2026/HC-A/62

Mohamed Mohamed Sulaim Khan v Prosecutor General's Office

Lower court decision quashed | Criminal

? Time to appeal to the Supreme Court ends on 27 December 2026

High Court · 28 October 2026 · Appeal from: Criminal Court, case 846/Cr-C/2023 · Area: Criminal

English translation

The court published this judgment in Dhivehi. The English text, summary and headnotes on this page were translated with the help of AI and have not yet been reviewed. Always check the original judgment before citing it.

Case history

Prior history	Criminal Court, case 846/Cr-C/2023
Subsequent history	No appeal to the Supreme Court is recorded on Saeed Lex.

Key terms

Criminal | Smuggling | Customs Act section 97 | Elements of the offence | Import permit | Specific intent to evade duty | Failure to declare | Power to define criminal offences | Interpreting criminal provisions | Form of the charge | Right to know the charge | Burden of proof | Distinguishing a civil precedent | Elements of an offence | Onus of proof | Limits of interpretation | Bringing a charge | Applying precedent | Criminal Procedure Code section 82 | Constitution Article 51 | Constitution Article 59

Summary

How the case came to court

In case 846/Cr-C/2023 the Criminal Court found the charge proved beyond reasonable doubt as required by Article 51(h) of the Constitution, sentenced the Appellant to 1 year's imprisonment, and ordered the gold paste forfeited to the Maldives Customs Service under section 97(d) of the Customs Act.

Facts

The Appellant, a Sri Lankan national, arrived at Velana International Airport on 21 September 2023. As he was leaving through the green channel, 2,282 grams of gold paste was found in the clothes he was wearing. The State charged him in the Criminal Court with smuggling goods into the Maldives under section 97(d) and (e), with reference to section 97(a), of Law No. 8/2011 (Customs Act of the Maldives).

Issue

In a smuggling prosecution, where the charge states and the evidence proves that gold paste was brought into the Maldives clandestinely, are the elements of the offence in section 97(a) of the Customs Act satisfied, so that the accused can be convicted of that offence?

Submissions

The Appellant argued that the charge did not satisfy the elements of the offence in section 97(a) of the Customs Act; that the chain of custody of the goods had not been maintained; that the goods had not been forensically analysed; that the court found, without evidence, that he had done such acts before; and that he was treated differently, contrary to Article 20 of the Constitution. The State argued that, although gold may be imported and is not dutiable, on the basis of the Supreme Court's decision in 2019/SC-A/57 undeclared goods may be treated as goods brought in without a permit.

Reasons

The High Court held that, for an offence under section 97(a) of the Customs Act, beyond the goods being brought in clandestinely, the charge must state and the State must prove either that the goods had no import permit, or that dutiable goods were brought in clandestinely with intent to evade duty. Because criminal offences are

created only by clear legislative text, a failure to declare does not by itself amount to the offence, and 2019/SC-A/57, a civil case, cannot be relied on to define a criminal offence. As the charge did not state the offence as section 82(d) of Law No. 12/2016 (Criminal Procedure Code) requires, and the elements were not proved, the conviction was not consistent with Articles 51(h) and 59(a) of the Constitution. The Criminal Court judgment was quashed unanimously. The court did not decide the remaining grounds of appeal separately.

Disposition

Lower court decision quashed

Criminal Court judgment quashed (unanimous).

Legal principles

Criminal › **Elements of the offence in section 97(a) of the Customs Act**

HN1 On the text of section 97(a) of the Customs Act, the offence it creates is not simply "smuggling goods". The offence consists of acts with particular characteristics. Beyond the importation being clandestine, one of two limbs must be satisfied: either the goods require an import permit and none was held, or the goods are dutiable and were brought in clandestinely with intent to evade the duty.

Criminal › **Proving the elements of section 97(a) of the Customs Act**

HN2 The first limb requires proof that the goods imported were goods for which no import permit had been granted. The second limb requires proof that (1) the goods were dutiable, (2) they were imported clandestinely, and (3) they were imported in that way with intent to evade the duty payable on them. The words "in order to evade" show that a particular intent (a specific intent) is required.

