1974 *Present:* **Wijayatilake, J., Rajaratnam, J. and Wijesundera, J.**

D. M. DHARMASENA, Appellant,

and

THE STATE, Respondent

S.C. 6/71—D. C. (Bribery) Kandy, B/2/70

Criminal procedure—Trial by District Court—Duty of District Judge to record verdict within 24 hours after closure of defence—Delay in recording verdict—Curable irregularity if prejudice has not been caused—Computation of time as to the 24-hour period—Whether an intervening dies non should be included or excluded—Criminal Procedure Code, ss. 214 (1), 294, 339, 425—Administration of Justice Law, No. 44 of 1973, s. 186 (2)—Interpretation Ordinance, s. 8 (3). —Holidays Ordinance (Cap. 177)—Holidays Act, No. 17 of 1965, ss. 3, 6.

Bribery Act—Charges under ss. 16, 19.

Section 214 (1) of the Criminal Procedure Code reads as follows :—

> "When the cases for the prosecution and defence are concluded ..... the District Judge shall forthwith or within not more than twenty-four hours record a verdict of acquittal or conviction."

Held : (*by* WIJAYATILAKE, J., and RAJARATNAM, J.) That the failure of a District Judge to record a verdict of conviction within 24 hours after the conclusion of the defence will not vitiate the conviction unless it has occasioned a failure of justice. (In the present case the two Judges took conflicting views on the question whether prejudice was caused to the accused-appellant by the delay in the recording of the verdict.)

Per WIJAYATILAKE, J.—Section 294 of the Criminal Procedure Code which provides that no proceeding of any criminal Court and no inquiry shall be invalid by reason of its being held on a public holiday is an absolute enactment and supersedes section 8 (3) of the Interpretation Ordinance, the Holidays Ordinance and the Holidays Act, No. 17 of 1965. Accordingly, an intervening Poya day although it is a *dies non*, should not be excluded in the computation of the 24 hours mentioned in section 214 (1) of the Criminal Procedure Code.

Per WIJESUNDERA, J.—An intervening Poya day, being a *dies non*, should be excluded in computing the period of 24 hours. Section 294, read with section 214 (1), of the Criminal Procedure Code does not compel the Court to deliver the verdict on a *dies non*.

Cases referred to :

King v. Fernando, 2 Bal. Reps. 46.
Kulantaivelpillai v. Marikar, 20 N.L.R. 471.
Gunawardene v. Pedrick Singho, 5 C.W.R. 310.
Jayawardene v. Tiruchelvam, 71 N.L.R. 134.

APPEAL from a judgment of the District Court (Bribery), Kandy.

G. E. Chitty, Q.C., with *G. E. Chitty (jnr.)*, for the accused-appellant.

T. N. Wickremasinghe, State Counsel, for the Attorney-General.

Cur. adv. vult.

March 27, 1974. WIJAYATILAKE, J.

In this case the accused-appellant, who is an Excise Guard, was indicted with having on the 19th January, 1970, accepted a gratification of Rs. 50 from one Seeladasa as an inducement or reward for abstaining from performing an official act and thereby committed offences punishable under sections 19 and 16 of the Bribery Act. He was convicted on both counts.

Mr. Chitty, learned counsel for the accused-appellant, submits that the verdict returned by the learned District Judge is illegal as it did not comply with section 214 (1) of the Criminal Procedure Code which requires the District Judge to forthwith or *within not more than 24 hours* to record his verdict. He has also drawn our attention to the recognition of this requirement in the Administration of Justice Law, No. 44 of 1973, at section 186 (2).

The trial in this case was concluded at 12.40 p.m. on 14.7.71 which was a pre-poya day. The District Judge has recorded as follows :—

> "Under the circumstances today's proceedings and the documents cannot be attended to today. Under section 214 it is incumbent on me, since I have heard this case as Additional District Judge, to forthwith or within not more than 24 hours record a verdict of acquittal or conviction. Since tomorrow is a *dies non* and Poya day holiday, I will not be able to do so. I will therefore give my verdict on 16.7.71 as soon as I come on the Bench. I fix the time as 10 a.m."

Thereafter on 16.7.71 at 10 a.m. he had proceeded to deliver his judgment and convict the accused.

