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IN THE PRIVY COUNCIL

Judgment
29, 1965
NO. 9 OF 1963

ON APPEAL FROM

THE SUPREME COURT OF THE ISLAND
OF CEYLON

B E T W E E N

SUNGARAPULLA THAMBIAH

APPELLANT

and

THE QUEEN

RESPONDENT

RECORD OF PROCEEDINGS

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R. A. D. Charles Nicholas Basnayake	23rd June 1960
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P1	State Bank of India, Colombo, Cheque No. B.A./3 087878 for Rs.24,150/= drawn in favour of C. Bolling Esqr.	1st Sept.1958
P2b	Letter from the Photographic Survey Corporation to the Chartered Bank	9th Sept.1958
P4	Bank of Ceylon, Form No.180 in the name of Pinna Vithane Piyadasa	23rd Sept,1958
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Exhibit Mark	Description of Exhibit	Date
P4c	Certified copy of P. V. Piyadasa's Bank Account	-
P4d	Letter from Manager, Bank of Ceylon, Wellawatta, to P. V. Piyadasa	15th Oct.1958
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P21	National Overseas & Grindlays Bank Cheque No.FX. 948508	8th Sept.1958
P22	" " FX. 948509	8th Sept.1958
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P24	" " FX. 948507	5th Sept.1958
P25	" " FX. 948512	13th Oct.1958
P26	Clearing Cheque Credit Slip of H.B. Mendis	13th Aug.1958

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P28	- do -	10th Sept.1958
P29	- do -	10th Oct. 1958
P30	- do -	29th Oct. 1958
P42	National Overseas & Grindlays Bank Ltd. Cheque No. FY 179070	24th Jun.1958
P42a	" " FY 179072	9th July 1958
P42b	" " FY 179074	12th July 1958
P42c	" " FY 179075	12th July 1958
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P63	Letter from the Photographic Survey Corporation to the Electrical Department	9th Oct. 1958
P64b	Letter from the Photographic Survey Corporation to the Chartered Bank	8th Oct. 1958
P68	Copy of the Postage Book of the Bank of Ceylon, Pettah	9th Feb. 1959
P69	Copy of Mrs. Thambiyah's Bank Account	-
P70	Receipt of the Government Examiner of Questioned Documents	6th Nov. 1958
P70a	Receipt of the Government Examiner of Questioned Documents	6th Nov. 1958
P71	Report of the Government Examiner of Questioned Documents	12th Dec.1958
P73	Agreement in respect of Telephone No.79709	23rd July 1958

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P76	Bank Statement of G. Herman	24th Feb. 1959
P77	Extract of Cheque Register of the State Bank of India	24th Feb. 1959
P78	Report of the Government Analyst	3rd Jan. 1959
P80	Certificate regarding Car No. 1 Sri 3763	23rd Feb. 1959
P82	Proposal Form of Mrs. S. Thambiah to the Finance Co. Ltd.	23rd July 1958

EXHIBITS NOT TRANSMITTED

Exhibit Mark	Description of Exhibit
P2a	Counterfoil of P2
P4e	Envelope date stamped 17.10.58 and 20.10.58
P15	A letter head note sheet of S. Thambiah of 29/1A, Clifford Road, Colombo 3, containing several signatures reading "H.B.Mendis"
P16	A letter head note sheet of S. Thambiah of 29/1A, Clifford Road, Colombo 3.
P17	An envelope with uncanceled 10 cents stamp, addressed to S. Kulandavelu, Manager, Union Bakery, Killinochi.
P31	A page containing the specimen signature of H.B.Mendis
P32	A red coloured fountain pen taken charge from M.T.A. Arnolis Appuhamy
P33	A brown multi-coloured 'Pilot' fountain pen belonging to S. Thambiah
P34) P34a-e)	Specimen handwriting given to the C.I.D. by M.T.A. Arnolis Appuhamy (six sheets)

Exhibit Mark	Description of Exhibit
P35) P35a-u)	Twenty two pages of specimen handwriting given by S. Thambiah to the C.I.D.
P36) P36a-e)	Sixteen pages of specimen handwriting given by P. L. Dharmasena to the C.I.D.
P37) P37a-i)	Ten pages of specimen handwriting given by P.Perianan Pillai to the C.I.D.
P38) P38a-c)	Four pages of the specimen writing of V. Iyappen Reddiayar given to the C.I.D.
P39) P39a-c)	Four pages of specimen handwriting of M.D.H.Perera, given to the C.I.D.
P40) P40a-e)	Six pages of specimen handwriting given by G.Samaraweera to the C.I.D.
P41	A white round small glass bottle containing some white liquid. This bottle bears a label and is also tied with red tape and affixed to the top and bottom are two private seals of Inspector T. Goonetilleke of the C.I.D.
P43	A page of specimen handwriting of C. Bolling
P44	A page containing ten stamped impressions reading "A/C Payee only" furnished by Mr. G. Herman
P45	The Mail Delivery Book
P45a	A page of P45
P46	The Postman's Return Delivery Book
P46a	Pages 26 and 27 of P46
P48	Registered Postal Article Receipt No.4805 Elkaduwa of 2.9.58
P49	An envelope addressed to M.T.A. Arnelis Appuhamy
P50	Registration Transfer Slip of 3.9.58 from E.P.R. to E.P.R.4.
P51	Pink Receipt Book No.12

Exhibit Mark	Description of Exhibit
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P55	Summary of registered packets dated 4.9.58 of N.P.R.4
P55a	Entry on the reverse of P55
P55b	Entry on the reverse of P55
P55c	Entry on the reverse of P55
P81	Receipt of the Diamond Hardware Stores, Kandy
P82a	Receipt No.A.52408 of 23.9.58 of the Finance Co. Ltd., Colombo.
U & U1	Specimen handwriting of 1st accused
V, V1 V2 & V3)	Specimen handwriting of 2nd accused
W & W1	Specimen handwriting of Perianan Pillai
X	Specimen handwriting of 3rd accused
Y, Y1, Y2 & Y3)	Specimen handwriting of 5th accused
Z & Z1	Specimen handwriting of 4th accused
2D1) 2D2)	Two letter head note sheets of S. Thambiah

IN THE PRIVY COUNCIL

NO. 9 of 1963

ON APPEAL FROM

THE SUPREME COURT OF THE ISLAND
OF CEYLON

B E T W E E N

SUNGARAPULLAI THAMBIAH Appellant

and

THE QUEEN Respondent

RECORD OF PROCEEDINGS

No. 1

In the District
Court

10

Indictment

No. 1

IN THE DISTRICT COURT OF COLOMBO

Indictment
12th June 1959

Criminal)
Jurisdiction)
No.N.1952

THE QUEEN

Vs.

20

1. M. A. Appuhamy
2. S. Thambiah
3. V.A.Reddiyar
4. P.L.Dharmasena
5. G. Samaraweera

You are indicted at the instance of The Honourable Douglas St.Clive Budd Jansze', Q.C., Her Majesty's Attorney-General, and the charges against you are -

1. That between the 31st of August, 1958 and the 15th day of October, 1958, at Colombo, within the jurisdiction of this Court, you with others did agree to commit or abet or act together with a common purpose for or in committing or abetting

In the District
Court

—————
No. 1

Indictment
12th June 1959
continued

the offences of fraudulently and dishonestly using as genuine forged cheques knowing or having reason to believe them to be forged, and that you are thereby guilty of the offence of conspiracy to use as genuine forged cheques, which offence was committed in consequence of such conspiracy and that you have thereby committed an offence punishable under Section 459 read with Sections 113B and 102 of the Penal Code.

2. That at the time and place aforesaid and in the course of the same transaction, you the 5th accused above-named did commit theft of a registered letter No.4805 addressed to John Wilson Esquire, No.365, Dam Street, Colombo 12, containing cheque No.B.A.3 - 087878 dated 1st September, 1958 for Rs.24,150/- drawn on the State Bank of India, Colombo by G.Herman, property in the possession of the Postmaster General and that you the 5th accused have thereby committed an offence punishable under Section 367 of the Penal Code.

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3. That at the time and place aforesaid and in the course of the same transaction, you the 1st accused above-named did fraudulently or dishonestly use as genuine a forged document, to wit, the said cheque No. B.A.3 - 087878 knowing or having reason to believe the same to be a forged document and that you the 1st accused have thereby committed an offence punishable under Section 459 of the Penal Code.

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4. That at the time and place aforesaid and in the course of the same transaction, you the 2nd accused above-named, did abet the 1st accused above-named in the commission of the offence set out in Count (3) above, in consequence of which abetment the said offence was committed and that you the 2nd accused have thereby committed an offence punishable under Section 459 read with Section 102 of the Penal Code.

5. That at the time and place aforesaid and in the course of the same transaction, you the 2nd accused did fraudulently or dishonestly sign "C.Belling" on the reverse of a document, purporting to be valuable security, to wit, cheque No.B.A.3 - 087878 with the intention of causing it to be believed that the cheque was signed by or by the authority of C.Belling by whom or by

40

whose authority the cheque was not so signed and that you the 2nd accused have thereby committed an offence punishable under Section 456 of the Penal Code.

In the District
Court

—
No. 1

Indictment
12th June 1959
continued

10 6. That at the time and place aforesaid and in the course of the same transaction, you the 1st, 2nd and 3rd accused above-named, did voluntarily assist in disposing of cheque No. B.A.3 - 087878 knowing or having reason to believe it to be stolen property and that you the 1st, 2nd and 3rd accused have thereby committed an offence punishable under Section 396 of the Penal Code.

20 7. That at the time and place aforesaid and in the course of the same transaction, you the 1st accused did fraudulently or dishonestly use as genuine a forged document, to wit, cheque No. 651966/9081 dated 30th September, 1958 for Rs.21,740/63 drawn on the Central Bank of Ceylon, Colombo, by the General Manager of the Department of the Government Electrical Undertakings knowing or having reason to believe the same to be a forged document and that you the 1st accused above-named have thereby committed an offence punishable under Section 459 of the Penal Code.

30 8. That at the time and place aforesaid and in the course of the same transaction, you the 2nd accused above-named did abet the 1st accused above-named in the commission of the offence set out in count (7) in consequence of which abetment the said offence was committed and that you the 2nd accused have thereby committed an offence punishable under Section 459 read with Section 102 of the Penal Code.

40 9. That at the time and place aforesaid and in the course of the same transaction, you the 4th accused above-named did without lawful authority fraudulently or dishonestly alter the payee's name to read Thiagarajah Vadivel Coomaraswamy in a document purporting to be a valuable security, to wit, Cheque No.651966-9081 after it had been drawn in favour of the Photographic Survey Corporation Ltd., by the General Manager, Government Electrical Undertakings and that you the 4th accused above-named have thereby committed an offence punishable under Section 456 of the Penal Code.

During this period of 7 years I knew that he was doing building contract work. The 2nd accused was a regular customer of ours. He came to our stores very often. The 1st accused came one day to our stores. I remember that incident.

In the District Court

Prosecution Evidence

No. 3

S.T.Selvadurai
20th June 1960

Examination continued

10 (Shown P67 a bill book of the Royal Hardware Stores and P67(a) a duplicate of the bill bearing No.221 dated 10.9.58). I have written the bill P67(a). It is an order amounting to Rs.2020/-. The 1st accused came there on that occasion. I had not known him before that date. On 10.9.58 the 1st accused came to our stores at 10 or 10.30 a.m. At the time the 1st accused came the 2nd accused was in our stores. The 1st accused came one hour later. The 2nd accused came there first and about one hour later the 1st accused came to our stores. The 2nd accused was taking down some quotations for piping fittings etc. during that one hour. At the time the 1st accused came into our stores I was engaged in a conversation with the 2nd accused giving him various quotations. At the time the 1st accused came there Mr. Sathkunararatnam was busy with the phone. Mr. Sathkunararatnam told me to attend to him when I was engaged in a conversation with the 2nd accused. When the proprietor asked me to attend to the 1st accused I told the 2nd accused to wait for some time and I wanted to attend to the 1st accused because that was regarding a sale. The 2nd accused then told me: "I have seen this man doing some contracts at Kurunegala or somewhere". At that time the 1st accused was coming to me. The 2nd accused did not talk to the 1st accused. The 1st accused asked for quotations of various things, and I gave him the prices. He asked me to make a reduction and I told him that I could not reduce the prices. Then he placed an order and I wrote out a cash bill. The cash bill is P67(a). Then the 1st accused took out a cheque and produced that cheque before me.

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Adjourned.

Hearing resumed after lunch.

Examination-in-chief contd:-

The 2nd accused did not speak directly to the 1st accused in the Royal Hardware Stores. The 1st accused was there that day in the shop for about 1½ hours. During that time I spoke to the 1st accused. I did not see anyone else speak to the 1st accused. The 1st accused was dressed in

In the District
Court

Prosecution
Evidence

No. 3

S.T.Selvadurai
20th June 1960

Examination
continued

a national costume that day, the 2nd accused was dressed in a trouser. I stated that I went to attend on the 1st accused and I wrote out P67A. He produced a cheque from his pocket. P67A is a cash bill totalling to Rs.2020/-. (Shown P1). This is the cheque presented by the 1st accused. I took down the number of the cheque on the bill.

(To Court:- When the cheque was presented I told the proprietor that a cheque had been given and asked him what I am to do. He came to the table and told the 1st accused that we have written a cash bill and that the goods can be delivered only on the 3rd day after the cheque is realised. The 1st accused agreed to it. The proprietor asked me to note the cheque number on the bill. I wrote the name given by the 1st accused as P.V. Piyadasa. I originally took it down as "B.V.Piyadasa" then he told the proprietor that it was P.V.) 10 20

(Shown the reverse of P1). The proprietor asked the 1st accused to sign on the reverse of P1 and he signed in Sinhalese. He signed in my presence. That is the signature he placed on the cheque. There may have been 2 other signatures about that at that time. I handed the P67A to the proprietor. No, the original of the bill was given to the 1st accused and the cheque to the proprietor. Under P.V.Piyadasa's signature is the signature of R.S. Sathkunararatnam. After that the 1st accused went away. After I finished with the 1st accused I continued to attend to the 2nd accused. He did not buy anything. The 2nd accused was there for about 45 minutes after the 1st accused left. 1st accused agreed to come in 3 days time. But he did not come back. Subsequently the C.I.D. officers came and questioned me and I made a statement. I also handed to them the bill book P67 and the proprietor handed over the cheque. 30 40

(To Court:- Now the cheque bears the signature of the wife of R.S.Sathkunararatnam).

The 1st accused did not tell me anything other than stating that the 2nd accused was a business man doing business at Kurunegala. I did not see them talking to each other.

CROSS-EXAMINED by the 1st accused:- Nil

In the District
Court

CROSS-EXAMINED by Sir Jayasundera for 2nd
accused:-

Prosecution
Evidence

I cannot remember when the C.I.D. questioned me. It was after the 1st accused's visit to the store. It was 5 or 6 weeks after. Our store is fairly big store. There is a lot of business, a large number of regular customers come there. The 2nd accused is a regular customer. He comes there often. Sometimes he takes quotations and goes away. Sometimes he buys. On this occasion he took quotations and went away.

No. 3
S.T.Salvadurai
20th June 1960

Cross-
examination

RE-EXAMINED:

Re-examination

It is when I gave the quotations to the 2nd accused that I was asked to attend on the 1st accused. In between to the giving of the quotations and the attending on the 1st accused I did not do anything else.

No. 4

No. 4

C. C. Sathkumaratnam

C.C.Sathkumaratnam
20th June 1960

Culanayagam Charles Sathkumaratnam - Sworn.
50. Trader Silversmith Street.

Examination

I am the proprietor of Royal Hardware Stores. The last witness is a salesman. In September 1958 he was employed in that capacity. (Shown P67A). It is dated 10.9.58. I remember the occasion. I remember the 1st accused coming to the hardware store. He came to purchase some goods. I directed him to the salesman Salladurai. At that time I think Thambiah (2nd accused) was there and Selladurai was giving the 2nd accused some quotations. I knew the 2nd accused for sometime. He is a regular customer at my stores. Selladurai attended to the 1st accused. The bill was a cash receipt bill, when the cheque was presented by the 1st accused I was called. I instructed Selladurai to take down his address and I told him that the goods cannot be given until the cheque is realised. The 1st accused gladly accepted and he said he will come 3 days after. He agreed to come on the day I asked him to come.

In the District
Court

Prosecution
Evidence

No. 4

C.C.Sathkumaratnam
20th June 1960

Examination
continued

On my instructions Selladurai wrote down the number of the cheque on P67A and obtained the 1st accused's name and address on that cheque. It was a large cheque for Rs.24100/-. The 1st accused signed as P.V.Piyadasa on the reverse of that cheque on my instructions. The cheque is in the name of one C.Bolling and I saw the signature of C.Bolling on the reverse. My wife had a bank account at that time and even now she has one. It was in the Chartered Bank and I wanted to credit this cheque to her account. I got her to sign on the reverse of the cheque Pl. The signature on the reverse of Pl is my wife's signature. I got her to sign and I took the cheque to the bank as it was a big cheque I went with it to see whether it was in order. The 'not negotiable' stamp was there at the time. I took the cheque to some friends of mine at the bank and they examined the cheque with the magnifying glass and I was informed by the bank that the seal 'account payee only' had been covered by the rubber seal 'not negotiable' and therefore the cheque was not good. The bank officials found out by looking through some glass. I brought the cheque back to the office and I kept it in my possession expecting the 1st accused to come back 3 days later. But he did not turn up.

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(To Court:- I retained the cheque. I was afraid to keep it at my office, but I kept the cheque, thinking that some day or other he would come because I had given him a receipt for the goods which he might claim at any time.)

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On 22.10.58 the C.I.D.officers came. When they came I made a statement to them and I handed over the cheque Pl as well as the bill book P67. It was on 10.9.58 that I got the cheque. I made a statement on 22.10.58. During that time the 2nd accused had come twice or thrice to my store. I cannot give the dates. Between 10.9.58 and 22.10.58 I remember meeting the 2nd accused in my hardware store once or twice I cannot remember exactly. The name on P67A is "P.V.Piyadasa, Ridiyagama Estate, Kurunegala". I did not know the 1st accused before that day. That was the first time I saw him. Nobody introduced him to me.

40

Cross-
Examination

CROSS-EXAMINED BY 1st accused:- Nil.

CROSS-EXAMINED by Sir Jayasundera:-

The 2nd accused was a customer of mine for several years. He had come to the store before and after the date in question.

CROSS-EXAMINED by 3, 4 and 5 accused:- Nil.

RE-EXAMINED: Nil

In the District
Court

Prosecution
Evidence

No. 4

C.C.Sathkumaratnam
20th June 1960

Cross-
examination
continued

Re-examination

No. 5

S. Balasubramaniam

No. 5

S. Balasubramaniam
20th June 1960

Examination

10 Sivasidambaram Balasubramaniam aff. 53.
Accountant, Electrical Dept. Colombo (Shown P2
cheque No.651966 dated 30.9.58). This is drawn
by the Electrical Dept. on the Central Bank for
a sum of Rs.21,740/63. It bears my signature
and also the signature of Mr.Charavanapyan, who
has signed for the general manager. The cheque
is in favour of the Photographic Survey Corpora-
tion. (Shown P62) Letter dated 1.10.58. The
cheque P2 was sent by this letter. P63 is a
20 letter from the Photographic Survey Corporation
acknowledging receipt of the cheque. (Shown P2A)
This is the counterfoil of the cheque P2. The
cheque was made out in the name of the Photo-
graphic Survey Corporation at the time it was
made out. I now see Mr. Thiagarajah Vadivel
Goomarasamy on the cheque given as the payee,
that is an alteration. I produce the counterfoil
of the cheque marked P2A and the letter P63. It
was reported later on that the cheque was lost and
30 that it was not credited to the account of the
Photographic Survey Corporation.

CROSS-EXAMINED: Nil

In the District
Court

No. 6

J. C. Weinman

Prosecution
Evidence

No. 6

J.C.Weinman
20th June 1960

Examination

Jeffry Charles Weinman sworn. 30. Accountant, Photographic Survey Corporation. (Shown P63) It is dated 9.10.58 sent to the Manager of the Electrical Department acknowledging receipt of the cheque for Rs.21,740/63. (Shown P62) This was received by us from the Electrical Dept. along with the cheque for Rs.21,740/63. (Shown cheque P2) The amount and number in the cheque P2 tally with the amount and number given in the letter P62, but the payee's name now reads as Mr. Thiagarajah Vadivel Goomarasamy. Originally the cheque was in favour of the Photographic Survey Corporation. Our company has an account at the Chartered Bank. When cheques are received they are sent to our credit at the Chartered Bank with a letter. It is not customary for us to endorse the cheques with our seal. It is the responsibility of the bank paying it. P2 had been sent to the bank along with other cheques by ordinary post. The cheques were lost in the post. And we have received a fresh cheque in payment of this account from the Electrical Dept.

10

(Shown P2B a carbon copy of a letter).

(Sir Jayasundera objects to the production of P2B. He states that unless there is evidence that the original of this letter reached any of the accused the Crown counsel cannot lead evidence of this copy. Mr. Granville Perera also associates himself with this objection.

20

30

Evidence already adduced in this case is that the cheque was lost and the charge against the accused is that the original letter attached to this cheque was stolen. In the circumstances I allow the carbon copy P2B to be produced.)

P2B is prepared by our Secretary H.Perera dated 9.10.58, enclosing the cheque to the bank. At the time the cheque came to us there were no endorsements as are appearing now on the reverse of P2.

40

Cross-
examination

CROSS-EXAMINED by the 2nd accused: Nil

CROSS-EXAMINED by Sir Jayasundera:-

P2 was sent along with four other cheques attached to the letter P2B. All the 5 cheques had not reached the bank, they were lost in the post. I did not sign P2B. There is an outward register of letters kept in the office, it has a record of all the letters that go out of our office. The secretary keeps that register. It will show that P2B was sent out of our office.

In the District Court

Prosecution Evidence

No. 6

J.C.Weinman
20th June 1960

Cross-examination continued

10 CROSS-EXAMINED by other accused:- Nil.

No. 7

H. Philips

No. 7

H. Philips
20th June 1960

Examination

20 Mrs. Hyacinth Philips sworn. 39. Wife of G.N.Philips. Wellawatte. In October 1958 I was Miss H.Perera. I was the Secretary of the Photographic Survey Corporation (Shown letter P2B) it is dated 9.10.58. It was prepared and signed by me. I remember sending some cheques along with this letter. I do not remember the number of cheques. I remember a cheque for Rs.21,000/- from the Electrical Dept. being sent. Those cheques were not endorsed on the reverse, by us, no seal was placed on them by our Photographic Survey Dept. The cheques were sent by ordinary post. I now know that all the cheques in that letter have been lost. (Shown cheque P2) I saw a cheque like this for Rs.21,740/63. I now see the payee is given as Thiagarajah Vadivel Goomarasamy, but it was the Photographic Survey Corporation Ltd.

30

CROSS-EXAMINED by 1st accused: Nil

Cross-Examination

CROSS-EXAMINED by Sir Jayasundera:-

40 P2B in the body of it did not give any of the particulars about those cheques we sent. When letters go out of the office there is a record of the stamps used kept. The 10 cent stamp used in that particular letter was recorded. There is no outward register as such. That a stamp was used on a letter addressed to so and so is recorded. The value of the stamp is given. That is really the stamp account book. The date,

In the District Court

Prosecution Evidence

No. 7

H. Phil
20th June 1960

Cross-examination continued

the place to which the letter is sent, that is the addressee and the amount of the stamp are entered. In this case it must be just entered - Chartered Bank and the amount of the stamp.

CROSS-EXAMINED by 1 to 4 accused:- Nil.

CROSS-EXAMINED by 5th accused:- The cheques were sent by ordinary post.

RE-EXAMINED: Nil.

No. 8

K.L.Sumanaratne
21st June 1960

Examination

No. 8

K. L. Sumanaratne

10

Kottearatchige Leslie Sumanaratne, affirmed, 26 years, Transport Clerk, Photographic Survey Corporation, Colombo, residing at Mt.Lavinia.

I am employed as a driver in the Photographic Survey Corporation. I was so employed in 1958 too. I know the Secretary of the institution Mrs. Philips. She used to hand over letters to be posted to me. I normally post them in the post box. In September and October 1958 also I posted letters that were given to me. I carried out her instructions with regard to the posting. I did not tamper with any letters. I do not know any one of these accused.

20

CROSS-EXAMINED by Mr. Crossette Thambia - Nil.

CROSS-EXAMINED by Sir U.A.Jayasundera - Nil.

CROSS-EXAMINED by 5th accused - Nil.

Application

(At this stage Crown Counsel makes an application under section 33 of the Evidence Ordinance to read in evidence the deposition of the witness John Samuel de Zilwa in folio page 60 who is now reported to be dead. He moves to call a witness to put speak to the death of this witness.

30

The accused have no objection.

I allow the application).

No. 9

T.L.E.Krickenberg

Terence Llewelyn Edward Krickenberg, sworn, 51 years, Clerk, Chartered Bank. I knew Mr. John Samuel de Zilva, Staff Assistant, Chartered Bank Colombo. He died on the 18th January 1960 and I saw the dead body.

CROSS-EXAMINED by the accused:- Nil.

In the District Court

Prosecution Evidence

No. 9

T.L.E.Krickenberg
21st June 1960

Examination

10 Mr. Crown Counsel calls the mudaliyar of the Court to produce the deposition of John Samuel de Zilwa.

No. 10

M.Z.M.Nizam

No.10

M.Z.M.Nizam
21st June 1960

Mohamed Zainulabdeen Mohamed Nizam, affirmed, Examination
Interpreter, District Court, Colombo.

20 I have in my hand the record in M.C.Colombo South case No.91930. That is the summary proceeding of the 29th January 1959. On that day there were give accused present in Court. They were M.A.Appuhamy, S.Thambiah, B.A.Reddiar, S.M. Charnasena and D.Samaraweera. John Samuel de Zilva gave evidence on that day. The accused were defended by their lawyers and John Samuel de Zilva gave his evidence as follows:-

30 "John Samuel de Zilva, sworn, Staff Assistant, Chartered Bank, Colombo. I have been in this bank for the last 27 years. In October last year one of my duties was the receiving of the ordinary post. This was brought to the bank from the post office by an employee of the bank. It is brought in a locked bag. It was taken to the European officer first. He unlocks it. I am present at that time. After he opens it we take out the private letters and others separately. Having sorted them out I take the letters to my table. The letters remain unopened at that time. There is an assistant at my table. My peon opens the letters. He does not take out the letters from the envelopes.

Deposition
J.S.de Zilva

Examination

In the District
Court

Prosecution
Evidence

No.10

M.Z.M.Nizam
21st June 1960

Examination

Deposition
J.S.de Zilva

Examination
continued

I and my assistant take out the contents of these letters. The very first thing I do after they are taken out is to impress the Chartered Bank seal on them. Regarding cheques I affix the stamp in such a way so as not to obliterate them. The covering letters are then machine numbered. After that all the cheques and letters are sent to the accountant. From there it is sent on to the despatch branch. It is from there that these letters go out of the bank to the various places. Before the letters are so distributed they are entered in the book "Letter received sheet". Any letter or cheque which is to be credited is entered in this book. Up to the time that the letters are sent to the despatch department the various operations are done with my instructions. (Shown P2 a Central Bank cheque dated 30th September 1958) It does not bear the Chartered Bank seal. Therefore I say that it has not followed the order.

10

(Shown marked P64, P65 and P66 the letter received sheets for the 9th, 10th and 11th October). There is no record of this cheque P2. (Shown sheet No.45 as P64 which is marked P64A). There is an entry which reads as having received from the Photographic Corporation six cheques for Rs.100, Rs.100, Rs.219/50, Rs.175/-, Rs.36/75 and Rs.75/-. The machine number of the letters which came in these letters is 1644 and this letter and the cheque was received on the 9th October 1958. (Shown P64B). That is the letter bearing the number 1684 dated 8th October 1958. I produce that letter marked P64B. I identify the signature of R.L.Walker on it. I am aware that the Photographic Corporation has a current account in my bank.

20

30

Deposition
Cross-
examination
of Deponent

CROSS-EXAMINED by Mr.V.C.Fernando for the first accused:- Nil.

CROSS-EXAMINED by Mr.Sivasubramaniam for 2nd accused:-

40

Acknowledge is sent after realisation. In it we mentioned the number of cheques and the amount. (Shown P2B). It does not give the number or the details of the cheque alleged to have been sent. P64 in contrast gives the numbers and the amounts of the cheques. Letters like P2B is an unusual letter. There are people who give the numbers of

the cheques and there are others who do not give them. In reply to P2B we would have sent an acknowledgment containing the details of the cheques. If a covering letter is received it is noted. If a covering letter is not received there will be an entry to pay that a cheque has been received. If a payee has an account in the bank we will pay to his account. The cheque P2 has at no stage come to the Chartered Bank.

In the District Court

Prosecution Evidence

No.10

M.Z.M.Nizam
21st June 1960

10 CROSS-EXAMINED by the other accused:- Reserved.

Examination

Re-Examined:

Deposition
J.S.de Zilva

(Shown P64B). That is a letter giving the details of the cheques to be credited to the accounts of various people. In a letter like P64B a number and the details are necessary. (Shown P2B). This letter does not need any details.

Cross-examination of Deponent continued

Deposition
Re-examination of Deponent

20 This evidence is read over and explained to this witness after which he signed it having admitted it to be correct".

The Magistrate himself has set his signature at the end.

CROSS-EXAMINED, Mr. Crossette Thambiah:- Nil

CROSS-EXAMINED, Sir U.A.Jayasundera:- Nil

CROSS-EXAMINED, 5th accused:- Nil

No.11

No.11

H. Premaratne

H. Premaratne
21st June 1960

Hector Premaratne, affirmed, 32 years, Staff Officer, Central Bank of Ceylon, Colombo.

Examination

30 On behalf of the Chief Accountant of the Central Bank of Ceylon I produce marked P74 a certified copy of the extract of the register of cheque books issued by the Central Bank. According to P74 a cheque book bearing the numbers 65,1801 to 65,2000 was issued to the General Manager Department of Government Electrical Undertakings on the 17th July 1958.

In the District
Court

Prosecution
Evidence

No.11

H. Premaratne
21st June 1960

Examination
continued

I produce marked P75 a certified copy of the accounts of the General Manager of the Department of Government Electrical Undertakings, for the period 29th September to 15th 1958. At all stages there were funds in the Bank in the account. And there is a system by which all amounts of over Rs.10,000 to the credit of the Electrical Department are transferred to the account of the Deputy Secretary to the Treasury.

