

~~P.C.~~
~~G.L.C.~~

Judgment
20, 1964

IN THE PRIVY COUNCIL

No.20 of 1963

ON APPEAL
FROM THE SUPREME COURT OF CEYLON

B E T W E E N

THE BRIBERY COMMISSIONER Appellant

- and -

PEDRICK RANASINGHE Respondent

RECORD OF PROCEEDINGS

UNIVERSITY OF LONDON
INSTITUTE OF ADVANCED
LEGAL STUDIES
22 JUN 1965
25 RUSSELL SQUARE
LONDON, W.C.1.

78585

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IN THE PRIVY COUNCILNo.20 of 1963

ON APPEAL

FROM THE SUPREME COURT OF CEYLONB E T W E E N

THE BRIBERY COMMISSIONER

Appellant

- and -

PEDRICK RANASINGHERespondentRECORD OF PROCEEDINGSINDEX OF REFERENCE

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ON APPEAL

FROM THE SUPREME COURT OF CEYLON

B E T W E E N

THE BRIBERY COMMISSIONER

Appellant

- and -

PEDRICK RANASINGHE

Respondent

RECORD OF PROCEEDINGS

NO. 1

C H A R G E

Before the
Bribery
Tribunal

No.1

Charge
7th June 1961

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I do hereby charge Pedrick Ranasinghe, Village Headman 464A, Dampe, before a Bribery Tribunal constituted under the Bribery Act, No.11 of 1954, as amended by the Bribery (Amendment) Act, No:40 of 1958, on the following charges :-

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1. That he, being a public servant, to wit Village Headman of Dampe, did between the 1st June, 1960, and 6th June, 1960, at Hanwella solicit from Ranasinghege Karunadasa a gratification of fifty rupees which he was not authorised by law or the terms of his employment to receive and that he is thereby guilty of an offence punishable under Section 19 of the Bribery Act, No: 11 of 1954, as amended by the Bribery (Amendment) Act, No: 40 of 1958.

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2. That on 12th July, 1960, at Hanwella, he, being a public servant as aforesaid, did accept from the said Ranasinghege Karunadasa a gratification of fifty rupees which he was not authorised by law or the terms of his employment to receive and that he is thereby guilty of an offence punishable

Before the
Bribery
Tribunal

under Section 19 of the Bribery Act,
No.11 of 1954, as amended by the Bribery
(Amendment) Act, No.40 of 1958.

No.1

This 7th day of June, 1961.

Charge
7th June 1961
continued

Sgd/: A.W.H. Abeyesundere.
Acting Bribery Commissioner.

No.2

NO.2

Summary of
Facts
7th June 1961

SUMMARY OF FACTS

On the 7th March, 1960, Police Constable 2842 G. Karunapala filed in the Rural Court of Hanwella two complaints bearing numbers 10309 and 10310. In Case No: 10309 R.Suddappu, R. Podi Appu and Ranasinghege Karunadasa were charged with committing mischief by damaging some bottles of sweets and two glass panes belonging to D.A. Emis Perera and in Case No: 10310 D.A. Emis Perera was charged with voluntarily causing hurt to R. Podi Appu. In the latter case the Village Headman of Dampe was a witness for the defence. The cases had been fixed for trial on various dates one of which was 7th June, 1960. A few days prior to this date Ranasinghege Karunadasa, the second accused in Case No: 10309, was returning home after night duty at the Ceylon Transport Board Depot at Homagama when he met the accused going towards Moegoda. The accused spoke to him and demanded from him a gratification of Rs.50/- to get him discharged from the case that was pending against him. Karunadasa agreed to give the money, but did not fix a date to make the payment. On the 9th June, 1960, he appeared before an Investigating Officer of the Bribery Commissioner's Department and made a statement. In the meantime these cases which had been fixed for trial on the 7th June, 1960, had been postponed for the 12th July, 1960, and on the 4th July, 1960, when Karunadasa was going for work in the morning he met the Village Headman on the road close to his house and the latter remarked that Karunadasa was a liar and asked him as to why he did not bring the money. Karunadasa replied that he was unable to find the money. Thereafter Karunadasa passed on this information

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to the Bribery Commissioner's Department on the 7th July, 1960, and a detection was fixed for the 12th July, 1960. Police Constables Abeyratne and Jayalath were to accompany Karunadasa posing as two of his friends who had come to watch the case and Karunadasa was to give to the accused the Rs.50/- he had asked for to be seen by these two constables, who, if the money was accepted by the accused, were to give a signal. Accordingly Karunadasa was given five Rs.10/- notes the numbers of which had been noted down by Inspector W.P. Fernando and asked to go along with Constables Abeyratne and Jayalath, speak to the accused and hand over the money to him. They went to the premises of the Rural Court at Hanwella where Karunadasa met the accused, spoke to him about the case and asked him to see that he was discharged from the case. The Headman undertook to see that he was discharged and went to the lavatory. On his return from the lavatory Karunadasa took out his purse and offered to pay the money to the accused who remarked "Passe, Passe". Thereupon Karunadasa and the two constables went in the direction in which Inspector Fernando was and passed this information to him and came back to the Rural Court premises. At the Rural Court premises constable Jayalath saw a Police Officer who was known to him and therefore he went back to Inspector Fernando leaving Karunadasa and constable Abeyratne behind. Constable Abeyratne then entered Rural Court building and sat on a short wall. Karunadasa too came and sat near him. The accused also walked up. Karunadasa spoke to him again and gave him the Rs.50/- which the accused received and placed in the folds of a copy of the Lan-kadipa which he had in his hands. He told Karunadasa that he had arranged to have the case called in the second Court in a room where he could use his influence. Constable Abeyratne then gave a signal and Karunadasa walked towards the road whilst the accused walked up to the Inspector of Police, Padukka, and spoke something to him and came away. In the meantime Inspector Fernando came to the Rural Court premises, disclosed his identity to the accused and asked him for the bribe that he had accepted from Karunadasa. Inspector Fernando also informed

Before the
Bribery
Tribunal

No.2

Summary of
Facts
7th June 1961
continued

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Before the
Bribery
Tribunal

No.2

Summary of
Facts
7th June 1961
continued

the accused that he wanted to search him. The accused was heard to mutter something and he said that he would allow himself to be searched in the presence of the Inspector of Police, Padukka, who was then summoned by Inspector Fernando to the place where the accused was and informed of the allegation against the accused and the accused was searched in his presence and five Rs.10/- notes the numbers of which tallied with the numbers of the notes given to Karunadasa were found in the folds of a copy of the Lankadipa of 12th July, 1960, which the accused had in his hands.

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No.3

Letter
authorising
prosecution
31st July 1961

NO.3

LETTER AUTHORISING PROSECUTION

BRIBERY COMMISSIONER'S OFFICE,
COLOMBO 12.

31st July 1961.

THE BRIBERY ACT NO.11 OF 1954.

Authorisation under Section 5 (1)

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By virtue of the powers vested in me by Section 5(1) of the Bribery Act, No.11 of 1954, I, Asoka Windra Hemantha Abeyesundere, Acting Bribery Commissioner, do hereby authorise Mr. Emmanuel Hilton Cecil Jayatilake, Advocate, to prosecute Pedrick Ranasinghe, Village Headman 464A, Dampe, before a Bribery Tribunal on the charges made against him under the aforesaid Act.

Sgd/A.W.H. Abeyesundere.

Acting Bribery Commissioner.

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NO.4
PROCEEDINGS

Before the
 Bribery
 Tribunal

No:35/I/172/60.

No.4

Dutch Burgher Union Hall,
 Reid Avenue,
 Bambalapitiya.

Proceedings
 7th August
 1961

7. 8. 61.
 9.30 A.M.

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In the matter of a trial of a charge
 of bribery against Pedrick Rana-
 singhe, Village Headman, No: 464A,
 Dampe.

Present:

All members of the Tribunal, Viz.

A.E.Christoffelez, Esquire, C.M.G.
 (President)

A.H.M. Ismail, Esquire, J.P.,U.M.

S. Somasunderam, Esquire, O.B.E.

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Mr. E.H.C. Jayatilleke, Senior Legal
 Officer, appears for the Bribery
 Commissioner.

Mr. Siri Perera instructed by Mr.
 Egerton Weerakoon appears for the
 accused.

Mr.J.Y.D. de Silva, Acting Secretary,
 Bribery Tribunals.

Accused present.

The Tribunal decides to hold the proceedings
 in English and in public.

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The charges are read and interpreted to the
 accused and he states "I am not guilty".

Mr. Jayatilleke, Senior Legal Officer, hands
 over to the Tribunal a letter of authorization
 from the Bribery Commissioner to prosecute in
 this case.

Mr. Jayatilleke Calls:

Before the
Bribery
Tribunal

NO.5

RANASINGHEGE KARUNADASA

Prosecution
Evidence

RANASINGHEGE KARUNADASA: Affirmed

26 years, Motor Mechanic, Dampe.

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination

I am a motor mechanic employed in the Homagama Branch of the C.T.B. I am employed as such from the time it was taken over by the C.T.B. My home is about 4 or 4½ miles away from the C.T.B. Depot. I travel for work daily. I leave home at about 6.30 or 7 a.m. I return home at about 5.45 or 6 p.m. I go by bus. I have night duty also. That is every third week. I start duty at 5 p.m. and finish at 1.30 a.m. the following morning. Immediately night duty is over I stay behind at the depot itself. Some times if there is any necessity I leave for home as soon as work is over. Otherwise at 5.45 a.m. by bus. I live in my house with my father and elder sister. My father is Podiappu. I have no uncle of mine living close to my house. I know Suddappu. He is related to me. He lives about ¼ mile away from my house. I am unable to say his relationship. He is related to me through my father, but I am unable to say the relationship. I know James Perera. He is also known as Podi Baas. He was running a boutique some time ago. He is not in the village now. The boutique is 10 or 12 fathoms away from his house. The boutique is about ¼ of a mile away from my house. I have been to the boutique. I do not know whether my father has gone to the boutique.

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To Tribunal: It is a tea boutique.

During the month of February last year there was some trouble between my father and James Perera. There was a case. I received summons in that case. The summons gives the date. (Witness refers to summons and states the date was 11.4.60) That was the date on which I had to be in Court. 23.2.60 is the date on which it was alleged that I had committed an offence. I remember the incident. On

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that date I was returning home, after work. My father was ill and he asked me to find the bull which had strayed. I went in search of the bull. I found the bull. On seeing me the bull started to run and tried to jump on to the road to come home. At that time James Perera, who was drunk chased after the bull. The bull did not go to the road. As it was raining I was holding an umbrella. I closed it twice. There was a quarrel and one Karathelishamy came and separated us. There was no quarrel after that. There was a case and James Perera was fined Rs.10/-. The case was in the Rural Court of Hanwella. I cannot remember whether the incident took place on 23.2.60. The summons will give the date. The trouble arose near James Perera's boutique. In that connection I did not complain to the Police. My father also did not make a complaint. We did not complain to the Village Headman. After an inquiry on James Perera's complaint, my father had made a complaint to the Police about my incident. James Perera may have made a complaint to the Police. The Police had come for inquiries during my absence. I was in hospital. After I returned from hospital my statement was recorded. James Perera struck me with a knife. I had injuries on my left arm and on the knees also. The case was on an assault on my father also. There was two cases. James Perera had filed a case against us and we filed a case against him. Padukka Police filed two cases. One was against me, my father and Suddappu. The other case was against James Perera for causing hurt to my father. I was asked to file a case. I received a summons. I produce it marked P.1. I was asked to appear in Court on 11.4.60. I appeared in Court on that date. My father was also present. Sudappu did not go to Courts. On 11.4.60 the case was called. We went into the dock. James Perera was also present. The case was postponed. We pleaded "not guilty". I cannot remember for what date it was postponed. I cannot be sure whether the other case was also called. The case in which I was charged was postponed a number of times. After this case was filed I went for work as usual. Finally James Perera was fined Rs.10/- It was after several dates.

Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

The President asked James Perera several times to pay the Rs.10/-, for charity saying that he was to be freed in the case. He did not pay. Pedrick Ranasinghe, the Village Headman did not allow him to pay. Pedrick Ranasinghe is the accused in this case. I say so because the Village Headman asked me for some money during the pendency of this case. I cannot remember when he asked me for the money. I "cāññōt" remember the month. It was the same year the case was. The accused asked me for some money after 11.4.60. It was after about 2 or 3 dates of postponement, after the first date. The accused asked for the money on about the 3rd date. I cannot remember when the 3rd date was. I met the accused on my way on the road and both of us went along talking. I cannot remember when it was. It was long ago that this happened. I cannot say whether it was in the morning or in the evening. We were going to the Meegoda bus. I have to walk about a mile for the bus. I get into the bus at Meegoda to go for work. I met the Village Headman on this day. He said "you are a man having a job and it is not good for you. I will give evidence for you so that you may be discharged" and asked for Rs.50/-. I promised to give it. I did not fix a date for it. On that occasion the accused was alone with us. When I promised to pay the Rs.50/- I really meant to pay him. After I promised to pay it we both went to Meegoda. I went for work and I do not know where the accused went. I waited until I drew my pay to pay this to the accused. I receive my pay once a month. After that too I met the accused. After that he blamed me calling me a liar because I did not pay this amount. I told him that I did not receive my pay and promised to pay it as soon as I received my pay. That was on the second occasion I met him. At the work place I asked for some money from a friend of mine intending to give it to the accused. My friends there asked me not to give any money and directed me to a place where I should make a complaint. I remember the road to that place, but I cannot remember the name of the place I was directed to. I went to that place. There I met a fair gentleman. I went there and made a statement. I remember what I stated. I said that there was a case in the Rural Court of Hanwella and that in that connection the Village

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Headman wanted Rs.50/- from me saying he would save me from my trouble. He called another gentleman and gave me over to him. The other gentleman questioned me. He wrote down what I stated. I signed it. I made a statement about 4 or 5 days after his asking for the Rs. 50/-. After this statement was recorded that gentleman who recorded it did not tell me anything. He did not ask me to do anything that day. On the second occasion when I met the accused he blamed me and called me a liar. After that also I went to the place that I first went. I went there and told them that I was blamed by the accused. First he said I was a liar, and asked me not to go to him to tell anything, saying that he will not help me. The accused was referring to the money. On the second occasion I made another statement at the same place. That statement too was recorded.

To Tribunal: The same gentleman recorded this statement.

After recording the second statement he asked me to come again if the accused asked for money again. I cannot remember whether I went to Colombo on 2 or 3 occasions. On the last occasion when I came to Colombo that gentleman asked me to meet them at Hanwella, at the junction, near the Bo tree at about 5.30 or 6 a.m. I cannot remember the date. It was on the day the money was given to the accused. It was on the date on which my case was called. On the appointed date I was near the Bo tree at about 5.30 or 6 a.m. I went there by the early morning bus. That gentleman did not come. I waited for a while and went to a boutique close-by to have tea. That was at about 6-15 or 6.30 a.m. I was not able to take tea because the gentleman came near the Bo tree and tooted the horn. When I looked they asked me to take my tea and come. I took my tea. One gentleman came to the boutique. He did not speak to me. After he alighted from the car the car proceeded towards Kaluaggala. After tea I saw the car halted in the direction of Kaluaggala. I went up to the car. That gentleman, who got down also went up to the car. I was taken into the car. That gentleman

Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

also got into the car. Thereafter the car proceeded towards Labugama, after turning it. The car was halted by the side of a rubber estate. I was asked to get down from the car. One of the gentlemen asked me to get out of the car. I got down. After that I was searched by the gentleman. I was dressed in a white sarong, this coat and a banian. I cannot say why the gentleman searched me. I had money, about Rs.25/- and sixty odd cents. That money was in the purse. The gentleman took the money and returned the cents. He took the Rs. 25/-. He returned the purse also. He open an envelope and gave me Rs.50/- after referring to the numbers of the notes and comparing them with the numbers he had noted in a file. The notes were in five Rs.10/- notes. That was to be given to the accused. I was further asked not to go to any boutique and not to give it in a boutique. He said that he would give two gentleman and to give the money in their presence. They also asked me not to tender the money if the accused refused to take it once. I put the Rs.50/- in the purse which was in the coat pocket. We returned by the same car to go to the Rural Court of Hanwella. The car was stopped after coming a short distance. I cannot remember what distance it was. The two gentleman and I got down from the car. While coming in the car one gentleman asked me to put in names for these two gentleman as I was working in the workshop. One asked me to call him Wilbert Baas. He was dressed in Ariya-sinhala suit. The other was dressed in a pair of longs and a shirt. He asked me to call him "Checking Mahatnaye". After getting down the car proceeded ahead and we three walked towards the court house. On our way to the court house we had tea in a boutique. These gentleman paid for the tea. I had only a few cents with me. After taking tea we went to the compound of the court house. We waited there. No one had come. The Court had not started. There were some people there. There were some litigants. We waited there until Court started. People in our case, my father, James Perera and the accused all came, while we were there. Earlier the two gentleman had asked me to point out the accused to him. While he was coming I Pointed him out to them.

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The accused went to the lavatory. Before he went I spoke to him. I asked him "Are you coming only now". I cannot remember what the accused said. I was still in the compound of the Court. The two gentleman were with me. The accused came. I offered the money when he came out of the lavatory. I spoke to him and asked him to take the money. He said "we are not going now. The money can be taken later. Keep it".

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Then those two people took me to the car which was halted. That is the car in which we went. We went up to the car.

Q. Did any of you speak to anyone in the car?

A. Yes. One of the gentleman who were with me spoke.

Q. Did you hear what that gentleman spoke?

A. Yes. That gentleman told the others in the car "The money will be accepted. I do not think the money will be accepted in our presence because of suspicion". Then the gentleman who was in the car said "You had better go and wait for some time more". Then we came back.

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The Court had not started at that time. We came to the Court and the Headman (accused) was seated inside the court on a bench. When we went the accused came up. By "we" I mean myself and the two gentleman. We went inside the court. After we went into the court hall the Headman came up to us. Then I gave the money in the hall. That is in the court building itself. That is where the President sits. At the time I gave the money those two gentleman were there. Before the accused took the money he asked me as to who my companions were. I said "These are people working in my workshop. This is Wilfred Baas and the other is the Checking Mahatmaya". That was before I gave the money. That was when I entered the Court premises. I took the purse and took out the money from the purse and gave it to the accused.

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Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

To Tribunal: Q. Were there other people
inside the court house?
A. Yes. I cannot say who was

Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

looking. Those two gentleman were there. The Court had not started to function when the accused took the money.

The accused had a paper in his hands. He had this money also in the same hand in which he had the paper. I cannot say what paper it is. It was a Sinhalese paper - Janatha or Dinamina. After the accused took the money the accused started speaking to those two people. He said "I would not have come to Court today. I came to Court owing to this man. He is the best boy in the house". Then those two also said "He is the best man in our workshop. Whatever work is entrusted to him he will do it". One of them made a sign asking me to get to a side. The person who made the sign is the Checking Mahattaya. He was dressed in a pair of longes and a shirt. Wilfred baas was in front. I saw him. He was there. The two people, myself and the accused - all four were talking in a group. After the signal was given I got on to a side. I was within the court building and the other two friends were there with the accused. After a short time this accused got out into the compound. Then those gentleman who were in the car also came and all of them seized this accused and embraced him (put the hands round him). The accused got out of the building into the compound. I cannot be definite whether I was at that time within the court building or outside in the compound. My two friends were with this accused. They also got out. The other gentleman who were in the car also came. I think three came from the car. After they came people collected. I cannot say whether those gentlemen who came from the car did anything. They seized this accused and put their hands into his pockets.

Q. Who seized the accused?

A. I cannot say whether one of the two who accompanied me or a gentleman who came from the car seized the accused.

The person who seized started to search the accused. People collected. There was a large crowd of people surrounding. A tall gentleman

took the money from the accused. He is one of the gentlemen who came from the car.

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Tribunal

Q. Was that the gentlemen who recorded your statement in the Office?

A. Yes. I saw him taking the money.

Prosecution
Evidence

Q. Did you see it or did you infer?

A. I did not see.

No.5

10 Subsequently I saw the money in the gentleman's hands. I inferred that he had taken the money. I said that some officers came from the car and seized the accused and started searching him. Then a large crowd surrounded him. The next thing I saw was a gentleman who came having money in his hands. He had some notes. The Headman was taken to the car. I was in the Court. The Headman was dressed in a coat and either a white sarong or cloth. The accused was taken into the car. Those
20 gentlemen and the accused went into the car. I saw the Headman being put into the car and the car proceeding. Those two gentlemen who were with me also got into the car and went. The gentlemen who came with me did not tell me anything before they left with the Headman in the car. I remained in the court house. The President came on the bench and my case was called. That day the case was postponed. Both cases were postponed.

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

30 Q. Thereafter did the officers who came in the car contact you again?

A. After my case was postponed two gentlemen came. They had an umbrella also. They took me up to the car and from there they took me in the car to the Hanwella Police. They were two other gentlemen.

At the Hanwella Police Station my statement was recorded. Thereafter I went home.

To Tribunal:

40 Q. What did the accused do with the money? You said that he kept the money with the newspaper. Was it put into the folds of the paper or what did he do?

A. The paper was folded into four. The

Before the
Bribery
Tribunal

Prosecution
Evidence

No.5

Ranasinghege
Karunadasa
7th August
1961
Examination
continued

Cross-
examination

money was within the folds of the
paper.

(Witness demonstrates with the help of a
newspaper)

Q. He did not put it into his pocket?

A. No.

Q. You know the case in which you and your
father and Suddappu were charged?

A. Yes. It was subsequently taken up for
trial and all of us were acquitted.

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XXD:

I am living with my father. Podi Appu is my
father. Even at the time of this incident I
was staying with my father. I have brothers.
I have two brothers. Their names are Romiel
and Jinadasa. At the time of this incident
they were not living with me. One is married
and he was living separately. He is Romiel.
The other brother is Jinadasa. He was also
married and he was also living separately. I
think my house is about half a mile from the
accused's house. Romiel was living closer to
the house of the Headman than my father's house.

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Q. Also living in your house at this time was a
first cousin of yours called Chalo Singho?

A. No. Chalo Singho was not living with me at
any time. He is a first cousin.

My brother Romiel is an Island re-convicted
criminal. He has been convicted in a number
of cases and has been sent to jail and fined.
I do not know whether in October, 1958, he was
convicted and fined for gambling.

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Q. You do not know that it was this accused
Headman who actually arrested him for
gambling?

A. I do not know. I was living at Kohuwala
Garage. I went to reside in our village
recently.

Q. You were all along living in this village?

A. It was after it was taken up by the Ceylon
Transport Board and came to the Homagama

40

Garage that I started living in the village.

Before the
Bribery
Tribunal

Q. When did you come to work at the Homagama Garage?

A. I came to the Homagama Workshop about one year after it was taken over.

Prosecution
Evidence

Q. That was at the end of 1958?

A. May be so.

No.5

Q: You said it was a year after the Ceylon Transport Board started that you came to Homagama?

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10

A. Yes.

Q. The Ceylon Transport Board began to operate in January, 1958?

Cross-
examination
continued

A. Yes.

Q. From that time onwards you have been living in Dampe with your father and you have been travelling for work to Homagama?

A. Yes. I used to travel daily from home for work. In the morning at about 7 or 6.30 I go for work. If I was on night duty I used to leave home at about 4 or 4.30 p.m. to go for work.

