



ODPP MEDIA UPDATE

Lawyer told Not to Throw his Bias Ball in the Air

Director of Public Prosecutions, Christopher Pryde, told Defence Lawyer, Mohammed Yunus, not to “throw his bias ball in the air” in a recusal hearing filed by the defence in the State v Seta Ram human trafficking case on 17.3.21.

The DPP was responding to the Defence Counsel’s submission that Justice Rajasinghe, the judge hearing the substantive case, should step aside on the basis of apprehended bias as a result of reading the pretrial disclosures filed by the DPP two years ago.

Mr Yunus argued that since assessors had been abolished there was no need for disclosures to be filed in court and doing so would make ordinary people believe the judge had prejudged the case and should therefore recuse himself.

The DPP countered by saying that the abolition of the assessors was a red herring and that in order to succeed in a recusal application the defence must show actual circumstances that have a bearing on a suggestion that the judge was or may be seen to be biased. Only then, could the court consider whether a fair-minded lay observer might reasonably apprehend that the judge might not bring an impartial mind to the resolution of the case.

The DPP said that the factual enquiry into the actual circumstances needed to be rigorous and the defence cannot simply “throw his bias ball in the air”.

The DPP argued that the defence had provided no factual circumstances that could form an evidential basis for anyone fair-minded to conclude that the judge would be biased merely because disclosures were filed in the court. For these reasons, the DPP submitted the recusal application should fail.

The ruling will be handed down on Friday 26.3.21

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