In the course of the argument we drew the attention of counsel to section 8 (3) of the Interpretation Ordinance and to section 294 of the Criminal Procedure Code. Under the former where a limited time not exceeding six days from any date or from the happening of any event is appointed or allowed by any written law for the doing of the act or the taking of any proceedings in a court or office every intervening Sunday or public holiday shall be excluded from the computation of such time. The question therefore arises as to whether 15th July being a Poya day (during which period all Poya days were recognised as holidays in lieu of Sundays) this date should be excluded in the computation of the 24 hours as contemplated under section 214. Under section 294 of the Criminal Procedure Code it is provided that no proceeding of any criminal Court and no inquiry shall be invalid by reason of its being held on a Sunday or public holiday. Here too Sunday has to be read as Poya day. In this context learned State Counsel has drawn our attention

to the Holidays Act, No. 17 of 1965, which under section 3 provides that every Poya day shall be a public holiday and under section 6 that every public holiday shall be *dies non* and shall be kept as a holiday ; so that he contends that 15th of July being a *dies non* it has to be excluded in the computation of the 24 hours. In the light of these provisions the question does arise whether section 294 of the Criminal Procedure Code which I have referred to supersedes these provisions. It has to be noted for instance, when a murder is reported, a Magistrate can proceed to hold the inquest and non-summary proceedings promptly whether it be a Sunday or public holiday. Could it be said that the proceedings at any such inquest or inquiry would be null and void as the date on which it is held is a *dies non* ?

Mr. Chitty has drawn our attention to Craies on Statute law, (6th Edition page 262) and also Maxwell on Interpretation of Statutes (12th Edition page 322) with regard to absolute and directory enactments.

In my opinion, section 294 is an absolute enactment referring to the proceedings of our criminal courts and in the light of the illustration I have given with regard to murder inquiries it is quite clear that this section supersedes section 8 (3) of the Interpretation Ordinance and the Holidays Ordinance (Chapter 177) and Holidays Act, No. 17 of 1965, and it was open to the District Judge to pronounce his verdict on the 15th July, although it was Poya day.

The question therefore arises as to whether the verdict entered by the learned District Judge is invalid. Learned State Counsel relies on the judgment of *King v. Fernando,* 2 Balasingham Reports 46, where it was held that the failure of a District Judge to record a verdict of acquittal or conviction within 24 hours after conclusion of trial as required by section 214 of the Criminal Procedure Code, will not vitiate a verdict unless it has occasioned a failure of justice. Wendt, J. observes that section 214 is undeniably a salutary enactment, in requiring the Judge to record his decision when the evidence is still fresh in his memory and delay in doing so may be an element in inducing a Court of Appeal to hold that the Judge's conviction of the prisoner's guilt was not a strong or definite one, but it cannot be given greater effect to. " It is most an irregularity in proceedings ..... during trial, such as section 425 contemplates, which will not render the judgment of a competent Court liable to be reversed or altered on appeal unless it has occasioned a failure of justice." With great respect, I agree with this view that it is only an irregularity and not an illegality. Samerawickrame, J. in *Jayawardene v. Tiruchelvam,* 71 N.L.R. 134, did

not deal with the effect of section 294 or the Criminal Procedure Code when discussing the Holidays Act in relation to section 339 of the Criminal Procedure Code. The judgment of Bertram, C. J. in *Kulantaivelpillai v. Marikar*, 20 N.L.R. 471, pertains to a question of civil procedure. The question therefore arises as to whether in the instant case there has been a failure of justice as the District Judge did not avail himself of the opportunity afforded under section 294.

Mr. Chitty has stressed the fact that the prosecution has led the evidence of Weeratunga, the father of Seeladasa, in regard to the act of solicitation by the accused. In fact the Crown has called him at the very commencement of the trial as one of the principal witnesses, with a view to providing the background of this transaction. No doubt, there is no charge as such of solicitation against the accused but it cannot be gainsaid that strong reliance has been placed on his evidence to show the part played by the accused. When this witness was called his evidence was so unsatisfactory that even the learned Crown Counsel was compelled to admonish him and the learned Judge too has noted several times as to the unsatisfactory manner in which the witness was giving evidence. In this judgment the District Judge states that " he has seldom come across a more unsuitable opening witness. " However, he states that he must reiterate that Weeratunga was neither a fool nor a knave but that he was just a thoroughly unsatisfactory witness in that he genuinely did not remember the incidents after his premises were raided by the Excise and which led to the Bribery Department officers coming to the scene. Thereafter the District Judge has sought to convict the accused, particularly, on the evidence of Weeratunga's son Seeladasa and Police Sergeant Abeyratne of the Bribery Commissioner's Department. It is significant that the alleged bribe had been given to the accused not by Seeladasa direct but through Sergeant Abeyratne when they were having tea at the Taj Mahal Hotel. Why Seeladasa himself did not give the money direct to the accused and why the accused accepted the money from Abeyratne a complete stranger is an important question. This transaction, as the District Judge observes, is a " trap case " and being a trap case Abeyratne was in fact acting as a decoy so that in assessing his evidence one has to do so with extreme caution, particularly, as an earlier trap on the 3rd of July had failed as the accused had not turned up. Furthermore, at the stage the money was given Abeyratne was seated to the right of the accused and the money was found ultimately in the right

