

**IN THE SUPREME COURT OF THE DEMOCRATIC SOCIALIST  
REPUBLIC OF SRI LANKA**

In the matter of an application for Special Leave to Appeal from the Judgment of the Court of Appeal of the Democratic Socialist Republic of Sri Lanka in terms of Article 128 of the Constitution of the Democratic Socialist Republic of Sri Lanka.

High Court of Colombo;

Case No: HC 61/2003

Court of Appeal Case No:

CA 40/13

**SC/ SPL /LA/58/15**

**SC. Appeal 110/15**

Hon. Attorney General

Attorney General's Department,

Colombo 12.

**Complainant**

Vs.

Mohamed Iqbal Mohamed Sadath

**Accused**

**And Then**

Mohamed Iqbal Mohamed Sadath

**Accused-Appellant**

Vs.

Hon. Attorney General

Attorney General's Department,

Colombo 12.

**Complainant-Respondent**

**And Now**

Mohamed Iqbal Mohamed Sadath

Presently at,

Remand Prison,

Welikada

**Accused-Appellant-Petitioner**

**Vs.**

Hon. Attorney General

Attorney General's Department,

Colombo 12.

**Complainant-Respondent-Respondent**

**Before:** Buwaneka Aluwihare PC, J.  
Vijith K. Malalgoda PC, J.  
Murdu N.B.Fernando PC, J.

**Counsel:** Palitha Fernando, PC with R. Y. D. Jayasekera and Eranga  
Gunawardene for the Accused-Appellant-Appellant.

Yasantha Kodagoda, PC ASG for the Attorney General

**Argued on:** 12. 11. 2018 & 11. 03. 2019

**Decided on:** 14. 12.2020

## Judgement

Aluwihare PC J.

1. The Accused-Appellant-Petitioner-Appellant (hereinafter sometimes referred to as the Accused) along with another, were indicted in the High Court for importation, trafficking and possession of 1384 grams of Heroin, in terms of Section 54A of the Poisons, Opium and Dangerous Drugs Ordinance as amended by Act No 13 of 1984 (hereinafter referred to as the Ordinance).
2. At the conclusion of the trial, the Learned Judge of the High Court convicted the Accused-Appellant and acquitted the other who was indicted along with him.
3. Aggrieved by the aforesaid judgment the Accused appealed to the Court of Appeal and by its judgment dated 13<sup>th</sup> March 2015, the Court of Appeal having affirmed the conviction and the sentence imposed on the Accused, dismissed the Appeal.
4. When this matter was supported before this court, the court granted Special Leave to Appeal on the following questions of law.

*Did their Lordships of the Court of Appeal;*

- i. Misdirect themselves on the law pertaining to the burden of proof by holding that the Prosecution need not establish the mental element of conscious possession in a charge of possession, trafficking or importation of Heroin in terms of Section 54 of the Poisons, Opium and Dangerous Drugs Ordinance as amended by the Poisons, Opium and Dangerous Drugs (Amendment) Act No. 13 of 1984.*
- ii. Err in law, in considering the provisions of Section 69 and 70 of the Penal Code and thereby casting a burden on the defense, without*

*considering the case for the Prosecution for the purpose of concluding that the Prosecution had discharged its burden of establishing the ingredients of the offence beyond reasonable doubt.*

*iii. Whether mere possession was sufficient to convict the Accused-Appellant on charges of trafficking in terms of the Poisons, Opium and Dangerous Drugs Ordinance.*

*iv. A person who brings narcotic substance into the country through the Airport- does it fall under trafficking.*

5. It is to be noted that the first two questions referred to above are questions raised in subparagraph (i) and (iv) of paragraph 8 of the petition of the Accused whilst the 3<sup>rd</sup> question was permitted to be raised by this Court when the application for Special Leave to Appeal was supported on 25<sup>th</sup> June 2015.

6. The 4<sup>th</sup> question of law referred to above, was raised on behalf of the State which was permitted by the Court.

7. Of the four questions referred to above, as far as the 4<sup>th</sup> question is concerned, I do not see a question of law embodied therein for the reason that, whether a person carrying drugs on his body passing through the Airport amounts to trafficking or not depends on the facts and circumstances of each case. A person who is addicted to drugs may carry any prohibited substance on his person for his own consumption. In the circumstances I will not embark on an exercise to answer the 4<sup>th</sup> question as there is no ‘question of law’ embodied therein. Furthermore, Section 54A of the Act defines the meaning of the word “traffic” and as such whether a person has ‘trafficked’ any of the drugs referred to in the said provision has to be decided by considering whether the act contemplated, falls

within the said definition and **not** on ‘whether a man carrying drugs has passed through the airport’.