Criminal › Evidence › Standard of proof › Burden of proof › **Proving the elements**

HN3 In a criminal case it is for the State to set out in the charge facts satisfying every element of the offence, and to prove each element in court beyond reasonable doubt. A finding of guilt where an element of the offence has not been proved is not a conviction consistent with Article 51(h) of the Constitution.

Criminal › **Power to define offences**

HN4 Defining a criminal offence is a power that belongs to the legislature. The elements of an offence are fixed by the words the legislature used in the text of the law.

Interpreting offences › **Limits of interpretation**

HN5 Neither the State nor a court has power to widen the scope of an offence by dropping an element that the text makes part of the offence, or by reading into the text conduct that is not there. A meaning the State can give a provision, or a conclusion it reaches by reading several laws and regulations together, is not a basis for treating conduct as a criminal offence.

Criminal › **Elements of the offence in section 97(a) of the Customs Act**
Interpreting offences › **Limits of interpretation**

HN6 The Customs Act is an "other law" creating an offence outside the Penal Code, so an offence under section 97(a) exists only within the characteristics and limits that the legislature set in that section.

Criminal procedure › Bringing a charge › **Form of the charge and the duty to state the offence**

HN7 Read together, the relevant parts of section 82 of the Criminal Procedure Code require a criminal charge to contain three things. First, the offence charged, stated with reference to the provision that creates it. Second, where the law uses particular words to define the offence, the offence as the law words it. Third, the act the accused is alleged to have done, with its time and place, and, where the offence concerns a particular item, the particulars of that item.

Criminal procedure › Bringing a charge › **Form of the charge and the duty to state the offence**
Criminal procedure › **Form of a charge under section 97(a) of the Customs Act**

HN8 The purpose of section 82(d) and (e) of the Criminal Procedure Code is met only if the charge states, in the words of the law, which offence under section 97(a) of the Customs Act is alleged, and gives particulars of the goods showing that they were goods without an import permit or dutiable goods.

Criminal procedure › Rights of the accused › **Right to know the charge**

HN9 A charge that only cites section 97(a) of the Customs Act and alleges that goods were "smuggled" does not fully secure the accused's right under Article 51(a) of the Constitution to be told the specific offence charged. Nor does it make clear to the defence what it needs to know to answer the charge, namely which element must be proved.

Criminal procedure › **Form of a charge under section 97(a) of the Customs Act**

HN10 Section 97(d) and (e) of the Customs Act set out the penalty for a person who commits an act under subsection (a) and the forfeiture of goods connected with the offence. Because they say nothing about the elements of the offence, citing them does not cure a charge that leaves out the characteristics set out in subsection (a).

Criminal procedure › **Form of a charge under section 97(a) of the Customs Act**

HN11 A bare allegation that goods were brought in clandestinely is not a sufficient basis for a conviction under section 97(a) of the Customs Act.

Interpreting offences › **Applying precedent (stare decisis)**

HN12 In the view of the writing judge, reliance in a civil case on the State's ability to take goods that were brought in without completing the required legal procedures does not show that the same conduct amounts to a criminal offence.

Criminal › Defining offences › Elements of the offence in section 97(a) of the Customs Act › **Importation and declaration**

HN13 Undeclared goods are not automatically treated in law as goods for which no import permit has been granted (that is, prohibited goods). Unless it is proved, as section 97(a) requires, that the goods had no import permit, or that dutiable goods were brought in clandestinely with intent to evade duty, the conduct is not the criminal offence in section 97(a) of the Customs Act.

Counsel and bench

Appellant	Mohamed Mohamed Sulaim Khan (a Sri Lankan national)
Respondent	Prosecutor General's Office
Counsel for the appellant	Mohamed Shakir
Counsel for the respondent	Fathimath Meesha, Hawwa Naahee, Kamila Hussain
Bench	Mohamed Shaneez Abdulla (presiding), Hussain Mazeed, Huzaifa Mohamed
Opinion by	Mohamed Shaneez Abdulla · Concurring: Hussain Mazeed, Huzaifa Mohamed
Dissent	None
Note	Judge Mohamed Shaneez Abdulla wrote the opinion, with which Judge Hussain Mazeed and Judge Huzaifa Mohamed agreed (paras 26–27). The judgment is unanimous.

