

M.H.T. Herath v. The Attorney General, (CA Application No. 140/2004, HC-Colombo-B-1366/2001) (2/CA) Decided on 22/10/2009.

Section 16 (b) & 19 (c) of the Bribery Act-Grounds where testimony of a prosecution witness need not be corroborated-Section 134 of the Evidence Ordinance.

Sisira De Abrew, J. with Upaly Abeyrathne, J. agreeing;

1st & 2nd Accused, a Police Constable and a Sergeant at the Nochchiyagama Police Station demanded Rs.10 000 in order to prevent a case being instituted against the Complainant.

The first Accused and the second Accused was charged under section 16 (b) & 19 (c) of the Bribery Act for soliciting Rs. 10,000 from the complainant. Further, the first Accused was charged under section 25 (2) read with section 16 (b) & 19 (c) for aiding and abetting the 2nd Accused in the commission of offences under Section 16 (b) & 19 (c). The second accused was separately charged for accepting the said bribe and thereby contravening 16 (b) & 19 (c).

The 1st Accused was acquitted on all charges. The 2nd Accused was convicted for contravening 16(b) (but was acquitted from 19b for the reason it was held as an alternative) and for the charge of accepting a bribe; the 2nd Accused was sentenced to a term of 3 years of rigorous imprisonment and a fine of Rs. 5000. In appeal it was contended that the Prosecution witness was uncorroborated, and that the dock statement of the accused was not given consideration.

Held;

Sunil v. Attorney General (1999) 3 SLR 191; The trial Judge in a bribery trial is entitled to convict on the sole testimony of a prosecution witness without any corroboration provided the evidence is cogent, of convincing character and has strong testimonial trustworthiness.

Accordingly in the instant case the trial judge had found the complainant's evidence fulfills the aforementioned criteria.

Section 134 of the Evidence Ordinance doesn't determine a number of witnesses to prove any fact; court can act on the evidence without the need for corroboration where it deems that a witness is speaking the truth.

Duty rests on the trial judge to state whether the dock statement is rejected; where no reliance is placed on the dock statement, prejudice is not caused for not stating the rejection of the dock statement. Followed; **Dharmawardene v. Director General to Investigate Allegations of Bribery & Corruption (2003) 1 SLR 64;** where reliance cannot be placed on the dock statement, conviction can be affirmed irrespective of the magistrate adequately examining the evidence of the accused.

Appeal dismissed.