20

Q. Your night duty shift was every 3rd week of the month?

A. Not the 3rd week of every month. It is every fortnight. Night duty comes at the end of every fortnight.

Q. You said you had not heard that the accused had actually arrested your brother Romiel for gambling and charged him and got him convicted and fined?

30

A. I do not know.

Q. Even up to date you have not heard?

A. No.

Q. Had not your brother told you?

A. He does not talk to me.

Q. Is he angry with you?

A. Because he is a bad man I do not associate with him.

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Evidence

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Cross-
examination
continued

Q. You know the accused was appointed Headman in 1956?

A. I cannot remember the date.

Q. You remember that it was 3 or 4 years before the incident? A. Yes.

Q. Along with him there were I think 2 other candidates? A. Yes.

Q. One was Dharmasena Kuruppu? A. Yes.

Q. Your father Podi Appu, your brother Romiel and Chalo Singho gave a petition against this Headman being appointed. You know that? 10

A. I do not know.

Q. Whom did you support in that election of a Headman? A. I did not go.

Q. Your father, Chalo Singho and Romiel?

A. I was not living in the village those days. Therefore I do not know. Those days I was living at Kohuwela. At Kohuwela I was in the Bus Company. I was in the Gamini Bus Company. 20

Q. You used to go home once in six weeks or once a month?

A. I used to go home once or twice a year. I got angry with my people and I left home originally. Once in a way I used to come.

Q. When you came home did you come to know about the contest about the appointment of a Headman? A. I heard.

Q. And I take it you also learnt that your father, brother Romiel and Chalo Singho were siding Dharmasena Kuruppu? A. No. 30

Q. Did you even learn whom they were supporting? A. No.

Q. You did not even inquire? A. No.

Q. Nor did they even tell you? A. No.

Q. I put it to you that your father and brother and cousin were all working against this

Headman and supporting Dharmasena Kuruppu?
A. I do not know.

Before the
Bribery
Tribunal

Q. Do you know or did you come to know that there had been trouble between your brother Romiel and the accused after he had been appointed? A. No.

Prosecution
Evidence

Q. You do not know or you did not come to know that your brother Romiel was charged in the Rural Court in Case No:6771. He was charged in the Rural Court of Hanwella with having intimidated and insulted this Headman? A. I do not know.

No.5

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Cross-
examination
continued

Q. You have not even heard about it?

A. No. I do not inquire anything about my brother.

Q. Even if you hear something about your brother you shut your ears?

A. I do not listen.

20

Q. Did you come to know after that that this accused had charged your brother Romiel in Rural Court Case No:9733 of Hanwella with having committed mischief by coming to his house and damaging some flower pots?

A. I do not know.

Q. Were you getting on well with your father Podi Appu?

A. Before I came to reside in my village I was angry with him. After I came to live in the village I got friendly.

30

Q. You came to live in the village in January, 1959? A. I cannot be definite.

Q. You said you had been about a year at Eohuwela after the Ceylon Transport Board started and you came to Homagama. From that time onwards you have been on cordial terms with your father? A. Yes.

40

Q. Why were you angry with your father before?

A. During the Sinhalese New Year days my father called me to go to the field. I refused and he got angry and assaulted me.

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Evidence

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examination
continued

Q. I suppose you got angry with your father and ran away from home? A. Yes.

Q. You went to Kohuwela and got employment there? A. Yes.

Q. How many years were you at Kohuwela?

A. About 6 or 7 years.

Q. And you came back home and resides in your village about the beginning of 1959?

A. I cannot say that. I cannot be definite about these dates.

10

Q. You were in Kohuwela for about one year after the Ceylon Transport Board started?

A. About one year.

Q. From that time onwards you have been at Homagama? A. Yes.

Q. You were not annoyed with your father because he was a bad man? A. No.

Q. Your father has been convicted and fined in a number of cases? A. I do not know.

Q. Are you aware that your father has been convicted in one case even?

20

A. Recently he has been bound over for six months. James Perera got into our house and created a disturbance. That is boutique keeper James Perera. Both were bound over for six months.

Q. Your father was bound over. The Police charged both of them for causing greivous hurt to James Perera? A. Yes.

Q. That case was in the Magistrate's Court of Avissawella? A. Yes.

30

Q. There is a man called R. Emis who owns a field called Parakandawela?

A. I cannot remember.

Q. Your father owns cattle? A. Yes.

Q. The accused recovered from your father a sum of Rs.80/- for having allowed his cattle to

stray upon a field belonging to Emis and for committing damage? A. I do not know.

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Bribery
Tribunal

Q. Do you know that this accused again recovered a sum of Rs.25/- from your father for having committed mischief by uprooting some rubber plants and cinamon plants belonging to James Perera? A. No.

Prosecution
Evidence

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Q. Is it that you do not know or that there was no such incident? A. I do not know.

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10 Q. Do you know a person called Welatantri of Dambagahawatta?

A. I know the 'Watta' but I do not know the person.

Cross-
examination
continued

Q. Do you know that this accused got damages for damages caused to a land belonging to Welatantri? A. I do not know.

Q. Do you know that this accused had reported your father that he had cut a jak tree worth Rs.175/- without a permit?

20 A. After this incident a jak tree had been seized. The trunk is still there.

Q. You say that it is after this incident. You do not need a permit to cut jak trees?

A. Saying that it was a property of the Crown he was charged.

Q. You say that it was after this incident?

A. After some months.

Q. Have you been charged in Courts of law?

A. Yes.

30 Q. You were charged in the Rural Court of Hanwella Case No:11097 with theft of fowls belonging to B.A. Simon Perera? A. Yes. After this incident I have been implicated in several cases by this accused. Now there are three cases pending.

Q. You had some cases before this incident also?

A. No. I have never gone to a Police Station.

Q. What about your cousin Chalo Singho? What sort of a person is he?

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Evidence

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examination
continued

- A. He is not such a good man.
- Q. He is also a man who has been to jail and fined?
- A. He has not been to jail. He has not been fined. Recently there was a case and he may be on probation.
- Q. Why do you say that he is not such a good man (Chalo Singho)?
- A. His behaviour is not good.
- Q. Why do you say that Chalo Singho is not such a good man? 10
- A. He is a man who takes arrack and toddy.
- Q. He takes Kassippu? A. Yes.
- Q. Was he not convicted and bound over for 1½ years in the Magistrate's Court of Avissawella for having used criminal force on one Mary Fernando?
- A. I do not know that.
- Q. Are you aware that he had been convicted and fined Rs.250/- and bound over again for 2 years for robbery of Rs.200/- from L. Peter Singho? A. Yes. 20
- Q. He was fined Rs.250/-?
- A. I cannot say whether he was fined. I think it was in that case he was kept on probation.
- Q. I put it to you that you and all members of the family are of bad character in the village. According to you, your brother Romiel is a bad man. He is so bad that you do not even associate with him. You were all angry with this accused from the time he assumed office. Even before he was appointed and after that he was trying to do his duty to the best of his ability? 30
- A. We were never angry with this Headman. Even now we are not angry.
- Q. You say that somewhere in February - on the 23rd of February last year - there was that incident with James Perera? 40
- A. (No answer).

(At this stage the Tribunal adjourns for a few minutes.)

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(The Tribunal resumed after the recess)

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Evidence

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Cross-
examination
continued

Q. You said that somewhere about February, 1960 - on that day on which the incident with James Perera took place - your father was not well enough to go out of the house. Therefore he had asked you to go and bring the bull? A. Yes.

10 Q. Your father did not figure in that incident?
A. Having heard that I have been assaulted he went to question. He also had been pushed and struck with something.

Q. Did he also sustain injuries? A. Yes.

Q. Was he also in hospital?
A. He did not stay in hospital. He got the injuries attended to.

Q. You were admitted to hospital? A. Yes.

20 Q. For how many days?
A. I cannot remember how many days.

Q. Several days? A. Yes.

Q. But the Police did not file a case against James Perera for having caused hurt to you?
A. There was no case.

Q. The only case that was filed was the one against James Perera for causing hurt to your father Podi Appu? A. Yes.

30 Q. On that occasion did you go to the boutique of James Perera?
A. I did not go to the boutique.

Q. Did you do damage to bottles of sweets in the show cases of James Perera? A. No.

Q. At the time that incident took place with James Perera your father was not present?
A. No.

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examination
continued

- Q. Was Suddappu your relation there?
A. He was not there at that time.
- Q. On the complaint made by James Perera, Suddappu, your father and you all three were charged with having caused damage and mischief to James Perera's boutique?
A. Yes.
- Q. It was an utterly false charge in regard to all three of you? A. Yes.
- Q. Both these cases, that is the case against James Perera and the case against your father, Suddappu and yourself were called on the same day? A. Yes. 10
- Q. You said that the first occasion on which the accused suggested that you should pay him Rs. 50/- in order to give evidence for you and have you discharged from that case was on a day when you were on your way for work?
A. Yes.
- Q. Have you summoned this accused as a witness for that case? A. I do not know. 20
- Q. You should know whom you should summons as your witnesses?
A. He did not give evidence for me. He went to give evidence on James Perera's side.
- Q. Did you at any time summon the accused as a witness for you in that case? A. No.
- Q. So that there was no evidence that this accused could give in that case in your favour? 30
A. He was not my witness.
- Q. You did not summon him because there was nothing that he could say?
A. No. He was a witness for James Perera against us.
- Q. He was a witness for the defence in the case in which James Perera was charged?
A. This accused was a witness for the prosecution in the case in which James Perera was the complainant and myself and others were the accused. 40

Q. We have the certified copy of that case. There were only three witnesses for the prosecution in that case where you were accused. They were James, David Perera and Constable Banda?

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A. The Village Headman went and gave evidence before the President.

Prosecution
Evidence

Q. When was that?

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A. About the second day I think.

10 Q. He actually went into the witness box and gave evidence?

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A. He did not get into the witness box.

Q. He made a statement from where he was?

Cross-
examination
continued

A. Yes.

Q. Was it after he made the statement that you met him? A. Yes.

Q. On that day on which the Headman made the statement was that statement made against you or in your favour?

20 A. It was against me.

Q. He made a statement against you to the President? A. Yes.

Q. It was after that that you came to Colombo and made that complaint?

30 A. That day the President asked James Perera to pay Rs.10/- pointing that he was in the fault. Inside the Court the accused asked James Perera not to pay. Several times the President asked him to pay Rs.10/-. This accused said "You have suffered damage. What is the use of paying money. Do not pay".

Q. It was after that incident that you came to Colombo and made that complaint?

A. Yes.

Q. There was this suggestion. You say it was not a fine. What the President suggested was that James Perera should pay Rs.10/- as compensation and settle that?

40 A. To some charity.

Q. There was also the case in which you, your

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father and Suddappu were charged with mis-
chief by going into the boutique of James
Perera? A. Yes.

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Evidence

Q. How was that case to be settled?
A. That case was heard before.

No.5

Q. How was that to be settled?
A. That was heard.

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Cross-
examination
continued

Q. On that day?
A. Not on that day.

Q. On that day was not a suggestion made by the
President that that case also should be
settled? A. No. 10

Q. What you say is that on that day the Presi-
dent suggested that only the case against
James Perera should be settled, but no
settlement in the case in which you and your
father were charged? A. No.

Q. I put it to you specifically. Was there at
any time a suggestion that you should pay
the damage that had been incurred by James
Perera and that was Rs.35/- and that should
be paid and settled? A. No. 20

Q. At no time? A. No.

Q. Only one case was to be settled and the other
was to go on? A. I cannot understand.

To Tribunal:

Q. The case against you, Suddappu and your
father was to be settled or was it to go
to trial?

A. Suddappu did not attend courts on that
day. The day that he attended Court
Suddappu mentioned to the President that
he had to travel far to attend Courts and
asked him to finish the case that day.
That case was heard on a day before the
accused took money. I cannot remember
when. 30

Q. It went to trial?

A. No. Only the complainant gave evidence.
We were discharged in that case. 40

- | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| | Q. What happened in the case in which James Perera was charged? | Before the Bribery Tribunal |
| | A. He was ordered to pay Rs.10/-. | |
| | Q. That is before you paid this money to the Headman? | Prosecution Evidence |
| | A. I cannot say. | |
| | Q. You cannot say for the reason that both cases were being called together from day to day with a view to getting a settlement? | No.5 |
| 10 | A. Originally the two cases were fixed for two different dates. When I mentioned that I have to come on two different dates both cases were fixed on the same day. | Ranasinghege Karunadasa
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Cross-examination continued |
| | Q. You say the only reason why both cases were called from day to day was because you made an application that as you had to go for work that both cases be taken on the same day? | |
| | A. Yes. It was after my application. | |
| 20 | Q. What was the necessity for you to be present in both cases? You were not a witness in that case against James Perera. Nor were you the complainant? | |
| | A. My father was the complainant. | |
| | Q. There was no necessity for you to be present? | |
| | A. As I was in hospital we first thought that James Perera had been charged in respect of causing hurt to both of us. | |
| 30 | Q. When did you come to know that your father was the only complainant in that case? | |
| | A. I think on the first day both mine and my father's names were called. | |
| | <u>To Tribunal:</u> | |
| | Q. Did you get a summons in the case against James Perera? | |
| | A. I have got several summonses. I do not know. | |
| | Q. You had no reason to be present in court in the other case? | |
| 40 | A. The names were called and I also appeared in | |

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examination
continued

Court. Thereafter my name was not called.

Q. Thereafter your presence was not necessary?

A. I went to Court.

Q. I put it to you that both these cases were to be settled and that is why the two cases were called on the same day?

A. I do not know.

Q. You said that when you were on your way to work you met the Headman subsequent to that?

A. Yes.

10

Q. Where did you meet him?

A. When I was coming to Meegoda on my way I met him.

Q. You continued to walk with him right up to Meegoda? A. Yes.

Q. Whilst walking the accused himself suggested that you should pay Rs.50/- so that he could give evidence in your favour and get you discharged?

A. Yes. He said "It is bad for your job".

20

Q. You said "All right. I will pay"?

A. I promised to pay.

Q. You got into the bus at Meegoda and went to your place of work? A. Yes.

Q. You cannot say whether it was in the morning or afternoon? A. I cannot remember.

Q. You are positive that it was when you were on your way for work? A. Yes.

12 noon.

I cannot say whether I met the accused when he was going towards Meegoda and I was returning home after work. On the first day when he demanded the money both of us were going towards Meegoda. As far as I remember both of us were going towards Meegoda. I cannot remember whether I told the Police that I met him on coming from Meegoda or whether I met him when both of us were going to Meegoda. It is not a

30

lie to say that the accused demanded this money. In the Colombo Office I have told them when the money was demanded and also the place at which it was demanded. I returned home on that occasion. I did not tell my father about this discussion with the accused. My father was the accused in the case. My father was not present when the incident with James Perera took place.

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10

To Tribunal:

Q. Why did you not mention it to your father that the accused demanded some money from you?

A. Because I went to work.

Q. When you were going for work the accused asked for the money?

A. I think it was when I was going for work that he made the demand.

20

Q. Why did you not tell your father that the accused demanded this money?

A. I did not tell him.

Q. Why?

A. I do not converse too much with him at home.

Q. It was a matter in which both you and your father was involved?

A. What ever the expenses were I had to bear them all, even if I had told my father about it.

30

Q. Why did you not ask your father whether to give the money or not?

A. It did not strike me at that time whether to tell him.
I did not think of telling Suddappu.

To Tribunal:

I first mentioned about it at the workshop after the demand was made on the second occasion. I cannot remember whether it was on my way to work or not.

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continued

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examination
continued

I told the accused I would give it when I received my salary. I cannot remember whether it was said on the first occasion or the second. My friends to whom I told those who work with me. I cannot tell their names, in the hearing of the accused because they will get angry with me.

To Tribunal:

- Q. Are they also within the jurisdiction of this headman? 10
A. There are some. I told one person first. I do not like to mention even his name.

(Accused is sent out) Witness declines to give the names. He is, therefore, given a piece of paper and a pencil and asked to write their names. Witness refuses to write or give the names even though the headman retires).

- Q. I put it to you that this is a fabrication that you mention names of people in the workshop? A. No. 20

- Q. You refuse to give their names because they will deny if they are called and questioned?
A. They are not willing to come.

I made a second statement in Colombo. I did not go to the house of the accused on the night of the 11th of July, and suggest that the accused should take the money, namely the cost of the articles damaged to be given to James Perera and settle the case. On the 12th of July when I went to the Rural Court premises with these two persons it was about 7 to 7.30 or 8 a.m. There were people there. There were two or three people. As soon as the headman came there I pointed him out to the 2 gentlemen. I then asked the accused something. I cannot remember what. It was some sort of greeting. It was not about the bribe. He went to the lavatory and came back. I did not speak much before he went to the lavatory. I offered the money to the accused then. He refused to accept. 30 40

To Tribunal:

Q. Did you take the money out of the purse?

A. I did not take the money.

Q. What did you tell him?

A. Come take that money. He said he could take it later.

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10 So saying he went inside the Court House. I cannot say whether he went and stayed there. I know he entered the Court House. I told the gentleman in the car what happened. He said he would take the money. I came back and the three of us went into the Court House. At that time I saw the accused seated. In the Rural Court there is an inner enclosure with half walls and a verandah outside and round the verandah also there is a half wall. The headman was seated in the inner enclosure. The two gentlemen and I walked into a little distance in the outer verandah. People were seated there.

20 The accused came up to us.

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Cross-
examination
continued

To Tribunal:

We were in the verandah.

Then I gave the Rs.50/- to the accused.

To Tribunal:

Q. Did you count it?

A. I did not count it.

Q. Was it in an envelope? A. No.

30 The accused took the money. I said "here is the money. I am a poor man. I am giving it though I am poor. I am not giving it because I am having money. I am giving it because you said you will save me. This was all in the hearing of the other two. The people round about also would have heard. I handed over the money stretching out my hand. It was not put in the hand of the accused which was holding the paper. After that the accused said I was a good boy and the best boy in the family and it was after that the 2 gentlemen also said that I was

40 the best man in the workshop. I then got to a

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examination
continued

side. I cannot remember whether I went to the compound or the verandah. When I left the two gentlemen were still there. Both gentlemen were there, when I gave the money, one in front of the accused and the other behind him. One behind was the "checking Master", peeping over the accused's shoulder. After that the Inspector came and arrested the accused.

- Q. I put it to you that there was a proposal of settlement of your case by paying Rs.35/- to James Perera? A. No. 10
- Q. You thought that this was a good suggestion and an opportunity to put the accused into trouble? A. No.
- Q. You made your complaint in Colombo on the 9th of June?
A. I cannot remember.
- Q. This money you gave on this day was money for the settlement?
A. There was no talk of a settlement. 20

Re-examination RE-XD:

In James Perera's case the accused asked James Perera not to pay anything. I cannot remember whether it was after or before his asking for the Rs.50/-. I received summons to appear on 11.4.60. On that day I went to Court. On that day the case was postponed and there was no suggestion of a settlement made on that day. I cannot remember when the suggestion of a settlement was made. That was more than a year ago and I cannot remember much about it. I have two brothers, Romiel and Jinadasa. Romiel is an I.R.C. Jinadasa was never convicted. Jinadasa is on an estate in Bogawantalawa. To my knowledge my father was never convicted. 30

Q. Your father was also convicted?
A. Not to my knowledge.

Q. He was bound over subsequent to this?
A. Yes.

Q. Did you have any case against you prior to 40

this where you were charged along with your father and Suddappu?

A. I have never been convicted or even charged in Court before this.

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Q. You said subsequent to this incident there have been several cases against you?

A. Yes.

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Q. How many cases were there?

10

A. Still there are three cases pending against me in the Hanwella Rural Court.

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Q. How many cases were there in all?

A. There were in all about 5 or 6 cases. 2 or 3 have been over. I was asked to pay Rs. 5/- in the fowl theft case. I paid the money and went. That is all.

Re-examination
continued

Q. What about the other three cases?

20

A. One is for assaulting James Perera. That was in the Avissawella Magistrate's Court. That is over. I was acquitted in that case. It went to trial. James Perera did not give evidence.

Q. How did you get acquitted?

A. The case against me was that I assaulted James Perera. The case was against myself, my brother and father for assaulting James Perera. That is recently. My father was bound over and myself and my brother were acquitted.

30

Q. Was it in that case that James Perera was bound over? A. Yes.

Q. You said there were three other cases pending against you? A. Yes.

Q. What are the three cases?

A. Two Assaults cases and one for mischief - throwing stones at a house.

Q. Who filed the cases?

A. Piyadasa, Haramanis and Peter.

Q. Why did you say that the accused filed several cases against you?

40

A. Before this incident there was no complaint

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Re-examination
continued

against me. After this incident all these things happened.

To Tribunal:

Q. You say that the Headman set these people up? A. Yes.

Q. Was the Headman a witness in those cases? A. No.

Q. It was suggested to you that on the night prior to the day of the incident you went to the accused and asked him to settle this case on payment of Rs.35/-
A. Yes.

10

Q. You denied that?
A. Yes. I deny that.

Q. It was suggested to you that on the following day the money that was given to the accused was not a bribe, but compensation for James Perera? A. I cannot understand.

To Tribunal:

Q. You gave a bundle of notes. That was the promise made. That is the suggestion?
A. I deny that.

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Q. The complaint against you was filed by a Police Constable? A. Yes.

Q. It was also suggested to you in cross-examination that there was a suggestion of a settlement of your case on a previous day?
A. Yes.

Q. Was there any such suggestion? A. No.

Q. If you wanted to settle the case would you have mentioned it to the President?
A. Yes.

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Q. That you were willing to pay Rs.35/- as damages? A. Yes.

Q. Even after this incident the case in which you, your father and Suddappu were charged, you did not offer to settle that case?
 A. No.

