

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

CA PHC APN 159/2011

H. C. Kegalle No. 3978/Rev

G .A.P. Indika Ruwan Pathirana
No. 88,
Watadeka,
Nawana.

**Accused - Applicant - Petitioner-
Petitioner**

Vs.

1. The Officer in Charge,
Police Station,
Warakapola.

**Complainant – Respondent-Respondent
- Respondent**

2. The Attorney General,
Attorney General's Department,
Colombo 12.

Respondent - Respondent

of timber that required a valid permit and in any event as he had transported fire wood, the learned Magistrate should have considered it as an offence which was of trivial nature and not proceeded to confiscate vehicle. Learned Counsel further submitted the judgment in ***Faris vs. The Officer-in-Charge, Police Station Galenbindumuwewa and Another [1992] 1 SLR page 167*** in support of his case.

The learned Senior State Counsel on the other hand submitted that the question of the accused being called upon to show cause against the confiscation does not strictly arise in this type of cases as the owner of the vehicle and the accused is one and the same person and that he had pleaded guilty to the charge from which he is not entitled to resile with a view to avoid the confiscation of the vehicle. I am in full agreement with the submissions of the learned Senior State Counsel that the plea of guilt tendered stand in the way of the accused to challenge the confiscation. The authorities cited by the learned Counsel for the accused-petitioner has no bearing on this question as the case cited by him deals with the confiscation of the vehicle belonging to the 3rd parties. The learned Senior State Counsel brought to our attention that the timber transported was Mahogani fire wood.

Taking all these matters into consideration, I am not inclined to vary the order of confiscation made by the learned Magistrate. The impugned order does not appear to be inconsistent with the law applicable. As such, I have no option but to dismiss the revision application.

Revision application dismissed.

JUDGE OF THE COURT OF APPEAL

Sunil Rajapakshe, J.

I agree.

JUDGE OF THE COURT OF APPEAL.

/mds