### **The Facts**

8. The Accused boarded the Sri Lankan Airlines flight UL124 from Madras, which was bound for Sri Lanka and arrived at the Katunayake International Airport late in the evening, on 01<sup>st</sup> September 2001. Witness Upul Gonawela, Assistant Superintendent of Customs, had been on duty at the ‘Green Channel’ of the Customs exit point. He had randomly checked several passengers who were heading towards the exit through the ‘Green Channel’ and one of the passengers happened to be the Accused. According to witness Gonawela, the Accused had had four bags as his baggage; two large bags, a blue travelling bag and a briefcase. Witness had inspected those bags and had found two cello- taped parcels wrapped in brown paper in the travelling bag that the Accused carried. Upon inspection, witness had noticed that the parcels contained a brown coloured powder which was later established to be Heroin. The Government Analyst had identified 1.384 kilograms of pure Heroin in the two parcels, which had had a gross weight of 2.384 kilograms.
9. These facts and the detection were not disputed by the Accused at the trial or before the Court of Appeal.

### **Matters That are Not in Dispute**

10. The Accused admitted that he went to India on 30<sup>th</sup> August 2001, met a doctor in relation to his father’s illness on 31<sup>st</sup> August and enplaned on that same day, departing from Chennai on the flight UL124.
11. He has also admitted that baggage was checked by the Customs officers and two brown coloured parcels were removed from the side pockets of the travelling bag. Thereafter his statement had been recorded and on the following day he

had been handed over to the officials of the Prevention of Narcotics Bureau of the Police.

12. Thus, the Accused had not disputed the detection of drugs and as far as the detection is concerned, the evidence placed by the Prosecution, to a large extent, is consistent with the version of the Accused.

### **The Defense Version**

13. The Accused elected to testify under oath before the High Court. His version, albeit briefly, is as follows; The Accused had said that he went to India to consult a medical doctor to obtain an opinion on behalf of his father. He had departed on 30<sup>th</sup> August and on the following day, that is, the 31<sup>st</sup> of August, he had left India bound for Sri Lanka in the flight referred to. At the Chennai Air Port he had met a couple, whom he had later come to know as Mohammed Faumi and Chandrani, near the check-in counter of the airline. The couple had approached him and had offered to pay 2000 Indian Rupees if he agreed to carry part of their baggage, to which the Accused had consented. He said, in his evidence, that he was carrying only a briefcase in which he had packed his clothes for the short trip. Accordingly, two strapped bundles, wrapped in material that is used to pack fertilizer and another travelling bag that was given by the couple, had been checked-in as unaccompanied luggage under the Accused's ticket. The Accused says he agreed to do so as Faumi claimed that they had exceeded the weight permitted by the airline. As to the colour of the travelling bag, there appears to be a discrepancy; the Accused in his evidence at page 639 of the brief had said that the bag was black in colour, but at page 649 he had referred to it as a 'blue bag'. This discrepancy, however, is not material to decide the issues in this case.

14. Upon arrival at Katunayake, he had collected the two bundles referred to and placed them on a baggage trolley. When he was about to retrieve the travelling bag from the baggage carousel, a gentleman sporting a tie had approached him

and had directed him to have his baggage checked before leaving. The Accused identified this Officer as Sivakumar, who testified on behalf of the Prosecution. It was thereafter that his baggage was checked by witness Gonawela and the detection was made. The Accused had taken up the position that he had had no knowledge that the travelling bag he brought to Sri Lanka on behalf of Faumi, contained narcotics.

15. If I may reiterate, the position taken up by the Accused is that he had no knowledge that he was taking a bag containing Heroin. Simply his position was that he is entitled to an acquittal, as the 'knowledge' of possessing heroin, which he claimed he lacked, is an element of the offence for which he was indicted.