Before the
 Bribery
 Tribunal

Q. The case went to trial? A. Yes.

Prosecution
 Evidence

Q. And all of you were acquitted? A. Yes.

No.5

Ranasinghege
 Karunasada
 7th August
 1961
 Re-examination
 continued

NO.6

No.6

B.B. ABEYRATNE

B.B.Abeyratne
 7th August
 1961
 Examination

10 B.B. ABEYRATNE: Affirmed, P.C.47267, Bribery
 Commissioner's Office, Colombo.

20 I am attached to the Bribery Commissioner's
 Department since 1.4.59. I remember July last
 year. I remember the 12th of July. On that
 day I received instructions from my superior
 officer. On the 9th morning I was asked to
 meet Inspectors Fernando and Wijesuriya on the
 12th at the Fort Railway Station at 6.30 a.m.
 We were to go on a raid. At that time I was
 not told the place. I waited at the Fort Rail-
 way Station as instructed at 6.30 a.m. P.C.
 Jayalath also was with me. The inspectors met
 us. They were there when we went. We saw the
 car and went up. Inspectors Fernando and
 Wijesuriya and the driver were there. We got
 into the car and went to Maligakanda, Maradana
 to pick S.I. Arasu. We picked him up and
 went to the junction of the high level road and
 the Hanwella Road. Inspector Fernando showed
 30 the complainant to me and asked me to bring him
 up and the car proceeded a short distance. The
 complainant was in the boutique close to the
 junction. I spoke to him. That was the last
 witness. I came along with him to the car. He

Before the
Bribery
Tribunal

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Evidence

No.6
B.B.Abeyratne
7th August
1961
Examination
continued

and I got into the car and all of us went along the Labugama Road. The car proceeded a short distance and halted. After that Inspector Fernando asked the complainant to take out whatever he had. His purse was handed over to Inspector Fernando. Inspector Fernando kept the purse with him. He searched the complainant. Nothing was with the complainant. The purse contained Rs.25/65. He gave the complainant the -/65 cts. and the purse asking to keep it. He retained with him the Rs.25/-. Inspector Fernando took Rs.50/- from a file and compared the numbers of the notes with those he had noted in the file and give it to the complainant saying that that was the bribe to be given to the accused and asked him to keep that with him. Complainant kept the money in his inner coat pocket. Complainant was asked to speak to the headman and to tell him to save him from the case and Jayalath and I were asked to listen to the conversation and see what was happening. Complainant was asked not to force the money on the accused. Jayalath was asked to give a signal by wiping his face with his handkerchief if the money was accepted. We were asked to say that we were working in the Homagama Branch of the C.T.B. After those instructions we got into the car and went close to the Homagama Police Station. Jayalath, complainant and I were asked to get down. The car was halted there. The three of us came to the Hanwella Junction and took tea in a boutique. After we had our tea we came to the road. Then we saw the car halted at the Junction. Three of us went to the Rural Courts. We went there at about 9.05 a.m. When we got to the Rural Court premises we stayed in the witness shed. There were short walls and we were seated there, as the headman had not come. The headman came about 15 to 20 minutes later and he was pointed out to us by the complainant, as the accused was entering the Rural Court premises. Complainant went up and went up to the accused. We also went, Complainant asked the headman to save him and see that he was not punished. I heard it. While talking the accused went towards the lavatory behind the Rural Court. A little later he returned. Then the complainant said that the money was brought and attempted to take the money out of his coat pocket. He took

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out the purse from the pocket. Accused said "Later, Later". Accused started to talk to some people there. We informed Inspector Fernando who was in charge of the case. All three of us went up to the car and passing it asked Inspector Fernando to come towards the Rest House Road, because otherwise we could be seen to the Rural Court. Jayalath spoke to Inspector Fernando and said that the money was offered and the accused agreed to accept it, and said "Later, later". Inspector Fernando asked us to go till the case was over. As we neared the Court House Jayalath said that there was a Police Officer known to him and he said he would go to Inspector Fernando and asked me to stay with the complainant. He and I entered the Rural Court and stayed there for a short while. The accused came to us. He was talking to some people. The accused came from outside the Court house. At that spot the complainant, accused and I were there. Complainant again told the accused "Please save me without a conviction in the case" and gave the money that he took to the accused. The accused took the money and kept it inside his "Lankadeepi" newspaper and kept it in his hand. The accused said that he had done something for the case to be taken up by the Additional President and that there he could see the case was settled.

Complainant, accused and I got out of the Court house.

To Tribunal:

After Jayalath left I did not see him. When I looked I saw S.I. Arasu and gave the signal by wiping the face with the handkerchief.

Inspector Arasu saw it and went towards the rest house. The accused got into the compound. I also got down and went behind. Then this accused went up to the Police Inspector who was there. He was wearing a uniform. The Police Inspector was in the compound as one enters the Courts on the right hand side. I was near by about 10 ft. away. After the accused went to the Inspector in uniform he spoke something. I did not hear what he said. After speaking he

Before the
Bribery
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No.6

B.B.Abeyratne
7th August
1961
Examination
continued

Before the
Bribery
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Prosecution
Evidence

No.6

B.B.Abeyratne
7th August
1961
Examination
continued

came. When he was coming towards me another person spoke to the accused. At the time Karunadasa went towards the road. Then the accused was spoken to by someone else and the accused went and spoke to him. Then Inspector Fernando, Inspector Wijesuriya, S.I. Arasu and Constable Jayalath came to the courts and Inspector Fernando disclosed his identity to the accused saying he was an officer from the Bribery Commissioner's Department.

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At this stage the Tribunal adjourns for the day.

Further hearing at 9.30 a.m. on 8.8.61.

Sgd/: A.E.Christoffelsz.
President.

No.7

Proceedings
8th and 19th
August 1961

NO.7

PROCEEDINGS

Dutch Burgher Union Hall,
Reid Avenue,
Bambalapitiya.

20

No: 35/I/172/60

3. 8. 61.

9.30 a.m.

Present: All Members of the Tribunal.

Counsel for accused present.

Accused present.

Mr.J.Y.D. de Silva, Acting Secretary,
Bribery Tribunals.

The Secretary informs the Tribunal that the Senior Legal Officer, Mr.E.H.C. Jayatilleke, is ill. The Tribunal postpones the hearing of the case for the following dates:-

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19. 8. 61 at 9 a.m.

23. 8. 61 at 9.30 a.m. and

25. 8. 61 at 9 a.m.

Tribunal adjourns at 9.40 a.m.

Sgd/: A.E.Christoffelsz.
President.

Dutch Burgher Union Hall, No.35/I/172/60.
Bambalapitiya,
19.8.61 - 9 a.m.

Before the
Bribery
Tribunal

Trial Continued

All Members of the Tribunal present.

Prosecution
Evidence

Same appearances as before.

No.8

Accused present.

Mr.J.Y.D. de Silva, Actg.Secy., Bribery
Tribunals - pt.

B.B.Abeyratne
19th August
1961
Examination
continued

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NO.8

B.B. ABEYRATNE

B.B.Abeyratne: Recalled, affirmed.

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Inspector Fernando disclosed his identity to the accused after coming to the Court House. He said there is an allegation that the accused took a bribe of Rs.50/- and Inspector Fernando wanted to search the accused. The accused was not able to answer the question. He was muttering and walking up and down. Accused said that he wanted to speak to the Padukka Inspector of Police, who was in the premises. Inspector Fernando asked a person who was there to call the Padukka Inspector of Police. He came, Mr. Fernando informed him that the accused had taken a bribe of Rs.50/- to help a man out of a case and that he wanted to search the accused. He did not allow. The Inspector of Police, Padukka asked the accused to allow the C.I.D. to do their job. Inspector Fernando then searched the accused. He did not find anything on him. Then he took the newspaper the accused had and found the money inside it. The accused had the newspaper in his hand. It was a "Lankadeepa" paper. The money was inside it. Inspector Fernando took the money and compared the numbers of the notes along with the numbers noted in the file to be seen by the Padukka Inspector of Police, the accused and others. The accused said the numbers were correct. Inspector Fernando addressed the people who had collected there and asked if there was anyone who saw the

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Before the
Bribery
Tribunal

Prosecution
Evidence

No.8

B.B.Abeyratne
19th August
1961
Examination
continued

Cross-
examination

acceptance of the bribe to come forward. No one came. Then the accused was taken to the Hanwella Police Station. The complainant was asked to remain in the Court House with Jayalath as the accused had a case. Only we left the court premises. The court had not started. At the Hanwella Police Station Inspector Fernando recorded the statement of the accused. My statement was also recorded. Karunadasa was also sent for and his statement was recorded. 10

XXD.

When I left for Hanwella on the 12th morning I knew that we were going for a raid. At that time I did not know regarding whom it was. Mr. Fernando did not tell me. I did not know who the complainant was. I had seen Karunadasa before that. It was in our office. I had not spoken to him. I did not ask him why he came. He had not told me anything about the bribe. When I saw Karunadasa in the office I cannot remember whether Jayalath was present. After having come to Hanwella we picked up Karunadasa and went up the Labugama road. I was present right through after that with Karunadasa. Karunadasa was to speak to the accused, pay him the bribe of Rs.50/- to help him in the case and if he was willing to help him to pay the Rs.50/- and ask him to speak everything to be heard by us. He was asked to speak to the accused and tell him to settle the case without getting him a conviction. These were the expressions used by Inspector Fernando. He did not ask the complainant to tell anything more. Jayalath was also present. 20

Q. Did Inspector Fernando ask the complainant to say that he had brought the money at Labugama? A. Yes.

Q. What Inspector Fernando asked him to tell the accused was "Ralahamy I have brought the money, same me out of the case without a punishment"? 30

A. I have brought the money same me without a conviction. 40

There was no talk of a settlement. All three of us went to the Rural Court premises. We went to the witness-shed. There was no one besides us

in the witness-shed. In the compound there were about 10 or 15 people. I cannot remember how many were there in the court house itself. I cannot remember whether there were any people or not. We went there at about 9.05 a.m. I do not know at what time court sits. The court did not start when I was there. We left the court house at about 9.55 a.m. I think. I did not look at the time. I am guessing the time. I had a watch but I did not look at it. About 15 minutes later the accused came. Before that people had started coming in. I cannot remember how many people had come by the time the accused came. A number of people came. The accused came alone. The accused did not come to the witness-shed. He went towards the court-house. Complainant Karunadasa got up from the place where we were and went up to the accused. He walked a distance of about 15 to 20 steps. Jayalath and I went along with the complainant. We were close to them when the complainant spoke to the accused, because it was my function to listen to everything that Karunadasa spoke. Karunadasa told the accused "somehow or other save me without a conviction". He did not tell anything more. That was all that he said. I would not change that. The first time Karunadasa met the accused he did not tell the accused that he had brought the money. Karunadasa said "please save me without a punishment". So, I knew at once that it was a reference to the bribe. The accused then said "you need not be frightened about it, I will get it done". Whilst saying so the accused went towards the lavatory. Accused did not ask Karunadasa whether he had brought the money. In that conversation there was no reference to money by either party. That was all the talk until the accused went to the lavatory. Karunadasa asked the accused "Ralahamy are you coming only now", and nothing else.

Q. If Karunadasa states that he stated nothing about a bribe when he first met the accused, would it be correct?

A. It is false.

When Karunadasa first met the accused there were people at a distance, here and there. I cannot

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19th August
1961
Cross-
examination
continued

Before the
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Evidence

No.8

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19th August
1961

Cross-
examination
continued

say whether they heard their conversation. They spoke in the normal way. There was no secrecy or privacy. The lavatory in the Hanwella court is behind the court house and towards the river. The lavatory is not visible from where Karunadasa spoke to the accused and it is not visible from the front of the court house. The accused did not call Karunadasa to go along with him towards the lavatory. The accused could have taken the money near the lavatory without anybody having seen the transaction, but he did not call him.

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To Tribunal: The accused did not say he was going to the lavatory. He simply went. We also went half way. We stopped. We could see the lavatory from the second position.

We stopped there when he was going to the lavatory. A little later the accused returned. We stood there where we had stopped. There were no people there. As one faces the court it was on the right and half way of the building. The accused came up to the place where we were. Karunadasa said "Ralahamy, I have brought the money" and pulled out the purse. Then the accused said "later, later" and came up. He did not make an attempt to take it. At that time there were no people present, Karunadasa, Jayalath and I went up to the place where Inspector Fernando was. After the accused said "Later, later" he went up to some people and began to speak to them. By saying "later, later" I understood that the accused had the intention of accepting the money. I thought that the raid was going to be successful. As the accused said "later, later" we did not know how long it will take. So, we went to inform Inspector Fernando. He did not ask us to return after a certain length of time. We were asked to accompany the complainant and if the money was accepted to listen to the conversation. We went back to Inspector Fernando as at that time we thought it will take some time. We thought it will take place at 2 or 3 p.m. So we went to him. We did not know at what time he will take the money. It may have been even in the evening. As he said "later, later" I did

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not know when it would be taken. It was Jayalath who spoke to the Inspector after we went. He told Inspector Fernando that the accused agreed to accept the money. He told him that he said "later, later". He also told him that the accused had agreed to accept the money. Jayalath told Inspector Fernando that when the money was to be given accused said "later, later" and he did not know at what time he will take the money. Inspector Fernando asked us to go back and wait till the cases were over. He did not ask us to wait till 2 p.m. or 3 p.m. When we entered the court house Jayalath said that there was a Police Officer known to him and he said he would inform Inspector Fernando about it and asked me to stay with the complainant. Jayalath did not come back. Jayalath was not present when the money was to be given to the accused by the complainant.

20 Jayalath and I were to pass off as friends. We were to pass off as two mechanics working in the C.T.B. We were to be referred to in two names. I cannot remember the names. It was not necessary for me to remember the name under which I was to go. Nor can I remember the name under which Jayalath was to go. I am sure that we were to go under some names. I did not know whom Jayalath was referring to as a Police Officer known to him. There were

30 several Police Officers. There were several Inspectors and constables, in uniform. They were in the compound. There was no one in the Court House. It was at about 9.40 a.m. At that time there were many people. There were no people inside the court house, not a single person. Karunadasa and I entered the Court House. After Karunadasa and I entered the court house and after I sat on the short wall and Karunadasa stood by me, the accused came

40 up to us. I was dressed up in a pair of Khaki longs and a white shirt. Jayalath did not enter with us. Accused came up to us from the front compound of the Court house. It is not correct to say that he came up to us after being seated inside the court house. We were the only three in the court house. It is not correct to say that there were many people around us. The court house consists of two sections - the court house and a verandah with a half wall. I was seated on the short wall

50 of the verandah. Karunadasa was by me. When

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Evidence

No.8

B.B.Abeyratne
19th August
1961
Cross-
examination
continued

Before the
Bribery
Tribunal

Prosecution
Evidence

No.8

B.B.Abeyratne
19th August
1961
Cross-
examination
continued

the accused came up to us, Karunadasa said "Ralahamy, please save me without a punishment in this case." The accused said that he had made arrangements to take the case to the Additional Court. Then the complainant handed the money to the accused. There was no other conversation before the money was given. The accused asked Karunadasa who I was. He said that I was a person from the workshop. The accused said that he knew that if the complainant was punished in the case he would lose his job. Therefore, he would do something to save him and that he had arranged to take the case to the Additional Court. The accused said "I have made arrangements to take the case to the Additional Court and that he could get something done there. The accused said the Additional President would listen to him and would do whatever he told him. That was before the money was paid. After the money was accepted the accused said that if the complainant was convicted he would lose the job in the Government. So saying he kept the money in the fold of the paper. The accused did not get an opportunity of asking the accused who Jayalath was. As soon as the money was accepted the accused got out of the Court House. We also got out.

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To Tribunal: There was no one else when the money was accepted, we were the only two besides the accused.

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Q. Would you be surprised that Karunadasa spoke nothing regarding the accused taking the case to the Additional Court?

A. I am sure of the accused having said all that.

10.10 a.m.

B.B.Abeyratne

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XXD continued

Q. According to Karunadasa, at this time when the money was paid there were a number of people present in the court-house. That

is not true. A. No.

Q. So that immediately the money was paid it was put inside the fold of the paper which the accused had? A. Yes.

Q. Then I suppose you were watching the accused very closely? A. Yes.

Q. To see what he was doing with this money? A. Yes.

10 Q. Did the accused put the money anywhere else - inside the pocket or somewhere else? A. No.

Q. The accused certainly did not count the money? A. No.

Q. Nor did Karunadasa count the money before giving it? A. No.

Q. The money after it was given to the accused was in the fold of the paper what was in the hand of the accused? A. Yes.

20 Q. You followed the accused into the compound? A. Yes.

Q. You did not see the accused either putting the money into the pocket or anywhere else? A. No.

Q. At the time that Inspector Fernando came you knew that the money was in the fold of that paper? A. Yes.

Q. As soon as Inspector Fernando came I take it you told him "Sir, the money is in the fold of that paper"? A. I did not say.

30 Q. As a matter of fact you put Inspector Fernando to all the bother of having to search the accused's pockets and inside the coat? A. Yes.

Q. So much so that Inspector Fernando had to appeal to the Inspector of Padukka to persuade to allow himself to be searched? A. Yes.

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No.8

B.B.Abeyratne
19th August
1961
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examination
continued

Before the
Bribery
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TO TRIBUNAL

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Evidence

No.8

B.B.Abeyratne
19th August
1961
Cross-
examination
continued

- Q. You did not even give a sign to say that the money was there? A. No.
- Q. You did not tell the Inspector "What is the use of a search? The money is in the paper"?
- A. No. At that time I was pretending to be an outsider.
- Q. The whole thing was over. What further part were you to take? 10
- A. I knew that when an Inspector comes to search that person will be searched thoroughly and the money will be found.
- Q. Why all this formality and show of searching this man?
- A. Even on other days on other raids the accused are searched and then the money is found.
- Q. Is it not the practice in any raid for the officer who witnesses to say "Sir, the money is there"? 20
- A. Sometimes we do that. On other occasions we do not.
- Q. I put it to you that that is the invariable practice? A. No.
- Q. I put it to you that there was no search or attempt to search because as Inspector Fernando and others came he said "Here is the money. There is no necessity to search me"?
- A. No.
- Q. You said that that other Inspector who was called by Inspector Fernando came up? 30
- A. Yes.
- Q. Did the accused tell that Inspector anything?
- A. No.
- Q. Didn't the accused tell the Inspector "Sir, this money was paid for the settlement of that case. Now they are alleging that it is a bribe"? A. No.
- Q. On the contrary the accused mumbled something which you could not hear? A. Yes. 40

- | | | | |
|----|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------|-------------------------------------------|
| | Q. You said the accused continued to walk up and down? | A. He was turning round. | Before the
Bribery
Tribunal |
| | Q. Did he walk up and down? | A. He was turn-round. He was not walking up and down. | -----
Prosecution
Evidence
----- |
| | Q. So that it is false to say that he walked up and down? | A. It is not correct. | No.8 |
| | Q. Why did you say earlier in your evidence? | A. I did not say. | B.B.Abeyratne
19th August
1961 |
| 10 | Q. I put it to you that it is utterly false to say that this accused walked up and down or turned ? | A. (Witness demonstrates) He was excited. | Cross-
examination
continued |
| | Q. How far was Inspector Fernando from the accused? | A. About 2 or 3 ft. | |
| | Q. Was the accused at that time facing the direction in which the other Inspector was? | A. He turned in that direction also. | |
| | Q. Whom was he addressing as "Sir, Sir"? | A. I thought he was trying to tell something to the Padukka Inspector. | |
| 20 | Q. When he said "Sir, Sir" the Padukka Inspector walked up? | A. Yes, he came towards the accused. | |
| | Q. Did the accused say something to that Inspector? | A. No. | |
| | Q. Although he was trying to address that Inspector and trying to draw his attention? | A. He was not able to say anything. | |
| 30 | Q. Are you aware that there was no additional Magistrate or President, sitting in that Court on that day? | A. I do not know. | |
| | Q. You said that later you went to the place to bring complainant Karunadasa that day? | A. I did not say. | |
| | Q. After you left with the accused to Hanwella you did not come to the Rural Court? | A. I came in the evening. | |

Before the
Bribery
Tribunal

Q. You are not in a position to say whether there was an additional President sitting on that day or not? A. I do not know.

Prosecution
Evidence

Q. Your position is that when the money was paid the President was not sitting. The Court had not started? A. No.

No.8

Q. According to your story you, the accused, and Karunadasa were the only people in the court-house building at that time the money was given? A. Yes.

B.B.Abeyratne
19th August
1961
Cross-
examination
continued

RE-XD

Q. Prior to the date of this incident did you know this accused? A. No.

Re-examination.

Q. Have you ever spoken to him before that? A. No.

Q. Is there any reason why you should give false evidence against him? A. No.

The evidence is read over and interpreted to the witness and the same is admitted by him to be correct, subject to the alterations made in ink.

Sgd/ Illegibly
President.

No.9

NO.9

G.E.Perera
19th August
1961
Examination

G.E.PERERA

G. E. PERERA: Sworn. Inspector of Police,
Padukka.

I have been the Officer-in-Charge of the Padukka Police since 1st January, 1959. I know the village known as Dampe. It comes within my area. I know the accused. He is the Village Headman of Dampe. I have known him since 1959. Complaints filed by the Padukka Police in respect of rural court offences are filed in the Hanwella Rural Court. In July last year the President of the Rural Court of Hanwella was Mr. Samarakkody. There was an Additional

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President. He is Mr. Alwis. They sat in different rooms on the same day. I remember the day of this incident. I cannot remember the date. On the day of this incident I went to the rural court of Hanwella. I went at about 8.30 in the morning. Court start at 10 a.m. I was dressed in uniform at the time. I had some cases. I went there by car. On that day I remember I met this accused. I met him about 10 or 15 minutes after I went. I met him near the car in the compound. He spoke to me. He said that there was a case in the Courts, that a gentleman was sick and he wanted to go in a hurry. Having told that he went towards the Courthouse. I was there near the car. He did not tell me what his case was.

Before the
Bribery
Tribunal

Prosecution
Evidence

No.9

G.E.Perera
19th August
1961
Examination
continued

10

Q. Do you know whether the Hanwella Police had any cases that day in the Rural Court?

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A. I do not think. I cannot remember.

Q. Who leads evidence in complaints filed by the Padukka Police?

A. There is a separate Police Constable allotted for court work in the Rural Court.

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There is a Police Constable. He is P.C.2842 Karunapala attached to the Padukka Police. He is the Constable who attends to court work. I saw him at the Rural Court that day. After the accused spoke to me he went towards the Courts and I was by the car. After some time somebody called me out addressing me as "Sir, Sir". That was from the direction of the courthouse. I looked in that direction and I saw the Headman (accused). He had a newspaper in his hand and he was waving and he called me. He was waving it and calling out "Sir, Sir". Then there was somebody else. He came and said that I was wanted. I cannot actually remember. I went up. Then there were C.I.D. Officers and they told me that he had accepted a bribe and the Headman told me that there was some money in the paper and I told him to allow the C.I.D. Officers to do their duty. I went up to where the accused was. I saw the accused and some other gentlemen whom I later knew as C.I.D. Officers. The gentlemen were Inspector Fernando, Inspector Wijesuriya and

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Before the
Bribery
Tribunal

Prosecution
Evidence

No.9

G.E.Perera
19th August
1961
Examination
continued

Constables Jayalath and Abeyratne. I went up to the place. The C.I.D. Officer spoke to me. I think Inspector Fernando spoke to me. They revealed their identity and said they were from the C.I.D. and that the Headman had accepted a bribe and that the Headman was protesting against a search. Then I told the Headman to allow the C.I.D. people to do their duty.

Q. You told that Inspector Fernando told you that the accused had accepted a bribe?

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A. Yes.

Q. Was the accused also present at that time?

A. Yes.

Q. When Inspector Fernando made that allegation of a bribe did the accused say anything to you? A. I cannot remember.

Inspector Fernando further told me that he was protesting. I told him (accused) to allow Inspector Fernando to do his duty. By that I meant to allow him to search his person. Then the accused was searched. I was present. The accused's person was searched. Then Inspector Fernando recovered some money from the newspaper the accused had in his hand. If I remember correct first he searched the person and then the newspaper. I was present when the accused's newspaper was searched. He took the notes and compared the numbers with the entries in the file. Thereafter he took the Headman away. After he compared the numbers he showed the numbers to the Headman and they tallied. Thereafter he took the Headman to the Hanwella Police Station. I remember subsequently on the same day my statement was recorded by Inspector Fernando.

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Cross-
examination

XXD:

Q. From the time you went to Padukka you said you knew him?

A. Yes. There has been nothing against that Headman. I knew that the Headman had come in connection with a case which had been filed by the Police. There were two cases filed by the Police. P.C. Karunapala had filed the cases. I was not personally aware

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that those two cases were going to be settled. When I was there outside the car in front of the courthouse I heard somebody shouting out "sir, Sir".

