

C.A. No: 153/2001

- H.C. Colombo Case No: B 1310/97

BEFORE

: SISIRA DE ABREW, J. &
UPALY ABEYRATHNE, J.

COUNSEL

: Dr. Ranjit Fernando for the Accused-Appellant.

A. Jinasena, S.S.C. with A. Wickramasinghe, ..
for the Attorney General.

ARGUED &
DECIDED ON

: 16.06.2009



Sisira de Abrew, J.

Heard both Counsel in support of their respective cases.

Accused-Appellant in this case was convicted for soliciting a gratification of Rs.25,000/- an offence punishable under Section 19(3) of Bribery Act and for accepting a gratification of Rs.15,000/- an offence punishable under Section 19(c) of the Bribery Act.

Learned Trial Judge after trial found the Accused guilty of both charges and sentenced the Accused-Appellant on the 1st count to a terms of 2 years rigorous imprisonment and to pay a fine of Rs. 2,500/- carrying a default sentence of 6 months rigorous imprisonment.

On the 2nd count, she was sentenced to a term of 2 years rigorous imprisonment and to pay a fine of Rs.2,500/- carrying a default sentence of 6 months rigorous imprisonment.

According to the facts of this case the Accused-Appellant who was a land officer attached to the Mahaweli Ministry had solicited and accepted the said bribe in order to regularize an unauthorized construction constructed by one *Wijeratne* who is the complainant in this case. Learned Counsel for the Accused-Appellant does not challenge the conviction. He only makes submissions to have the sentence reduced. Learned Senior State Counsel has no objection to the application made by the learned Counsel for the Accused-Appellant. Learned Counsel for the Accused-Appellant submits that the Accused-Appellant is now 59 years old and 13 years have lapsed after the commission of the offence.

Having considered the submissions of both Counsel, we decide to reduce the sentence. We set aside the sentence imposed by the learned trial Judge and impose the following punishment.

On the 1st count, we sentence the Accused-Appellant to a term of 2 years rigorous imprisonment . The Accused-Appellant is also ordered to pay a fine of Rs.5000/- carrying a default sentence of one year simple imprisonment.

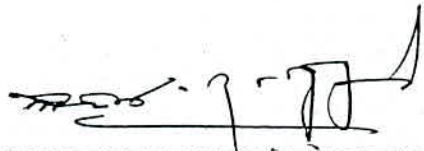
On the 2nd count, we sentence the Accused-Appellant to a term of 2 years rigorous imprisonment and to pay a fine of Rs.5000/- carrying a default sentence of one year simple imprisonment.



We make order that both terms of imprisonment should run concurrently. Therefore, the total period that the Accused has to spend is 2 years rigorous imprisonment. But we suspend the said term of 2 years to a period 10 years from the date of this judgment. In addition to the above punishment, we acting under Section 26 of the Bribery Act impose a penalty of Rs.15,000/-. In default of the penalty, we sentence the Accused-Appellant to a term of 18 months simple imprisonment.

We direct the learned trial Judge to explain the gravity of the suspended sentence to the Accused-Appellant.

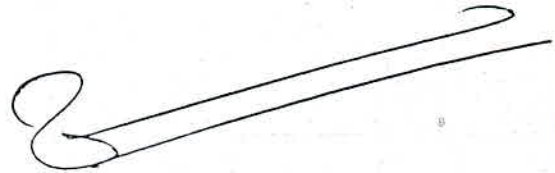
Subject to the above variation of the sentence, the appeal of the Appellant is dismissed.



JUDGE OF THE COURT OF APPEAL

Upaly Abeyrathne, J.

I agree.



JUDGE OF THE COURT OF APPEAL

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