

**IN THE COURT OF APPEAL OF DEMOCRATIC REPUBLIC OF
SRI LANKA**

In the matter of an application for
Revision made under Article 138 of
the Constitution of Republic read with
Section 364 and 365 of the Criminal
Procedure Act No 15 of 1979

HIGH COURT
Case No. HC 5223/2010
CA (PHC) APN 126/11

The Republic of Sri Lanka

Vs

Peter Anderson Alias
Abesundara Peter
Anderson Sellakumar

Accused

And between

Subramanian Sumati
No 64, Arunodaya Mw,
Obesekara pura,
Rajagiriya

Petitioner

Vs

Hon Attorney General
Attorney General Department,
Colombo 12.

Respondent

BEFORE : SISIRA DE ABREW, J. &
K. T. CHITRASIRI, J.

COUNSEL : Suranga Bandara for the petitioner.
Anoopa de Silva S.C. for the respondent.

ARGUED AND

DECIDED ON : 18th June, 2012.

SISIRA DE ABREW, J.

The accused in this case was convicted on his own plea for offences under Section 376 (the 1st count), Section 375 (the 2nd count) of the Penal Code and for being in possession of an offensive weapon (the 3rd count). On the 1st count the accused was sentenced to a term of 4 years Rigorous Imprisonment and to pay a fine of Rs.10,000/= carrying a default sentence of 3 months imprisonment. On the 2nd count the accused was sentenced to a term of 4 years Rigorous Imprisonment and to pay a fine of Rs.10,000/= carrying a default sentence of 3 months imprisonment. On the 3rd count he was sentenced to a term of 4 years Rigorous Imprisonment and to pay a fine of Rs.10,000/= carrying a default sentence of 3 months imprisonment. The learned High Court Judge directed that the terms of imprisonment imposed on the 1st, 2nd and 3rd counts should run concurrently. We therefore note the total

term of imprisonment that he has to undergo is 4 years Rigorous Imprisonment. Learned Counsel for the petitioner submits that the sentence imposed by the learned High Court Judge is excessive. He further submits that the learned High Court Judge has failed to consider a period of remand prior to the commencement of the trial. We note that he has been on remand for a period of 3 ½ years prior to the commencement of the trial. But when we consider the gravity of the offence we are of the opinion that the sentence imposed by the learned High Court Judge is not excessive. When the sentence was being passed by the learned High Court Judge, he has considered the submissions made by the learned defence Counsel. Learned defence Counsel in his submissions has brought to the notice of Court that the accused has been on remand for period of 3 ½ years. When we consider all these matters, we are of the opinion that the sentence imposed by the learned High Court Judge is not excessive. We therefore, refuse to interfere with the learned High Court Judge's order dated 14.03201.

Petition dismissed.

JUDGE OF THE COURT OF APPEAL

K. T. CHITRASIRI, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Kwk/=