

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 Section
364 of the Code of Criminal Procedure Act
No. 15 of 1979 and Article 138 of the
Constitution of the Democratic Socialist
Republic of Sri Lanka.

CA Revision Application No: CPA 52/2025

HC of Colombo Case No: HC 2003/20

Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Complainant

VS

Subramaniam Edward Jayaraj
B4/G5, Soysapura Flat,
Moratuwa.

Accused

AND NOW BETWEEN

Subramaniam Edward Jayaraj
B4/G5, Soysapura Flat,
Moratuwa.

Accused -Petitioner

-VS

Hon. Attorney General,
Attorney General's Department,
Colombo 12.

Complainant – Respondent

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

Counsel : Rienzie Arsecularatne, PC, with Chamindri Arsecularatne and
 Thditha Kosalage for the Accused-Petitioner
 Tharaka Kodagoda, SC for the Respondent

Supported On: 26.08.2025, 16.10.2025 and 09.12.2025

Order On: 05.05.2026

ORDER

B. Sasi Mahendran, J.

This revision application has been filed by the Accused-Petitioner (hereinafter referred to as the “Petitioner”), challenging the order of the Learned High Court Judge dated 06.02.2025, marked as ‘A12’.

For ease of reference, I have reproduced the disputed order of the Learned High Court Judge and the translation of the impugned order.

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“මේ අවස්ථාවේදී විත්තියේ උගත් ජනාධිපති නීතිඥතුමා විසින් දක්වන ලද කරුණුද, රජයේ උගත් අධි නීතිඥතුමා විසින් දක්වන ලද කරුණුද ඒ අනුව මෙම අදාල වාර්තාව සම්බන්ධයෙන් සාක්ෂි විශේෂ විධි විධාන පනත හෝ සාක්ෂි ආඥා පනත එහි යම් වගන්තියක් අදාල වන්නේද නැද්ද යන කාරණය සම්බන්ධයෙන් ගැටලුවක් ඇති වූ අවස්ථාවකදී බලාත්මක වන්නේ වර්ෂ 2006 අංක 30 දරණ ගෙවීම් උපක්‍රම වංචා පිළිබඳ පනතේ 16(4) වගන්තියේ විධි විධානය. එනම් එහි සඳහන් පරිදි සාක්ෂි ආඥා පනතේ හෝ වෙනයම් නීතියක පටහැනිව කුමක් සඳහන් වුවද මෙම වගන්තියේ විධි විධාන බලාත්මක විය යුතු අතර තුන්වන වගන්තිය යටතේ වැරදි සඳහා නඩු පැවරීමටද ඒවා අදාල විය යුතුයි යන සුවිශේෂී වගන්තියක් ඇතුළත් කර ඇත. ඒ අනුව 16 වන වගන්තියේ සාක්ෂි යටතේ 16 (2) උප වගන්තිය යටතේ සෑම ලේඛනයක්, සහතිකයක්, වාර්තාවක්, හෝ රෙජිස්ටරයක් හෝ උද්ධෘතයක් ලංකාවේ හෝ පිටරට විශේෂඥයෙකු විසින් යථා පරිදි අත්සන් කර නිකුත් කර ඇත්නම් එම ලේඛනය හෝ වාර්තාව බැලූ බැල්මටම පෙනෙන සාක්ෂියක් ලෙස අනුකූල තත්ව පෙනීමට ඉඩ ඇත. එබැවින් මෙම පැ.46 වගයෙන් සලකුණු කිරීමට කර ඇති ලේඛනය සම්බන්ධයෙන් සාක්ෂි විශේෂ විධි විධාන පනතේ 7 වගන්තිය අදාල විය යුතු යැයි යන විරෝධතාවය ප්‍රතික්ෂේප කරමි.”

Translation

“In this case, the facts presented by the learned President's Counsel for the defence and the facts presented by the Government Attorney General, and accordingly, in the event of a problem arising as to whether the Evidence Special Provisions Act or the Evidence Ordinance or any provision thereof is applicable to this relevant report, the provisions of Section 16(4) of the Payment Methods Fraud Act, No. 30 of 2006 shall apply. That is, as stated

therein, a special clause has been included that notwithstanding anything to the contrary in the Evidence Ordinance or any other law, the provisions of this section shall apply and shall also apply to the prosecution of offences under Section 3. Accordingly, under Section 16, a document, certificate, report or register or extracts filed under Sub-section 16 (2) of the Evidence Act, if duly signed and issued by a person in Sri Lanka or abroad, such document or report may appear prima facie to be admissible as evidence. Therefore, this Court finds that the provisions of this section shall not apply to the prosecution of offences under Section 16, and that the evidence shall not be deemed to be admissible as evidence. I reject the objection that the relevant section of the Act should apply to the document marked as P 46, and order that the case be disposed of.”

When the High Court case No. 2003-20 had been taken up for further trial on 06.02.2025, and PW3, Nalin Sarath Kumara Wijeratne, a member of a panel of experts appointed by his excellency president to assist police investigation under the provisions of the PDF Act was cross-examined, the learned president counsel appearing on behalf of the accused had drawn the attention of the witness to a report produced by such witnesses, mark P 46 and questioned the witness regarding the contents thereof. Subsequently, upon the testimony of such witness, the Learned President Counsel has brought to the notice of court that such document is a computer generated one and therefore if the prosecution intended to mark and produce such document as evidence, the prosecution was bound by the provisions in Evidence (Special Provisions) Act, No. 14 of 1995 (herein after referred to as the “Special Act”), and that the Accused should have been given notice regarding the intention of the prosecution to mark and produce such document as evidence.

Thereafter, the learned State Counsel, in reply to the objection raised on behalf of the Petitioners, referred, *inter alia*, to the provisions of Section 16 of the Payment Devices Fraud Act, No. 30 of 2006, and contended that the provisions of the Special Act has no application to the present case. Subsequently, by order dated

06.02.2025, the learned High Court Judge has upheld the contention of the prosecution.

The Petitioner, being aggrieved by the said order, has approached this Court by way of a revision application, seeking that the impugned order be set aside and that it be held that the provisions of the Special Act are applicable to the present matter.

Upon considering the submissions made by the counsels for both parties, this Court is of the view that the matter requires examination at the stage of arguments.

Accordingly, I am inclined to issue notice to the respondents in the first instance.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL

Adithya Patabendige, J.

I AGREE.

JUDGE OF THE COURT OF APPEAL