And notwithstanding that transfer cheques issued by the Electrical Department will be honoured by the Bank. (Shown P2). That is a Central cheque. And it comes from the cheque book that you have referred to earlier. The cheque P2 bears the number 651966 of 30th September 1958. It has come from the cheque book issued to the Department of Government Electrical Undertakings. The cheque P2 has never been presented to the Central Bank for payment. I also produce marked P79 a certified copy of the monies lying to the credit of the General Manager Department of Government Electrical Undertakings for the period September 29 1958 to October 15 1958. At all times there was a balance of over rupees two million.

CROSS-EXAMINED: Mr. Crossette Thambiah - Nil.

CROSS-EXAMINED: Sir U.A.Jayasundera - Nil.

CROSS-EXAMINED: 5th accused - Nil.

No.12

V.R.Nathanielz
21st June 1960

Examination

No. 12

V. R. Nathanielz

Victor Ratnathevan Nathanielz, sworn, 52 years Clerk, National and Grindlays Bank, Colombo. I have been employed there for 29 years. I know the 2nd accused S.Thambiah. I have known him from my boyhood. He has been in school with me. I also know that he lives in Clifford Road Colpetty. I also know the fact that neither Mr.Thambiah nor Mrs. Thambiah had a current account with National and Grindlays Bank. I remember some time in 1958 meeting the 2nd accused at the bank. It was six or seven months prior to February 1959. August or September 1958. That was a working day.

10

20

30

40

I was in charge of cash cheques counter and I was working in the counter. 2nd accused spoke to me alone but when he went there was a chap going along with him whom I can't identify.

In the District Court

Prosecution Evidence

No.12

V.R.Nathaneilz
21st June 1960

Examination continued

10 He asked whether he can open an account in our bank and I said "Yes." I asked him to get a letter of recommendation from an account holder, from a constituent. He did not tell me in whose name he wanted it opened. After that the 2nd accused went away. It was at that time that I saw him going with another person. After that day the 2nd accused did not in fact open an account with my bank. Even now there is no account. Letters of introduction must always accompany applications to open current accounts. The two conditions are that the two constituents of the Bank with a reasonable bank balance should recommend. (Shown Pl4). This would be the sort of form of a letter of introduction. It appears
20 to have been signed by one H.P.Mendis.

CROSS-EXAMINED: Mr. Crossette Thambiah - Nil.

Cross-examination

(Mr. Crossette Thambiah states that Pl4 is inadmissible because Mendis in his evidence states that that signature is not his signature and it is a forgery. Mr.Crown Counsel states that Pl4 is a document found in the first accused's possession at the time of his arrest. I allow the document.)

CROSS-EXAMINED: Sir U.A.Jayasundera:-

30 I made a statement to the police long after the 2nd accused had come to the bank. I said I was in the cash cheque counter. Any cheques presented for cash over the counter I am in charge. I get it and send it on to the different ledgers. In the course of a day quite a large number of cheques are presented in this way. For the purpose of presenting those cheques quite a number of persons come up to the counter. The 2nd accused came up to where I was seated. As he
40 was leaving the bank I saw somebody else also leaving who was near the counter. It was an inference that I drew that that man had come with him. I thought so. Whether in fact he came with him or not I am not sure. All I can say is at the time he left the bank somebody

In the District Court

Prosecution Evidence

No.12

V.R.Nathaneilz
21st June 1960

Cross-examination continued

else who was near the counter also left the bank with him. If there was another man he would have present a cheque or spoken to me. I drew the inference from the fact that he left the counter at the same time as the 2nd accused. It may be that he might have just come up to the counter and gone. Somebody who did not come with the 2nd accused might have left the counter at the same time as the 2nd accused. That is why I qualified my evidence before the Magistrate that I thought another man had come and left.

10

To Court: I am not sure whether he came with the other man or not.

CROSS-EXAMINED, 5th accused - Nil.

Re-examination

RE-EXAMINED:

The other man who went with the 2nd accused did not speak to me nor did he transact any business with me.

To Court: I first saw the other man when they were going.

20

No.13

No.13

S.I.Vanransow
21st June 1960

S. I. Vanransow

Examination

Steven Irwin Vanransow, sworn, 35 years, Clerk, National and Grindlays Bank, Colombo, residing at Quarry Road, Dehiwala.

I represent the Manager National Overseas and Grindlays Bank. I produce on behalf of the Manager the documents P21 to P30. P21 to P25 are cheque containing the signature of H.B.Mendis. He was a constituent of the bank and he has a current account. P26 to P30 are paying in slips also signed by H.B.Mendis.

30

Cross-examination

CROSS-EXAMINED, Mr. Crossette Thambiah

I am familiar with Mendis' signature.

CROSS-EXAMINED, Sir U.A.Jayasundera - Nil.

CROSS-EXAMINED, 5th accused - Nil.

No. 14H. B MendisIn the District
CourtProsecution
EvidenceNo.14

Herman Benedict Mendis, sworn, 24 years,
building contractor, residing at 230 Bloemendhal
Road, Kotahana.

H.B.Mendis
21st June 1960

Examination

I have been a building contractor for 5 years. I know the third accused. He is running a boutique next to my residence at Bloemendhal Road for about 1½ years. Apart from the third accused I do not know any of these accused. I have an account at the National Overseas and Grindlays Bank Ltd. I opened that account about 2½ years ago. (Shown P21, P22, P23, P24 and P25). They are cheques drawn and signed by me. They contain my signatures. They bear the date August, September and October 1958. The documents P26 to P30 are also some paying in slips and they bear my signature and my writing. In connection with this case I gave some specimens of my signature to the police which I marked as P31.

(Shown letter P14). This is a letter addressed to the Manager National Overseas Grindlays Bank regarding the opening of an account. It purports to be signed by one H.B. Mendis. The address given in this is the same address as the place where I was resident at that time. I am not the author of this letter. I did not sign or type this letter. I do not know a person called P.V.Piyadasa. I have not introduced or attempted to introduce any person to the National and Grindlays Bank to open an account. (Shown P15, P16). P15 is a letter head containing the signature H.B.Mendis in a number of places. I did not sign any of these. I did not authorise anyone on my behalf to sign the document P14. P15 and P16 are the letter heads of a person called S.Thambiah. I have letter heads in the name of my firm Perera and Mendis.

CROSS-EXAMINED, Mr. Crossette Thambiah:-

Cross-
examination

In P14 there is no attempt even made to imitate my signature. P15 and P16 resembles the letter P14 but none of them bear any resemblance to my genuine signature appearing in P21 to P30.

CROSS-EXAMINED, Sir U.A.Jayasundera.

CROSS-EXAMINED by Mr.Granville Perera who now appears for the 5th accused - Nil.

In the District
Court

No. 15

M. T. Nagendran

Prosecution
Evidence

No.15

Mailvaganam Tambirajah Nagendran, affirmed, 36 years, Sub-Inspector of Works, Health Department, residing at Chetty Street, Nallur, Jaffna.

M.T.Nagendran
21st June 1960

Examination

I have been in Jaffna since the 21st January 1959. Before that I was attached to the Public Health Engineering Division at Colombo. The office was at Torrington Square and I was living at 129 Jampettah Road Kotahena. I had been all throughout in Colombo. I and the 2nd accused are married to two sisters. I have been on visiting terms with the 2nd accused. I also know that the 2nd accused had a telephone and the number is 79709. I was aware of the fact that the 2nd accused was doing some building contract work in 1958. Before that he was himself in government service. I have still a bank account in the bank of Ceylon Pettah Branch. That was in the Bank of Ceylon building at the Old Town Hall Pettah. I had that account in 1958. I had that account since 1952. I made a statement in connection with this case on 23rd October 1958. Sometime prior to that the second accused telephoned to me. I was at Torrington Square. He wanted me to recommend a man to open a current account at the Old Town Hall Branch. It was during the lunch interval. He did not tell me who that man was. He did not even tell me that the person was a person known to me. At that time I was not aware that the 2nd accused had a bank account. The 2nd accused picked me up from office. He came to my office about 1/2 an hours time and he took me to the bank of Ceylon. He came with another person who was not known to me. He did not have a car at that time but he was driving a car.

(At this stage Mr. Crossette Thambiah desires to be heard on a submission which is as follows: that where from the deposition it is apparent that this witness is not in a position to identify the first accused as the person who accompanied the 2nd accused on this occasion the witness should not be led on this point).

10

20

30

40

I myself went to the Bank of Ceylon Pettah. The 2nd accused was dressed in western costume. We went to the old Town Hall Bank of Ceylon. The other man who came along with the 2nd accused was not known to me. He was not an English speaking person. I don't remember how he was dressed. He was either in national dress or in a coat and a sarong. He was not in trousers. The person who accompanied us was going to open an account. The 2nd accused asked me to introduce him. I did not know him. The account opening forms were filled up. (Shown P19 account opening form and signature card P18). The 2nd accused filled up P19. The name of the prospective constituent was written by the 2nd accused as Mahakamburege Gunadasa and his occupation has been given as building material supplier No.230 Kandy Road, Peliyagoda. The name of the person introducing the account was given as M.T.Nagendran, Sub-Inspector of Works, Health Department, Public Health Engineering Division Torrington Square. That was written by the 2nd accused. I have signed the document P19. I have also certified to the fact that I had known M.K.Gunadasa for two years. I did not in fact know this man as M.K. Gunadasa, nor did I know him for two years. I thought the facts forwarded by the 2nd accused were correct and because of that I gave this certificate. I had no reason to doubt the 2nd accused's word. That person signed in English but with difficulty so I suggested that he sign in Sinhalese. (Shown P18.) That is the signature card and the name of the constituent is written in English as Makakumburege Gunadasa. I can't remember by whom it was written. P18 is signed by me as the person introducing the account. After the forms were signed by me they were handed over to the clerk. The person who accompanied the 2nd accused handed them over. Then we were asked to proceed to the Main Street Branch. The signature was certified by the Bank as being correct. Then from the Pettah Branch the 2nd accused and the man who gave his name as Gunadasa and I walked up there and handed over the forms to the clerk. The person who was going to open the account handed them over. After some time the forms were returned and the man told us that the forms had not been accepted as the signature in English had been deleted and therefore a fresh form had to be filled up. We obtained

In the District
Court

Prosecution
Evidence

No.15

M.T.Nagendran
21st June 1960

Examination
continued

In the District
Court

Prosecution
Evidence

No.15

M.T.Nagendran
21st June 1960

Examination
continued

fresh forms and they were filled up. (Shown P20). That was one of the forms filled up. The 2nd accused wrote out that form P20. The person who accompanied the 2nd accused signed as M.K.Gunadasa in Sinhalese and I myself signed. There also I certified as having known this man Gunadasa for a period of two years. I wrote "M.K.Gunadasa" in P20. The words "Mahakumburege" were written by the 2nd accused. The figure "1000" was also written by the 2nd accused. Then it was closing time and they said that the person concerned will be informed subsequently after my signature had been verified from the Pettah Branch. It was about 2/30 or so. We then returned in the same car driven by the 2nd accused along with the other person. Near the roundabout at Torrington Square the car met with an accident. As I was getting late to office I walked the distance. I did not speak a word to the person who accompanied the 2nd accused. I did not make any attempt to ascertain his identity. The car would have met with the accident before 3. From about 12/30 to about 2/30 I was in the company of the other man. I made a statement to the Police on 23rd October 1958. The police showed me a man. I told that I was unable to make out whether he was the person or not. When they insisted that I answer the question I said "I think he may be the man".

10

20

Cross-
examination

CROSS-EXAMINED: Mr. Crossette Thambiah - Nil.

CROSS-EXAMINED: Sir U.A.Jayasundera:

30

I have seen Albert Perera on a number of occasions at the 2nd accused's residence. I was made to understand that he was a personal servant of Mr.G.G.Ponnambalam. If I remember correctly I think I saw Albert Perera in the old Town Hall Premises where I went to recommend this man. I can't remember him clearly. I have a general recollection to have seen this man somewhere in Pettah. The man who wanted to open the account signed in Sinhalese. He gave his name as Gunadasa or Jinadasa, I can't remember. The 2nd accused wanted to find out what his name was and when the person concerned said that his name was Gunadasa he entered his name as such on the form. The 2nd accused and the other man had a discussion whether his name was Gunadasa or something else.

40

CROSS-EXAMINED: Mr. Granvelle Perera - Nil.

RE-EXAMINED:

The discussion between the other person and the 2nd accused was in Sinhalese. I understand Sinhalese a little. The discussion was at the bank premises. Albert did not speak to me. He did not take any part in opening the account. I did not speak to the 2nd accused about the man who was going to open the account.

In the District
Court

Prosecution
Evidence

No.15

M.T.Nagendran
21st June 1960

Re-examination

No.16

No.16

10

K. T. Kanagasaby

K.T.Kanagasaby
21st June 1960

Examination

20

Kanagasaby Thirunavakkarasu Kanagasaby, affirmed, 26 years, Clerk Bank of Ceylon, Main Street, Colombo, residing at Wellawatte. In September 1958 I was a clerk in the Main Street Branch Pettah. I was the person accepting documents for the purpose of opening current accounts. (Shown P18 and P19). These two documents were handed to me at the table. They were handed over by the 1st accused. He was dressed in a sarong and a national dress. I examined the forms. I examined the signature form P18 where the name was given as Mahakumburege Gunadasa. That was in order. I examined P19 and found that the signature H.K.Gunadasa had originally been written in English and subsequently in Sinhalese. The person introducing the account was a person called Nagandran and his signature had been correctly authenticated. When I saw the defect I handed over a fresh account opening form and

30 asked him to fill it up and produce it to me. He took it outside and got it filled and brought it back. (Shown P20). That is the form that I handed over to the first accused and it was taken out of the counter and filled up. The same person had introduced the account. I took the form and told him that we would be writing to the first accused. I had to get the signature of Nagendran authenticated by the Pettah Branch. Then he went off. Two days afterwards first accused again wanted

40 to know whether he could open the account immediately and I told him that as the forms are not with me I was unable to open it. He wanted to get and mandate back as he wanted to get an account opened elsewhere. I said the forms were

In the District
Court _____
Prosecution
Evidence
No.16
K.T.Kanagasaby
21st June 1960
Examination
continued

not with me. (Shown P68). A certified copy from the postage register of the bank indicating that on the 25th of September a letter was sent to M. Gunadasa of Peliyagoda asking the applicant to call over. That would be a couple of days after the forms were handed over to me. I identify the documents P18, P19 and P20 and I also produce on behalf of the bank these documents as well as document P68. P20 has now been authenticated as the correct signature of N.T.Nagandran.

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Cross-
examination

CROSS-EXAMINED, Mr.Crossette Thambiah:

The first accused is a total stranger to me. I had never seen him before he handed over the mandate. I never picked him up in any identification parade. The next time I saw him was two days after the forms were handed over to me when he wanted to know whether he could open an account immediately. The next time I saw him was in police custody. He was brought to the Bank on the 23rd October. I remember Inspector Goonetilleke was the police officer who came.

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CROSS-EXAMINED Sir U.A.Jayasundera - Nil.

CROSS-EXAMINED Mr. Granville Perera - Nil.

RE-EXAMINED: Nil

No. 17

E.E.Edwin Perera
21st June 1960

No.17

E. E. Edwin Perera

Examination

Ethmadalage Ernest Edwin Perera, affirmed,
46 years, P.S.370 Cinnamon Gardens Police.

On the 22nd September 1958 I was on duty at the Accident Branch of the Police Station, Cinnamon Gardens. I know the Torrington Square roundabout. That falls within the jurisdiction of the Cinnamon Gardens Police Station. On the 22nd at about 2/45 p.m. one W.D.Peduru appeared in the police station and made a complaint regarding a motor accident. On receipt of the complaint I went to the scene of the incident. That was at the Torrington Square roundabout, about 100 yards from the Cinnamon Gardens Police Station. There I found two cars that had been involved in an accident.

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One car bore the number CL.2658 and the other 1 Sri 3763. Feduru was the driver of one car and the 2nd accused was the driver of the other. 2nd accused was there at that time. There was another person besides Thambiah. He was dressed in a white sarong and shirt. Parties came to an amicable settlement. I recorded the statement of the 2nd accused and he gave his address as S.Thambiah, age 44, Jaffna Tamil, Hindu, doing business, residing at 29/1A Clifford Road, Colpetty. I took no further action in the matter.

In the District Court _____
 Prosecution Evidence
 No.17
 E.E.Edwin Perera
 21st June 1960
 Examination continued

CROSS-EXAMINED: Mr. Crossette Thambiah - Nil.

CROSS-EXAMINED: Sir U.A.Jayasundera - Nil.

CROSS-EXAMINED: Mr. Granville Perera - Nil.

No.18

S. P. Kariyawasam

Stephen Piyadasa Kariyawasam, affirmed, 49 years, Village Headman, Peliyagoda Pattiya. I have been a village headman of Peliyagoda Pattiya for the last 16 years. I do not know a person called Mahakumburege Gunadasa. I do not know the premises 230 Kandy Road, Peliyagoda. There is no such number. At any time there was no such number. I have seen him before at the Mt.Lavinia Courts. I have not seen him at Peliyagoda.

No.18

S.P.Kariyawasam
 21st June 1960

Examination

CROSS-EXAMINED by Mr. Crossette Thambiah:-

There are a number of houses damaged by floods. But there was no such number in the Kandy Road.

Cross-examination

CROSS-EXAMINED by Sir U.A.Jayasundera - Nil.

CROSS-EXAMINED by Mr. Granville Perera - Nil.

No.19

C. Weerasingham

Chittampalam Weerasingham, sworn, 49 years, Auctioneer and Broker, residing at 20, Duplication Road Colpetty. I have been an Auctioneer and

No.19

C.Weerasingham
 21st June 1960

Examination

In the District
Court
Prosecution
Evidence
No.19
C.Weerasingham
21st June 1960
Examination
continued

Broker for nearly 10 years. For the last 3 or 4 years I have been residing at Colpetty. I have a telephone since 1955 and my number is 78871. I know the 2nd accused. I have known him at St. John's college, Jaffna and he and I were school mates. I have known him for about 30 or 35 years. I also know that he resides at Clifford Road, Colpetty. I am aware of the fact that in about 1958 or so he was doing building contracts. I have been to his place a number of times and he has come and seen me also at my place. In 1958 he himself had a telephone. I see the first accused here. I know him since this case. I first came to know him the day that I opened an account for him at the Bank of Ceylon, Wellawatte. I have an account at the Bank of Ceylon Wellawatte. I introduced the first accused to the Bank of Ceylon Wellawatte. I introduced him as Pinnavitnange Piyadasa. The 2nd accused came and saw me at home. He came alone. He wanted me to open an account for a friend of his at the Bank of Ceylon Wellawatte. The account itself was opened on the 23rd September 1958. The 2nd accused came on the same day morning. He came to Duplication Road and he said this person was a building contractor. He supplied rubble and building materials to the 2nd defendant. He said his name was Piyadasa. I asked him why it was necessary for him to open an account. He said he was doing some government contracts and gets cheques and therefore he wanted to open an account. This conversation took place in my house and only the 2nd accused was there. 2nd accused told me that he knew this person for a long time. Just to oblige the 2nd accused I agreed. I in fact did not know this person P.V.Piyadasa. I had not even seen him. Having agreed I and the 2nd accused went to the Wellawatte Branch by the 2nd accused's car. We reached the bank at about 10/30. At the bank we met first accused waiting for us and he was introduced to me by Mr. Thambiah as Piyadasa in whose name the Bank account was going to be opened. The first accused was dressed in a white national costume. Then a form was filled up by me. 2nd accused asked me to fill up the form as he did not bring his fountain pen. 2nd accused gave me the form. (Shown P4). That is the form that I filled up. I have filled up the name as Pinnavitnange Piyadasa. The first accused gave me that name. All the particulars were given by

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the 1st accused. He gave his address as 477, Havelock Road, Pamankade, Colombo 6. I have also given the person's occupation as contractor supplying building materials. I have signed that form P4 as having known P.V.Piyadasa for a period of 2 years. The first accused then signed form P4 at the various places in Sinhalese. In P4 there is an entry to the effect that a sum of Rs.1000/- has been handed over for the purpose of opening that account. The numerals 1000 are in my handwriting. (Shown P4A). That is a paying in slip. It reads P.V.Piyadasa, 477 Havelock Road Colombo 6 Rs.1000/-. That was for the purpose of opening the account. The first accused gave me the thousand rupees. He got it from his pocket. The thousand rupees was in 10 rupee notes. 2nd accused gave the Rs.1000/-. Earlier I said it was the first accused who gave the thousand rupees. That was a mistake. It was the 2nd accused who gave the money. At the time I stated that the 2nd accused was seated in the first accused's place. The position has now been corrected.

(Mr. Crossette Thambiah desires me to note that the first accused took a seat behind counsel at counsel's request and he apologises to Court for having done this.)

The 2nd accused provided the Rs.1000/-. I believe I must have handed over the forms along with the money. The manager wanted to interview the first accused and therefore he and I went to see the manager in his room. The bank account was opened and an account number 4140 was assigned to him. The first accused signed it in Sinhalese as P.V. Piyadasa. A cheque book was also obtained immediately after the account was opened and I know that the signatures in Sinhalese have been authenticated. The first accused signed his signature on 5 leaves of the cheque book and it was certified by the Manager of the Bank. There is a person in the Bank who is styled the reception clerk. It was to him that the forms were handed over. I know the reception clerk by sight not by name. The reception clerk asked me whether first accused was 2nd accused Thambiah's man. I said "Yes". The 2nd accused was there at that time. After the formalities in the Bank were concluded we got into the car and came back.

In the District
Court

Prosecution
Evidence

No.19

C.Weerasingham
21st June 1960

Examination
continued

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In the District
Court

Prosecution
Evidence

No.19

C.Weerasingham
21st June 1960

Examination
continued

I am not quite sure what happened to the cheque book. (Shown cheques P5 to P10). They have all been signed in Sinhalese by P.V.Piyadasa and certified by the Manager. The body of the cheque P5 reads "S.Thambiah 275 only". That is written in English and signed S.Thambiah. I am able to identify the signature as that of the 2nd accused and also the writing on the body of the cheque P5. I am familiar with the 2nd accused's writing and signature. The writing on the body of the cheque P6 is the handwriting of the 2nd accused. (Shown P7). It is a cash cheque for Rs.375 only. It is also in the handwriting of 2nd accused. (Shown P8). The body of the cheque reads "Pay Cash 82/50 only". That is in the handwriting of the 2nd accused. (Shown P9). The body of the cheque reads "Cash 500 only". I am unable to say whose writing is on P9. (Shown P10). It is in the name of Sellasamy for Rs.125. It is the handwriting of the 2nd accused. (Shown paying in slip P11). The writing is of the 2nd accused deposit in a sum of Rs.500. (Shown P11A). This is a part of P11). It is also in the handwriting of the 2nd accused. P12 and P12A are parts of the same document, a credit slip for Rs.150. I identify the writing on P12 and P12A as that of the 2nd accused. (Shown P4B). The signature card that was written by me. I signed it and the first accused signed in Sinhalese.

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Cross-
examination

CROSS-EXAMINED by Mr. Crossette Thambiah:-

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(Shown P4(b)). It is dated 23.9.58. The 1st accused signed as Piyadasa in Sinhalese on P4(b). He signed in my presence. Below that there is the signature in English of Piyadasa. I cannot say as to who signed that. I do not know whether the clerks in the Bank had got him to sign that. I was not particularly interested in that, except to oblige the 2nd accused. I did not notice the signature in English of Piyadasa. I had no particular interest in the signing of those documents. I had not seen the 1st accused before 23.9.58.

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Q. You never picked him up at the Police Station? A. I identified him at the police station.

(Question repeated)? A. No.

Q. When you next saw the 1st accused it was about 2 weeks later in the company of the police at the police Headquarters? A. Yes.

In the District Court

CROSS-EXAMINED by Sir Ukwatte Jayasundera:-

Prosecution Evidence

No.19

Q. In the morning in your evidence you said that the 2nd accused had told you that the 1st accused had supplied building materials to him? A. Yes.

C. Weerasingham
21st June 1960

10 Q. You also said that the 2nd accused had told you that the 1st accused was doing some Government contracts and gets cheques and therefore he wanted to open an account? A. Yes. In the Magistrate's Court I gave evidence at length.

Cross-examination continued

Q. With regard to the 1st accused all that you said in the Magistrate's Court was that the 2nd accused told you that the 1st accused was a contractor who supplies building materials? A. Yes.

Q. And that he introduced the 1st accused to you as Piyadasa? A. Yes.

20 Q. That is all you said in the Magistrate's Court? A. Yes.

30 Q. In the Magistrate's Court you did not say that the 2nd accused told you that the 1st accused had supplied building materials to you and that he was a Government contractor? A. Yes. I gave evidence in the Magistrate's Court on 11.2.59 over a year ago. That was about 6 months or so after the incident at the Bank. I admit that at that time my memory was much more fresh than it is today. I cannot remember when I was questioned by the police, but I know the fact that I was questioned by the police. I was questioned by the police somewhere in October in my house. I made a statement to Inspector Gunatilleke and he recorded it in my house. It was some day in October in the morning. After recording my statement both he and I went to the 2nd accused's house. I came to know the 1st accused only on that day at the bank. At the bank I might have said that I knew the 1st accused for 2½ years. When the C.I.D. came to question me they did not show me bank documents. I do not know whether they had the documents with them but they did not show me.

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Q. You have no recollection of telling the

In the District
Court

Prosecution
Evidence

C. Weerasingham
21st June 1960

Cross-
examination
continued

police that you knew the man for 2 $\frac{1}{4}$ years?
A. I do not recollect saying that.

Q. You do not recollect what you spoke to the
2nd accused when you went to his house that
morning? A. The most I can recollect is that I
introduced him to Mr. Gunatilleke.

Q. You remember telling him that you have
already told him that you know the 1st accused
for 2 $\frac{1}{8}$ years? A. I cannot remember. Whatever
I spoke to him was in the presence of the officers.
From there I came back home and Mr. Gunatilleke
went off. At the 2nd accused's house the statement
of the 2nd accused was recorded in my presence.

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CROSS-EXAMINED by Mr. Perera:- Nil.

Re-examination

RE-EXAMINED: I saw the 1st accused for the first
time on 23.9.58. He was with me for about half-
an-hour. I spoke to him. I can also describe his
dress. I have no doubt that it was this identical
person.

No.20

K. Dharmananda
Rajah
21st June 1960

Examination

No.20

K. Dharmananda Rajah

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Kadiravalu Dharmananda Rajah - Affirmed.
25 years. Junior Clerk, Bank of Ceylon, Wellawatta
Branch.

In September 1958 I was the Reception Clerk
at the Bank of Ceylon, Wellawatte. I was also
living at Wellawatta. I know the 2nd accused.
I know him by sight. I know that he was living
down Clifford Road, Colpetty. I had occasion to
go to Clifford Road in 1955 or 1956. I went to
see a friend who lives next to the 2nd accused's
house. I had known him by sight in 1955/56. I
know the last witness. He is a constituent of
the Bank of Ceylon, Wellawatta. Last witness
Weerasingham had a bank account from 1956 and I
had known him from round about 1957.

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(Shown P4 and P4(b)). They are account
opening form and the signature card. P4(b) is
dated 23.9.58. There is a proposal to open an
account in the name of Pinnawithanage Piyadasa.
On 23.9.58 I was working in the inquiries section.

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I was the person who accepted documents for the purpose of opening a current account. I remember the incident in connection with P4 and P4(b). Mr. Thambiah, 1st accused and Mr. Weerasingham came, but only Mr. Weerasingham and the 1st accused came up to me with these forms P4 and P4(b). At that time Mr. Thambiah the 2nd accused waited behind at the bank. I had to submit these forms to the Manager. I found that the occupation was given as contractor only. Then I tried to find out what sort of business he was dealing with. I asked Mr. Weerasingham and Piyadasa the 1st accused what sort of contractor he was and then it was written "Supplying building materials". I cannot say who inserted that. I addressed the 1st accused and Mr. Weerasingham on that matter. After the forms were perfected I took them to the manager. The 1st accused, Mr. Weerasingham and 2nd accused were out. I told the Manager that we maintained an account for Mrs. Thambiah and that Mr. Thambiah has come here with this person Piyadasa to open an account for him. Sometime back Mr. Thambiah had come and taken forms for opening an account and he said that there was a possibility of his opening an account for his purposes. Sometime earlier Mr. Thambiah came and took a set of forms from me. On this occasion nobody asked me for a set of forms. Referring to Piyadasa I asked Mr. Weerasingham whether this is Thambiah's man. He said that Piyadasa supplies building materials to Mr. Thambiah. What made me to ask that question was because Mr. Thambiah was with them and it was he who took the forms sometime earlier.

(Shown P3). This is another document that has to be signed by a person opening an account. The 1st accused has set his signature on the documents P4 and P4(b).

(Shown P10(a)). This is a cheque debit note dated 23.9.58 and it is debited to the account of P.V. Piyadasa bearing No.4140. The cheque book containing 25 leaves bearing Nos.A/5 152001 to A/5 152025 was handed to him. P5 to P10 are all cheques from that cheque book. All these cheques bear the authenticated signature of P.V.Piyadasa. Authentication of signature is done before the officer who is authenticating it. The signature of P.V.Piyadasa has been authenticated by two officers and the bank seal put over it.

In the District
Court

Prosecution
Evidence

No.20

K.Dharmananda
Rajah
21st June 1960

Examination
continued

In the District
Court

Prosecution
Evidence

No.20

K.Dharmananda
Rajah
21st June 1960

Cross-
examination

CROSS-EXAMINED by Mr. Crossette Thambiah:-

I did not attend any identification parade held in court. I was not present at an identification parade conducted by Mr. Koelmeyer. After I saw the 1st accused that day I next saw him in Court. I think the case was on the 11th of February. Then he was standing as the 1st accused in court.

CROSS-EXAMINED by Sir Ukwatte Jayasundera:-

The account was opened that day on the recommendation of Mr. Weerasingham the last witness. 10
As to whether the 1st accused was Mr. Thambiah's man was irrelevant for the matter of opening an account. The question I asked whether he was Mr. Thambiah's man was merely as a matter of curiosity.

CROSS-EXAMINED by Mr. Perera:- Nil.

RE-EXAMINED: Nil.

No.21

H.D.Fernando
21st June 1960

Examination

No.21

H. D. Fernando

Hugh Derwin Fernando - Sworn. 28 years. 20
Bank Officer, Residing at Moratumulla, Moratuwa.

In September 1958 I was the Sub-Accountant of the Bank of Ceylon, Wellawatta.

(Shown P4). This is a current account opening form of Pinnavithanage Piyadasa whose address is No.477, Havelock Road. The account has been opened and it is numbered 4140.