Before the
Bribery
Tribunal

TO TRIBUNAL

Prosecution
Evidence

Q. How far away were you from the accused when you heard "Sir, Sir"? A. About 10 yards away. Up to about that wall (Witness points out).

No.9

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Q. There was a crowd of people - litigants and witnesses who had come there? A. Yes. There was a crowd of people.

G.E.Perera
19th August
1961
Cross-
examination
continued

In the courthouse also there were people. The accused was waving a paper in my direction saying "Sir, Sir". He was calling out to me.

Q. At that time he was surrounded by a number of people?
A. All the C.I.D.Officers were there.

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Q. You did not know at that time, but there were a number of people at that time?
A. I am not certain. There were about 2 or 3 people.

The accused was looking in my direction and shouting out "Sir, Sir". Then I went up. Inspector Fernando whom I came to know later told me that this accused had accepted a bribe. He first revealed his identity. I said I cannot remember what he said.

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Q. It may be that the accused said that the money was paid for the settlement of a case? A. I cannot remember.

Q. It may be that he said that the money was paid for the settlement of the case?
A. I cannot remember.

Q. You cannot now recollect what the accused said, but certainly the accused did say something? A. Yes.

Before the
Bribery
Tribunal

Prosecution
Evidence

No.9

G.E.Perera
19th August
1961
Cross-
examination
continued

TO TRIBUNAL

- Q. In your statement to the Police did you say that?
- A. I am sure the accused said something. I cannot say what he said. May I look at the statement? (Witness is shown his statement to the Police) There is nothing on record as to what he said. Inspector Fernando recorded the statement. He is the Officer-in-Charge of the raid. 10
- Q. If the accused said that the money was given for the settlement what is the necessity for a search?
- A. There is no necessity.
- Q. Who found the money from the paper?
- A. Inspector Fernando.
- Q. The accused did not say "Here is the money"? Did the accused point out the money? A. The accused pointed out.
- Q. Was it after the search or did he wait till the search was over? 20
- A. He was being searched when he pointed out.
- Q. Was the money found by Inspector Fernando as a result of his search or was it found when the accused said "Here is the money" Did the accused say "Here is the money" and give the newspaper or did he allow himself to be searched and later say "Here is the money"? 30
- A. I think he was searched first and the money was not found on his person.
- Q. Who found the money in the paper?
- A. Inspector Fernando.
- Q. Before that did the accused say "Here is the money"? A. Yes.
- Q. Which was first? Was the money found by the Police Officers first or did the accused say "Here is the money inside the paper" Which happened first? 40
- A. I cannot exactly remember.

Q. You remember the accused was being searched
Inspector Fernando began to search the
accused? A. Yes.

Before the
Bribery
Tribunal

Q. Then the accused said "There is no need for
you to search. Here is the money" As a
result of the accused saying "Here is the
money" Inspector Fernando found the money?

Prosecution
Evidence

A. I cannot say.

No.9

10 Q. You said earlier that the accused said "Here
is the money". You remember the accused
saying that?

G.E.Perera
19th August
1961

A. That is when he was being searched. I
think Inspector Fernando found the money in
the paper. The first thing was he was
searched.

Cross-
examination
continued

TO TRIBUNAL

20 Q. If you say that Inspector Fernando found
the money then he must have searched his
person and eventually searched the paper
that he had in his hand and found the
money? A. Yes.

Q. There is no question of the money having
been tendered by the accused and saying
"Here is the money"? A. Yes.

Q. Did he voluntarily say "Here is the money"
or did Inspector Fernando find the money?

30 A. According to the statement I have made I
have said "Inspector Fernando took it and
unfolded it once and found some Rs.10/-
folded".

Q. Before that have you made a note to say that
the Inspector took the paper from the
accused's hand or the accused gave the paper?

A. There was no note.

Q. Now you try to remember. You are an inde-
pendent officer who was outside and came
accidentally. You remember in answer to
the Tribunal you said that the accused said
"Here is the money" and showed the money.
You said that?

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A. I cannot exactly remember.

Q. Do you have a recollection? A. The Village

Before the
Bribery
Tribunal

Prosecution
Evidence

No.9

G.E.Perera
19th August
1961

Cross-
examination
continued

Headman said something. I cannot remember.
Inspector Fernando took the paper.

Q. Your saying that the Inspector took the paper may have been as a result of the accused handing the paper. Inspector Fernando may have taken the paper into his hand as a result of the accused saying "Here is the money" and giving the paper. You won't admit that possibility? A. (No answer).

TO TRIBUNAL

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Q. Before he was searched he had the opportunity of saying "Here is the money"?
A. Yes.

Q. Inspector Fernando had not finished the search. He began to search when he found the money? A. He searched.

Q. Nobody said "Here the money is in the paper"?
A. Not to my recollection.

Q. Nor have you any note of that to say that somebody said "The money is inside the paper"? A. No.

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TO TRIBUNAL

Q. Can you remember as to who spoke to you first - whether it was the accused or one of the Police Officers?
A. One of the Police Officers - Inspector Fernando I think.

Q. The accused had not spoken to you before that? A. No.

Q. I think you said "Allow yourself to be searched"? A. Yes.

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Q. At that stage the accused could have tendered the money from the newspaper?
A. Yes.

Q. When you told the accused "Allow yourself to be searched" earlier didn't he sayd "I have got this money for some settlement. These people want to search me"? A. No.

Q. When they attempted to search you remember he said something?

A. Yes. I cannot remember now.

Before the
Bribery
Tribunal

Q. It was after he said that that the accused showed the paper to Inspector Fernando?

A. It had been found.

Prosecution
Evidence

Q. Could it not have been found after he had shown the paper to the Inspector?

A. It may have been. I cannot remember.

No.9

G.E.Perera
19th August
1961

Cross-
examination
continued

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RE-XD.

I made my statement to Inspector Fernando on the same day. That was on the 12th of July, 1960. The incident was in the morning. Somewhere in the evening my statement was recorded. When I made my statement the facts were fresh in my mind. I have now refreshed my memory by reference to my statement.

Re-examination

Q. By refreshing your memory can you say anything there to show that the accused showed the newspaper to Inspector Fernando?

A. No.

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Q. The newspaper was in the accused's hands?

A. I saw it myself.

Q. Inspector Fernando also could have seen it?

A. Yes.

Q. There was no need to show it? A. Yes.

Q. Having refreshed your memory you say Inspector Fernando searched him? A. Yes.

Q. Was the accused dressed in coat or dressed as he is now?

A. I think he was dressed in a coat and Inspector Fernando searched his pockets.

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Q. The next thing was that he took the newspaper which was in his hand? A. Yes.

Q. Inspector Fernando took the paper?

A. Yes.

Q. What happened to the newspaper?

Before the
Bribery
Tribunal

Prosecution
Evidence

No.9

G.E.Perera
19th August
1961
Re-
examination
continued

- A. He unfolded it and the notes were found there.
- Q. As a result of refreshing your memory and by refreshing your memory can you say whether the accused said anything before Inspector Fernando found the money in the newspaper?
- A. There is nothing in the statement I have made.

TO TRIBUNAL

- Q. Apparently the pockets of the accused were searched? 10
- A. Yes. Nothing was found there. Then they came to the newspaper.
- Q. While the accused was searched the accused had a newspaper in his hand? A. Yes.

The evidence is read over to the witness and the same is admitted by him to be correct, subject to the alterations made in ink.

Sgd/Illegibly.

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No.10

G. Karunapala
19th August
1961
Examination

NO.10

G.KARUNAPALA

G. KARUNAPALA: AFFIRMED.

Police Constable 2842, Padukka.

In March last year too I was attached to the Padukka Police. I was in charge of prosecutions at the Rural Court of Hanwella in respect of the Padukka Police. I attend court in regard to those cases. (Shown P2 - certified copy of case No.10309 of the Rural Court of Hanwella) This is a plaint filed by me on the 7th of March, 1960, against three persons. One of them was complainant Karunadasa. I reported to court that these three persons had committed mischief by damaging certain articles in the boutique of one G.A.James alias Podi Baas. The case was called on several dates. One of

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the dates on which the case was called was the 7th of June, 1960. (Shown P3 - certified copy of Rural Court case No.10310) This plaint too had been filed by me against one G.A.James Perera alias Podi Baas. This case is a connected case and G.A.James Perera who is accused in P3 is the G.A.James Perera referred to in P2. R.Podu Appu the injured man in P3 was the 2nd accused in P2. P3 was filed on the same day, 7th March, 1960, and P3 was called on the same day on which P2 was called. In case P3 the Village Headman of Dampe is a witness for the accused. The Village Headman of Dampe is this accused. On every day on which these two cases were called in the Rural Court I attended Court. I saw this accused in court.

Before the
Bribery
Tribunal

Prosecution
Evidence

No.10

G. Karunapala
19th August
1961
Examination
continued

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Q. Can you tell us whether there was any suggestion of a settlement of these two cases?
A. Yes.

Q. That is in court? A. Yes.

Q. That is when the case was called? A. Yes.

Q. The President was on the bench? A. Yes.

Q. Which of these cases was going to be settled?

A. First mischief case No.10309. I was in court when the case was called.

Q. What is the settlement you spoke of? Who suggested the settlement?

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A. The President suggested a settlement in the mischief case if the damages were paid.

Q. Was the accused agreeable to that? A. No.

Q. Can you tell us on which of these dates the President suggested a settlement?

A. A day prior to the day that the Village Headman was caught.

Q. The date on which the incident took place was the 12th of July? A. I cannot say.

Q. P2 and P3 were fixed for trial on the 12th of July? A. Yes.

Before the
Bribery
Tribunal

Prosecution
Evidence

No.10

G. Karunapala
19th August
1961
Examination
continued

Q. Prior to that the case was on the 7th June?
A. Yes.

Q. Was it that the settlement was suggested by
the President on the 7th of June?
A. I cannot be definite.

Q. You say it was on a trial date prior to the
last date when the Headman was caught.
A. Yes.

Q. You said the accused in P2 were not willing
to settle the case?

A. The accused were not willing and one of the
accused was absent and the case was there-
fore refixed for trial.

Q. Ultimately case No.10309 - P2 went to trial
in August, 1960?

A. After that I did not go to courts.

Q. In regard to case No.10310 - P3 was there
any suggestion of a settlement? A. Yes.

Q. When was that?

A. Both were on the same day.

Q. Who suggested the settlement?

A. The President himself called both parties
in both cases and suggested a settlement.

Q. Do you know any of the terms on which case
P3 was to be settled? A. No.

Q. As a result of the suggestion made by the
President were the parties in P3 willing
to settle - the case against James Perera?

A. The suggestion was made to both parties.
As they were not willing and as one accused
was absent the case was postponed.

Q. In case No.10310 there was one accused and
he was present? A. Yes.

Q. Every day the case was called? A. Yes.

Q. On a certain day prior to the date of this
incident there was a talk of a settlement
in court? A. Yes.

Q. The parties were not willing? A. Yes.

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- | | | |
|----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|
| | Q. Who is the person who was not willing to settle in case No.10310? | Before the Bribery Tribunal |
| | A. I cannot differentiate. | |
| | Q. In connection with P3 did you cease to attend courts after the 12th of July? | Prosecution Evidence |
| | A. No. | |
| | Q. There were two Presidents sittings in the Rural Court of Hanwella? | No.10 |
| | A. Yes. | |
| | Q. They sit on the same dates. | G. Karunapala |
| | A. Yes. | 19th August |
| 10 | Q. Do you know their names? | 1961 |
| | A. Yes. They are Mr. Milton Samarakody and Mr. Alwis. | Examination continued |
| | Q. In these two cases P2 and P3 did any of them call before Mr. Alwis? | |
| | A. Yes. | |
| | Q. That is case No.10310 - P3? | |
| | A. Yes. | |
| | Q. That was called before Mr. Alwis on the 7th of June, 1960? | |
| | A. Yes. | |
| | Q. P.2 - 10309 had been called before Mr. Samarakody? | |
| | A. I cannot say. | |
| | <u>XXD:</u> | Cross-examination |
| 20 | Both these cases were called on the same dates because they were connected. The permanent President was Mr. Milton Samarakoddy. Mr. Alwis came there occasionally to act as Additional President. On that day on which the settlement was talked about both cases were called before Mr. Alwis. It was Mr. Alwis who suggested the settlement. P2, the case in which Sudappu, Karunadasa and Podiappu, was called before Mr. Alwis. Karunadasa was present that day as an accused. I cannot remember whether Karunadasa was one of the persons who did not agree to the settlement. It may have been his father. Neither of the cases was heard on that day. I am positive about the talk of a settlement in both cases. If Karunadasa says that there was no talk of settlement it is false. Mr. Alwis spoke about the settlements. The Village Headman | |
| 30 | | |

Before the
Bribery
Tribunal

was a witness for the accused, James Perera.
That was in one case.

Prosecution
Evidence

RE-XD. Nil.

No.10

G. Karunapala
19th August
1961
Cross-
examination
continued

No.11

G. Ediriweera
19th August
1961
Examination

NO.11

G. EDIRIWEERA

G. Ediriweera: Affirmed, D.R.O., Agalawatta.

I was D.R.O., Homagama in July 1960. There is a village called Dampe. It fell within my area. The accused was the Village Headman of Dampe. I produce a copy of his letter of appointment marked P4. The accused is paid a salary and he is paid other allowances too and also travelling allowance when he attends court. When he attends court he has no right to accept or solicit money from accused in settling cases.

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XXD. Nil.

No.12

W.P.Fernando
19th August
1961
Examination

NO.12

W.P. FERNANDO

W.P.Fernando: Affirmed, Inspector of Police attached to the Bribery Commissioner's Department.

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I am attached to the Bribery Commissioner's Department as an Authorised Officer under the

Bribery Act. On 9.6.60 witness Karunadasa appeared at the office of the Bribery Commissioner and made a statement. I recorded the statement. After I recorded the statement, I gave him an instruction. He was asked to go and find out what the V.H. says and let me know. Thereafter he appeared again on 7.7.60 and made a further statement to me. I recorded that statement. He was asked to come on the following day, namely, the 8th. He came and I recorded a further statement from him. After that I asked him to meet us at the Hanwella-Avissawella Junction on the High-level road at about 7.30 a.m. on 12.7.60 for a detection. The arrangements made for the detection were -

Before the
Bribery
Tribunal

Prosecution
Evidence

No.12

W.P.Fernando
19th August
1961
Examination
continued

I had to take money from the office and I have obtained Rs.50/- on 11.7.60. They were in the denomination of (five) Rs.10/- notes. I have those notes with me. The numbers on the notes are

L/31 757258

L/47 259854

L/48 849137

L/69 784806

L/70 805406

Shown Five Rs.10/- notes - These were the notes. I produce them marked P5. Having obtained the notes I produced them before the A.S.P. He marked the numbers in the file and gave me the notes. I asked Inspectors Wijesuriya, Arasu and Police Constables Abeyratne and Jayalath to be ready at 6.30 a.m. at the Fort Railway Station on the following morning. They are themselves Authorised Officers. I went to the Fort Railway Station. When I went there Inspector Wijesuriya had come there in the Government car. When I was there the two Police Constables came. From there we went to Maradana to pick up S.I. Arasu. From there we went to Hanwella. At Hanwella I saw the complainant at the junction of the Hanwella - Avissawella Road. I asked P.C. Abeyratne to bring him. We went further up and stopped the car. Abeyratne brought the complainant. We

Before the
Bribery
Tribunal

Prosecution
Evidence

No.12

all went towards Kaluaggala on the Labugama Road. I searched the complainant and found on him Rs. 25/65, in his pocket. I took the Rs.25/- to my possession and gave him the -/65 cents and thereafter I took the money given by the A.SP. and compared the numbers on them with the numbers marked in the file and gave the Rs.50/- to the complainant to be offered to the accused as a bribe.

W.P.Fernando
19th August
1961
Examination
continued

To Tribunal: They were not in an envelope. I asked the complainant to go along with the two Police Constables Abeyratne and Jayalath, who were in civils, to go to the Hanwella courts and talk to the village headman and ask him not to get him a conviction and offer the bribe. If it was accepted Jayalath was asked to give a signal by wiping his face with his handkerchief. The two Police Constables were to act as friends of the complainant who had come from the C.T.B. I asked him to give the bribe at the Court premises. It was close to the Hanwella Police Station, about 1/4th of a mile. We stopped the car about 100 yards away from the Rural Court premises. It was at about 8.45 a.m. We remained there for some time. Then we saw the constables and complainant walking towards the Rural Court from a nearby boutique. As we were waiting there, the two constables and the complainant came and called us towards the Rest House road. We went, and Jayalath said that the Village Headman had come to the Rural Court premises, the complainant had spoken to him and that when the bribe was offered the accused said "later, later". I asked them to go back to the Rural Court and wait there till the cases were over. The three of them left to the Rural Courts and I remained there and then I sent S.I. Arasu to see what was happening. A little later, Jayalath came back to me and said that he was not in a position to be there as there was a Police Officer known to him. At the same time S.I.Arasu came back and said that he received the signal from Abeyratne. We went up in the car, stopped the car near the Rural Court premises and we went towards the Rural Court. I went to the accused and disclosed my identity and explained myself to the accused. The accused tried to avoid me. I asked him for the money. He did not give it. I wanted to search him.

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He tried to push me. He indicated to me that he wanted to speak to the Inspector in the Court premises, I got the Inspector up. I disclosed my identity and told him that I wanted to search the accused. He asked the accused to allow me to do my duty. I searched him. The Inspector was Inspector G.E. Perera of the Padukka Police. I searched for the money. I searched his waist. There was nothing. There was a newspaper. I opened the newspaper and found Rs.50/- inside it. I produce the newspaper marked P6. It was the "Lankadeepa" of 12.7.60. He was folding the newspaper in the way I am demonstrating now. I opened it. I compared the numbers on the notes with numbers noted by the A.S.P. They tallied. I showed this to the accused and the others. Then I took the Village Headman and the production to the Police Station at Hanwella. Karunadasa and Jayalath were asked to stay in the Court premises. Karunadasa had a case there. I recorded the Village Headman's statement and sent him back to the court premises because he was a witness in a case. I recorded a short statement from him. I asked him to come back to record a further statement. I recorded the statement of Police Constable Abeyratne. I also made a note of the observations. The accused came back to the Police Station at about 1.10 p.m. I then recorded his statement in detail. After I recorded his statement I recorded the statement of Karunadasa at 3.30 p.m. At 3.40 p.m. I recorded the statement of P.C.Jayalath. Thereafter I recorded the statement of Inspector G.E. Perera at 5.35 p.m. Earlier Inspector Wijesuriya had recorded the statement of S.I.Arasu at 10.55 a.m. Subsequently, I recorded the statement of P.C.Karunapala.

Before the
 Bribery
 Tribunal

Prosecution
 Evidence

No.12

W.P.Fernando
 19th August
 1961
 Examination
 continued

40 To Tribunal: Before I went up P.C.Abeyratne was standing with the accused in the Court premises. He did not tell me where the money was or that it was inside the newspaper, nor did he give any indication with his eyes.

Before the
Bribery
Tribunal

Prosecution
Evidence

No.12

W.P.Fernando
19th August
1961
Cross-
examination

XXD:

When these people came to the car at the Resthouse Junction all three of them came back from the Rural Court premises. Jayalath alone spoke to me. I cannot remember whether Abeyratne told me anything. I then made a note. I now remember it was Jayalath who spoke to me. I do not think I asked them why they came back. They might have come to inform me that it would take a long time. Soon after they went Jayalath came back. Immediately after that Arasu also came back. Jayalath spoke to me and I went with Wijesuriya, Arasu and the complainant. All four went. There were some people close to the building of the Rural Court. There were about 15 to 20 people, both inside and outside. At that time I did not know who the accused was. I saw Abeyratne. (Witness shows distance where Abeyratne was from the steps of the Rural Court). They were standing. I showed my card and told the accused that I was from the Bribery Commissioner's Department. I asked the accused "where is the money Karunadasa gave you. Give me that money". He muttered something and he did not give me the money. The accused did not say that he could not allow me to search him.

The accused indicated that he wanted to speak to the Inspector of the Padukka Police. It is not true to say that the accused went up to that Inspector and spoke to him in my presence. I saw Abeyratne for the first time about 100 yards away from me. Close to them was this accused. I did not see the accused going to the Inspector of the Padukka Police at that time. The accused did not, at any time, call the Inspector of Padukka. The accused said "Sir, Sir". The Inspector could not hear him. The Inspector was near his car. The Inspector was (points out the distance from where they were). As a result of sending word to the Inspector that Inspector came up to us. I told the Inspector that I was from the Bribery Squad. I do not think the accused spoke to the Inspector of Police, Padukka. I told him that the accused was not allowing me to search him. The Inspector of Police, Padukka asked the accused to allow me to do my duty. Abeyratne was close to us. P.C. Abeyratne could have helped me further. Abeyratne did not tell me that the money was inside the newspaper.

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Q. I put it to you that you did not search the accused. The accused said "here is the money for a

Before the
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Tribunal

Prosecution
Evidence

No.12

W.P.Fernando
19th August
1961
Cross-
examination
continued

Before the
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Tribunal

settlement"?

A. I searched the accused. The accused
did not give me the money.

Prosecution
Evidence

No.12

I cannot give any reason as to why before
searching the pockets I did not search for
the money inside the newspaper. There was
no rule to prevent Abeyratne from telling me
where the money was.

W.P.Fernando
19th August
1961
Cross-
examination
continued

To Tribunal: I met Karunadasa at the
gate on the road.
Karunadasa said he gave
the money.

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The accused did not tell me that the money
was inside the newspaper.

RE-XD. Nil.

Prosecution closed.

Dutch Burgher Union Hall,
Reid Avenue,
Bambalapitiya.

Case No. 35/I.172/60

23rd August, 1961.

TRIAL CONTINUED

PRESENT: All members of the Tribunal.

Same appearances as before.

Mr. J.Y.D. de Silva, Acting Secretary,
Bribery Tribunals.

10 Accused - present.

D E F E N C E

Counsel for the defence calls:

PEDRICK RANASINGHE: AFFIRMED

42 years, Village Headman of Dampe.

Q. At the time of this incident apart from being the Village Headman did you hold any office?

A. No.

Q. Did you hold any other office? A. I was in some societies. I was the President of the Rural Development Society. In the Co-op. Credit Society I was the President. I have been the Headman for five years. From 1956 I was the Headman. I know the complainant Karunadasa. I have known him from his young days. He is from the same village. I knew his father Podi Appu. The complainant also has a brother called Romiel. Chalo Singho is a person related to him as a cousin brother. I knew all these people. Even before I applied to be the Headman these people were not very good with me. They were not well disposed towards me because when I was working in the societies I have got them to pay damages caused by them. This Romiel is an I.R.C. Even before I became Headman there was a case in which I charged Romiel in the Rural Court of Hanwella for causing damage by breaking some

Before the
Bribery
Tribunal

Defence
Evidence

No.13

Pedrick
Ranasinghe
Examination

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Before the
Bribery
Tribunal

Defence
Evidence

No.13

Pedrick
Ranasinghe
Examination
continued

flower pots in my house. The case against Romiel before I became Headman was for abusing me and intimidating me. I produce a certified copy of that case marked D1 - Case No. 6771 of the Rural Court of Hanwella. That case was compounded. When I applied to be the Headman there were two other candidates. They are Dharmasena Kuruppu and R.D. Dharmadasa. Podi Appu, Romiel and other members of the family took part in that. They had sent petitions against me. In spite of that I was selected.

