

08. In the time, place, and course of action of the above seventh charge, you as a public servant, the Director of Customs Clearance attached to the Customs Clearance Division, by soliciting a sum of Rs. 1,000,000.00 from *Handun Harsha Prabhath De Silva*, have committed an offence punishable under Section 19(c) of the Bribery Act.

2. At the conclusion of the trial the accused-respondent has been found not guilty of the charges and has been acquitted of them.
3. Thereafter the appellant has initially filed an application for leave to appeal to this court (LTA 01/2021) and sought permission to present the current appeal. This Court has granted the requested leave.
4. When the matter was taken up for argument the learned President's Counsel for the accused-respondent, contended that the appellant could not pursue the current appeal.
5. Section 16 of the Judicature Act No. 2 of 1978 (as amended) grants an aggrieved party the right to appeal in criminal cases subject to specified conditions.
6. An aggrieved party in a bribery solicitation or acceptance case is typically the person from whom the bribe was solicited, or who was compelled to pay a gratification to a public officer. This individual, often referred to in

Court as the Virtual Complainant or PW01 (Prosecution Witness 01) is someone whose rights, property, or legal interest have been adversely affected by the demand or acceptance of the bribe.

Therefore, this Court concludes that the appellant did have a standing to file an application for leave to appeal, seeking permission to present the current appeal.

7. Further, Section 16 of the Judicature Act No.2 of 1978 (as amended) is as follows;

**16. (1) A person aggrieved by a judgment, order or sentence of the High Court in criminal cases may appeal to the Court of Appeal with the leave of such court first had *and obtained in all cases in which the Attorney-General has a right of appeal under this Chapter.***

*(2) In this section "a person aggrieved" shall mean any person whose person or property has been the subject of the alleged offence in respect of which the Attorney-General might have appealed under this Chapter and shall, if such person be dead, include his next of kin namely his surviving spouse, children, parents or further descendants or brothers or sisters.*

*(3) Nothing in this section shall in any way affect the power of the Court of Appeal to act by way of revision in an appropriate case.*

8. Based on a straightforward interpretation of the paraphrase, “...and obtained in all cases in which the Attorney-General has a right of appeal under this chapter”, in conjunction with the provisions outlined in Section 15(a) of the Judicature Act, the appellant in the current appeal is permitted to initially apply for leave to appeal, solely on a question of law, rather than on a question of fact or a combination of both law and fact regarding the order of acquittal issued by the High Court.

9. The appellant, in filing an application for leave to appeal, has presented several arguments as follows;

**Analysis – The judgement**

16. The learned High Court Judge has stated that during PW3's evidence he had accepted that there was a CCTV camera inside the Respondent's office (vide page 25 of the judgement). However, this a serious misdirection of fact as the existence of such a

6

CCTV camera is not borne out in evidence. PW3 had only inquired from the Assistant Director as to whether a CCTV camera was installed (vide page 762). The defence counsel too had cross examined PW3 assuming that a CCTV camera was in fact installed inside the Respondent's office. The learned High Court Judge has been misled by this line of questioning from the defence, resulting in him believing that such a CCTV camera was in fact installed. It is important to note that the then presiding Learned High Court Judge had not allowed the defence counsel to even enter a photograph purported to have been taken from CCTV footage in evidence (vide page 479). The Learned High Court Judge has heavily relied on this misdirection of fact to attribute a serious weakness to the prosecution case (vide page 26 of the judgement).

17. The Learned High Court Judge has used a Judge's opinion about the Petitioner's actions in a much earlier and completely different case (CA 1124/98) to come to an adverse finding about the Petitioner's character in the present case (vide pages 29 to 32 of the judgement). The Learned High Court Judge relies on this opinion to declare that the Petitioner is not a credible witness (vide pages 34 & 35 of the judgement) Such reliance by the Learned High Court is an egregious misdirection in law severely prejudicing the Petitioner's right to a fair trial.
18. The contradictions of the prosecution witnesses referred to by the Learned High Court Judge in his judgement do not in any way go to the root of this case and are at best minor contradictions on peripheral matters & side issues. These include contradictions relating to the counting of the bank notes by the decoy (PW2) prior to the raid and the exact words spoken between PW1 and the Respondent in the office room (vide pages 36 & 37 of the judgement). It was held in *The Attorney General v. Sandanam Pitchi Mary Theresa (2011) 2 Sri L.R. 292* that 'Discrepancies which do not go to the root of the matter and assail the basic version of the witness cannot be given too much importance. Witnesses should not be disbelieved on account of trifling discrepancies and omissions.' It is respectfully submitted that the core elements of the charges brought against the Respondent remain intact and credible and thus the prosecution case is strong.
19. Ananda Ranasingha (defence witness 3), the architect, called on behalf of the defence has stated in his evidence that the decoy could not have heard the conversation that took place inside the Respondent's office. The learned high court judge has placed heavy

7

reliance on his opinion to disregard the evidence to the contrary of both PW1 and PW2 (vide page 39 of the judgement). However, both PW2 and PW3 has given credible and uncontroverted evidence that the conversations from inside the office could in fact be heard (vide pages 453 and 706). It is also important to note that an architect is not an expert witness on sound waves and as such his opinion cannot be relied upon to ascertain as to whether the conversation could be heard by the decoy. In the circumstances, an audio engineer's evidence would have qualified as expert witness. Such reliance on the architect's evidence has unfortunately led the Learned High Court Judge to view the prosecution case as weak.

10. The appellant has disputed the factual findings made by the learned High Court Judge in reaching his determination. Furthermore, the appellant has informed this Court that he does not wish to contest the acquittal of the accused-respondent. Even if one assumes that there was a question of law to be addressed, such an assumption becomes less significant in this context. This dispute therefore, centres on the facts, rather than a question of law, which results in the appellant's inability to proceed with the current appeal.

11. Hence, I proceed to dismiss the appeal but make no order regarding costs.

*Appeal dismissed*

12. The Registrar of this Court is directed to send a copy of this judgement to the High Court in Colombo for its information.

**Judge of the Court of Appeal**

**B. Sasi Mahendran, J.**

I agree

**Judge of the Court of Appeal**