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

In the matter of an Application for Revision under and in terms of the Constitution read with Article 138 of the Constitution read with Section 364 of the Criminal Procedure Act No. 15 of 1979.

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

Complainant

Court of Appeal
Revision Application
No. CPA 101/2025

Vs.

High Court of Colombo
Case No. HCB 380/2025

Kulathunga Dissanayake Mudiyanselage
Ophelia Chandrani Bandara,
No. 85,
Single House,
Harischandra Mawatha,
Anuradhapura.

Accused

AND NOW BETWEEN

Kulathunga Dissanayake Mudiyanselage
Ophelia Chandrani Bandara,
No. 85,
Single House,
Harischandra Mawatha,
Anuradhapura.

Accused-Petitioner

Vs.

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

Complainant-Respondent

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

Counsel: Nalin Ladduwahetti, P.C. with Kavithri Ubeysekara and Rajith Samarsekara instructed by Shayamali Athukorale for the Accused-Petitioner.

Gaya Rajapaksha, A.D.L. for the Complainant-Respondent.

Supported on: 27.11.2025

Decided on: 19.12.2025

ORDER

AMAL RANARAJA, J.

1. This is an application filed by the accused petitioner (hereinafter referred to as the "Petitioner") seeking to invoke the discretionary remedy of revision granted to this Court by Article 138 of the Constitution.

2. The petitioner is seeking to set aside and revise the order dated September 23, 2025, pronounced by the learned High Court Judge of Colombo, dismissing an application by the petitioner to direct the complainant respondent to include further particulars for clarity in the charges contained in the indictment in *High Court of Colombo* case number HCB 380/25.

3. When the instant application was supported for notice, this Court determined that the facts and the law presented before this Court contain sufficient grounds to issue formal notice on the complainant respondent. Accordingly, this Court issued notice, returnable on November 06, 2025.

4. Chapter XVI of the Code of Criminal Procedure Act No.15 of 1977 (hereinafter referred to as the "Act") establishes the crucial framework governing criminal charges. This chapter is fundamental to the fair and effective administration of justice, ensuring that accused individuals are properly informed of the allegations against them and that proceedings are conducted with clarity and precision. The provisions within this chapter address several critical aspects, including the essential particulars required in a charge, consequences of errors within a charge, the mechanisms for altering charges and the rules surrounding the joinder of multiple charges.

5. Sections 164 and 165 of the Act specify the particulars that must be incorporated into a charge.

   Section 164 of the Act reads as follows:

   > *(1) Every charge under this Code shall state the offence with which the accused is charged.*

(2) If the law which creates the offence gives it any specific name, the offence may be described in the charge by that name only.

(3) If the law which creates the offence does not give it any specific name, so much of the definition of the offence must be stated as will give the accused notice of the matter with which he is charged.

(4) The law and section of the law under which the offence said to have been committed is punishable shall be mentioned in the charge.

(5) The fact that the charge is made is equivalent to a statement that every legal condition required by law to constitute the offence charged was fulfilled in the particular case.

(6) The charge shall when it is preferred, whether at the inquiry preliminary to committal for trial or at the trial, be read to the accused in a language which he understands.

Section 165(3) reads as follows:

"When the nature of the case is such that the particulars mentioned, in section 164 and the preceding subsections of this section do not give the accused sufficient notice of the matter with which he is charged, the charge shall also contain such particulars of the manner in which the alleged offence was committed as will be sufficient for that purpose."

6. A charge must clearly articulate every component that the prosecution needs to prove beyond a reasonable doubt for a conviction. For example, in a charge of theft, the charge must specify the moveable property that was removed, in whose possession it was, and that it was unlawfully taken (removed) with the intention of causing wrongful gain to one person or wrongful loss to another. The charge must be formally documented. Vague or general allegations are insufficient.

7. The charge should leave no room for doubt as to the specific conduct or omission that forms the basis of the accusation. This involves detailing the date and location of the alleged offence as well as specific actions of the accused. It is also required for a charge to clearly identify the statutory provision that the accused is alleged to have contravened.