hand trouser pocket of the accused and it is also in evidence the five Rs. 10 notes were found separately from the purse which was in the same pocket.

The District Judge in the course of his judgment has observed that " it is quite clear the accused in accepting the Rs. 50 made Weeratunga believe that the bribe would absolve the members of his family from prosecution under the Excise Ordinance and that they would be protected from punishment by his intervention ". So that it would appear that despite the unsatisfactory nature of Weeratunga's evidence he is seeking to place reliance on the same. In considering the defence of the accused is it likely that it was Seeladasa who had introduced the money into the accused's pockets ? The District Judge states that the alternative position as set out by the defence is unacceptable in view of the summary of the facts attached to the indictment. Mr. Chitty very strenuously submits that it was highly irregular for the District Judge to rely on the summary to fill the gaps, if any in the case for the prosecution. I entirely agree that this procedure is quite irregular. If we approve of this procedure it can open up questionable avenues which will ultimately result in an erosion of our Criminal Law and procedure and nullifying the provisions of the Evidence Ordinance.

It is noted at page 46 of the brief (marginal 38) " the Crown Counsel wished it to be noted that the witness, Sirimawathie, the wife of Weeratunga and the mother of this witness, (Gunaratna, a son of Weeratunga) whose name had transpired as having communicated something to this witness, is not present in Court today. There is a medical certificate sent to explain her absence ". However, I find that Sirimawathie has not been called as a witness and the communication referred to by State Counsel has not been proved.

Mr. Chitty submits that the learned District Judge appears to have entertained a substantial doubt at the stage he reserved judgment, else it is not likely that he would have made the elaborate note with regard to the requirement under section 214 of the Criminal Procedure Code. He could very well have entered the verdict and given his reasons later. On a careful consideration of what transpired in the case I am of the view that there is merit in this submission.

Learned State Counsel has submitted that even if Weeratunga's evidence is eliminated the other evidence in the case is sufficiently cogent to sustain the conviction. However, even with regard to the acceptance of the gratification there can be little doubt that the learned Judge has been influenced by the version of Weeratunga and the summary of facts annexed to the

indictment; so that in a case of this nature I do not think it correct for us to speculate when the indications are (as referred to above) that the Judge has taken into account the background in which Weeratunga played the prominent role. If the accused was charged with solicitation on the basis of Weeratunga's evidence, in view of the worthless character of his evidence, there can be little doubt that the District Judge would have acquitted him on such a charge. This is an aspect of the case which we have to keep in mind in considering the verdict of the District Judge in respect of the other charges. The question does arise whether the whole atmosphere of the trial has been so tainted that the trial Judge may have been influenced by these matters I have referred to.

In the light of these illegalities, irregularities and infirmities, in my view, particularly, Weeratunga being the head of the household this is a case in which we should interfere.

With respect I am unable to agree with my brothers Rajaratnam, J. and Wijesundera, J. that this appeal should be dismissed. I accordingly set aside the conviction and sentence and send the case back for a trial *de novo*.

RAJARATNAM, J.

I have had the opportunity to read the judgments of my brothers. With great respect I have not been able to agree with my brother Wijayatilake that in the circumstances of this case there should be a fresh trial. I find it difficult to form the view that the learned trial Judge could not have arrived at his finding that the case was proved beyond reasonable doubt.