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Q. After you became Headman in 1959 did this Romiel do anything to you? A. That is the case I referred to earlier - coming to my house and breaking flower pots. I made a complaint to the Police. On that complaint Romiel was charged in the Rural Court of Hanwella in Case No. 9733.

The case was decided on the 10th of November, 1959. In that case he gave an undertaking not to commit such offences in the future and paid Rs. 5/- to the Boys Town of Niripola and on that the case was settled. I produce a certified copy of that case marked D2. Apart from these two cases I accompanied the Police when they raided the jungle and Romiel was seized for gambling. Romiel was fined Rs.15/- in that case. I had occasion to do official duty in regard to Karunadasa's father Podi Appu. There were complaints against him saying that his cattle strayed and caused damages to the fields. Causing damage to the field belonging to R. Emis is one such instance. I recovered damages from Podi Appu. In that case I assessed the damages and recovered the damages. I recovered Rs. 25/-. There are other instances. Causing damage to David Perera's rubber plants and cinnamon plants is another. The damage was assessed at Rs.25/- I referred to a cousin of Karunadasa called Chalo Singho. He is also not well disposed towards me. A complaint was made to me that he had molested a woman and he was kept tied when I went. The Police made inquiries. In that case Chalo Singho was bound over for 1½ years in the Magistrate's Court of Avissawella. Karunadasa himself had not made any complaint to me.

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I remember I received a summons to give evidence 50 in the Rural Court of Hanwella for the defence.

Before the
Bribery
Tribunal

Defence
Evidence

No. 13

Pedrick
Ranasinghe
Examination
continued

That was a case in which the accused was one Jamis Perera. The complainant in that case was Podi Appu. I attended court in regard to that case on several dates. I remember the 7th of June, one of the dates in that case. I attended court on that day. At that time I knew that there was a connected case. That is the case in which Suddappuhamy, Podi Appu and Karunadasa were charged. In that case I was not a witness either for the prosecution or the defence.

10 I said I went to court on the 7th of June. On that day the case in which I was a witness, that is the case against Jamis Perera was called. It was in the Additional Court. I also went into the Court. A suggestion was made in that case. James Perera was asked whether he was not willing to pay Rs. 10/- to a charitable institution and compound the case. Then James Perera said that damages had been caused to him by damaging some things in the boutique and if those damages were paid he was prepared to settle.

20 Then when questioned the Police Officer said there was another case. Then the President sent for the record in the other case from the court behind and referred to the case. The names in that case were also called. Podi Appu and others were asked to pay damages and the other accused was asked to pay for charity and settle both cases. Podi Appu refused to pay the damages as suggested by the President. When Podi Appu refused to pay the damages James Perera also said "if he is not willing to pay damages I am not prepared to pay for charity". On that day one of the

30 three accused named Suddappu was not present in court and the case was postponed for 12th July.

Q. Is it true to say that on that day shortly after you met Karunadasa somewhere on the road to Meegoda and said that he should pay Rs.50/- so that he will be acquitted without punishment?

A. I deny.

Q. You say that no such thing happened" A. I deny.

40 Q. The next date of trial for both cases was the 12th of July? A. Yes.

Q. Did Karunadasa meet you before that day? A. Karunadasa met me the previous day. Karunadasa came to my house the previous day.

A. At about what time? A. May be about 8 p.m.

Karunadasa came to my house and told me "Ralahamy, tomorrow is our case. Perera wanted damages.

Before the
Bribery
Tribunal

Defence
Evidence

No. 13

Pedrick
Ranasinghe
Examination
continued

Although father refused to pay damages I am prepared to pay damages and he asked me to arrange to settle the case. Then I told him "I have nothing to do with the case. The complaint had been made to the Police. The case has been filed by the Police. We will have to speak to them. We can talk about that tomorrow there in the courts" and Karunadasa went away. He said "In that case we will do that". The following day I had to attend courts. At that time when Karunadasa came to my house there were 3 or 4 present. They are R.D. Simon, H.V. Fernando, Chandrasoma and Noris Singho. On the following day I set out to go to Courts. I reached the court premises at about 8.30 or 9 a.m. At the time I went there about 75 people were there. I cannot remember whether I saw Karunadasa as I entered the premises.

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Q. It may be possible that Karunadasa met you and said "Ralahamy, did you come now"? A. It may be so.

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After going to the court I went into the building. There is a row of chairs set apart for Headmen and I was seated there. After that I went away. I went to the lavatory just behind the court. I came back from the lavatory and took my seat. When the court was about to start I thought of taking a cup of tea and I got out.

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Q. At that time about how many people were there inside the court and in the outer verandah? A. Under the roof there were about 100. Outside in the compound there may have been about 100 or more.

Q. You said you got up from where you were seated. Were you seated in the outer verandah or in the inner court?

A. I was in the inner hall. I got up and started coming out. As I was getting down the steps Karunadasa from a side spoke to me. He said "Ralahamy". I went up to where he was. In and about that place where Karunadasa was there were about 15 or 20 people. I can remember some of the people whom I saw. They are - Karunadasa's father Podi Appu, Suddappu and Suddappu's wife Podi Nona. James Perera referred to earlier

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was there. He was the complainant. There were several others. When I went to Karunadasa he said "Speak to the parties and see whether they are willing to settle. I have brought the money". I had a copy of the newspaper "Lankadeepa" and I was placing my hand on the short wall. Karunadasa placed that money which was folded on the paper. I said "All right, I will speak to them and see" and was about to go to the Inspector. I folded the paper so that the money may not drop. It was folded. Saying that I would speak to the Inspector I got down. Then 3 or 4 gentlemen surrounded me and said "We have come from the Bribery Commissioner's Department. We want to search you". I have never seen those gentlemen before that. They were complete strangers to me. I did not know whether they were from the Bribery Commissioner's Department or from where they were. Then I said "I am also an Officer" and called to the Inspector. He came. These officers showed some cards and spoke to that Inspector saying that they had come from the Bribery Commissioner's Department. They said something in English. I did not understand what they said. Then the Inspector of Padukka told me to allow those officers to do their duty. Then I said that when Karunadasa told me to settle this case and was speaking about this those gentlemen surrounded me. They started feeling my coat pockets. Then I said "There is no use of searching. Here is the money I have". Then the gentleman took the notes. With the paper they took the money. They opened out and there were five Rs. 10/- notes and he compared the notes with some writing in a piece of paper and he showed the paper to me and took me to the Hanwella Police Station. I made a statement at the Hanwella Police Station. Before that there has been no charge of bribery against me at any time.

Before the
Bribery
Tribunal

Defence
Evidence

No. 13

Pedrick
Ranasinghe
continued

10.10 a.m.

XXD. Popiappu is Karunadasa's father. I have known him from my young days. I knew his son, Romiel from his young days. I knew Chalosingho also. I knew Karunadasa also. There was nothing against Karunadasa. The plaint in DI filed against Romiel was filed in 1951, before I became the Village Headman. The case against Romiel was in 1959. Besides these two cases, prior to July, there was a gambling case against Romiel. That was also in 1959. There were four accused in the gambling case- Romiel, R. Odiris, R. Mathupala and Hamid. Up to the 12th of July 1960 no attempt has been made by these people to implicate me in any case. Earlier they had sent some petitions. The petition was in connection with

Cross-
examination

Before the
Bribery
Tribunal

Defence
Evidence

No. 13

Pedrick
Ranasinghe
Cross-
examination
continued

the Headmanship. Besides that there was no attempt by Chalosingho, Podiappu or Romiel to implicate me in any case. I was a witness for James Perera. That case was against James Perera. James Perera informed me about the damages caused to his boutique. At that time I did not note it in my diary, because I was doing some work at that time. I asked James Perera to wait. He said he wanted to go to the Police and bring a Police Officer because the boutique was still being attacked. He wanted a letter from me. I was filling some forms for Charitable allowances. When James Perera said that the boutique was still being attacked I did not go. It was about 2 or 3 miles away. I gave him a letter to go to the Police. He left. Subsequently, James Perera returned to me after making his complaint to the police. He came at night. I recorded his statement then. The evidence I was going to give in James Perera's case was to say that James Perera came to see me straight. The other party had gone to the Police Station first. To prove that he came to me first and cite me as a witness. That case was called on three occasions prior to 12.7.60 on 11.4.60, 23.5.60 and 7.6.60. I attended court on every one of those days. The two cases were called on every one of those days. The President suggested to settle the cases on 7.6.60. That was the first day. Mr. Alwis was the President. The case against James Perera was called. He was asked to pay Rs. 10/- for charity. He did not like. He said that if damages were paid he would pay Rs.10/- Karunadasa was present on that occasion. Karunadasa may have heard James Perera. Karunadasa heard that the President was in favour of settling the case. The President then inquired what the other case was and sent for it. The President suggested a settlement in that case too. James Perera was willing to settle the case. That was to pay Rs. 10/- for charity and accept Rs. 35/- as his damages. On that occasion Karunadasa's father was not willing to pay it. The President did not ask Karunadasa or Sudappu's wife about the settlement. Suddappu was not present. The President did not question Karunadasa. Karunadasa knew that the President was willing to settle the case. He also knew that James Perera was also willing to pay that. My assistance was then not necessary to settle the case. Normally, cases are settled before the

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President by paying the money in open court. I had no connection in the case in which Karunadasa's father and Suddappu were charged. I was not even a witness. The case was filed by the Padukka Police. Karunadasa came to my place on the night of the 11th of July and asked me to settle the case. He did not tell me that he brought the money. I said we will talk over it there tomorrow. I did not tell him "I am only a witness in the other case. I have nothing to do in this case. Speak to the Police." Karunadasa went home. I went to the court house the following morning. I was seated inside the Court house. I came out to answer a call of nature. On that occasion I did not see Karunadasa when I was going. I saw him when I was returning. He was by the flight of steps in the verandah of the court house. At that time I saw James Perera. On that occasion Karunadasa spoke to me. He said that he had brought the money to be paid as damages. Although I told him the previous night that I had nothing to do he said that he had brought the money. I said "we will do it later as there is time. I told him "why didn't you speak to the Police about this case. I did not say about it earlier because I was not questioned about it. Thereafter, I got back to my place. I went and sat down. Karunadasa did not come up to the place where I was. He was in the verandah. I do not know what he did. Just before starting work I got up to go for a cup of tea. Then Karunadasa called me. I went up to the place where Karunadasa sat. It was in the building. Then he kept the money on the paper.

To Tribunal: Q. Why did you not say "give it to the President"?

A. The President was not there then.

Karunadasa wanted me to get James Perera's consent to settle the case. On the previous occasion James Perera was willing to settle the case. Karunadasa also heard it. The President also suggested it. Karunadasa was very angry with James Perera. It may be because he was angry with him that he wanted me to settle the case for him. I do not know why Karunadasa came to my house to persuade me to do it. I had to pass Karunadasa to go for my cup of tea. I was holding my paper in my hand. I had placed the paper on the short wall. Karunadasa was leaning against the wall. Karunadasa had the money in his hands. He spoke to me and said "here is the money. Find out whether they are willing to settle the case". (Witness demonstrates how the money was kept inside the paper),

Before the
Bribery
Tribunal

Defence
Evidence

No. 13

Pedrick
Ranasinghe
Cross-
examination
continued

Before the
Bribery
Tribunal

I held the money together with the paper. When I saw him placing the money I took it and went saying that I will find out.

Defence
Evidence

To Tribunal: Q. To question whom?

A. The Inspector

No. 13

Pedrick
Ranasinghe
Cross-
examination
continued

Before the money was placed on the paper I had not spoken to anyone. It was only after the money was placed in the paper that I came to speak about the settlement. When Karunadasa placed the money I did not tell him that I had nothing to do. I wanted to question the other party and try to settle. I thought Karunadasa wanted me to speak to the Inspector.

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Q. But why did he give you the money?

A. I did not ask for the money. He gave it. I wanted to speak to the Inspector and see if the Inspector was willing to settle the case. The money was not given to my hand. I heard P.C. Abeyratne's evidence. He said that the money was given to my hand. There is no reason for him to give false evidence. I had the money in fold of the newspaper. When I got out to speak to the Inspector, I am not definite, Karunadasa may have been inside the building. I only got to the compound from the steps. Then two or three gentlemen surrounded me. They said they were from the Bribery Department. They said they wanted to search me for money. They did not say what money. As they said that I said I was going to the Inspector. I said "what money". So saying I wanted to go to the Inspector. They said there is no use of the Inspector here. Then I called the Inspector "Sir, come here". I did not know why I was going to be searched. I did not ask why. I called Inspector Perera who gave evidence. That gentleman came up. One of the Officers showed a card to the Padukka Inspector. I told him that Karunadasa wanted to settle the case and that I wanted to come to speak to him. Then these gentlemen came up to me. They said they were from the Bribery Department. I understood they were trying to search me for a bribe. I did not know from whom they suspected me to have accepted a bribe. They attempted to search me by feeling the side coat pockets. I said "here is the money". The money was still in the fold of the paper. At that time Inspector Perera was also present.

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I did not open the paper. I gave the money with the paper. At that time I told Inspector Perera that I was coming to speak to him about a settlement in Karunadasa's case. These gentlemen arrested me then. I had no other money and when they started feeling me I had no other money at the time. I thought it was this money that they were searching for. I heard Inspector Fernando's evidence. Although, he said that I did not give the money saying "here is the money" I said so. It is not correct to say that he took the paper, opened it and found the money. There is no reason for him to tell lies. He may be saying so to prove his case. Then I was taken to the Police Station where my statement was recorded. In that statement I stated that Karunadasa came the previous night. I gave the names of the four persons. I gave the names of the four persons, W. Fernando, Noris, Simon and Chandrasoma. They are from my village. I did not try to get them up to get their statements recorded. I met them after this incident. I spoke to the four persons. I reminded them about Karunadasa coming the previous night. I did not call them to go to the Police Station to make their statements. I knew that their statements will be valuable. I am a headman. The four of them discussed that this was done by the C.I.D and they wanted to inform the C.I.D. I said there was no harm in that. I did not tell them to inform the C.I.D. I did not consider it necessary to get them to inform the C.I.D. I speak the truth when I say that Karunadasa came to my house the previous night. Before the day of this incident I had met Karunadasa in the village after these cases were filed. I met him near his house. Some days on the road. I have not spoken to him on these occasions. Not until that day. Karunadasa spoke to me on the day of the incident when I was returning from the lavatory. I told him when he asked me to settle the case I said "later".

Before the
Bribery
Tribunal

Defence
Evidence

No. 13

Pedrick
Ranasinghe
Cross-
examination
continued

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Q. I put it to you, you had prior to 12.7.60 asked Karunadasa for Rs.50/-. A. No.

Q. On that morning Karunadasa said that he had brought you that money? A. No.

Q. It was then that you said "later"?

A. I meant we will talk over it later.

It is not a lie to say that Karunadasa placed the money on the paper. It is not correct to say that I took the money into my hands. It was after that that I went to

Before the
Bribery
Tribunal

Defence
Evidence

No. 13
Pedrick
Ranasinghe
Cross-
examination
continued

Re-examination

the Inspector to speak.

Re-xd. The four persons who were there at my house that night when Karunadasa came there, namely, W. Fernando, Noris, Simon and Chandrasoma, sent a letter to the Bribery Commission Office on the following day. I am aware that the C.I.D. recorded their statements on that letter. I heard it from W. Fernando.

The evidence is read over and interpreted to the witness and the same is admitted by him to be correct, subject to the alterations made in ink.

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No. 14

H.V. FERNANDO

No. 14
H.V.Fernando
Examination

H.V. Fernando: Affirmed, 30 years, cultivator, Dampe. I am not related to the complainant or the accused. I belong to a different community. I remember the day on which there was a talk that the village headman of Dampe had been taken into custody alleging that he had taken a bribe. It was on 12.7.60. I have been to the house of the Village Headman. I last went there on the day previous to the day of this incident, when this allegation was made. I went at about 8.15 p.m. to find out whether the Village Headman could give evidence for me in a land case. I spoke to him. He said that he was not the headman when the case was instituted and that therefore, he was not able to give evidence for me in that case. I remained in the house of the headman. I know the complainant, Karunadasa. He came there. He came and said "Ralahamy, the case is tomorrow. Although they were not willing to settle the case on the last day we are willing to pay the damage and settle the case. The Headman said the case was in the courts and plaint was filed by the Police. He said he could say nothing about it. He said they could talk about it tomorrow. Karunadasa then left. Almost immediately after that I also left. On the following day I learnt about the alleged bribe. It was about 4 or 5 p.m. I went to the Head-

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man's house. I asked him about what I heard. He said "that man came to settle the case and in that connection I was caught alleging the acceptance of a bribe". We sent a letter to the C.I.D. We were asked to go to the Padukka Police and the Padukka Police recorded our statements.

Before the
Bribery
Tribunal

Defence
Evidence

No. 14

H.V.Fernando
Examination
continued

Cross-
examination

10 XXD: I live in Dampe, about $1\frac{1}{4}$ miles away from the village headman's house. I went to the village headman's house alone. The village headman and a boy were there. Two others came before Karunadasa came. They were Chandrasoma and R.G. Simon. Before Karunadasa came there were three with me. I had gone independently of the other three. Karunadasa came 18 to 20 minutes after I went. I had already spoken to the Headman about my matter. He said he could not give evidence because he was not in office at that time. As the Headman was saying this Chandrasoma and Simon came. They also spoke to the Village Headman for about 5 or 10 minutes. I also stayed back because they were also going the same way that I went. Karunadasa came when they were there. I was listening to what Karunadasa said. I do not know whether Karunadasa had brought the money. He was trying to put his hand into his pocket. He said the money was ready. I am unable to say whether he had any money. The headman said that the case was in court, filed by the Police and that he was unable to do anything. When Karunadasa came I did not see anyone accompanying him. When the headman said so Karunadasa said he was leaving, saying he would meet him in court. I heard about the allegation of a bribe at about 4 or 5 p.m. on the following day. I heard about it from several people in the village. At about 7 or 8 p.m. I went to the Village Headman's house to find out whether this was the truth. I am not friendly with the headman. I went there because I heard that Karunadasa had given some money and as Karunadasa had come there the previous night to talk about the settlement of a case. I met the village headman and asked him what this talk about a bribe was.

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Q. Did you mention from whom the Headman had taken the bribe?

A. I did not mention any name. I only asked what is this talk that you have taken a bribe.

Q. Why didn't you mention a name?

A. Although I had heard of it I did not question about it

Before the
Bribery
Tribunal

Defence
Evidence

No. 14

H.V. Fernando
Cross-
examination
continued

- Q. You had heard so much about the case that you had connected Karunadasa with the Karunadasa who had visited the house that night?
- A. Yes.
- Q. Or is it that you heard that the headman had taken a bribe?
- A. I heard that the Headman had been seized saying that he had taken a bribe from Karunadasa in the Courts. 10
- Q. When you went to the Headman's house instead of saying that vague statement why didn't you say "What is this talk about you have taken a bribe from Karunadasa?"
- A. I did not mention a name. At that time it had not strike me that I should mention the name. I asked "what is this that you have taken a bribe" I said I went there at about 7 or 8 in the night because the previous day Karunadasa had come to his house. That was when I went. 20
- Q. Why didn't you say "I have heard that you have taken a bribe from Karunadasa?"
- A. When I asked him "What is this talk about a bribe" he said "This is the case that was spoken of last night".
- Q. Or is it that you did not know from whom he had taken a bribe? 30
- A. No. I have heard in the village.
- Q. Because you did not hear the name you did not mention the name to the Headman?
- A. I had heard of Karunadasa's name.
- Q. What did the Headman tell you?
- A. He said "Yesterday we were talking of settling a case. In that case it is said that I have taken a bribe".

- Q. Or is it that you were sent for by the headman that night? Before the Bribery Tribunal
- A. No.
- Q. And asked you to say that you met Karunadasa at his house? Defence Evidence
- A. No.
- Q. What did you do then? No. 14
- A. I waited for some time and left. I returned home. After I went home I took my dinner and slept. I took action after that. I think on the 13th when I went to R.D. Simon's boutique he talked about this. Simon and I both spoke and we came to the conclusion that we would write and inform the Bribery Commissioner of what we know. Simon said that he would be writing. On a day later I signed the letter. H.V. Fernando

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Cross-
Examination
continuedTO TRIBUNAL:

- Q. Was it a petition or a letter?
- A. A letter.

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I met R.D. Simon in the Co-op. Society. That was about 2 days after this incident. I spoke to him. I told him that day when we were there there was a talk of settling a case and in that connection the headman had been seized saying that he had taken a bribe and that it was a great injustice. R.D. Simon is employed in the Co-op. He is the Manager. This accused is the President of the Co-op. Credit Society. I am H.V. Fernando. I am a cultivator. I am a Committee Member of this Co-op. Society of which Simon is the Manager. Chandrasoma is a man of that village. He is a carpenter. He is a Member of the Co-op. and a person who purchases from the Co-op. Noris is a man of the village. He is only a member of the Co-op. I am a Committee Member. R.D. Simon is the Manager. The accused is the President of the Co-op. Credit Society. Our Co-op. Society has no dealings with the Co-op. Credit Society. I used to see the accused whenever he went on duty or if there was a necessity I used to see him. I said that two days after this incident I went to the Co-op. It was I who made this suggestion to Simon.

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- Q. R.D. Simon did not speak to you anything before you spoke to him?

Before the
Bribery
Tribunal

Defence
Evidence

No. 14

H.V. Fernando
Cross-
examination
continued

A. There were 3 or 4 others also. He was serving the customers.

Q. Did R.D. Simon say anything when you made this remark?

A. He said, "Yes, It is a great injustice. We must be prepared to say what we know".

Q. Did anyone ask you to say what you knew before that?

A. No. Until I met Simon no one suggested. After our talk Simon said, "I will prepare that letter". I discussed writing a letter. The letter was prepared. On the following day I signed the letter at the Co-op. Stores. Before my signature Simon had signed.

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Q. Did anyone sign before you?

A. They said that they would be signing, but they had not set their signatures before I signed. Simon said that they would sign. It was on the day I met Simon. On the day I signed the letter Simon said he had spoken to the other two also. I did not ask him to speak to the other two also. After I signed the letter I went away.

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Q. I am putting it to you witness that your evidence that Karunadasa came to the house of the Headman on the night of the 11th is false?

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A. I say it is true.

Q. I am putting it to you that you office bearers of the Co-op. got together and wanted to give evidence in favour of the accused who is the President to save him?

A. I deny.

Re-
examination

Re-Xd:

I said that four people agreed to sign that letter. They are Simon, Myself,

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Chandrasoma and Noris. Noris was present at the time on the night of the 11th at the Headman's house. At the time Karunadasa came Noris also came. All the villagers are members of this Co-op. Society.

Before the
Bribery
Tribunal

Defence
Evidence

To Tribunal:

No. 14

Q. Had you known Karunadasa before you met him at the accused's house?

A. I have seen him. He is a man of the village.

H.V. Fernando
Re-examination
continued

10 Q. Did you meet him after you heard about this allegation of Bribery?

A. Not immediately afterwards. After that I have met him.

Q. Did you ask him "Why did you make this false allegation against the headman?"

A. No. I did not ask.

No. 15

No. 15

R. D. SIMON

R.D.Simon
Examination

R.D. Simon: affirmed.

