

K. Nadaraja v Republic Of SriLanka, (S. C. 76/75-D. C. Colombo B/233) (3/SC) Decided on 28/07/1976.

Section 21 of the Bribery Act- A public servant who solicits or accepts any gratification from a person having dealings of any kind with the Government through any department, office or establishment of the Government shall be guilty of an offence punishable under the Bribery Act.

Wimalaratne, J. with Weeraratne, J. and Colin Thome, J. agreeing,

The accused was charged on 4 counts under the Bribery Act with regard to accepting a bribe to draw up a feasibility plan.

The 1st charge was that he solicited this gratification as an inducement or reward for his performing an official act which is an offence punishable under Section 19. The 2nd charge was that he solicited this gratification from a person having dealings with the Government through an office of the Government which is an offence punishable under section 21. The 3rd and 4th charges were that he accepted a certain sum of money from the claimant, which are offences punishable under Sections 19 and 21 respectively.

The accused admitted that he accepted the money, but his defence was that this was consideration for the execution by him of another job and the defence also took up the position that claimant was not a person who had dealings with the Government, within the meaning of section 21 and that the charges under counts 2 and 4 could not in any event be maintained.

The learned District Judge convicted the accused on all four counts and sentenced him to a term of rigorous imprisonment and a fine. The accused appealed to the Supreme Court with regard to the decision given by the learned District Judge.

Held;

Section 21 was clearly intended to penalize acts of Bribery by persons who have transactions of any kind with the Government. A person who is in occupation of an allotment of land on a grant or permit issued under the Land Development Ordinance will necessarily have numerous dealings with Government Departments in respect of that allotment. The Land Development Ordinance itself confers rights and imposes duties on an allottee, in the exercise of those rights and in the performance of his obligations he must necessarily have recourse to the Government Agent. Land Development officers, appointed under Section 6 of that Ordinance are empowered to perform the functions assigned to Government Agents under that Ordinance. It was by virtue of those powers that the Land Development officer requested the accused to prepare a feasibility plan. There can, therefore, be no doubt that the claimant was a person who had dealings with the Government. The accused, having solicited and accepted a bribe from the claimant committed an offence punishable under Section 21 of the Bribery Act.

The conviction of the accused on all four counts is affirmed, but the sentence was varied.