

**IN THE COURT OF APEAL OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA**

Kuruwitage Ratnapala Silva
No:26/02
Gamakossawa
Horana
Hadapangoda

Plaintiff Appellant

CA (PHC) 15/2005

PHC Colombo Case No. 553/2004

Vs.

Hon. Attorney General
Attorney General's Department
Colombo 12.

Respondent

C.A. (PHC) 15/2005 : PHC Colombo Case No.
553/2004

Before : Sisira de Abrew, J. &
K.T. Chitrasiri, J.

Counsel : Udaya Bandara for the accused-appellant.
L. Aluvihare, S.C. for the A.G.

Argued &

Decided on: 24.09.2012

Sisira de Abrew, J.

Appellant is present in Court.

The appellant in this case was convicted on his own plea on a charge that he was in possession of 60 milligrams of heroin. The Learned Magistrate sentenced him to a term of 12 months imprisonment. Being dissatisfied with the said order of the learned Magistrate, the appellant appealed to the High Court. The learned High Court Judge, by his order dated 13.01.2005, dismissed the appeal. Being dissatisfied with the

order of the learned High Court Judge, the appellant has appealed to this Court.

The most important question that must be decided in this case is whether this Court has jurisdiction to hear and conclude this case. The answer to this question is found in the Judgment of the Supreme Court in *Wickremasekera Vs The Officer-in-Charge, Ampara* reported in 2004 (1) SLR page 257. The Supreme Court in the said case held thus: “ The Court of Appeal does not have appellate jurisdiction under Article 138(1) of the Constitution read with Article 154(P)6 in respect of the decisions of the Provincial High Court made in the exercise of its appellate jurisdiction and it is the Supreme Court that has appellate jurisdiction in respect of the appeals from the Provincial High Court as set out in section 9 of the High Court of the provinces (Special Provisions) Act No. 19 of 1990.

We note in this case that the learned High Court Judge has exercised his appellate jurisdiction in respect of the

decision of the Magistrate's Court and the accused-appellant being dissatisfied with the order of the High Court Judge has appealed to this Court. Applying the principles laid down in the above judicial decision, we hold that this Court has no jurisdiction to hear and conclude this case. We therefore dismiss the appeal.

Registrar of this Court is directed to forward the Original High Court Record to the relevant High Court.

Appeal dismissed.

JUDGE OF THE COURT OF APPEAL

K.T. Chitrasiri,J.

I agree

JUDGE OF THE COURT OF APPEAL

Cr/-