Hewagama V. The Bribery Commissioner et al. **(**S.C. Appeal No. 55/94**,** HC/MC Appeal No. 179/92**,** MC Colombo No. 93508) (3/SC), Decided On 21/09/1994.

Sections 3(1), 4(1) and 71 of the Bribery Act - Arrest without credible information of any offence, Article 13(1) Constitution

Kulatunga, J. with Ramanathan, and J. G. P S. De Silva, C.J. Agreeing,

The appellant, custom officer was charged under S. 71 of the Bribery Act to wit, willful neglect to comply with a notice purporting to have been sent to him under S. 4(1) (b) of the Act. The said notice required him to furnish a sworn statement in writing enumerating all movable and immovable property owned or possessed by him during a period. It was alleged that the appellant neglected to comply with the notice which was the final date given by the Bribery Commissioner after several extensions of time to furnish the statement.

This is an appeal against the judgment of the High Court affirming the conviction and sentence of the appellant by the Magistrate for an offence punishable under S. 71 of the Bribery Act to wit, willful neglect to comply with a notice.

Held;

A notice to furnish a statement of assets in terms of the provisions of section 4(1) of the Bribery Act is competent only in the course of an investigation into an allegation of bribery against any person, or after the commencement of a prosecution of any person for bribery. The prosecution has to establish that an allegation of bribery against some person is pending.

*Piyasiri v. Fernando***,** *A.S.P.* [1988] 1 Sri L.R. 173; Section. 3 of the Bribery Act presupposes that there are allegations of bribery against definite individuals and not allegations of a nebulous nature"

There was no legal basis for the impugned notice and hence it is invalid. Consequently, the appellant is not guilty of an offence by reason of his failure to furnish the required statement. Accordingly, allowed the appeal, set aside the judgment of the High Court and the order of the Magistrate and acquit the appellant.

Appeal allowed.