

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

**C.A. No.163/2011**

H.C.Colombo No.HC 4892/2009

Dompaga Don Nidarshana Randima

**Appellant**

**Vs.**

Hon. Attorney General  
Attorney General's Department,  
Colombo 12.

**Respondent**

C.A. No.163/2011

H.C.Colombo No.HC 4892/2009

BEFORE : SISIRA J. DE ABREW, J. &  
P.W.D.C. JAYATHILAKA, J.

COUNSEL : Gayan Perera with Prabha Perera and  
Sasanga

Nikapitiya for the Accused-Appellant.

Shanil Kularatne SSC for the Respondent

ARGUED AND

DECIDED ON : 19<sup>th</sup> July, 2013

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**SISIRA J. DE ABREW, J.**

The accused-appellant produced by the Prison Authority  
is present in Court.

Learned Counsel for the accused-appellant, after  
arguing the case for about ½ an hour, makes an application to

withdraw the appeal and further submits that the sentence imposed by the learned trial Judge is excessive. On this point, we heard submissions of both Counsel.

The accused-appellant in this case was convicted for being in possession of 1.68 grams of Heroin and for trafficking the same. On the 1<sup>st</sup> count (the charge of possession) the accused-appellant was sentenced to a term of 20 years rigorous imprisonment and to pay a fine of Rs. 100,000/= (Hundred thousand) carrying a default sentence of 1 year rigorous imprisonment. On the 2<sup>nd</sup> count (charge of trafficking) she was sentenced to a term of 20 years rigorous imprisonment and to pay a fine of Rs. 100,000/= (Hundred thousand) carrying a default sentence of 1 year rigorous imprisonment. The learned trial Judge directed that both terms of imprisonment should run consecutively. Therefore, according to the order made by the learned trial Judge the accused-appellant, in addition to the default sentences, has to undergo 40 years rigorous imprisonment.

We have considered the submissions made by both parties with regard to the sentence. According to the prosecution case, the accused-appellant was, at the time of arrest, carrying a bag containing 336 packets of Heroin. The time of arrest was 11.05 p.m. According to the submissions made by the learned defence Counsel at the trial the accused-appellant was 30 years old. This was at the time the submissions was being made on her behalf to mitigate the sentence. When we consider the amount of Heroin that she was in possession, the sentence imposed by the learned trial Judge is, in our opinion, highly excessive. We therefore, set aside the 20 years rigorous imprisonment imposed on the 1st charge and the 20 years rigorous imprisonment imposed on the 2<sup>nd</sup> charge and sentence the accused -appellant, on the 1<sup>st</sup> charge, to a term of 10 years rigorous imprisonment and, on the 2<sup>nd</sup> charge, to a term of 10 years rigorous imprisonment. We make order that both terms of imprisonment should run concurrently. The fine imposed by the learned trial Judge [Rs. 100,000/= (Hundred thousand)] remain unaltered. The two terms of default sentences also remain unaltered. Therefore, in addition to the default sentences, the total term of imprisonment that she has to undergo is 10 years rigorous imprisonment.

We direct the Prison Authorities to implement the sentence from the date of sentencing by the learned trial Judge. (13.06.2011).

We affirm the conviction of both counts. Subject to the variation of the sentence the appeal of the appellant is dismissed.

*Appeal dismissed.*

JUDGE OF THE COURT OF APPEAL

**P.W.D.C. JAYATHILAKA, J.**

I agree.

JUDGE OF THE COURT OF APPEAL

Kwk/=