

Kathubdeen v. Republic Of Sri Lanka, (CA. NO. 44/94 H.C. COLOMBO B 839/93 614/2012) (2/CA) Decided on 31/07/1998.

Bribery Act - S. 19, 19(C), 25(1) - Soliciting and attempting to accept a gratification - Is sexual intercourse a gratification within the meaning of the Bribery Act -Dock Statement credibility.

De Silva, J. with Ismail J, (P/CA) agreeing,

The Accused-Appellant had indicted before the High Court of Colombo on four grounds under section 19, 19(C) and 25(1) of the Bribery Act for soliciting and attempting to accept a gratification to have sexual intercourse with the virtual complainant.

Held;

The accused-appellant did attempt for gratification to have sexual intercourse and thereby liable under section 19 read with section 25(1) of the Bribery Act. Section 25(1) of the Bribery Act attempts punish for the commission of offences specified in the act punishable under the same provisions.

It is now settled law that an unsworn statement must be treated as evidence and if the unsworn statement creates a reasonable doubt in the prosecution case, then the accused should be given the benefit of that doubt (in accordance with Q V. Kularatne, K v. Sittamparam, Q v. Buddarakkitham).

Therefore, it is clear that in this case, reference to section 19 and 25(1) in counts two and section 19(C) and 25(1) in count four, deals with a situation where the accused had made an attempt to accept the gratification.

Based on above reasons the convictions on all four counts are affirmed again.

Appeal dismissed.