8. The requirement for detailed particulars serves multiple purposes. It prevents surprise tactics by the prosecution, allows the court to understand the nature of the proceedings and ensures that any subsequent conviction or acquittal relates to a precisely defined set of facts. Without such particulars, an accused could be unfairly prejudiced, unable to mount an effective defence, potentially facing conviction for a crime he was not adequately informed about.

9. The matters discussed earlier having been addressed; I shall now direct my attention to the matter at hand.

10. The *Director General of the Commission to Investigate Allegations of Bribery and Corruption* has forwarded an indictment to the *High Court in Colombo*, in case number HCB 380/25. This indictment comprises of eleven charges. The foundation of these charges is the alleged act by the petitioner [as the accused named therein] as a public officer, of

conferring wrongful and unlawful benefits upon designated third parties. This was purportedly achieved by the direct inducement of another public officer to irregularly recruit those individuals to the positions outlined in the charges, thereby committing offences punishable under section 70 of the Bribery Act No. 11 of 1954, as amended.

Section 70 of the Bribery Act No. 11 of 1954, states as follows:

> *"Any public officer who, with intent, to cause wrongful or unlawful loss to the Government, or to confer a wrongful or unlawful benefit, favour or advantage on himself or any person, or with knowledge, that any wrongful or unlawful loss will be caused to any person or to the Government, or that any wrongful or unlawful benefit, favour or advantage will be conferred on any person-*

(a) does, or forbears to do, any act, which he is empowered to do by virtue of his office as a public officer;

(b) induces any other public officer to perform, or refrain from performing, any act, which such other public officer is empowered to do by virtue of his office as a public officer;

(c) uses any information coming to his knowledge by virtue of his office as a public officer;

(d) participates in the making of any decision by virtue of his office as a public servant;

(e) induces any other person, by the use, whether directly or indirectly, of his office as public officer to perform, or refrain from performing, any act,

shall be guilty of the offence of corruption and shall upon trial and conviction by a High Court or upon summary trial and conviction by a Magistrate be liable to imprisonment for a term not exceeding ten years or to a fine not exceeding one hundred thousand rupees or to both such imprisonment and fine.”

"....නිසි කාර්යය පටිපාටිය අනුගමනය නොකර පත් කිරීම සඳහා එනම්, කළමනාකරණ සේවා දෙපාර්තමේන්තුව මඟින් අනුමත කරන ලද බඳවාගැනීමේ කාර්ය පටිපාටිය අනුගමනය නොකර පත් කිරීම සඳහා කාන්තා හා ළමා කටයුතු සහ වියළි කලාප සංවර්ධන අමාත්‍යාංශයේ ලේකම් ලෙස කටයුතු කරන ලද ලුම්බිණී දර්ශනා සේනානායක යන අයව පෙළඹවීමෙන්....”

11. Though the charges address the irregular recruitment, they are inadequate because they omit crucial details, i.e. particulars as regard to a specific circular/minute number duly dated that is applicable to the recruits implicated in the charges. This omission renders the allegations vague and overly general. Such lack of specificity is problematic because it fails to provide the petitioner (accused) with a clear understanding of the alleged misconduct, thereby impeding her ability to respond. It also potentially compromises the fairness of the subsequent process. Consequently, an allegation lacking such clarity cannot be considered sufficient, as it creates an unacceptable level of ambiguity concerning the foundation of the charge and leaves ample room for doubt.

12. In those circumstances, I am inclined to interfere with the disputed order of the learned High Court Judge dated September 23, 2025, and set aside the same.

13. I also direct the complainant-respondent to include within the charges of the indictment of High Court case number HCB 380/25, particulars regarding the circular/minute of the scheme of recruitment upon which the charges are raised so as to ensure clarity concerning the basis of the allegations.

I make no order regarding costs.

14. The Registrar of this Court is directed to send this order to the *High Court of Colombo* for compliance.

Judge of the Court of Appeal

B. SASI MAHENDRAN, J.

I agree.

Judge of the Court of Appeal