

A. M. A. Hameed & another v. The Queen, 70 NLR 1, S. C. 3-4/66-D. C. Gampaha (Bribery), 1/B. APPEAL from a judgment of the District Court, Gampaha, decided on 10/05/1967.

Section 19 & 89 (b) of the Bribery Act- A person who offers any gratification to a public servant or who being a public servant accepts with his knowledge or consent or assists or favors another public servant to accept a gratification shall be guilty of an offence provided that an office for a public servant is not authorized by the law or the terms of his employment to receive.

G. P. A. SILVA, J. with SIVA SUPRAMANIAM, J agreeing

The appellants being public servants, Police Sergeant and Police Constable were charged with an offence punishable under section 19 & 89 (b) of the bribery Act for accepting a gratification and assisting another public servant to accept a gratification which they were not authorized by law or by terms of their employment to receive. This was challenged in the [Court of Appeal].

Held;

There was no evidence in the case that the 1st appellant, Police Sergeant who accepted a gratification was not authorized by law or the terms of his employment to receive the said gratification and therefore the conviction could not be sustained.

Mohamed Auf v. The Queen[(1967) 69 N. L. R. 337.]; The burden of proving that the acceptance of a gratification was not authorized by the terms of the employment lay on the prosecution and that in the absence of such evidence the prosecution could not maintain this charge.

In the instant case the court found that the decision to convict the accused was arrived at without proof such as the acceptance of the gratification which was not authorized by law or the terms of employment of the 1st accused. Therefore accused-appellants were acquitted.

Appeal allowed.