(Shown P3). This is a signature form which has to be filled up by a person who signs in Sinhalese or Tamil or even in the case of a person who signs in English whose signature is bad. 30

(Shown P10(a)). This is a debit slip pertaining to the issue of a cheque book. I have authenticated the signature of P.V.Piyadasa. P5 to P10 are 6 cheque leaves where the signature of P.V.Piyadasa has been duly authenticated. P5 to P10 have all been received by the bank prior to 13.10.58.

(Shown P4(c)). This is a certified copy of the bank account relating to the account of P.V. Piyadasa. On 13.10.58 the balance stood at Rs.20/35. There have been two credits after the opening of the account, one for Rs.500/- on 30/9 and the other for Rs.150/- on 6/10. The credit slips pertaining to these are P11 and P11(a), and P12 and P12(a). P11 and P12 both bore the address of P.V.Piyadasa as Pamankada Road.

In the District
Court

Prosecution
Evidence

No.21

H.D.Fernando
21st June 1960

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I remember 14.10.58. I was working in the office on that day. At about 12.05 the 1st accused came to see me. I was at my table which is behind the counter. The 1st accused came to get some signature authenticated on cheque leaves. He brought the cheque book. The 1st accused signed on the cheque leaves in my presence. In that cheque book he brought there was an unused cheque leaf which had an authenticated signature and in addition to that he signed 4 or 5 cheques leaves and I authenticated the signature. I

Examination
continued

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also used as a comparison the already authenticated signature. I had to affix the red seal and after that I initialled. The other person who had to authenticate his signature was one Mr.Fonseka. I also saw Mr. Fonseka countersigning the cheques. I handed the cheque book to the 1st accused. He took the cheque and went back again towards the counter. A few minutes later I received a

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Central Bank cheque for a big amount. That was about 5 or 10 minutes after. (Shown P2). This is the Central Bank cheque that came to me. The amount of the cheque was Rs.21740/63. The peon who normally brings the cheques from the counter brought it to me. He brought it to me with a credit slip. The credit slip consists of P13 and P13(a). Originally it was one document but now it is broken into two, viz: the receipt and voucher. I had a superficial glance at the

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cheque and I noticed that it was going into a private account. As the cheque was going into a private account I had a closer look at the cheque and I noticed that the colour along the line where the payee's name was is different from the colour of the rest of the cheque. It showed a slight lack of colour. Because there had been a case of a forged cheque a few months prior to this we were asked to exercise extra care and we were provided with ultra-violet rays. In this case I examined the cheque under the ultra-violet

In the District
Court

Prosecution
Evidence

No.21

H.D.Fernando
21st June 1960

Examination
continued

light and I found that there was another writing beneath. Then I asked the peon to call the man who brought the cheque. P13(a) shows that it was to be credited to the account of Piyadasa. I asked the peon to call out that name and I myself went up to the counter. I gave the name Piyadasa to the peon and the peon reminded me that it was the same man who came and got the signatures authenticated. The peon and the counter-Clerk called out for the name. They told me that the person who came with the cheque was not there at the moment. At that time the Manager had gone for lunch. When he came back I told him about this matter and handed him the cheque P2 together with the credit slip P13 and P13(a).

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(Shown a letter P4(d). This is a letter dated 15.10.58 addressed to P.V.Piyadasa, No.477, Havelock Road. That is the person who had the account No.4140. Mr. Anthonisz has signed this letter. I identify his signature. This letter was enclosed in the envelope P4(e). The letter was first sent by a messenger and it was returned saying that no such person was there. Then the letter was sent by post and it was returned undelivered.

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(Shown P69). This is the certified copy of the current account of Mrs.S.Thambiah of No.29/1A Clifford Road, Colpetty bearing account No.3216 opened on 23.9.57 with a deposit of Rs.3000/- and it was closed by the bank on 20.3.58. This document has been certified by the Manager of the Bank on behalf of the Bank of Ceylon. I produce all the documents referred to by me in evidence.

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Cross-
examination

CROSS-EXAMINED by Mr. Crossette Thambiah:-

(Shown P13 and P13(a)). These documents do not show as to who brought that cheque. I got the name Piyadasa shouted because that is the only name that we can call out. When we call out the name the person who came on behalf of Piyadasa answers. It is the normal practice and there is no other person whom we can call. I asked the peon to call out the person who brought the cheque in the name of Piyadasa. We start work in the bank at 8.30, but it is open for the public from 10 to .2. I am in charge of savings and clearings. On some days I am very busy. It was

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because of this cheque, the fact that I examined it and found it was a forged one that I remember the person who came. He did not turn up with this cheque. Nor did he turn up when the name of Piyadasa was shouted. I agree that it would have been fair if this man was put before the persons who were there and asked whether it was this man who came there that day.

CROSS-EXAMINED by other accused:- Nil

10 RE-EXAMINED: Nil.

In the District Court

Prosecution Evidence

No.21

H.D.Fernando
21st June 1960

Cross-examination continued

No.22

B.H.H.Perera

Brahmana Hettige Hemasiri Perera - Affirmed. 27 years. Stenographer, Bank of Ceylon, Wellawatta.

No.22

B.H.H.Perera
21st June 1960

Examination

In October 1958 I was one of the Stenographers in the Bank of Ceylon, Wellawatta. (Shown letter P4(d)). I typed this letter. That letter was addressed to P.V.Piyadasa. I was asked by the Manager to deliver this letter. I went to this address No.477, Havelock Road, Pamankada. Piyadasa was not there. I brought the letter back. Subsequently it was enclosed in the envelope P4(e) and posted. The letter was returned undelivered.

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(To Court:- Q. Why couldn't you deliver it?
A. He was not there.)

CROSS-EXAMINED by all accused:- Nil.

No.23

Y.P.W.Wilson

Yamasinghe Podi Weerayalage Wilson-Affirmed. 22 years. Peon, Bank of Ceylon, Wellawatta.

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No.23

Y.P.W.Wilson
21st June 1960

Examination

I remember 14.10.58. On this day I was working in the Bank of Ceylon, Wellawatta. I was on duty round about 12 or 12.30. One of my duties is to take cheques from Mr. Fernando to

In the District
Court

Prosecution
Evidence

No.23

Y.P.W.Wilson
21st June 1960

Examination
continued

the ledger. On that day I remember a person coming to get his signature authenticated on some cheque leaves in a cheque book. That person came before Mr. Fernando. I saw him. He signed in the presence of Mr. Fernando. I affixed the seal of the bank on the cheques.

Q. Who was that person who came and got his signature authenticated? A. It was the 1st accused.

He came and gave his name as P.V.Piyadasa. I know Mr. Tillanathan, he was the person who was working at the counter on that day. He accepted cheques to be credited to the accounts. Shortly after the authentication of signatures I took cheques from Mr. Tillenathan to Mr. Fernando. I also took a cheque with a credit slip. I gave it to Mr. Fernando. The cheque I took was lying on the counter where Mr. Tillenathan puts his cheques. At the time I took that cheque the person known as Piyadasa was at the counter. That is this 1st accused. I gave that cheque to Mr. Fernando. Thereafter Mr. Fernando asked me as to who brought that cheque after having a look at the cheque. He examined the cheque with the aid of the ultra-violet light that was by the side of Mr. Fernando. Then I asked Mr. Fernando what the name was. He said it was P.V.Piyadasa. Then I remembered having put the seal earlier on a cheque book. I went and told Mr. Tillenathan to call out for Piyadasa. He called out the name. No one came forward when that name was called. When that name was called the 1st accused was not there. The last occasion I saw the 1st accused was when he was standing opposite Mr. Tillenathan's counter. That was shortly before I took the cheque to Mr. Tillenathan. I also saw him earlier.

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Cross-
examination

CROSS-EXAMINED by Mr. Crossette Thambiah:-

After 14.10.58 I saw the 1st accused in the Magistrate's Court. Then he was standing in the dock. He was the 1st accused. I was asked to identify him at an identification parade. I could not identify him then. That identification parade was at the Welikada Remand Jail.

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CROSS-EXAMINED by the other accused:- Nil.

RE-EXAMINED: Nil.

No.24R. Tillenathan

Ramanathan Tillenathan - Affirmed. Cashier,
Bank of Ceylon, Wellawatta.

In the District
Court

Prosecution
Evidence

No.24

R.Tillenathan
21st June 1960

Examination

On 14.10.58 I was on duty at the Bank of Ceylon, Wellawatta. I was the person who was accepting cheques to be credited to various accounts. At 12.15 or 12.30 I was on duty. (Shown P2). I saw this cheque and also the credit slip P13 and P13(a). The cheque P2 was handed to me together with P13 and P13(a) at the counter. I affixed the seal of the Bank of Ceylon, Wellawatta, on the cheque and the credit slip. At the time it was given to me it had been correctly endorsed. It was to be credited to the account of P.V.Piyadasa. Having affixed the seal I put it on the counter to be taken by the peon. Normally the receipt slip comes back, but in this case it did not come back to me. I was asked to call out the name P.V.Piyadasa. I know that the cheque had been examined under the ultra-violet light. The peon called out the name. I do not remember whether I called out the name loud. When the name Piyadasa was being called I saw a man rushing out of the bank. There was no response when the name Piyadasa was called out. I did not see the face of that man who rushed out.

CROSS-EXAMINED by all accused:- Nil.

No.25K.A.Cyril Albert Perera

Katurusinghe Aratchige Cyril Albert Perera-
Sworn. 39 years. Peon, Ministry of Industries,
Colombo.

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Examination

I have been employed as a peon in the Ministry of Industries for the last 12 years. I am the personal peon to the Minister. Before I came to the Ministry I was a peon under Mr.G.G. Ponnambalam for about 15 years. When Mr. Ponnambalam was appointed the Minister of Industries I started working under him in the

In the District
Court

Prosecution
Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Examination
continued

Ministry in 1948. I know the 2nd accused. I know him as Mr. Thambiah. I have known him for about 15-20 years. I first came to know him at Mr. Ponnambalam's house about 15 years ago. Those days the 2nd accused used to come to Mr. Ponnambalam's house often. He was a relation of Mr. Ponnambalam. I also know where the 2nd accused lives. He lives at Clifford Road, Colpetty. I have gone to his bungalow on several occasions. I am aware of the fact that he has a telephone. In 1958 also the 2nd accused was living at Clifford Road. I know the 1st accused. I know him as Arnolis Appuhamy and as Ralahamy. I commonly addressed him as Ralahamy. I have known him for about 10 years. I came to know him first when I was working under Mr. Ponnambalam. Then I was doing a bakery business and 1st accused's elder brother Solomon Appuhamy was working under me. As he had too much work he got down the 1st accused also. The 1st accused worked as a baker. He is a very proficient baker. I also bought him a cycle to deliver bread. After about 1 or 2 years Solomon Appuhamy got some other employment and left my services and thereafter the 1st accused worked under me. He was working under me from 1945 to 1948 till I took up the appointment under the Government. During those 3 years he was employed by me as a baker. During that time he was not doing any other business apart from being a baker. Somewhere in 1949 or 1950 the 1st accused started a bakery of his own and he carried on that business for a short time at Pamankade. He ran that bakery for about 2 years. I also know that the 1st accused was a watcher on an estate called Nikamada Estate at Kurunegala the owner of which is one Mr. Thamby Pillai who was also related to Mr. Ponnambalam. I think he was on that estate for about one year. I know one M.G. Sirisena who was running two hotels, one at Havelock Road and the other at Galle Road. For about 1 or 2 years after he left Nikamada Estate I did not know the whereabouts of the 1st accused. After that Sirisena brought him back to Colombo to do bakery work at Pamankade under Sirisena. In August 1958 he was working in the Ministry of Industries. During that time I remember the 2nd accused coming and meeting me at the Ministry office. He came to the Ministry saying that he had applied for a Government land to open a tile factory at Kilinochchi and that the papers had

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10 come to this Ministry and he came to see what
 had happened to that application. That was some-
 where about August 1958. On one of those
 occasions when he came to the Ministry he told me
 that he had taken a bakery at Kilinochchi and
 asked me to find a good baker for him. That was
 somewhere in August or September 1958. He wanted
 an Indian and I told him that I do not know of any
 Indian baker but that I could get him a Sinhalese
 person who could do bakery work. One day there-
 after I met the 1st accused at Wellawatta, had
 tea with him and came out when I saw the 2nd
 accused going in a car towards Dehiwala. I spoke
 to the 2nd accused and told him pointing to the
 1st accused that he was the person whom I wanted
 to recommend as a baker. Then the 2nd accused
 said that he had some urgent work and went away
 saying that he would come on a certain date to my
 office to meet the 1st accused. Then I asked the
 20 1st accused also to come on that date. The 2nd
 accused as well as the 1st accused both came to
 the Ministry on the appointed date. Then I
 showed the 1st accused to the 2nd accused and told
 him that this was the person and the 2nd accused
 talked to the 1st accused and told him he would
 inform him when he wanted him. Both of them
 talked to each other and went away. To inform
 him the 1st accused gave his address as M.T.
 30 Arnolis Appuhamy, Siri Maha Vihara Road, Pamankada.
 That address was taken down by the 2nd accused in
 my presence. Thereafter they went away. Subse-
 quently I met the 2nd accused. I asked him about
 the baker I had recommended to him. He said that
 there was another person working there already
 and it was not good to send this person when that
 person was there and once that man was sent away
 he would be employing the 1st accused. I learnt
 sometime later that the 1st accused had been
 arrested in connection with a cheque case. I
 40 had known the 1st accused as M.T. Arnolis Appuhamy
 and as Ralahamy. I have not heard anyone address-
 ing him as Piyadasa. Nor have I heard anyone
 addressing him as Gunadasa. Nor have I known the
 1st accused as a Supplier of building materials
 or as a contractor. To my knowledge he has never
 done that. He is a person from Galle. To my
 knowledge he was never a resident at Peliyagoda.
 When the 1st accused was in my bakery he had a
 bank account. That was about 8 years ago.

In the District
Court

Prosecution
Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Examination
continued

In the District
Court

CROSS-EXAMINED by Mr. Crossette Thambiah:- Nil.

Prosecution
Evidence

CROSS-EXAMINED by Sir Ukwatte Jayasundera:-

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Cross-
examination

When I was a peon under Mr.G.G.Ponnambalam I was living in his house. That was my first employment. But when I was working under Mr. Ponnambalam I was doing the bakery business. Later I went to the Ministry of Industries. The 1st accused's brother Solomon Appuhamy looked after my bakery for about 2 years. Thereafter the 1st accused looked after the business for me for about 3 years. That was somewhere between 1945 and 1948. By 1958 I had known him for about 12 or 13 years. I gave up my bakery business when I became a peon at the Ministry in 1948. I continued to serve under Mr. Ponnambalam who was the then Minister from 1948 as long as he was Minister and thereafter I was the personal peon of his successor. When I was working in the Ministry I lived in the firewood shed which I had at Pamankada and also at Wattala where my family lived. I am still working in the same Ministry. Even when I was employed in the Ministry I had gone to Mr. Ponnambalam's house to visit him. When I was working under Mr.Ponnambalam's successors also I was going to see Mr. Ponnambalam. The 2nd accused is a relation of Mrs. Ponnambalam. I came to know the 2nd accused at Mr. Ponnambalam's bungalow about 15 or 20 years ago. We used to talk to each other. I was a trusted servant of Mr. Ponnambalam. The 2nd accused may have known that. He would have seen the manner in which Mr. Ponnambalam treated me as he visited Mr. Ponnambalam. I have gone to the 2nd accused's house and talked to him.

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Q. Did he appear to be kind to you?

A. There was no indifference. He was friendly towards me. That was the state of things when I introduced the 1st accused to him. Till I came to courts in this case that condition prevailed. So far as I know the 2nd accused met the 1st accused only on two occasions. The first meeting was somewhere by the roadside at Wellawatta and that just for a few minutes. All that happened was that the 2nd accused was going in his car and I stopped him and said this is the man whom I wanted to recommend and the 2nd accused went away promising to meet at the Ministry Office. That meeting was 4 or 5 days after the previous meeting. On that occasion the 2nd accused did

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not offer employment to the 1st accused. He just took down his address and said he would inform him if he wanted. That was all that happened on that occasion. He said that he wanted the services of the 2nd accused but he could not take him as long as the other person was working there and he said that he would take the 1st accused when the other man's services were terminated. Those were the only two occasions they met to my knowledge. When I met the 1st accused later I asked him and he said that the 2nd accused promised to inform him.

In the District Court

Prosecution Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Cross-examination continued

The 1st accused was very well known to me for about 12 years. He had been an employee of mine. He had a bank account for some time when he was working under me. He had that bank account for about one year and thereafter that account was closed. He had the account in the Bank of Ceylon, Pettah Branch. I did not give the 1st accused a salary but he was employed on a profits share basis. Profits were looked into once in 6 months. I think he got between Rs.250/- and Rs.300/- as his share of profits. At that time, so far as I know, the only business he had was to be an employee under me. He had no other business. He had a bank account, but it was I who opened that account for him. As I was not available in the business always I got the account opened for him with the bakery money. We had a business of about Rs.300/- to Rs.400/- a day. Money was deposited in the bank to enable him to buy goods for the bakery. That account was opened because I thought it was easy to keep accounts. I could have kept accounts by making payments in cash. Payment in cheques is better because he cannot say that he lost the money. It was after about 6 months when we looked into account and found that there was a profit that we opened an account with that money. There was his money as well as my money. I think we opened the bank account with Rs.500/-. It was opened in the name of 1st accused but the money belonged to the business. It was the money belonging to both of us but the account was opened in the 1st accused's name. I opened that account because it was easier to keep accounts. I had account books, but I thought it was safer because I thought if he paid in cheques he cannot pay Rs.300/0 and say that he paid Rs.325/-.

I also thought this was more convenient and I could

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In the District
Court

Prosecution
Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Cross-
examination
continued

look into accounts easily. It was because I could not trust him hundred per cent I opened a bank account. He had to pay for sugar and flour. At that time they could be bought in the open market. Purchases were not always by cheques. Whenever I went for purchases I paid cash and whenever the 1st accused made purchases he paid by cheque. The account was closed in about one year's time. That was because we had to stop running the bakery because there was a tenancy action regarding the bakery premises and we were ejected from those premises. Thereafter I did not do that business. It was after that the 1st accused went to Paman-kada and opened a small bakery on his own. I met him thereafter. I did not go to meet him but casually I met him when he came to deliver bread. Once in a way I met him casually. Those were the opportunities I had to find out what names he used for himself. What other business he did in the meantime I do not know. What other business he did during the two years he was away and I did not know his whereabouts, I do not know.

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Q. I suggest to you that the 1st accused was a particular friend of yours up to the time of this incident. A. I deny.

I did not know even his whereabouts for some time. He was in the estate for about 2 years and thereafter for about 2 years his whereabouts were not known. In 1954 or 1955 he went to Nikamada Estate. After that I learnt that Sirisena had brought him from Kandy and I met him thereafter. That was about 2 years before this incident. Sirisena is a witness in this case.

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Q. Is it correct that when the 1st accused was arrested and taken into custody by the police Sirisena came to you and told you that the 1st accused was arrested? A. Yes.

Q. Why did he come to you? A. The C.I.D. Office was in the same building, I worked in the 5th floor and the C.I.D. office is in the 4th floor and Sirisena did not know where the 1st accused had been taken and I was the only person known to him there and he came and asked me.

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Q. When Sirisena came and told you did you take steps to see where he was? A. At that time I was very busy and I could not go. About 5 minutes later Mr. Kitto sent for me from the 4th floor.

He was the C.I.D. Officer. When I went to his office I saw the 2nd accused there and Mr. Kitto asked me whether I know the 2nd accused and I said yes. I did not see the 1st accused there at that time but I saw him later, after I was questioned by Mr. Kitto.

I was not allowed to go back to work; I was detained till the following morning.

10 Q. I suggest to you that you introduced the 1st accused to the 2nd accused and wanted the 2nd accused's help to open an account in the bank for the 1st accused? A. I deny.

Q. The 2nd accused trusted you and you exploited that confidence? A. No.

Q. In the Pettah Branch of the Bank of Ceylon are you aware that the 1st accused attempted to open an account somewhere about 18th of September? A. I do not know.

20 Q. I suggest to you that you went on that occasion to that place? A. I deny.

After I came for this case I came to know that the 1st accused had attempted to open a bank account and I verified and found that I was working in the office.

30 Q. Whatever the date may be that the 1st accused attempted to open a bank account, when you became aware of that date you checked up to see whether you had been to the office on that date? A. I learnt that it was stated that I had also gone with them to the bank to open the account and therefore I verified the date and found that I had been in the office on that date.

I cannot remember on what day of the week it was. I am off during the lunch interval. But when the Minister is there I cannot go about because I am the only personal peon of the Minister. The Minister was there on that date. I checked it up after this date. There is a diary kept by the Minister and I checked it up from his diary.

40 Q. You took every possible step to have an alibi in case you were involved in this case, the moment you heard your name was mentioned. A. I learnt that it was alleged that I had also

In the District Court

Prosecution Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Cross-examination continued

In the District
Court

Prosecution
Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

Cross-
examination
continued

accompanied the 1st and 2nd accused to the Bank of Ceylon, Pettah Branch. Therefore, I verified from the office and found that the Minister was in office and I also had been there.

Q. I suggest to you that you did go to the Pettah Branch of the Bank of Ceylon on the day when an attempt was made to open an account.

A. I deny.

Q. I suggest to you that it was at your request that the 2nd accused helped the 1st accused to open this account? A. I deny. I did not even know about it. 10

Q. I suggest to you that you even requested the 2nd accused to advance a Rs.1000/- as deposit and trusting you the 2nd accused advanced that money?

A. Apart from his giving Rs.1000/- to the 1st accused he would not give even 100/- to me.

Q. Has he ever refused a Rs.100/- to you?

A. I have never asked the 2nd accused for Rs.100/-, but I know that he is very hard where money is concerned. 20

Q. If your evidence is true the 2nd accused had opened an account for a man whom, as you know, he had come in contact only on two occasions?

A. From what I heard later he had opened an account for their purposes. In my presence they met only on two occasions.

In 1958 I met the 1st and 2nd accused about two months before this case.

Q. A few months before these incidents occurred did you give a post-dated cheque to the 2nd accused for Rs.900/- and got money i.e. before you introduced the 1st accused to him? 30

A. I cannot remember. I may have cashed one of my cheques, but I do not remember borrowing money from him. I cannot even remember if I cashed a cheque with the 2nd accused. As far as I can recollect I have never borrowed money from the 2nd accused.

Q. The 2nd accused trusted you and helped the 1st accused to open an account in the bank? 40

A. I have never spoken to him about this affair.

Q. I suggest to you that when you asked the 2nd accused to advance Rs.1000/- to the 1st accused at first he refused?

A. I never asked for Rs.1000/- from him. I could

have given the 1st accused Rs.1000/- if I wanted.

In the District Court

I know nothing about any cheque book being kept with him or about opening of any account. I know that there is a person by the name of Mahadevan Pillai who is a witness in this case, but I do not know who that person is. He is not a friend of mine.

Prosecution Evidence

No.25

K.A.Cyril
Albert Perera
22nd June 1960

CROSS-EXAMINED by Mr.Granville Perera:- Nil

RE-EXAMINED:

Cross-examination continued

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I spoke about a bank account that was opened for the purpose of transacting my bakery business by the 1st accused. The name given by the 1st accused on the opening of that bank account is M.T.Arnolis Appuhamy. That was in the year 1946 or 1947 in the Pettah Branch of the Bank of Ceylon.

Q. It was suggested to you that you were present on the day that the 2nd accused and 1st accused attempted to open an account at the Main Street Branch of the Bank of Ceylon? A. Yes.

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Q. And you denied that? A. Yes.

Q. You also told in answer to counsel for the 2nd accused that somebody connected with this case came and spoke to you regarding the opening of this account?

A. It was Proctor Sivagnanam who is a brother of the 2nd accused who came and told me that it was suggested that I had also accompanied the 1st and 2nd accused to the Bank of Ceylon Pettah Branch when the 1st accused opened an account. The 2nd accused's brother came in the car with the 2nd accused and told me this and asked me to say that I was also present in the bank on the day when the 1st and 2nd accused attempted to open an account. I went and made a complaint immediately to the police about this fact.

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Q. Have you ever assisted the 1st accused to open a bank account except the bank account opened in 1946 or 1947? A. No.

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Q. Have you ever asked money from the 2nd accused for the purpose of opening a bank account? A. No.

In the District
Court

No.26

K.F.L. Perera

Prosecution
Evidence

No.26

K.F.L.Perera
22nd June 1960

Examination

Kamburuge Francis Lambert Perera affirmed.
34. Assistant, Finance Company Ltd. No.12
Ramakrishna Road Wellawatte. (Shown P82). This
is the proposal form submitted to my company for
the purchase of a motor vehicle bearing No.1 Sri
3763. It was sold by our firm to S.Thambiah of
Clifford Place. The guarantor was Sangarapillai
Thambiah the husband of the purchaser. He is the 10
2nd accused. He has signed on P82. I have met
the 2nd accused. One Mr. Pillai introduced him
to me. I produce marked P82A. This is the receipt
book. Receipt No.A 52080 of 23.9.58 referred to.
On it I have received from Mrs.Thambiah Rs.275/-
by cheque. That is the 2nd instalment for the
purchase of the car. A/5 152001 is the number of
the cheque. I have noted down the number of the
cheque (Shown P5). This is that cheque. The
payee is S.Thambiah. On the reverse is the 20
signature of S.Thambiah. The cheque has been
credited to our account. The cheque bears the
signature of one P.v.Piyadasa. I do not know him.

CROSS-EXAMINED: Nil.

No.27

No. 27

R.H.Gunasinghe
22nd June 1960

R. H. Gunasinghe

Examination

Rathmeewala Hurathalge Gunasinghe, affirmed.
35. Trader. Kandy. Hardware Stores. I know
the 2nd accused Sangarapillai Thambiah. He has
come to my hardware stores on 3 occasions. 30
(Shown P81). Receipt No.7676 dated 25.9.58. This
was issued by my firm. On this I have sold 75
feet of piping for 52/50. The payment has been
made by cheque No.5/152002 the cheque No. is
entered on P81. I have written the name of the
purchaser as S.Thambiah, of Clifford Lane. He
came to buy the goods and he was given the
receipt for the goods. The 2nd accused took the
receipt and went away. The next day he sent the
cheque and that receipt through one of his
employees to take the goods, that is one
Sellasamy. I gave the goods to him. The cheque
was a cash cheque signed in Sinhalese by one P.V.
Piyadasa. I affixed the seal of our firm signed 40

and sent it to my bank account. I do not know
P.V.Piyadasa .

CROSS-EXAMINED: Nil.

In the District
Court

Prosecution
Evidence

No.27

R.H.Gunasinghe
22nd June 1960

Examination
continued

No.28

P. Govindasamy

No.28

P.Govindasamy
22nd June 1960

Examination

10 Parasraman Govindasamy affirmed. 25. Cashier,
Estate Supplies Corporation. Kandy. I know the
2nd accused in this case. He is a customer of
our firm. Shown cheque P6 dated 23.9.58 for
Rs.300/-. It is in favour of our firm and it is
signed by one P.V.Piyadasa in Sinhalese. That
has been sent to the credit of our firm. It was
given by the 2nd accused in payment for goods
purchased. (Shown cheque P10) dated 2.10.58 drawn
in favour of one R.Sellasamy for Rs.125/- and
signed by one P.V.Piyadasa. I do not know who
that person is. This cheque was given by
Sellasamy. He was a person working under
Thambiah. It has been sent to our firm account
20 also in respect of purchases made by Sellasamy.

CROSS-EXAMINED: Nil.

No.29

R. Sellasamy

No.29

R. Sellasamy
22nd June 1960

Examination

30 Ramasamy Sellasamy affirmed. 59. Jaffna.
I know the 2nd accused. In 1958 he was doing
some contract. I was working under him. It was
a contract to supply water to a hospital in Kandy
District. I was working under him in respect of
that contract. I do not know the 1st accused,
nor do I know all the other accused.

I know the Diamond Hardware Stores in Kandy.
I went there in the company of the 2nd accused
to buy things for him. On one occasion I handed

In the District
Court

Prosecution
Evidence

No.29

R. Sellasamy
22nd June 1960

Examination
continued

a cheque, this P8 for Rs.52.50. It was for some pipes that we bought. The cheque was given by the 2nd accused. It was given to me along with a bill. I gave the cheque and the bill and removed the goods.

I know the estate supplies Corporation in Kandy. (Shown P10). This is drawn in my favour for Rs.125/- and bearing date 2.10. The 2nd accused sent it to me with a covering letter. I took it to the Estate Supplies Corporation, I endorsed it and purchased some goods, on the directions of the 2nd accused. I know the 2nd accused from the time I started working under him, that is 1958. At that time the 2nd accused was doing some hospital contract. I do not know whether the 1st accused was working under the 2nd accused. I do not know whether he supplied any goods to the 2nd accused at any time.

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CROSS-EXAMINED: Nil.

No.30

M. Sirisena
22nd June 1960

Examination

No.30

M. Sirisena

Mahanamage Sirisena, affirmed. 38. Trader. Ragama. At one time I had a business at 477 Havelock Town. Even now I have it, but I have given it on a lease. It was a hotel. I had it in 1958. I had another hotel in Galle Road, Wellawatte. I am the proprietor of that also. I know the 1st accused in this case. I knew him from 1953. I came to know him after he supplied bread to my hotel. I knew him as Ralahamy. I addressed him as such. He was called Arnolis Appu. I have not known him as P.V.Piyadasa or as Gunadasa. He supplied bread to No.477 Havelock Town. He had a bakery of his own at Siri Maha Vihare Devi Road. He comes every evening and collects the money. He supplied bread till 1955. After that he worked in Aranadissa Hotel Slave Island. In 1956 he was employed at Kurunegala on the Nikamada Estate. I came to know the 1st accused intimately. I knew him when he was working at Kurunegala. He was working as a watcher on an estate there. I have met him on that estate and I have written to him several times. I always addressed him as Arnelis Appu. From Kurunegala the 1st accused went to Peradeniya as a baker. When I purchased the Siri Maha Vihare Road bakery I went and brought the 1st

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accused. That was in 1958. When I went there the 1st accused was working in a bakery at Peradeniya. I did the Siri Maha Vihare Road business for about 2 months, after that I handed it over to the 1st accused. He did that business and he did it, he brought me my bread and he took out the other bread for sale. Every evening he came and removed the money from me. After I came to know the 1st accused until 1958 I knew him very well. At no time did he do any building work or do any contract work. Nor did he supply building materials to anyone. I made a statement to the Police on 27.10.58, at my hotel 477 Havelock Road. About 2 weeks before I made the statement to the Police the 1st accused told me that he had opened a bank account at the Bank of Ceylon Wellawatte and letters would come addressed to P.V.Piyadasa to No.477 Havelock Road. He asked me not to accept those letters. I asked him why he gave this address. I told him that if anyone comes and questions me I will tell him. When he said he opened a bank account I asked him from where he got the money, then he asked me not to question about that. He told me that he sent a cheque to the Wellawatte bank that it was examined under a light and something happened, and if the Police comes regarding that he asked me not to tell anything about this. He asked me not to mention about the opening of the bank account and about the name P.V.Piyadasa.