The accused had not given evidence in this case. Inspector Perera of the C.I.D. found the marked five ten rupee notes in the trouser pocket of the accused. The accused was wearing a bush shirt which presumbly hung over the opening of the trouser pocket. These were the circumstances at the final stage of the transaction. Another circumstance was that the accused was at the Taj Mahal Hotel away from the Courts in the company of Sergeant Abeyratne and Seeladasa the brother of the accused in the excise case. At the stage earlier to the said final stage was what transpired in the hotel testified to by Seeladasa and Sergeant Abeyratne. If their testimony was believed, the accused is fully implicated in the offence with which he was charged. There was the acceptance and also the circumstances surrounding the acceptance. Any weakness in the evidence of Weeratunga is remedied by the subsequent transaction according to the testimony of Seeladasa and Sergeant Abeyratne if believed. The part played by the accused in this transaction according to their

testimony proves the charge against the accused. The circumstantial evidence arising from the oral testimony of Sergeant Abeyratne, Seeladasa and Inspector Perera is strong and in the absence of an explanation by the accused, I am of the view that the charges were proved against him. I do not think that the possibility of introducing a bundle of five ten rupee notes into the trouser pocket of the accused is a reasonable possibility. The accused evidently was in the company of Seeladasa and Sergeant Abeyratne and the defence has not suggested how or why the accused got into the company of these two persons at the Taj Mahal Hotel. All the circumstances tend to support the testimony of Sergeant Abeyratne and Seeladasa and also the finding of the money in the trouser pocket of the accused. I have considered all the questions put in cross-examination and also the suggestions. Neither the questions nor the suggestions have been helpful to me to form a view different from the views of the trial Judge with regard to the testimony of the presecution witnesses.

With regard to the delay in delivering the judgment, I am of the view that it was an irregularity and whatever delay there was, it was not such that caused any prejudice to the accused. The reference in the judgment to certain items in the summary of facts again has not caused any prejudice.

I therefore dismiss the appeal.

WIJESUNDERA, J.

I have read the judgement of Wijayatilake, J. but with respect I take a different view.

The accused-appellant appeals against his conviction and sentence for two offences under the Bribery Act.

Mr. Chitty appearing for him submitted that the convictions of the accused-appellant should be quashed because—(1) there was non-compliance with section 214 of the Criminal Procedure Code, (2) the learned trial Judge has : (*a*) taken into consideration the statements in the summary of facts as substantive evidence, and (*b*) acted upon the evidence of one Weeratunge who was a very unsatisfactory witness.

The case went to trial on 18.6.1971 and to suit the convenience of Counsel, it was continued on 14.7.1971 which was a Pre-poya day. On that day further evidence was led and the prosecution closed its case. The defence called no evidence but addressed the

Court and the proceedings terminated at 12.40 p.m. At the end of the proceedings the learned trial Judge made the following observation :—

> "It is 12.40 p.m.—Pre poya day. Office closes at 12.30 p.m. Under the circumstances today's proceedings and the documents cannot be attended to today. Under section 214 it is incumbent on me, since I have heard this case as Additional District Judge, to forthwith or within not more than 24 hours record a verdict of acquittal or conviction. Since tomorrow is a *dies non* and Poya day holiday, I will not be able to do so. I will therefore give my verdict on 16.7.71 (P1) as soon as I come on the Bench. I fix that time as 10 a.m. (Both counsel wish to be excused from attending Court on the 16th. The Crown Proctor and the accused's Proctor will be present)".

On 16.7.1971 the verdict was delivered finding the accused guilty of both charges and reasons were given. Mr. Chitty's first submission is that there was a delay of over 24 hours in delivering the verdict and, therefore, it was bad in law.

Section 214 of the Criminal Procedure Code reads:

> "When the cases for the prosecution and the defence are concluded....the District Judge shall forthwith or within not more than 24 hours record a verdict of acquittal or conviction".

The question then is, whether the intervening Poya day should or should not be counted in computing the period of 24 hours. It was contended by both Counsel that section 8 of the Interpretation Ordinance does not apply.

Counsel for the State drew my attention to the Holidays Act No. 17 of 1965 which came into operation on 1st July, 1965. Section 3 declared Poya days public holidays. Section 6 reads "Every Public Holiday (*a*) shall be a *dies non,* and (*b*) shall be kept as a holiday". The meaning of the words *"Dies Non"* has been considered in *K. A. Jayawardena v. Tiruchelvam,* 71 N. L. R. 134, at page 135 where Samerawickrema, J. adopted what Bertram, C. J. said in *Kulantaivelpillai v. Marikar,* 20 N. L. R. 471, "The effect therefore, in our opinion, of the declaration of a day as a Public Holiday and *dies non* is two-fold. In the first place it excuses Judicial Officers and their subordinate ministerial officers from the necessity of attending Court or of performing any judicial or ministerial acts on that day. In the second place it precludes any member of the public from being forced to attend Court or to attend any judicial proceedings also elsewhere than in court on that day". I, with respect,

give the same meaning to the words "*Dies Non*". The meaning remains the same whatever be the nature of the proceedings. The trial Judge was then excused from delivering his verdict on the Poya day, 15th July. Then the duration of the Poya day should be excluded from the computation of the period set out in section 214 of the Criminal Procedure Code.