20 47 years, Manager, Co-operative Society.

Living at Dampe. I know this accused. I am not related to him. I said I was the Manager of the Co-op. Store. There is another Society called the Co-op. Credit Union. It is a different one. I am aware that the accused is the President of that Society. I remember some time in July last year I heard that allegation that the accused had taken a bribe from complainant Karunadasa. I heard about it on the same day. I remember the date. The date is 12th July, 30 1960. I have been to the house of the Headman before that. Before that day I last went on the 11th the previous day. I went to the Headman's house at about 8 or 8.30 p.m. I went with another person. That other person is R. Chandrasoma. At the time I went to the Headman's house there was another person. One H.V. Fernando was there. He is the last witness Varliyanu. There was a dispute between Chandrasoma's sister and her husband. Chandrasoma went to the headman to inquire

Before the
Bribery
Tribunal

Defence
Evidence

No. 15

R.D.Simon
Examination
continued

about it and bring about a settlement. I spoke to the headman about that. When I was there Karunadasa came. I know the complainant in this case. He is known as Karunadasa.

Q. You call him Karunaratne?

A. I have heard him to be called as Karunaratne.

Q. Did you know him by any other name?

A. He is also known by some other name.

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He is the complainant in this case. I am referring to the complainant in this case. He came and said "Ralahamy, tomorrow is the case. Earlier it was suggested to settle the case. The President also has suggested a settlement. James Perera wanted Rs. 35/- I have arranged that money and we are willing to pay that money in court tomorrow and settle the case". The headman said "The case in Court has been filed by the police. We will talk about it in the Court and see." Then the complainant asked the accused whether he was going to Court on the following day and left. Soon after that I also left.

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Q. On the following day at about what time did you come to know that there was an allegation that the accused had taken a bribe from Karunadasa?

A. The following day from about 2 or 3 p.m. the whole village was talking about this.

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When I heard about it I went to the Headman's house in the night. I asked the Headman. The headman said, "Yesterday there was a suggestion to pay Rs. 35/- and settle that case. In that case when the money was given to me I was caught saying that I have taken a bribe". Soon after that I went away. I directed to do something. I spoke to those people who were present in the headman's house that night and sent a petition to the Bribery Commissioner. Later the police also came and questioned me. I made a statement to the Police.

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XXD.

Chandrasoma is a man of that village. He is related to me. He is related distantly as a cousin. He is a member of the Co-op. Society. I have been moving about with Chandrasoma frequently. I went along with him to the headman's house because he is a relation of mine. This Co-op. Credit Society is in the Village Headman's house. We deal in provisions. Credit is not given to members of that society. I am a member of that society. I, have got loans from that society. H.V. Fernando is a member of the Co-op. Credit Society. There are about 40 to 50 members. Chandrasoma is a member. I said I went to the Headman's house on the previous day, 11th July. I went there at about 8 or 8.30 p.m.

Before the
Bribery
Tribunal

Defence
Evidence

No. 15

R.D. Simon
Cross-
examination

Q. Did Chandrasoma make a complaint to the Headman about his sister?

A. Chandrasoma told the headman.

The headman did not record it. When I and Chandrasoma went there to the headman's house H.V. Fernando was there. When I went to the headman there was myself, the headman and Chandrasoma.

Thereafter the complainant in this case came. Then there were five people. That is Varliyanu, Chandrasoma, the accused Headman, Myself and this man Karunaratne. Thereafter one Noris came. Noris came immediately after Karunaratne. It was in my presence that Karunaratne spoke to the accused. I heard what he said I cannot say that Karunaratne remained there for more than 5 or 6 minutes. Karunaratne is a man known to me. I have known him for several years. I know his father. I know the other members of the family. I cannot remember even whether he has ever spoken to me. I used the name Karunaratne, but I have never met him and there was no occasion to speak to him. I know that he is Karunaratne as I have heard. I have heard from people in the village. I said that Noris came there. He is a man living close by. He is not related to me. I do not know whether he is related to the headman. Noris is not related to the accused. Varliyanu is not related to the accused. Noris is a member of the Co-op. Society. He is not in the Co-op. Credit Society. Noris does not live close to the headman's house. He lives about half a mile away. I said that Karunaratne spent 5 or 6 minutes at the headman's house. He told the headman Tomorrow is the case. There is a talk that the case could be settled if Rs. 35/- is paid. We are ready to pay Rs. 35/-. Therefore you also try to settle the case when you come to court.

Before the
Bribery
Tribunal

Defence
Evidence

No. 15

R.D. Simon
Cross-
examination
continued

- Q. Did he say he brought the Rs. 35/-?
- A. I did not hear that.
- Q. Did he attempt to put his hand into the pocket?
- A. I did not see well.
- Q. As far as you remember?
- A. I cannot say whether or not he tried to put his hand into the pocket.
- Q. After about 5 or 6 minutes Karunaratne left the place? 10
- A. Yes.
- Q. How long did the four of you remain there?
- A. H.V. Fernando, Chandrasoma and I left. Noris remained behind.
- Q. Did Noris Singho tell the headman why he had come there?
- A. I cannot remember that.
- Q. Did you ask Noris Singho why he had come?
- A. That time I did not ask. I asked him later.
- Q. Did you ask Varliyanu why he had come? 20
- A. Not even from him also.
- Q. When the three of you left the headman's house did you go together?
- A. We went in one direction.
- I went to the headman's house on foot. Varliyanu also went on foot. All three of us went on foot in the same direction. We went together.
- Q. Why are you trying to say that you went in the same direction? You went together. Did you ask Varliyanu why he went to the headman that night? 30
- A. I cannot remember to have questioned him.

Q. Did Chandrasoma ask?

A. I cannot remember.

Before the
Bribery
Tribunal

Q. Or did Varliyanu ask the two of you why you had come?

A. I cannot remember.

Defence
Evidence

Q. I suppose thereafter you went home that night?

A. Yes.

No.15

Q. On the following day from about 2 or 3 o'clock in the afternoon you started receiving these rumours?

A. Yes

R.D. Simon
Cross-
examination
continued

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Q. Did you also hear where he was caught?

A. Yes.

Q. Did you also hear from whom he was alleged to have taken a bribe?

A. Several people gave different stories.

Q. Did you know the identity of the person who was supposed to have given a bribe?

A. All over the village there was a talk that some money was given for the purpose of settling a case and the Headman was seized that he had taken a bribe.

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Q. But you had not heard from whom?

A. By going to settle the case of James Perera.

Q. You did not hear the name of the person who is supposed to have given the bribe?

A. What we heard was that money given by Podi Baappa's son.

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Podi Baapa is Karunaratne's father. I knew that. When I heard that he had taken a bribe from Podi Baappa's son I knew who he was. Karunaratne and other had been accused by James Perera. When I heard this I thought that when Karunaratne gave the money for settling the case, after the money was given the headman was seized for accepting a bribe.

Before the
Bribery
Tribunal

Defence
Evidence

No. 15

R.D. Simon
Cross-
examination
continued

Q. Did you connect it up with anything that you knew?

A. I felt very sorry because he is a headman who never takes bribes. By going to settle the case he had been seized for bribery.

Q. Did you at any time connect it up with what you heard that previous night?

A. I thought it may be an end of that.

I went to the headman's house. I went after closing the boutique. It may be 7.30 or 8. The headman was there. There were about 15 to 20 others when I went. They are people of the village of Dampe. Most of them were neighbours of the headman. I can mention some names. They are Edwin, Sethan, Babbu Singho, Podi Singho, Methias Ranasinghe and several others. Methias Ranasinghe is also a neighbour. He is not a relation of the headman. I went to the headman's house and spoke to him. I asked him what is this? You have been caught in a bribery case." When I questioned the headman he said "Yesterday there was a talk about settling a case. The President also had approved of that. Today when the complainant gave Rs. 35/- for the purpose of settling the case, he kept the money on the paper and when I was going with the money in the direction of the Inspector I was seized".

Q. Did the accused tell you that he was the man who was present when you came?

A. Yes.

I said it was a great injustice. Then there were several people and each one made a remark. I was listening and I was very sorry. I did not tell the accused what I proposed to do. There I remained, "If something happens we are prepared to say what we know of".

Q. Did you meet Varliyanu that day at the Headman's house?

A. I cannot remember whether Varliyanu was there or not on that day. Then I went home. On the following morning I went to the Co-op. Then some of the people who were at the Headman's house on the 11th night came to get their rice and provisions. The people who were in the house on the 11th night were Chandrasoma, Varliyanu, Noris and myself.

- | | | |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|
| | Q. Who are the people who came? | Before the
Bribery
Tribunal |
| | A. Noris came. Chandrasoma lives near the boutique. Varilayanu also came that day sometime. I cannot remember the time he came. As they came I told about this injustice and suggested that we write what happened on the 11th night to the Bribery Commissioner. That is my suggestion. I did not talk to them all at one and the same time. Thereafter I drafted a letter. | -----
Defence
Evidence
----- |
| 10 | Q. It was entirely your own idea? | No.15 |
| | A. After I spoke to them and after they asked me to write a letter mentioning what happened I wrote. I did not write the letter. I prepared the document and got it written by somebody. One Wimalaratne write it. He is also a neighbour. | R.D. Simon
Cross-
examination
continued |
| | Q. Why didn't you write it yourself? | |
| | A. I was very busy. | |
| | Q. You said you made a draft? | |
| 20 | A. Because he was a person who came to the boutique always and he is a relation of mine. I obtained the signature of the other persons and I forwarded it. | |
| | Q.. I am putting it to you witness that you did not go to the house of the headman on the night of the 11th? | |
| | A. I went. | |
| | Q. You cannot even give the correct name of the Complainant. His name is Karunadasa. | |
| 30 | Q. Some people call him Karunaratne, Others call him Karunadasa. | |

All what I speak is the truth.

Rexd: Nil

The evidence is read over and interpreted to the witness and the same is admitted by him to be correct, subject to the alterations made in ink.

Before the
Bribery
Tribunal

No. 16

RANASINGHEGE SUDDAPPUHAMY

Defence
Evidence

Ranasinghege Suddappuhamy: Affirmed, 45 years,
Trader, Dampe.

No. 16
Ranasinghege
Suddappuhamy
Examination

I know the complainant, Karunadasa. I am related to him. He is my cousin's son. He calls me uncle. In April or May last year I was working at Hatton. My family was at Dampe. I came to know that there was an allegation against me and that there was a case against me for breaking some goods in James Perera's boutique. I heard it from my wife. I heard that there was a warrant against me. I directed to come for it. I know the date on which the accused, the village headman, was alleged to have taken a bribe from my nephew, Karunadasa. I went to Court that day. I came from Hatton for that court on 11.7.60 at about 5 p.m. In the morning I went to the Rural Court of Hanwella. My wife, Peris Singho, Ranasinghe and Podiappu went to the courts. We reached the Courts at about 8 a.m. When I went there I met the complainant, Karunadasa. He told me that he was trying to settle the case, I also agreed. At about 9.30 or 9.45 a.m. I was in the courts. The court house is in two sections. I was on the left hand side as one entered the court, in the verandah. The President comes on the bence at about 10 a.m. This was shortly before that. There were about 50 to 60 people in the outer verandah. This was both in the hall and in the verandah. There were about 25 to 30 people in the compound, in different groups. I saw Karunadasa. He was seated on the bench reserved for headmen. After that I saw him getting up to the boutique. As he came to the verandah Karunadasa called him. The accused went up to him. At that time the accused was carrying a paper. It was folded. The accused went up to Karunadasa. Karunadasa said "Ralahamy, here is the fee for the damage in the boutique" and kept the Money on the paper. The accused said he would ask the Inspector and folded the paper. The accused attempted to go on to the steps. Then three gentlemen, one dressed in a pair of trousers, surrounded him. The accused then called out to the Inspector of the Padukka Police, saying "Sir, come here." Then the Inspector came. These gentlemen told him something in English. Then that Inspector asked the accused to allow these gentlemen to do their duty. Then these gentlemen attempted to search the accused's pocket. Then the

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accused said there is no use of searching and saying "here it is" he gave the paper. The gentlemen who searched him pulled out a piece of paper and compared the numbers of the notes. The accused was then taken in the Police Car. I remained in the Court premises. At that time I did not meet Karunadasa. He was there only when the case was taken up. I did not meet him even when he was going. The following day I sent a letter to the Bribery Commissioner. Three or four who were present when the incident took place signed the letter. Peris Singho, Ranasinghe and Podinona had gone with me. Four of us signed the letter. The police did not come and take a statement from us.

Before the
Bribery
Tribunal

Defence
Evidence

No.16

Ranasinghege
Suddappahamy
Examination
continued

To Tribunal: I was in the village when the mischief case took place. I also live near the boutique. As I was near the place they have put me also into the case.

XXD:

Cross-
examination

I had been falsely implicated in that case. There was an exchange of words, but I did not see anything regarding that case. Karunadasa is my uncle's son. I visit them. On the night of this incident the police did not come and question me. I did not know that I had been implicated in the case.

I went to Hatton on the same day this incident took place. I went at about 5 p.m. from the pair. I was in the village only for one day, having come on the previous day. The first intimation I had regarding that case was from my wife. I received that letter after the first day the case was called. I came to Court on 11.7.60. I was not present on the first date of the case. I did not know about it then. I received the letter from my wife, after the Sinhalese New Year. It was even after the Wesak. I knew about it in July. My wife did not inform me prior to June. She had sent a letter before that, I did not receive it.

To The Tribunal: I come home once in 2 or 3 months or once in six months.

I came home on 11.7.60 I was at Hatton for the Sinhalese New Year. I came home on the day prior to the alleged taking of the bribe. Before I returned on 11.7.60 I had received my wife's letter. I received the letter on the 9th of July. Only when I received that letter that I knew that I had been implicated in that case. I came at about 5 p.m. I asked my wife what this case was about. I knew that Karunadasa and Podiappu and I were made accused. Summons had been sent to my village. I did not want to ask them because I did not go with them. I thought of asking

Before the
Bribery
Tribunal

Defence
Evidence

No. 16

Ranasinghege
Suddappuhamy
Cross-
examination
continued

him the following morning. I met him in the van. I go into the bus at Meegoda. I got into the van at Padukka to go to Hanwella. Podiaapuhamy, my wife Ransinghe and I went in the van. The distance from Padukka to Hanwella is five miles. I spoke to Podiaapuhamy in the van. I said I had been implicated in a false case. He said "Ralahamy is also going, he will make some settlement." The accused also travelled in the same van. We all went to Courts together. When Podiappuhamy said that the village Headman will do something, the accused said that he could not settle the case without asking the police.

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Q. Did the accused ask you "Where were you all these days."?

A. He did not.

I got down in the Court premises. I met Karunadasa also there. Karunadasa was at that time in the Court house. He was in the verandah. There were two others in trousers with him. Karunadasa spoke to me. He suggested to pay the damages and settle the case. He first asked "are you coming only now". After that he said about the settling of the case. He did not mention anything about a warrant against me. He said the case would be settled. I asked Karunadasa how it would be settled. He said that he had spoken about it and that even the President had suggested. He said that the President suggested to pay the damages and settle the case. He said that they assessed the damage at Rs. 35/- I did not do anything. I was not with Podiappu. I was in the Court house. I was not by him. I saw the headman also inside the Court premises. I spoke to him. I told him that I must be saved from this somehow, as I had to attend to my work. I did not expect the accused to save me. I told him because he knew the Inspector. I did not mention to him what Karunadasa told me. From there I went to the left hand side of the Court house. I was waiting till the President came on the bench. My wife was with some other women, on the other side. Podiappu was also inside the Court house. The headman came out shortly after I went in. When the headman got to the verandah and when he was about to get to the steps Karunadasa called him. That was the first time I saw Karunadasa talking to the accused. I was (points out the distance where the witness was then). There were about 50 to 60 people. The accused had a paper and Karunadasa kept the money in the paper. From there

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he attempted to get down to the steps and he was surrounded by these gentlemen. I was looking on. I came close from where I was. I cannot say whether Karunadasa also came. I saw the accused being searched. The Padukka Inspector also come there when the accused called him. These gentlemen searched the accused's pockets. Then the accused said there is nothing to search and saying "here is the money" gave the paper. I was dazed. People crowded round. I had not seen such a thing before. The accused was taken to the Police Station. I remained in the Courts, because my case was to be called. Karunadasa came when the case was called. I did not see Karunadasa till he placed the money inside the accused's newspaper. I did not ask Karunadasa "What is all this about". I was so sorry to ask him even that. People said these were officers from the Bribery Department. They said the headman had been seized for receiving a bribe. I did not ask Karunadasa why the case was not settled. I realised what had happened. Therefore, I did not ask him. Although Karunadasa was a co-accused with me I did not ask him. My wife, Peris Singho and Ranasinghe had a talk about the incident. Because I realized what happened I did not ask Karunadasa.

Before the
Bribery
Tribunal

Defence
Evidence

No. 16

Ranasinghege
Suddappuhamy
Cross-
examination
continued

Q. Did you realise that the officers of the Bribery Department seized him because he had taken a bribe from Karunadasa?

A. Yes.

I have not asked up to date Karunadasa what he had done. I asked the accused some days later - after July. I discussed this with my wife and went home. I discussed this with Peris Singho, Ranasinghe and Podibass. Peris Singho was a witness for Podiappu. Podinona is my wife. Ranasingho was from the village. I was telling them that I came to go without any punishment. The village headman has been caught falsely. Having discussed this with the four persons I wrote a letter. I got the letter written by one David. He is distantly related to me. I did not meet David in the Courts.

I met him in the village. I was not about to post the letter that day. It was posted on the 13th or 14th. I asked the village headman what happened. I cannot remember the date. I asked him in 1961. I met the headman on the road, passing my boutique. The village headman said, "I always do good to others let anything happen." The Headman will never say that one of his own men implicated him in it. I did tell him what happened. I sent a petition - Besides the petition I have told people what I saw. I have told several people. I have

Before the
Bribery
Tribunal

Defence
Evidence

No.16

Ranasinghege
Suddappuhamy
Cross-
examination
continued

told the headman on the very day of the incident what I saw. I met him at the Meegoda Junction. My wife and others had gone home. I was there. I met the headman after 12 noon. I had taken my midday meal. I went to a boutique, and had my meals, after the case was postponed. From the Court I went to the boutique to take my meals. I had my meals at Padukka. It was before meeting the accused. I must have met him at about 1 or 1.30 p.m. There were several people when I met him, but I cannot remember who they were.

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The time now is 1.05 p.m. The Tribunal adjourns.

Sgd.....
President

No.17

No. 17

Proceedings
25th August
1961

PROCEEDINGS

Case No.35/1. 172/60

Dutch Burgher Union Hall,
Reid Avenue,
Bambalapitiya,
25th August, 1961

20

TRIAL CONTINUED:

Present: All Members of the Tribunal.

Counsel for accused present.

Mr. J.Y.D. de Silva, Acting Secretary,

Bribery Tribunals.

The Secretary informs the Tribunal that the Senior Legal Officer, Mr. E.H.C.Jayatilake, is ill. The Tribunal postpones the hearing of the case for the 9th of October, 1961, at 9.30 a.m.

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The Tribunal adjourns at 9.45 a.m.

Sgd.
President

Dutch Burgher Union Hall,
Reid Avenue,
Bambalapitiya,
9.10.61

9.30 a.m.

Before the
Bribery
Tribunal

No. 17

Proceedings
9th October
1961

TRIBUNAL CONTINUED:

Present: All the Members of the Tribunal.

Same appearances as before

Mr. J.Y.D. De Silva, Acting Secretary
Bribery Tribunals.

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Accused - Present

Defence Evidence

No. 18

RANASINGHEGE SUDDAPPUHAMY (RECALLED)

Defence
Evidence

Ranasinghege Suddappuhamy: Recalled, Affirmed.

No.18

XXD: Continued:

Q. On the last occasion you told us that after the case was postponed on the 12th of July you went to a boutique and had your meals?

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

20 A. Yes.

Q. And that after you had finished your meals you met the accused at about 1 or 1.30 p.m.

A. Yes.

Q. Where did you meet the accused?

A. At Meegoda Junction.

Q. Did you speak to him?

A. Yes.

Q. What did you ask him?

30 A. I told him "I know all what happened. You got caught in vain. It is an injustice".

Before the
Bribery
Tribunal

Defence
Evidence

No. 18

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

- Q. Who spoke first?
- A. I spoke to the accused first.
- Q. You told him you knew the whole story?
- A. Yes.
- Q. What is the whole story that you knew?
- A. This accused Headman went as a matter of favour to help us to settle this case. In vain he was caught in this matter.
- Q. You told that the Headman went to help you all to settle this case? 10
- A. Not to me. It was to help Karunadasa.
- Q. Who told that?
- A. Karunadasa told me.
- Q. When did he tell you?
- A. On the date of this case Karunadasa said, "I am doing some work connected with the Government. I asked the Headman to try and settle this case".
- Q. That was before this case? 20
- A. Yes.
- Q. In the morning when you went to the Courts?
- A. Yes.
- Q. Did you ask him "How is the Headman going to help you?"
- A. Karunadasa said that the Police had filed the case and if the Headman spoke to the Police there could be a settlement.
- Q. Did Karunadasa tell you that he had asked the Headman to help him? 30
- A. Yes.
- Q. That is to speak to the Police and get them to settle this case?

- A. Yes.
- Q. What did you tell Karunadasa?
- A. Because Karunadasa was very anxious to get this case settled I also agreed.
- Q. Did you meet Karunadasa in the Court premises?
- A. Karunadasa was inside the Court hall.
- Q. You did not speak to him further?
- A. No.
- 10 Q. And even after the incident you have told that you did not speak to him and ask him what had he done?
- A. No.
- Q. When you told the headman that you knew the whole story what did the headman tell you?
- A. I said "If you want my evidence I am prepared to give evidence".
- Q. What did the accused tell you?
- A. He said, "All right we will see".
- Q. He did not ask you to say anything?
- 20 A. No.
- Q. Nor did he tell you why your co-accused implicated him in this false case?
- A. No.
- Q. Nor did he ask you what you knew about this case?
- A. He did not ask.
- Q. He did not ask anything?
- A. No. He said, "This is what happened. When you go to help you get into trouble".
- 30 Q. And you left the accused and went away?
- A. The accused went away. I stayed at Maegoda.

Before the
Bribery
Tribunal

Defence
Evidence

No. 18

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

Before the
Bribery
Tribunal

A. I was waiting till the fishmonger brought fish for sale. I bought fish and went home. I met my wife when I went home.

Defence
Evidence

Q. Did you discuss what you saw with your wife?

A. Even at the Court house myself, my wife and Peeris discussed.

No. 18

Q. After you came to your village did you meet Karunadasa and discuss and ask?

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

A. No.

Q. Did you ask Karunadasa's father? 10

A. No.

Q. Up to date you have not questioned Karunadasa?

A. I have not asked him.

Q. How long did you remain in your village?

A. I waited till Friday.

Q. That is about 3 days?

A. Yes.

Q. And you went back to Hatton?

A. Yes.

Q. Thereafter when did you meet the accused next. 20

A. Whenever I came to my village I had met him.

Q. On how many occasions have you met him prior to your giving evidence?

A. I am unable to say.

Q. Whenever you met him what did you speak to him about?

A. I did not go to talk to the Headman after that.

Q. You said you met the headman whenever you came to the village? 30

A. One or two days I have met him and I have spoken to him. I had a boutique by the road. I used to meet him near the boutique.