Judgment text

English translation of the judgment published by the court. Paragraph numbers follow the court's judgment. Parties' addresses and identity card numbers are withheld.

Opinion of Judge Mohamed Shaneez Abdulla

Introduction

1 This is an appeal to the High Court of the Maldives by Mohamed Mohamed Sulaim Khan, a Sri Lankan national (hereinafter "the Appellant" or "Sulaim Khan"), on the ground that Criminal Court case 846/Cr-C/2023 was decided contrary to Sharia or legal principles. The respondent to this appeal is the Prosecutor General's Office (hereinafter "the Respondent" or "the State").

The charge and background

2 The State brought a charge of smuggling goods into the Maldives against Sulaim Khan in the Criminal Court.

3 The charge was brought against Sulaim Khan under subsections (d) and (e), with reference to subsection (a), of section 97 of Law No. 8/2011 (Customs Act of the Maldives), on the following ground:

"Mohamed Mohamed Sulaim Khan arrived in the Maldives on flight EK656 at about 07:44 on 21 September 2023. At Velana International Airport, after the backpack and side bag he carried as hand luggage were scanned, he passed the red channel entry and was leaving through the green channel when customs officers stopped and questioned him. On inspecting his backpack they found documents showing that he had bought gold in Dubai and declared it there. Suspecting that he had brought gold in, they scanned his body, which showed items concealed on his person. On a further search of his body, a total of 2,282 (two thousand two hundred and eighty-two) grams of gold paste was found: 2 (two) packets in the back right and left pockets of the jeans he was wearing, 2 (two) packets in the front right and left pockets of the jeans, and 1 (one) packet inside his boxers near the groin. The State asks that the gold he smuggled into the Maldives be forfeited to the Maldives Customs Service."

Decision of the lower court

4 In Criminal Court case 846/Cr-C/2023, although Sulaim Khan denied the charge in court, the court, having regard to the evidence the State produced in support of the charge, found the charge proved beyond reasonable doubt as required by Article 51(h) of the Constitution of the Republic of Maldives, and:

(1) found Sulaim Khan guilty of smuggling goods into the Maldives under subsections (d) and (e), with reference to subsection (a), of section 97 of Law No. 8/2011 (Customs Act of the Maldives);

(2) as the penalty for that offence, sentenced Sulaim Khan to imprisonment for 1 (one) year under subsections (d) and (e), with reference to subsection (a), of section 97 of Law No. 8/2011 (Customs Act of the Maldives); and

(3) having found that the 2,282 (two thousand two hundred and eighty-two) grams of gold paste that Sulaim Khan brought into the Maldives were goods smuggled into the Maldives, ordered that the goods be forfeited to the Maldives Customs Service under section 97(d) of Law No. 8/2011 (Customs Act of the Maldives).

Grounds of appeal

5 The appeal form filed on behalf of Sulaim Khan to appeal Criminal Court case 846/Cr-C/2023 raised the following grounds.

5.1. That the Prosecutor General filed against Sulaim Khan, contrary to section 5(a) and section 82(a) of the Criminal Procedure Code, a charge that did not satisfy the elements of the offence set out in section 97(a) of the Customs Act; that the court proceeded with that charge; and that the court found the charge proved against Sulaim Khan contrary to Article 51(h) of the Constitution;

5.2. That, although Sulaim Khan was stopped on 21 September 2023 and the goods in his possession were seized by the Maldives Customs Service, the chain of custody was kept contrary to the principle set out by the High Court in Mohamed Naswan v Prosecutor General's Office[1] — that there must be an unbroken chain showing how an item passed from one person to another, and

from one place to another, from the time it was seized until it was produced in court — and contrary to section 369 of the Maldives Customs General Regulation;

5.3. That the charge was framed contrary to section 82 of the Criminal Procedure Code, given that there is at present no facility in the Maldives for refining the goods seized from Sulaim Khan by the Maldives Customs Service, and that the goods had not even been analysed by the Maldives Police Service forensics to establish whether they were gold or something else;

5.4. That the judge found that Sulaim Khan had done such an act before, although there was no evidence that he had been accused in any such incident other than the one in this charge and no such evidence had been produced in court, contrary to the standards a judge must follow in admitting evidence as set out in Prosecutor General's Office v Hassan Abdulla and 5 others;

5.5. That, contrary to Article 20 of the Constitution, Sulaim Khan was treated differently from other people detained by the Maldives Customs Service in similar cases: those who stopped him refused his attempts to cooperate and acted harshly, and the court did not impose a fine.

