

Trial Monitoring report

About the case: Hijaz Hisbulla's case

Case no. : HC 78/21

Courts: High court of Puttalam

Date of hearing: 2025.06.27

Author (s) of report: Hiruni Perera AAL

1. Who was in courts:

Who	Names / other information	Comments
Judge (s)	Nadee Aparna Suwandurugoda	
Attorney General's Dept.	DSG Lakmini Girihagama	
Police (CID / TID etc.)	CID Colombo / TID	
Accused / Suspects	1. Hijaz Hisbulla 2. Mohommad Shakeel	
Lawyers for accused / suspects	For the 1st accused Mr. Chalana Perera AAL For the 2nd accused Ms. Piyumi Seneviratne AAL	
Aggrieved party	-	
Lawyers for aggrieved party	-	
Supporters of accused / suspects	- Hiruni Perera	
Supporters of aggrieved party	-	
Others	-	

3. What happened in court hearing?

The State Counsel informed the Court that a motion had been filed on behalf of the 2nd accused and stating that there would be no cross-examination of Prosecution Witness No. 58. Thereafter the re-examination of Prosecution Witness No. 58, Mr. M.R. Dayananda, was commenced.

The Prosecution Witness No. 58 was re-examined regarding the absence of an accompanying arrival note for the departure note issued on 21st April 2020 at 9.30 a.m., which had been used to send Mohamed Malik to the Criminal Investigation Department (CID), a matter that had previously been raised during cross- examination by the President's Counsel for the 1st accused. The Prosecution Witness No. 58 testified that, at the time, due to the COVID-19 pandemic, it was not possible to include the arrival note as safety precautions had to be followed. Subsequently, the Prosecution Witness No. 58 was shown the Department Orders. During the re-examination, Prosecution Witness

No. 58 was questioned as to why he had previously requested to be shown the Sinhala version of the Department Orders, when the English version was presented during cross-examination by the President's Counsel for the first accused. In response, the Prosecution Witness No. 58 stated that he had made such a request because he found it difficult to understand the English version.

Then Prosecution Witness No. 58 read out the Department Order C-8B (ස - 8 බ) (Identification of Suspects through Photographs). The Prosecution Witness No. 58 was subsequently re-examined as to whether he had engaged in any discussions with the Prosecution Witness No. 58 during the process of recording Mohamed Malik's statement on 21st April 2020. At that time, Prosecution Witness No. 58 testified that such discussions were a common practice and aimed at clarifying issues related to identifying the offense and the evidence. He also stated that during these discussions, Mohamed Malik did not know the names of the suspects and were shown unnamed photographs of the suspects, which he identified before signing his statement.

The Prosecution Witness No. 58 was further questioned about the identification of the suspects through photographs, including the method by which the photographs were obtained, the place from which they were collected. The Prosecution Witness No. 58 testified that the relevant photographs should have been obtained from the **Record room of the Technical Division of the Criminal Investigation Department** (අපරාධ පරික්ෂණ දෙපාර්තමේන්තුවේ කාර්මික ගාබාවේ අපරාධ ලේඛනාගරය) and he further stated that at the time of recording Mohamed Malik's statement on 21st April 2020, those photographs were not available at the **Record room** of the Technical Division. The Prosecution Witness No. 58 further explained that the reason for their absence was that the suspects in the Easter attack had not been identified as accused, and therefore, their photographs had not been sent to the **Record room**.

Further, Prosecution Witness No. 58 stated that the suspects identified by Mohamed Malik at the time the photographs were shown were already in custody and therefore could not be re-arrested or presented for an identification parade. The Prosecution Witness No. 58 further stated that the COVID-19 pandemic was ongoing at that time, and although a B report had been submitted to the Court, he was unaware whether the Court had granted permission to conduct an identification parade. Furthermore, Prosecution Witness No. 58 explained that the photographs were shown because the individuals involved in the relevant incident had not been successfully identified, and that the photo album containing these photographs had been produced as productions in the case. The Prosecution Witness No. 58 further stated that the photographs were shown to Mohamed Malik, had been provided by the Investigation Division, and that he had no knowledge of the photographs shown by Sub-Inspector Senarathne on 19th April 2020. However, the Prosecution Witness No. 58 acknowledged that, under Department Orders, he had the authority to review notes made by subordinate officers, although he claimed he was unable to do so in this instance. The Prosecution Witness No. 58 stated that the notes recorded on 21st April 2020 indicated that Mohamed Malik's statement was taken while showing him the photographs.

Following the conclusion of the re-examination, Sub-Inspector Senarathne was added to the witness list as a new witness under Prosecution Witness No. 77.

Furthermore, the court has ordered that summons be issued to the Prosecution Witness No. 77, Sub-Inspector Senarathne, Crime Investigation Department.

4. Any significant observations inside court room and outside?

5. Next date & time:

On 21/11/2025 for the trial

Guidelines / points to consider – before / during / after:

General:

1. Familiarize with the case before going – by reading, asking. Survivors / victim families who go to courts are often good sources
2. Check the language of court hearings – in and around Colombo, it's a mixture of Sinhalese and English. In North and East, it's mostly Tamil
3. Sound system is not good in most courts and observers (public) will find it difficult to listen. Lawyers can be upfront and much easier to listen.
4. Except for lawyers, electronic equipment, bags are not allowed in most court rooms – shops outside offer storage, but at own risk (friendly lawyers can take your phone in, if you have an arrangement to hand over / collect before the trial)
5. Writing notes (with pen on paper) is allowed inside courts, during hearings (This was reaffirmed by three judge bench on 9th January 2020 in High Court no. 3 in Colombo, during trial on Welikada massacre case)
6. Talking is not allowed during the court hearings

Content of report:

7. Write the note the same day (or as soon as possible) - before you forget
8. Whose present in court - try include actual names and positions – but if you don't know and couldn't find out, write as much as you know. Absence of key persons (e.g. one of accused / judge / AG's dept. representative, police etc. is important to be noted. Changes of significant persons are also important to be noted)
9. What happened in actual hearing – try check with other friendly observers, lawyers, survivors / victim families etc.
10. Significant Observations – the atmosphere in and outside the court room can also have a bearing on the case. The way different parties to the case relate to each other, the way supporters of different parties behave, anything that you think may have bearing on the case. Particular attention to any form of intimidation of survivors, victim families, witnesses, lawyers and others.