

***Singharam Thiyagarajah v Hon. Attorney General C.A.216/2010 H.C. Colombo B 1645/2006 (2/CA) decided on 27/11/2014***

*Section 119 (c) of Bribery (Amended) Act No 20 of 1994 - For soliciting and accepting a bribe*

*Section 48 of the Judicature Act*

J. Anil Gooneratne with P. R. Walgama J. agreeing

The complainant had obtained a loan facility from the people's Bank through an overdraft of rupees 100000/= and a loan of 300000/=. As per the provisions of the People's Bank Act, to proceed to auction the house and property of the complaint had been kept as security for the facility given by the bank. The Accused-Appellant had solicited a bribe of Rs. 10,000/-, promising the complainant that he would be able to provide some relief to the complainant by preventing or withholding the alleged auction of the house and property. However, the accused appellant had failed to fulfil the promise.

The Accused-Appellant was a Grama Sevaka and was indicted under two counts, as per the Bribery Act as Amended, for soliciting and accepting a bribe of Rs, 10,000/- in terms of Section 19(c). This was also imposed in terms of Section 26 of the Bribery Act, which carries a default sentence of 6 months rigorous imprisonment. On Pending appeal, the Accused-Appellant was granted bail.

**Held;**

It was stated that a complainant who applied for a loan facility and obtained it from a bank, cannot be ignorant of the process that needs to be followed or the consequences that will arise on his failure to settle the facility. If he depends on a Grama Sevaka to negotiate and settle the issue and to provide with the promised relief, a question arises as to why no inquiry or communication was made by the complainant about the progress of the relief promised by the Grama Sevaka. In fact the probabilities find in favour of the Accused party because of the deficiencies and improbability of the prosecution version.

It was stated that the court is not inclined to favour the prosecution version, nor did they wish to send the case back to the original court for trial. As such the court proceeded to set aside the conviction and sentence.

*Appeal allowed.*