Submissions of the parties

6 Summarising for the court the reasons on which the grounds in the appeal form were based, the Appellant asked the court to find that the charge against Sulaim Khan was not proved to the standard set out in Article 51(h) of the Constitution, and to order the State to return the goods seized from Sulaim Khan to him within 7 (seven) days.

7 Summarising the matters set out in its response form, the State asked the court to find that there is no reason in Sharia or law to change the decision in Criminal Court case 846/Cr-C/2023 that the offence of smuggling goods into the Maldives was proved against Sulaim Khan.

Findings

8 The Appellant raised 5 (five) grounds for appealing the judgment in Criminal Court case 846/Cr-C/2023. Looking at those grounds, the first question to be decided in this case is whether the act described in the charge against the Appellant is an act that section 97(a) of Law No. 8/2011 (Customs Act of the Maldives) makes an offence. That is the question raised in the first ground of appeal. As the answer to it directly affects the other grounds, we will decide this ground first and then turn to the remaining grounds.

9 Section 97(a) of the Customs Act of the Maldives provides: "Clandestinely importing into the Maldives any item for which an import permit has not been granted in accordance with this Act, clandestinely exporting from the Maldives any item for which an export permit has not been granted, clandestinely importing into or exporting from the Maldives any dutiable goods in order to evade any duty payable on those goods, and attempting to do any of these things, is an offence." Subsections (d) and (e) of the same section provide that a person who commits, attempts or takes part in an act in subsection (a) shall be punished under this Act and the goods connected with the offence may be forfeited to Customs without compensation, and that the penalty for a person who smuggles goods in or out is a fine of between MVR 10,000 (ten thousand) and MVR 240,000 (two hundred and forty thousand), or imprisonment for a term of between 6 months and 2 years.

10 HN1 HN2 On the text of section 97(a) of the Customs Act of the Maldives, what the section makes an offence is not merely "smuggling goods". The offence consists of acts with particular characteristics. They are: (1) clandestinely importing into the Maldives an item for which an import permit has not been granted under this Act; (2) clandestinely exporting from the Maldives an item for which an export permit has not been granted; (3) clandestinely importing or exporting dutiable goods for the purpose of evading duty; and (4) attempting to do any of these. Therefore, in our view, beyond the importation having the character of being "clandestine", one of the two elements under it must be satisfied: that the goods imported are goods requiring an import permit and there is no such permit, or that the goods are dutiable and were imported

clandestinely with intent to evade the duty. For the first element to be proved, it must be proved that the item imported is one for which no import permit has been granted. For the second element to be proved, it must be proved (1) that the goods are dutiable, (2) that they were imported clandestinely, and (3) that they were imported in that way with intent to evade the duty payable on them. The words "in order to evade" show that a particular intent (a specific intent) is required.

11 In this case, the act the charge alleges the Appellant committed is smuggling gold paste into the Maldives. Therefore, for this to be an offence under section 97 of the Customs Act of the Maldives, one of the two elements described above must be satisfied: 1. that the goods imported are goods requiring an import permit and there is no such permit, or 2. that the goods are dutiable and were imported clandestinely with intent to evade the duty.

12 In this case, the State has said that the goods the Appellant brought in are goods whose import is permitted, and that they are not dutiable either. However, the State says that even goods whose import is permitted may be interpreted as goods whose importation is not permitted if they have not been declared.

