

Alwa Pillai Ponniah v. The Honorable Attorney General, CA Application No. 151-152/1997 (HC B779/92) (2/CA). Decided on 29.03.2012.

Appeal against convictions under the Bribery Act-Soliciting and accepting gratification and abetment thereto - Section 19 and 19 (c) of the Bribery Act - Section 100 and 101 of the Penal Code.

Sarath De Abrew J. with Rohini Marasinghe J., agreeing;

First appellant was convicted for soliciting and accepting a gratification of Rs. 25, 000 for the approval of sale of imported steel. Second appellant was convicted for the abatement of the offence.

Held;

The trial judge has exhaustively analyzed the evidence and passed judgment with sound reasons for finding the accused guilty; the Court of Appeal was left with insufficient material grounds to vitiate the conviction of the first Accused.

The conviction of the second accused was set aside on the following grounds;

Ingredients under section 100 and 101 of the Penal Code which comprise of the following elements were not established;

- a) Instigation to accept a bribe
- b) Engaging in a conspiracy with the first accused to accept the bribe.
- c) Intentionally aiding to do so.

Appeal of the first accused-appellant dismissed and trial Judge was directed to take steps against the sureties of the first accused.

Conviction and sentence of second accused set aside. Appeal of the second Accused-Appellant allowed.