It has also been said that the ordinary inference from the fact that the day has been declared as "*Dies Non*" is that proceedings of a Court ought not to be taken, on the day, but it does not make the proceedings, if taken, *void*—Ennis, J. in *Gunawardena v. Pedrick Singho,* 5 C. W. R. at 310. Section 294 of the Criminal Procedure Code says no more than that, that is, if proceedings are taken those shall be valid. This section read with section 214 of the Criminal Procedure Code does not compel the Court to deliver the verdict on a Poya day, because if it does there is no meaning in declaring a day a Public Holiday and a "*Dies Non*".

Another matter needs mention. Both Counsel, when the case was fixed for 14th July, 1971, for trial to suit them, were aware that it was a pre-Poya day. Proceedings terminated at 12.40 p.m. Then the trial Judge had no alternative but to adopt the course he did adopt. He recorded why he was compelled to postpone the delivery of the verdict to the post-Poya day. The inference that he postponed the delivery of the verdict because he might have had doubts is not warranted. I am of the view that the verdict is valid at law.

Before passing from this question reference must be made to the judgment of Wendt, J. reported in *Rex v. Fernando,* (1905) 2 Balasingham Reports 46. In that case the trial was concluded before the District Judge on 24th July and the verdict was delivered on 26th. Wendt, J. observed " there is nothing in the Code to say that the failure to observe this direction vitiates the conviction, nor does any other part of the Code say so " and went on to hold that it was a curable irregularity. The report does not show whether the 25th was a "*Dies Non*". If it was, I venture to think it would have been considered. This judgment was followed later in a case referred to by Dias, Vol. I page 584,—Criminal Procedure Code, S. C. Minutes 29th August, 1917. It is not necessary for me to follow this judgment.

In order to examine the other submissions of Mr. Chitty it is necessary to look into the evidence in the case. The accused was an Excise Guard at Gampola. He, together with some other officers raided the house of one Weeratunga on 12th December, 1969, in the absence of Weeratunga. Unlawfully manufactured liquor was found in the house and one of his sons Jayaratne was

taken into custody. When Weeratunga returned home he was informed of this and he went to the Excise Station, Gampola, where he met the accused who told him that unless a payment of Rs. 50 is made not only his son but all the other members of the family will be involved in a case. Of this visit there is only the evidence of Weeratunga. Weeratunga thereafter went back and informed his other son Seeladasa who in turn informed a brother of his working in the Magistrate's Court of Kalutara. After this visit, Seeladasa went to the Excise Station on 10.1.1970 and met the accused at the Excise Station. The accused then made, in the course of conversation, a request for money from him. The Bribery Commissioner was informed and the usual trap was laid for 19.2.1970. The arrangement was that Seeladasa was to offer Rs. 50 promised in marked currency notes in the presence of another Police Officer Abeyratne to the the accused. Seeladasa and Abeyratne, on the morning of this day, went to the Gampola Court house and met the accused near the gate. The three of them went to a hotel close by and in the presence of Abeyratne, after inquiry by the accused for the money, Seeladasa gave the marked currency notes which the accused accepted. The money was found in the pocket of the accused.

The charges that the prosecution preferred against the accused were : (1) That on or about the 19th day of January, 1970, at Gampola within the jurisdiction of this Court you being a public servant, to wit :—Excise Guard, Excise Station, Gampola, did accept a gratification of a sum of Rs. 50 from K. Seeladasa as an inducement or a reward for abstaining from performing an official act, to wit :— the institution of a prosecution against the persons concerned in committing offences under the Excise Ordinance on 12.12.1969 at Berawila, and that you are thereby guilty of an offence punishable under section 19 of the Bribery Act. (2) That at the time and place aforesaid and in the course of the same transaction you being a public servant as aforesaid employed for the prosecution, detection or punishment of offenders did accept a gratification of a sum of Rs. 50 from the aforesaid K. Seeladasa as an inducement or a reward for your protecting from punishment the members of the family of K. Weeratunga perpetrators of offences under the Excise Ordinance, and that you are thereby guilty of an offence punishable under section 16 of the Bribery Act.