13 HN3 Article 59(a) of the Constitution of the Republic of Maldives provides that no person shall be punished for an act or omission unless that act or omission is stated to be an offence in Islamic Sharia or in law. Likewise, Article 51(a) of the Constitution provides that everyone charged with an offence has the right to be informed promptly and specifically, in a language understood by that person, of the offence with which they are charged. And subsection (h) of that Article provides that such a person has the right to be presumed innocent until proven guilty beyond reasonable doubt. Read together, these Articles make it the State's responsibility to set out in a criminal charge facts satisfying every element of the offence, and to prove each element in court beyond reasonable doubt. A finding of guilt where an element of the offence has not been proved is not a conviction consistent with Article 51(h) of the Constitution.

14 As to the legal principle by which conduct is made a criminal offence, Law No. 9/2014 (Penal Code of the Maldives), giving practical effect to the right in Article 59(a) of the Constitution, also lays down the principle that conduct is not an offence unless it is an offence under the Penal Code or another law of the Maldives. The general purposes of that Act include protecting conduct that is not criminal from being treated as criminal and, by defining and grading offences, giving fair warning of what is prohibited.

15 HN4 HN5 As those principles show, defining a criminal offence is a power that belongs to the legislature. The elements of an offence are fixed by the words the legislature used in the text of the law. Therefore, in our view, neither the State nor a court has power to widen the scope of an offence by dropping an element the text includes as a characteristic of the offence, or by reading into the text conduct that is not there.

16 HN6 As the Customs Act is an "other law" creating an offence outside the Penal Code, an offence under section 97(a) of that Act exists only within the characteristics and limits that the legislature set in that section. It is on this principle that section 97(a) was analysed in paragraph 3 of the findings in this report.

17 As provisions setting out what a charge must contain, the Appellant cited section 5(a) and section 82(a) of Law No. 12/2016 (Criminal Procedure Code). Section 82 of that Act sets out "the form of a charge", and the section that follows it, section 83, concerns producing evidence to prove a charge. Section 82(a) of the Criminal Procedure Code[2] provides: "Every criminal charge shall state the offence charged against the accused."

Subsection (b) of that section provides that the offence charged against a person shall be stated in the charge with reference to the provision of law that creates the offence, and that a criminal charge shall not be brought without reference to the provision creating the offence, under some other general provision, under a legal presumption, or with reference to another provision. Subsection (d) provides: "Where a law gives a particular criminal offence a specific name, or uses specific wording in defining the offence, the charge shall

state the offence as specifically set out in that law." And subsection (e) provides: "In addition to stating the offence, a charge shall state the act the accused is alleged to have committed and the time and place at which the offence is alleged to have been committed. Where the offence was committed against a person, or involves a particular item, the charge shall also give particulars of that person or item."

18 HN7 HN8 HN9 Read together, these parts of section 82 of the Criminal Procedure Code[3] show that three things must be included in a criminal charge. First, the offence charged must be stated with reference to the provision creating it. Second, where the law uses particular wording in defining the offence, the charge must state the offence as worded in the law. Third, the charge must state the act the accused is alleged to have committed, its time and place, and, where the offence involves a particular item, the particulars of that item. As noted in paragraph 3 of the findings in this report, section 97(a) of the Customs Act does not contain a single offence. It contains offences set out with distinct characteristics, and those offences are defined by specific wording such as "an item for which an import permit has not been granted" and "any dutiable goods ... in order to evade any duty". Therefore, in our view, the purpose of section 82(d) and (e) of the Criminal Procedure Code[4] is achieved only if the charge states, in the words of the law, which offence under section 97(a) of the Customs Act is charged, and includes particulars of the goods showing that they are goods for which no import permit has been granted or dutiable goods. A charge that merely cites section 97(a) of the Customs Act and alleges that goods were "smuggled" does not fully secure the right to be told specifically the offence charged, which is the right in Article 51(a) of the Constitution. Nor does it make clear what the defence needs to know to answer the charge (that is, which element must be proved). Even if, for the sake of argument, section 82(e) of the Criminal Procedure Code[5] were read as requiring not the elements of the offence but the particulars of the act, time, place and item, so that stating the act with reference to the provision creating the offence would satisfy subsections (b) and (e), we consider that these characteristics must be included in the charge, because it is by these characteristics that one offence in section

97(a) of the Customs Act is distinguished from another, and because section 83(d) of the Criminal Procedure Code requires the offence to be stated in the words of the law. Whether these characteristics are present in the charge as framed in this case is considered in the paragraph below.

