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

In the matter of an appeal under Section 331 of the Code of Criminal Procedure Act No. 15 of 1979 as amended.

Director General, Commission to investigate Allegations of Bribery or Corruption

Complainant

CA Case No: HCC 122/25

HC of Colombo Case No: HCB 176/22

v.

Ramavickrama Gamachchige Ruwan
Udukara, Alawaththa Goda
Kithalagama West
Thihagoda, Matara.

Accused

AND NOW

Ramavickrama Gamachchige Ruwan
Udukara, Alawaththa Goda
Kithalagama West
Thihagoda, Matara.

Accused-Appellant

V.

1. Commission to investigate Allegations of Bribery or Corruption

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

Respondents

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

Amal Ranaraja, J

Counsel Naveen Maha Arachchige for the Accused- Appellant
Asitha Anthony, Deputy Director General-Bribery Commission for the Complainant Respondent for the Respondent

Supported On : 07.10.2025

Order On: 14.11.2025

ORDER

B. Sasi Mahendran, J.

The Accused-Appellant (hereinafter referred to as the Accused) was indicted before the High Court of Colombo on four counts for the offence of soliciting and accepting a bribe from one Thilina Nayanajith, 19.09.2016, punishable under Section 19(b) and (c) of the Bribery Act.

The Prosecution led the evidence through eight witnesses and marking productions from P1 to P24, and thereafter closed its case. The Accused, in his defence, gave evidence in the witness box.

Upon conclusion of the trial, the Learned High Court Judge, by judgment dated 06.02.2025, found the Accused guilty on all counts. Accordingly, the Court imposed a sentence of seven years of rigorous imprisonment and a fine of Rs. 5,000/= for each of the 1st and 3rd counts. Similarly, for the 2nd and 4th counts, the Accused was sentenced to seven years of rigorous imprisonment and a fine of Rs. 5,000/=. Additionally, a fine was imposed equivalent to the amount of the bribe, Rs. 11,000/= with a default of six months of simple imprisonment.

Being aggrieved by the conviction and sentence referred to above, the Accused preferred this appeal before this Court. By letter dated 31.07.2025, the Chief Jailor of Welikada Prison informed the Registrar of the Courts that the Accused had passed away on 21.03.2025 at approximately 6.00 p.m. at the General Hospital. When the matter was taken up on 03.11.2025, Attorney-at-Law Naveen Maha Arachchige made an application to substitute the Accused's wife in order to proceed with the appeal under Section 358 of the Code of Criminal Procedure.

The issue that now arises for determination is whether the wife of the deceased Accused could be substituted in his place for the purpose of continuing the appeal.

We are mindful that in the Civil Procedure Code, there is a provision available to substitute for proceeding with the matter. But in the Criminal Procedure Code, there is no provision available except under Section 358 of the said act. It is pertinent to refer to section 358 of the Criminal Procedure Code,

'Abatement and Withdrawal of Appeals and Applications for Leave to Appeal
358.
(1) Every appeal and application for leave to appeal to the Court of Appeal under this Code shall abate on the death of the accused:
Provided that where the appeal or application is against a conviction, a person aggrieved may with the leave of the court hearing the appeal intervene and prosecute the appeal or application only in so far as the finding of guilt is concerned.

2) The expression " person aggrieved" shall have the same meaning as in 16 of the Judicature Act, No. 2 of 1978."

As outlined in the preceding section, a provision exists allowing the aggrieved person to apply for leave of the court to intervene. However, we note that subsequent judgments clarify that the term "aggrieved person" does not extend to include an accused.

Director General Commission to Investigate Allegations of *Bribery or Corruption v. Rathnayake Mudiyanselage Chandrasiri Thennakoonwela*, SC TAB/04/2023, Decided On 07.10.2024, Samayawardhena, J, on page 14 held that;

"Section 14 confers on a convicted person the right of appeal/the right to file a leave to appeal application against a conviction or sentence. Section 15 confers on the Attorney General the right of appeal/the right to file a leave to appeal application against an acquittal, sentence or illegality of any other order of the High Court. Section 16 confers on an aggrieved party the right to file a leave to appeal application in all cases in which the Attorney General has the right of appeal. A proper interpretation of section 16(2) reveals that the term "a person aggrieved" does not extend to include an accused or convicted person."

Sections 14, 15 and 16 of the Judicature Act do not provide for a right of appeal to an accused, whether by direct appeal or by leave of the Court of Appeal first had and obtained, against orders made by the High Court prior to conviction." [emphasis added] "

Director General, Commission to investigate Allegations of Bribery or Corruption v. Sandresh Ravindra Karunanayake and Others, SC Appeal No. 61/24, Decided On: 30.05.2025, his lordship Obeyesekere, J held that;

'I am unable to agree with this submission. Quite apart from the fact that the definition of a 'person aggrieved' as found in Section 16(2) being clear and it not extending to an accused by any yardstick, commonsense and logic does not permit me to accept the submission that an accused is a person aggrieved for the purposes of Section 16 of the Judicature Act.'

The aforementioned judgements clearly establish that the term " person aggrieved" does not encompass the accused.

Therefore, we conclude that Section 16 of the Judicature Act does not provide any legal basis for substituting the wife of the deceased accused as an aggrieved party for the purpose of seeking leave to appeal and continuing with the proceedings.

The appeal stands abetted due to the death of the accused, in accordance with Section 358 of the Criminal Procedure Code.

JUDGE OF THE COURT OF APPEAL

Amal Ranaraja, J.
I AGREE

JUDGE OF THE COURT OF APPEAL