

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

CA(PHC)APN 01/2013
HC Tengalle 10/2001
MC Walasmulla Case No. 32003

In the matter of an application in terms of article 138 of the constitution read together with Section 365 of the Code of Criminal Procedure Act No. 15 of 1979 .

Vitharanage Piyasena alias Baby,
Weheragoda,
Ulahitiyawa,
Middeniya.
Presently at the Prison of Tengalle.

Accused-Petitioner

Vs

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

1st Respondent.

S.K. Jayadasa alias Omarekade Ukkun,
Milterikade,
Ulahitiyawa.
Presently at Embilipitiya.

Accused-Respondent.

Before : A.W.A. Salam, J. &
Malani Gooneratne, J.

Counsel : Dinushika Halahensu for the Petitioner and DSG Ayesha
Jinasena for the Respondent.

Argued on : 16.07.2013

Decided on : 30.07.2013

A.W.A. Salam, J.

The accused-petitioner who was indicted in the High Court on several counts was found guilty after trial for abduction, an offense punishable under Section 355 of the Penal Code. Thereafter, he was sentenced to rigorous imprisonment for a term of three years and a fine of Rs. 7500/-. In addition, he was directed to pay compensation to the father of the deceased who had been abducted by the petitioner and two others. The sentence on the accused has been passed almost one year and seven months ago namely on 8 February 2012. In the present application the petitioner seeks to have the sentence passed on him set aside or revised or the jail term imposed on him reduced on medical grounds. The petitioner takes up the position that after he was sentenced to serve the jail term his health condition started deteriorating and he presently suffers from cirrhosis.

We have considered the ground urged by the petitioner in the revision

application to vary the sentence as aforesaid. Since there is no Provisions in law for the sentence imposed by the original court set aside revised or reduced on the ground of medical ground, we see no reason to grant the relief to the petitioner. In the circumstances, we regret our inability to grant any relief to the accused-petitioner and accordingly dismiss the revision application.

Judge of the Court of Appeal

Malani Goonerathne, J

I agree

Judge of the Court of Appeal

NR/-