

Dharmadasa v Director General, Commission to Investigate Allegation of Bribery or Corruption and another, (SC Appeal No. 28/2002, HCMCA (Colombo 6) 2000, MC Colombo Case No. B/6552/1/96) (3/SC) Decided on 13/12/2002.

Section 19 of the Bribery Act- Conviction of a public servant for bribery

Gunasekara, J. with Wigneswaran, J. and Weerasekara, J. agreeing,

The accused appellant was convicted of soliciting and accepting an illegal gratification as an inducement for obtaining the return of money furnished as bail on 4 counts alleging offences under section 19 of the Bribery Act. In addition to that, the prosecution witnessed the accused himself gave evidence. His defense was that the "illegal gratification" was forcibly introduced into his trouser pocket by the virtual complainant. It was rejected by the Magistrate. In appeal, the High Court affirmed the conviction, but observed that the Magistrate should have given more consideration to the evidence of the accused. Subsequently, it was challenged in the Supreme Court.

Held;

On a careful analysis of the accused's evidence, it was held that no credence could have been given to the evidence of the accused.

Chandradasa v. Queen 72 N LR 160 at 162 – An impartial and adequate consideration of facts by a judge is the right of every accused.

Jagathsena and others v G.D.D. Perera, Inspector, Criminal Investigations and Mrs. Sirimavo Bandaranaike (1992) 1 Sri LR 371 at 379 - Despite the purported acceptance of the witness by the trial Court, the Appellate Courts are not relieved of the duty of testing that evidence both intrinsically and extrinsically.

Appeal dismissed subject to variation of sentence.