19 HN10 In this case, the charge brought against the Appellant is one of "smuggling goods into the Maldives". It was brought under subsections (d) and (e), with reference to subsection (a), of section 97 of the Customs Act of the Maldives. The name given to the offence in the charge is only part of the wording by which section 97(a) of the Customs Act[6] defines the offence. None of the phrases that the section includes as a characteristic of the offence — "an item for which an import permit has not been granted" or "dutiable ... goods ... in order to evade any duty" — appears in the name of the charge. So the name of the charge conveys only that goods were brought in clandestinely. It does not say specifically which offence under section 97(a) of the Customs Act is meant. Likewise, subsections (d) and (e) of that section, cited in the charge, are, as noted in paragraph 2 of the findings in this report, the parts that set out the penalty for a person who commits an act under subsection (a) and how goods connected with the offence are forfeited. Since those parts say nothing about the elements of the offence, citing them does not cure the omission of the characteristics in subsection (a) from the charge. For these reasons, we do not consider that the offence was stated in the charge in the words in which the law defines it, as section 82(d) of the Criminal Procedure Code[7] requires. If the particulars of the charge had stated that the goods imported required a permit, or that they were dutiable together with the intent to evade duty, this might not have affected the whole charge. But even the grounds of the charge set out in Schedule 1 contain no such particulars.

20 HN1 HN11 Looking at the facts of this case and the Criminal Court judgment, the Appellant was convicted under subsections (d) and (e), with reference to subsection (a), of section 97 of the Customs Act, on the basis that he smuggled 2,282 (two thousand two hundred and eighty-two) grams of gold paste into the Maldives. However, the lower court's judgment does not specify under which act in section 97(a) of the Customs Act he was convicted. It does not state that gold

is goods requiring an import permit under this Act and that the Appellant held no such permit, or that gold is dutiable and was brought in clandestinely with intent to evade the duty on it. It is not apparent that any of these elements was stated in the charge and proved in court. Since the documents before the court do not show that these elements were stated in the charge and proved, we do not consider a bare assertion that goods were brought in clandestinely to be a sufficient basis for a conviction under section 97(a).

21 HN4 HN5 HN12 HN13 The State notes that in Kapoorulla Yoosuf v Maldives Customs Service[8], a civil case concerning gold brought into the Maldives, the Supreme Court held that, although gold is not goods whose importation into the Maldives is prohibited, there is scope to treat it as goods imported unlawfully where the procedure required by law has not been completed. On that basis the State says that permission to import into the Maldives is obtained by declaring, and that undeclared goods may be interpreted as goods brought in without a permit. However, in an argument in a civil case on whether goods may be forfeited to the State, reliance on the goods being forfeitable where they are considered to have been brought in without completing a legal procedure does not persuade me that this is a situation amounting to a criminal offence. Further, as section 97 of the Customs Act was not even mentioned in that case, we do not consider that that judgment can be applied to interpret that section by adding wording that is not in it, so as to treat as a criminal offence something the section does not make an offence. Conduct is a criminal offence only if the law clearly states in its text that it is an offence. A meaning the State can give, or a conclusion the State reaches by reading various laws and regulations together, is not the principle by which conduct is made a criminal offence. A criminal offence is created when the legislature clearly prohibits conduct in the text of a law, states that it is an offence and prescribes a penalty for it. Likewise, since not all undeclared goods are automatically treated in law as items "for which an import permit has not been granted" (that is, prohibited goods), unless it is proved, as section 97(a) of the Customs Act provides, that the item is one for

which no import permit has been granted, or that dutiable ... goods were brought in clandestinely with intent to evade ... duty, it will not be regarded as committing the criminal offence in section 97(a) of the Customs Act.