- Q. About how many months after this incident? Before the
Bribery
Tribunal
- A. I cannot say.
- Q. On those occasions you met the headman did you
ask him "Ralahamy what has happened to your
matter"? _____
Defence
Evidence
- A. I cannot remember whether I asked him or not. _____
- Q. After all you claimed to have seen something? No. 18
- A. Yes. Ranasinghege
Suddappuhamy
- 10 Q. On the day of the incident you met the headman
and told him that you knew the whole story? Cross-
Examination
continued
- A. Yes.
- Q. You also said you were prepared to give
evidence.
- A. Yes.
- Q. Having told all that to the Headman did you
meet him subsequently? Didn't you ask him
what happened to that matter?
- A. For about one year there was nothing heard
about it as if there was no inquiry.
- 20 Q. Did you ask him?
- A. I cannot remember.
- Q. As far as you remember tell us?
- A. After I received summons I have questioned him.
- Q. When did you receive summons?
- A. I cannot remember now. I may be having the date.
- Q. How long before you came here for the case?
- A. About a month before I came to give evidence I
think received summons.
- 30 Q. Where did you receive summons?
- A. I was at Hatton, but the letter had reached
my home.

Before the
Bribery
Tribunal

Q. When you returned home from Hatton you found the summons waiting at home?

A. Yes.

Defence
Evidence

Q. Then you met the Headman?

A. Yes.

No. 18

Q. Where did you meet him?

A. Near my boutique.

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

Q. Did he speak to you?

A. I spoke to him.

Q. What did you tell him?

A. I said, "I have heard there is a plaint filed. I do not know where the Court is."

Q. Did the headman even on that occasion ask you what you had seen?

A. He did not ask me, but he asked me to say what I had seen or known.

Q. The headman summoned you to state what you knew without knowing what you were going to say?

A. I told him I knew how the money was given and I knew all what happened in that connection.

Q. Did you mention this to the Headman?

A. I told him a little of what happened.

Q. That is after you received the summons?

A. Yes. Before that also I had told him that I knew all about this and I was prepared to give evidence. After I received the summons I told a little.

Q. Tell us the little you told after you received summons?

A. I told how the money was given and where I was standing.

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- Q. Where did you say you were standing. Before the
Bribery
Tribunal
- A. I said that the money was given at a certain place near the short wall and that I was standing near the other short wall and when the headman was getting down the flight of steps how he was arrested. That is all I said. I did not say anything about the officers who came in that connection. Defence
Evidence
-
- Q. Did you volunteer to the headman or did he ask you? No. 18
- 10 A. I volunteered. Ranasinghege
Suddappuhamy
Cross-
Examination
continued
- Q. Do you know R.D. Simon?
- A. There are several R.D. Simons.
- Q. I am speaking of the R.D. Simon who gave evidence in this case?
- A. I know him.
- Q. How long have you known him?
- A. From my young days.
- Q. After this incident did you meet R.D. Simon?
- A. I have met him.
- 20 Q. You have met him after this incident?
- A. Yes.
- Q. Has he spoken to you about this case?
- A. Yes.
- Q. When did you speak to him about this case?
- A. I cannot remember the date.
- Q. It was before you received the summons?
- A. Yes.
- Q. Where did you meet him?
- 30 A. Whenever he passed my boutique or sometimes at Meegoda. One day I met Simon when he was travelling in a lorry near Meegoda. He gave me a lift in the lorry. I was returning home.

Before the
Bribery
Tribunal

Defence
Evidence

No.18

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

- Q. Was it in the lorry that you spoke about this case?
- A. At that time also we were talking about the case.
- Q. What did Simon talk about this case?
- A. He said, "This is enough. The headman went to the Gam Sabawa Court and what happened". Then I told him "This is the world now".
- Q. Didn't R.D. Simon ask you why Karunadasa wanted to implicate the headman? 10
- A. He did not say that. He said it was a mistake of headman. R.D. Simon told me that Karunadasa had gone to the Headman's house and told the Headman that Karunadasa was doing some work in the Government and if he was fined it would not be good for the job and asked him to help to settle the case. Then R.D. Simon also told me that case. He said that the headman listened to him and went in that connection to Court. He made a mistake. 20
- Q. Did R.D. Simon tell you when Karunadasa had gone to the Headman's house?
- A. He did not give the date he went. He said that Karunadasa had gone to the Headman's house.
- Q. What did you tell R.D. Simon?
- A. I also told Simon "This is the world now".
- Q. Didn't you tell R.D. Simon what you saw. 30
- A. I told R.D. Simon "At the time this took place I was in Court. I know all about it."
- Q. R.D. Simon dropped you near your house and you went away.
- A. Yes.
- Q. Do you know Varliyanu?
- A. Yes.

I have known him from my young days. After this incident I have met him. I used to meet him at the Meegoda Junction, at the different fairs and in the village. I have spoken to him. I have spoken to him about this case.

Before the
Bribery
Tribunal

Re- XD:

Defence
Evidence

Q. You were asked in cross-examination whether you told the headman what part of the incident you had seen?

No. 18

10

A. Yes.

Ranasinghege
Suddappuhany
Cross-
Examination
continued

Q. Crown Counsel (Legal Officer) was rather annoyed that you did not expose the whole story?

A. Yes.

Re-
Examination

Q. As a matter of fact from your point of view it is a very simple story?

A. Yes.

Q. Everybody there within a few minutes realised what had happened?

20

A. Yes.

Q. You yourself knew what had happened?

A. Yes.

Q. You saw the treachery that had taken place?

A. Yes.

Q. And how the village Headman had been falsely implicated in this so called act of taking a bribe?

A. Yes.

30

Q. When you went to the boutique for your meals and met the village headman you did not have to recapitulate the whole thing?

A. Yes.

Q. When you went home you related to your wife and all of you were merely distressed as to what happened?

Before the
Bribery
Tribunal

A. Yes.

Q. As you said just now it was the way the country was going?

Defence
Evidence

A. Yes.

Q. You did not even care to ask Karunadasa the villian of the piece why he did this. As far as you were concerned it was so horrible that you were worried?

No. 18

Ranasinghege
Suddappuhamy
Re-
Examination
continued

A. Yes.

Q. As a matter of fact even to this day you have not asked Karunadasa?

10

A. No.

Q. Are you friendly with Karunadasa?

A. I was angry with him.

To Tribunal:

Q. You talk to him?

A. He comes to my boutique also.

Q. When he came to your boutique you did not talk to him.

A. Now also he buys things from my boutique. I do not talk.

20

Q. You did not ask him "You have done a dirty trick?"

A. I did not want to ask and get angry with him.

Q. As the President said you think that he had done a dirty trick?

A. Yes.

Q. The only thing you could have done was to send a petition to the Bribery Commissioner as you have done?

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A. Yes.

Q. How many signed?

A. Four including me.

- Q. When did you sign that petition? Before the
Bribery
Tribunal
- A. I cannot say whether it is on the 13th or
14th.

To Tribunal:

- Q. How many days after this incident? Defence
Evidence
- A. I think about two days afterwards.
- Q. Who are others? No. 18
- A. Suddappuhamy, Peris, Podinona and Ranasinghe. Ranasinghege
Suddappuhamy
Re-
- Q. Who wrote that petition? Examination
continued
- 10 A. David Singho.
- Q. And now you say you sent a petition. Did
you get a reply to that petition?
- A. No. We did not get a reply.

(Shown D3 witness is shown his signature on
petition marked D3)

20 The signature on D3 is mine. The first signature
is mine. The other signatures on the petition D3
are those of D.J. Ranasinghe, R. Peeris Singho and
K. Podinona. Podinona is my wife. This petition is
dated 12th July.

- Q. This was sent under registered cover?
- A. We were not able send it on that day. Later
we registered it.

(The Legal Officer stated that the petition was not
produced in evidence in chief and wants the permission
of the Tribunal to cross-examine the witness.
Permission is granted).

XXD: by Legal Officer:

Cross-
Examination

- Q. Who is this man D.J. Ranasinghe?
- 30 A. He is a man from Kosgama.
- Q. How far from your village is that?
- A. About 10 miles.

Before the
Bribery
Tribunal

Q. Re Peris Singho?

A. He is a man from our village.

Defence
Evidence

Q. Was D.J. Ranasinghe in Court that day?

A. Yes.

Q. Peeris Singho?

A. He was also there.

Ranasinghege
Suddappuhamy
Cross-
Examination
continued

No.18

Q. Where did you write the petition?

A. In our village.

Q. Who wrote it?

A . One David.

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Q. Who went to David Singho to get this letter written?

A. I went.

Q. You took a great interest in this matter?

A. Because we had a talk earlier we thought of it.

Q. You were instrumental in getting this letter prepared?

A. Yes.

Q. You obtained the signatures of these persons?

A. Yes.

20

Q. And you sent it under registered cover?

A. Yes.

(The Interpreter Mudliyar reads D3).

No. 19H.V. FERNANDO (Recalled)Before the
Bribery
TribunalH.V. Fernando: Re-called, Affirmed.

Shown D4 - I sent this petition.

The second signature is mine. The other signatures are those of R.D. Simon, Chandrasoma's and K. Noris Singho's. It is dated 14.7.60. I do not know who wrote it. Simon get it written and get our signatures. When I signed R.D. Simon's Signature had been placed. The others did not sign in my presence. I know the first signature. I cannot definitely say whether the other signatures are their.

Defence
Evidence

No. 19

H.V. Fernando
(Re-called)
Examination

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No. 20W.P. FERNANDO (Recalled)Prosecution
EvidenceW.P. Fernando: Recalled, Affirmed.

These petitions were sent to the Bribery Commissioner. One of them was in my custody. The other was handed over to me by a clerk in the office. I produce them marked D3 and D4.

No. 20

W.P. Fernando
(Re-called)
Examination

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Defence closed reading in evidence D1 to D4.

The Tribunal adjourns at 9.30 a.m. Mr. Perera has got to appear in the Supreme Court, Negombo.

No. 21PROCEEDINGS

Dutch Burghar Union Hall,
Reid Avenue,
Bambalapitiya.
12.10.61

No. 21

Proceedings
12th October
1961

30

TRIBUNAL CONTINUED

Present: All Members of the Tribunal.
Same appearances as before.

Before the
Bribery
Tribunal

Mr. J.Y.D. de Silva, Acting Secretary.
Bribery Tribunals.

Both accused - present

Defence
Evidence

Counsel for the accused commences his address
at 9.35 a.m. and concludes at 10.30 a.m.

No. 21

The Senior Legal Officer commences his address
at 10.30 a.m. and concludes at 11.45 a.m.

Proceedings
12th October
1961
continued

At this stage the Tribunal adjourns to consider
their decision. The Tribunal resumes at 12 noon.

The President states that the Tribunal wishes
to consider this matter further and that the decision
would be announced on the 18th of October 1961.

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The Tribunal will resume at 9.30 a.m. on 18th
October 1961. The Tribunal adjourns for the day at
12.02 p.m.

Sgd
President

No. 22

No. 22

DECISION

Decision
18th October
1961

Dutch Burgher Union Hall,
Reid Avenue,
Bambalapitiya,
18.10.61.

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TRIBUNAL CONTINUED

Present: All members of the Tribunal.

Same appearances as before (except for
Mr. Adv. Siri Perera Senior Counsel
for the accused)

Mr. J.Y.D. de Silva, Acting Secretary,
Bribery Tribunals

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Accused - Present

Decision of the Tribunal:

The accused Pedrick Ranasinghe is charged as follows:

(a) That he, being a public servant, to wit,
Village Headman of Dampe, did between 1st June 1960

and 6th June 1960 at Hanwella from Ranasinghege Karunadsa gratification of Rupee Fifty which he was not authorised by law or the terms of his employment to receive and that he is thereby guilty of an offence punishable under Section 19 of the Bribery Act, No. 11 of 1954, as amended by the Bribery (Amendment) Act, No. 40 of 1958.

Before the
Bribery
Tribunal

No. 22

Decision
18th October
1961
continued

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(b) That on 12th July 1960 at Hanwella, he being a Public Servant as aforesaid, did accept from the said Ranasinghe Karunadasa a gratification of Rupees Fifty which he was not authorised by law or the terms of his employment to receive and that he is thereby guilty of an offence punishable under Section 19 of the Bribery Act No. 11 of 1954, as amended by the Bribery (Amendment) Act, No. 40 of 1958.

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The case for the prosecution is that on March 7th 1960, Police Constable G. Karunapala filed in the Rural Court of Hanwella two complaints bearing numbers 10309 and 10310. In case No. 10309 R. Suddappu, R. Podiappu, and R. Karunadasa all of Dampe were charged with committing mischief on February 23rd, 1960, at Dampe by damaging four bottles containing sweets and two glass panes of a show case valued at Rupees Thirty five belonging to D.A. Emis Perera of Dampe. In case No. 10310 P.A. Emis Perera was charged with hurt to R. Podiappu by assaulting him with a handle of a knife on February 23rd, 1960.

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In case No. 10309 2nd accused R. Podiappu and 3rd accused R. Karunadasa appeared in Court on the summons returnable date, 11.4.60 and on being charged from the complaint each of them pleaded not guilty. The 1st accused R. Podiappu was absent although summons had been served on him. The President ordered a warrant to be issued against the first accused R. Suddappu and the case be called on 25.4.60. On the next three dates namely 25.4.60, 23.5.60 and 7.6.1960 the second and third accused were present in Court and the warrant on the first accused had not been executed. The President on 7.6.60 fixed the trial against the second and third accused for 12.7.60.

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In case No. 10310 the accused D.A. Emis Perera appeared in Court on the summons returnable date, 11.4.60 and on being charged from the complaint pleaded not guilty. The President fixed the trial for 23.5.60. The accused Emis Perera cited the Village Headman of Dampe and his first witness for the defence on 11.4.60. On 23.5.60 the complainant and the accused were present in Court and the President, Mr. Milton Samarakkody, postponed the trial

Before the
Bribery
Tribunal

No. 22

Decision
18th October
1961
continued

for 7.6.60 on the ground that the connected case between parties had been fixed for 7.6.60. On 7.6.60 the complainant the accused were present in Court. The President Mr. L. de Alwis postponed the trial for 12.7.60 on the ground that the prosecution was not ready and witnesses were absent.

The complainant in this case R. Karunadasa stated that about a few days before 7.6.1960 the Village Headman of Dampe, the accused in this case, met him alone on the road, told him that as he (the complainant was a man having a job it was not good for him to be involved in a case and that he (accused) would give evidence in complainant's favour so that he may be discharged, and asked for Rupee fifty. The complainant promised to give the accused this sum, but did not fix a date for the payment of money. The complainant tried to raise some money to pay the accused from among his work-mates at the Homagama Branch of the Ceylon Transport Board, but his friends discussed him from paying any sum to the accused; interested they advised him to make a complaint at the Bribery Commissioner's Office at Hultsdorp against the headman. On this advice the complainant went to the Bribery Commissioner's Office at Hultsdorp on 9.6.60 and made a statement against the accused headman. The Complainant made another statement against the accused at the Bribery Commissioner's Office on 7.7.60. On 8.7.60 the complainant was requested to meet the Bribery Commissioner's Officers at Hultsdorp on the morning of 12.7.60 for a detection.

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On 12.7.60 the complainant was given Rupees fifty in five ten Rupee notes the numbers of which were noted in the file of the Inspector Fernando who was to be in charge of the detection and was instructed to accompany Constables Jayalath and Abeyratne who were in Civil clothes to the Hanwella Rural Court premises, meet the accused Headman there and give the Rupee fifty to the accused Headman with a request to save him (complaint) from the case without a conviction. The complainant, Constables Jayalath and Abeyratne proceeded to the Hanwella Rural Court Premises at about 9 a.m. The complainant met the accused headman, spoke to him and offered him the money. The accused did not take the money then, and indicated that he would do so later by using the words, "Passe", "Passe" (later, later). The

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complainant, constables Jayalath and Abeyratne then went out of the Court premises to the place where Inspector Fernando's car was halted. The two officers reported to Inspector Fernando what had happened so far, and Inspector Fernando requested the two constables to go back to the Court with the complainant and remain there until the money was offered and taken. When Constables Jayalath and Aberratne returned to the Court premises with the complainant, Constables Jayalath saw in the compound of the Court a police Officer who was known to him and he therefore did not accompany Constable Abeyratne and the complainant any further, but returned to the Inspector's car. Only Constable Abeyratne and the complainant went to the Court premises this time.

Before the
Bribery
Tribunal

No. 22

Decision
18th October
1961
continued

A short while before the President came on the bench the accused headman came towards the complainant and as he came towards him the complainant offered him the Rupee fifty with a request to settle the case without a punishment. The accused received the money in his hands and kept it inside the Lankadipa Newspaper which he was holding in his hand, and having folded the Newspaper with the money inside, went out of the Court premises. As the accused went out Constable Abeyratne followed him, while the complainant went in another direction. Inspector Fernando and Wijesooriya and Sub-Inspector Arusa on receiving the arranged signal from Constable Abeyratne then came into the Court compound, and Inspector Fernando disclosing his identity to the accused asked him for the money which he took from the complainant. The accused did not give the money which he took from complainant. The accused did not give the money and tried to go towards the Inspector of Padukka, Mr.G.E. Perera saying "Sir, Sir," The raiding officers prevented the accused from reaching Inspector Perera who was summoned to the place where the accused and the Officers were. Inspector Fernando revealed his identity to Inspector Perera, and requested his help in searching for the money from the accused as the latter was resisting a search. Inspector Perera told the accused that the officers must be allowed to do their duty. Inspector Fernando then searched the accused's coat pocket and did not find the money there. He then took the newspaper from the accused's hand and opening it found Rupee fifty in notes. He compared the number of these notes with the numbers entered in his file and they tallied.

The case for the defence is that the accused headman was a witness for the defence in case No. 10310 in which D.A. Emis Perera was charged with causing hurt to R.Podappu and, that on 7.6.60 when the case was taken up, the

Before the
Bribery
Tribunal

No. 22

Decision
18th October
1961
continued

President suggested a settlement by the accused Emis Perera paying Rupees ten to a charitable institution. Emis Perera's position was that he would agree to the suggested settlement if the three accused in the connected case No. 10309 paid the damages sustained by him in respect of his goods and fittings in his boutique valued at Rupees Thirty Five. The connected case No. 10309 was called for by the President from the other Court and R. Podiappu and the complainant were asked whether they would pay the damages and settle both cases. R. Podiappu and the complainant refused to pay damages whereupon both cases No. 10309 and No. 10310 were postponed for 12.7.60. The 1st accused R. Suddappu did not attend Court on 7.6.60. On the night of 11.7.60 Complainant Karunadasa went to the accused Headman's house at about 8 p.m. and told the accused that, although his father refused to pay damages on the last date, he was now prepared to pay those damages, and asked the accused to arrange the settlement of the case on the following day. The accused told the complainant that he had nothing to do with the case as it was filed by the police. He said he would however speak to the police and asked the complainant to meet him in Court the following day. Karunadasa's visit to the accused's home on the night of 11.7.1960 was seen by four persons named H.W. Fernando, R.D.Simon, Chandrasoma and Noris Singho, two of whom, namely H.W. Fernando and R.D.Simon gave evidence supporting the accused's version of the visit of the complainant to the accused's house on the night of 11.7.1960. Karunadasa in his evidence denied that he ever went to the accused's home on the night of 11.7.1960 or on any other date at all.

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On the following day 12.7.1960 when the accused went to the Court he was met by the complainant who asked him to speak to the parties and arrange the settlement of his case. Complainant also told him that he had brought the money and placed the money on the newspaper which he had in his hand. He had rested his hand on the short wall of the Court premises with the newspaper. When the complainant placed the currency notes on the newspaper he told the complainant that he would speak to the police and the other party and folding the newspaper with the currency notes, he was on his way to the

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Inspector of Police, Padukka, when he was surrounded by three or four persons who later turned out to be members of the Bribery Commissioner's Office. He was completely taken by surprise, and could not understand what it was all about. He made efforts to get the Inspector of Police, Padukka, whom he knew very well, to explain his position, but was prevented from doing so by the raiding officers. When the Inspector of Police, Padukka, was brought to him, the Inspector told him to allow the officers to do their duty. He told the Inspector of Police, Padukka, that the complainant requested him to settle the case and gave him the money for settlement and that he was on his way to meeting him (the Inspector) and speaking about the settlement when he was surprised by the officers. He denied that he ever asked complainant Karunadasa for a bribe of Rupees Fifty to settle his case.

Before the
Bribery
Tribunal

No. 22

Decision
18th October
1961
continued

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He called R. Suddappu in support of his defence. Namely (i) the placing of the money by the complainant on the newspaper which he had in his hand on the short wall of the Court premises, (ii) the complainant stating that the money was given in settlement of the damages caused to the goods of Emis Perera and (iii) the accused stating that he (accused) would ask the Inspector regarding the settlement.

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The question for decision is whether the money admittedly accepted by the accused from the complainant Karunadasa was given as a Bribe to get a discharge of the complainant from the case in which he was charged or as compensation damages to be paid to D.A.Emis Perera, the complainant in Case No. 10309. We accept the evidence of the prosecution witnesses - complainant Karunadasa, Constable Abeyratne and Inspector Fernando - and hold that the money was given to the accused as a bribe in order to get a discharge. If the accused had received the money in the circumstances related by him, namely, that the money was given to settle the case by paying compensation to Emis Perera, we would have expected the accused to produce the Rs. 50/- which was in the Lankadipa Newspaper, and immediately tell Inspector Fernando who asked for the money he received from Karunadasa that the money had been received in payment of compensation and for settlement of the case. At any rate he could have mentioned this to the Padukka Inspector of Police.

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The Inspector of Police, Padukka, in his evidence does not support the accused as to what the accused said regarding the money he had in his hand at the time of the search by Inspector Fernando. If the accused's version on this point is correct, we feel sure that the Padukka Inspector could not have forgotten so important a statement.

Before the
Bribery
Tribunal

No. 22

Decision
18th October
1961
continued

It is also incredible that the complainant paid the money to the accused for the purpose of settling the case, when he could very well have paid the damage compensation direct to the Court and settle the case without the intervention of the accused. Whatever plausible explanation the accused may have had in his mind when he accepted the money and held it in the fold of a newspaper, it is clear that he accepted the money from the complainant in an open place at a time when the Court was not sitting and in the absence of the complainant Emis Perera and the prosecuting Police, for a purpose which, by virtue of his status as a witness in that case, he was not entitled to pursue.

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We reject the evidence of the accused and his witnesses. Sudappu did not appear to us a truthful witness. His demeanour when giving evidence did not impress us as he seemed to be so uncomfortable and fidgety. The evidence of the witnesses who spoke to Karunadasa going to the accused's house on 11th July - the day previous to the trial is such that a person who in the accused's position could obtain without difficulty. Two petitions were sent to the Bribery Commissioner in this connection and in our view it was not difficult for a headman to be responsible for the sending of the two petitions so as to create his defence. We unanimously find the accused guilty of the charges made against him.

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As regards punishment we consider that a sentence of imprisonment is called for in view of the fact that the accused holds the responsible office of a village Headman and sentence him to six weeks rigorous imprisonment on each count the sentence to run concurrently. We further order under Section 26 of the Bribery Act, No. 40 of 1958, that the accused pay a sum of Rs. 50/- as a penalty within one month of this date.