In the District Court

Prosecution Evidence

No.30

M. Sirisena
22nd June 1960

Examination continued

After that a C.I.D. Officer came and questioned me whether there was one Piyadasa. It was about a week after the 1st accused told me about the opening of the bank account. That person who came had no uniform, I said I do not know about a Piyadasa. I asked him to come the next day I will find out. When he came the next day I knew he had come from the C.I.D. and then I made a statement to him. Subsequently I knew that the 1st accused had been arrested. I went to the Wellawatte Police, he was not there. From there I went to the C.I.D. office there I met Albert whom I had known earlier. He used to come to my Havelock Town hotel. I had seen him speaking to the 1st accused. Albert's office is close to the C.I.D. office. No one by the name of P.V.Piyadasa lived there at 477 Havelock Town. The 1st accused also did not live there. I do not know the 2nd accused. Besides seeing him in Court I had not seen him before.

In the District
Court

Prosecution
Evidence

No.30

M. Sirisena
22nd June 1960

Cross-
examination

CROSS-EXAMINED by Mr. Crossette Thambiah:- I am from Matara. I came to Colombo 14 years ago. I know the 1st accused since 1953. He is from Galle. I know Thamby Pillai. I knew him from 1952. G.G. Ponnambalam is a well known person in Ceylon. Thamby Pillai is a relation of Mr. Ponnambalam. I do not know anything about the work in a bakery. It was Mr. Thamby Pillai who set me up in business. That was in 1952. Even now I am working under Thamby Pillai in a soap factory at Ragama. I have given all my boutiques and hotels on lease. On 19.8.53 I started the 477 business, that was the first business, it was a hotel. The full amount of money for that business was given by Mr. Thamby Pillai, he gave 11,000/-. He did not get a share of the profit, but I returned his Rs.11,000/-. A relation of mine was working under Thamby Pillai, through that relation I came to know Mr. Thamby Pillai. He gave me the capital and asked me to do business. For the whole of the 7 years, Thamby Pillai came on 2 days. That is on the day the business was opened and the next time was when I was sick. I respect him very much. It was I who arranged for the 1st accused to work in Thamby Pillai's estate in Kurunegala. 1st accused knew that Thamby Pillai was my friend and patron. I do not know whether he knows about the relationship between Thamby Pillai and Mr. Ponnambalam. I have a brother called M.G.Piyadasa. I think the 1st accused was in the Kurunegala estate for about 9 months, may be a little more. My brother M.G. Piyadasa was working in a mill belonging to Thamby Pillai. Then he worked in my hotel. He has left me now and is working in the Wijey House. When he was working under me my brother's address was M.G. Piyadasa No.477 Havelock Town. That was his address for a short time. I told the Police that there are several Piyadasa in my boutique but there was no one called P.V.Piyadasa. It was in 1955 or 56 that my brother Piyadasa worked in my hotel. He did not stay with me for more than a month. Mr. Thamby Pillai had a quarry at Kelaniya. I did not ask the 1st accused to leave the Kurunegala Estate.

I brought the 1st accused from Peradeniya to help me to run the hotel in Colombo. He was an expert baker. I opened the bakery at Siri Maha Vihare Road and brought down the 1st accused. My bakery was about 1/4 mile away from 477 Havelock Town hotel. I started it because I had a liking

for it. I thought it is a profitable business. My business at 477 was run earlier. I had money and I thought of making more money. I brought the 1st accused there as the manager. He was to run the business for me. I did not put more than Rs.500/- into that business. I did not give the first accused any salary, I asked him to run the business and take the profit and within 3 months I gave the bakery over to him. At Peradeniya also he was working in a bakery. After I brought him to that business it appeared to me that it was run at a loss and I asked him to carry on the business and I left him in charge. In fact the 1st accused is still running that business at Sri Maha Vihare Road. He still supplies bread to both my eating houses. There was no money transaction between me and the 1st accused except when I took Rs.100/- from him during the riot days. I borrowed the money from him in June or May 1958 when I ran short of money to open the business at Wellawatte. The 1st accused took over that other business of mine and after that he ran that business alone. I did not ask for the business back from him. I do not know whether the 1st accused had a bank account when he was working under Albert Perera.

In the District Court

Prosecution Evidence

No.30

M. Sirisena
22nd June 1960

Cross-examination continued

CROSS-EXAMINED by Sir Jayasundera:-

I came to know the witness Albert Perera through the 1st accused. That was in 1954 or 55. I became friendly with Albert Perera and called him Albert aiyah. Albert did not go to the bakery and business premises of the first accused. He comes once a month to my hotel. Not always, sometimes he comes. There is no fixed interval for his visits. When I came to know that the 1st accused had been arrested in connection with this case I went to see Albert. I first went to Wellawatte Police Station, he was not there. From there I went to the C.I.D. office. I did not know where the C.I.D. office was, but I knew where Albert was. I knew he was on the 5th floor, I went to meet him. I went to see Albert to find out the C.I.D. office and also tell him about the arrest of the 1st accused.

CROSS-EXAMINED by Mr. Granville Perera:- Nil.

In the District
Court

No. 31

L. D. Andreas

Prosecution
Evidence

No. 31

L.D.Andreas
22nd June 1960

Examination

Livanagamage Don Andreas, affirmed. 39.
Cultivator. Matara. The last witness is a nephew
of mine. In 1958 he had his business at No.477
Havelock Road. And another at 55 Galle Road.
From June to July 1958 I was the cashier at the
Galle Road hotel. Before that I was at the Nikamada
Estate under Mr. Thambi Pillai. I was there from
June 1954 to 1958. I knew the 1st accused at 10
Kurunegala at the Nikamada Estate. I knew him as
Appuhamy. I called him Appuhamy. He was the watcher
on that estate. He did not work for more than 8
months. At that time besides watching the estate,
he did not do work as a contractor. After I left
Nikamada Estate I became the cashier. At that time
I met the 1st accused at the Galle Road Hotel. He
used to deliver bread there and he came every
evening. He was called Ralahamy and I also
addressed him as such. I have never known him as 20
Gunadasa or Piyadasa. I have never known him to
be a contractor. I was cashier till January 1959.
Now I know the 2nd accused. Before that I did not
know him, but I know he had been to the hotel once
before, that is to No.65 Galle Road, that was in
October 1958. He came to the hotel at about 4 or
4.30 p.m. He was dressed in a white coat and white
trouser.

I do not know how he came, in what vehicle.
He asked me whether Ralahamy who delivers bread 30
had come there. He asked me. I understood him to
be the 1st accused. I told him that he does not
come at that time, that he usually comes at 6 or
7 p.m. I told the 2nd accused that. He did not
say anything. The 2nd accused went away. On that
day the 1st accused came then I told him that a
gentleman came to meet Ralahamy. The 1st accused
did not say anything, he only said alright. I
made a statement to the Police at the end of
October 1958. The 2nd accused came about 2 weeks 40
before I made a statement to the Police. I can
say it was more than 2 weeks prior. The 2nd
accused came and spoke in Sinhalese. I was at the
cashier's table at the time.

CROSS-EXAMINED by Sir Jayasundera:-

On 4.11.58 an identification parade was held. I attended it at the Remand Jail. The officer asked me to point out the person who came in search of the Ralahamy. In the M.C. I said I walked three times up and down and I said that person was a person like the 2nd accused.

In the District Court

Prosecution Evidence

No.31

L.D.Andreas
22nd June 1960

CROSS-EXAMINED by others:- Nil.

Cross-examination

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(To Court:- At the identification parade the 2nd accused was in veti and a shirt. When the 2nd accused came to the hotel he was dressed in a white suit, coat and trouser.)

RE-EXAMINED: I described that person who came in search of the Ralahamy to the Police. Re-examination

No.32

No.32

W. V. Fonseka

W.V.Fonseka
22nd June 1960

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Wanniarachige Victor Fonseka, affirmed.
P.C.7286 Kandy Police. I was trained in the Police training school at Kalutara and before that I was at Kalubowila. Since 1948 I was there. I joined the Training School in 1958, on 1.4.58. I know the 1st accused. I knew him for 12 years. He was having a bakery close to our place at Kalubowila. He had his business at Siri Maha Vihare Road. That bakery is about 200 yards from my house. I knew him very well during that time. I called him Ralahamy. I came to know his name later. I have never known him as Piyadasa or Gunadasa. He was running a bakery from the time I knew him. He was never a contractor. (Shown P49) dated 15.4.58. After I joined the training school I sent a letter to the 1st accused. I have addressed the letter to M.T.A.Appuhamy, Siri Maha Vihare Road. I have given my address as Tissa Police.

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Examination

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CROSS-EXAMINED by Sir Jayasundera:- When I knew the 1st accused he was running the bakery. What I stated to the Magistrate about what I knew of the 1st accused is correct. I did not know what he was doing but when I asked him he said he was a baker.

Cross-examination

In the District Court

Prosecution Evidence

No.33

M.D.H.Perera
23rd June 1960

Examination

Minnerigamage Don Henry Perera, affirmed. Trader. Armour St. Colombo. In 1958 I was a peon at the Chartered Bank. In 1958 I had been there 7 years. I studied up to the 4th standard in English. I can read and write English. I know Sinhalese very well. In 1958 I was at Armour St. Before that at Prince of Wales Avenue. I knew the 4th accused for 16 years, from the school days. Then I was at Slave Island so was Dharmasena (4th accused). In 1958 he lived at Slave Island and also at Piliyandala 11 miles away at Mampe. He lived there with his wife. I have been to his house at Piliyandala several times. I know the 5th accused also. He is Samaraweera. I know him for about 4 years. He is a postman. He was in the G.P.O.Mail room in the registration branch in 1958. I came to know him at the White Horse Club in Chatham St. I know the 3rd accused Aiyappen. I knew him as Aiyappen. It is the 4th accused who introduced me to the 3rd accused at the 3rd accused's boutique at Chekku St. That is close to my residence. 4th accused knew the 3rd accused. I have a sister called Agnes. In 1958 she was at Armour St. She gives money on loan. In 1958 I got a loan from her for the 5th accused. It was at the end of August or beginning of Sept. 1958. The 5th accused wanted the money and I got the money for him. Sometimes after that the 5th accused asked me where the 4th accused lived. Before that the 5th accused knew the 4th accused. I had not seen them talking together. When the 5th accused asked me where the 4th accused lives, I said, why you know where he lives. Then he said he knows he lives in Slave Island but not the other house. Then I told him that the other house is at the 11th mile post at Piliyandala. I gave him that address. The 5th accused asked me where the 3rd accused was. I told him where he lives and gave him the address. I asked the 5th accused why he wanted to know where the 4th accused lived. He said if he gets a "baduwa" he would have to give it. By "baduwa" he referred to a cheque. I asked the 5th accused why he wants to know where the 3rd accused lived. He said he must meet him, he gave no reason. I showed the 3rd accused's house to the 5th accused. I went with him to that house. It was at about 7 p.m. Aiyappen was at home. Then all three of us came to Sri Ramya Hotel in Armour St. The 5th accused asked the 3rd accused whether he could come near

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the Magistrate's Court at Hultsdorf the following day. The 3rd accused asked why. Then the 5th accused said he would be getting a cheque and he wanted him to come there to hand it over. That was at the end of August or early Sept. It was after I had taken the loan from Agnes. The 3rd accused agreed to come. Then the three of us went away. The next morning I met the 3rd accused. The 3rd accused told me that he was going to meet the 5th accused and he wanted me to come near the boutique at Chekku St., at 10 or 10.30 a.m. That day I had to go to the Chartered Bank. I was doing the work of the delivery peon that day. As requested I went to his boutique at Chekku St. I met the 3rd accused. He took me to a tea boutique at Gabos Lane. Then there was a paper, inside which was a white registered letter. I saw the envelope. It was a registered envelope. The address on it was typed. It was addressed to John Wilson Proctor and Notary Dam Street. He opened and showed it to me. There was a cheque and a letter. A typed letter. The bank was the State Bank cheque pink in colour. It was a cheque for Rs.24,000 odd. (Shown P1) This is a pink coloured cheque, it is for 24,000. I saw this cheque at the boutique that day. Now I see it again. P1 is the cheque the 3rd accused showed me. I was not shown the reverse of it. It was not given to my hand either. He showed me the cheque and said it must be put today. Must be put to the account today. After that he went away and I also went. The 3rd accused took the cheque and envelope and the letter away. It was then about 10.30 or 11 a.m. That same day I met the 5th accused at my house, he came there at about 7 p.m. He came and asked me whether what was given to the 3rd accused was shown to me. He told me he had given 2 cheques to the 3rd accused and asked me whether the 3rd accused showed them to me. I told him that I was not shown 2 cheques but only one. When we were talking the 3rd accused came into my house. Then the three of us went up to the Armour St. roundabout. The 5th accused told the 3rd accused "I gave you two cheques why did you show only one cheque". The 3rd accused said that there was only one cheque. The 5th accused asked how he knew that it is he (5th accused) who took the cheques.

In the District
Court

Prosecution
Evidence

No.33

M.D.H.Perera
23rd June 1960

Examination
continued

In the District
Court

Prosecution
Evidence

No.33

M.D.H.Perera
23rd June 1960

Examination
continued

Pl is dated 1.9.58. I remember the cheque being shown to me by the 3rd accused at the end of August or beginning of Sept. The 5th accused questioned the 3rd accused as to what he did with the cheque Pl. He said he gave it to the Hendala Wireman, referring to Madevan Pillai. That was at about 7.30. The next day I met the 3rd accused again at about 7 p.m. he came to my house. He said the cheque was given to a firm and Rs.10,000/- worth of cement had been ordered and he obtained the bill, and that he was asked to come for the balance money after 2 days. At that time the 5th accused also came there. He came after the 3rd accused came. What the 3rd accused told me was heard by the 5th accused also. After that I met the 3rd accused two days after, he came to my house again. He said that payment had been stopped on that cheque. The 5th accused was there at the time. Then he said if payment had been stopped you better return the cheque. He said that to the 3rd accused. The 3rd accused said the cheque had been put under a false name Piyadasa that if he went to take the cheque again that all of them would get caught. The 5th accused scolded the 3rd accused this is the way, when there were 2 cheques, you said one cheque etc. and scolded him and went away. After that the 5th accused did not come to my house. He stopped coming to my house. I next met him in November or December near the Courts. It was during the Christmas season and he was collecting the bills from the shoppers. I spoke to the 3rd accused. I asked for the money he had not given. He went away. After that I met the 3rd accused frequently. He told me that an account had been opened in the Wellawatte branch under a fictitious name Piyadasa. He wanted me to tell the 5th accused that if he gets a good "baduwa" (cheque) to bring and give him. After that I met the 5th accused at Harrison & Crosfields.

(To Court: The 3rd accused showed me a number and said that he had been asked, if he got a baduwa to telephone to that number.)

He said that telephone number was the guarantor's telephone number. He said the guarantor was a man from Hendala who does contract work on a big scale. He had a telephone etc. He did not give me the name. I noted the number in my mind. I did not write it down. The number is "79700". I conveyed

that message to the 5th accused. After that I met the 5th accused near about Harrison & Crossfield. It was after 10.30 a.m. He was alone then. I went with him to the canteen of Thomas & Sons and had tea and he asked me to meet him at 12 o'clock. I asked him why. He said he would be getting a cheque and that he had to give it to Aiyappen. He said he was getting the cheque from the sorting office. I went at 12 noon the 4th accused was there. He took me to the waiting room of Norton Perera which is at the basement. He took an envelope from a folded paper, opened the envelope and showed me a cheque. It was an ash coloured cheque. That was for Rs.21,000/-. I saw the name of the payee on it, it was a long name photographic society corporation or something like that. The 4th accused told me that the word "limited" is that therefore it cannot be put in. He said he will alter it and bring it back the next day. (Shown P2) it was a cheque like this cheque. It now reads as "Thiagarajah Vadivel Goomarasamy" that was not the name that was there. When I was shown that cheque I was shown the reverse, there were no signatures on the reverse. Looking at the cheque P2 I can see that this is the cheque which the 4th accused showed me. The endorsements that I now see were not there then. It was a Central Bank cheque. The 4th accused went away taking the cheque. I met the 3rd accused that day at Gabos Lane. He asked me whether Dharmasena gave me a cheque. Then I told him that he had got a cheque but he took it away stating that he would correct it and bring it. Aiyappen asked me to meet him the next day at Bankshall Street at about 11 a.m. I met 4th accused the next day at Harrisons & Crosfields, we went to Horton Perera's waiting room which is at the basement. He showed me the cheque. Then that name was not there but some other Tamil name was there. It was the same cheque which he showed me the previous day. That was shown. (Shown P2) Now there is Thiagarajah Vadivel Goomarasamy. This is the cheque he showed me. On the reverse I saw a number of signatures. I found the name and the signature but not the last two endorsements - "S.R. de Silva" and "P.V.Piyadasa". Then we went to meet the 3rd accused. He was there at Bankshall Street.

In the District
Court

Prosecution
Evidence

No.33

M.D.H.Perera
23rd June 1960

Examination
continued

In the District Court

Prosecution Evidence

No.33

M.D.H.Perera
23rd June 1960

Examination continued

The 4th accused put the cheque into the paper and gave the whole thing to the 3rd accused. It was a Times paper. The 3rd accused had a look at it, then he said he must telephone and he went away. He went to the boutique where pots and pans are sold, he went there after we came back. Number of days later, I met the 3rd accused again. No, the same day I met the 3rd accused. He said that he had forwarded the cheque to the Wellawatte branch and he wanted me to look into it and tell him about it. I said there is no connection between our bank and the Wellawatte branch. Therefore I cannot look into that. When I said that he wanted me to inform the 4th accused. I met the 4th accused on the following day. I conveyed the message to him. I asked the 4th accused to make inquiries that I cannot do so. After meeting the 4th accused I met the 3rd accused that same evening at about 7 p.m. I told him that the 4th accused also could not find out anything. Then the 3rd accused told me at 4 p.m. the following "eka fire una" (it got fired). By that I understood that there had been some trouble about that cheque inside the bank. Then he also said that Sedawatte Piyadasa had been taken to the C.I.D. After that I met the 4th accused. I was not there on that day, the 4th accused had gone to convey that message to one Robert, he conveyed the message to me. I went to meet the 4th accused. Then I told the 4th accused what the 3rd accused told me. I met the 4th accused near Harrisons & Crosfields. When I told him that, he said that it was a trick of the Sedawatte Piyadasa. After that, on the next day I met the 3rd accused. The 3rd accused said that Sedawatte Piyadasa had been taken and he was shown to the guarantors and he had said that was not the person and he had been brought back. On 29/10 I made a statement to the C.I.D. I saw the 3rd accused there. Again I made another statement on 30/10. I do not know the 1st accused. I do not know the 2nd accused, the other three accused I know. At the C.I.D. I made a statement and I gave specimens of my handwriting. (Shown P39 to P39-c), they were specimens given to the C.I.D. and also the signature.

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Cross-examination

CROSS-EXAMINED by Mr. Crossette Thambiah:-

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CROSS-EXAMINED by Sir Ukwatte Jayasundera:-

Q. You referred to a number of occasions where you had discussions with the 3rd, 4th and 5th accused? A. Yes.

Q. In none of those occasions did you ever meet the 2nd accused? A. Yes.

Q. Nor did the 3rd accused at any stage say anything about the 2nd accused in respect of the two cheques in question? A. Yes.

CROSS-EXAMINED by Mr. Perera:-

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No.34

D.P.L.W. Silva

Don Pedura Livanaratchi Wilson Silva -
Affirmed. 53 years. Divisional Superintendent
of Post Offices, Colombo.

I represent the Post Master General in these proceedings. I also assisted the C.I.D. in the investigation of this case by making available to them the postal documents. (Shown P48). This is a Registered Article Receipt bearing No.4805 despatched from Elkaduwa to Colombo. On behalf of the Post Master General I produce the documents marked P45, P46, P48, P49, P50, P51, P52, P53, P54, P55, P56, P57, P58, P59 and P61. I also produce marked P73 a certified copy of the agreement in respect of the telephone bearing No.79709. According to this agreement Mr. Thambiah of No. 29/1A, Clifford Road, Colombo 3, was a subscriber to that Telephone on 23.7.58. He is still a subscriber to that telephone.

CROSS-EXAMINED by all accused:- Nil.

In the District
Court

Prosecution
Evidence

No.33

M.D.H.Perera
23rd June 1960

Cross-
examination
continued

No.34

D.P.L.W. Silva
24th June 1960

Examination

60.

In the District
Court

No. 35

S. R. Ambalavanar

Prosecution
Evidence

Sonny Rodrigo Ambalavanar, affirmed. 30.
Police Sergeant 4537. C.I.D.

No.35

S.R.Ambalavanar
27th June 1960

Examination.

In October 1958 after the detection of this case, I made inquiries for Mahadurage Gunadasa at 230, Kandy Road, Peliyagoda. I could not find such a person or any house answering to that number. I made inquiries in the vicinity, but I was unsuccessful. I also recorded a statement of Kariawassam, headman of that village.

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CROSS-EXAMINED: Nil.

No.36

No. 36

C. Kumarasinghe
27th June 1960

C. Kumarasinghe

Examination

Gunadasa Kumarasinghe affirmed. 45. P.S.106 Mt.Lavinia presently. On 5.11.58 I was the Court Sergeant at the Colombo South M.C. Court. On the orders of the Magistrate I obtained the specimen handwriting and signatures of the 5th accused and witness Periyanan Pillai. They were taken in my presence in open Court. I produce marked U and U1 the specimens of 1st accused Arnolis Appuhamy; V, V1, V2 and V3 the specimen handwritings of the 2nd accused Thambiah; X the specimen of the 3rd accused Iyappen Rettiar; Z and Z1 the specimen handwriting of the 5th accused G. Samaraweera. I also obtained further specimens of the 5th accused on orders of the Magistrate on Y2 and Y3. I also produce W and W1 the handwriting of witness Perianan Pillai which I obtained on 5.11.58. The persons who signed the documents and I counter-signed the documents.

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CROSS-EXAMINED: Nil.

No. 37G. W. K. Brohier

G.W.K.Brohier, sworn. Asst. Government
Examiner of questioned documents Colombo.

In the District
Court

Prosecution
Evidence

No. 37

G.W.K.Brohier
27th June 1960

Examination

10 I am such for the late 10 years. I received a training both in Ceylon and abroad. Abroad, in the criminal detections laboratory of the Royal Canadian Mounted Police, and in the Government Analysts Laboratory in Colombo. I have received a specialised training and I have given evidence on numerous occasions in Courts. I have done so for the last 9 years.

20 On 5.11.58 the Magistrate Colombo sent through P.S.551 Gunawardena a sealed parcel, sealed with the seals of the Magistrate's Court Colombo south, containing certain documents in M.C.Col: South No.91930. The seals were intact at the time I received it and I issued a receipt marked P17. In the sealed parcel I found the following productions, P1 to P40, P10A, P11A, P12A, P13A, P34A, P34C, P35A to P35U, P36A to P360; and P37A to P37I, P38A to P38C, P39A to C, P40A to E; and also documents U, U1, B1, B2, B3, W, W1, X, Y, Y1, Z and Z1. In the covering letter of the Magistrate the points on which I was required to express my opinion were mentioned. I was also directed by the Magistrate to take over the productions marked P41 from the Govt. Analyst. It was said to contain an ink eradicator. After examination and test I returned P41 to the Government Analyst. On 2.12.58 I received by 30 registered post, from the Magistrate Col: South the sealed parcel with the seals intact, along with the letter dated 27.11.58. At the time of receipt the seals were intact. In that parcel I found the following documents:- P42, P42A to P42D, P42 to P45, P45A, P46 and P46A and Y2 and Y3, for examination and report. Again in the covering letter the Magistrate indicated to me the points on which my opinion was required.

40 I express an opinion on the handwriting after examination of the handwriting of the unknown writing with the known specimens. I examine the writing with regard to the quality of the writer, capability shown in the writing, slope, speed,

In the District Court

Prosecution Evidence

No.37

G.W.K.Bröhler 27th June 1960

Examination continued

pressure and pen hold the alignment between various letters of the word and the words themselves, and in the proportion and form of the letters and combinations of lettering spacing also. I look for similarities in my comparison, when there are similarities I look for also different consistencies, variations and on the result of those observations I express an opinion where it is possible.

.....

The next question that I was asked (a) whether the Sinhalese signature "P.V.Piyadasa on the reverse of the cheque P1, P2, P7, on the bank forms P3, P4 of the Bank of Ceylon Wellawatte, on the face of cheques P5 to P10 and on the debit slip P10A and (b) whether the Sinhalese signature M.K.Gunadasa on the signature card P18 and the bank of Ceylon form P19 and P20 were written by the writer of P34, P34A to E, U and U1 (Specimens of the 1st accused). The similarities I found were the questioned signature Piyadasa and the question signature M.K.Gunadasa showed less change of slope, the style of writing which is also shown in the specimens P34A and P34C, that is when the writer writes P.V.Piyadasa he adopts one style of writing and when the writer of the specimens writes M.K.Gunadasa he adopts a slightly different style of writing. Those different styles of writing are seen in the signature P.V.Piyadasa and M.K.Gunadasa on the questioned documents. The signature Piyadasa showed characteristic formation in the letters "dayanna and Sayanna with a short tick. That tick is absent in both the specimen writing and in the questioned signature P.V.Piyadasa. The Sayanna generally always has an introductory curve stroke and a final curve stroke. Both are missing in the questioned sayanna and in the specimen sayanna. The formation of the letters Piyanna and Viyanna are also similar. In the comparison between the questioned signatures and K. Gunadasa the same formations of the Dayanna and Sayanna are seen in addition to Ayanna shows an unusually long down stroke and the elapilla starts from high up near the letter and is also unusually long. The Kayanna, Kombuwa and Alkayanna show a characteristic change of slope in the middle of the signature which is seen in both the signatures P.V. Piyadasa and M.K.Gunadasa. The forming of the Kombuwa and Alkayanna is very similar. In the Gayanna of Gunadasa the Papilla is comparatively

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large and going in the same way in both the letter and in the questioned signatures. The formation of the letter Gayanna is also same in its characteristics but the second half being written in an angular and point fashion. In the Nayanna of the Gunadasa the enclosed portion of the letter is extremely small and in many instances cannot be seen with the naked eye. These are the similarities I found between the questioned signatures P.V.Piyadasa and M.K. Gunadasa and the standard writing P34A to P34C. The similarities were sufficient to express an opinion. My opinion is P1, P2, P3, to P10 and P10A and the signature of M.K.Gunadasa P18 to P20 were written by the writer of P34, P34A to P34E and U and U1 (Specimens of 1st accused).

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In the District Court

Prosecution Evidence

No.37

G.W.K.Brohier
27th June 1960

Examination continued

The 4th question that I was asked was whether the letter P14 addressed to the Manager Grindlays Bank was also by the person who signed P21 to P31 (H.P.Mendis) or an imitation of it. That is the question I was asked. I found that in my opinion the signature H.P.Mendis in P14 different in many significant characteristics with the genuine signatures of H.P.Mendis on P21 to P31. I am unable to express an opinion as to whether it is an imitation of the genuine signature, but I am able to say that the signature H.P.Mendis on P14 was not signed by the person who signed H.P.Mendis on P21 to P31, that is my opinion.

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.....

The 8th question is in three parts:

- (a) Whether the name of the Payee on P2 has been altered;
- (b) Whether the original name of P2 was "The Photographic Survey Corporation Ltd.";
- (c) Whether the original name had been erased with an eradicator similar to P41, which has been sent to the Government Analyst.

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I conducted some tests and experiments and for that purpose I had to examine the cheque P2 under ultra-violet light. I found an erasure under the present name of the payee and I found that the original name was decipherable and that it was 'The Photographic Survey Corporation Ltd.' I have

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prepared a photograph to show that and I produce that photograph in this court marked P71(a). It has been eradicated by an eradicator similar to P41, but I am unable to say whether P41 has been used on P2. I say that P41 fluoresces similarly under ultra violet to the original writing on P2. From the fact that the fluorescents are similar I can say nothing about the identity. If the fluorescents are irregular I can exclude that, but I did not find it dissimilar.

(To Court:- Q. This erasure could have been effected by the use of P41? A. Yes.)

Q. The ink eradication P41 under the fluorescent light gave you a certain effect?
A. Yes.

Q. The cheque P2 under the fluorescent light gave you the same effect? A. Yes.

Q. Though you are unable to say whether definitely P41 had been used on P2, but you agree that if P41 was used on P2 the effect you now see would have been the same? A. Yes.

.....
To the question whether a rubber stamp impression "Chartered Bank" appears anywhere on P2, and if so whether it has been obliterated in any manner, I say that I did not find any trace of a rubber stamp impression "Chartered Bank" on the face or reverse of P2.

I prepared a photographic P71(b) containing some of the results of my comparison in photographic representation. My report embodying my conclusions are contained in the document P71. I produce the documents P71, P71(a) and P71(b).

Cross-examination

CROSS-EXAMINED by counsel for the 1st accused:-

.....

CROSS-EXAMINED by Sir Ukwatte Jayasundera:-

.....

CROSS-EXAMINED by Mr. Perera:- Nil.

RE-EXAMINED:

We do not express an opinion until the similarities are sufficient in number and significance for us to express an opinion. I have used the microscope for my tests. I have also prepared photographs that I have shown to court, and in the course of my evidence I have also indicated to court the various similarities that I have referred to in my report.

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T. E. N.Goonetilleke

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T.E.N.Goonetilleke - Sworn, Inspector of Police, C.I.D. Colombo.

Examination

I have been in the Criminal Investigating Department for about 10 years and I have been in the police force for about 14 years.