22 In the second ground of appeal, the Appellant relied on the principle said to have been established by the High Court of the Maldives in Mohamed Naswan v Prosecutor General's Office[9], and on section 369 of the Maldives Customs General Regulation. As a general principle, we consider it the prosecution's responsibility to show that goods produced as evidence have not changed from the time of seizure until they are produced in court, and that a chain of custody has been kept that identifies everyone who had custody of them. However, since, as noted under the first ground, it has not been proved that the elements of the offence are satisfied, we do not consider it necessary in this case to decide in detail the facts concerning how the chain of custody was kept.

23 In the third ground of appeal, the Appellant says that the seized goods were not analysed by the Maldives Police Service forensics to establish whether they were gold or something else, and that there is no facility in the Maldives for refining them. In proving an offence under section 97(a) of the Customs Act, establishing what the goods are, their nature, their purity and their value bears directly on the elements of the offence, both to establish that the goods imported required a permit or were dutiable and to determine the amount of duty. If the evidence before the court does not show that the amount of gold in the paste was determined by analysis, proving the element of evading duty would be difficult. However, as the State has noted that the goods in this case are not dutiable, and given the conclusion reached on the first ground, we do not consider it necessary to decide this ground as well.

24 The fourth ground of appeal says that the lower court found that the Appellant had done such an act before, although no evidence was produced that he had done so apart from the incident described in this charge. The fifth ground says that, contrary to Article 20 of the Constitution, the court treated the Appellant differently from others detained in similar cases and imposed a penalty. However, since the decision on the first ground affects every part of the judgment, we do not consider it necessary to decide these grounds separately.

Conclusion

25 In view of the matters noted above, it is not apparent that the elements — that the goods required a permit, or that they were dutiable and were brought in with intent to evade duty — were stated in the charge and proved beyond reasonable doubt so as to establish that the act described in the charge against the Appellant is an act that section 97(a) of the Customs Act makes an offence. We therefore do not consider the conviction in Criminal Court case 846/Cr-C/2023 to be consistent with Article 51(h) and Article 59(a) of the Constitution. Accordingly, we decide to quash the judgment in Criminal Court case 846/Cr-C/2023 that found the charge proved.

Opinion of Judge Hussain Mazeed

26 In this case, I concur with the opinion of Judge Mohamed Shaneez Abdulla.

Opinion of Judge Huzaifa Mohamed

27 In this case, I concur with the opinion of Judge Mohamed Shaneez Abdulla.

Judgment

Accordingly, having regard to the matters noted above, we, the judges of the High Court of the Maldives who heard this case, unanimously quash the judgment in Criminal Court case 846/Cr-C/2023 that found the charge proved.

Heard and decided by:
Judge Hussain Mazeed
Judge Mohamed Shaneez Abdulla (presiding)
Judge Huzaifa Mohamed

Footnotes

1. 2020/HC-A/118 ↩
2. Law No. 12/2016 ↩
3. Law No. 12/2016 ↩
4. Law No. 12/2016 ↩
5. Law No. 12/2016 ↩
6. Law No. 8/2011 ↩
7. Law No. 12/2016 ↩

8. Supreme Court of the Maldives, case 2019/SC-A/57 ↩
9. 2020/HC-A/118 ↩

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Translated with the help of AI; not yet reviewed. Report an error

Legislation and cases cited

Legislation

- Law No. 8/2011 (Customs Act of the Maldives), section 97(a), (d) and (e)
- Constitution of the Republic of Maldives, Article 20
- Constitution of the Republic of Maldives, Article 51(a) and (h)
- Constitution of the Republic of Maldives, Article 59(a)
- Law No. 9/2014 (Penal Code of the Maldives)
- Law No. 12/2016 (Criminal Procedure Code), section 5(a)
- Law No. 12/2016 (Criminal Procedure Code), section 82(a), (b), (d) and (e)
- Law No. 12/2016 (Criminal Procedure Code), section 83(d)
- Maldives Customs General Regulation, section 369

Cases

- **Kapoorulla Yoosuf v Maldives Customs Service** (2019/SC-A/57) — *Distinguished* (para 21; judgment page in Dhivehi)
- **Mohamed Naswan v Prosecutor General's Office** (2020/HC-A/118) — *Cited* (para 22; judgment page in Dhivehi)