

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

CA 40/2011
HC Anuradapura 119/2006

Gahabada Ralalage Ranjith Piyathilaka
No:22,
Yaya 09,
Katiyawa,
Eppawala.

Petitioner

Vs

Hon. Attorney General
Attorney General's Department
Colombo 12

Respondent

C.A. Appeal No. 40/2011 - H.C. Anuradhapura No.HC 119/2006

Before : **ROHINI MARASINGHE, J. &**

H.N.J. PERERA, J.

Counsel : Indika Mallawaarachchi for the Accused-Appellant

Sudarshane de Silva S.S.C. for the Attorney
General.

Argued &

Decided on : 09.10.2012.

Rohini Marasinghe, J

Accused-Appellant is present in court brought in custody.

Heard both counsel in support of their respective cases.

The appellant had been convicted for the offence punishable under section 297 of the Penal Code. Pursuant to the conviction, the appellant has been sentenced to six years imprisonment and to a fine of Rupees 5,000/-. In default of the fine, a further sentence of one and half years of imprisonment had been imposed.

In the appeal the counsel for the appellant contended that the facts and the circumstances under which the offence had been committed,

the appellant would be entitled to a lesser punishment. Some of the facts urged by the counsel for the appellant were that the appellant had pleaded guilty for the charge and that the appellant had shown remorse for the offence committed. Under the Statute the offence under section 297 of the Penal Code (limb one) carries a sentence of twenty years imprisonment. In this situation the appellant had been dealt reasonably leniently. The reasons for the punishment have not been recorded. But considering the nature of the offence and the culpability of the appellant I am of the view that the sentence imposed is proportionate to the offence committed. However, as a further consideration we direct that the sentence should take effect from the date of imposition. Therefore, the sentence imposed should take effect 5-7-2011 and if the fine had not been paid the default sentence should run concurrently with the six years period of imprisonment.

Subject to this variation the appeal is dismissed.

JUDGE OF THE COUR OF APPEAL.

H.N.J. Perera. J.

I agree.

JUDGE OF THE COURT OF APPEAL.

/mds