On 15.10.58 I was directed by the S.P., C.I.D. to inquire into this case. On that day I went to the Bank of Ceylon, Wellawatta, at about 11.35 a.m. I recorded the statement of H.D.Fernando. He showed me the cheque P2 which had been presented at the bank the previous day along with the credit slips P13 and P13(a). Then I obtained authority in terms of the Criminal Procedure Code to inquire into this case. On 16.10.58 at about 7.20 a.m. I met the witness Weerasingham at his residence at Duplication Road, Colpetty. I recorded his statement, after which he took me to the house of S.Thambiah the 2nd accused at No.29/1A, Clifford Road, Colpetty. That was at about 7.55 a.m. I recorded the statement of the 2nd accused on 16.10.58. The 2nd accused told me that he knew Mr. Weerasingham since his school days. About P.V.Piyadasa he said that he knew him for about 3½ years. He said that he came to know him when he offered to supply him rubble and sand and that he had, in fact, supplied him with this for about 3 months at the beginning and that there was a break and that he had then made his presence felt 3 or 4 months before the day I interrogated him and again offered to supply the same materials. The 2nd accused told me that P.V.Piyadasa opened a bank account at the Bank of Ceylon, Wellawatta. The 2nd accused told me that he (2nd accused)

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provided Rs.1000/- to open that account. Regarding the cheque book he said that the 2nd accused took charge of the cheque book from P.V. Piyadasa and that he had it with him up to about 10 days before I recorded his statement. He said all along he was known to him as P.V.Piyadasa. 2nd accused told me that on two occasions he deposited money into this account. 2nd accused also told me that about 1½ - 2 years before that he had seen him somewhere at High Street, Pamankada Junction. On 17.10.58 I recorded the statements of Weiman and Mrs.Philips. On 18.10.58 I recorded the statement of K.A.M.Sumanaratna. At that time I was still on the look out for this person called P.V.Piyadasa and I was making attempts to take him into custody. I detailed Police Sergeant Appuhamy to make inquiries at Pamankada and Wellawatte areas. On 18.10.58 at about midnight I ambushed along with the 2nd accused near the Sapphire Theatre to find P.V.Piyadasa but I was not successful. 10
On 22.10.58 at about 12.15 p.m. I received information about P.V.Piyadasa. At 12.30 I interviewed him at the Port. On that day he was brought by the Police Sergeant and Constable to the C.I.D.Office. He must have been arrested by them. That person whom I interviewed that day was M.T.Arnolis Appuhamy alias Ralahamy. That is the 1st accused. I took charge from him his fountain pen P32. I produce P32. The same day at about 5.35 p.m. the 1st accused took me to the Royal Hardware Stores at Old Moor Street, Pettah. I took charge of the cheque P1 and receipt book P67. I also found the duplicate P67(a) in the receipt book. I recorded the statement of S.K. Selladurai and Sathkunararatnam. On the same day at 8.05 p.m. the 1st accused took me to the premises No.30, Siri Maha Vihare Road, Dehiwala. He pointed out to me a suitcase which he said belonged to him. In his presence I searched the suitcase and found a letter dated 20.9.58 addressed to the Manager, National Overseas and Grindlays Bank Ltd., Colombo, purporting to be signed by H.B.Mendis, No.230 Bloemendhal Road, Colombo introducing one P.V. Piyadasa for the purpose of opening up a bank account. I produce that letter marked P14. I also found in the suitcase an envelope which I produce marked P49 addressed to M.T.A.Appuhamy, No.30, Siri Maha Vihare Road, Kalubowila, Dehiwala. I took charge of P14. P49 I took charge of later. I produce P14 and P49. That same night at about 11.45 p.m. I went with the 2nd accused and police 40 50

party to the 2nd accused's house at Clifford Road, Colpetty. I searched the house of the 2nd accused No.29/1A, Clifford Road, Colpetty. The 2nd accused was present. I found in his pocket of a bushcoat hanging in his bedroom two credit slips P11 and P12. P11 is dated 30.9.58 and it states: pay to the credit of P.V.Piyadasa of Pamankada a sum of Rs.500/-. P12 is a paying-in slip dated 6.10.58 to the credit of P.V. Piyadasa, Pamankada, a sum of Rs.150/-. I also found two sheets of letter head paper which I produce marked P15 and P16. I found them in the bottom drawer of a chest of drawers in the children's room.

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I produce P15 and P16. Both P15 and P16 are letter heads bearing the name S.Thambiah. On P15 I found the signature H.B.Mendis written in a number of places. In some places it had been partially written. P16 is a letter and on the reverse of that letter the signature H.B.Mendis and also parts of it have been written in a number of places.

Q. Did the 2nd accused tell you as to who wrote the words H.B.Mendis on P14, P15 and P16?

Sir Ukwatte Jayasundera objects to this question on the ground that possibly the answer that Crown Counsel expects is the statement which is at the bottom of page 130 of Magistrate's Court record, viz: that he signed all three documents. His objection is under section 25 of the Evidence Act. He states that it falls within section 25(1) of the Evidence Act, and it comes within a confession. This statement has been made to a police officer. He points to section 17(1) where a confession is defined. Cites 27 N.L.R.267. Not only a confession in the strict term, but any statement that may go to strengthen the prosecution case should be avoided. Cites 41 N.L.R.151 and 54 N.L.R.32. He submits that in this case any admission made by any accused in regard to the signature on P14, P15 or P16 would be an admission on a fact in issue that arises under count 1 of the indictment. The case for the prosecution is that the modus operandi on the part of the accused was to open various accounts in different banks for the purpose of negotiating forged cheques, and the admission in

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respect of H.B.Mendis introducing him to open a bank account would make a fact in issue that comes up for decision under count 1 in this case.

Crown Counsel in reply. Prosecution is proposing to prove certain relevant admissions made to police officers during investigations. A confession is defined. The court has to consider whether the admission by itself prima facie proves the case against the accused. When a man is charged with an offence there may be a number of things that go to prove that offence, such as, motive, intention and facts. Just because an accused admits a relevant fact that alone does not make that admission a confession.

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He cites 54 N.L.R. 449, 53 N.L.R. 251 and also an unreported case S.C.13 M.C.Colombo South 59315. In this case the prosecution case is that 1st and 2nd accused know each other and the 2nd accused attempted to introduce the 1st accused to the bank. The law is that when the court has to decide whether it is a confession the court has to look at the statement in itself.

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Sir Ukwatte Jayasundera states that it is difficult to find a case quite parallel to the case before court. He says that the 27 N.L.R. case come nearest.

Ruling

ORDER:

Even if the answer by this witness is to the effect that the 2nd accused admitted that he wrote the signature H.B.Mendis on P14 having practised the same on the documents P15 and P16 as he has stated in the lower court, this evidence would not be a confession by the 2nd accused of having committed any of the offences with which he is being charged in the present case. Nor would it be an admission suggestion an inference of guilt to any of the charges with which he is charged in the present case. Therefore I allow the witness to answer the question put to him.

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Examination

I referred to the documents P14, P15 and P16. P14 bears the words H.B.Mendis in one place. P15 and P16 has the name H.B.Mendis written in several places.

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Q. Did the 2nd accused tell you about the writing H.B.Mendis on P14? A. He said he signed the name H.B.Mendis on P14.

Q. What did the 2nd accused tell you about the writing H.B.Mendis on P15 and P16? A. He said that he wrote H.B.Mendis on these documents.

Q. For what purpose? A. He said he practised this signature on P15 and P16 and thereafter signed it on P14.

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10 I produced 1st and 2nd accused before the
Magistrate on 23.10.58. On 27.10.58 I recorded
the statement of N.B.Sirisena, the proprietor of
the hotels at No.65, Galle Road, Wellawatta, and
No.477, Havelock Road, Pamankada. I also
recorded on the same day the statement of the
witness Andrias. On 28.10.58 at 5.30 p.m. I went
to the house of the 4th accused Dharmasena at
Mampe, Piliandala. M.D.H.Perera took me to the
20 house of Dharmasena. I went to Dharmasena's
house with two Sergeants leaving M.D.H.Perera in
the car. Dharmasena the 4th accused was in his
house. I searched the house in his presence.
In the pocket of a bush shirt hanging on the
wall was the bottle P41. It contained some
whitish liquid. I took that into my custody.
On 5.11.58 I produced P41 before court for the
purpose of sending it to the Government Analyst.
Up to the time I produced it in court I had P41
under lock and key in my custody. I also got
30 specimen handwriting of the accused as well as
that of a number of witnesses. I produce these
specimens:

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continued

marked P34 and P34A - P34E of the 1st accused
marked P35 and P35A to P35U of the 2nd accused
marked P38 and P38A to P38C of the 3rd accused
marked P36 and P36A to P36O of the 4th accused
marked P40 and P40A to P40E of the 5th accused
marked P37 and P37A to P37I of witness

Periyannan Pillai

40 marked P39 and P39A to P39C of M.D.H.Perera
marked P31 of H.B.Mendis
marked P43 of C.Bolling

I also obtained from Mr. Herman the specimen
impression seal of a rubber stamp reading "Account
Payee only". I produce that seal marked P44. I
also produce marked P80 a certified copy of an

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extract from the Registrar of Motor Vehicles relating to Fiat 1400 car bearing No.1 Sri 3763. On 3.11.58 Inspector Abeywardena produced the 5th accused at the C.I.D.Office. He was produced before the Magistrate later. I made investigations in the postal department in this matter. I also recorded among others the statement of witness M.D.H.Perera for the first time on 29.10.58. It was after the statement of M.D.H.Perera was recorded that I took charge of the 5th accused into custody.

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I also recorded the statement of witness Albert. He was a witness who gave evidence in the Magistrate's Court and also in this court.

Q. Did Albert make a complaint to you regarding his evidence at any time? A. On 28.1.59 he told me that the 2nd accused and Proctor Sivagnanam had seen him and wanted him to say in his evidence that he (Albert) was at the Bank of Ceylon, Wellawatta, when this account was opened. I made a note of this and brought it to the notice of my superior officers. 20

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Examination-in-chief contd.

I also took charge from the 2nd accused a fountain pen P33 and another letter P17, that is an envelope addressed to Mr. Kulandavel Manager Union Bakery Kilinochy.

On 29.10.58 I took the 3rd accused into custody. The 5th accused made a statement to me. He said he knew M.D.H.Perera for about 5 years. The 2nd accused told me about P.V.Piyadasa and his bank account at Wellawatte. I showed the 1st accused Arnolis to the 2nd accused. He said that was the P.V.Piyadasa whom he referred to. The 2nd accused told me that he did not know where P.V.Piyadasa lived. Only P34 was taken on 22.10.58. P34A to P34E were taken on 23.10.58. P35 and P35A were taken on 22.10.58. P35B to P35U were taken on 23.10.58. P38 and P38A to P38C were taken on 29.10.58. P36A to P36L on 30.10.58. P36M to P36O were taken on 31.10.58. P40, P40A and B were taken on 3.11.58. P40C, D, E were taken on 4.11.58. P37, P37A to D were taken on 23.10.58, P37E to P37I were taken on 24.10.58. P39A, B and C were taken on 39.10.58. P31 on 27.10.58. P43 on 24.11.58.

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CROSS-EXAMINED by Mr. Crossette Thambiah:-

The witnesses who saw the 1st accused during the investigation were not taken to the identification parade. Only 2 witnesses from the bank were taken they failed to identify the 1st accused.

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CROSS-EXAMINED by Sir Jayasundera:-

10 I have only noted the time of the arrest of
the 4th accused. The 1st accused and the others
were in the position of suspects from the time I
took them on for questioning. I did not formally
arrest the 1st accused at any time. I did not
place my hand on him and say that I arrest him
as such. I asked the 2nd accused to come to the
office on 22.10 at 1.45 p.m. He came on a
telephone message from me. I telephoned to him
and asked him to come to the office. I did not
ask him to come and see the photograph of the
20 1st accused and say whether he could identify
him. I telephoned to him to come to office in
connection with the cheque case, and he came at
1.45 p.m. I produced him at the Magistrate's
bungalow the next day at 4.20. I left office to
produce the 1st accused and 2nd accused before
the Magistrate Colombo at 4.20. From 1.45 p.m.
till that time he was not in the C.I.D.office, he
was outside, in the office, and he came back
for inquiry. He was in the office or outside in
the company of some officer. During that time
30 he was treated as a suspect. He was informed of
it by Mr. Kitto and myself of it. I was acting
in terms of section 129(1) of the Criminal
Procedure Code having obtained the permission of
the Magistrate. I had the power to exercise all
powers in regard to cognisable offences. I did
not formally arrest the 2nd accused. I told him
that he was suspected in the case. He was
informed of the position that he was brought up
for questioning in regard to two cheques. I
40 told him that he was concerned in two forged cheques
that had been presented. It is in the interrogations
when he was informed by S.P. Mr. Kitto. That
was at 3.55 p.m. He was interrogated by Mr. Kitto
in my presence. At that time he was made aware
of the offences of which he was suspected of.
On 16.10 I had earlier questioned the 2nd accused
in the morning and again in the evening when I

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showed him a certain suspect. I have recorded his statement on the 16th morning in his house and again in the afternoon at his office, I showed him another Piyadasa. On 22.10 the interrogations only started at 3.05 p.m. by Mr. Kitto and myself. 3.55 was the time he was made aware of the offences he was suspected of. He was aware that he was suspected of a very grave offence and that was why he was taken into our custody. At 3.05 p.m. a 3rd statement was recorded from the 2nd accused. I recorded it. Mr. Kitto and I questioned him and it was I who recorded it. The questioning continued till about 4.30 p.m. The next statement from him was recorded at 9.30 p.m. on 22.10 at the C.I.D. Office. That was the 4th statement recorded from the 2nd accused. There was another statement recorded from the 2nd accused that was at 12.45 a.m. on the morning of 23.10, again at the C.I.D. office, that is the 5th statement. There was another statement recorded from him at 9.10 a.m. again at the C.I.D. office, that is the 6th statement. That was also recorded by me. Another short statement was recorded at 9.45, when he was interrogated by Mr. Kitto and I recorded the answers. That was on 23.10. That is the 7th statement. That was not the last. Again at 2.35 p.m. of the same day I recorded another statement. Again it was at the C.I.D. Office.

P14 was discovered at about 7.30 p.m. on the evening of 22.10. P15 and P16 were discovered when I searched the house of the 2nd accused at about 11 p.m. of the same night, that is 22.10 night. By that time he had been made aware that he had been suspected of a very grave charge. (Shown P14). There is an endorsement on it, by me and the 1st accused signed by the 1st accused and dated 22.10.58. That is all. Just the signature and date. The accused put the date. It is not stated where it was found. (Shown P15). That has the date on which it was found. It was signed by me and the 2nd accused. 2nd accused has stated where it was found and then signed. There is a similar endorsement on P16. The 1st accused was unable to make that endorsement in English. Not that I wanted it done in English. It is my practice to always get a document endorsed by the person from whom I took charge of it. Different documents were found in different places. 2nd accused made the endorsement there where it was

found he did so at my request. P14 was also found in a particular place, when it was found I did not think it was necessary to say where it was found. When I removed P15 and P16 I also removed two note heads and a 1958 desk diary. The two note heads were two letters.

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Cross-examination continued

10 My position is that the 2nd accused admitted that he wrote H.P.Mendis on all 3 documents P14, P15 and P16. He did so after he had become aware of why he was in our custody, he knew he was in custody for a serious charge, a charge of forgery. After that he confessed to me to have written P14, P15 and P16. He volunteered his confession. I offered no inducement, none whatsoever. I do not know whether I should use the word confessed. Immediately after my return to the office I put it on record. What he stated to me I recorded. When we were climbing the stairs he said so. He offered me the explanation on the way upstairs. He offered me the explanation for the two note heads. The forgery part of it came later. The documents were shown to him later. Even before P14 was shown to him he gave an explanation regarding P15 and P16. After that I recorded his statement incorporating that.

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(To Court: What he told me was that he write H.P.Mendis on P14 after having practised on P15 and P16.)

30 He did not say he had P14. He told me of a certain incident connecting these two documents.

(To Court: There was no complaint or charge in respect of P14.)

40 A charge of forging certain cheques had been made to the 2nd accused earlier that day. Mr. Kitto questioned him on 22.10. This statement was after that. I had the information of the opening of the Pettah Bank account at the time the statement was made by the 2nd accused. The attempt had been made to open an account by the 1st accused with the 2nd accused with a gentleman working at Torrington Square. That fact was mentioned when the 2nd accused was making the statement. It is at the stage of 3.55 p.m. that he was told of that fact. The explanation was given by the 2nd accused in the early hours of 23.10. The admission in regard to

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P15 and P16 he made after he was made aware that I knew he was concerned in the opening of a bank of Ceylon account and also after I took charge of the 2 documents from him. It was after I found the two documents in his possession. By that time he had been made aware that I knew that an attempt was made to open a bank account at the Pettah Branch. It is from that time that inquiries started. From the time the 2nd accused came on 22.10 till the following morning the very first thing was he had lunch with us seated at my table after 1.45. There is a note of it that he had his meals and everything was supplied to him. He had the same rest that we had. It is not correct to say that I made an observation that this is the brain behind the whole affair when Mr. Kitto was questioning the 2nd accused. I deny that he did not make a statement to me about P15 and P16. He definitely said what I have recorded. After this explanation of his I found out Mr. Ganagasabai of the Bank of Ceylon, Mr. Nagendran his brother in law, Andreas, Mr. Dharamanandarajah, P.S.370, E.F.Perera, Mr. Nathanielsz, Mr. Lambert Perera, Mr. Gunasinghe, Mr. Govindasamy and Mr. Sellasamy. That is all. I questioned Dhammanandarajah on 6.12.58. Nathanielsz on 17.2.59. In the M.C. I assisted Crown Counsel to conduct the case.

I was in Court when the inquiry was going on. On 28/1 Albert Perera made a statement to me. I stated so yesterday. That the 2nd accused had asked him to say that he was present at the time the Wellawatte bank account was opened. He had been cross-examined at considerable length on 25/1 by the defence counsel in the M.C. The cross-examination was over on the same day, he gave evidence. Suggestions were made to him there that he was responsible for the opening of the bank account at Wellawatte. It was 2 days after that he stated that the 2nd accused asked him to say that he was present at the opening of the bank account at the Wellawatte Branch. He did not tell me that the 2nd accused asked him to say that he was present at the opening of the bank account at the Pettah Branch. I just made a note of it. I did not speak to the accused about it after that.

I cannot remember what else Albert stated in his evidence in the M.C. I am aware that the 3rd accused's statement to M.D.H.Perera was that he

was to use the telephone No.79079 to contact a big business man living at Hendala Wattala. To my knowledge the 2nd accused never lived at Hendala Wattala.

(To Court: The statement of M.D.H.Perera was on 29.10).

10 I discovered him as a result of a statement made by one of the accused. At the time I recorded the statement of M.D.H.Perera I was aware of the telephone number of the 2nd accused. Weerasingham I questioned on the morning of 16.10. He did not say he knew P.V.Piyadasa for 2½ years. He said he knew P.V.Piyadasa for about a year and then he explained it, he said he was introduced on the day the bank account was opened that is on 23.10. Weerasingham stated he was introduced by the 2nd accused at the Bank of Ceylon Wellawatte.

20 RE-EXAMINED: The statement of the 2nd accused made on 16.10 was the first statement, it was a detailed statement. The last was on 23.10. The statements made in between were very short statements. Those statements were necessary to show certain documents to the 2nd accused and clear up other points in the course of the investigation of mine. P14 signed by H.P.Mendis was found in the suit case of 2nd accused and I took it into my custody. Then I discovered P15 and P16.

30 (To Court: No copy of P14 had been sent to Grindlay's Bank nothing had happened on it.)

40 When I discovered P15 and P16 I had not informed the 2nd accused of the discovery of P14. P15 and P16 were discovered at 11 o'clock in the night, the same night. The reason why I took them was because they had the signature of H.P.Mendis which I had seen earlier on P14. I did not discuss it with the 2nd accused. I took those documents and went with the 2nd accused to the C.I.D.office. When we were going upstairs he offered an explanation in regard to P15 and P16. He was puzzled as to why I took P15 and P16. He was wondering why I had taken them and he was offering an explanation about them. Then I went up and recorded his statement about them. After that I showed him P14 then I have recorded what he told me about P14. The investigation of this matter went on from October 1958 to February 1959.

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Court Notes

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Court Notes
28th June 1960

Mr. Thiththawela moves to read in evidence the statutory statement of the 5 accused and close the case for the prosecution.

I call upon a defence.

Mr. Crossette Thambiah states that the 1st accused says that he does not want to give evidence and the 3rd and 4th accused also do not wish to give evidence.

10

At this stage trial is adjourned for 29.6.60

Defence
Evidence

No.40

S. Thambiah

No.40

S. Thambiah
29th June 1960

Sir Ukwatte Jayasundera calls:

Examination

Sangarapillai Thambiah - Affirmed. 49 years.
Building Contractor. Residing at No.29/1A,
Clifford Road, Colpetty.

I am the 2nd accused in this case. I have been a building contractor for about 8 years from 1952. Prior to that I ran a cinema at Nuwara Eliya. Prior to that I was a Sanitary Inspector for about 11 years. I retired from Government Service on medical grounds. As a building contractor I have done contracts at Mount Lavinia, Negombo and Kandy and also in other parts of the Island. At the moment I have taken building contracts at Trincomalee. I have never been charged in any case, nor any complaints made against me.

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I came to know the 5th accused only in courts, i.e. on the day he was brought to court as an accused in this case. I had never seen him before that date. I came to know the 4th accused for the first time in courts. I had nothing to do with him prior to that. Same with the 3rd accused. I know witness Albert Perera in this case. I have known him from 1936. When I first came to know him he was a telephone operator under Mr.G.G.

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Ponnambalam. Mrs. Ponnambalam is a cousin of mine. I am connected to Mr. Ponnambalam by marriage. Mrs. Ponnambalam's mother and my mother are two sisters. Mr. & Mrs. Ponnambalam's marriage took place in December 1936 and since that marriage I have visited Mr. Ponnambalam and seen Albert Perera in Mr. Ponnambalam's house. Thereafter Albert Perera became a peon in the Ministry of Industries when Mr. Ponnambalam became the Minister of Industries. During the time Albert Perera was employed in the house of Mr. Ponnambalam he became very well known to me. Albert Perera was a frequent visitor to my house for many years. Up to the time of the incidents connected with this case he was a very frequent visitor to my house and he spent hours at my house. When he comes to my house he was practically an inmate of my house. He know my wife and children too. I was of help to him. He used to borrow money from me on several occasions, sometimes on security and at other times without any security. He appeared to be a very loyal servant of Mr. Ponnambalam. In connection with my business I had occasion to go to the Ministry of Industries very frequently. That is the place where Albert Perera was employed. I remember the incidents of my going to the Pettah Branch of the Bank of Ceylon to open an account. A few days before that Albert said he had got a friend of his and he wanted me to help him to open an account in the Pettah Branch. I told him I had no account: "what about your account". Then he said his account was a bad one and he could not recommend. I told him "I will see about it". He wanted me to help a friend of his to open an account. That is all that happened on that day. Albert Perera after about 2 or 3 days rang me up and asked me when I would be going to the Ministry of Industries office again. I told him that I would be going there the day after he rang me up as I had to go there. I remember it as the day this account was opened at the Pettah Branch of the Bank of Ceylon. As indicated by me I went to the Ministry office on that day. Albert Perera was there. His friend for whom Albert wanted me to assist in opening an account was also there. He is Piyadasa. That is the 1st accused in this case. That is the first occasion I came to know him. I had not known him before or had anything to do with him before.

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Examination

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(To Court: Q. He was introduced to you as
Piyadasa? A. Yes.)

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29th June 1960

Examination
continued

To help Albert Perera's friend I said I had a brother-in-law of mine who had an account in that bank and I telephoned Mr. Nagendran. I knew that he had an account at the Bank of Ceylon, Pettah Branch. When I telephoned Mr. Nagendran he said that he would be free during lunch time and asked me to come and pick him up. I told Albert that I was going to Kandy and he requested for money to be given to open an account because he said he was expecting some money and that too by cheque and he wanted to open an account in a hurry. I said: "Why in a hurry" and he said: "No, sir, account must be opened before you leave for Kandy" and he wanted Rs.1000/- to open an account. I said I had no money and that I had enough money to pay my labourers at Kandy and that I had to purchase goods at Kandy. Then he said: "No, sir, you can give the money and you can take the cheque book and write cheques till the amount was over and give back the cheque book. I then agreed.

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(To Court: Q. Who wanted you to give the
Rs.1000/-? A. Piyadasa. I am sorry,
Albert.)

I saw the 1st accused on that day only for the first time. Albert told me to take Piyadasa and go and fetch Mr. Nagendran and come to the bank and that he also would come there. So I went home with the 1st accused, took money from home and went and brought Mr. Nagendran to the bank. At the bank I got the forms and started filling the proposal form and I inquired from Piyadasa for the particulars. I entered the particulars given by him. As I was filling the cage for his full name and address he said "Gunadasa". Then I said: "Albert told me that you are Piyadasa; now you are telling me another name." He said: "No, sir, I had an account here before and it got closed owing to some default and I am known by two names also." I did not give much thought to it and I filled up the form as he said. At the Pettah Branch these papers were submitted. The name of the guarantor was authenticated by the Pettah Branch and we were asked to go to the Titus Stores Building bank. There is a branch there. Then we left to that building. As we were leaving I met Albert as I was coming down the stairs and he

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inquired from me regarding the account and I said everything is all right. Then he went off. We went to the bank at Titus Stores Building and Piyadasa then took the forms inside and came back and said that there is an alteration made in the form and he wanted new forms to be filled up. Mr. Nagendran and I were staying out. He brought some new forms, I wrote out the particulars in the proposal form and gave it to him. He went inside with the forms and came and said that Mr. Nagendran's name has to be authenticated again and that he would be written to. Therefore I left the place. The forms that I filled up at these two places are P18, P19 and P20. I had to go to Torrington Square to drop Mr. Nagendran. The 1st accused also said that he was going to Wellawatta and asked me to drop him where I live. He wanted to go as far as Colpetty. At Cinnamon Gardens my car met with an accident. Mr. Nagendran got down and said he was getting late and went away. His office was about 300 yards away. Then I went to the police station. I cannot remember as to whether the 1st accused was there at the time the police came. After the police made inquiries I went away. That inquiry was held by the Cinnamon Gardens Police. Following morning Albert and Piyadasa came home and said: "If you are going to Kandy and this Pettah account is to be delayed I want to open an account at Wellawatta." I said "why" and he said "you are going away and would not be back for some time". Albert was insisting that I should do that on that day. With reluctance I agreed because I had a lot of work that day and I wanted to go to Kandy early and I said I will attend to the matter and asked them to come to the bank. I phoned up Mr. Weerasingham and he agreed. He had an account at the Wellawatte Bank. He said he would be free by about 10 or 10.30 and asked me to fetch him. Albert of his own accord said that both of them would come to the Wellawatta Bank, i.e. Piyadasa and Albert. I said that I would be coming there at about 10.30 or so. As arranged I went to Mr. Weerasingham's place at 10.30, picked him up and went to the bank. Piyadasa was at the bank, but Albert Perera was not there. Mr. Weerasingham lives at the Duplication Road which is close to my place. I took Mr. Weerasingham and went to the bank, and I found the 1st accused and not Albert. Then I introduced Piyadasa to Mr. Weerasingham as Piyadasa and asked them to

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Examination
continued

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Examination
continued

do the needful. I told them that I was going to attend to my car and I went and attended to my car and returned about half-an-hour later. Then I found the papers ready. After coming back I gave the Rs.1000/-. I cannot remember to whom actually I handed the money; it must be either to Piyadasa or Weerasingham. With the cash and papers they went inside the bank. I was staying out. After some time they returned with the cheque book with 5 or 6 leaves signed and the signature authenticated. I took charge of the cheque book. From there I took Mr. Weerasingham and Piyadasa and dropped Weerasingham at the Public Trustee Office and then dropped Piyadasa at Bambalapitiya and I went to the Finance Company and I made a payment to the Finance Company by one of the cheques as an instalment on my wife's car. I paid Rs.275/- or so by cheque; I cannot remember the exact amount. From there I came back home and had my lunch and left immediately to Kandy. I had to make certain payments there. I issued certain of these cheques there for purchases that I had made. P5 is the cheque that I gave the Finance Company. I issued P6 for Rs.300/- at Kandy to Estates Supplies Corporation. I think I gave that cheque to my Supervisor Sellasamy. The date of that cheque is 23.9.58. I issued this cheque at Kandy. P7 is a cheque for Rs.375/- cash dated 24.9.58. I cannot say exactly whether I issued that at Kandy. I was in Kandy all those days. P8 is Rs.52/50 dated 25.9.58 also a cash cheque. P9 is for Rs.500/- dated 25.9.58. P10 is dated 2.10.58 for Rs.125/- in favour of Sellasamy. I think I sent the cheque P9 to Jaffna. The total of the amount of these cheques exceeded Rs.1000/-. I had deposited only Rs.1000/-. I deposited money enough after that. I deposited Rs.500/- on P11 of 30.9.58. P12 is also a paying-in-slip for Rs.150/- on 6.10.58. After I used those cheques Piyadasa came and got the cheque book back from me. Albert telephoned me to hand over the cheque book and I said that there was a balance of Rs.20/- and he said he will bring the money and give me. He brought the money and took back the cheque book. Thus I had met the 1st accused on 3 occasions - at Pettah, Wellawatte and on the day he came to take the cheque book and also when he came home with Albert on the same day. Thereafter on the 15th or 16th of October the C.I.D. Inspector Mr. Goonetilleke came to my house along with Mr. Weerasingham. Mr. Goonetilleke took down a statement

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from me. After that statement was recorded Mr. Goonetilleke went away. Thereafter the police asked me to help them to trace the 1st accused. I telephoned Albert and asked him for Piyadasa's address. I told the C.I.D. that I did not know where Piyadasa was staying. The police came and took me once or twice to ambush. Again Mr. Goonetilleke rang me up on 22.10.58. He told me that he had got a photograph of Piyadasa and asked me to come there to identify it. I said I was coming immediately and I went up at once. That was on 22.10.58. I spent the 22nd night at the C.I.D. Office. The following day I was taken to the Magistrate. All the time I was with the C.I.D. From time to time they asked me questions and I answered them. Sometime on 22.10.58 I was taken before Mr. Kitto, S.P., C.I.D. That was at about 4 p.m. on 22.10.58. Then I was told that I was there on a grave charge of forging cheques. Mr. Goonetilleke told me that I had forged cheques and opened accounts to credit these cheques. That was about 3.30 p.m. I was told so. I knew that it was a serious offence to forge cheques and to open accounts to credit them. Before Mr. Kitto Mr. Goonetilleke said that I was the ring leader. I was taken to my house on 22.10.58 night and my house was searched and documents P15 and P16 were found in some drawer in my house. He took 2 other notepapers and some diaries. There are the words H.B.Mendis written on P15 and P16. I never wrote those words. I did not at any time tell Mr. Goonetilleke that I wrote these words on P15 and P16. P14 was shown to me at the C.I.D. Office. I did not put that signature H.B.Mendis on P14. I never told Mr. Goonetilleke at any time that I put that signature on P14. I do not know a man called H.B.Mendis at all. I have never signature H.B.Mendis anywhere. It is true that documents P15 and P16 were found in my drawer. Of my own knowledge I cannot say how they got in there. I was puzzled when Mr. Goonetilleke showed me and asked me and I did not know what to say. In fact I had already been told that I was under a grave charge. I do not know how those documents came there and who brought them there. Albert Perera used to come to my house and behave in the house as an inmate of my house. At this time Albert Perera used to visit my house. I have a telephone in my house. 79709 is the number of that telephone. Albert used the telephone when he came there.