Mr. Chitty complains that when the learned District Judge refers in his Order to the summary of facts, he utilised that to corroborate the evidence. Referring to the summary of facts the learned District Judge has said " This is found in precis form in page 4 of the summary of facts attached to the indictment, a copy

of which has been served on the accused—vide last two lines of para 1 and 2". The paras referred to are those relating to the gist of the conversation that took place on 19.1.1970 between Seeladasa, Abeyratne and the accused. The conversation is deposed to in detail independently in the evidence of Seeladasa and Abeyratne which the trial Judge has accepted. In referring to the summary of facts the learned trial Judge was only summarising their conversation of 19.1.1970 as it transpired in the evidence given in Court for the purpose of considering a defence suggestion that the money was introduced. That has not been used to corroborate the evidence of any witness. There can then be no complaint on this matter.

Mr. Chitty next urged that the learned trial Judge has acted on the evidence of Weeratunga. Weeratunga was an unsatisfactory witness. In considering his evidence the learned trial Judge has said :—

> "What can be gathered from the sifted from his evidence is (*a*) on 12th December, 1969, his house and premises were raided in his absence by an Excise party ; (*b*) he went to the Gampola Excise Station subsequently, where he waited for and met the accused, who said only Jayaratne will be charged (in consequence of the raid) if a 'Gasthuwa'—fee of Rs. 50 is given; else all the members of the family over 18 would be charged ; (*c*) he cannot (at first) remember whether he told his son Seeladasa of this ; (*d*) Seeladasa wrote to brother Sunil Gunaratne, who came in December and met him in the village having come from the Magistrate's Court, Kalutara, where he was working, after which he (Sunil) informed the Bribery Department)."

There is independent evidence on (*a*), i.e. the fact of the raid coming from the Excise Inspector that Weeratunga's house was raided in his absence on 12.12.69 by an Excise party. On (*c*) and (*d*) above, there is independent evidence coming from Seeladasa. The question that needs consideration is what is stated in para (*b*) above, that is the purpose for which the money was given. The two charges both aver that the acceptance of Rs. 50 by the accused was from Seeladasa. On this there cannot be any doubt.

The question then is whether the purpose for which the money was given as averred has been established. The conversation that took place on the 10th of January between Seeladasa and the accused and on the 19th of January between Abeyratne, Seeladasa and the accused, which the learned District Judge accepted, is illuminating. The accused asked Seeladasa on 10th

January whether he was from Berawila and whether he was Jayaratne and requested him to pay before summons was issued in the case. The date of trial in that case was 19th January, 1970. The conversation that took place between Seeladasa, Abeyratne and the accused on the 19th, namely, inquiries about his mother fermenting toddy, the man who ran away at the raid, the person who gave information in the village about the Excise raid and so forth, make it abundantly clear that it related to the commission of acts by the other members of Weeratunga's family amounting to offences as found at the raid in December and spoken to by Weeratunga. Then it seems to me that on the matters the trial Judge has accepted Weeratunga's evidence, there is other evidence which also the trial Judge accepted.

Mr. Chitty drew our attention to the evidence given by Weeratunge wherein he has at one stage said that he told the Police that the accused was not the man to whom he spoke on the day he went to the Excise Station. But later on Weeratunga said on oath that it was this accused with whom he spoke and who demanded the money. The defence further produced two documents, D1, an entry in the diary of the accused D2, a log book to show that the accused was not in the Station on that day referred to by Weeratunga, viz : 21st Dec. The learned trial Judge said that these entries do not mean that the accused could not have met Weeratunga immediately outside the Excise Station. However, the other evidence dispels all doubts on this. The conversation on the 19th of January is clearly referable to that.

On the 10th of January when Seeladasa went to meet the man described by Weeratunga, whom Weeratunga had met on the 21st, and Seeladasa says it was this accused whom he met, then clearly the person with whom Weeratunga did have the conversation was the accused. Therefore the learned trial Judge correctly concluded when he stated, " however unsatisfactory Weeratunga's evidence is by reason *only of his unreliable memory* his two sons have established the links in the chain to show why the Rs. 50 was accepted. "

The prosecution further argued that even if Weeratunga's evidence is ignored there is sufficient evidence, viz : the evidence of Seeladasa and Abeyratne, supporting the finding of guilt on both charges. When I consider the evidence of Seeladasa and Abeyratne, I am inclined to agree with that view. I therefore dismiss the appeal and affirm the conviction and sentence.

Appeal dismissed.