

J. Munasinghe v. Director General, Commission to Investigate Allegations of Bribery & corruption, (CA Application No. 182/2004, HC-Colombo-1380/2002) (2/CA) Decided on 07/07/2010.

Section 21 (c) & 19 (c) of the Bribery Act- requirement to establish elements; public officer, acceptance of a gratification.

Eric Basnayake, J. with K.T. Chitrasiri, J. agreeing;

The Accused-appellant, a District Engineer attached to the Health Department of the government hospital at Welikanda, demanded a gratification of Rs. 5000 from the complainant in order to approve payment for the construction of doctors' quarters in the said hospital. The Accused-appellant, being presented to High Court of Colombo by the bribery Commission, was convicted for contravening sections 21 (c) & 19 (c) of the Bribery Act, with a sentence of four years of rigorous imprisonment each for the contravention of the aforementioned sections held to run concurrently; further charged a penalty of Rs. 2500. An appeal was made against the conviction and sentence.

Held;

To obtain a conviction under 21 (c) & 19 (c) of the Bribery Act, the prosecution is required to prove that the accused is a public servant and that a gratification has been accepted.

In application of facts, it was determined that the Accused-appellant was a public servant. Accepting a Gratification was found when the Accused was arrested with Rs. 5000 which was demanded and obtained from the complainant in order to authorize payment to the complainant.

Appeal dismissed.