### **The Questions of Law**

16. In relation to the first question of law on which Special Leave to appeal was granted, it was the contention of the learned President's Counsel that the Court of Appeal misdirected itself on the law pertaining to the burden of proof, by holding that the Prosecution need not establish the mental element of 'conscious possession' in a charge of possession, trafficking or importation of Heroin in terms of Section 54A of the Ordinance. It was further argued on behalf of the Accused-Appellant that the Court of Appeal erred in law and proceeded on the misconception that the offence referred to is a 'strict liability offence'.
17. The thrust of the argument on behalf of the Accused-Appellant was that the Court of Appeal, having accepted the version of the Accused-Appellant that the bag containing the parcels of Heroin was given to him by another person, proceeded to impose liability on the basis that the Accused-Appellant had not acted with due care in accepting the bag given the attendant circumstances and thereby their Lordships of the Court of Appeal failed to appreciate that the burden of proof is on the Prosecution to establish beyond reasonable doubt that the Accused-Appellant had the requisite knowledge as far the offence is

concerned. The Learned Additional Solicitor General drew the attention of court to section 394 of the Penal Code, the offence of retention of stolen property. The learned ASG argued that the said provision criminalises retention [possession] of stolen property. However, the provision has explicitly laid down the requisite *mens rea* [knowledge] but not so under Section 54A of the Ordinance. Based on this distinction, it was argued on behalf of the State that the onus is on the Accused to seek refuge under Section 72 of the Penal code once the possession is established by the Prosecution.

### **Requirement of ‘Conscious Possession’ in a Charge under Section 54A of the Poisons, Opium and Dangerous Drugs Ordinance**

18. At the outset, it must be said that the relevant provision of the Ordinance that establishes the offences referred to, is silent as to the requisite ‘*mens rea*’. In the case of **Van der Hultes v. Attorney General** 1989 1 SLR 204 [*supra*] where Van der Hultes was indicted on identical counts as in this case, the Court of Appeal observed; “*We are of the view that mens rea is an essential ingredient of the offences with which the appellant was charged. The ordinance nowhere rules out the necessity, recognized in the general law, that the prosecution must prove this element beyond a reasonable doubt.*” [page 215]. Our courts have continuously held that the mental element is an essential ingredient of the offence under Section 54A of the Ordinance.
  
19. I wish to refer to the observation made by Lord Reid in the case of **Warner v. Metropolitan Police Commissioner** 1968 52 Crim. Appl. R 373. His Lordship stated that “*It is of utmost importance for the protection of the liberty of the subject that a court should always bear in mind that, unless a statute either clearly or by necessary implication rules out mens rea as a constituent part of a crime, the court should not find a man guilty of an offence against the criminal law unless he has a guilty mind.*” [page 383]

20. The vexed issue that needs consideration is, what is the *mens rea* contemplated in Section 54A of the Ordinance. In the case of **Warner v. Metropolitan Police Commissioner** [*supra*] where the Accused was charged for possessing amphetamine sulfate tablets, a prohibited substance under the Drugs (Prevention of Misuse) Act of 1964, the House of Lords considered the requisite mental element of the offence. The question that was certified as fit for the decision of the House of Lords was, ‘*whether a defendant is deemed to be in possession of a prohibited substance when, to his knowledge, he is physically in possession of the substance, but is unaware of the true nature*’. As it appears the question referred to is slightly different to the issue in the present case, where the Accused had taken up the position that he was unaware not only of the *true nature* but he was also unaware of the contents he had [physically] in possession as far as the baggage given to him by Faumi was concerned.
21. In relation to the mental element of ‘knowledge’, however, the pronouncement of **Warner** [*supra*], in my view, has a significant bearing on the case before us for the reason that Lord Wilberforce has considered the mental element from the context of the requisite *mens rea* that requires to be established in a case of this nature. His Lordship, in reference to the issue of mental element stated; “*I take this as raising the general question as to the nature and extent of knowledge or awareness, which must be shown against an accused person found in actual control of a prohibited substance, in order that the section may apply*”, [page 452] the very question that this court is called upon to answer.
22. Lord Wilberforce, stating that what must be answered is whether in the circumstances the Accused should be held to have possession of the substance rather than mere control, referred to R.S. Wright [Pollock and Wright] “An Essay on Possession in Common Law” [1888 Part III Chapter 1 page 119] where the writer had said “*The ‘modes or events’ by which the custody commences and the legal incident in which it is held. By these I mean, relating them to typical situations, that they [the jury] must consider the manner and circumstances in*

