

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

In the matter of an Application for Revision  
in terms of Article 138 of the Constitution  
of the Democratic Socialist Republic of Sri  
Lanka

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

**COMPLAINANT**

CA Revision Application No :  
CA/CPA//0044/2025

HC of Colombo Case No.  
HCB/223/23

**-Vs.**

Jayathungage Nalinda Rohana  
Jayathunga  
Mahakumbukgollawa,  
Poonawa,  
Madawachchiya

**ACCUSED**

**AND NOW BETWEEN**

Jayathungage Nalinda Rohana  
Jayathunga  
Mahakumbukgollawa,  
Poonawa,  
Madawachchiya.

**ACCUSED-PETITIONER**

**Vs.**

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

**RESPONDANT.**

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

**Counsel :** Nalin Laduwahetty, PC with Thusitha Ranasinghe, R.  
Somarasekara for the Accused-Petitioner.  
Anusha Sammandapperuma, ADL for the Complained-Respondent.

**Argued On:** 04.05.2026

**Judgment On:** 03.06.2026

## ORDER

**B. Sasi Mahendran, J.**

This is a revisionary application filed by the Accused-Petitioner (hereinafter referred to as "the Petitioner"), invoking the revisionary jurisdiction of this court, seeking the following reliefs prayed in the petition dated 30<sup>th</sup> May 2025.

- a. Issue Notice on the Respondent;
- b. Set aside the aforesaid Order dated 24<sup>th</sup> of April 2025 marked as P8
- c. Make Order that the Learned High Court continue the cross-examination of Prosecution Witness no.1 in open court in case No. HCB 223 / 2023.
- d. Grant and issue an interim order staying the proceedings of the High Court case bearing No. HCB 223/2023 until the final determination of the instant case;
- e. Grant Costs and
- f. Grant such other and further reliefs

### **The following facts are relevant to this Application**

The Petitioner states that the Complainant-Respondent (hereinafter referred to as the Respondent), the Director General of the Commission to Investigate Allegations of Bribery or Corruption, has charged the Petitioner under Sections 16(a) and 19(c) of the Bribery Act (as amended) for soliciting and accepting a bribe of Rs. 25,000/- from Rambukwelle Herath Mudalige Palitha, in his capacity as a public servant attached to the Thalangama Police Station, in order to refrain from taking legal action against Rambukwelle Herath Mudalige Palitha and Dedegala Gale Veronica Gunathilaka, who were alleged to have behaved indecently inside a van and deliberately neglecting his official duties and obstructing the course of justice on or around the 9<sup>th</sup> of January 2018.

During these proceedings, the Petitioner requested production of the initial complaint made by PW1 to the Senior Superintendent of Police, Nugegoda Division, on 12th January 2018, as it was necessary for the defence. The Petitioner states that a comparison between the statement made by PW1 to the Senior Superintendent of Police on 12th January 2018 and the later statement made to the Bribery Commission on 23rd March 2018 revealed significant contradictions and omissions.

Following the conclusion of pre-trial proceedings, the case was scheduled for trial. The examination-in-chief of PW1 commenced on 26th August 2024. On that date, the Junior Counsel appeared for the defence and with his consent, the High Court Judge proceeded with PW1's examination-in-chief.

After the examination-in-chief commenced, Counsel for the Respondent applied for the proceedings to be conducted in camera on the basis that sensitive questions would arise, and the Learned High Court Judge allowed the application. I am mindful that this application was not opposed by the Petitioner and, accordingly, all evidence was led in camera.

Thereafter, the prosecution concluded the examination-in-chief of PW1, and the matter was fixed for cross-examination by the defence. On 24th April 2025, the cross-examination of PW1 commenced, and during the cross-examination, Counsel for the Respondent renewed his application for the proceedings to continue in camera, on the ground that the questions being asked were of a sensitive nature.

Learned President's Counsel for the Petitioner objected, stating that the case concerns bribery charges and not offences involving sexual matters or national security. Counsel further argued that the alleged conduct of PW1 was only incidental and did not justify excluding the public from court proceedings.

However, the learned High Court Judge overruled the objections and ordered that the proceedings continue in camera, dated 24th April 2025, marked as "P8", and the petitioner claims that fundamentally flawed, legally unsustainable, and amounted to a serious misdirection in law.