In the event of an appeal bail accused in a sum of Rs. 500/500.

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Sgd.....
President. 18.10.61

Sgd.....
Member.18.10.61

Sgd.....
Member.18.10.61

No. 23

WARRANT OF COMMITMENTBefore the
Bribery
Tribunal

Warrent of Commitment on a Sentence of
Imprisonment passed by a
Bribery Tribunal

No. 23
Warrant of
Commitment
18th October
1961

From the President of the undermentioned Bribery
Tribunal To the Fiscal of the Western Province
and the Superintendent of the Prison at Welikada.

- Whereas the Bribery Tribunal consisting of
- 10 1. Name of Members of the Bribery Tribunal
- A.E. Christoffelsz Esq. C.M.G.
A.H.M. Imail, Esq. J.P. U.M.
S. Somasunderam, Esq. O.B.E.
2. Name of person convicted
- has this day duly convicted² Pedrick
Ranasinghe, Village Headman, 464A,
Dampe of the charge/charges
3. State shortly the offence committed
- 20 1. That he, being a public servant,
to wit, Village Headman of Dampe, did
between the 1st June, 1960, and 6th
June, 1960, at Hanwella solicit from
Ranasinghe Karunadasa a gratification of
fifty rupees which he was not authorised by law or the
terms of his employment to receive and that he is
thereby guilty of an offence punishable under Section 19
of the Bribery Act, No. 11 of 1954, as amended by the
Bribery (amendment) Act No. 40 of 1958.
- 30 2. That on 12th July, 1960 at Hanwella,
he, being a public servant as aforesaid, did accept
from the said Ranasinghe Karunadasa a gratification of
fifty rupees which he was not authorised by law or the
terms of his employment to receive and that he is thereby
guilty of an offence punishable under Section 19 of the
Bribery Act, No. 11 of 1954, as amended by the Bribery
(Amendment) Act, No. 40 of 1958.
- and has upon such conviction sentenced
him to six weeks rigorous imprisonment, on each count,
sentence to run concurrently.

40 There are therefore to command you,
the said Fiscal, to take the said 2 Pedrick Ranasinghe
and safely convey him to the Prison at Welikada aforesaid,

Before the
Bribery
Tribunal

and there to deliver him to the Superintendent thereof together with a copy of this warrant certified under your hand.

No. 23
Warrant of
Commitment
18th October
1961
continued

And I do hereby command you, the said Superintendent of the said Prison, to receive the said Pedrick Ranasinghe into your custody in the said prison, and there carry the aforesaid sentence into execution.

Given under my hand this 18th day of October 1961, at Colombo.

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Sgd.
President of the
aforesaid Bribery
Tribunal.

In the
Supreme
Court

No. 24

PETITION OF APPEAL

No. 24
Petition
of Appeal
18th October
1961

IN THE SUPREME COURT OF THE ISLAND OF CEYLON

In the matter of the
prosecution of Pedrick
Ranasinghe Village Head-
man 464A Dampe.

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Pedrick Ranasinghe

Accused - Appellant

Bribery Case No:
35/1/172/60

- Vs -

The Bribery Commissioner

Complainant - Respondent

On this 18th day of October 1961.

To the Honourable the Chief Justice and the other Justices of the Supreme Court of the Island of Ceylon.

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The humble Petition of the Petitioner, Pedrick Ranasinghe, showeth as follows:-

1. Your Lordships' Petitioner was charged before the Bribery Tribunal under Section 19

of the Bribery Act No. 11 of 1954 as amended by Act No. 40. 40 of 1958 as follows:

In the
Supreme
Court

(a) that the petitioner a public servant did between the 1st June 1960 and 6th June 1960 at Hanwella, solicit from Karunadasa a gratification of Rs. 50/-.

No. 24

Petition
of Appeal

18th October
1961

continued

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(b) that on the 12th July 1960 at Hanwella, the petitioner being a public servant did accept from the said Karunadasa a sum of Rs. 50/- as a gratification which the petitioner was not authorised by law or reason of his employment to receive.

2. After an enquiry which commenced on the 7th of August 1961, the Bribery Tribunal by its verdict delivered on the 18th October 1961, found the petitioner guilty of both of the above charges and sentenced the petitioner to undergo a term of 6 weeks R.I. on each of the above counts (the terms to run concurrently) and to pay a penalty of Rs. 50/-.

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3. Your petitioner being dissatisfied with the verdict of the Bribery Tribunal begs to appeal therefrom to Your Lordships' Court on the following among other grounds which may be urged by the Counsel at the hearing of this appeal:-

(1) The said judgment of the Bribery Tribunal is contrary to law and against the weight of evidence led in the case.

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(2) The Bribery Tribunal based its decision on an adverse inference drawn on an alleged failure of your petitioner to explain the possession of the money to Inspector Fernando immediately at the time of the arrest of the petitioner whereas, the evidence was that the petitioner did explain to Inspector Perera of the Padukka Police who was present at the time of the arrest, and Inspector Perera stated in his evidence that the Petitioner did state something to him at the time but he was unable to recall what it was before the Tribunal.

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(3) The Bribery Tribunal accepted as reliable the evidence of the complainant Karunadasa, whereas the weight of the evidence was that Karunadasa had very strong motives to implicate your petitioner in this case by bringing a false charge.

In the
Supreme
Court

No. 24

Petition
of Appeal

18th October
1961

continued

- (4) The Tribunal accepted the evidence of Karunadasa who was not a reliable witness..
- (5) The Tribunal without any sufficient reason whatsoever rejected the evidence of all the defence witnesses.
- (6) The Tribunal rejected the evidence of Suddappu without giving due weight to the fact that Suddappu was one of the co-accused in Case No. 10309 of the Rural Court at Hanwella and was a party desirous of settling that case by means of payment of compensation through the medium of your petitioner. 10
- (7) That the complainant Karunadasa stated categorically that there was no suggestion by the President of the Rural Court that the case against him, his father and the witness Suddappu be settled by payment of Rs. 35/- as compensation to the complainant in the case, whereas the Police Constable Karunapala who was the prosecuting officer in that case stated in evidence that there was such a suggestion. 20
- (8) That if there was such a suggestion as was stated in evidence by Constable Karunapala and the Petitioner himself then there was no need for Karunadasa to pay the Petitioner a bribe. 30
- (9) That the circumstances viz., the presence of a number of people in an open Court house and the absence of any secrecy in the receipt of the money clearly point to the payment having been for an honest purpose.
- (10) That the fact that the Petitioner soon after the detection in his statement to the Police stated that Karunadasa had come to his house the previous night and that the petitioner mentioned as his witnesses to this fact the names of R.D. Simon and Warlianu Fernando clearly shows that this was not an after-thought, and that these two witnesses had not been obtained later to give false evidence. 40

4. Your Petitioner prays that the verdict of the Bribery Tribunal be reversed, or such other order made as may to Your Lordships' Court seem meet and as Justice may require.

In the Supreme Court

No. 24

Sgd. Illegibly
Petitioner.

Petition of Appeal
18th October 1961
continued

No. 25

No. 25

JUDGMENT

Judgment

In the Supreme Court of the Island of Ceylon

25th December 1962

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Pedrick Ransainghe,

Accused - Appellant.

S.C.4/62
Bribery Tribunal Case
No. 35/I,172/60.

- v -

The Bribery Commissioner,
Respondent.

Present: H.N.G.Fernando, J. & L.B.de Silva, J.

Counsel: Nimal Senanayake, for the Appellant.
R.S.Wanasundera, Crown Counsel, for the
Respondent.

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Argued on: 27th November, 1962.

Decided on: 25th December, 1962.

H.N.G. Fernando, J.

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The recent decision of this Court in Piyadasa's case¹, if followed, would compel us to hold on the present appeal that "a Bribery Tribunal has no jurisdiction to try and find the Accused guilty of the offence of bribery" (per Tambiah J.), and accordingly to quash the conviction of the appellant and the sentence passed against him. But learned Crown Counsel, argued that the question should be re-considered and relied on two grounds;

(1) That a conviction by a Bribery Tribunal, as distinct from the imposition of a sentence, is not an exercise of judicial power, a proposition which is supported

In the
Supreme
Court

by the observations of Sansoni J., in the case of Senadhira,² to the effect that the power to adjudicate is only an arbitral power.

No. 25

Judgment

25th December
1962

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(2) That a challenge of the jurisdiction to convict is fundamental, and amounts to a challenge of the validity of the entire Act, and cannot therefore be made in the exercise of a right of appeal conferred by the Act itself.

Both these matters have been dealt with in my own very recent unreported judgment in Kader Saibo Seyed Jailabdeen v. Abdul Rahuman Danina Umma³, I there state that I no longer adhere to the opinion I had formed when Don Antony's case⁴ was decided. On the contrary, I express my agreement with Tambiah and Sri Skandarajah JJ., that, in the context of the relevant provisions of the Act, a Bribery Tribunal does exercise judicial power when it tries a person on a charge of bribery. As to Crown Counsel's second argument, my opinion as stated in the unreported judgment is that there is no question of wholesale challenge of the entire Act, that the Legislature can validly confer judicial power on specially created tribunals, and that the objection which lies against a conviction by a particular Bribery Tribunal is that the judicial power validly vested in the special tribunals cannot be lawfully exercised by persons who are appointed to the Tribunal by the Governor General, and not by the Judicial Service Commission. I will not here repeat my reasons, but would like to add one further observation. In examining an enactment with reference to any alleged Constitutional invalidity, a Court must strive to reach a conclusion which will render the will of the Legislature effective, or as effective as possible. The conclusion I reach with reference to the Bribery Act is in accord with this principle, for in my opinion the primary intention of Parliament was to establish the special tribunals and to assign to them the jurisdiction to try charges of bribery. The intention that the Governor General should have power to appoint judges to these tribunals, however important, is ancillary to the primary intention, which latter intention is impaired only in a slight degree, and not materially, by a decision that the power of appointment alone is ultra vires.

Crown Counsel has in this appeal raised what is perhaps a new point for consideration. His contention was that the "office" established by the

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Bribery Act is the office of membership of the panel constituted under Section 41 of the Act. This office he concedes to be a paid office, but it is not a judicial office, for the panel does not as such try charges of bribery. He argued that even if a Bribery Tribunal does exercise judicial power, the Governor General appoints only to the panel, and not to the Tribunal itself. But is a Court to notice only the mere act of appointment to the panel, and to ignore the purpose for which the panel is created, namely the purpose that Bribery Tribunals shall be constituted by selection from the panel?

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Supreme
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No. 25

Judgment

25th December
1962

continued

Let me take the case of a statute which provides that Crown Counsel shall in specified circumstances function as Magistrates. The same argument may be advanced, namely that the original appointment of a person to be Crown Counsel was not to a judicial office, and that when a Crown Counsel thus functions as a Magistrate in pursuance of the statute does so by virtue of his appointment to the non-judicial office of Crown Counsel, and does not, when so functioning hold a paid judicial office. The answer to this argument is that Section 55 of the Constitution vests in the Judicial Service Commission the exclusive power to appoint to judicial office, whether the appointment is made by name or whether it is made by office. The hypothetical statute would conflict with Section 55 in that the Statute itself, that is Parliament itself, would purport to appoint Crown Counsel by office to be Magistrates. Although a Crown Counsel so functioning may be paid only the salary of his primary office, the payment for the period when he functions as Magistrate would be in respect of the judicial office to which the statute appoints him.

Similarly, the legal effect of the Bribery Act is that it purports to appoint to a Bribery Tribunal such persons from panel appointed by the Governor General as the Chairman may select. The Act designates, by office, persons holding office on the panel to be judges of Bribery Tribunals. But that power of designation belongs exclusively to the Commission. Crown Counsel's argument is in defiance of the important constitutional principle that "you cannot do indirectly that which you cannot do directly".

Although Section 29(4) was not expressly mentioned in the Judgment in Senadhira's case, the Court assumed that a provision of an Act of Parliament which conflicts with Section 55 of the Constitution is invalid unless passed by a two-thirds majority in the House of

In the
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No. 25

Judgment

25th December
1962
continued

Representatives. The point is expressly mentioned in the Piyadasa judgment. Section 29(4) provides -

"In the exercise of its powers under this section, Parliament may amend or repeal any of the provisions of this Order.....

Provided that no Bill for the amendment or repeal of any of the provisions of this Order shall be presented for the Royal Assent unless it has endorsed upon it a certificate under the hand of the Speaker that the number of votes cast in favour thereof in the House of Representatives amounted to not less than two-thirds of the total number of members of the House

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Every certificate of the Speaker under this sub-section shall be conclusive for all purposes and shall not be questioned in any Court of law".

In the present appeal, Crown Counsel made two important and interesting submissions with regard to this subsection:-

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(a) That because there is not express provision in subsection (4) declaring an amending or repealing Act to be null and void if not passed by a two-thirds majority, the Court has no power to declare such an Act to be void.

(b) That once a Bill has received the Royal Assent, the Court has no power to inquire whether it was passed by the requisite majority, and must hold it to have been duly enacted.

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In regard to the first of these submissions, Counsel pointed to the express provision for nullity which is made in sub-section (3), and urged that the absence of similar provision in sub-section (4) was deliberate and is decisive. For the general submission, he relied on three decisions, one from Australia and two from South Africa.

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In McCawley v. the King,⁵ the alleged conflict was between an Imperial Act of 1867 establishing the Constitution of Queensland and an Act of 1916 enacted by the Queensland Parliament. Section 16 of the Constitution Act had provided that the

Commissions of Judges of the Supreme Court of Queensland "shall remain in full force during good behaviour". The 1916 Act set up an Industrial Arbitration Court, and sub-section (6) of Section 6 of this Act provided as follows:-

In the
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Court

No. 25

Judgment

25th December

1962

continued

10 "The Governor may appoint the President or
any Judge of the Industrial Court to be
a Judge of the Supreme Court
The President and each Judge of the
Industrial Court shall hold office for seven
years from the date of appointment".

20 The Supreme Court of Queensland held the
provision to be inconsistent with the Constitution
Act, because of the limitation of the term of office
to seven years, and on this ground held that the
provision was void and inoperative. The High
Court of Australia was of opinion that the
Constitution "is a fundamental and organic law which
can only be repealed or modified with special
formality". That opinion was however rejected by
the Privy Council. Lord Birkenhead drew a distinc-
tion between what he termed a "controlled" and an
"uncontrolled" Constitution, the former of which he
described as one in which the constitution framers
"have created obstacles of varying difficulty in the
path of those who would lay rash hands on the
Constitution". His examination of various constitut-
ional statutes and instruments affecting Queensland
showed that "the Legislature of Queensland is master
of its own house, except in so far as its powers have
in special cases been restricted". In the absence of
30 any special provision to the contrary in the
Constitution, he held that the Legislature was fully
entitled to vary the tenure of the judicial office.

40 I readily accept for Ceylon the principle as
stated by Lord Birkenhead which is italicised above.
But that principle does not entitle the Crown to
maintain that ours is an "uncontrolled" Constitution;
for in addition to the special control imposed by sub-
section (3) of Section 29, we have the general control
which subsection (4) imposes in the case of any Bill
to amend any provision of the Constitution. There was
not, in the constitution of Queensland, any provision
resembling our Section 29(4).

The next case is that of Krause v. The Commissioner
of Inland Revenue 6, where the Supreme Court of South
Africa considered the validity of the levy of income
tax on the salary of a judge of the Supreme Court of
Transvaal. The objection to the levy was founded on a

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No. 25

Judgment

25th December
1962

continued

provision in the Constitution Act that the salaries of judges should not be diminished during their term of office. What is relevant for present purposes is the statement of Wessels J.A. that "except in the cases mentioned in Section 152 of the South Africa Act, the Courts of this country cannot declare a portion of an Act of Parliament unconstitutional". Section 152 expressly authorised amendments of the Constitution, but in regard to Bills affecting certain specified sections of the Constitution, it provided that they must be passed by both Houses of Parliament sitting together. A law to diminish the salaries of Judges clearly did not fall within the narrow and specified enumeration set out in Section 152. I need to observe only that, unlike Section 152 of the South Africa Act, our Section 29(4) applies to every Bill to amend any provision of the Constitution.

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The other South African case cited by Crown Counsel, Harris v. Minister of the Interior⁷ virtually defeats his own argument. Five Judges of the Supreme Court of South Africa there held invalid an Act of 1951 which purported to establish separate electorates for "whites" and for "coloureds". The ground of invalidity was that Section 35 of the Constitution Act gave equal rights of representation to all voters irrespective of race, and that the right could not be altered by an amending law unless passed by both Houses of Parliament sitting together. To reach this conclusion, the Court relied on the simple fact that Section 152 of the Constitution expressly provided for such a sitting in the case of a Bill to amend Section 35. In the case of the Constitution of Ceylon, there is the simple fact that Section 29(4) contains express provision applicable to all constitutional Bills.

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The South African judgment is of interest in another connection. The Act which was impugned did not purport to amend or repeal Section 35, but only enacted a new law which the Court held to be in conflict with that Section. The judgment accordingly supports the opinion that our Section 29(4) is applicable to a Bill which, though not in form an amending Bill, contains provision which is in conflict with some constitutional provision.

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The second submission regarding Section 29(4) requires some preliminary explanation. The Proviso provides that no amending Bill shall be presented for the Royal Assent unless it has endorsed on it a certificate of the Speaker that it was passed by a

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two-thirds majority of the House of Representatives. The submission is that the Royal Assent to an amending Bill establishes conclusively its due passage into law, that the Proviso deals only with a matter of Parliamentary procedure, and that, even though the Bill is not endorsed with the certificate, a Court must nevertheless regard it as having been validly enacted, and cannot inquire into the question of compliance with the terms of the Proviso.

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Court

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continued

Of course, if the intention of which the Proviso is the expression is in accordance with this submission, the matter ends there. But is that the intention? In my opinion, the language clearly manifests an intention that no Bill to amend any provision of the Constitution shall pass into law unless it had received the requisite majority in the House of Representatives. The passage by such a majority is made a condition precedent for enactment. Ordinarily, the question of fact, whether such a condition has been satisfied, is determinable by judicial inquiry, but in this context, where the question relates to proceedings in Parliament, the possibility of a judicial inquiry is very properly avoided. Instead, the Proviso prescribes that the sole means by which the question is to be determined, namely the Certificate of the Speaker endorsed upon a Bill that it was passed by the requisite majority. The Certificate "is conclusive for all purposes and shall not be questioned in any court of law". These words indicate the function which a Court is intended to perform in the case of a constitutional amendment, that is, to ascertain whether the Bill bears the Speaker's Certificate, for it is upon proof or production of the Certificate that the Court becomes bound by its conclusive effect. The very proposition that a Court cannot "look behind" the Certificate implies that in the first instance the Court must "look for" the Certificate. The absence of the Certificate is as conclusive as its presence; and in the absence of a Certificate the Court cannot be invited to inquire and determine whether, nevertheless, the condition precedent was satisfied, for it is just an inquiry that the subsection intended to prevent. It follows that, in the absence of the Speaker's Certificate endorsed upon the Bribery Amendment Act of 1958, validity cannot be claimed for any provision which is inconsistent with Section 55 of the Constitution.

Crown Counsel thought that his argument derived some support from the observations upon Section 29(4)

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continued

made by Sir Ivor Jennings in The Constitution of Ceylon (at page 56), but may not have been aware of the note in the Preface that the learned author was not attempting a legal exposition. These observations I have only examined after forming my own opinion as to the intention and effect of the Proviso. They do not refer to the situation I have here to consider, namely the case of a Bill which conflicts with the Constitution, but which does not bear the Speaker's Certificate.

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I would hold for these reasons that the conviction of the appellant in this case and the orders made against him are null and inoperative, on the ground that the persons composing the Bribery Tribunal which tried him were not lawfully appointed to the Tribunal.

Sgd. H.N.G. Fernando
Puisne Justice

L.B. de Silva J.

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I agree.

Sgd. L. B. de Silva
Puisne Justice.

Cases cited

1. Piyadasa v. The Bribery Commissioner, S.C.3/62
Bribery Tribunal, S.C.M.31.10.62
2. Senadhira v. The Bribery Commissioner
63 N.L.R.313
3. Don Antony v. The Bribery Commissioner
64 N.L.R.93
4. Jailabdeen v. Janina Umma S.C.2/1962 Quazi
Court No. 626 Colombo South
S.C.M.17.12.62.
5. 1920 A.C.691.
6. 1929 A.D.286.
7. 1952, 2 S.A.L.R.428.

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No. 26

Order in Council granting
Special Leave to Appeal

In the
Privy
Council

No. 26

At the Court at Buckingham Palace

Order in
Council
granting
Special
Leave to
Appeal

The 26th day of June, 1963

26th June
1963

P R E S E N T:

THE QUEEN'S MOST EXCELLENT MAJESTY

LORD PRESIDENT	SIR KEITH JOSEPH
LORD CARRINGTON	SIR JOHN HOBSON
MR. MARPLES	

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W H E R E A S there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 29th day of May 1963 in the words following, viz:-

"WHEREAS by virtue of His late Majesty King Edward the Seventh's Order in Council of the 18th day of October 1909 there was referred unto this Committee a humble Petition of The Bribery Commissioner in the matter of an Appeal from the Supreme Court of Ceylon between the Petitioner and Pedrick Ranasinghe - Respondent setting forth that the Petitioner prays for special leave to appeal from a Judgment and Order of the Supreme Court of Ceylon dated the 20th December 1962 allowing the Respondent's Appeal against the Decision of the Bribery Tribunal (constituted under the Bribery Act No. 11 of 1954 as amended by Act No. 40 of 1958) dated the 18th October 1961 whereby the Respondent after a trial before the said Tribunal on two counts relating to a charge of bribery made against him (he being a public servant) under the said Acts was found guilty on both counts and sentenced on each count to rigorous imprisonment for a term of six weeks the terms to run concurrently and to pay a penalty of Rs. 50/-: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal from the said Judgment and Order of the Supreme Court of Ceylon dated the 20th December 1962 or for further or other relief:

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In the
Privy
Council

No. 26

Order in
Council
granting
Special
Leave to
Appeal

26th June
1963

continued

"THE LORDS OF THE COMMITTEE in obedience to His late Majesty's said Order in Council have taken the humble Petition into consideration and having heard Counsel in support thereof no one appearing at the Bar in opposition thereto Their Lordships do this day agree humbly to report to Your Majesty as their opinion that leave ought to be granted to the Petitioner to enter and prosecute his Appeal against the Judgment and Order of the Supreme Court of Ceylon dated the 20th day of December 1962:

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"And Their Lordships do further report to Your Majesty that the authenticated copy under seal of the Record produced by the Petitioner ought to be accepted (subject to any objection that may be taken thereto by the Respondent) as the Record proper to be laid before Your Majesty on the hearing of the Appeal".

HER MAJESTY having taken the said Report into consideration was pleased by and with the advice of Her Privy Council to approve thereof and to order as it is hereby ordered that the same be punctually observed obeyed and carried into execution.

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Whereof the Governor-General or Officer administering the Government of Ceylon for the time being and all other persons whom it may concern are to take notice and govern themselves accordingly.

W.G. AGNEW

ON APPEAL
FROM THE SUPREME COURT OF CEYLON

B E T W E E N

THE BRIBERY COMMISSIONER

Appellant

- and -

PEDRICK RANASINGHE

Respondent

RECORD OF PROCEEDINGS

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