

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

**In the matter of a Leave to Appeal
Application under and in terms of
Section 16 of the Judicature Act No.
02 of 1978 (as Amended) read with
Section 340 of the Code of Criminal
Procedure Act No. 15 of 1979.**

Democratic Socialist Republic of Sri
Lanka

Complainant

Court of Appeal
Leave to Appeal No:
LTA/0005/26

Vs.

High Court of Colombo
Case No. HC 4820/24

Mohommed Irshad Marshook

Accused

AND NOW BETWEEN

Abdul Hadee Sarwa,
22, Gold Center,
Pettah

Aggrieved Party – Petitioner

Vs.

1. Mohommed Irshad Marshook,
No. 46/07,
Rathnawali Road,
Kalubowila

Accused - Respondent

2. Hon. Attorney General,
Attorney General Department,
Colombo 12

Complainant - Respondent

Before: **Amal Ranaraja, J.**

Dr. Sumudu Premachandra, J.

Counsel: U.R. de Silva, PC with Thilini Attapattu and Hansani
Pathirana instructed by Mayuran Mahalingam for the
Aggrieved Party-Petitioner

Aruna Pathirana Arachchi with Rangika Hemachandra for
the Accused-Respondent

Lishan Rathnayake, SC for the State

Argued on: 01.07.2026

Judgment on: 06.08.2026

Judgment

Amal Ranaraja J,

1. The Honourable Attorney General has forwarded an indictment to the High Court of Colombo in Case No. HC 4820/24 and has named the accused respondent as the accused in that case.
2. The accused-respondent has been charged of committing offences punishable under Section 403 of the Penal Code of Sri Lanka. Upon receipt of the indictment, the learned High Court Judge has caused the accused-respondent to be brought before such Court, thereafter, the charges in the indictment have been read and explained to him. The accused-respondent has pleaded not guilty to the charges.
3. The learned High Court Judge has, thereafter, proceeded to try the accused-respondent. At the conclusion of the trial, the learned High Court Judge has found the accused-respondent not guilty of the charges in the indictment and acquitted him. The aggrieved party-petitioner being the virtual complainant and being aggrieved by the acquittal has preferred to this court, the instant application, seeking leave to file a petition of appeal, disputing the judgement in Colombo High Court Case No. HC 4820/24.
4. The learned High Court Judge has meticulously evaluated the evidence presented by the witnesses in support of the complainant i.e. the Honourable Attorney General. After thorough consideration the learned High Court Judge concluded that the complainant has failed to establish its case beyond a reasonable doubt on the basis that the elements necessary to establish the charges had not been proved. As a result of this assessment, the learned High Court Judge has proceeded to acquit the accused-respondent.

5. The actions taken by the learned High Court Judge are firmly grounded in legal principles and are consistent with the requirements of a fair trial. In legal proceedings, it is essential that the judgement is not only based on quantity of evidence but more importantly on its quality and reliability.
6. In reaching the disputed judgement, the learned High Court Judge has acted within the confinements of the law, respecting the rights of the parties involved and assuring that justice is served. The disputed judgement is not perverse.
7. Due to the preceding reasons above, I am not inclined to issue formal notice on the accused respondents. I dismiss the instant application for leave to appeal.
8. I make no order regarding costs.

Leave refused.

Judge of the Court of Appeal

Dr. Sumudu Premachandra, J.

I agree

Judge of the Court of Appeal