It is pertinent to reproduce the relevant portion of the impugned judgment

**Page 82 of the brief.**

ඒ අනුව වැන් රථයක් තුළ අශෝභන ලෙස හැසිරුණා යැයි යම් කරුණක් සඳහන් කරනවා නම් අනිවාර්යයෙන්ම එලෙස හැසිරීමට අදාළව සාක්ෂි අධිකරණය ඉදිරියේ ඉදිරිපත් වීම නොවැලැක් විය හැකිය. එවන් පසුබිමක් තුළ විවාහක දරුවන් සිටින පියෙකු ලෙස සාක්ෂි ලබා දෙන මෙම සාක්ෂිකරුගෙන් විවෘත අධිකරණයේ සිටින සියලු දෙනා ඉදිරියේ එවැනි සාක්ෂි මෙහෙයවීම තුලින් සැබැවින්ම ඔහුගේ පෞද්ගලිකත්වයට සහ යම් යම් ලිංගික කරුණු පිළිබඳව කරුණු හෙළි වීම සිදු කළ හැකි බැවින් සහ ඊට ප්‍රථමයෙන්ද මා විසින් බාහිර පාර්ශවයන් ඉවත් කර සාක්ෂි මෙහෙයවීම අවස්ථාවක් ලබා දීමට නියෝගයක් කර ඇති බැවින්ද එම නියෝගය පිළිබඳව විත්තියෙන් කිසිදු ප්‍රතිශෝධනයක් හෝ අභියාචනයක් කර නොමැති බැවින් මෙම අවස්ථාවේදී පැමිණිල්ලේ ඉල්ලීමට ඉඩ දෙමින් විත්තියෙන් කරන ලද විරෝධතාවය මෙම අවස්ථාවේදී ප්‍රතික්ෂේප කරමි. ඒ අනුව මෙම නඩුවේදී මෙ සාක්ෂිකරුගෙන් සාක්ෂි ලබා ගැනීමේදී බාහිර පාර්ශවයන් විවෘත අධිකරණයෙන් ඉවත් කර සාක්ෂි ලබා ගැනීමට නියෝග කරමි.

It is true that our Constitution, under Article 106, provides that trials must be conducted in public and that all persons shall be entitled freely to attend such sittings. In the instant case, upon the request of PW1, the prosecution made an application to the Learned High Court Judge. The application was allowed, and the trial proceeded in camera. The order was not challenged by the Petitioner. When PW1 was about to be cross-examined, the Petitioner made an application contending that the alleged conduct of PW1 was merely incidental and did not justify excluding the public from court proceedings.

I am mindful that this is a revision application, which must be entertained only in exceptional circumstances that shock the conscience of the Court.

In the instant case, the Petitioner failed to object to the application made by the prosecution for the trial to be held in camera, as well as to the decision delivered by the Learned High Court Judge. The prosecution thereafter led the evidence of PW1, which forms part and parcel of the trial.

I am mindful of Article 138(1) of the Constitution, which provides as follows:

*138. (1) The Court of Appeal shall have and exercise subject to the provisions of the Constitution or of any law, an appellate jurisdiction for the correction of all errors in fact or in law which shall be (committed by the High Court, in the exercise of its appellate or original jurisdiction or by any Court of First Instance), tribunal or other institution and sole and exclusive cognizance, by way of appeal, revision and restitutio in integrum, of all causes, suits, actions, prosecutions, matters and things 12°[of which such High Court, Court of First Instance), tribunal or other institution may have taken cognizance:*

*Provided that no judgement, decree or order of any court shall be reversed or varied on account of any error, defect or irregularity, which has not prejudiced the substantial rights of the parties or occasioned a failure of justice.*

In the case of *Hiniduma Dahanayakage Siripala alias Kiri Mahaththaya Vs Attorney General*, SC Appeal No: 115/2014, decided on 22.01.2020, Aluvihare J held that it was considered whether the conviction of the Accused Appellant should be vitiated due to non-compliance with Section 196 of the Criminal Procedure Code.

*"The non-compliance with Section 196 of the CCA alone by itself will not vitiate the conviction. If the conviction is to be vitiated, the Appellant is required to satisfy the court that such non-compliance has "caused prejudice to the substantial rights of the Accused" or has "occasioned a failure of justice" as stipulated in the proviso to Article 138(1) of the Constitution".*

By allowing the trial to be held in camera, the question arises whether the order prejudiced the substantial rights of the accused or occasioned a failure of justice. Accordingly, I hold that the Petitioner has not demonstrated that the order permitting PW1 to testify in camera resulted in any prejudice to the substantial rights of the accused or occasioned a failure of justice.

I hold that, by allowing the Respondent's application for the trial to be held in camera, the Petitioner is estopped from disputing the same subsequently.

For the foregoing reasons, I dismiss the application without issuing notices for the Respondents.

Application dismissed.

**JUDGE OF THE COURT OF APPEAL**

**Amal Ranaraja, J.**

**I AGREE**

**JUDGE OF THE COURT OF APPEAL**