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Examination
continued

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Examination
continued

Sometimes people used to ring up and find out where Albert is and sometimes I have given messages also. I heard witness Selladurai of Royal Hardware Stores mentioning an incident that I was at the Royal Hardware Stores on a certain occasion in early September. I go fairly frequently to that place and he must be making a mistake. So many contractors come there and talk to each other and he may be making a mistake and I cannot say why he is telling that.

(To Court:- Q. He is making a mistake in saying that you were present when the 1st accused came to give an order? A. Yes.) 10

On that date I did not know the 1st accused at all. I heard Albert telling the court that I wanted him to find a baker for me. I never asked him to do that and it is a deliberate lie. Albert was aware that I had a bakery at Killinochchi after the communal riots. (Shown 2 cheques P1 and P2). Until I saw these cheques in court I did not see them at all. 20

Q. You heard Albert telling the court that you and somebody else wanted him to make a statement that he came to the bank at Pettah or Wellawatta on the day this account was opened. Did you ever ask him that? A. No.

The date was fixed by Mr. Goonetilleke as 28.1.59. 2 days before that Albert had appeared as a witness at the non-summary inquiry in the Magistrate's Court and my counsel had cross-examined him at considerable length and his evidence was over. I know the charge against me in this case. I deny the charges against me. At that time I had several contracts in various parts of the Island of the value of nearly 5 lakhs. I merely went out of my way to oblige Albert Perera to open this account. 30

Cross-
examination

CROSS-EXAMINED by Mr. Thambiah:-

Albert introduced the 1st accused to me. I knew Albert for a very long time.

Q. You asked Albert to find a servant? A. No.

Q. You asked him to find a baker for you? A. That question never arose, and the condition on which I took over the bakery was to organise it and to send a Muslim or a Tamil baker. There was no 40

question of a Sinhalese baker going there.
That was soon after the riots.

Q. Until Albert introduced him to you, you never knew him at all? A. Yes.

CROSS-EXAMINED by Mr. Granville Perera:- Nil.

D.C.No.N.1952/91930.

Hearing resumed, after lunch.

Sangarapillai Thambiah recalled. Affirmed.

CROSS-EXAMINED:

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I had contracts to the extent of 5 lakhs at the time of this incident. I had done contract work for a number of years. At the time of this incident I had no bank account. In 1957 I had an account in the Mercantile Bank. I ran a business called the Indoor Ceylon Traders and in that name I had that account in the Mercantile Bank. I had an account in the City Branch of the Ceylon Bank also. I had a bank account in the Chartered Bank also some years ago. I had no account in the State Bank of India. During the communal riots my wife Mrs. Thambiah had a bank account in the Bank of Ceylon Wellawatte. Indoor Trades was an imports business. I had considerable experience in business.

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I first knew Albert as a telephone boy. When Mr. Ponnambalam went there as Minister Albert was taken as his personal peon in the Ministry of Industries. From telephone boy he came to the position of a peon. He was of a different social status from mine. He addressed me as Aiyah. He came to see me often. He had access into my rooms. He was very friendly with my children. What I suggest is that P14, P15 and P16 might have been introduced by Albert. I cannot say on what I base that suggestion. It is in the office room that these were discovered. We never treated Albert differently, he was so free in the house.

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(To Court:- My house has 2 bed rooms. The office room is abutting the verandah. Usually it is the visitor's room. Sometimes when the children play away in that

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Cross-
examination
continued

Objection

room they sleep on the bed in that room.
I have 2 children. My wife is also alive.
They are living with me in that house.
To get to the bed room proper one has to
pass the drawing room and the dining room.

It is Albert who has put me into this predicament.
When Albert gave evidence in the witness box no
suggestion was made to him regarding P14, P15 and
P16. It was on 22.9.58 the day of the motor accident
was the day connected with the Pettah Bank account
matter. It is a Monday. I told my Counsel that I
did not see P14 till I saw it at the C.I.D. I was
shown P14, on the 22nd night. I did not offer to
give an explanation to Mr. Gunatilleke. Not even
after it was shown to me. He asked me for an
explanation, I said I do not know. I deny that I
stated that "one evening one Albert brought back a
letter typed, I signed this letter as such having
first practised the signature on 2 letter head
papers found in my chest of drawers today." I
never said so. That is an invention by Mr. Guna-
tilleke. I stated that two other documents were
found in my chest of drawers.. (Mr. Thiththawela
marks the documents which were referred to as 2D1
and 2D2 - the two documents found along with P15
and P16 in the chest of drawers.

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Sir Jayasundera objects to the production of these
documents on the ground that they should have been
produced in examination in chief. He submits that
these documents cannot be produced through this
witness. Mr. Thiththawela states he did not produce
the two documents because they were irrelevant at
that stage. Now it has been suggested that 2 other
documents were found and the Court will be left in
the dark with regard to what those documents are.
Therefore he seeks to mark the documents through
this witness.

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I allow the documents to be marked.

Cross-
examination
continued

(Shown X and Y dated 30/8 and 4/9 respectively.
These are the two documents that were found in the
chest of drawers. The bodies of X and Y have been
written by me. P16 is a letter addressed to the
Chief Health Officer Torrington Square dated
16.9.58. The body of the letter has been written
and signed by me. On the reverse of P15 are some
figures, those figures may be mind. P15 is not

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dated. The 1st accused was introduced to me by Albert Perera on 22.10.58. I know where Albert Perera works and where he lives. I ambushed with the Police looking for P.V.Piyadasa once at the Saphiere and at the Savoy. I did not take the Police there, the Police had found out that there is one Piyadasa there. I was taken to identify him.

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10 Q. You will agree with me that the simplest thing would have been for you to put Albert Perera to ambush?

Cross-
examination
continued

20 A. I was so loyal to him that I till the last did not disclose his name. Till 22/10 I did not mention Albert's name to the Police. Till I knew that I was led into a trap. I ambushed with the Police on 18/10. I was questined by the C.I.D. for the first time on 15/10. Albert was shown to me at the C.I.D. on 22/10. He said something in my presence. The 1st accused was also shown to me on that occasion. I heard Albert say that he introduced the 1st accused to me as Ralahamy. He said so in the C.I.D. Then only I knew that I was led into a trap. I thought Albert had played the truant and let me down. Led me into this trap. He had no animosity or anything against me before that. When I was ambushing with the Police for Piyadasa I was withholding the fact of Albert.

30 To Court: Albert introduced me to the 1st accused for the first time on 22/9. He had told me earlier that he had a friend who wanted to open a bank account and to help him. On 22/9 I went to the Industries office and telephoned Nagendram and Albert introduced me to the 1st accused. He introduced him as Piyadasa. He said it was P.V.No, he did not tell me that, he said only Piyadasa. He did not tell me from where he was, I did not ask Albert what Piyadasa was doing. Albert did not say what he was doing. He did not say where he was living. He nearly said this friend of mine wants to open an account kindly help him. From the Ministry of Industries itself I telephoned my brother-in-law Nagendram at Torrington Square. I did not tell Albert to get Nagendram to

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examination
continued

help him, because he did not know Nagendram as much as he knew me. Nagendram got married 6 or 7 years ago. Albert must have met him about 5 or 6 times during that time.)

Albert was so good and helpful to me, he used to buy things for us. During the riots also he bought things for us. For a moment I did not suspect him of anything. I did not telephone Nagendram to help him and send Albert there. Albert introduced the 1st accused as Piyadasa, that is all I did on 22.10. 10

(To Court: I rang up Nagendram and told him that I will pick him up in his office at Torrington. I went and brought him to the Bank of Ceylon Pettah from his office.)

Nagendram is my brother in law. He was a government servant. He did not know Albert as much as I did. It is I who asked him to introduce that account. I did not ask Nagendram to certify that he knew Piyadasa for a period of 2 years. (Shown P19). As he was telling I was writing the form. As the cages in P19 were being filled up I asked him what he was doing. He said he was supplying materials. 20

(To Court: It is on my recommendation that Nagendram certified that he knew the 1st accused. I did not induce him to sign. I recommended him to sign that he knew the 1st accused for 2 years. I knew that he did not know him at all. Even I did not know Piyadasa. At that time I did not consider it wrong. Now I consider it was very wrong. When I was filling up the form he said - don't call me Piyadasa. When I started filling up the form he said he was Gunadasa. I asked him why he is calling himself Gunadasa when Albert said he was Piyadasa. He said he is known by both names, that he had to act here and it was closed. 30

I wrote the name Mahakumburage Gunadasa, even then I did not suspect anything and I did not tell Nagendram about it. I did not think it necessary to put down in the form Gunadasa alias Piyadasa. It was the 1st accused who asked me to write 2 years as he was saying I wrote. 40

(To Court: Bank of Ceylon Pettah is in the Old Town Hall building. I parked my car outside it and went into the building and filled up the form P19 and the signature card P18.)

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Cross-
examination
continued

10 Albert is also a building material supplier. I thought Piyadasa had connection with Albert in that work and I did not ask Piyadasa what he was doing. My interest was in opening an account in the bank. I said I will deposit the Rs.1000/- and asked him to give the cheque book to me. The question of the 1000/- arose at the Ministry of Industries. I had to go home take the money from my house and come to the bank. Albert told me that Piyadasa had done some contracts and he is expecting some cheques in a day or two and he wanted to deposit those cheques in the bank account. From the Old Town Hall we all walked up to the Titus Stores building, where the new branch of the Bank of Ceylon is, the Main St. branch. We came there because the Pettah Branch was not opening any new accounts. I had to go because Nagendra also had to go. Although he had signed and the signature had been authenticated at the Old Town Hall Bank they asked us to go to the Main Street Branch. We all went. I had to go because I had to get the cheque book. I was advancing the money and the condition was that I should take the cheque book, till the 30 Rs.1000/- was liquidated I was to have the cheque book because I could not trust the 1st accused.

Q. You knew that the 1st accused could have got another cheque book. As a business man you would have known that? A. Yes.

40 (To Court: I knew that he could have gone to the bank and told that he had lost the cheque book and got another, Albert said take the cheque book till the 1000/- was liquidated. I knew that it was of not much worth but that was something.)

I never thought it will be worthless, I thought Albert would never let me down. 1st accused was Albert's man. That is the impression I had. At the main St. Branch they found fault with the signature and we had to fill up another form, that was form P20. That form was also filled up

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continued

by me. I did not anticipate that there would be anything wrong. At that time there was no need for Nagendram to have gone to the bank he could have waited in the car.

(To Court: That day I could not get the cheque book to my hand. They said they will send the book to the address that had been furnished. But I was going to deposit the Rs.1000/- only on the day the cheque book was received.)

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The forms were in order at the Main St. Branch. The only thing to be done was the authentication of the signature by the Pettah Branch. On 22/10 when I left the 1st accused I knew he had two names Piyadasa and Gunadasa. On 23.10 early morning Albert and Piyadasa came to my place and said that he could not wait till the account is opened at the Main St. branch that he wanted it opened at Wellawatte. Then I telephoned Veerasingham an auctioneer at Duplication Road. He wanted me to fetch him by 10.30 or so. Piyadasa went to the Wellawatta bank. When I went with Veerasingham I met Piyadasa at the Wellawatte bank. I introduced the 1st accused to Weerasingham as Piyadasa. I realised when they asked me to open an account at Wellawatte that they did so because Piyadasa had an account at Pettah Bank as Piyadasa and he had given the name as Gunadasa and now again here he gave it as Piyadasa. I realised it only later. I did not tell that to Weerasingham. Veerasingham did not know that fact at all. I did not tell him he certified that he knew the 1st accused for 2 years. I told Veerasingham that there is a chap known to me, he wants to open a bank account at Wellawatte, he asked me whether I knew him. I said I knew him. To conform to what I had written in the proposal form I told that to Veerasingham.

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(To Court: It was all to oblige Albert. I lied to Nagendram also to oblige Albert. I lied to Veerasingham also to oblige Albert. I did not tell Veerasingham that this man's name is also Gunadasa.)

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After the introduction I went to the Garage and came 1/2 hour later. The forms were ready and I handed over the money. Then both of them went into the bank. I did not read the form to find out what

name it was. I did not read the form to see whether the certificate was in order. When Dhammanandarajah says I took the forms from the Wellawatte bank earlier it is a pure fabrication. He is lying at the instance of the Police who say I am the ring leader. Selladurai is not angry with me, nor am I angry with him. He is in his evidence making a mistake. Sathkunaratnam also said I was there when the Rs.24,000 cheque was tendered. When the C.I.D. went there one person must have made a statement and then the other person is also stating the same thing. I think I told the Police that I knew P.V.Piyadasa for $3\frac{1}{2}$ years, that is because I had to conform to what I had written in the 2 proposal forms. There is nothing in the proposal forms to show that I had known P.V.Piyadasa for any number of years. There is nothing in the forms to say that I knew him for that time but because it was stated so in the forms I said so. It is I who wrote the two forms, although Nagendram certified it. It is because I wrote it that Nagendram certified it. I did not say that Nagendram knew Piyadasa for $3\frac{1}{2}$ years. I did not want to implicate anyone. I did not know that I was implicating anyone. Till Albert came and said that he introduced Piyadasa alias Ralahamy to me I did not know that I had been led into a trap. It is when Mr. Gunatilleke said that I am to be charged for forgery that I knew I had been led into a trap. When Mr. Gunatilleke said that Albert said that he had introduced P.V.Piyadasa as Ralahamy to me I was dazed. I did not know what had taken place.

(To Court: After I had opened the account I had overdrawn the account in 2 days. I was in Kandy then. I came back and deposited the sums of Rs.500/- and another Rs.150/-. After that he came and took the cheque book away.) Albert telephoned to me and asked me for the book. I said there is a balance of Rs.20/- and asked him to bring the money that I will give the cheque book to him.)

On the day I opened the account I wrote out a cheque for Rs.275/- that is for the finance company payment. P. Pillai who introduced me to the finance company is Periyanan Pillai. I had known him for about 15 years. After the 14/10 I wrote out 4 or 5 cheques.

In the District
Court

Defence
Evidence

No.40

S. Thambiah
29th June 1960

Cross-
examination
continued

In the District
Court

Defence
Evidence

No.40

S. Thambiah
29th June 1960

Cross-
examination
continued

(Shown P4). All the 7 cheques debited to this account, were for my purpose. Two deposits were made of Rs.500/- and Rs.150/-. They were also made by me. The operations on this account from 14/10 were by me till I drew my money that is on 6/10. All the cheques drawn out on this account were drawn by me. All the cheques were drawn between 22/9 and 6/10. Two deposits were also made by me to that account.

(To Court: The reason why we went from Main St. to Wellawatta was because Albert and Piyadasa wanted the account opened as soon as possible. In spite of opening the bank account on the same day 23/9, they could not operate on it because I had the cheque book. I had it till 6 or 7/10/59.)

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I had the cheque book till I drew the money. When I returned from Kandy I had overdrawn the account. In my statement I had a balance of about Rs.20/- or so.

On 16/10 after the C.I.D. came they asked me whether I knew where Piyadasa lived. I said I did not know. Then I telephoned Albert and asked where Piyadasa stays. He said somewhere in Pamankada. He said it is close to the plantain boutique. As he is a metal supplier, I asked where the quarry is, he said it is near the Municipal building.

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I saw Andreas giving evidence. When he said I came and inquired for Ralahamy it is a lie. He has been asked to say so by the C.I.D. who have called me the ring leader. I do not know say Sathkumaratnam and Selladurai are conspiring against me, they are making mistakes the others are conspiring. Dhammanandarajaha is also conspiring against me.

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Re-examination

RE-EXAMINED: Although I took the cheque book there was nothing to prevent Piyadasa depositing money to that account. There was nothing to prevent him from taking another cheque book. He could have operated on that account although I had the cheque book. I never expected him to draw my Rs.1000/-. I had to take that money to Kandy to make payments. That is one of the conditions why I agreed to open the account. Periyanan Pillai was doing very well at one time. I had to stand by what Nagendram had entered in the proposal form that is why I said I knew Piyadāsa for 3 years. It is later that I knew that I

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had been implicated in a fraud. I need not have practised to write "H.P.Mendis" I know enough English to write H.P.Mendis without practising it. Until I realised that I had been led into a trap I had no reason to state what part anyone had taken. Albert, Piyadasa and others. Albert lived at Hendala Wattala at this time. I was confronted with Albert after Albert said that he introduced the 1st accused to me.

In the District Court

Defence Evidence

No.40

S. Thambiah
29th June 1960

Re-examination continued

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No.41

Court Notes

No.41

Court Notes
29th June 1960

Sir Jayasundera closes case on behalf of 2nd accused. 5th accused calls no evidence. At this stage Mr. Crossette Thambiah states that the 1st accused has told him that he now wishes to give evidence though he yesterday stated that he did not wish to give evidence. Sir Jayasundera strenuously objects to this application, he states there is no provision in the Criminal Procedure Code for any such application.

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I think certainly, at this stage, after the 2nd accused has given evidence and all the other accused have closed their cases it will be most unfair to allow the 1st accused to change his mind and give evidence. I refuse the application.

No.42

T.E.N.Goonetilleke(recalled)

Prosecution Evidence

No.42

T.E.N.Gunatilleke sworn. On 23.10.58 I recorded the statement of the 2nd accused S. Thambiah. At the time I recorded the statement I showed him P15 and P16 and subsequently P14. I produce the copy of his statement marked C. P14 is a typed letter.

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T.E.N.Goone-
tilleke(Recalled)
30th June 1960

(Counsel states that X and Y have already been marked and he moves that these documents he proposes to mark be now marked as A and B.)

I produce marked A and B dated 4.9.58 and 30.8.58 respectively both found in the possession of the 2nd accused.

In the District
Court

No. 43

No.43

Address on behalf of the Crown

Address on
behalf of the
Crown

30th June 1960

Mr. Thiththawela on behalf of the Crown -
In this case there has been a conspiracy to use as genuine forged cheques. There should be a method by which the cheques should come into the hands of the conspirators. In this case it has happened the cheques were pilfered in the post. It does not matter whether the cheques were sent by ordinary post or registered post. Then there should be among the conspirators a person to make the alterations, to take away the precautionary measures normally taken when sending out cheques such as crossings, not negotiable, payee only etc. There are chemicals which could take away the marks of crossings and the ink. P2 has been treated by this ink eradicator. Therefore the cheques have to be forged. Then these cheques could be negotiated either at the bank counter or at a business place. The attempt to negotiate P1 was unsuccessful at the Royal Hardware stores, due to the precautionary measures taken by business men. The cheque for Rs.24,000/- forged. The next step the conspirators have to take is to get these cheques cashed or credited through a bank. For that purpose it strikes anyone that there must be a bank account, an account in the name of a fictitious person. If anyone of the cheques forged it will be in the name of this fictitious person. That was why the 1st accused Arnolis went under several aliases such as Gunadasa, Piyadasa, P.V.Piyadasa etc. That is some of the accused came into the conspiracy. The 2nd accused says he did not even meet some of these accused. Under the law on conspiracy there is no requirement that the conspirators should have known each other or met together. The Court must only hold that there has been a plan and threat and the acts of the accused would necessarily bring to Court the irresistible conclusion that there has been a criminal conspiracy. It is impossible for the prosecution to produce evidence to show that the five people met together and they all knew each other and acted together in the conspiracy. But certainly the prosecution must produce evidence to show that each one had a hand in it.

In this case the material date is 1.9.58 the day of the posting of the cheque under registered

cover addressed to Mr. John Wilson. Cheque in the name of C. Bolling. It was ready for delivery in the mail room on the morning of 4.9.58. The condition of Mr. Herman's bank account shows that he had enough money to meet the cheque.

In the District Court

No.43

Address on behalf of the Crown

30th June 1960
continued

10 If the evidence of M.D.H.Perera's evidence is accepted the cheque has gone out of the mail room through the 5th accused and got into the hands of the 3rd accused. At this stage the evidence of Albert Perera comes in. His evidence is that the 2nd accused wanted him to get a baker in late August or early Sept. 1958 for the bakery work at Kilinochy. The evidence is that the 1st accused was never a contractor. He was a master baker. The evidence is that Albert Perera introduced the 1st accused to the 2nd accused as Arnolis Appuhamy and none other. When Sathkunar-atne and Selladurai were in the box no suggestion of a mistake being made by them was not put to them. If the 1st accused brought a baker to the 20 2nd accused and the 2nd accused knowing that he was a baker had described him as a contractor. In the Royal Hardware stores it was necessary for the 2nd accused to be in the vicinity to see what happened to the balance of that big cheque.

Adjourned for lunch.

Hearing resumed after lunch.

Mr. Thiththawela continues:

30 When P1 failed to go through the conspirators resorted to the use of the bank as the agent. Cheque P2 was a cheque for Rs.21,000 dated 30.9.58. The evidence is that P2 had not come into the Chartered Bank. That is why the opening of the bank account was resorted to. Nathianelsz' evidence is not challenged. He said the 2nd accused came there with another man to open an account and that he told the 2nd accused that he must get a letter of guarantee from one who has an account in that bank. At every turn the 2nd 40 accused used the 1st accused as a cat's paw or as a tool or anything one might call him. P14 was found on 22/10 in the custody of the 1st accused in his bakery. It was a typed letter purporting to have come from H.P.Mendis of Bloemendhal Road dated 20/11. According to Mr. Nathanielesz that letter satisfies the conditions necessary for a

In the District
Court

No.43

Address on
behalf of the
Crown

30th June 1960
continued

letter of introduction. H.P.Mendis gave evidence stating that he did not write that letter and he did not introduce P.V.Piyadasa to the bank. That same night 22/10 was found admittedly in the possession of the 2nd accused P15 and P16 along with A and B. 2nd accused says Albert must have introduced these into his house. He stated at one stage that Albert and 1st accused had led him into this trap. The finding of the H.P.Mendis signature shows that the 2nd accused was the moving spirit behind the scene. Even at the Bank of Ceylon Wellawatte he put forward the 1st accused. Most of the incriminating evidence against the 2nd accused is given by his relations, his classmates and his friends, barring Albert. It is of no concern to the 2nd accused whether Nagendram being a public officer is in danger of losing his job for certifying something that is not true. The 2nd accused having failed the first day to get at Veerasingham and goes to the Bank of Ceylon Wellawatte. He knew P.V.Piyadasa had another name Mahakumburage Gunadasa. Veerasingham a class mate of the 2nd accused is not told that. Albert was nowhere there, he got the name from the 2nd accused. The 2nd accused to explain all that goes to the garage to attend to the Bug Fiat car. Whereas the evidence of Veerasingham is that the 2nd accused was always there at the bank of Ceylon Wellawatte. 10 20

The 2nd accused did all what he says he did not to help Albert Perera but only an acquaintance the 1st accused. He was instrumental in opening the account on 23/10 by depositing the money and putting the 1st accused a false person forward. The only explanation of the 2nd accused's conduct in this whole matter is that he was the prime mover of this whole conspiracy. Sirisena's evidence on the 1st accused is uncontradicted. 30

The name Thiagarajah Vadivel Coomarasamy on P2 was well chosen to suit the long name of payee in the cheque originally namely Photographic survey corporation Limited. 40

At the time the C.I.D. went in the possession of the 4th accused was found an ink eradicator. The florescence found in P41 found in the 4th accused's possession is similar to the florescence one gets in P2 when examined under the ultra violet ray.

43 N.L.R. page 412 at 418.

M.D.H.Perera who is in the thick of this conspiracy has given evidence, according to him the 4th accused is the forger of the 2 cheques in this case. Perera's evidence is corroborated by the ink eradicator found in the possession of the 4th accused.

In the District
Court

No.43

Address on
behalf of the
Crown

30th June 1960
continued

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The 3rd accused has only acted as an intermediary and it is only M.D.H.Perera's evidence that is on it. In the case of the 3rd accused there is no corroboration of M.D.H.Perera's evidence as against him. Where the 5th accused is concerned in regard to the taking of cheque P1 from the post, the postal evidence is uncontradicted. It must be admitted that there is no conclusive evidence that it was on the 5th accused who extracted the cheque and no other. The maximum we can go to is that the 5th accused is one among several others who could have taken this document.

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The 2nd accused when he ambushed with the Police was an absolute deception. The simplest thing would have been for him to give the name of the 1st accused. The explanation given by the 2nd defendant in his defence is fantastic. The 1st accused is not a simpleton where bank accounts are concerned. He is a person who had a bank account before. 51 N.L.R. 433 - there the section relating to conspiracy is analysed. Court English Reports 173, at 500. 14 Box 515. 21 Criminal Appeals, Criminal Law Journal 468. 38 Criminal Law Journal 850, 35 Criminal Law Journal 1335, 42 N.L.R. 499. All the accused are charged with the conspiracy, 5th accused with theft of cheque P1, 4th accused abetted the 1st accused to the commission of the offence.

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No.44

No.44

Address on behalf of the Second Accused

Address on
behalf of the
Second Accused

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Sir U. Jayasundera addresses on behalf of the 2nd accused. Counts 1, 4, 5, 6, 8 and 10 are concerning the 2nd accused. No authority is need to show that the Conspirators should meet together. But certainly if the parties were not known to each before the incident then the Court will examine the circumstances more carefully.

30th June 1960

In the District
Court

No.44

Address on
behalf of the
Second Accused

30th June 1960
continued

Page 44 of Hills on Circumstantial evidence. Counsel for the 1st accused said the 1st accused was a tool in the hands of the master and a man with a servant mentality. Crown says the 1st accused was a servant of Albert. He had not served the 2nd defendant even for a day.

320 Hills on Circumstantial evidence page 90. If there is no incriminating evidence then evidence is zero. Here was a big fraud contemplated, big cheques stolen from the post, sent to the account, get them credited in such a way the person benefiting may not be traced. Examine the conduct of the 2nd accused in opening of this bank account. When Crown Counsel said so he was begging the question. He was assuming that the 2nd accused was consciously opening the account in this bank. If a forged cheque was traced, how can the 2nd accused be out of it. As soon as it is traced Veerasingham or Nagendram is traced and the 1st accused is traced and then the 2nd accused is also traced. The opening of the account is only content with his innocence. P18, P19, cheques P5, P6, P8, P9 and P10 they are all in his favour. The 2nd accused should be a stupid fool to think he would not be detected. Then the practising of the signature H.P.Mendis. It is absurd for a person who knows the language to be practising to just write H.P.Mendis. What is the evidence in the case against the 2nd accused. What had he to do with P1, P2 or any other document. Criminal law journal India Volume II page 255 at page 259. There was no reason for the 2nd accused to have made this admission. He knew before that that he had been brought up for questioning in regard to a charge of using forged cheques as genuine. The admission is the one circumstance on which the Crown can even remotely ask the Court to hold that there is some suspicion against the 2nd accused.

The evidence is that the Police took the 2nd accused for questioning on 16.10. If that were so would he have kept P1 and P16 in his house after that also till 22/10.

Why was the expert not asked about the signatures H.P.Mendis. If the 2nd accused is held to be guilty then in the same manner would not Nagendram be held guilty for introducing the 1st accused.

Sgd. J.E.A.Allen, A.D.J.

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No.45In the District
CourtVerdict of the District CourtNo.45Verdict of the
District Court

30th June 1960

Verdict

I find the 1st accused guilty under count 3 of fraudulently and dishonestly using as genuine a forged cheque BA/3/087070, knowing or having reason to believe the same to be a forged document, and thereby committed an offence punishable under section 459 of the Penal Code.

10 I find the 2nd accused guilty under count 4 of having abetted the 1st accused of the commission of the said offence set out in count 3, in consequence of which abetment the said offence was committed, and thereby is guilty under section 459 read with 102.

20 I find the 1st accused guilty under count 7 of having fraudulently or dishonestly used as genuine a forged document to wit cheque No. 651966/9089 dated 30.9.58 drawn on the Central Bank of Ceylon, knowing or having reason to believe the same to be a forged document, and thereby committed an offence punishable under section 459.

30 I find the 2nd accused guilty on count 8 of having abetted the 1st accused of the commission of the offence set out in count 7, in consequence of which the said offence was committed, and thereby committed an offence under section 459 read with section 102 of the penal code.

I find the 4th accused guilty on count 9 of having without lawful authority, fraudulently or dishonestly altered the payee's name to read Thiagarajah Vadivel Coomarasamy in cheque 651966/9089 and thereby committed an offence under section 456 of the Penal Code.

I find the accused not guilty on the rest of the counts of the indictment.

I acquit the 3rd accused and the 5th accused.

In the District
Court

No.45

Verdict of the
District Court

30th June 1960
continued

No.46

Reasons for
Verdict

8th July 1960

Reasons and sentence on 8.7.60.

Accused 1, 2 and 4 to appear on the same
bail.

(Sgd.) J.E.A.Alles
A.D.J.

No.46

Reasons for Verdict

8.7.60.

D.C.Colombo 1952/91930(Cr.)

The charges against these five accused are based on two cheques. The first is a cheque marked P1 dated 1.9.58 drawn by Mr. George Herman on the State Bank of India in favour of Mr. C. Bolling for a sum of Rs.24,150/-. The cheque bears No.BA/3/087878. The second cheque is a cheque marked P2 drawn by the Government Electrical Department on the Central Bank for a sum of Rs.21,740/63 in favour of the Photographic Survey Corporation dated 30.9.58. It bears No.651966. I shall deal with the evidence relating to these two cheques separately.

