

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

CA PHC APN 85/2012

HC Kandy 41/2010

Danapala Mudiyanseelage Karunawathie
Behind Divisional Secretariat
Mahiyanganaya

Petitioner

Vs

Hon. Attorney General
Attorney General's Department
Colombo 12

Office in charge
Police Station
Kandy

Respondents

C.A. (PHC)APN 85/2012

H.C.Kandy Case No: 41/2010

Before : **SISIRA DE ABREW,J. AND
K.T. CHITRASIRI,J.**

Counsel : Dharmasiri Karunaratne for the
Petitioner.

Decided on : 23.07.2012

Sisira de Abrew,J.

Counsel heard in support of the petition. This is a revision application to set aside the order of the learned High Court Judge dated 08.03.2012, wherein he has dismissed an appeal filed by the Petitioner in this case. According to the facts of this case the accused who is the husband of the registered owner of the vehicle No: UPLF 5450 has transported 13 heads of cattles without a permit. The accused has pleaded guilty. Thereafter the learned Magistrate

held an ~~the~~ inquiry whether the vehicle should be confiscated or not. In the said inquiry the registered owner who is the wife of the accused gave evidence. In her evidence she has admitted that the animals were transported with her knowledge. Under the prevailing law, if the vehicle has been used for the purpose of transporting animals without a permit with the knowledge of the registered owner the vehicle should be confiscated. We therefore hold that there is nothing wrong in the order of the learned Magistrate who confiscated the vehicle. The learned High Court Judge has considered this aspect. The learned High Court Judge has further considered that the petitioner has no right of appeal against the order of the learned Magistrate. We note that the petitioner has only filed an appeal in the High Court challenging the order of the learned Magistrate. The learned counsel appearing for the petitioner admits that the petitioner has no right of appeal against the order of the learned Magistrate to the High Court. Considering all these matters, we see no reason to set aside both orders of the learned Magistrate and the High Court

Judge. For these reasons, we dismiss the petition and refuse to issue notice on the respondent.

JUDGE OF THE COURT OF APPEAL

K.T. Chitrasiri, J.

I agree.

JUDGE OF THE COURT OF APPEAL

Jmr/-