*which the substance or something which contains it, has been received, what knowledge or means of knowledge or guilty knowledge as to the presence of the substance, or as to the nature of what has been received, the accused had at the time of receipt or thereafter up to the moment when he is found with it; his legal relation to the substance or package (including his right of access to it) On such matters as these (not exhaustively stated) they [the jury] must make the decision whether, in addition to physical control, he has, or ought to have imputed to him the intention to possess or knowledge that he does possess what is in fact a prohibited substance. If he has this intention or knowledge, it is not additionally necessary that he should know the nature of the substance.”*

23. Lord Wilberforce went on to state that, on such matters as above, though not exhaustively stated, it must be decided whether in addition to physical control, he has or ought to have imputed to him, the intention to possess or knowledge that he does possess, what is in fact a prohibited substance.
24. The above reasoning in my view is a rational guideline that should be adopted in deciding as to whether the Accused had the knowledge (the requisite *mens rea*) that what he possessed is a prohibited substance, even though he may not have known the precise nature of the substance.
25. I shall now consider the argument placed before this court by the learned President’s Counsel in relation to the 1<sup>st</sup> question of law, in the backdrop of the legal position postulated above.
26. The Court of Appeal had relied on the decision of **Jayaseelan Sathyanathan v. Attorney General** CA 188/96 [CA minutes 20- 08-1998]. Even in the said case, Justice Jayasuriya acknowledged the fact that “*knowledge and mens rea is relevant to liability*” and therefore the Accused person is entitled to be acquitted if he brings his case within the ambit of Sections 69 and 72 of the Penal Code. Justice Jayasuriya in a subsequent case, **Sarala Natarajan Setti v. Attorney**

**General** CA 209/96 [CA minutes 29-06-1999] succinctly dealt with the requisite mental element in a case under Section 54A of the Ordinance. [Both cases, **Jayaseelan** and **Natarajan Setti** relate to charges under Section 54A of the Ordinance.]

27. In reference to the mental element, Justice Jayasuriya states “*....the prosecution could discharge the burden in regard to mens rea by relying on a presumption arising under special circumstances of the case established by it in which case there is no burden to establish knowledge, affirmatively, but by relying on a presumption, prosecution shifts the evidential burden of proof and the accused required to rely on the provisions of sections 69 and 72 of the Penal Code to negate the knowledge*”. [page 3 of the judgement]
28. This observation, in my view is consonant with the view expressed by Lord Wilberforce in the case of **Warner** [*supra*] when his Lordship [Wilberforce] stated; “*By there, I mean, relating these to the circumstances in which the substance or something which contained it, had been received*” [by the Accused] (the emphasis is mine). As such, consideration must be given as to whether the Prosecution has discharged its burden in regard to establishing *mens rea* presumptively, arising under the circumstances peculiar to the instant case, and if that was so, whether the Accused had discharged the evidentiary burden to negate the same. It must be stated that the evidentiary burden on the Accused is to create a reasonable doubt as to the requisite knowledge. See **Sumanawathie Perera v. Attorney General** 1998 2 SLR 20.
29. The learned ASG also drew the attention of the court to the decision in the case of **Shanmugarajah v. The Republic** 1990 2 SLR 57 where the court held, “*.in a clear case it would be open to the prosecution to make out a prima facie case as to the mental element required by invoking the tentative presumption that a person is deemed to intend the natural consequences of his act*”. The learned ASG argued that, in the present case the prosecution did establish a strong prima

facie case and if an accused in such situation did nothing, the prosecution may be held to have discharged its burden in regard to proof of the mental element necessary to establish liability. The learned ASG pointed out, that the learned trial judge having carefully evaluated the evidence given by the accused had rejected the accused's version giving reasons for doing so. Thus, the learned ASG argued that the only acceptable evidence that was available to the court was the version of the Prosecution.