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The evidence of Mr. George Herman is that in December 1957 he purchased the land called Mahatenna Estate from Mr. C. Bolling. Mr. John Wilson was the proctor who put through the transaction. In September 1958 there was still a certain sum of money due to Mr. Bolling and Mr. Herman was in the habit of sending the payments on account of this transaction addressed to Mr. John Wilson as it is in evidence that at this particular time Mr. Bolling was out of the Island. He says that P1 is the cheque he wrote out on 1.9.58 for a sum of Rs.24,150/- in favour of Mr. Bolling. He wrote this cheque himself along with another cheque for Rs.5,850 in favour of Mr. John Wilson. He also attached to these two cheques a typed letter addressed to Mr. Wilson. P47 is the carbon copy of that typed letter in his possession. These two cheques and the letter were put into an envelope addressed to Mr. John Wilson, Dam Street, Colombo, and despatched to the Elkaduwa Post Office to be sent by registered post. P48 is the registered article receipt No.4805. It bears the date 2.9.58. Mr. Herman says that he

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waited for an acknowledgment from Mr. John Wilson for about 9 or 10 days and after that he telephoned Mr. Wilson. Mr. Wilson was not at home, but he received a telephone call from Mr. Wilson later that evening. Mr. Wilson informed him that he had not received either his letter or either of the two cheques and asked Mr. Herman to promptly inform the bank about it and stop payment. Accordingly the very next day Mr. Herman telephoned to the State Bank of India and stopped payment of the two cheques. There is also one further piece of evidence which is of importance in this case. Mr. Herman says that he affixed the seal (Account Payee only) with a rubber seal on the cheque. Mr. John Wilson corroborates Mr. Herman's evidence about the telephone message he received and he says that he never received either a letter like P47 or either of the cheques for Rs.24,150/- or Rs.5,850/-. Then we come to the evidence of Mr. Wijekoon the Sub-Post Master at the Elkaduwa Sub-Post Office. He says that if there are any registered letters sent to the post office he attends to them personally. The registered article receipt No.4805 marked P48 and dated 2.9.58 was written and signed by him. It is in respect of a registered packet bearing No.4805 from Mr. Herman to Mr. John Wilson of Dam Street, Colombo 12. It is fairly clear from the evidence that this registered letter reached the General Post Office Sorting Room in Colombo on 3.9.58. Mr. Heraminis, Postal Assistant in the Registration Branch of the G.P.O. states that all registered packets are entered in a book which is known as the Pink Receipt Book. It is a large book containing detachable slips and the pink receipts are serially numbered. The pink receipt consists of a foil and counter-foil and one part of the receipt is called the "tab". Once the receipt is written it is detached and pasted to the registered packet and the portion known as the "tab" is detached. When a registered packet is taken out to be delivered the postman signs on the "tab" which is retained in the office. While the person who receives the registered packet signs on the receipt this is brought back to the office by the postman. Mr. Heraminis was the Evening Pink Receipt Officer on 3.9.58. The document P50 indicates that on this day he received 706

In the District
Court

No.46

Reasons for
Verdict

8th July 1960
continued

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In the District
Court

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No.46

Reasons for
Verdict

8th July 1960
continued

registered packets and there was a pink receipt book for every zone in Colombo. P51 is the Pink Receipt Book for Zone 12 which is called the Courts Zone. P51(a) in this book is the carbon copy of the pink receipt bearing No.618400. It refers to a registered postal packet bearing No.4805 addressed to Mr. John Wilson of No.365, Dam Street, Colombo, posted from Elkaduwa. P51(a) is in Mr. Heramanis' handwriting. P51(b) is the "tab" of the pink receipt No.618400 and Mr. Heramanis had written in pencil the number 4805 across the receipt. That is the registered number of the letter to Mr. John Wilson posted at the Elkaduwa Post Office. The "tab" P15(b) bears the seal No.12 indicating that it is a letter designed for the Courts Zone. Mr. Basnayake, Postal Assistant, took over duties from Mr. Heramanis. He is known as the Night Pink Receipt Officer. According to the document P33 this shows that Mr. Basnayake has taken over 705 registered packets from the Evening Pink Receipt Officer Mr. Heramanis including 162 pink receipt letters for the purpose of being delivered to the Courts Zone. In P45(a) which is known as a Delivery Book Mr. Basnayake has written in his own handwriting the names of various postmen to whom letters were handed over for delivery for Courts Zone. There were altogether 6 postmen for the Courts Zone. One of them was the 5th accused and the other was a man called N.D.Senadira. Postal Peon Senadira is the person who does the beat including Dam Street, while the 5th accused does the beat known as the Courts Beat which includes the various Government offices and the courts themselves. These 6 postal peons have signed against their names as having received so many letters from Mr. Basnayake. It is in evidence that all the registered packets intended for the Zone No.12, viz: Courts Zone, are kept in a rack and the 6 postmen who are assigned for the Courts Zone are expected to sort out the various letters which are within their beat. So that it would be obvious that anyone of these 6 postmen including the 5th accused could have stolen the registered packet No.4805 addressed to Mr. Wilson. In fact, it is clear that any postman working in the Colombo Zone could have stolen any registered packet from even any other zone in Colombo. So that it would certainly be most dangerous on this evidence to say that it was the 5th accused who stole the registered packet No.4805 that was addressed to

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Mr. John Wilson. He certainly could have stolen, but there is no specific evidence adduced by the postal authorities which indicate that he actually stole this packet. All that the evidence of the post office officers reveals is that the postal registered packet bearing No.4805 has been taken out by some postman without signing the pink receipt. This is a clear from P51(b) which is the "tab" relating to the registered letter No. 4805. This does not bear the signature of anyone. So that any of these postmen could have taken this registered packet without signing the "tab" and this does not necessarily mean that it was the 5th accused who took it. The evidence of postal peon Senadira shows that he was on 4.9.58 working in the beat which takes in Dam Street. On 4.9.58 he has taken charge of 47 registered letters from the Night Pink Receipt Officer Mr. Basnayake and signed against it and he has delivered all 47 letters that day and brought back the receipts duly signed by the persons acknowledging the letters. He says that he did not deliver the registered packet bearing No.4805. This shows that before Senadira could come in the morning and sort out the registered packets intended for his beat somebody has surreptitiously removed this packet, though postmen are only expected to take letters pertaining to their beats. It would be noticed from the "tab" P57(b) that it does not bear the signature of any of the postmen as it should have done, though the Tab Return P60 indicate that the pink receipt No.618400 was among the tabs of that day. Mr. Gunasekera another Postal Assistant of the Registration Branch says that it was his duty to check the pink receipts from the postmen who have delivered these registered letters and arrange these receipts consecutively. The pink receipts for 4.9.58 appear to have been arranged consecutively, but no attempt appears to have been made to check and see whether the postmen's signature appears on these receipts. On the other hand the document P61(a) records the fact that pink receipt No.618400 of 3.9.58 is one of the missing receipts, that is to say, whoever stole this registered packet has removed it from the rack without signing the tab which was left behind, but he has not chosen to return the pink receipt itself. Nor is this registered packet among the undelivered letters.

In the District
Court

No.46

Reasons for
Verdict

8th July 1960
continued

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In the District
Court

No.46

Reasons for
Verdict

8th July 1960
continued

The question to be decided in this case is as to what happened to this registered packet No.4805 after it had been surreptitiously removed from the G.P.O. Sorting Office. Here we come to the evidence of M.D.H.Perera who was an(ex-peon of the Chartered Bank and he is undoubtedly and selfconfessedly an accomplice. I accept M.D.H.Perera's evidence in this case, but I will not act upon this evidence on any particular unless it is corroborated.) He says that he knew the 5th accused Samaraweera for about 3 or 4 years and he used to meet him very often at the White Horse Inn at Chatham Street. 5th accused used to come to his house both when he was living at Prince of Wales Avenue and at Armour's Street. He has come to see him on about 7 or 8 occasions. He says that sometime in August 1958 the 5th accused approached him for a loan. He himself did not have any money and he took the 5th accused to the house of his sister Agnes and Agnes appears to have given the 5th accused a loan. He says that shortly after this loan the 5th accused came to him one day and asked him where Iyappen Reddiar the 3rd accused lived. M.D.H.Perera had known the 3rd accused for about 7 or 8 years. He had come to know the 3rd accused through the 4th accused Dharmasena. The 3rd accused has a boutique at Chekku Street and the 3rd accused used to come to his house on a number of occasions to inquire about the 4th accused. In fact, the 3rd accused had come to his house with the 4th accused somewhere about 10 or 12 occasions and all of them used to discuss about cheque transactions and how cheques should be presented. It was on the occasion that the 5th accused got a loan from Agnes that he asked M.D.H.Perera for the 3rd accused's address. In addition to his boutique at Chekku Street the 3rd accused also had a place in Green Street. So M.D.H.Perera took the 5th accused along with him to Green Street at about 7 p.m. Iyappen Reddiar was at home and the 3 of them went to a hotel to have a cup of tea. When they were having tea M.D.H.Perera says that the 5th accused asked the 3rd accused whether he could come the following day to Stephen's boutique at Hultsdorf. He further told him that he used to get cheques from other postmen of other beats and he told the 3rd accused that he was getting a bundle of letters containing cheques and that he used the word "baduwak" for cheques. The 3rd accused appears to have agreed to meet the 5th accused at Hultsdorf. The following morning M.D.H.Perera met the 3rd

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accused who came to his house at about 8 a.m. in the morning and told him that he was going to Hultsdorf to meet the 5th accused and asked M.D.H. Perera himself to meet him at about 11 a.m. at his boutique at Chekku Street to show him the thing that the 5th accused was going to give him. As a result of the 3rd accused's request M.D.H. Perera met him that night at the Chekku Street boutique. From there the 3rd accused took him to a tea boutique at Gabos Lane. He says that that was a boutique where he and the 3rd accused used to go frequently and where he also used to meet the 4th accused. On this occasion the 3rd accused appears to have taken him along and in the boutique the 3rd accused produced a cheque from within the folds of a newspaper and showed it to him. He says the cheque was enclosed in a white envelope and the envelope had a registration label on it and it bore the address: Mr. John Wilson, Proctor & Notary, Dam Street, Colombo. The address was typed on the envelope and the cheque was in that envelope. He further says that besides the cheque there was a small letter in the envelope which was also typed. He says that as far as he could remember it was a pink coloured cheque and the amount of the cheque was for Rs.24,000/- odd. He identified the cheque P1 as the identical cheque which was shown to him by the 3rd accused as having been given to him by the 5th accused the previous day at Hultsdorf. After that the 3rd accused is said to have gone away. That same night at about 7 p.m. the 5th accused is said to have come to his house at Armour's Street and told him that he gave two cheques to the 3rd accused and asked him whether he had met the 3rd accused and whether he had seen both cheques. M.D.H. Perera told him that he had seen only one cheque for Rs.24,000/- odd. While the 5th accused and M.D.H. Perera were talking in that house the 3rd accused is said to have come there. Then the 5th accused asked the 3rd accused whether he got the two cheques and the 3rd accused is said to have replied that he received only one cheque. The 5th accused is said to have then abused him saying: "do you know more than the man who took the cheque." But the 3rd accused still maintained that there was only one cheque in the envelope. Then the 3rd accused is supposed to have told the 5th accused that the cheque had been handed over to a man who wears a

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hearing aid from Hendala. On the next day witness M.D.H.Perera again met the 3rd accused about 6.30 or 7 p.m. The 3rd accused is said to have come to his house and taken him to Barbers Street Junction. He says that the 3rd accused told him that the cheque had been tendered and cement to the value of Rs.10,000 had been ordered. He is further supposed to have said that one Piyadasa presented the cheque and that the bill was written and that the goods and balance cash would be given 2 or 3 days after the cheque was realised. The 5th accused is also said to have been present on that occasion. About 2 days later the 5th accused is said to have come again to the house of M.D.H.Perera and waited for the 3rd accused. When the 3rd accused came to the house all three of them went to the Barbers Street Junction and the 3rd accused told them that payment had been stopped on the cheque. The 5th accused demanded the return of the cheque from the 3rd accused, but the 3rd accused said that a person who had given a false name as Piyadasa had presented the cheque and that it would be dangerous to get back the cheque lest all of them might get caught. Then the 5th accused is supposed to have scolded the 3rd accused and gone away. In fact, the only evidence against the 5th accused is the evidence of this self-confessed accomplice M.D.H. Perera and also the evidence of the officers of the G.P.O. Sorting Office, which only goes to show that the 5th accused could have stolen the cheque. That is why I have already acquitted the 5th accused in the absence of any corroboration of the accomplice's evidence. I now come to the evidence adduced by the prosecution which shows what happened to the cheque which was supposed to have been stolen by the 5th accused and handed over to the 3rd accused. My observations with regard to the 5th accused apply also to the 3rd accused because the evidence against him also is only that of M.D.H.Perera the accomplice. That is why I acquitted the 3rd accused also in respect of the charges relating to the cheque Pl.

Whatever credit may be attached to the evidence of M.D.H.Perera there can be no doubt that the cheque Pl which was stolen at the G.P.O.Registration Branch on 4.9.58 was in the 1st accused's hand on 10.9.58. On that day the 1st accused comes to the Royal Hardware Stores situated at Old Moor Street, Colombo. The 2nd accused had already arrived at the Royal Hardware Stores about half-an-hour earlier.

He was an old standing customer of theirs and he was noting down the questions of various goods for his own building contract work. As the 1st accused entered the shop he approached Mr. Sathkunararatnam the proprietor and placed an order for cement and other things. The proprietor was using the telephone at the time and he referred the 1st accused to Selladurai the salesman. At this time the 2nd accused was seated at the desk in front of Selladurai. Seeing the 1st accused approaching him the 2nd accused told Selladurai: "I have seen this man doing contract work in Kurunegala or somewhere". Thereupon Selladurai left the 2nd accused and went up to attend to the order of the 1st accused. The 1st accused ordered 4 cwt. of iron and 200 bags of cement, all to the value of Rs.2020/-. Thinking that the 1st accused was going to pay by cash Selladurai wrote out the cash bill P67(a). When the bill was presented to him the 1st accused handed over the cheque for Rs.24,150/- Pl. Selladurai went up to the proprietor Mr. Sathkunararatnam and asked him for instructions as to what he was to do. The proprietor told him to take down the name and address of the person on the bill and he also came up to the 1st accused and told him that a cash bill had already been written out and that the goods can be delivered only 2 or 3 days later when the cheque was realised. The 1st accused agreed to this. Then the proprietor asked Selladurai to note the cheque number on the bill in addition to the name and address and not to give the goods until the cheque was realised. Thereupon Selladurai wrote on the bill P67(a) the number of the cheque and also wrote down the name and address of the 1st accused. The 1st accused gave his name as P.V.Piyadasa and his address as Ridigama Estate, Kurunegala. Then he asked the 1st accused to endorse the cheque Pl on the reverse. Thereupon the 1st accused wrote down the Sinhalese signature P.V.Piyadasa below the English signature C.Bolling. Thereafter the 1st accused went away promising to come back in 2 or 3 days' time. Selladurai retained the bill P67(a) and handed over the cheque to the proprietor. Thereafter the proprietor got his wife to endorse below P.V.Piyadasa on the cheque and took it with him to the Chartered Bank. At the bank the cheque was examined and he was informed that the

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cheque was not in order because the words "not negotiable" now appearing on a rubber stamp appeared to be placed in such a way as to cover some previous stamp. It would be remembered that when Mr. Herman stamped the cheque it bore the rubber stamp "Account Payee only". Thereafter Mr. Sathkunararatnam retained the cheque with him until the police arrived and recorded his statement on 22.10.58. The actual name of the 1st accused is Appuhamy alias Ralahamy and his address was certainly not Ridigama Estate, Kurunegala. Mr. Sathkunararatnam's evidence also entirely corroborates the evidence given by Selladurai as to the presence of the 2nd accused at the time the 1st accused came to the shop. The further evidence adduced by the prosecution convinces me beyond any doubt that the 1st accused fraudulently and dishonestly used as genuine this forged document knowing and having reason to believe the same to be forged. I am also convinced that the 2nd accused did abet the 1st accused in the commission of this offence. I am also satisfied that when the 2nd accused told Selladurai that the 1st accused is a man doing contract work in Kurunegala he did so deliberately to induce Selladurai to accept the cheque P1 which was tendered by the 1st accused. This is proved by the evidence of Albert Perera. This witness was a peon under Mr. G.G.Ponnambalam and is now working as a peon in the Ministry of Industries. He had known the 2nd accused for about 15 years and he knows his place of residence and even his telephone number. He had also known the 1st accused for a period of nearly 8 or 10 years. He always knew him as Arnolis Appuhamy alias Ralahamy. The 1st accused had worked under him as a baker for 3 years from 1945 to 1948. In 1949 or 1950 the 1st accused started a bakery of his own at Pamankada. Thereafter he was employed as a watcher of an estate at Kurunegala for about one year and thereafter he worked as a baker under M.D.Sirisena at Siri Maha Vihare Road, Pamankada. Albert Perera's evidence is that in 1958 the 2nd accused came to the Ministry of Industries and told him that he wanted a baker to run a bakery in his farm at Killinochchi. A few days later Albert Perera introduced the 1st accused to the 2nd accused near the Wellawatta Market referring to him as a good baker. Then the 1st and 2nd accused agreed to meet at the offices of Albert Perera in 4 or 5 days' time. As arranged the 2nd accused met the 1st accused and the 1st accused agreed to go to Killinochchi and the 2nd accused then promised to inform the 1st accused and took

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down his name and address as Arnolis Appuhamy of Siri Maha Vihare Road, Pamankada. This was in the year 1958. He says that the 1st accused was never a building contractor; nor a supplier of building materials; nor was he ever known as Piyadasa or Gunadasa. Albert Perera is unable to speak of the association between the 2nd accused and the 1st accused thereafter, but there can be no doubt whatever that the 1st accused did associate with the 2nd accused subsequently. In this connection I might refer to the evidence of L.P.Andrias who is a Cashier employed under M.D.Sirisena at No.65, Galle Road, Wellawatta. The 1st accused who according to him was always known as Arnolis Appuhamy alias Ralahamy used to supply bread to the hotel at No.65, Galle Road, Wellawatte and the 2nd accused had come one evening at about 4 or 4.30 p.m. and asked him whether Ralahamy who delivers bread had come there. Therefore it is evident that the 2nd accused knew the 1st accused and knew both his name address as well as his occupation. Therefore it is an utterly false statement for the 2nd accused to have told Selladurai that the 1st accused was a building contractor doing some contracts at Kurunegala. The 1st accused certainly gave a false name and address to Selladurai and also signed a false name when he endorsed on the back of the cheque as P.V.Piyadasa. Except for a short period in 1957 when he was employed as a watcher on an estate belonging to Mr. Thamby Pillai at Kurunegala, the 1st accused had always been a baker and certainly on 10.9.58 he was a baker by profession running a bakery at Siri Maha Vihare Road, Pamankada. There is finally the evidence of Mr. Brohier the Handwriting Expert, who after an examination of the cheque P1 states that the endorsement "C.Bolling" written on the reverse of it showed similarity in some features in the writing "C.Bolling" on the document P35(h) which were the specimen handwriting of the 2nd accused, but the similarities were not enough for him to express an opinion. He however states that the endorsement P.V. Piyadasa on the reverse of P1 is in the handwriting of the 1st accused. The 1st accused has not been chosen to give evidence or refute any of the allegations made against him. The 2nd accused, however, entered the witness box and he denies that he was present at the Royal Hardware

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Stores on 10.9.58. He also states that at that time he did not even know the 1st accused. There is no reason why Selladurai and Sathkunararatnam should give this evidence against the 2nd accused who has been an old customer of theirs. They not only speak to the presence of the 2nd accused, but they also mentioned the very words used by the 2nd accused in reference to the 1st accused. I have so far confined myself strictly to the evidence given by the witnesses relating to the cheque P1. The further evidence relating to the cheque P2 only convinces me further that the 1st and 2nd accused are clearly guilty on the counts 3 and 4 which I have already found them guilty in my verdict.

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Under count 5 the 2nd accused is also charged with having fraudulently or dishonestly signed as C.Bolling on the reverse of P1. On this particular point there is only the evidence of the Handwriting Expert and even this evidence merely says that there were similarities in the signature appearing on the reverse of P1 with the handwriting of the 2nd accused. Therefore I acquit the 2nd accused on count 5.

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The 1st, 2nd and 3rd accused are also charged on count 6 with voluntarily assisting in the disposal of the cheque P1 knowing or having reason to believe it to be a stolen document. I have already acquitted the 3rd accused on the ground that the evidence against him is only confined to the evidence of the accomplice M.D.H.Perera. I acquit the 1st and 2nd accused also on this count because of my finding on counts 3 and 4 of the indictment. I shall deal with the charges of conspiracy against all the accused set out in count 1 at the conclusion of the evidence relating to the cheque P2.

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With regard to the charges based on the cheques P2 bearing No.651966 dated 30.9.58 drawn by the Electrical Department on the Central Bank for a sum of Rs.21,740/63 in favour of the Photographic Survey Corporation, this cheque was attached to the letter P62 and posted to the Photographic Survey Corporation. There is no doubt that this letter was received by the Photographic Survey Corporation. Then by P63 dated 9.10.58 the Photographic Survey Corporation acknowledges receipt of the cheque P2. Thereafter on 9.10.58 this cheque P2 along with 5 or 6 other cheques was sent by ordinary post to be credited to

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the account of Photographic Survey Corporation Ltd. at the Chartered Bank of India. There was no endorsement at the back of the cheque P2 because it was not the practice of the Photographic Survey Corporation to make such an endorsement. The letter P63 merely forwarded the enclosed cheques to the Chartered Bank asking them to credit them to the account of the Photographic Survey Corporation Ltd. The evidence given by the officers employed at the Photographic Survey Corporation Ltd. leaves no room for doubt that this cheque was posted on 9.10.58 addressed to the Chartered Bank. The Chartered Bank however never received this cheque. This is proved by the deposition of Mr. J.S.J. Samuel de Silva, Staff Assistant of the Chartered Bank. Now we come again to the evidence given by M.D.H. Perera, the ex-peon of the Chartered Bank, which shows what has happened to this cheque. I have already referred to his evidence in connection with the cheque P1. This witness says that he knew the 4th accused for a period of 15 years since his school days. The 4th accused resides at Slave Island, but also he has a house at Piliandala. He had assisted the 4th accused by giving him information about an earlier stolen cheque for Rs.1800/-, but that information proved to be wrong and the postman who stole that cheque was arrested when he attempted to cash that cheque. In spite of that the 4th accused continued his association with the witness and used to come to his house very frequently. He says that somewhere in October 1958 the 3rd accused Iyappen Reddiar with whom also the witness appears to be on very friendly terms, told him that one Piyadasa had opened a bank account at the Bank of Ceylon, Wellawatta Branch, under the false name of Piyadasa and wanted him to tell the 4th accused that if he got some "baduwak" meaning stolen cheques, he should bring them along. Iyappen Reddiar is also supposed to have given him telephone number which he remembers as 79709 which incidentally is the number of the telephone in the 2nd accused's house. He says that shortly afterwards, after this conversation between him and the 3rd accused, he met the 4th accused near the Harrisons & Crossfield Building at Prince Street, Fort. The 4th accused took him to a canteen in front of Harrisons Building and in the canteen after taking tea they came to a waiting

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room in the basement of Harrisons Building. In the waiting room M.D.H.Perera says that the 4th accused told him that he has got a "baduwak" from the sorting office and asked him whether he could meet him at 12 noon. M.D.H.Perera agreed to this and came at about 12 noon to this waiting room. The 4th accused is supposed to have then opened a newspaper and showed him a cheque which was in the folds of the paper. He had a look at the cheque. It was an ash coloured cheque of the Central Bank for Rs.21,000/10 odd and the cheque was in favour of something like Photographic Company or Corporation Ltd. The 4th accused is also supposed to have told him that limited cheques could not be put into another account and that he would erase the name and substitute another. When he was shown P2 he identified it as the identical cheque which the 4th accused showed him at the waiting room in Harrisons Building. Thereafter M.D.H.Perera met Iyappen the 3rd accused in his house at about 7 p.m. and Iyappen asked him whether the 4th accused had given him a cheque and he told the 3rd accused that the 4th accused promised to bring the cheque the following morning. Iyappen is then supposed to have asked him to meet him at about 10.30 a.m. on the following morning at Bankshall Street and on the following day the 4th accused came to see M.D.H.Perera at his place of work in the Chartered Bank and proceeded with the 4th accused to Bankshall Street. On the way to Bankshall Street witness says that the 4th accused took him again to the waiting room at Harrisons Building, pulled out a newspaper and showed him a cheque. That was the same cheque that was shown to him on the previous day, but the name of the payee was erased and another Tamil name was substituted reading "Thiagarajah Vadivel Coomaraswamy." He says that he even looked at the reverse of the cheque and found that the full name was written on the reverse and the signature T.V.Coomaraswamy put underneath. He goes on to say that he asked the 4th accused what he had done and the 4th accused told him that he got the alteration done by a friend of his. Thereafter M.D.H.Perera and the 4th accused went to Bankshall Street where they met the 3rd accused. The 4th accused handed over the cheque which was inside the folds of the newspaper to the 3rd accused and he says that thereupon the 3rd accused had a look at the cheque and went to the telephone and telephoned the number of the 2nd accused from a boutique that was close-by. After that the 3 persons dispersed. Thereafter the

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3rd accused again came to his house at 6.30 or 7 p.m. and told him that the cheque had been put into the account at the Bank of Ceylon, Wellawatta, and wanted him to find out whether it had been passed. After the 3rd accused had told him to find out whether the cheque had been passed he met the 4th accused again on the following day at the Chartered Bank and informed him of what the 3rd accused had told him. That same evening the 4th accused and M.D.H.Perera met the 3rd accused near the Fish Market at St. John's Street and the 3rd accused told him that the cheque was tendered to Piyadasa's account in the Bank of Ceylon, Wellawatta, and that he did not know anything further. On the following day the 4th accused is said to have come again to the Chartered Bank to meet the witness and he told him that they could know the results on the following day. That same evening M.D.H.Perera is supposed to have met the 3rd accused who took him to a boutique at Barbers Street and telephoned No.79709 which is, of course, the number of the telephone of the 2nd accused. A few days later the 3rd accused came and told the witness that the cheque had "fired", that is to say that the cheque could not be negotiated. On the day following the 4th accused came again to the bank to meet the witness and the witness told him the information the 3rd accused had given him. On the following day the C.I.D. appears to have traced the witness who made his statement on 29.10.58. As I stated earlier the witness M.D.H.Perera is definitely an accomplice whose uncorroborated testimony cannot be accepted by Court. The evidence against the 3rd accused rests solely on the evidence given by M.D.H. Perera and therefore I have acquitted him of the charges laid against him also in respect of the cheque P2. There is, however, ample other evidence to show the guilt of the 1st, 2nd and 4th accused in respect of the charges laid against them on P2. There is again the evidence of Albert Perera which indicates that he had introduced the 1st accused to the 2nd accused near the Wellawatta Market in August or September 1958 as a baker and I have already referred to the 1st and 2nd accused meeting each other at the office of the Ministry of Industries and the 2nd accused taking down the name and address of the 1st accused as Arnolis Appuhamy of Siri Maha Vihare Road, Pamankada. There is also the evidence

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given by Andrias which shows the close association between the 1st and 2nd accused and Andrias says that the 2nd accused had come on one occasion to Sirisena's hotel at No.65, Galle Road, Wellawatta, asking for Ralahamy who delivers bread. Ralahamy, of course, was the 1st accused. He was well known to the 2nd accused as Ralahamy the baker and not as either Piyadasa or Gunadasa a building contractor. There is, however, further evidence with regard to the cheque P2 which clinches the case against both the 1st and 2nd accused. I have already mentioned that the Photographic Survey Corporation had posted this cheque to the Chartered Bank on 9.10.58. This cheque never reached the Chartered Bank and the evidence of M.D.H.Perera is that he saw it in the hands of the 4th accused. How it passed from the hands of the 4th accused to the hands of the 1st accused one can only surmise. Nevertheless, there is no doubt that eventually this cheque came to the hands of the 1st accused with the name of the payee altered to read as Thiagarajah Vadivel Coomaraswamy. I shall now refer to the various attempts made by the 2nd accused to open an account in a bank in the name of the 1st accused to enable cheques like P2 to be credited to his account. There is the evidence of V.R.Nathaniels, a clerk employed in the National and Grindlays Bank. Mr. Nathaniels says that somewhere in August or September 1958 the 2nd accused came along with another man to the National and Grindlays Bank and spoke to him. He had known the 2nd accused since his school days. The 2nd accused came up to him with the other man whom Nathaniels cannot identify and wanted to know whether an account could be opened. Mr. Nathaniels replied that if he came with a letter from a respectable person who had a fairly good bank balance in their bank it could be done. Of course the 2nd accused did not tell him in whose name the account was to be opened. Nor can this witness identify the other man as the 1st accused. Nevertheless a letter P14 addressed to the National and Grindlays bank dated 20.9.58 introducing one P.v.Piyadasa to the bank for the purpose of opening an account purporting to be signed by one H.B.Mendis who was a constituent of the bank was found in a suitcase belonging to the 1st accused in his bakery. Mr. Mendis has given evidence and he denies that he ever signed the document P14 introducing Piyadasa to the bank. At this stage I might refer to the evidence given by the Handwriting Expert Mr. Brohier with regard

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to this document P14. He definitely states that P14 is not in the handwriting of Mr. Mendis. He cannot say in whose handwriting P14 was written. Curiously enough in the 2nd accused's house, at the time of his arrest was found two documents P15 and P16 in which there appears several signatures of H.B.Mendis. There is of course no similarity whatsoever between the genuine signature of H.B. Mendis and the signature appearing on the document P15 and P16 found in the 2nd accused's house.

There is however the evidence of Inspector Goonetilleke that the 2nd accused admitted that he wrote the signatures H.B.Mendis appearing on the documents P15 and P16. We now come to the next attempt made by the 2nd accused to open an account for the 1st accused under a false name. In this connection I might refer to the evidence given by Mr. N.T.Nagendram, who is a brother-in-law of the 2nd accused. He and 2nd accused are married to two sisters. He knows the 2nd accused's telephone number as 79709 and he has a bank account at the Bank of Ceylon, Pettah Branch. He made a statement to the police on 23.10.58. Mr. Nagendram works in the Public Health Engineering Department at Torrington Square. He says that about a month prior to 23.10.58 the 2nd accused telephoned to him at his office and asked him whether he could introduce a man to his bank for the purpose of opening a current account. He agreed and about an hour later the 2nd accused brought a person along with him in his car to Torrington Square. From Torrington Square all 3 of them went to the Old Town Hall Building at Pettah where the bank is situated. At the bank premises the 2nd accused filled up the current account opening form P19 writing on it the name of the proposed constituent as Mehatantrige Gunadasa, supplier of building materials of No.230, Kandy Road, Peliyagoda. The 2nd accused himself wrote the name of the person introducing the account as Mr. N.T.Nagendram, Public Health Engineering Division, Public Trustees Office. He also wrote down the certificate wherein Nagendram is alleged to have known the person whom he was introducing for a period of 2 years.

