

Don Simon Signeththi v Director General, Commission for Investigation into Bribery and Corruption, (CA Application No. 197/2008, HC- Colombo B1555/05) (2/CA) Decided on 24/03/2014

S.79 of the Bribery Act No 2 of 1965 - the requirement that the person giving gratification not to be treated as accomplice and decision of the court to be not illegal merely because it proceeds upon the uncorroborated testimony of such giver

A.W.A. Salim J. with Sunil Rajapaksha J. agreeing,

The evidence led by the prosecution in respect of the money allegedly solicited and accepted as a bribe is totally contradictory to the charges framed against the accused-appellant. The only eyewitness through whom the prosecution could have corroborated the allegation against the accused-appellant being not among the living, at the time of the trial, the prosecution appears to have been prevented from leading his evidence to corroborate the evidence of the main witness. The High Court judge has not considered this discrepancy and unsatisfactory features of the evidence adduced by the prosecution in convicting the accused appellant. Subsequently, the determination was challenged in the Court of Appeal.

Held

Nothing in Section 79 provides to dispense with the necessity of looking for corroboration.

K D M Gunasekara Vs Attorney General 79 1 NLR 348; although the evidence in a bribery case is uncontradictory, it needs to be tested and evaluated in the ordinary way before it is accepted.

Siriwardena v. Republic (S. C. Appeal No. 6-7/75-D. C. Colombo 245/B.-S. C. Minutes of 20.12.76); it is open to the trial Judge to convict on the uncorroborated testimony of the complainant provided he found it to be cogent and convincing

In the present case the Court was on the opinion that had the High Court Judge treated those contradictions and the unsatisfactory features in the evidence led by the prosecution, in its correct perspective, he would never have found the accused-appellant guilty of the charges levelled against him.

Appeal allowed and conviction quashed.