30. In the instant case, the Accused had elected to give evidence under oath and stated that he carried his father's medical records, even on his return trip, but none of them were produced to substantiate his assertion which he could have done. His explanation was that his briefcase was taken into custody and when it was returned, the documents were not there. However, he had failed to confront any of the witnesses who testified on behalf of the Prosecution in this regard. Further, his assertion that he volunteered to check in luggage belonging to total strangers who turned up at the airport, under his ticket for a meagre payment is also highly improbable for several reasons. He did not know how genuine the strangers were and more importantly, he did not have any idea as to the contents that were to be checked in as luggage, under his ticket. It would not be unreasonable to presume that it was well within his knowledge that people do smuggle contraband into the country under various guises, given the social standing of the Accused. In the case of **Warner** [*supra*] Lord Reid observed; *“Further, it would be pedantic to hold that it must be shown that the accused knew precisely which drug he had in possession.....and in fact virtually everyone knows that there are prohibited drugs. So it would be quite sufficient to prove facts from which it could properly be inferred that the accused knew that he had a prohibited drug in his possession.”*

31. Even if the Accused is given the full benefit of playing the role of a good Samaritan, in assisting the passengers who claimed they were overweight, there was no reason for the Accused to have the luggage collected upon arrival at

Katunayake airport for the simple reason that the ‘weight issue’ is of no relevance once the baggage arrives. The Accused had not given any explanation for his conduct in this regard. The Learned ASG drew the attention of this court to the testimony of the Accused where he had said that he helped Chandrani [who was with Faumi and came in the same flight] to place the bag she brought on the trolley. The learned ASG argued that this is not a probable conduct of a normal person. In the circumstances I hold that both the learned High Court Judge as well as the Court of Appeal was correct in holding that, inferentially the Prosecution had established that the Accused had the requisite knowledge, thus, I answer the 1<sup>st</sup> question of law on which Special Leave was granted in the negative.

32. The second question of law on which Special Leave was granted was, as to whether the Court of Appeal, in considering Sections 69 and 72 of the Penal Code, erred in casting a burden on the defence, without first considering as to whether the Prosecution had discharged its burden of establishing the ingredients of the offence beyond reasonable doubt.
33. As stated earlier, as the law stands now, the Prosecution can discharge its burden of establishing the requisite mental element presumptively, by adducing circumstances in which the [prohibited] substance or something which contained it had been recovered [from the Accused]. The learned trial judge having analysed the position taken up by the Accused at the trial (pages 15 to 24 of the judgement) had arrived at a clear finding of fact that the position taken up by the Accused cannot be accepted and has proceeded to reject the same. The learned trial judge had also come to a finding of fact that the Accused had brought into this country from Chennai the bag containing Heroin, which was in the control and possession of the Accused, knowing very well that the bag contained the substance;

“ඉහත සියළු විශ්ලේෂිත සාක්ෂි අනුව 1වන මුද්දින සන්නකයේ සහ පාලනයේ තිබී අත් අඩංගුවට ගන්නා ලද බැගයේ හෙරොයින් අඩංගු බවට මුද්දින හට මනා දැනුමක් සහිතව තම ස්වාමීන්වයේ එකී ද්‍රව්‍ය තබා ගැනීමේ චේතනාවෙන් එකී ගමන් බැගය වෙන්නායි ගුවන් තොටුපලේ සිට මෙරටට ගෙන විත් ඇති බවට ඉදිරිපත් වී ඇති සාක්ෂි මත තහවුරු වේ. තවද, 1වන මුද්දින සන්නකයේ තිබූ හෙරොයින් ප්‍රමාණය පුද්ගලික පාවිච්චියට ගනු ලබන ප්‍රමාණයට අධික ප්‍රමාණයක් බවට ඉදිරිපත් වන කරුණද මා සැලකිල්ලට ගනිමි. ඒ අනුව පැමිණිල්ලේ සාක්ෂි සමස්ථයක් වශයෙන් සැලකිල්ලට ගැනීමේදී අදාල ගමන් බැගයේ තිබූ අන්තර්ගතය සම්බන්ධව 1වන මුද්දින නොදැන සිටි බවට ඉදිරිපත් කර ඇති විනිති වාචකය මා ප්‍රතික්ෂේප කරමි.” (at page 24-25).

34. Thus, it appears that the trial judge had not cast any burden on the Accused to prove anything but had arrived at his findings purely on an analysis of the evidence led before the court. At the arguments before this court, the learned President’s Counsel did not advert to any misdirection on the part of the trial judge as far as application of Sections 69 and 72 of the Penal Code are concerned. It is noteworthy to mention that even in the written submissions filed on behalf of the Accused before the High Court, it had not been urged that the Accused was entitled to the benefit of the said provisions of the Penal Code.