Thereafter the person who accompanied the 2nd accused first attempted to write M. Gunadasa in English and at Mr. Nagendram's request he scored it off and wrote over it as M. Gunadasa in Sinhalese. This person also signed the specimen signature card P18 as M. Gunadasa in Sinhalese. This form also was written out for that person by the

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the 2nd accused. Thereupon P18 and P19 were tendered to the bank authorities who passed Mr. Nagendram's signature by placing a seal on it. Thereafter all three of them were directed to the Bank of Ceylon new branch at Main Street. From the Old Town Hall building all 3 parties walked up to the Titus Building at Main Street. Then the person who gave his name as Gunadasa took the forms P18 and P19 inside the bank while the 2nd accused and Nagendram waited outside. After sometime that man came back saying that the forms had not been accepted on account of his signature in English having been scored off and he said that fresh forms had to be filled up. Thereafter fresh forms were obtained and again the 2nd accused filled up a fresh form P20. Again Mr. Nagendram signed below the signature purporting to know the man Gunadasa for a period of 2 years and that person also signed as M. Gunadasa. However, the account could not be opened on that day because the bank authorities told him that P20 had to be sent back to the Old Town Hall bank for the purpose of authenticating Mr. Nagendram's signature. After the transaction was over all the parties went back to Torrington Square. The 2nd accused drove the car and opposite Cinamon Gardens Police Station the car met with an accident. The police made inquiries and it is clear from the evidence given by the police sergeant that this attempt to open an account at the Main Street Branch took place on 22.9.58. Mr. Nagendram says that he next saw the man who signed as M. Gunadasa at the C.I.D. Office on 23.10.58 and he admits having told the C.I.D. that he thinks that was the man. That man is the 1st accused. In his evidence in this court Mr. Nagendram who, as I stated earlier, is a brother-in-law of the 2nd accused, attempts to make out that the witness Albert Perera was also present in front of the Old Town Hall Branch of the Bank of Ceylon when the incidents that he relates to took place. This is an obvious lie for the purpose of affording a defence to the 2nd accused to suggest that he was only introducing the 1st accused as Gunadasa because Albert Perera had asked him to open an account and that he did not know the man till 22.9.58. Next we come to the evidence given by Mr. I. Kanagasabay, who is a clerk of the Main Street Branch of the Bank of Ceylon. He identifies P18 and P19 as the forms that were submitted

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to him for the man who called himself M.Gunadasa of No.230,Kandy Road, Peliyadoda. He definitely says that P18 and P19 were tendered to him by the 1st accused. He was not satisfied with P19 as there was an alteration of the signature of the applicant who had first signed in English and then written over it in Sinhalese. He therefore gave fresh forms and requested that these be filled up and handed over. He says that the 1st accused came back a short while later with P20 duly perfected. Mr. Kanagasabay accepted P19 and P20 as the applicant told him that he intended depositing Rs.1000/- as the initial deposit. Mr. Kanagasabay told him that he would be written to later after getting the signature of the introducer in the fresh form authenticated by the Bank of Ceylon, Pettah. Thereafter the 1st accused is said to have come a day or two later and asked him for the return of the form saying that he wanted to open an account elsewhere. He told him that the forms had already been sent to the Pettah Branch and therefore could not be returned. We next come to the attempt made by the 2nd accused on behalf of the 1st accused to open an account for the 1st accused at the Bank of Ceylon, Wellawatta, on 23.9.58. In this connection we have the evidence of Mr. C. Weerasingham, who has an account at the Bank of Ceylon, Wellawatta. He had known the 2nd accused since his school days. He says that on 23.9.58 the 2nd accused came home and wanted his help to open up an account for a friend of his who he said was a building contractor by the name of Piyadasa. Mr. Weerasingham agreed to this and thereupon the 1st accused and Mr. Weerasingham proceeded to the Bank of Ceylon at Wellawatta. At the Bank of Ceylon, Wellawatta, the 1st accused was already there. The 2nd accused introduced the 1st accused as Piyadasa and a supplier of building materials. At the bank the usual forms were filled up. Mr. Weerasingham filled up the account opening form P4 and wrote down all the particulars at the request of the 2nd accused who gave the name of the 1st accused as Pinnavitange Piyadasa of No.477, Havelock Road, Pamankada. The 1st accused signed in Sinhalese as Piyadasa and Mr. Weerasingham signed the certificate P4 as having known Piyadasa for the last 2 years. He says he did so at the request of the 2nd accused. Thereafter the paying-in slip P14(a) for Rs.1000/- was filled up and Mr. Weerasingham's evidence is that it was the 2nd

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In the District
Court

No.46

Reasons for
Verdict

8th July 1960
continued

accused who pulled out the Rs.1000/- from his pocket and gave for the purpose of depositing this money. After that the Manager interviewed the 1st accused and Mr. Weerasingham and account No.4140 was opened and a cheque book obtained. The 1st accused set his signature on 5 or 6 cheque leaves in the cheque book and this was certified by the Manager of the bank as the signatures were all in Sinhalese. After that all the parties left. Thereafter there can be no doubt that the cheque book continued to remain in the hands of the 2nd accused. P5 is a cheque in favour of the 2nd accused for Rs.275/- in the handwriting of the 2nd accused dated 23.9.58. P6 is a cheque for Rs.300/- also dated 23.9.58 in favour of the Estate Corporation Ltd. This also is in the handwriting of the 2nd accused. P7 is a cash cheque for Rs.375/- dated 24.9.58 and P8 is a cash cheque for Rs.52/50 dated 25.9.58 also in the handwriting of the 2nd accused. P9 is also a cash cheque for Rs.500/- dated 25.9.58 which is admittedly in the handwriting of the 2nd accused. P10 is a further cheque for Rs.125/- in favour of Sellasamy dated 2.10.58 also in the handwriting of the 2nd accused. P5 to P10 were the cheques authenticated by the Manager of the bank at the time the account was opened and all these cheques have been utilised by the 2nd accused. By the time these cheques had been utilised the account was overdrawn and on 30.9.58 the 2nd accused himself deposits a further sum of Rs.500/- to this account in the name of P.V. Piyadasa and paying-in-slip P11 has been produced and admitted to be in the handwriting of the 2nd accused. A further Rs.150/- was deposited by the 2nd accused on 6.10.58 and the paying-in-slip P12 is also in the handwriting of the 2nd accused. Mr. Dharmananda Rajah, who is a Clerk at the Bank of Ceylon, Wellawatta, gives most important evidence which clinches the case against the 2nd accused and completely refutes the defence that the 2nd accused only came to know the man called P.V.Piyadasa on 22.9.58, on the very day that Albert Perera asked him to open an account for him, because Dharmananda Rajah's evidence is that the 2nd accused came to the bank 2 days earlier and removed the forms that were necessary for the purpose of opening an account, and when Mr. Weerasingham came with the 1st accused to open an account he asked Mr. Weerasingham whether the 1st accused was the 2nd accused's man. He asked this question from Mr. Weerasingham when the form

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P4 and signature card P4(b) were tendered to him on 23.9.58. Mr. Dharmananda Rajah further states that on 23.9.58 Mr. Weerasingham came with the 2nd accused and 1st accused and the 1st accused and Weerasingham came up to his counter and tendered to him the signature card P5(b) and account opening form P4 while the 2nd accused stayed somewhere near the entrance. He specifically states that it was Mr. Thambiah the 2nd accused who came and removed from his hands a current account opening forms a few days before 23.9.58. He goes on to say that he took away the set of forms relating to the opening of a current account from his very hands. Then we come to the evidence of Mr. H.D.Fernando, Sub-Accountant of the Bank of Ceylon, Wellawatta. He was one of those persons who authenticated the signature of the 1st accused appearing on the cheques P5 to P10. He says that on 14.10.58 the 1st accused came again to him for the purpose of authenticating further cheques. This time he and his assistant Fonseka authenticated these cheques and handed over the cheques to the 1st accused. A few minutes later his peon Wilson brought the cheque in question marked P2 along with the credit slip P13 and P13(a). P2 had been handed to the Counter Clerk Mr. Tillenathan and it was brought to Mr. Fernando by the peon Wilson. Mr. Fernando examined P2 under the ultra-violet light as it was a fairly big cheque. He found that Thiagarajah Vadivel Coomaraswamy appeared to have been written over another name that had been erased. He therefore asked Wilson to call for the man called Piyadasa. Wilson went up to the counter and called for the man, but by that time the 1st accused had disappeared. Wilson the Peon also gives the same evidence. It was he who got Mr. Fernando to authenticate the cheques that were brought by the 1st accused on 14.10.58. A few minutes later he saw the 1st accused tendering a cheque to Mr. Tillenathan at the receiving counter and he took P2 along with the paying-in-slip P13 and P13(a) to Mr. Fernando, reminded him that Piyadasa was the man whose cheques he had authenticated a few moments earlier. Mr. Fernando called for the ultra-violet light and when he was examining the cheque Piyadasa disappeared. Then we have the evidence of Mr. Tillenathan the Cashier of the Bank of Ceylon, Wellawatta, who accepted the cheque P2 along with the credit slip P13 and P13(a) and sent it to Mr. Fernando. He

In the District
Court

No.46

Reasons for
Verdict

8th July 1960
continued

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In the District
Court

No.46

Reasons for
Verdict

8th July 1960
continued

says that Mr. Fernando examined the cheque under the ultra-violet light and got Wilson to call out for Piyadasa and then he saw a man rushing out. He of course cannot identify that Piyadasa as the 1st accused. Finally we have the evidence of Mr. Brohier the handwriting Expert with which I agree after a careful examination of the documents and examination of his evidence. He is positive that it was the 4th accused who wrote the words Thiagarajah Vadivel Coomaraswamy and the endorsement T.V.Coomaraswamy appearing on the reverse of the cheque P2, and that the 1st accused wrote the endorsement P.V.Piyadasa also appearing on the reverse of P2. There is a further piece of evidence against the 4th accused that leaves no room for doubt about his guilt. After the 4th accused's arrest when his house was searched this ink eradicator P41 was found in the 4th accused's bush coat. The erasure of the Photographic Survey Corporation Ltd. was similar to the erasure that would be caused by the use of this ink eradicator P41.

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Finally we have the evidence of Inspector T.N. Goonetilleke who made inquiries into this case. He found the credit slips P11 of 30.9.58 and P12 of 6.10.58 in the 2nd accused's bush coat. These are the credit slips for Rs.500/- and Rs.150/- by which the 2nd accused deposited sums of money in the Bank of Ceylon, Wellawatta to the account of the 1st accused. He also recorded the evidence of the 2nd accused after his arrest and in this statement he says the 2nd accused admitted that he signed H.B.Mendis on the letter P14 which is dated 20.9.58 having practised the signature on P15 and P16. Therefore it would be noticed that in addition to the evidence of M.D.H.Perera there is corroborative evidence against the 4th accused that he committed forgery of this cheque P2. There is also a surfeit of evidence that the 1st and 2nd accused are guilty on counts 7 and 8 in respect of the charges relating to P2.

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The 1st accused has not chosen to give evidence on his own or call evidence on his behalf. I shall now refer to the evidence given by the 2nd accused. This was the only person who gave evidence for the defence. He says that he had not met or seen the 3rd, 4th and 5th accused until they were brought to court in connection with

this case. He knew the witness Albert Perera since 1936 when he was working as a personal peon under Mr. G.G.Ponnambalam and thereafter when he was a peon in the Ministry of Industries Albert Perera is said to have visited his house very frequently and even borrowed money. He goes on to say that 2 or 3 days before 23.9.58 Albert wanted him to help a friend to open an account in the Bank of Ceylon, Pettah Branch, and on 22.9.58 when he went to the Ministry of Industries he met Albert who introduced the 1st accused to him as Piyadasa and asked him to open an account at the Bank of Ceylon, Pettah. He thereupon promptly telephoned his brother-in-law at Torrington Square and went with the 1st accused and met Mr. Nagendram after lunch. He says that Albert wanted him to deposit Rs.1000/- to open a bank account and asked him to retain the cheque book. He says he then picked up Nagendram and came to the bank in the old Town Hall building. At the bank he filled up the forms P18 and P19 and as he was filling up the forms the 1st accused gave his name as Gunadasa saying that he had a previous account in the bank which had been closed and that he had two names. He wants the court to believe that he then believed the 1st accused and wrote his name as M. Gunadasa and filled up the forms P18 and P19. From there Mr. Nagendram, 2nd accused and the 1st accused went to the Main Street. He says that at the Main Street the 1st accused took the forms inside and came back saying that owing to the alteration of the signature new forms had to be filled up. He again filled up the form P20 giving the name of M. Gunadasa. The 1st accused is then said to have gone inside the bank and come out saying that the bank authorities had promised to write to him later. Thereafter he took all the trouble to take Mr. Nagendram back to Torrington Square and on the way his car met with an accident which was inquired into by the Cinamon Gardens Police. Not content with all he had done on 22.9.58 the 2nd accused gratuitously goes out of his way again on 23.9.58 to help the 1st accused whom he says he had met for the first time on the previous day. He says that on 23.9.58 early morning Albert and 1st accused came home and Albert told him that as the Pettah account was going to be delayed and as he was going to Kandy he wanted an account opened that

In the District Court

No.46

Reasons for Verdict

8th July 1960
continued

In the District
Court

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No.46

Reasons for
Verdict

8th July 1960
continued

very day at the Wellawatta Bank. He says that he then telephoned Mr. Weerasingham who asked him to fetch him at about 10.30 a.m. He says Albert and Piyadasa went to the Wellawatta Bank and the 2nd accused went and picked up Mr. Weerasingham in his car and came to Wellawatta and he introduced the 1st accused to Mr. Weerasingham this time as Piyadasa and told Mr. Weerasingham to do the needful and he says he went to the garage and returned about 1/2 an hour later. He found the forms already filled up and he thereupon gave out of his pocket Rs.1000/- to the 1st accused to deposit. Mr. Weerasingham and 1st accused are supposed to have gone inside the bank and come back with a cheque book. He admits that he took charge of the cheque book and wrote out the body of the cheques P5 to P10 and utilised the proceeds on his own account, and as the total which he had drawn exceeded Rs. 1000/- he deposited a further Rs.500/- on 30.9.58 and a further Rs.150/- on 6.10.58. He says that thereafter Albert telephoned to him and asked that the cheque book be returned to the 1st accused and the 1st accused came and removed the cheque book. On 16.10.58 he makes a statement to the police. In that statement it would be noticed that the 2nd accused nowhere mentions that it was Albert who introduced Piyadasa. On the other hand he says that he knew Piyadasa for the last 3½ years. He even pretended to be assisting the police to arrest the 1st accused by lying in ambush with the police at certain places which he says that the 1st accused used to frequent. This is the behaviour of a man who now says that he came to know the 1st accused for the first time on 22.9.58. On 22.10.58 as a result of further investigations by the C.I.D. the 2nd accused was sent for and a further statement was recorded. On the same day Mr. Goonetilleke searched the house of the 2nd accused and found the documents P15 and P16 in a drawer in the children's room in his house. He admits that the signature H.B.Mendis appearing on P15 and P16 were found in his house, but he suggests that Albert has foisted these documents in his house for the purpose of implicating him. He denies that he ever visited the Royal Hardware Stores, but the only explanation he can offer for Selladurai and Sathkunarathnam's evidence is that they must be making a mistake. He denies that he told Albert that he wanted a baker or that he was running a bakery at Killin-ochchi. He denies that he told Inspector

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10 Goonetilleke that Albert brought the typed letter P14 and he signed H.B.Mendis after practising on P15 and P16, though he admits that the documents P15 and P16 were found with the documents A and B which were admittedly his documents in his desk drawer. Moreover he admits that the rest of the writing on P15 may be in his handwriting and similarly the body of P16. He can offer no explanation as to Mr. Dharmananda Rajah's evidence about his taking away forms 2 days earlier to 23.9.58 from the Bank of Ceylon Wellawatta Branch beyond saying that Mr. Dharmananda Rajah is giving this evidence at the instance of the police, just as he says the witness Andrias is also lying when he says that the 2nd accused came to No.65, Galle Road, Wellawatta, in search of the 1st accused and referred to him as Ralahamy the man who delivers bread.

In the District Court

No.46

Reasons for Verdict

8th July 1960
continued

20 After a careful consideration of the evidence I have no hesitation in finding the 1st accused guilty on counts 3 and 7 of the indictment with having fraudulently or dishonestly using as genuine the two forged cheques P1 and P2 knowing or having reason to believe the same to be forged documents.

30 I find the 2nd accused guilty on counts 4 and 8 of having abetted the 1st accused in the commission of the offence set out in counts 3 and 7. I also find the 4th accused guilty of fraudulently or dishonestly altering the name to Thiagarajah Vadivel Coomaraswamy in the cheque P2 after it had been drawn in favour of the Photographic Survey Corporation Ltd. I acquit the 3rd and 5th accused in respect of the charges laid against them, and I acquit all the accused in respect of count 1 as there is no evidence of a conspiracy beyond what could be gathered from the evidence given by the accomplice M.D.H.Perera. I also acquit 40 the 3rd and 4th accused on count 10 of the indictment. In the result, I find the 1st accused guilty on counts 3 and 7, 2nd accused guilty on counts 4 and 8, and the 4th accused guilty on count 9 of the indictment.

(Sgd.) J.E.A.ALLES
A.D.J.
8.7.60.

In the District
Court

No.47

Court Notes of Convictions and Sentences

No.47

Court Notes of
Convictions and
Sentences

8th July 1960

D.C.1952/91930 (Criminal)

8.7.60

Hearing resumed.

Mr. Adv. Crossette Thambiah Q.C. for the 1st
accused.

Mr. Adv. Sivasupramaniam for the 2nd accused.

4th accused unrepresented.

Mr. Thiththawela states the 1st accused has no
previous convictions, 2nd accused has no previous
convictions, the 4th accused has one. 10

Though the 1st and 2nd accused have no previous
convictions, one certainly cannot have any sympathy
for the 2nd accused. He appears to be the brains
behind this entire plan devised to dispose of
stolen cheques. 1st accused of course is only a
tool, but nevertheless a most willing tool. As
for the 4th accused he admits one previous conviction.
He has committed the most grievous offence because
he was the forger of the cheques. 20

I convict the 1st accused on count 3 of the
indictment under section 459 and sentence him to
2 years R.I.

I convict the 2nd accused on count 4 of the
indictment under section 459 read with section 102
and sentence him to 2 years R.I.

I convict the 1st accused on count 7 under
section 459 and sentence him to 2 years R.I. but
the sentence to run concurrently with the sentence
on count 3. 30

I convict the 2nd accused on count 8 under
section 459 read with section 102 and sentence him
to 2 years R.I. This sentence is to run concurrently
with the sentence on count 4.

I convict the 4th accused on count 9 under
section 456 of the Penal Code and sentence him to 2
years R.I.

That is to say each of the accused will undergo
a term of 2 years R.I. each.

In the event of appeal the accused will give
bail in Rs.1000/1000 each. 40

Sgd. J.E.A. ALLES
A.D.J.

No. 48

In the Supreme
Court

Petition of Appeal of the 2nd accused

No.48

To:

His Lordship the Chief Justice and other
Judges of the Honourable the Supreme Court
of the Island of Ceylon.

Petition of
Appeal of the
2nd accused

8th July 1960

This 8th day of July 1960.

The Humble petition of appeal of the 2nd
accused-appellant abovenamed begs to state as
follows:-

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1. The second accused-appellant was indicted
along with 4 others with having conspired to use
as genuine forged cheques and also with having
aided and abetted the 1st accused to use as
genuine two forged cheques.

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2. The accused appellant pleaded not guilty
to the indictment and after trial the Learned
Trial Judge acquitted the accused-appellant on
several counts and convicted him on two counts of
having aided and abetted the 1st accused N.T.
Arnolis Appuhamy to use as genuine two forged
cheques.

3. The Learned Trial Judge sentenced the
accused appellant to 2 years R.I. on count 4 and
2 years R.I. on count 8 of the indictment, sentences
to run concurrently.

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4. Being dissatisfied with the finding and
judgment of the Learned Trial Judge the 2nd
accused-appellant begs to appeal to Your Lordships'
Court on the following among other grounds that
may be urged by Counsel at the hearing of the
appeal:-

(i) The verdict is contrary to law and against
the weight of evidence led in the case.

(ii) It is respectfully submitted that the
Learned Trial Judge erred in law in holding that
the 2nd accused-appellant aided and abetted the
1st accused to use as genuine the forged cheques
in question.

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(iii) It is respectfully submitted that the

In the Supreme
Court

No.48

Petition of
Appeal of the
2nd accused
continued

8th July 1960

Learned Trial Judge erred in law in admitting in evidence a statement alleged to have been made by the appellant to Inspector Tyrell Gunatilleke which statement it is respectfully submitted amounts to confession and is inadmissible.

(iv) It is respectfully submitted that the Learned Trial Judge was wrong in the circumstances of the case in accepting the evidence of Inspector Gunatilleke of the statement alleged to have been made by the appellant and drawing inferences from it.

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(v) There was not an iota of evidence that the 2nd accused-appellant did any act which brought him within the charge of aiding and abetting the 1st appellant to commit the offences he was alleged to have committed in respect of charge P1 or P2. In the absence of the said evidence the Learned Trial Judge was wrong in concluding that the 2nd accused-appellant had aided the 1st accused-appellant in the commission of the offences he was convicted of.

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(vi) The evidence of M.D.H.Perera clearly established that the person behind the alleged fraud was a person whom he described as a big business man at Hendala, Wattala and that was a witness Albert Perera. Besides witness M.D.H. Perera gave very clear evidence to the effect that the 2nd accused-appellant's name was not even mentioned in the course of the discussions that he had with the 3rd, 4th or 5th accused clearly indicating that the position taken up by the 2nd accused appellant, namely that he was merely only obliging Albert Perera who up to that time he believed was a loyal servant of Mr. G.G.Ponnambalam is true.

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(vii) It was clearly established that the 2nd accused-appellant acted quite openly without any effort at concealing his identity or the identity of Messrs. Nagendran and Veersinkam in taking preliminary steps to open an account in the Bank of Ceylon, Pettah, and in fact opening one in the Bank of Ceylon, Wellawatte. Again the fact that the 2nd accused-appellant did nothing to conceal his identity in drawing cheques on the account in the Wellawatte Bank further established the fact that his conduct was completely innocent. It was open to Albert Perera or the 1st accused-appellant

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In the Supreme Court

No.49

Judgment continued
29th May 1961

K.Sivasubramaniam for 4th Accused-Appellant.

N. Tittawella, Crown Counsel for Attorney-General.

Argued and Decided on: May 29, 1961

H.N.G.Fernando, J.

"We agree with the submission of learned counsel for the 2nd accused-appellant that the prosecution did not succeed in establishing that the 2nd accused had instigated the 1st accused to utter the cheque P1 or aid him to do so. In the circumstances the conviction and sentence against the 2nd accused on count four of the indictment has to be set aside, and we accordingly do so. The convictions of all the accused on the other counts and the sentence of two years' imprisonment passed against each of the three accused are affirmed."

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(Signed) H.N.G. FERNANDO
Puisne Justice

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Thambiah, J.

I agree. (Signed) H.W. THAMBIAH
Puisne Justice

No.50
Decree
1st June 1961

No.50
Decree

No.S.C.168-170/'60

(Criminal)

ELIZABETH THE SECOND, QUEEN OF CEYLON AND OF HER OTHER REALMS AND TERRITORIES,

HEAD OF THE COMMONWEALTH

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IN THE SUPREME COURT OF THE ISLAND OF CEYLON

The Queen

Complainant
and
Respondent

Versus

- 1. Mahatantirige Arnolis Appuhamy alias Ralahamy of No.30 Sri Maha Vihare Road, Dehiwela.
- 2. Sangarapule Thambiah of No.29/1A, Clifford Road, Colpetty, and
- 4. Panangala Liyanage Dharmasena of Mampe North, Piliyandala.

In the Supreme Court

No.50

Decree continued

1st June 1961

1st, 2nd and 4th
Accused
and
Appellants

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Case No. N.1952/91930 In the District Court of Colombo.

Counsel for 1st Accused Appellant:

Mr. Advocate J.A.P.Cherubim with Mr.Advocate N. Ambalavanar.

Counsel for 2nd Accused-Appellant:

Mr. Advocate Colvin R. de Silva with Messrs. Advocates M.M.Kumarakulasingham and T.K.Curtis.

Counsel for 4th Accused-Appellant:

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Mr. Advocate K. Sivasubramaniam.

Counsel for Respondent:

Mr. Advocate N. Tittawella, Crown Counsel.

This case having come before the Hon. Hugh Norman Gregory Fernando, and the Hon. Henry Wijayakone Tambiah, Q.C., Puisne Justices of the Court, for hearing and determination on 29th May, 1961.

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It is considered and adjudged that the conviction and the sentence imposed on the 2nd accused on Count four of the indictment be and the same are hereby set aside.

It is ordered and decreed that the convictions entered against all the accused on the other counts and the sentence of two years

In the Supreme Court

imprisonment imposed against each of the three accused be affirmed.

No.50

Decree continued
1st June 1961

Witness the Hon. Hema Henry Basnayake, *Q.C., Chief Justice at Colombo, the 1st day of June in the year One thousand Nine hundred and sixty one, and of Our Reign the Tenth.

(Seal of the)
(Supreme Court)

Sgd. B. F. Perera

Deputy Registrar, Supreme Court.

In the Privy Council

No.51

Order in Council Granting Special Leave to Appeal

24th October 1961

No.51

Order in Council granting Special Leave to Appeal

AT THE COURT AT BUCKINGHAM PALACE
The 24th day of October, 1961

PRESENT

THE QUEEN'S MOST EXCELLENT MAJESTY
Lord President Mr. Brooke
Earl of Perth Sir Jocelyn Simon
Bishop of London Sir Kenneth Diplock

WHEREAS there was this day read at the Board a Report from the Judicial Committee of the Privy Council dated the 16th day of October 1961 in the words following giz.:-

"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 Sangarapulle Thambiah in the matter of an Appeal from the Supreme Court of Ceylon between the Petitioner and Your Majesty Respondent setting forth that the Petitioner seeks special leave to appeal to Your Majesty in Council against the Judgment and Order of the said Supreme Court dated the 29th May 1961 in so far as it affirmed the Order of the District Court of Colombo dated the 30th June 1960 convicting him of the offence of abetting another in fraudulently using as a genuine document a forged cheque and sentencing him to two years

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rigorous imprisonment: And humbly praying Your Majesty in Council to grant the Petitioner special leave to appeal against the Judgment and Order of the Supreme Court of Ceylon dated the 29th May 1961 or for further or other relief:

In the Privy Council

—
No.51

Order in Council Granting Special Leave to Appeal continued

24th October 1961

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"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 and 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 29th day of May 1961 in so far as it affirmed the Order of the District Court of Colombo dated the 30th June 1960 convicting him of the aforementioned offence:

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"And Their Lordships do further report to Your Majesty that the proper officer of the said Supreme Court ought to be directed to transmit to the Registrar of the Privy Council without delay an authenticated copy under seal of the Record proper to be laid before Your Majesty on the hearing of the Appeal upon payment by the Petitioner of the usual fees for the same."

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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.

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.

130.

Exhibits

P2.

P2
Central Bank of
Ceylon, Colombo
Cheque No.651966
for Rs.21,740/63
30th October
1958

Central Bank of Ceylon, Colombo
Cheque No.651966 for Rs.21,740/63

P2 - Cheque No.651966/9081 Colombo 30th Sept.1958

Central Bank of Ceylon,
Colombo.

Pay Mr. Thiagaraja Vadivel Coomaraswamy or Order
Rupees Twenty one thousand seven hundred and forty
and cents sixty three only.

Rs.21740/63.

Sgd. Illegible

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for General Manager
Dept.of Govt.Electrical
Undertakings

Reverse

Thiagaraja Vadivel Coomaraswamy

T.V.Coomaraswamy

S.R. de Silva

P.V. Piyadasa (in Sinhalese)

P2a - Counterfoil of P2

P3

P3.

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Bank of Ceylon
Vernacular
Signature Form
No.188(English
Version)
23rd September
1958

Bank of Ceylon, Vernacular Signature
Form No.188 (English Version).

P3 - Bank of Ceylon Vernacular signature form
dated 23.9.58 signed by P.V.Piyadasa in
Sinhalese.

131.

P11.

P11. Bank of Ceylon, Wellewatta,
Counterfoil Credit Slip

Bank of Ceylon,
Wellawatta Branch
Colombo 30.9.58

for credit of P.V.Piyadasa

Address: Pamankade Road

Amount Rs.500/- Sept 30.-58.

Exhibits

P11

Bank of Ceylon,
Wellawatta,
Counterfoil
Credit Slip

30th September
1958

10 REVERSE

Found in shirt pocket

sgd. S. Thambiah

22.10.58

P12.

Bank of Ceylon, Wellawatta,
Counterfoil Credit Slip

Bank of Ceylon,
Wellawatta Branch
Colombo 6.10.58

20 for credit of P.V. Piyadasa

Address: Pamankade Road

Amount Rs.150/- Oct 6.58

P12

Bank of Ceylon,
Wellawatta,
Counterfoil
Credit Slip

6th October
1958

P12a Counterfoil of P12.

132.

Exhibits

P13.

P13
Bank of Ceylon
Wellawatta,
Counterfoil
Credit Slip

Bank of Ceylon, Wellawatta,
Counterfoil Credit Slip.

Bank of Ceylon,
Wellawatta Branch,
Colombo.

for credit of P. V. Piyadasa

Address: Pamankade Road, Wellawatta.

Amount: Rs.21740/63.

P14

P14.

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Letter from
B.B.Mendis
to the Manager,
National
Overseas &
Grindlays
Bank Ltd.

Letter from H.B.Mendis to the
Manager, National Overseas &
Grindlays Bank Ltd.

230, Bloemendahl Road,
Colombo 13.

20th September
1958

20th September 1958

The Manager,
National, Overseas & Grindlays Bank Ltd.,
Colombo.

Dear Sir,

20

Bearer Mr.-P. V. Piyadasa is known to me for
the last six years.

He is a supplier of building material and is
anxious to open a bank account with you.

I am happy to recommend him.

Yours faithfully,

sgd. H. B. Mendis.

IN THE PRIVY COUNCIL

NO. 9 OF 1963

ON APPEAL FROM

THE SUPREME COURT OF THE ISLAND
OF CEYLON

B E T W E E N

SUNGARAPULLE THAMBIAH

APPELLANT

and

THE QUEEN

RESPONDENT

RECORD OF PROCEEDINGS

A. L. Bryden & Williams,
20, Old Queen Street,
London, S.W.1.

Solicitors for the
Appellant.

T.L.Wilson & Co.,
6, Westminster
Palace Gardens,
London, S.W.1.
Solicitors for the
Respondent.