

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

**In the matter of an Application for
Revision to revise and set aside the
order of the Learned High Court Judge
of Colombo dated 27th February 2026,
made in terms of Article 138 of the
Constitution of the Democratic
Socialist Republic of Sri Lanka read
with provisions of Section 364 of the
Code of Criminal Procedure Act, No.
15 of 1979**

Commission to Investigate Allegations of
Bribery or Corruption

Complainant

Court of Appeal

Revision Application No:

CA/CPA/27/2026

Vs.

High Court

Case No. HCB 383/25

Edirisinghe Arachchige Jayantha

Edirisinghe

Accused

AND NOW BETWEEN

Edirisinghe Arachchige Jayantha

Edirisinghe

Accused-Petitioner

Vs.

Commission to Investigate Allegations of
Bribery or Corruption

Respondent

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

Counsel: Sanjaya Rajaratnam, PC with Edward Jayasinghe, Nadeeka
 Jayasinghe for the Accused-Petitioner.

Mayuri Udawela ADG and Sharanya Jeyarajah ADG (Legal)
with Harshini Kariyawasam Legal Assistant of CIABOC for
the Complainant-Respondent.

Argued on: 29.04.2026

Order on: 07.05.2026

Order

Amal Ranaraja, J.

1. This is an application by the Accused-Petitioner (hereinafter referred to as the petitioner) seeking to invoke the revisionary jurisdiction of this Court, granted to it in terms of Article 138 of the Constitution.
2. The petitioner has been indicted before the High Court of Colombo in case No HCB/383/25. The indictment contains the following charges;
 1. That between 1st November, 2014 to 26th November, 2024 within the jurisdiction of this Court, the Accused being a Government servant, namely the Accused being the Director

General of the Sri Lanka Board of Investment with intent to cause wrongful or unlawful loss to the Government or to confer a wrong or unlawful benefit, favour or advantage on himself or any person or loss to the Government or to confer a wrongful or unlawful benefit, favour or advantage on himself or any person or with the 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, caused the inducement of *Savitha Pushparani De Silva Muthukumarana* Executive Director (Finance) of Sri Lanka Board of Investment to effect a payment of VAT Tax of Rs. 2,091,000.00 to *Shift Integrated (Pvt) Ltd., Event Manager of Hambantota Conclave-2014*, who was unregistered to receive such VAT benefit, thereby committed the offence of corruption under Section 70 of the Bribery Act. No. 11 of 1954 amended by Act No, 20 of 1994 read with Act No. 22 of 2018.

2. At the same time, place in the same transaction, the Accused being a Government Servant, namely the Accused being the Director-General of Sri Lanka Board of Investment (BOI), knowing that such action will cause wrongful or unlawful benefit to another, caused the inducement of *Savitha Pushparani De Silva Muthukumarana*, Executive Director (Finance) of Sri Lanka Board of Investment to effect a payment of VAT Tax of Rs.2.091,000.00 to *shift Integrated (Pro) Ltd, Event Manager of Hambantota Conclave-2014*, who was unregistered to receive such VAT benefit, thereby committed the offence of corruption under Section 70 of the Bribery Act, No. II of 1954 amended by At No . 20 of 194 read with Act No.22 of 2018.

3. When the matter had been called for the pre-trial conference, the counsel for the petitioner has raised the following preliminary objection among others;

1. Although the Commission to Investigate Allegations of Bribery or Corruption recorded a statement from the Accused on 19.01.2017, he was not questioned at that time regarding the inducement of *Savina Pushparani De Silva Muthukumarana*, who served as the Executive Director (Finance) of the Board of Investment of Sri Lanka and which forms the basis of the charge, or regarding the payment of a sum of Rs. 2,991,000.00 VAT to Shift Integrated Ltd. Consequently, as a fair investigation was not conducted, he has been deprived of a fair trial.

4. The learned High Court Judge has overruled the objection. Aggrieved by that order dated February 27th, 2026, the petitioner has filed the present application before this court.

5. An indictment formally charges an accused with an offence. Although, indictments carry substantial weight, they are not immune from challenge. Any accused may move to dismiss (Quash) an indictment on several legal grounds (Defects). When an indictment is dismissed, the Court declares it invalid and removes it from the record. Dismissing of an indictment is not a verdict on guilt or innocence, rather it focuses on the defects in the charging document.

6. Hence, understanding the legal grounds for dismissing an indictment is important. Typical grounds for dismissing an indictment are as follows;

1. Formal defects;

- i. Insufficient particulars; failure to state an essential element of the offence.
 - ii. Misjoinder; improperly combining accused, or charges.
 2. Jurisdictional errors; offence alleged is outside the Court's territorial, or subject matter jurisdiction.
 3. Constitutional or procedural irregularities.
 - i. Abuse of process, e.g. selective or malicious prosecution
 - ii. Violation of statutory time limits
7. An application to dismiss an indictment should be brought as early as possible typically, at the arraignment or in pre-trial hearings. Late applications may be allowed only if the defect could not reasonably have been discovered earlier.
8. In Sri Lanka, indictments for offences of bribery, corruption, and offences related to declaration of assets and liabilities, together with other associated offences are forwarded by the Director General of the Commission to Investigate Allegations of Bribery or Corruption on the direction of such commission. [*vide Section 18 of the Anti-Corruption Act No 9 of 2023.*]
9. A question that arises is whether the accused, before the trial begins, may contest the legality or technical sufficiency of that very indictment in the same High Court to which it was forwarded, or whether such challenges must be taken elsewhere. The High Court does possess jurisdiction to entertain certain preliminary objections to an

indictment. The grounds on which an indictment may be challenged in the High Court are,

1. Formal defects
 - i. Failure to state an offence known to law
 - ii. Material particulars of an offence omitted or obscured causing prejudice to the accused.
2. Procedural irregularities
 - i. Violation of statutory time limits

10. However, allegations of bad faith, selective enforcement, or abuse of prosecutorial discretion are usually dealt with by the Court of Appeal via a Writ Application and not by the trial High Court.

11. In this regard, this Court also directs its attention to Section 160 (1), (2) of the Anti-Corruption Act., No.9 of 2023.

160.

(1) The jurisdiction vested in the Court of Appeal by Article 140 of the Constitution shall, in respect of applications in which relief is sought against the Commission be exercised by the Supreme Court and not by the Court of Appeal.

(2) Subject to the provisions of subsection (1), no injunction or enjoining order shall be granted by any court restraining or staying, or having the effect of restraining or staying, the Commission, from commencing or continuing, the conduct of an investigation under this Act or from exercising any of the powers

conferred on it by this Act or from giving any direction under this Act.

12. In such circumstances, where the prosecution is accused of bad faith, selective enforcement or an abuse of prosecutorial discretion, the proper forum for relief is an application to the Supreme Court and not to the Court of Appeal. Consistent with that principle the preliminary objection already raised, which in essence, amounts to an allegation, that the prosecution acted in bad faith, it cannot be tested for legality in the High Court. Jurisdiction to entertain such challenges rests exclusively with the Supreme Court.

13. Accordingly, the learned High Court Judge, in dismissing the preliminary objection has arrived at the correct conclusion. Therefore, I am not inclined to issue formal notice to the respondent and proceed to dismiss the application in the first instance.

14. The Registrar of this Court is directed to communicate this order to the High Court in *Colombo* for information.

Judge of the Court of Appeal

B. Sasi Mahendran, J.

I agree

Judge of the Court of Appeal