35. The principle contention on behalf of the Accused before the Court of Appeal had been, as to whether the Prosecution had established the requisite knowledge on the part of the Accused in order to convict him for the offences with which he was indicted. The Court of Appeal, in reference to the case of **Jayaseelan v. Attorney General** [*supra*] had made a passing reference to Sections 69 and 72 of the Penal Code presumably because those sections were considered in **Jayaseelan’s** case [*supra*]. The court proceeded to hold that both, Sections 69 and 72 postulate that the Accused should have acted in good faith and had given consideration to the manner in which the Accused had conducted himself under the circumstances and had held that the Accused *“cannot be heard to say that he acted with due care and attention in the attendant circumstances.”*

36. I am of the view that Section 69 of the Penal Code has no application to the instant case as the section is applicable to an ‘act’ done in the belief that he is ‘*bound by law*’ to do it.
37. Section 72 of the Penal Code is found in verbatim in the Indian Penal Code and the corresponding provision is Section 79. The enactment of the Indian Penal Code is anterior to ours and as such it could be said that section 72 of our Penal Code is a reproduction of section 79 of the Indian Penal Code, given the fact that both Codes were drafted by the one individual. And as such its scope and application necessarily has to be the same, both here and in India.
38. Gour [Penal Law of India, 11<sup>th</sup> Edition page 571] states that the section embodies one of the general exceptions in the Code and the onus of showing that the section applies in his case is on the person who seeks to take advantage of it. [Also see **Nirmakumar Bhowmik v. Emperor** AIR 1938 Cal. page 553]. Gour goes on to say that Section 79 requires that the party pleading this exception should have acted in good faith and the definition of good faith involves **due care** and **attention**, both of which were lacking, on the part of the Accused in this case.
39. In fairness to their Lordships of the Court of Appeal, as referred to earlier, no burden has been placed on the Accused by the Court, but the Lordships have stated the legal position relating to the application of Section 72. The Court of Appeal has not erred in that regard. As such I answer the 2<sup>nd</sup> question on which Special Leave was granted also in the negative.
40. The final question of law that this court is called upon to answer is, as to whether ‘possession’ was sufficient to convict the Accused-appellant on charges of trafficking in terms of the Poisons, Opium and Dangerous Drugs Ordinance.
41. As far as the mental element is concerned, I am of the view that the offence of [drug] trafficking is similar to possession, since it requires to be established that

the perpetrator **knowingly** possessed or had control over a dangerous drug. Thus, one cannot engage in drug trafficking while being unaware that he or she is in possession of a drug, or if he or she reasonably but mistakenly believes that the substance is legal. The offence of drug trafficking, however, also requires that the Prosecution establish that the perpetrator was involved in the selling, procuring, storing, administering, transporting, delivering or distributing of such drugs, or had offered to do anything referred to above [Definition of the term “traffic” in section 54 A of the Ordinance]. It is this additional requirement [of an act] that transforms the status of the offence [of possession] to trafficking.

42. Since possession and trafficking can look the same at first glance, Prosecution for drug trafficking typically requires producing additional circumstantial evidence to indicate that the Accused was in possession of drugs not for personal use but for commercial purposes. The quantity of the drug detected would be a good indicator to decide whether the perpetrator is a user [an addict] or is trading in drugs. This would be a question of fact. It is in this context, it was stated at the commencement of this judgement, that the 4<sup>th</sup> question of law raised by the State, on which special leave was granted does not contain a question of law, thus this court will not endeavour to answer that question.

43. For the reasons set out above, I answer the 3<sup>rd</sup> question of law affirmatively. Even though I have answered the 3<sup>rd</sup> question of law referred to above in the affirmative, I am of the view that the Accused, cannot stand to benefit from it as for the reasons referred to above inferentially the Prosecution had established that he had the knowledge, that what he carried from Chennai to Sri Lanka was a prohibited substance.

44. For the reasons set out above the 1<sup>st</sup> and 2<sup>nd</sup> questions of law on which special leave was granted are answered in the negative while the 3<sup>rd</sup> question is answered in the affirmative.

Accordingly, the conviction and the sentence imposed on the Accused-Appellant is affirmed, and the appeal is dismissed.

*Appeal Dismissed*

Judge of the Supreme Court

Vijith K. Malalgoda PC, J.

I agree

Judge of the Supreme Court

Murdu N.B. Fernando PC, J.

I agree

Judge of the Supreme Court